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**TO: FREEPORT TOWN COUNCIL**

**CC: PETER JOSEPH, TOWN MANAGER & CHRISTINE WOLFE, TOWN CLERK**

**FROM: CAROLINE PELLETIER, TOWN PLANNER**

**RE: RECOMMENDED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE – SECTIONS 104 & 413**

**DATE: MONDAY OCTOBER 12, 2020**

**ITEM III: Zoning Ordinance Amendment – Village Commercial I (VC-I) and Definitions **PUBLIC HEARING****

The applicant is proposing an amendment to Section 413 Village Commercial I (VC-I) of the Town of Freeport Zoning Ordinance. The change would change the word “masonry” to “non-combustible” and “non-masonry” to “combustible” with regards to measuring setbacks (Section 413.C.5). A new definition of non-combustible will also be added to Section 104 Definitions. *Applicant: Jim Cram, Freeport Historical Society, 45 Main Street (Tax Assessor Map 11, Lots 26, 26A & 29).*

Background: This is an applicant (*Applicant: Jim Cram, Freeport Historical Society*) driven agenda item for a text amendment to Section 413 Village Commercial I (VC-I) of the Town of Freeport Zoning Ordinance. The change would change the word “masonry” to “non-combustible” and “non-masonry” to “combustible” with regards to measuring setbacks (Section 413.C.5). A new definition of “non-combustible construction” is also proposed to be added to Section 104 Definitions.

From a review of the municipal record and old Zoning Ordinances, in 1982, the side and rear setback requirement in the Village Commercial District read as follows: “None, if fire rated per Building Code; 15 feet if not rated”

Sometime between 1982-1984, the standard was amended to read as it is today: “4. “Minimum setback side and rear: None, if masonry construction is used and roof does not pitch in that direction. Five (5) feet if masonry construction is used and roof pitches in that direction. Fifteen (15) feet for non-masonry construction or wall of ingress or egress in them.” In the public record from when the change went before the Planning Board and Council, there was no discussion as to why the change was made.

The proposed definition includes a reference so that non-combustible construction would include the use of any materials that meet that definition per the Maine Uniform Building and Energy Code (MUBEC).

It is important to keep in mind that any recommendation that the Planning Board makes to the Town Council for a Zoning Ordinance amendment must be found to be in harmony with the Freeport Comprehensive Plan; that finding has been incorporated into the Board’s motion.

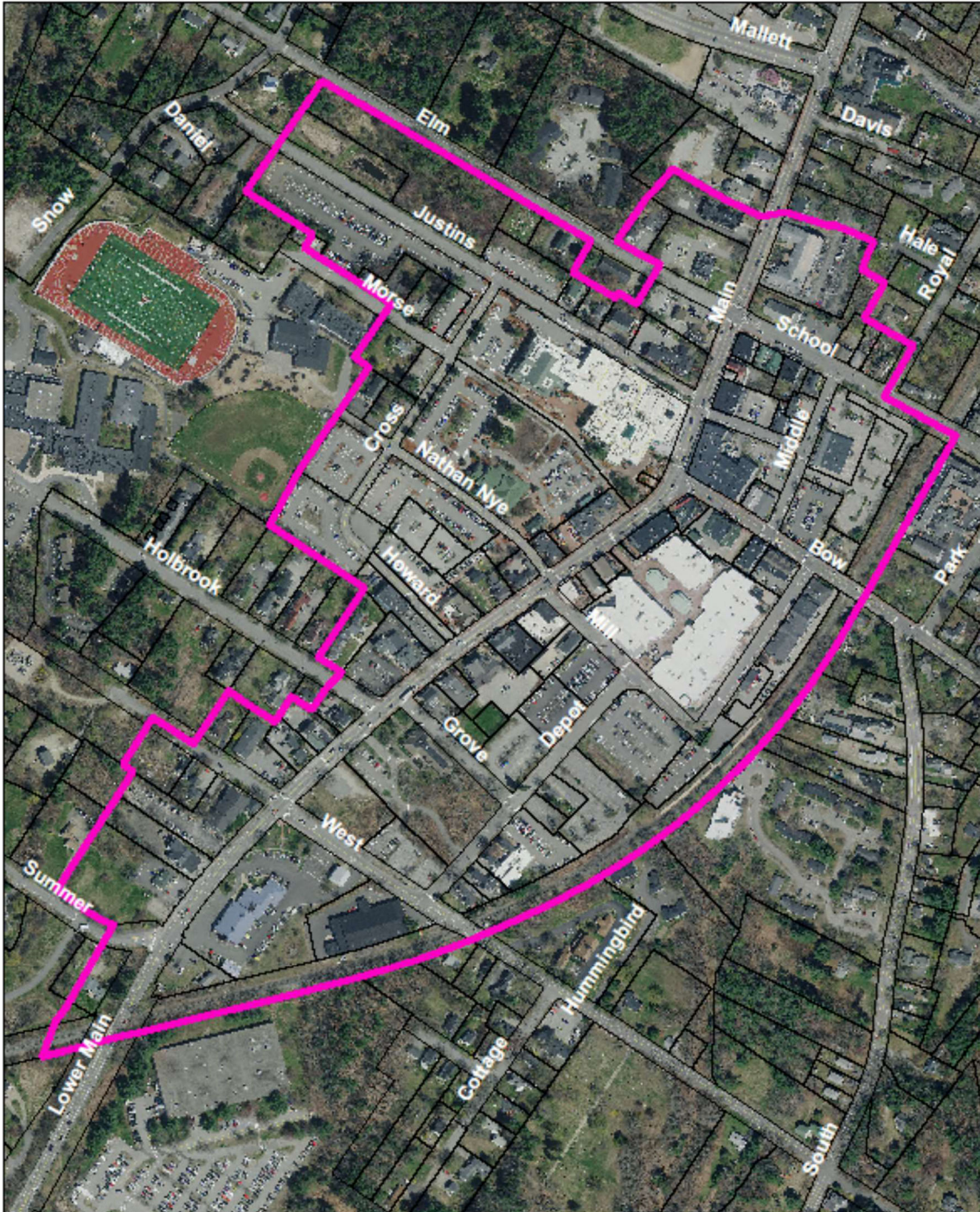
Process: The Board had a discussion on the item at the September 2, 2020 Planning Board meeting. A public A public hearing was held 10/07/2020. Notice was circulated to abutters and as required per the Planning Board’s notification policy. Legal ads ran in the Times Record on 09/25/20 and 09/29/20.

### **PUBLIC HEARING**

The Freeport Planning Board will hold a public hearing on Wednesday, October 7, 2020 at 6:00pm to discuss a proposed amendment to Section 413 Village Commercial I (VC-I) of the Town of Freeport Zoning Ordinance. The change would change the word "masonry" to "non-combustible" and "non-masonry" to "combustible" with regards to measuring setbacks (Section 413.C.5). A new definition of non-combustible will also be added to Section 104 Definitions. Applicant: Jim Cram, Freeport Historical Society, 45 Main Street (Tax Assessor Map 11, Lots 26, 26A & 29). The meeting will be held virtually using Zoom. The public is welcome to attend. Information on how to participate can be found on the meeting agenda posted on the Town's website at [www.freeportmaine.com](http://www.freeportmaine.com). Submitted materials are available for viewing in the Planning Office at the Freeport Town Hall during normal business hours.

Planning Board Recommendation: **MOVED and SECONDED:** Be it ordered that the Freeport Planning Board recommends that the Freeport Town Council adopt the proposed amendments to Section 413 of the Freeport Zoning Ordinance and Section 104 of the Freeport Zoning Ordinance to incorporate the use and definitions for combustible and non-combustible materials in regards to setbacks and that the Board finds that the proposal is consistent with the 2011 Town of Freeport Comprehensive Plan in that it allows a variety of neighborhoods and housing types at a variety of prices, protecting natural and historic resources, and encouraging replicating traditional pattern of New England village neighborhoods and traditional architectural designs while also allowing new development patterns and contemporary designs (Cannan & Child) (**VOTE:** (5 Ayes) (1 Recused-Ball) (1 Excused-Torres)

**Village Commercial I (VC-I)**  
**Boundaries noted with the pink outline**



Note: Proposed new text is underlined, proposed text to be omitted is struck through

## **PROPOSED AMENDMENTS TOWN OF FREEPORT ZONING ORDINANCE**

### **Section 104. Definitions**

**Noncombustible construction:** The construction type of the building or structure as classified by the Maine Uniform Building and Energy Code (MUBEC).

### **Section 413. Village Commercial “VC-I”**

A. Purpose:

It is the intent of this District to concentrate commercial activity within the Village Center:

B. Permitted Uses subject to site review regardless of size:

1. Retail Trade
2. Commercial Recreation, Indoor
3. Business and Professional Offices
4. Arts Center – Indoor and/or Outdoor with or without permanent structures
5. Municipal Facility
6. Private Assembly
7. Public Assembly - Indoor
8. Public Utilities
9. Public or Private School
10. Commercial School
11. Outdoor Recreation School
12. Religious Institution
13. Peddler on Private Property subject to the requirements of Section 526
14. One or two dwelling units on other than the first floor
15. Multiple Family Dwelling
16. Restaurant
17. Restaurant - Carry-Out
18. Visitors’ Center
19. Manufacturing accessory to or associated with a retail trade located in this District
20. Bed and Breakfast Inn
21. Day Care Center Facilities
22. Convenience Store
23. Parking lots to serve A & B buildings, as defined in the Freeport Design Review Ordinance in the VC-II District, which meet the requirements of Section 413.D.2.
24. Personal Services
25. Parking Structure subject to the standards of Sec. 413.D.7 below
26. Inn – not over 25 rooms and shall be at least two stories high
27. Parking area for open space *{Amended, Effective 12/02/14}*
28. Artisan Food and Beverage *{Effective 12/17/14}*

29. Community Centers and Services {Amended, Effective 12/18/18}

C. Space Standards:

- |                             |            |
|-----------------------------|------------|
| 1. Minimum lot size:        | 8,000 s.f. |
| 2. Minimum road frontage:   | None       |
| 3. Maximum building height: | 35 feet    |
| 4. Minimum setback/front:   |            |

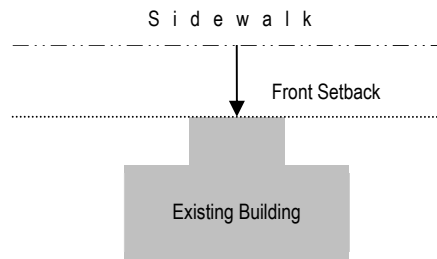
a. Where a sidewalk exists:

i. New Structures

- 10 feet from the property line if roof pitches toward the sidewalk;
- 5 feet from the property line if roof pitches away from the sidewalk;

ii. Additions to existing structures: the distance between the closest point of the existing building and the edge of the sidewalk closest to the building. In no instance shall the addition encroach into the public right-of-way;

Example:



b. Where no sidewalk exists: 15 feet from property line;

c. Landscaping or other amenities such as planters, benches or expanded sidewalk shall be required within the front setback.

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|--|------------|
| 5. Minimum setback side and rear: None if <u>masonry-non-combustible</u> construction is used and roof does not pitch in that direction. Five (5) feet if <u>masonry-non-combustible</u> construction is used and roof pitches in that direction. Fifteen (15) feet for <u>non-masonry-combustible</u> construction or walls with points of ingress or egress in them. |            |
| 6. Minimum land area per dwelling unit:  | 2,000 s.f. |
| 7. Maximum impervious surface to lot area ratio  | 90%        |

D. Other Standards: {Amended, Effective 12/18/18}

1. Parking in the VC-I District is further subject to the provisions of Section 514 as applicable of this Ordinance.
2. A Buffer Zone as required by Article V, Section 506 shall be at least 20 feet in depth, and shall be required whenever new construction or renovation requiring a building permit is applied for. Where existing structures are within the 20-foot area, no further encroachment shall be permitted.
3. Peddler trucks are prohibited.

4. Parking structures shall meet the following design standards:
  - a. Active uses such as retail, display windows, or other Permitted Uses shall be incorporated into a parking structure. At least 50% of the total pedestrian-level frontage facing streets or other pedestrian areas shall incorporate retail, display windows, or other Permitted Uses. For the purposes of this section, pedestrian areas shall mean existing or proposed sidewalks, walkways, or plazas. The required frontage incorporating retail, display windows or other Permitted Uses may be included in another structure that is physically separate from the parking structure provided that such other structure is separated by no more than 10 feet from the parking structure. If the space between such separate structures abuts a public street, other pedestrian area or parking lot, such space shall be integrated into the building design as a sidewalk or it shall be concealed from view from such street, pedestrian area or parking lot in a manner consistent with this Ordinance. Neither vehicular access to parking structures nor the parking portion of the structure shall be permitted on the street level of Main and Bow Streets. Upper levels of parking structures on these streets shall be designed to be compatible with the street level structure.
  - b. The retail, display windows or other Permitted Uses meeting the 50% frontage requirement described above may be allocated across different elevations of the structure in any manner, provided that the result of such allocations in conjunction with other adjacent uses is not to cause any street upon which the parking structure has frontage to be significantly lacking in pedestrian destinations with the result that the street is inconsistent with the character of the District.
  - c. The parking space dimension and aisle width of Section 514 of this Ordinance may be reduced to maximize the efficiency of the parking structure provided the safety of the structure is not reduced.
  - d. Parking structures may exceed the maximum impervious surface to lot area requirement; provided the required pervious land area is met on another property in the VC-1, VC-2, or VC-4 Districts provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
  - e. At least 75% of the street level of the parking structure that does not include retail, display windows or other Permitted Uses shall be screened with landscaping, art work, plants that grow on vines, or other material that softens the appearance of the parking structure. The 75% does not include entrances and exits or commercial uses. Street trees shall be provided at 1 tree for every 30' feet of parking garage clearly visible from a public street or a parking lot. If the Project Review Board determines that street trees are not appropriate in the sidewalk along the parking structure, the standard may be met at another location in the VC-1 District or at the village gateways at exit 20 and/or 21 provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
  - f. The façade of the parking structure along the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot shall consist of materials found on nearby buildings such as brick, stone, or wood-like material; or shall have a functional use such as a climbing wall.
  - g. The façade of the structure along sides other than those described in paragraph f. above shall be treated to soften the stark appearance of concrete, for example red sand mixed with the concrete provides a brick-like color and texture to the minimally visible walls.
  - h. On the side of the structure facing the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot, the façade shall have vertical elements that cover support columns and shall be done in such a way to mimic window openings similar to nearby buildings, while providing proper ventilation, such as grill work, window boxes or other types of adornment that soften the look of the structure. The sides of the

structure along other buildings shall maximize the openings between floors to improve ventilation.

- i. Pedestrian access is required on all sides of a parking structure that run along a public street, sidewalk, other pedestrian area or parking lot and shall be clearly marked.
- j. At no point shall a parking structure exceed 40 feet in height.
- k. A plan for providing security to parking structures is required. This plan shall include provisions for interior lighting and provisions for protecting the public such as but not limited to: surveillance cameras, regular patrol, etc.
- l. The Project Review Board may allow minor reductions to any of the standards listed above if strict compliance with the standard would result in the need for a mechanically ventilated parking structure. The Board may only allow a reduction up to the point where the standards of an open parking structure are in accordance with the current building code being enforced by the Town of Freeport. *{Amended, Effective 10/03/17}*