



TOWN OF FREEPORT, MAINE
Planning Department
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TO: FREEPORT PLANNING BOARD

FROM: CAROLINE PELLETIER, TOWN PLANNER

RE: Proposed Amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance

DATE: Tuesday, February 7, 2023

Background: On Wednesday, December 7, 2022, the Planning Board held a public hearing to discuss proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance.

The intent of the amendments is to update Section 602. Site Plan Review for general clean-up, to reflect current practices, provide clarity, increase the thresholds for what can be approved by the Town Planner and the Staff Review Board and some general clean-up pertaining to process.

Some of the more substantive changes can be summarized as follows:

- Increasing the notification for Project Review Board notification from a 200 ft to a 500 ft radius from property boundaries of a project.
- Allowing Town Planner Approval for: signage (in certain cases); alterations of structures and/or impervious surface modifications up to 1,000 sf (over a 3 year period); a change of use in the Village Commercial I between retail trade and restaurant, also includes the use of restaurant carry-out; and, a change of use between retail trade and business and professional office when certain conditions are met.
- Allowing the Staff Review Board to review the following: change of use (when certain conditions are met); alterations of structures and/or impervious surface modifications greater than 1,000 sf but less than 2,000 sf (over a 3 year period).
- Clarifications to the standards for "Review by an Expert" that the costs, including costs for review time by the Town Engineer, are at the expense of the applicant and must be paid for in advance (*Note: This is current practice and in accordance with the existing fee schedule, but is being clarified based upon public feedback*).
- The standards for "Approval Duration" to reflect that an extension can be granted by the Board that granted the original approval and can now only be granted for one additional two-year period. (*Note: There is currently no limit to the number of times that an extension under this section can be granted*).
- Including a reference to Section 527. Performance Standards for Commercial Districts in the Criteria and Standard for Relation of Proposed Buildings to the Environment.
- Clarifying the process for appeals of final decisions by the Town Planner, Staff Review Board and/or Project Review Board.

Process: This language was discussed by the Planning Board at multiple meetings and had been circulated to the Project Review and Town Attorney for input, with any suggestions being incorporated into the final draft. Notice of the public hearing was posted and printed as required for amendments to the Zoning Ordinance and in accordance with the Rules of Order and Procedure of the Freeport Planning Board. The ad was printed in the Times Record on 11/22/22 & 11/29/22.

Public Notice

TOWN OF FREEPORT PLANNING BOARD– PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, December 7th, 2022 at 6:00 p.m. in the Freeport Town Hall Council Chambers at 30 Main Street (Zoom option available) to discuss proposed amendments to the following sections of Chapter 21- Town of Freeport Zoning Ordinance:

ITEM II: Proposed Amendments to Chapter 21 – Town of Freeport Zoning Ordinance Pertaining to New Cannabis Uses

This will be a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance pertaining to new cannabis uses. The following amendments are proposed:

- 1) Proposed amendments to Section 104. Definitions, including adding the new uses of: Cannabis Establishment, Cannabis Cultivation Facility, Cannabis Manufacturing and Processing Facility, and Medical Cannabis Small-Scale Caregiver Operation.
- 2) The new uses of Cannabis Cultivation Facility and Cannabis Manufacturing and Processing Facility are proposed to be added as permitted uses, subject to Site Plan Review, to the following Sections (zoning districts) of the Freeport Zoning Ordinance: Section 406. Medium Density Districts (MD-A & MD-B), Section 409. Commercial District I (C-I), Section 411. Commercial District III (C-III), Section 412. Commercial District IV (C-IV), Section 415. Village Commercial District III (VC-III), Section 421. Industrial District I (I-I), and Section 422. Industrial District II (I-II).
- 3) Other amendments pertaining to the new cannabis uses are proposed to the following sections: Section 201. General Restrictions and Section 503. Home Occupations. These amendments would clarify that "cannabis home cultivation" is permitted in every zoning district and that "Medical Cannabis Small-Scale Caregiver Operation" can operate as a home occupation per the standards of Section 503. Home Occupations (as amended).
- 4) A new Section 535. Cannabis Establishments containing performance standards for Cannabis Establishments is proposed.

ITEM III: Proposed Amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance

This will be a public hearing to discuss proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance. Changes include general language clarification, amending the thresholds for the Site Plan Review process and the designated reviewing authority, and amendments pertaining to Site Plan Review for Cannabis Establishments.

The public is welcome to attend and may choose to attend in person, or on Zoom. Information on how to participate (including information on how to join on Zoom) can be found on the meeting agenda posted on the meeting calendar of the Town's website at www.freeportmaine.com. Meeting materials will be available for viewing on the Town's website or by contacting the Planning Office at the Freeport Town Hall at (207) 865-4743 option 5.

Recommendation: **“BE IT ORDERED:** That the Freeport Planning Board recommend to the Freeport Town Council the proposed amendments to Section 602. Site Plan Review of the Freeport Zoning Ordinance, including amendments for general language clarification, amending the thresholds for the Site Plan Review process and the designated reviewing authority, and amendments pertaining to Site Plan Review for Cannabis Establishments. Be it further ordered that the Freeport Planning Board recommends that the Freeport Town Council waits to consider the recommended proposed amendments to Section 602.C.2.c regarding cannabis establishments until such time that the Town Council considers the recommended amendments regarding cannabis establishments. The Planning Board finds that the recommended amendments are in general harmony with the Freeport Comprehensive Plan’s Vision “That Freeport’s economy would remain strong and stable...” through clearer regulations that allow for flexibility in site development and a more efficient review process for

relatively minor site plan amendments and smaller projects. We would like to draw attention to Section G, Project Review Board, Staff Review Board and Town Planner and its legality to the State's Statutes. (Ball & Arsenault) **VOTE:** (4 Ayes) (2 Nays-Jortner & Arsenault) (1 Excused-Burwell) (0 Nays) "

Additional Information: This agenda item was reviewed by the Planning Board at the same meeting in which they considered amendments pertaining to cannabis uses. Since the consideration of amendments pertaining to cannabis uses will be taken up separately, one proposed amendment was removed from this recommended amendment text and will be brought forward for consideration if/when the proposed amendments pertaining to cannabis are discussed.

In addition, the motion made by the Planning Board did point out Section 602.G regarding appeals. Based upon additional research and discussion with the Town Attorney, this language has been updated so that appeals of a final decision of the Town Planner would go to the Board of Appeals and appeals of a final decision of either the Staff Review Board and/or Project Review Board would go to directly to Superior Court.

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Section 602. Site Plan Review *{Amended, Effective 01/22/13}*

A. Purpose

The purpose and objectives of the Site Plan Review requirements are to conserve the Town's natural beauty and visual character and to provide for public safety and environmental stewardship of the immediate neighborhood including light and noise and by ~~insuring~~ ensuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping, and that the exterior appearance of structures, signs and other improvements harmoniously relates to their environment.

B. Applicability

1. **Site Plan Review** is required for all development proposals as outlined in Article IV of this Ordinance. ~~In addition, in accordance with the provisions of this Ordinance.~~ In addition, Site Plan Review is required for the following activities: a change of use when the new use is subject to Site Plan Review, unless otherwise exempted under Section 602.C. Nothing in this Section 602 shall be construed to prevent the ordinary repair and/or maintenance of existing structures and/or existing site improvements.
 - a. ~~A change of use when the new use is subject to Site Plan Review, except that a change of use of an existing building in the VC-I District from a restaurant to retail trade or from retail trade to a restaurant may be approved by the Town Planner as allowed in Section 602 (C)(e) (1), provided the building is located on a lot which does not abut a lot in residential use and no change occurs to the existing elements and features of the site except for necessary changes to the content of signage.~~
 - b. ~~A reduction in the number of or a reconfiguration of parking spaces serving a restaurant in the VC-I District, where such reduction or reconfiguration is allowed under Section 514(A)(5) of this Ordinance as amended on April 3, 2001; such reduction may be approved by the Town Planner as allowed in Section 602(C)(e) (1).~~
2. **Build according to plan.** Construction, site development and landscaping shall be carried out in accordance with the plans, drawings, sketches, and other documents approved by the ~~Project Review Board~~ required reviewing authority, unless altered with Board approval. ~~Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and improvement of existing structures and facilities.~~
3. **Multiple Reviews.** When a development is subject to multiple reviews such as Site Plan Review, Design Review, and/or Subdivision Review, the Project Review Board shall conduct a concurrent review; the project is required to meet the criteria

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and standards of all ~~ordinance~~ordinances under review. If Subdivision Review is required, the procedures of Subdivision Ordinance shall be used. If the development requires action by the Board of Appeals, Project Review Board review shall not commence until the Board of Appeals has made a decision.

C. Administration

~~1.~~ The following procedures and requirements shall apply to all applications for ~~site~~Site plan~~Plan review~~Review:

1. **Pre-Application Conference.** Prior to submitting a formal application for a project requiring Site Plan Review, the owner of the property or agent, as designated in writing by the owner, ~~is urged to~~should schedule a pre-application ~~conference meeting~~ with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures, submission requirements and the approval criteria and to familiarize the Town Planner and other relevant Town staff with the project. The Town Planner shall determine who has the authority to review the project: the ~~town~~Town plannerPlanner, the Staff Review Board, or the Project Review Board.

~~b. Notification.~~ Notwithstanding other notification requirements included in Sec. 602, all agendas of the Project Review Board and the Staff Review Board shall be posted in the Town Clerk's Office and the Freeport Community Library for inspection during normal business hours and the notice shall be placed on Freeport's local cable channel 7 and the Town's website.

~~e~~2. **Classification of Site Plans:**

~~1.~~ a. **Town Planner ~~review~~Review.** The Town Planner has the authority to review and take action on ~~projects proposed changes~~ that do not modify the intent of the ~~previously~~ approved site plan. ~~They~~The proposed changes shall be shown on a plan submitted by the applicant to the Town Planner and the Town Planner shall sign and date the plan to record agreement that the change does not modify the intent of the approved site plan. Examples of such changes include, but are not limited to: ~~minimal lighting, recalculation of parking requirements, landscaping changes and changes to previously approved ground and building mounted signs and new building mounted signs provided the signs meet the standards of the Freeport Sign Ordinance, building modifications up to 500 square feet, impervious surface modifications up to 500 square feet, seasonal accessory outdoor seating as permitted in the Village Commercial I, Village Commercial II, Commercial I and Commercial III Zoning Districts and site plan renewals in which the plans still meet the local standards. Notwithstanding the above, either the Town Planner or the applicant may request a hearing by the Project Review Board.~~ *(Amended, Effective 01/02/18, 01/04/22)*.

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- i. Minimal lighting
- ii. Landscaping
- iii. Recalculations of parking requirements
- iv. Changes to previously approved signage and/or any new signage on a site that has received Site Plan Review provided that in either case, the signs meet the standards of the Freeport Sign Ordinance
- v. Modifications including expansions of structures and impervious surfaces up to one-thousand (1,000) square feet within a three-year period
- vi. A change of use of an existing building in the Village Commercial I (VC-I) District from a restaurant/restaurant carry-out to retail trade or from retail trade to a restaurant/restaurant carry-out provided the building is located on a lot which does not abut a lot in a residential use
- vii. A change of use from retail trade to business and professional office or business and professional office to retail trade when no site changes are proposed, the space occupied by the use does not exceed one-thousand five hundred (1,500) square feet of gross floor area, the applicant can demonstrate that the parking requirement of the zoning district has been met and that any public utilities serving the property have the capacity to serve the new use
- ~~ix.~~viii. Seasonal accessory outdoor seating as permitted in the Village Commercial I, Village Commercial II, Commercial I and Commercial III Zoning Districts

Notwithstanding the above, either the Town Planner or the applicant may request a hearing by the Project Review Board.

2b. Staff Review Board. ~~Developments-Projects~~ that meet the criteria of ~~Sec. 602.C.e.2.a-g below this Section~~ shall be ~~considered minor amendments and shall be~~ eligible for review by the Staff Review Board. Municipal projects and Development projects that also require a Design Review Certificate or Subdivision approval are not eligible for review by Staff Review Board and shall, those projects require review by the Project Review Board. The Staff Review Board shall consist of the Town Planner, the Fire/Rescue Chief, the Police Chief, the Codes Enforcement Officer, the Town Engineer and the Public Works Superintendent, or the designee of any of them, with input from other Town departments as needed. The Staff Review Board shall have the same powers and duties as the Project Review Board. A public hearing shall not be required; ~~however, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within 200 feet of the property involved at least 5 days in advance of the meeting.~~ The Staff Review Board shall accept public comment for all application.;

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- A quorum of the Staff Review Board necessary to conduct an official Board meeting shall consist of at least three (3) members. Action on any application by the Staff Review Board shall require a majority of those members present and voting. An audio recording of each meeting shall be made and retained by the Town. ~~The completed application for site plan review, together with the documentation required in these regulations shall be placed on the Staff Review Board's agenda for consideration within 20 days. Any appeals from the decisions of the Staff Review Board shall be taken directly to the Project Review Board within 30 days of decision.~~ The following ~~developments~~ projects shall be eligible for ~~staff review~~ review by the Staff Review Board:
- ~~a.~~ a.i. Change of use from one permitted use to another permitted use provided any expansions do not exceed the limits stated in this Section 602.C.2.b ~~e.2.b e.~~ listed below
 - ~~b.~~ Building footprint modifications greater than 500 square feet but less than 1,500 square feet.
 - ~~c.~~ Parking lot modifications greater than 500 square feet but less than 1,500 square feet.
 - ii. Modifications including expansions of structures and/or impervious surfaces greater than one-thousand (1,000) square feet but less than two-thousand (2,000) square feet within a three-year period.
 - ~~d.~~ iii. Filling of lands or creation of ponds on properties where the primary use is residential.
 - ~~e.~~ iv. Filling of lands or creation of ponds where the primary use of the property is commercial which are greater than two-hundred (200) cubic yards but less than six-hundred (600) cubic yards of material.
 - ~~f.~~ v. Renewal of gravel pit operations that do not include an expansion or other modification.
 - ~~g.~~ vi. Any increase in height of a wireless telecommunication tower that is more than twenty (20) feet or 10% (ten percent), whichever is greater; any appurtenance to the tower that protrudes out from the edge of the tower more than twenty (20) feet or the width of the tower at the level of the appurtenance, whichever is greater; the installation of more than four (4) cabinets per carrier for the technology involved; any excavation or deployment outside of the limits of the approved site plan; changes around the base of the tower structure that reduces the concealment elements of the support structure; amendments that alter the approved site plan. ~~{Amended, Effective 10/03/17}~~
 - ~~h.~~ vii.) Construction of ground-mounted Accessory Solar Energy Generation Systems for uses other than single and/or two family dwellings. ~~{Amended, Effective 03/16/21}~~

If, ~~however,~~ the Town Planner or the applicant determines that a project appears to be complicated or disputed, the Town Planner may refer the

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application to the Project Review Board for their review at the next available meeting.

3c. Project Review Board. ~~Developments-Projects~~ that ~~don't~~do not meet the criteria for review and action by either the Town Planner or the Staff Review Board shall require review and action by the Project Review Board.

i) The Project Review Board shall accept public comments on any item at any stage of the review process and in accordance with the Rules of Order and Procedure of the Freeport Project Review Board. A public hearing shall not be required, but the Project Review Board may decide to schedule a public hearing in accordance with Section 602.C.9 if the size and/or nature of the development is perceived to have a significant impact on the community, not just the nearby properties.

ii) Projects that amend previously approved site plans, and that have sufficient information to be considered complete by the Town Planner, may be reviewed and have action taken in a single meeting of the Project Review Board.

iii) Projects that are proposed on undeveloped land, that include the demolition of buildings, ~~that are located in the Resource Protection 1-District,~~ or ~~when that include a~~ building and/or parking area is more than ~~doubled in size than the existing building and/or parking area~~two-thousand (2,000) square feet should first submit a conceptual plan. A conceptual plan should include environmentally sensitive areas such as wetlands, water bodies, streams, and steep slopes, locations of passing test pits if a subsurface sewage disposal system is proposed, the location of buildings and parking areas, and building elevations if a building is proposed. Conceptual plans should not be engineered plans. The purpose of the conceptual plan is to introduce the project to the Board and to contact property owners near the ~~development~~project. This portion of the review gives the Board and nearby property owners an opportunity to comment on the project before any engineering is done for the project. This phase of the review process is to direct the applicant as to what changes should be made and what information should be included in the final plan.

d3. Timing of review. For projects that are eligible to be reviewed by the Staff Review Board, the Town Planner shall make an initial review of the application to determine if it is complete and upon being deemed complete,

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shall be placed on the Staff Review Board's agenda for consideration within twenty-one (21) days.

For projects that are eligible to be reviewed by the Project Review Board,
~~t~~The completed application for ~~site~~ ~~Site plan~~ ~~Plan review~~ ~~Review~~, together with the documentation required in these regulations, shall be placed on the Project Review Board's agenda for consideration within thirty (30) days of its receipt ~~for either conceptual or final~~ review unless the Project Review Board and applicant agree to a continuance; however, any application which is not complete shall not be placed on the agenda but shall be returned to the applicant by the Town Planner with an indication of the additional information required. Within sixty (60) days of the receipt of a Site Plan submission which is determined by the Project Review Board to be complete, the Project Review Board shall act.

4. Notification of Meetings. All agendas of the Project Review Board and the Staff Review Board shall be posted at the Freeport Town Office and the Freeport Community Library for inspection during normal business hours. The notice shall also be placed on Freeport's local municipal cable channel and the Town's website.

a. For meetings of the **Staff Review Board**, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within two-hundred (200) feet of the property involved at least five (5) days in advance of the meeting. The Staff Review Board shall accept public comment for all applications.

b. For meetings of the **Project Review Board**, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within five-hundred (500) feet of the property involved at least seven (7) days in advance of the meeting.

The owners of all property shall be considered to be those against whom taxes are assessed as of April 1 of each calendar year. Failure of any property owner to receive a notice of a meeting shall not necessitate another meeting or invalidate any action by the Staff Review Board and/or the Project Review Board.

e5. Possible action. Action may include approval, approval with conditions, or disapproval of the site plan as submitted or amended.- If the Project Review Board ~~or Staff Review Board votes on an application, shall vote to disapprove an application,~~ the owner or authorized agent shall be notified

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in writing of the action with any conditions of approval being noted. ~~and the specific cause of disapproval shall be noted.~~

~~6.~~ **Site walk.** The Project Review Board or Staff Review Board may schedule a site ~~visit-walk~~ of the property before making a final decision on the application. Notice of the site walk shall be given to the applicant and all abutting property owners per Section 602.C.1.b. and such notice shall include, at minimum, All property owners within 200 feet of the property on which a development proposal is being made will be notified of the date, time and location of the site visit-and. The Board will report on its findings at its next scheduled meeting where the application for the project is discussed.

~~7.~~ **Conditions of approval.** The Project Review Board or Staff Review Board may attach such condition(s) as it finds necessary to ensure compliance with the purpose and standards of Site Plan Review and all other applicable sections of this Ordinance. Requests for changes in the conditions of approval require ~~Project Review Board~~ review under the provisions of this ~~section~~Section and by the Board that granted the approval with conditions.

~~8.~~ **Review by an expert.** The Project Review Board and/or Staff Review Board may require that the Town Engineer or other expert consultant(s) review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance and, advise if necessary, of procedures which will result in compliance. The Town Engineer and/or other expert consultant(s) shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account prior to the start of the review. ~~The Town shall pay the consultant from the escrow~~Any costs for engineering review and/or review by other expert consultant(s) shall be paid from the escrow account and ~~reimburse the applicant~~ if funds remain after payments are completed, any remaining balance shall be returned to the applicant. If the actual cost is more than the estimated cost, the applicant shall pay any overages before the Notice of Decision of the Board is issued to the applicant. The consultants shall be fully qualified to provide the required information as determined by the ~~Town of Freeport~~Staff Review Board and/or Project Review Board in its sole discretion. -

The Project Review Board may require the applicant to undertake any study which it deems reasonable and necessary to ~~insure~~ensure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

~~9.~~ **Public Hearing.** If the Project Review Board decides to hold a public hearing a notice of the nature of the application and of the time and place of

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the public hearing shall be ~~given by mail to the applicant and the owners of all property within two hundred (200) feet of the property involved at least ten (10) days in advance of the hearing and shall be~~ published at least seven (7) days in advance in a newspaper of general circulation in the area.

~~—The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Project Review Board.~~

j10. **Performance Guarantee:** The Staff Review Board and/or Project Review Board, with the advice of Town Staff, Municipal Officers, and/or the Town Attorney may -as a condition of approval ~~may~~ require the applicant to post a performance guarantee to ensure the completion of site improvements associated with the project. The performance guarantee may be in the form of an escrow agreement, irrevocable letter of credit, or any other surety form reviewed and approved by the Town Manager, upon review by the Town Attorney in such amount as is approved by the Staff Review Board and/or Project Review Board as being reasonably necessary to ensure completion of all site improvements, for example, but not limited to -such as erosion control, drainage, stormwater management facilities, parking areas, landscaping, walkways, retaining walls, lighting and any off-site improvements that were required as a condition of approval.

The Town of Freeport shall have access to the site at all times to review the progress of the work and shall have the authority to review the field logs maintained by the construction monitor. Any deficiencies noted by the Town representative shall be brought to the attention of the construction monitor who shall see that remedial measures are taken. If the Municipal Town Engineer or ~~appointed representative~~their designee shall find, upon inspection of the improvements performed before expiration date of the performance ~~bond~~guarantee, that required improvements have not been constructed in accordance with plans and specifications ~~filed by the applicant approved by the Board, they~~he shall so report to the Town Planner and/or Municipal Officers or their appointed designee. The Town Planner and/or Municipal Officers shall then notify the applicant and, if necessary, the issuer of the performance guarantee, and take necessary steps to preserve the municipality's rights ~~under the performance guarantee.~~

~~k11.~~ **Payment of fees.** At the time of application for a building permit, the applicant shall pay to the Town Treasurer any fees that were required as a condition of the approval. Fees such as an inspection fee to cover ensure that the project is constructed as approved, impact fees, and the administrative fee on the performance guarantee.

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~~¶12.~~ **Pre-construction meeting.** The applicant shall notify the ~~Municipal Officers~~Town Planner or their appointed designee when construction of such improvements shall commence so that the ~~Municipal Officers~~Town Planner or their appointed designee can cause inspection to be made to ~~assure~~ensure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Staff Review Board and/or ~~Project Review Board~~;~~or.~~

~~¶13.~~ **As-built plans.** The Project Review Board, Staff Review Board, ~~Planning Town Planner, Town Engineer~~Staff or Codes Enforcement Officer may require that as a condition of approval, or for an Certificate of ~~Occupancy permit,~~ that upon completion of construction, the owner shall present to the Town a set of as-built ~~drawings~~plans indicating the location of underground utilities on the developed site and in all abutting roads and easements/right of ways. These "as-built" plans shall be submitted in both paper and electronic copies (including a ~~pdf~~PDF copy) prior to the issuance of a Certificate of Occupancy for the project or occupancy of the building. ~~Amended 06/06/17~~

~~¶14.~~ **Review of future plans.** No new plan by the applicant shall be approved by the ~~Project Review Board~~Town under this Section 602 as long as the applicant is in default on a previously approved site plan.

~~¶15.~~ **Certificate of occupancy.** A certificate of occupancy shall not be granted until the Codes Enforcement Officer determines that the completed project meets all of the requirements of the site plan as approved by the ~~Project Review Board~~Town.

Nothing contained in this section shall prevent the Town from pursuing any other action.

~~¶16.~~ **Existing development.** Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been diligently prosecuted previous to the date of enactment or amendment of this Ordinance, provided plans for such building or structure shall have been timely filed with and approved by the Codes Enforcement Officer.

~~¶17.~~ **State and federal permits.** The applicant shall comply with all State and Federal requirements and receive all relevant approvals before application is made for a building permit and/or any development activities may begin. The Codes Enforcement Officer shall issue a building permit after a determination that the application complies with the site plan(s) approved by the ~~Staff Review Board or the Project Review Board~~Town.

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- ⊕ **18. Approval duration.** The approval of a site plan shall become void if construction of site improvements is not initiated within two (2) years of the date of such approval unless such time limit is extended by the ~~Project Review~~ Board that granted the original approval. The site may be developed and used only as shown on the approved site plan. All elements and features of the site plan are conditions of the approval and no change from the approved site plan is permitted unless an amended plan is first submitted to and approved by the Board that granted the original approval and following the procedures of this Section 602. Such extension may only be granted for one additional two-year period. Freeport Project Review Board. ~~{Amended, Effective 02/08/11}~~
- ⊖ **19. Violations.** Failure to comply with any conditions of the Site Plan Review approval, subsequent to approval of the ~~Plansite plan~~, shall be construed to be a violation of this Ordinance and shall be the grounds for revoking the approval, initiating legal proceedings to enjoin construction or any specific activity violating the conditions of approval, or imposing such fines as the Town Council shall have established for violations of this Ordinance, for each day that the violation continues to exist after official notification by the Codes Enforcement Officer.

D. Submission Requirements

~~A.~~ ⊕ When the owner of the property or authorized agent makes formal application for Site Plan Review to the Staff Review Board and/or the Project Review Board, the application for the Site Plan or an amendment to an approved site plan shall contain at least an application, a deed for the property, plans, building elevations, and a cover letter. In addition to the paper copies required below, all application materials must be submitted in digital PDF form. More details on each of these items are listed below. The Town Planner shall make an initial review of the application to determine if it is complete.

1. **Application:** A fully executed and signed copy of the application for Site Plan Review. The application form will be provided by the ~~planning~~ Planning department ~~Department~~.
2. **Deed Proof of right, title and/or interest in the property:** A copy of the recorded deed for the property. If the applicant is not the property owner, a purchase and sale agreement or a lease agreement shall also be submitted to show that the applicant has a serious interest in the project and sufficient title, right, and/or interest to complete the project. The amount being paid for the property may be ~~blacked out~~ omitted.
3. **Cover letter:** A cover letter explaining the project should include details on any proposed construction or change of use that can't be explained by the plans. The cover letter should also list other local, state, or federal permits or

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licenses that will be required. ~~If applicable, the cover letter should include the applicant's intent for ownership of the open space.~~

4. **Plans:** ~~At least twelve (12) copies of a site plan drawn at~~ Two (2) sets of the full-size plan set drawn at a scale sufficient to allow review under the Criteria and Standards of ~~section~~ Section (6F) of this Section, but at not more than ~~forty (40)~~ 50 feet to the inch for that portion of the total tract of land being proposed for development and ~~twelve ten (120)~~ copies for the Project Review Board, or seven (7) copies for the Staff Review Board of the plan set on 11" X 17" size sheets. ~~All plan sheets must also be submitted electronically in a pdf format.~~ All plans shall include the following information: ~~(Amended 06/06/17)~~

a. Owner's name ~~and~~ and address and ~~signature~~ applicant's name and address;

b. Assigned address and Tax Assessor Map and Lot(s) of each parcel(s) existing at the time the application is submitted;

c. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;

d. The bearings and distances of all property lines, and easements and the location of the adjacent right-of-way.. A formal survey is recommended for new developments; however, the Project Review Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries;

e. Zoning classification(s) of the property and the location of Zoning District boundaries if the property is located in two or more Zoning Districts;

f. The lot area of the parcel and the road frontage;

g. The location, size, and type of all existing and proposed buildings and structures (including size and height) and the setbacks from property lines, driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;

Developments proposed on land that hasn't been previously developed, redevelopment of property, and or significant expansion shall also include the following additional information. The Town Planner may determine what additional information will need to be submitted. The Project Review Board may require additional information or may waive the additional submission requirements required by the Town Planner.

h. Sketch map showing general location of the site within the town;

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- hi. The location of all buildings within 150 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel;
- ij. Existing and proposed topography of the site at two foot contour intervals if major changes to the existing topography are being proposed;
- jk. A stormwater drainage plan showing:
 - (1) the existing and proposed method of handling stormwater run-off;
 - (2) the direction of flow of the run-off through the use of arrows;
 - (3) the location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
 - (4) engineering calculations used to determine the increased rate of drainage based upon the pre and post development conditions of a two year, ten (10) year and twenty-five (25) year storm frequency. The drainage plan shall result in no increase to the rate of off site-drainage from the pre-development rate.
 - (5) Plan for maintaining and/or improving stormwater quality. Retention of the first one-half inch of run-off from a storm event for twenty-four (24) hours may be required.
 - (6) Compliance with Section 529.4 of this Ordinance, if applicable.
- kl. A utility plan showing provisions for water supply and ~~waste water~~wastewater disposal, including the size and location of all piping, holding tanks, leach fields, etc., and showing the location and nature of any solid waste collection facility and all electrical, telephone and any other utility services to be installed on the site. Impact on groundwater shall be evaluated. All utilities shall be underground whenever feasible as determined by the Project Review Board.
- lm. Lighting showing the location, type, radius and intensity in foot candles of all exterior lighting, including sidewalk lighting in the Village Commercial 1 and 2 Districts.
- mn. A landscaping schedule keyed to the site plan and indicating the varieties, sizes, and the locations of trees, shrubs, plants and any other landscaping elements to be retained or to be planted or placed on the site. It should include proposed methods of protecting existing trees and growth during and after construction.
- no. If a new entrance is proposed; sight distances at the entrance is required in both directions

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- ep. Building elevations: For new building construction, building elevation drawings of all sides of the building including the description of type, color, and texture of all buildings.
- eq. Estimated peak-hour traffic to be generated by the proposal.
- er. The type and size of all permanent machinery likely to generate appreciable noise at the lot lines.
- es. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if applicable.
- et. A list of construction items that will be included in the performance guarantee and the estimated or actual cost of completing those items.
- eu. Provisions for maintenance agreements of all common areas, if applicable.
- ev. Condominium declarations, if applicable, including, but not limited to, organization of the homeowners' association and provisions for maintenance of common areas.

The Project Review Board may waive any of these submission requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

- E. All applications for Site Plan Review shall meet all applicable provisions of Section 602.F, Criteria and Standards.
- F. Criteria and Standards
 - 1. The following criteria and standards shall be utilized by the staff and the Project Review Board in reviewing applications for Site Plan Review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Project Review Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The Project Review Board may waive the criteria presented in this section upon ~~a determination~~ a determination by the Project Review Board that the criteria are not applicable to the proposed action or upon a determination by the Project Review Board that the application of this criteria are not necessary to carry out the intent of this Ordinance. The Project Review Board shall approve the site plan unless the plan does not reasonably meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Project Review Board.

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- a. **Preservation of Landscape:** The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vista.
- b. **Relation of Proposed Buildings to the Environment:** The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings and land uses in the vicinity which have a visual relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, facade openings, architectural style and details), building materials and signs.

If the structure is in the Design Review District, the Project Review Board shall incorporate the findings of the standards ~~of the Chapter 22 -~~ Design Review Ordinance in its Site Plan Review findings.

If the structure is located in a Commercial District (Commercial I, Commercial III and/or Commercial IV), the Staff Review and/or Project Review Board shall incorporate the findings of the standards of Section 527. Performance Standards for Commercial Districts in its Site Plan Review findings.

- c. **Vehicular Access:** The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and ~~pedestrian-pedestrian~~ traffic patterns. Special consideration shall be given to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and ~~pedestrian-pedestrian~~-vehicular contacts. The entrance to the site shall meet the minimum sight distance according to ~~MDOT standards to the greatest extent possible~~ any applicable State or municipal standards.
- d. **Parking and Circulation:** The layout and design of all means of vehicular and ~~pedestrian-pedestrian~~ circulation, including walkways, interior drives,

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and parking areas shall be safe and convenient and, insofar as practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas, and the arrangement and use of parking areas shall be considered.

- e. **Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 ~~above of this Ordinance~~. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two year, ten year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains; reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.
- f. **Utilities:** All utilities included in the site plan shall be reviewed as to their adequacy, safety, and impact on the property under review and surrounding properties. The site plan shall show what provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Project Review Board, all electric, telephone and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.
- g. **Advertising Features:** The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding ~~properties, and properties and~~ shall not constitute hazards to vehicles and pedestrians.
- h. **Special Features:** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

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- i. **Exterior Lighting:** All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. For all proposed lighting, the source of the light shall be shielded and the light should be directed to the ground, except in the case of ground sign lighting. In the Village Commercial 1 and 2 Districts, lighting for pedestrian walkways and adjacent public sidewalks shall also be provided.

- j. **Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

- k. **Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.

- l. **Environmental Considerations:** A site plan shall not be approved unless it meets the following criteria:
 - (1) Will maintain safe and healthful conditions;
 - (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
 - (3) Will adequately provide for the disposal of all wastewater;
 - (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - (6) Will protect archaeological and historic resources as designated in the comprehensive plan;

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- (7) Will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the standards of Section 306, Land Use Standards, of the Town of Freeport Shoreland Zoning Ordinance.

HG. Project Review Board, Staff Review Board and Town Planner Appeals.
Any appeal from a final decision of the Town Planner shall be taken to the Board of Appeals. Any appeals from a final decision ~~the decisions~~ of the Project Review Board and/or Staff Review Board -shall be taken only directly to Superior Court.