



**TOWN OF FREEPORT, MAINE**

Planning Department

30 Main Street

Freeport, ME 04032

Phone: 207-865-4743

[www.freeportmaine.com](http://www.freeportmaine.com)

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**TO: FREEPORT PLANNING BOARD**  
**FROM: CECILIA SMITH, ASSISTANT TOWN PLANNER**  
**RE: AGENDA ITEM III: PROPOSED TEXT AMENDMENTS TO SECTION 428. NATURE-BASED AND ART OVERLAY DISTRICT (NBAOD) OF CHAPTER 21 FREEPORT ZONING ORDINANCE**  
**DATE: WEDNESDAY, OCTOBER 4<sup>th</sup>, 2023**

**ITEM III: PUBLIC HEARING – Proposed Text Amendments to Section 428. Nature-Based and Art Overlay District (NBAOD) of Chapter 21 Freeport Zoning Ordinance.**

The Board will hold a Public Hearing to discuss proposed amendments to Section 428 of the Freeport Zoning Ordinance to amend the existing language that prohibits structures to be used as wedding venues in the Nature-Based and Art Overlay District (NBAOD). Desert of Maine, applicants; Heestand Family Holding, LLC, owners; 95 Desert Road (Tax Assessor Map 22 Lot 8).

**Background:** This is an applicant driven agenda item. The applicant is bringing forward proposed amendments to Section 428 of the Freeport Zoning Ordinance to amend the language prohibiting structures to be used as wedding venues in the Nature-Based and Art Overlay District (NBAOD).

The Zoning Ordinance was amended on December 15<sup>th</sup>, 2020, to create the Nature Based and Art Overlay (NBAOD) District per the applicant’s request. Prior to the Planning Board’s recommendation to the Town Council to adopt the zoning amendment pertaining to establishing the NBAOD, the Board met several times (6/03/20, 8/19/20, 9/02/20) to discuss the language proposed and listen to community input. Because there was some concern about the activities the applicants intended to have in the new overlay zone, and because the applicants didn’t intend to use their buildings as a wedding venue, the provision in Section 428.F.2 prohibiting weddings was added. As background information, I am attaching part of the 11/04/20 Planning Board meeting minutes where the Board listened to public comments and had a discussion regarding weddings in the NBAOD.

The applicants are back before the Board requesting a change to amend the language restricting structures in the NBAOD from being used as wedding venues due to the challenges they are facing with the long-term viability of their business operations. Please see the attached application dated 8/22/23, proposed language, and public comment submitted 9/10/23.

Section 428.F.2 is unique in the sense that the Zoning Ordinance is otherwise silent on weddings and does not define or explicitly prohibit wedding venues. However, the Codes Enforcement Officer (CEO) categorizes wedding venues as *Public Assembly- Indoor* – a use that is permitted in the NBAOD. The Board may want to consider adding wedding venues to the definition of *Public Assembly- Indoor* (under Section 104. Definitions) to clarify that wedding venues fall under such category.

**Process:** Since this application is for a Zoning Amendment, a public hearing is required and will be held at this meeting. Notice was circulated to abutters and as required per the Planning Board's notification policy. Required legal notice was published in the Times Record on 09/22/23 and 09/27/23.

If the Board wishes to take action on the application, they may do so at this meeting. 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](#).

**Section 428 – Nature-Based and Art Overlay District - “NBAOD”** *{Effective, 12/15/20}*

A. Purpose and Applicability:

1. Purpose

It is the intent of the Nature-Based and Art Overlay District (the “NBAOD”) to allow nature-based commercial uses that are consistent with the historical uses of any property within the overlay district and assist with the long-term sustainability of the current uses and the protection of the natural and historic resources of a property, to allow an indoor art center and indoor public assembly, and to specify the principal and accessory uses that are allowed thereon. The NBAOD is intended to function as an overlay district. As such, the requirements of the underlying zoning district(s) will remain in force and will apply to all uses of land and buildings within the NBAOD except as specifically modified by the provisions of this Section 428.

The NBAOD is shown on a map titled “Town of Freeport, Official Zoning Map,” as adopted by the Freeport Town Council.

B. Permitted Uses subject to Site Plan Review regardless of size:

In addition to the uses allowed in the underlying zoning district(s), the following uses shall be permitted uses in the NBAOD:

1. Nature-Based Commercial Enterprise
2. Art Center-Indoor
3. Public Assembly – Indoor
4. Food trucks, as an accessory use to any permitted use that is subject to Site Plan Review, and subject to the provisions of Sec. 526A—Food Trucks

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. For a Nature-Based Commercial Enterprise, Art Center-Indoor, Public Assembly - Indoor or Campground the minimum lot area shall be ten (10) acres.
2. All other space standards applicable to the underlying zoning district(s) shall apply in the NBAOD.

D. Space Standards for Lot(s) in Subdivisions approved after April 9, 2002

1. The space standards applicable to the underlying zoning districts shall apply to the NBAOD.

E. Bulk Standards for Lot(s) in Subdivisions approved after April 9, 2002

1. The bulk standards applicable to the underlying zoning district(s) shall apply to the NBAOD.

F. Other Standards

1. For all uses subject to Site Plan Review, in the front setback, in a strip extending along the property’s road frontage, for a depth of 15 feet, except for driveways, landscaping is required. A buffer is required in all side setbacks for a depth of 15 feet extending from the front property line along the entire side and rear setbacks to the furthest back edge of the developed area (meaning buildings, parking lots, other impervious surface), except for any curb-cuts, trails or road ways existing as of the Effective Date of the NBAOD. Such buffer

shall consist of natural features such as slope, gullies, stands of trees, shrubbery or rock outcrops, but where the Project Review Board determines that these natural features do not exist or are insufficient to provide an adequate buffer, the applicant shall provide additional landscaping, or where the Project Review Board determines landscaping is not feasible or adequate, the applicant shall provide fencing or screening.

2. A structure on a property in this overlay district may be used for one or more permitted uses subject to site plan review, provided however that the maximum capacity of that structure shall be 300 persons ~~and no such structure may be used as a wedding venue.~~

3. If the Nature-Based and Art Overlay District is located within a residential district and a structure is used as a wedding venue, the following additional restrictions apply:

- a. No music is allowed outside the structure

- b. The event must conclude by 10:00PM.



**Town of Freeport  
Planning Department  
30 Main Street  
Freeport, ME 04032  
(207) 865-4743 ext. 107**

**1. SUBMISSIONS**

- Twelve (12) copies each of the completed application form and a copy of the recorded deed(s) 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.*
- For applications to the Project Review Board, you must also submit twelve (12) copies of all other supplemental materials collated into individual packets which will fit into a large manila envelope. Please clip materials together; do not use special binding or binders. If copies of plans are being submitted, please include 2 full size sets (24" x 36") and 10 copies reduced to 11" x 17". The scale of any site plans shall be sufficient to allow review under the Criteria and Standards of Section 602.G of the Freeport Zoning Ordinance, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development. **All plan sheets must also be submitted electronically in a pdf format.** For a complete list of detailed submission requirements, please refer to the applicable ordinance(s) which may include the Design Review Ordinance, the Subdivision Ordinance or the Zoning Ordinance (Section 602 – Site Plan Review).

For applications to the Planning Board, you must also submit eight (8) copies of all other supplemental materials.

- Payment of application fee and abutter fee (if applicable)
- This application form, along with the required accompanying materials, must be submitted to the Town Planner at least 21 days prior to the meeting at which it is to be considered.
- The applicant or an agent needs to be present at the meeting to present the application to the Board. If the applicant is going to be represented by someone other than themselves, they must submit a signed letter of authorization.

**2. ABUTTERS**

Abutters will be notified as required by State and Town regulations. Abutters will be determined by the Freeport Planning Department using most recent Assessing Records. If there are other people that you would like notified of the meeting, their contact information (either mailing address or email address) must be submitted with the application form. A fee of \$2.50 per abutter will be charged.

**3. FEES**

Refer to current fee schedule.

**Town of Freeport  
Planning Department**

Application for Review

**Project Type: (check all applicable)**

\_\_\_\_\_ Site Plan Review    \_\_\_\_\_ Design Review Certificate    \_\_\_\_\_ Subdivision  
\_\_\_X\_\_\_ Zoning Ordinance Amendment    \_\_\_\_\_ Other (please explain) \_\_\_\_\_

**Name of Project:** Changes to NBAOD Ordinance Language

**Proposed Use of Property:** Host weddings in the Tuttle Barn once it is completed

**1) Applicant Information:**

Name: Desert of Maine Tel: 978-394-5923  
(If a Company, provide name of person also)

Address: 95 Desert Rd., Freeport

Email: mela@desertofmaine.com

**2) Interest in Property:** Please attach 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. This application will not be processed without this information.

**3) Do you own any abutting property?**      Yes      No

If yes, please explain: 93 Desert Rd, Freeport

**4) Property Information:**

Present Use of Property Tourist Attraction and Nature-based Education Center

Location: Street Address 95 Desert Rd, Freeport

Assessor's Office Map: 22

Lot: 8

Size of Parcel (acres): 50

Zoning District (s): RR1/NBAOD

**5) Design Review Information** (please circle one from each category)

Design Review District:      One      Two      Not in the Design Review District

Building Class, as designated on the Design Review District Map(s):      A      B      C

Is this building in the Color Overlay District:      Yes      No

Please describe the proposed changes: We propose to change the language to heading F of Section 428 to remove language prohibiting weddings to the NBAOD.

**6) Other Information:**

Proposed # of Buildings: \_\_\_\_\_ Gross Square Footage of Non-Residential Buildings: \_\_\_\_\_

Is Zoning Board of Appeals Approval Required?      Yes                      No

If YES, provide reason \_\_\_\_\_

**7) Subdivision Approval or a Subdivision Amendment: (if applicable)**

Proposed Number of Lots \_\_\_\_\_

Does the applicant intend to request any waivers of Subdivision or Site Review provisions?

NO \_\_\_\_\_      YES \_\_\_\_\_

If YES, list and give reasons why \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8) Applicant's Engineer, Land Surveyor, Landscape Architect and/or Planner:**

Name: Harriman \_\_\_\_\_ Tel: 207-784-5100 \_\_\_\_\_

Address: 80 Exchange Street, Portland, ME 04101 \_\_\_\_\_

Email: TEmercy@harriman.com \_\_\_\_\_

**9) Billing Contact (If different than applicant information)**

Name: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

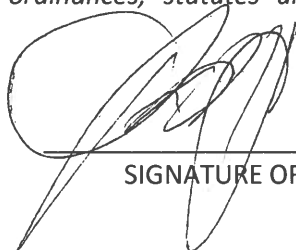
**Application Fee:** \$ 385                      **Abutter Fee:** \$ \_\_\_\_\_

**Submission:** *This application form, along with required accompanying materials, must be submitted to the Town Planner at least 21 days prior to the meeting at which it is to be considered.*

*The undersigned, being the applicant, owner or legally authorized representative, states that all information in this application is true and correct to the best of his/her knowledge and hereby does submit the information for review by the town and in accordance with applicable ordinances, statutes and regulations of the Town, State and Federal governments.*

08/22/23

DATE



SIGNATURE OF APPLICANT/OWNER/REPRESENTATIVE

## **Proposal to Planning Board**

### **Proposal**

We propose to change the language of Section 428 of the Freeport Zoning Ordinance which outlines the definition of the Nature-Based and Art Overlay District - "NBAOD". We are asking that the language in part F2 be stricken, which states that "no structure in this overlay district may be used as a wedding venue".

### **Our Reasons for Changing the Ordinance**

As stated in the ordinance, the purpose of the NBAOD is "to allow nature-based commercial uses that are consistent with the historical uses of any property within the overlay district and assist with the long-term sustainability of the current uses and the protection of the natural historic resources of a property, to allow an indoor art center and indoor public assembly, and to specify the principal and accessory uses that are allowed thereon."

As we move forward with the restoration and re-building of the Tuttle barn at the Desert of Maine, which dates back to the 1700s, we look forward to creating a sustainable arts center and community gathering place. The Tuttle barn is a stunning building that could one day memorialize a crucial piece of Freeport history, enrich our community with music and theater performances, and contribute to the arts and culture economy in Freeport.

But we face many challenges ahead. In addition to the ballooning up front costs associated with restoring this historic building and re-constructing it so it meets modern building code requirements for structural integrity, life safety, and accessibility, we must face the reality that it is notoriously difficult to sustainably operate an arts center. This is especially true in Maine, due to our small audience pools. Most, if not all, successful performing arts centers sustain themselves through means other than just ticket sales.

The only feasible option for long-term viability of operating the Tuttle Barn as an arts center would be to rent out the Tuttle Barn as an events venue when not hosting artistic performances. It is crucial that some of those events should include weddings. The cost of renting a venue for a wedding is nearly an order of magnitude higher than for other private events. Hosting weddings would allow us to host fewer, more profitable events than if we were restricted to just other types of events such as corporate gatherings or private parties. This proposed change, along with commonsense restrictions that respect the quiet neighborhood setting of the Tuttle Barn, would allow us to sustain our arts center in the way that would have the least impact on our neighbors. This change would also boost business for local restaurants and hotels.

### **Wedding Restrictions**



In collaboration with our closest neighbors, we have developed the following restrictions to minimize noise and traffic. The restrictions below would be written into our venue rental agreement and would be legally binding for our guests:

- No outdoor music or dancing permitted
- Music (indoor only) must end by 9 pm
- Events must end by 10pm and all guests must vacate the Tuttle Barn and parking lots. This is consistent with the quiet hours of the campground.
- Guests seeking to rent the Tuttle Barn must be vetted by the Desert of Maine to ensure the participants are aware of the quiet, neighborhood setting of the venue. Only guests seeking a quiet wedding celebration will be allowed to rent the Tuttle Barn. We will require a deposit which will only be returned if there are no violations of the rules.
- We will limit the maximum capacity of the event to 300 persons, as stipulated in the ordinance

### **Specificity of the Zoning Language for the NBAOD**

The language stipulating what qualifies as a NBAOD is such that it is exceptionally difficult for other properties in Freeport to be considered for this overlay district. For any new NBAOD, nature-based commercial uses must be consistent with the historical uses of any property within the overlay district *and* assist with the long-term sustainability of the current uses *and* the protection of the natural historic resources of a property. It is unlikely that any other businesses or property owners would be able to take advantage of the change to the language in section 428 that forbids weddings to the NBAOD. Thus, we do not feel that this would create other wedding venues in Freeport.

The NBAOD is intended to function as an overlay district. As such, the requirements of the underlying zoning district(s) will remain in force and will apply to all uses of land and buildings within the NBAOD except as specifically modified by the provisions of this Section

Specifically, we propose to change the language to Heading F2 of Section 428 to the following: "A structure on a property in this overlay district may be used for one or more permitted uses subject to site plan review, provided however that the maximum capacity of that structure shall be 300 persons."

QUITCLAIM DEED WITH COVENANT  
(Maine Statutory Short Form)

GARY E. CURRENS and GINGER L. CURRENS, both having a mailing address of 95 Desert Road, Freeport, Maine 04032 (the "Grantors"), for consideration paid, grant to HEESTAND FAMILY HOLDING, LLC, a Maine limited liability company having a mailing address of 116 Dune Drive, Freeport, Maine 04032 (the "Grantee"), with Quitclaim Covenant, a certain lot or parcel of land, together with the buildings and improvements thereon, located on the southerly side of Desert Road, in Freeport, Cumberland County, Maine, all as more particularly described on Schedule A attached hereto and made part hereof.

Meaning and intended to convey the premises conveyed to the Grantors by deed of F. Carolyn Dobson dated April 6, 2004, recorded in the Cumberland County Registry of Deeds at Book 21078, Page 59; and by deed of Deborah Dobson Pensiero dated May 6, 2007 recorded in the said Registry of Deeds at Book 5912, Page 73.

IN WITNESS WHEREOF, Gary E. Currens and Ginger L. Currens have set their hands and seals this 3rd day of December 2018.

WITNESSETH:

[Signature]  
Suzanne Anderson

[Signature]  
Gary E. Currens

[Signature]  
Jonwilder Bartlett

[Signature]  
Ginger L. Currens

STATE OF North Carolina  
COUNTY OF Buncombe, ss.

Dec 01, 2018

Personally appeared before me the above-named Gary E. Currens and Ginger L. Currens, and acknowledged the foregoing instrument to be their free acts and deeds.

CHERYL PARKS  
Notary Public, North Carolina  
Buncombe County  
My Commission Expires  
August 08, 2020

[Signature]  
Notary Public

Print Name: Cheryl Parks

My Commission Expires: 08-08-2020

MAINE REAL ESTATE TAX PAID

Schedule A

PARCEL I

A certain lot or parcel of land, together with any buildings and improvements thereon, located on Desert Road in the Town of Freeport, Cumberland County, Maine consisting of the following described adjacent parcels of land:

Parcel 1

A certain lot or parcel of land situated on Desert Road in the Town of Freeport, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at the southwesterly corner of land now or formerly of John Porter on the line between Pownal and Freeport; thence southwesterly on said town line eighty-five (85) rods to the westerly corner of land now or formerly of Charles Wilson; thence south easterly one hundred five (105) rods by said Wilson land to a stone post; thence northeasterly about eighty-five (85) rods to Range "B"; thence by said Range "B" to the first mentioned bounds; containing fifty (50) acres, more or less, and being the same premises conveyed to Viola F. Clough by Annie E Monroe by deed dated November 13, 1906, and recorded in Cumberland County Registry of Deeds in Book 797, Page 342.

Also another piece or parcel of land situated in said Freeport and bounded and described as follows, viz: Beginning at a beech tree on the side of the road leading from the Main Road to the house of Viola F. Clough; thence southwesterly by land of said Viola F. Clough to a stone monument standing at the foot of the slope of a gully; thence by said gully following the foot of said slope on side nearer the land of Clough southeasterly and easterly to the said road leading from the main road to said Cough's house to a stone monument near a willow tree; thence northwesterly by the road to the point of commencement; containing six (6) acres, more or less, and being the same premises conveyed to Viola F. Clough by Philip E. Knight by deed dated June 8, 1917 and recorded in said Registry in Book 991, Page 391.

Excepting therefrom a certain lot or parcel of land situated on the Desert Road in the Town of Freeport, County of Cumberland and State of Maine, which includes within its bounds a certain parcel of land transferred by warranty deed of Henry M. Goldrup, Jr., to David I. Goldrup and Lorraine M. Goldrup, recorded in Cumberland County Registry of Deeds in Book 3715, Page 8, and which is bounded and described as follows:

Beginning on the southwesterly side of the Desert Road, so called, six hundred sixty-nine feet (669') northwesterly from a beech tree stump and an iron post, which is the beginning point of the second parcel in a deed from Everett R. Jamieson to Henry M. Goldrup, Jr., dated February 27, 1926, and recorded in said Registry in Book 1226, Page 100; thence S 40° W two hundred seventy-nine and two tenths feet (279.2') to an iron rod; thence S 50° E three hundred twenty and seventh-tenths feet (320.7') to an iron rod; thence S 40° W fifty-nine and twenty-six hundredths feet (59.26') to an iron rod; thence S 39° 31' 50" E eighty-six and seventeen

hundredths feet (86.17') to an iron rod; thence S 58° 01' 10" W four hundred thirteen and two tenths feet (413.2') to an iron rod near the sideline of a woods road; thence S 14° 59' 40" E eighty-five and two tenths feet (85.2') to an iron rod near the centerline of a brook; thence southeasterly along said brook four hundred sixty feet (460'), more or less, to an iron rod at the foot of the slope of a gully located in the sideline of a certain parcel of land now or formerly of Elaine Polakewich more fully described in said Registry in Book 2668, Page 87; thence northeasterly by said gully following the foot of said gully one thousand forty feet (1,040') more or less, along the sideline of land of said Polakewich to the westerly sideline of the Desert Road; thence along the sideline of said road N 51° 00' 30" W one hundred seventy-five and five tenths feet (175.5') to a beech tree stump and an iron post; thence continuing along the sideline of said road on the same course one hundred nineteen feet (119') to an iron rod; thence continuing along the sideline of said road N 50° W two hundred fifty feet (250') to an iron rod; thence continuing along the sideline of said road on the same course three hundred feet (300') to the point of beginning; containing approximately 11.3 acres.

Being the same premises as conveyed to Ronald P. Dobson and Shirley E. Dobson by Elizabeth E. Goldrup by deed dated April 22, 1986 and recorded in the Cumberland County Registry of Deeds in Book 4946, Page 343.

Excepting from the above described premises a certain lot or parcel of land, being the second parcel described in a deed from Sidney E. Dobson and F. Carolyn Dobson to Deborah Ann Dobson dated January 2, 1994 and recorded in the Cumberland County Registry of Deeds in Book 11249, Page 73, and being described therein as follows:

A certain lot or parcel of land situated on the southwesterly side of said Desert Road, and adjoining the first described parcel on the northwesterly side, and being more particularly bounded and described as follows:

Beginning at an iron on the southwesterly side of Desert Road at the northerly corner of the first parcel described above; thence N 50° 00' 00" W along the westerly line of Desert Road, 300 feet, more or less, to an intermittent stream; thence S 40° 00' 090" W 135 feet, more or less, to land of Ronald P. Dobson and Shirley E. Dobson; thence S 50° 00' 00" E by land of said Dobsons 227 feet, more or less; thence S 19° 08' 55" E by land of said Dobsons 87 feet, more or less, to the northerly line of land described first above; thence N 40° 00' 00" E along said first described land 180 feet, more or less, to an iron and the point of beginning."

Also excepting from the above described premises any land conveyed to Timberlands Development Co. by F. Carolyn Dobson by instrument entitled "Agreement settling uncertainty as to boundary line" dated January 2, 2003 and recorded in the Cumberland County Registry of Deeds in Book 18707, Page 204.

Also conveying any land conveyed to F. Carolyn Dobson by Timberlands Development Co. by instrument entitled "Agreement settling uncertainty as to boundary line" dated January 2, 2003 and recorded in the Cumberland County Registry of Deeds in Book 18707, Page 204.

Parcel 2

A certain lot or parcel of land, located southwesterly of Desert Road, in the Town of Freeport, County of Cumberland and State of Maine, which parcel is a portion of the first described exception from the above described Parcel 1, being bound and described as follows:

A lot or parcel of land in Freeport, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the northerly line of land now or formerly of Elizabeth E. Goldrup which parcel was reserved to said Elizabeth E. Goldrup in a Warranty Deed from Elizabeth E. Goldrup to Ronald P. Dobson and Shirley E. Dobson dated April 22, 1982, recorded in the Cumberland County Registry of Deeds in Book 4946, Page 343, said point being Two Hundred Seventy-Nine and Twenty Hundredths feet (279.20') on a line bearing S 40° 00' 00" W from the northeasterly corner of the said reserved parcel; thence S 50° 00' 00" E Three Hundred Twenty and Seventy Hundredths feet (320.70') along other land of Dobson to an iron pin; thence S 40° 00' 00" W Fifty-Nine and Twenty-Six Hundredths feet (59.26') along other land of Dobson to an iron pin; thence S 39° 31' 50" E along Dobsons' land Eighty-Six and Seventeen Hundredths feet (86.17') to an iron pin; thence S 58° 01' 10" W Four Hundred Fifteen feet (415'), more or less, along Dobsons' land to an iron pin; thence S 14° 59' 40" E Eighty-Five and Two Tenths feet (85.2') to an iron pin; thence N 57° 13' 47" E, Three Hundred Twenty-Two and Forty-Nine Hundredths feet (322.49') along land to be retained by Goldrup to an angle point; thence N 30° 28' 02" E One Hundred Nineteen and Two Hundredths feet (119.02') along said retained land to an iron pin; thence N 13° 54' 08" E One Hundred Fifty-Seven and Forty-Four Hundredths feet (157.44') along said retained land to a point; thence N 50° 00' 00" W Sixty-Five feet (65') along said retained land to an angle point; thence N 3° 32' 40" W Twenty-Nine and Ninety-Three Hundredths feet (29.93') along said retained land to an iron pin; thence N 25° 24' 07" W One Hundred Nineteen and Twenty-Seven Hundredths (119.27') along said retained land to an angle point; thence N 43° 36' 21" W One Hundred Fifty-Five feet (155'), more or less, to a point on a line bearing S 40° 00' 00" W, said line being the most northerly line of land reserved to said Goldrup in the deed recorded in the Cumberland County Registry of Deeds in Book 4946, Page 343; thence S 40° 00' 00" W One Hundred Forty feet (140'), more or less, to an iron pin and the point of beginning.

Being the same premises as conveyed to Ronald P. Dobson and Shirley E. Dobson by Elizabeth E. Goldrup by deed dated October 4, 1983 and recorded in the Cumberland County Registry of Deeds in Book 6508, Page 173. Reference is also made to the deed to Sidney L. Dobson and F. Carolyn Dobson from Elizabeth E. Goldrup dated November 2, 1990 and recorded in said Registry of Deeds in Book 9375, Page 61, in which deed Elizabeth E. Goldrup released certain reversionary and other interests, and in which deed the first described parcel encompassed the premises described above as Parcel 2.

Excepting that portion of the above described Parcel 2 that was included within the first described parcel of a deed from Sidney E. Dobson and F. Carolyn Dobson to Deborah

Ann Dobson dated January 2, 1994 and recorded in the Cumberland County Registry of Deeds in Book 11249, Page 73. Said first described parcel was described in said deed as follows:

A certain lot or parcel of land with the buildings and improvement thereon situated on the southwesterly side of Desert Road in the Town of Freeport, County of Cumberland and State of Maine, and bounded and described as follows:

Beginning at an iron on the southwesterly side of Desert Road at the northerly corner of land conveyed by Henry M. Goldrup, Jr. to David I. Goldrup and Lorraine M. Goldrup by deed dated July 15, 1975 and recorded in the Cumberland County Registry of Deeds in Book 3715, Page 8; thence N 50° 00' 00" W 300.0 feet to an iron pipe at land conveyed by Elizabeth E. Goldrup to Ronald P. Dobson and Shirley E. Dobson by deed dated April 22, 1982, recorded in said Registry of Deeds in Book 4946, Page 343; thence by land of Dobson by the following courses and distances: S 40° 00' 00" W 279.2 feet to an iron; thence S 50° 00' 00" E 320.70 feet to an iron; thence S 40° 00' W 59.26 feet to an iron; thence S 39° 31' 50" E 86.17 feet to an iron at the northerly corner of land conveyed by Elizabeth E. Goldrup to Karen Bushee by deed dated August 24, 1988, recorded in said Registry in Book 8442, Page 163; thence N 83° 10' 05" E 211.31 feet to the southerly corner of land of David I. Goldrup, et al, aforesaid; thence N 50° 00' 00" W by land of David I. Goldrup, et al, 250.0 feet to an iron; thence N 40° 00' 00" E by land of David I. Goldrup 200.0 feet to an iron and the point of beginning.

Containing 2.50 acres and being shown as Lot 1-A on Plan of Elizabeth Goldrup dated November 24, 1981, made by Owen Haskell, Inc., and which Plan is unrecorded."

Also conveying all interests acquired pursuant to a deed from Ronald P. Dobson and Shirley E. Dobson to F. Carolyn Dobson dated April 19, 1994 and recorded in the Cumberland County Registry of Deeds in Book 11454, Page 129.

## PARCEL II

Also conveying a certain lot or parcel of land, together with any buildings and improvements thereon, located in the Town of Freeport, Cumberland County, Maine consisting of the following described adjacent parcels of land:

Parcel A is bounded and described as follows:

Beginning at a point at the northernmost corner of the land now or formerly of Karen Busbee (Book 11151 Page 81), which point is the northwest corner of the land now or formerly of Henry M. Goldrup (Book 9426 Page 245) and which point is the southernmost corner of the land of the grantor as shown on "Boundary Survey at 93 Desert Road, Freeport, Maine made for Dwight and Deborah Pensiero Jan. 5, 2007 Owen Haskell, Inc. Job No. 2006-276F" revised 04-30-07;

Thence, N 83° 10' 05" E by the land of Goldrup 102.72 feet;

Thence, N 50° 00' 00" W by the remaining land of Pensiero 155.01 feet to the land now or formerly of Gary E. Currens (Book 21078 Page 59);

Thence, S 40° 00' 00" W by the land of Currens 59.26 feet to a 5/8" iron rod set; Thence, S 39° 31' 50" E by the land of Currens 86.17 feet to the point of beginning. Said parcel contains 8,317 square feet and is shown as Parcel A on said plan.

**Parcel B** is bounded and described as follows:

Beginning at a 5/8" iron rod set point at the westernmost corner of Parcel B at the land now or formerly of Gary E. Currens (Book 21078 Page 59), which point is located N 50° 00' 00" W a distance of 320.70 feet from the northernmost corner of the above described Parcel A as shown on said plan;

Thence, N 40° 00' 00" E by the land of Currens 114.44 feet to a 5/8" iron rod set;

Thence, S 19° 08' 55" E by the remaining land of Pensiero 223.16 feet to the land of Currens;

Thence, N 50° 00' 00" W by the land of Currens 191.58 feet to the point of beginning. Said parcel contains 10,962 square feet and is shown as Parcel B on said plan.

**Parcel C** is bounded and described as follows:

Beginning at a 5/8" iron rod set at the northernmost corner of the land of Pensiero on the assumed southwesterly sideline of Desert Road as shown on plan;

Thence, S 40° 00' 00" W by the land now or formerly of Gary E. Currens (Book 21078 Page 59) a distance of 135.00 feet to a 5/8" iron rod set;

Thence, S 50° 00' 00" E by the land of Currens 80.00 feet;

Thence, N 09° 20' 58" E by the remaining land of Pensiero 156.92 feet to the point of beginning.

Said parcel contains 5,400 square feet and is shown as Parcel C on said plan.

Received  
Recorded Register of Deeds  
Dec 06, 2018 02:26:14P  
Cumberland County  
Nancy A. Lane

## Re: Planning Board meeting

Mela Heestand <mela@desertofmaine.org>

Wed 9/20/2023 10:22 AM

To:Cecilia Smith <csmith@freeportmaine.com>

Cc:Doug Heestand <doug@desertofmaine.com>;Caroline Pelletier <CPelletier@freeportmaine.com>

**\*\* CAUTION EXTERNAL EMAIL \*\***

Hi Cecilia,

Sorry for the delay. I'm traveling this week and got a little behind on emails.

Luckily we managed to hold on to most of our sand during the storm :) Below is the proposed language for the NBAOD. Thanks for your attention to this!

Proposed Change to Section 428, Section F, Paragraph 2:

Existing language:

2. A structure on a property in this overlay district may be used for one or more permitted uses subject to site plan review, provided however that the maximum capacity of that structure shall be 300 persons and no such structure may be used as a wedding venue.

Proposed language:

2. A structure on a property in this overlay district may be used for one or more permitted uses subject to site plan review, provided however that the maximum capacity of that structure shall be 300 persons. If the overlay district is located within a residential district and the structure is used as a wedding venue, additional restrictions apply:

- a. No music allowed outside the structure
- b. All guests must vacate the structure and the event must conclude by 10:00PM.
- c. The parties responsible for renting the structure must sign an agreement that they will abide by the aforementioned restrictions, keep noise to a minimum, and refrain from engaging in disorderly behavior, or risk forfeiture of a security deposit of not less than 10% of the total rental price.

On Mon, Sep 18, 2023 at 10:04 AM Cecilia Smith <[csmith@freeportmaine.com](mailto:csmith@freeportmaine.com)> wrote:

Hello Mela,

Hope the winds this weekend didn't cause the sand to be deposited in inconvenient locations!

Circling back from last week. Do you have the new language you want to propose for the NBAOD ready?

Thanks,



Cecilia Smith  
*Assistant Planner*  
Town of Freeport  
30 Main Street  
Freeport, ME 04032  
207-865-4743 ext. 108

--

Mela Heestand  
Executive Director of Desert of Maine Center for Arts & Ecology  
978-394-5923



## FW: Amendments to the Nature-Based and Art Overlay District

Caroline Pelletier <CPelletier@freeportmaine.com>

Sun 9/10/2023 9:18 PM

To: Cecilia Smith <csmith@freeportmaine.com>

Cecilia- Please share this with the Planning Board Monday and have printed copies available for the meeting.

Caroline Pelletier

Interim Town Manager / Town Planner

Town of Freeport

30 Main Street

Freeport, ME 04032

207-865-4743 ext. 107

-----Original Message-----

From: Mary Berry <mktberry@gmail.com>

Sent: Sunday, September 10, 2023 4:09 PM

To: Caroline Pelletier <CPelletier@freeportmaine.com>

Cc: Doug Heestand <doug@desertofmaine.com>; Mela Heestand <mela@desertofmaine.com>; Mela Heestand <mela.heestand@gmail.com>

Subject: Amendments to the Nature-Based and Art Overlay District

\*\* CAUTION EXTERNAL EMAIL \*\*

To the Freeport Planning Board:

My name is Mary Berry and I have lived at 92 Desert Road since 1983. My property exists across the street from the north side of the Desert of Maine and shares a boundary line with it from the end of Desert Road to the Pownal town line. I now share the house with my husband, David Cluchey.

Since Doug and Mela bought the house across the road from us, we are probably the neighboring property most directly effected by the noise, traffic and lights from activity at the Desert of Maine.

Initially, we were supportive of the vision and the changes Doug and Mela made to the Desert. Their project was described as a place where "art and nature come to play." It was stressed to us that the new Desert of Maine would be built in harmony with the environment. The emphasis would be on nature and non-amplified music and performances.

It is now several years into the development of the project. We have experienced construction noise and traffic on our rural road and there will be quite a bit more when the barn is built. There have been road safety issues with speeding vehicles on this little dead end extension. The potential for parking lot noise, headlights and late night confusion following a wedding celebration could logically heighten the disturbances to us and to the rest of our neighborhood.

When the Desert is operating in good weather, we hear continual shouting and screaming, mostly from

the mini-golf facility.

We have talked with Doug and Mela about these negative impacts, and they have made changes to alleviate some parking problems and to address some traffic issues. We have appreciated their willingness to negotiate with us.

Now the Desert seeks to further expand its activities and amend the Nature-Based and Art Overlay District section of the Freeport Zoning Ordinance to permit the operation of a wedding venue at the Desert of Maine. We observed the Freeport Town Council Meeting on Zoom when the Overlay District was originally approved. We took solace from the fact that, at the suggestion of a Town Councilor, language was inserted that weddings would not be permitted at The Desert of Maine. The prospect of weddings and the associated impact of inebriated celebration next door to us was something we were happy to avoid.

The change to permit weddings at the Desert seems contrary to the stated goals of the Desert to create a center for nature and the arts, the original vision of the Desert Project presented to us at the beginning of this process. And, the presence of a wedding venue will directly impact negatively on our life in the neighborhood and it certainly will reduce the value of my adjacent land.

For these reasons we urge you to retain the restriction on operating a wedding venue at the Desert of Maine.

Sincerely,  
Mary Berry and David Cluchey

**FREEPORT PLANNING BOARD MINUTES  
WEDNESDAY, NOVEMBER 4, 2020  
6 P.M.**

**This meeting was held online/virtually, using Zoom teleconferencing**

**Attending:** Robert Ball, Aaron Cannan, Anna Child, Wayne Jortner, Chair Sam Kapala, Greg Savona and Town Planner, Caroline Pelletier

**Excused:** Jamel Torres

**Call to Order:** Chair Kapala called the meeting to order at 6:02 p.m.

ITEM I: Information Exchange

- 1) Update on recent actions by the Project Review Board

Ms. Pelletier explained that last month the Project Review Board approved a six-lot subdivision out on Pownal Road for Hanscome Woods Subdivision. They also approved a Site Plan Amendment and Design Review Request for the Freeport Historical Society. They are going to be relocating an existing structure, making exterior building modifications and adding a new vault to their property on Main Street. The Board also had a residential request for a Design Review Certificate and Site Plan Amendment for a change of use at 74 Bow Street.

- 2) Brief discussion on upcoming meeting topics

Ms. Pelletier noted the Board has two applications before it this evening and it will depend on the status of those and if they are ready to come back. There are some other projects the Board has been working on. Pre-pandemic we talked about some solar ordinance amendments. We talked about shoreland zoning changes and talked about some changes to public hearing notices. Those items are still out there and she is confident the Board will see them reappear at some point. That is our ongoing to do list if we have some new projects in the mix. That is an update on what the Board still has in the loop that it was working on pre-pandemic unless some applicant-driven item is brought in. Chair Kapala noted that the Board will look forward to wrapping up some of those loose ends as soon as it is able given the current climate and technology.

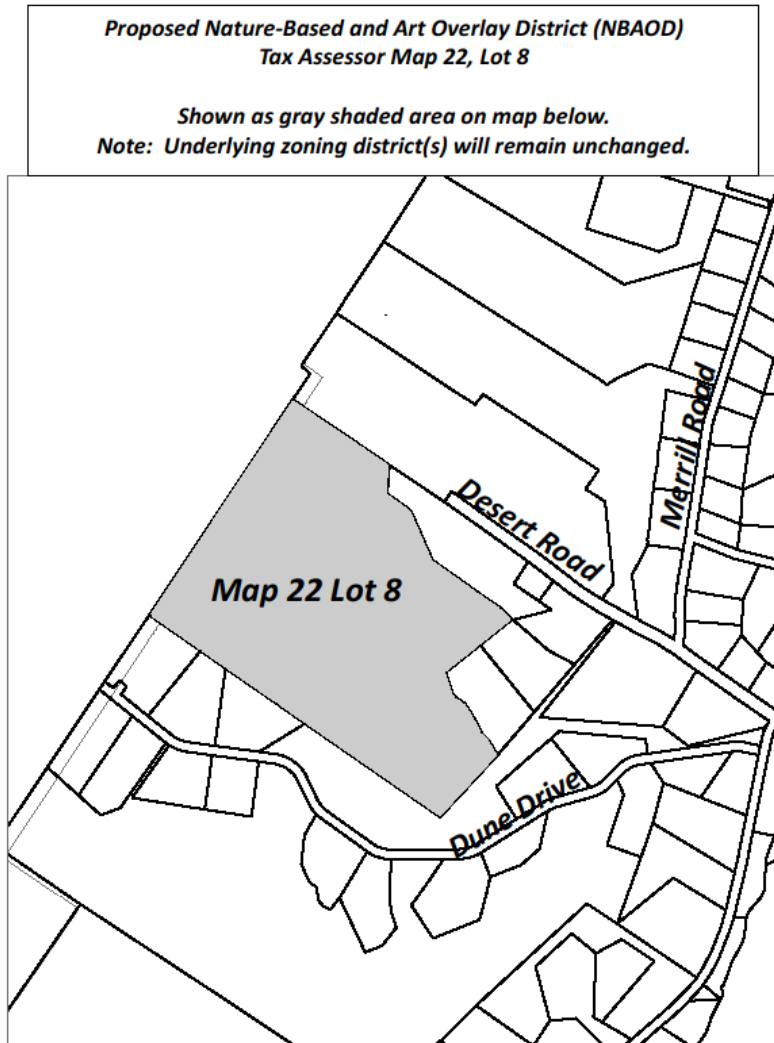
ITEM II: Approval of the minutes from the Wednesday, October 7, 2020 Planning Board meeting. Mr. Ball added that last month he did part of the meeting just audio but half way through the meeting he lost connectivity. He noted that he did review all the material that was presented at the last meeting and did watch it on line as well so he feels he is up to date.

**MOVED AND SECONDED:** To approve the Minutes as presented. (Cannan & Jortner)

**ROLL CALL VOTE:** (6 Ayes) (1 Excused-Torres) (0 Nays)

ITEM III: **Zoning Ordinance and Map Amendment – Nature-Based and Art Overlay District (NBAOD)**

The Board will hold a **PUBLIC HEARING** on proposed amendments to the Freeport Zoning Ordinance and the Official Zoning Map of the Town of Freeport pertaining to the creation on a new Nature-Based and Art Overlay District (NBAOD). (*Note: This was formerly proposed as the Desert of Maine Overlay District*). Amendments to the following sections of the Zoning Ordinance will be discussed: Section 104 – Definitions, Section 301 – Zoning Districts, new Section 428 – Nature-Based and Art Overlay District, Section 514 Off-street Parking and Loading, and Section 515 Noise Regulation. The area of the new overlay district, identified as Tax Assessor Map 22, Lot 8 (95 Desert Road), will be added to the Official Zoning Map (see gray area on the map on page two of this agenda). *Applicants: Desert of Maine Campground, Inc. and Heestand Family Holding, LLC; James Katsiaficas, Perkins Thompson, representative.*



Ms. Pelletier noted that this is the same item the Board discussed in June and September. The language looks a little different. The applicant worked with Staff and the Town Attorney to make some changes to the language. Some of the changes the Board will see here. It has a new name. There is a potential that should somebody be interested in seeking an overlay in another part of town, they could use this language elsewhere so they gave it a new name. The definitions of campground were discussed before and feedback was given to the applicant. They tweaked it and put a limitation of square footage and some timing limitations. They did add that they can't have cooking facilities if they add these structures. That was a result of conversations with the Board and also Town Staff. They did update the definition for nature-based commercial enterprise. They renamed it and added some clarity to things they want to do or how they will be limited. She offered to let the applicant or their attorney go into the details. From there down they actually cleaned up the intent. They did cut back the number of uses there. They put more thought into what they want to do and what could be accessory. The list of uses there has been shortened. Otherwise, there was some wordsmithing to provide consistency with the remainder of the Zoning Ordinance and how we do a lot of cross references. They did tweak the other standards. We heard some concerns about buffering and impacts to surrounding properties. They do have some buffering language here requiring that not only that projects have to meet the setbacks, but they would

have to have a 15-foot buffer which would be reviewed during the Project Review Board process. They did add another standard under *Other* regarding the capacity of the structures. They did increase the capacity. The last time the Board talked about it, it was 200. They now show 300 to give themselves some flexibility but again they can go into that. They did add that the structure couldn't be used as a wedding venue. They added the references for parking and for decibels. The applicant is here if the Board has questions. Otherwise, Town Staff and the Attorney feel the language is where you feel it needs to be with the input you provided to the applicant.

Mela Heestand thanked the Board, Town Staff as well as people attending the meeting tonight. She and her husband appreciate that they showed up to do their civic duty and they appreciate the opportunity to have their proposal considered. She explained how they read that the Desert of Maine was for sale in the *Boston Globe* two years ago. With many impulsive decisions later, they became the latest in a long line of owners of the Desert of Maine. Initially the decision to purchase the Desert came from a desire to preserve the land from development. They were also moved to save the historic barn that was filled with literal trash. Instead they have a vision of restoring the barn and filling it with music. When they started to dig into the history, they found an incredible history. At one time it was a community gathering place where family and friends would come together and enjoy themselves until 1926 when it was purchased by Henry Goldrup and he turned the desert into a tourist attraction. For nearly 100 years the desert has been a tourist attraction and for much of that time it was a charming and beloved tourist attraction. Mr. Heestand added that the more they learned about its history, the more they wanted to preserve this place. He feels now more than ever, we need to inspire people, particularly children, to be stewards of the land. That was a big motivation for them. As parents, they feel they need things to do with their kids that don't involve screens. They want to preserve places that make Freeport unique and connect us with Freeport's past. Related to Covid, they feel retail is really struggling and we need businesses in Freeport that attract visitors that are diversified from brick and mortar retail. For them, it feels like we need a place where we can come together, be inspired and view the work by local artists. That is why they are here. The desert of Maine has been a commercial entity long before the neighborhood grew up around it and long before it was zoned in the 1970s as a campground. Their proposal they feel will more accurately define their long-standing and continued uses. It would add some uses related to the barn allowing them to host some small intimate concerts of acoustic and classical music. Finally, modernizing the campground usage would allow them to build ecofriendly A-frame cabins. These changes the Board is considering tonight would give them the ability to make the significant investments they feel are required to make the Desert of Maine a true asset for Freeport. That is their goal and they want it to be a place that Freeport residents would not hesitate to recommend to friends and family.

Attorney Mazer noted that this is what they feel is a better improved version of the Overlay District. They have worked heavily with Ms. Pelletier and the Town's Attorney in updating this language and adopting almost all of the changes suggested by Town Staff and the Town Attorney. This does not just apply to the Desert of Maine but is enacted in a way that if there is another property that has a similar natural feature of some sort in Freeport, they could potentially adopt this. It is consistent with the Comp Plan on a variety of levels between economic development, preserving environmental features and enhancing the Arts. The public comments are overwhelmingly in support of this project. The 300-person capacity is not set in stone. It is giving them some flexibility to figure out what the building can hold safely. They suspect it is lower than that but they want to be able to have that flexibility if they did limit it to no wedding venues which was a concern of some of the neighbors as well as the Board. The Arts Center is going to be occasional and not every night by any means. They are here hoping for a positive recommendation to the Town Council so they can move forward with the next steps of the Overlay and getting the Desert of Maine up and running, bigger and better. He offered to answer questions.

Mr. Jortner advised that he did not recall the discussion about weddings. Attorney Mazer explained that there were concerns from the abutting neighbors with dance parties. While they want to have events, fundraisers, etc., the intent is not to have loud catered dance parties, weddings. Mr. Jortner noted those characteristics could apply to anything other than weddings as well as weddings and it seems odd to him that this is a specific carve out. Mr. Heestand pointed out with weddings, it always ends with a party and they are conscious of the fact that they have close neighbors and they are concerned about preserving the character of their neighborhood so it was an easy one to carve out. For the events they will hold, they can control the time, when they end and the types of organizations they let use the barn. They will be very conscious about parties and they couldn't do that with a wedding. It isn't always about them; it is also about what happens with this property when they no longer own it so they felt that protection was important. Mr. Jortner asked if anyone is aware of any other places in Freeport that might qualify for this type of Overlay? Ms. Pelletier clarified that you can't just wake up and decide you want an Overlay District. If someone felt that their property would qualify, they would have to come before the Board for a zoning map amendment to get the Overlay District designation on their property. The Desert is definitely a unique situation but there might be other people that have properties that might have things that we don't know about and they might feel like this is something they could take advantage of or come forward in the future. Again, they would have to come to the Board for a Zoning Map Amendment process.

Chair Kapala asked about the traffic and parking requirements for the 300-person limit and if this is something the Project Review Board would review at the time the project is reviewed? Ms. Pelletier advised that if this were to go through the next step, it would have to go to the Council. They would have to go through the Council's process for a Zoning Ordinance Amendment. They would then have to make application to the Project Review Board for some Site Plan Amendment and come back through that process. As part of that process they would go through Site Plan Review under Section 602 of the Ordinance and there is a standard for parking. She read the standard and guessed that depending on what they bring forward, they would probably do some sort of traffic study or traffic analysis. Based upon the outcomes of that could trigger different levels of review. Yes, Project Review Board would look at it when they come through Site Plan Review.

Chair Kapala mentioned Mr. Jortner's point on the wedding prohibition, he feels it might be a tough thing to enforce and threw out that a curfew might be an enforceable quantitative way to limit that restriction but he is also not wedded to it. He felt it made sense to hear from the public. He advised that the Board received a lot of public comment and thanked those who took the time to write in with support or questions. He mentioned that he has made note of them. He welcomed more public comment.

**MOVED AND SECONDED:** To open the public comment period. (Jortner & Cannan) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Torres) (0 Nays)

Chair Kapala explained how the public could participate this evening. Sarah Victor explained that she enjoyed her time living in Freeport and continues to enjoy being an abutting neighbor with the Heestands. Since they have taken stewardship of the Desert of Maine, their experience as abutting neighbors has been dramatically improved. Their inspired vision for this property sounds dreamy to her and is much more palatable to her and her family as abutting neighbors. She and her family are strongly in favor of paving the way for the Heestands to proceed with their vision and hopes the Board will consider that this is potentially going to fulfill a need that is unmet in our community. She feels this will contribute to the aggregate good of our community for many years to come. She hopes it will be approved.

Dave Cluchey of 92 Desert Road noted he shares a boundary with the Desert of Maine on the north side of the desert. He watched how the Heestands transformed a run-down campground and low-end tourist attraction into an innovative, education focused friendly resource for the neighborhood and the larger community. He understands there are details to be worked out on traffic, parking as well as the size of the events that will be held on the property but he is supportive of the Heestands' vision and is delighted to have a center for education and the arts as his neighbor.

Amy Novak explained that she is new to Freeport and is a neighbor of the Heestands over on Dune Drive. They have been pleased with what has been happening at the Desert of Maine and noted what a wonderful benefit it is that can enrich all of our lives. They love having that open space, history and uniqueness. Their children have used it and she knows there is talk about doing some community programs to do some great things with children there. In light of COVID she would not like to see any open space be reduced and having this unique place for our town is just wonderful. They are in full support.

Jennifer Maneikis of 32 Dune Drive pointed out that she is tuning in her support for the Heestands. They have been great neighbors to all of them and keep them informed. They are passionate about what they are doing and that is one of the reasons she is in full support of what they are proposing. She is a lifelong Freeporter and has three children in the school system. They have been down to the Desert in the last few months and it is a wonderful thing for our town to have, particularly at this point in time when we need places like this. We need arts, culture and we need to bring our town together as a community and this is the perfect way to do that. She and her husband are in full support of what the Heestands are proposing.

Lydia Gabor thanked the Board for all of the work it does for the Town. She is the one person who is not on the list of people completely convinced that this is a positive thing. She and her husband live at 93 Desert Road and are the largest abutter to the Desert of Maine. She agrees with absolutely everything Sarah said about Doug and Mela personally about what they have done with this property to make it a wonderful place to be. Sarah is their direct neighbor and David lives across the road from her and her husband. She still has quite a few concerns and also told the Board that the Heestands came and sat on their porch and had a long conversation on Sunday. She and her husband feel a lot better after having that neighbor to neighbor conversation. She realizes that a lot of these things will have to be managed at the point that they get to the Site Plan. There is a big concern about traffic on this road. It is a dead end and with the amount of spaces being proposed in the barn, there is concern about even having 50 cars come down the road at six o'clock at night and then all start up and leave at ten o'clock or whatever it is. They have no concern with the sounds of the concert held in the barn itself. It is really that ancillary noise and traffic that will come along in getting to the venue and then out of the venue. The thought of not being able to sit out on their porch quietly on a Saturday night is concerning. The Heestands have been terrific and listened to their concerns and assuaged many of them. The only thing she is bringing up tonight is the noise and traffic factor. She had past concerns about building structures in the campground because she can see the lights of the bathhouse in the campground. 4 or 5 campsites abut their property but after speaking to Doug and Mela, she feels more comfortable about their plans that they would be open to their concerns about where those structures will be built, how many and the size of them. She has put all of her concerns in the past in writing and wanted tonight to put a voice to those concerns. She and her husband are resigned that this will pass and are really okay with that. They wanted to make sure that the rest of the concerns are not lost especially some of the wording currently seems loosey/goosey in relationship to how somebody after the Heestands could interpret that language and what they could do with it. She mentioned that mini golf is a concern to her because of the noise. She noted that she has been in her home for ten years and she feels the Desert got kind of sleepy, was in disrepair and wasn't the best place. That was a plus for her and her husband because there wasn't a lot of traffic going through the campground. She works out of her home and has her windows open all summer so mini golf noise is a concern for her. She thanked the Board for allowing her to be



probably the only negative voice it is hearing tonight. They are probably okay with this moving forward as long as the open dialogue continues. She is hoping the language could be addressed in the section that refers to the buffer. She feels that if a buffer needs to be built such as a berm, trees or shrubbery, it will make them more comfortable with the noise and sounds from all of the ventures being talked about at this point.

John Albright advised that he is not an abutter. He lives in South Freeport and he submitted a letter to Ms. Pelletier and is confident she submitted it to the Board. He thanked the Board for its time. What is being proposed is consistent with the Comprehensive Plan and also with the language in FEDC's Vision 20/25. He drew attention to his written comments and encouraged the Planning Board to take note of one sure bright spot in Freeport's arts, cultural, historical and economic future and also take advantage of the care and commitment that Doug and Mela have shown to their land and to Freeport and approve their application.

Mia Dyson of 22 Merrill Road mentioned that statistics show that people of color have much lower rates of participation in outdoor venues, parks and other opportunities to experience nature and science in the natural environment. We have Lewiston with a large immigrant community and Portland as well. She wonders if there could develop some vision for making this facility available for field trips, public school groups coming from outside of Freeport in a way that would not overwhelm the facility, but provide an opportunity for environmental education for children and adults who historically not had access to those types of venues. Mrs. Heestand advised that she is interested in doing that and is actively networking with organizations that are already doing that in Portland. Her goal is to provide space for nature-deprived kids.

John Maganellen (not Lauren) from Dune Drive advised that his wife submitted written comment and for the record, he agreed with her positive comments about Doug and Mela. They are in full support and also the over 25 other positive letters they enjoyed reading from other supporters. He feels the Heestands are a gift to Freeport. He feels this is a no brainer for Freeport. The Heestands not only have a vision, but they have a plan and they are putting their financial resources behind it. He thinks about what could the other option have been as a neighbor to the Desert. The other option was a failing tourist attraction being sold to a potential home developer or someone potentially seeking other kinds of zoning changes to go from Rural Residential to a higher density multi-family type unit. He can appreciate that there could be lights at night and whatnot but the other alternative could be a major development and we would be looking at numbers that were not just once in a while when an event was to occur but daily morning and night. He feels this is an absolute gift to Freeport.

Stuart could not connect so Ms. Pelletier offered to have him e-mail her and she would be happy to share his comments.

Liz McDonald advised that she is a neighbor at 130 Dune Drive and is so grateful the Heestands bought the Desert and are making improvements. It has been a fantastic beautiful transformation. She feels there needs to be more green spaces in Freeport that people can come and visit. It is good for people's health and tourism. She hopes the Board will support their efforts to continue to improve it.

Joyce Veilleux of Flying Point feels it is wonderful that somebody purchased the Desert and will bring it back and surpass its past glory. She questions not allowing weddings. They bring in business for other businesses in Freeport such as caterers and flowers and we don't have a lot of places in Freeport proper to be a wedding venue. With a contract with the wedding party, the size could be limited as well as the time and the music. They could just have afternoon weddings. She feels they are cutting off a revenue stream that could be very lucrative.

Jane Yurko of Merrill Road noted she is amazed at what they have done for the Desert. She had a question about "no cooking" and asked what that is about. Doug advised that the intent is to make sure that these little cabins

don't turn into little condominiums. It was a way to make sure they technically were not dwelling units. People will be able to cook over an open fire pit. Mrs. Yurko noted she fully supports what they are doing and that they are great neighbors.

Chair Kapala wanted the public record to include a comment from Chris: "This seems very selfish points and has nothing to do with the betterment of the community." He thanked Chris for the comment and mentioned he does not identify with that comment personally.

Keith McBride of FEDC noted he submitted a letter in support. He wanted to say that there is a lot of thanks due to Doug and Mela for coming to this open minded and Town Staff, Caroline, Nick Adams and Peter Joseph as well as a handful of other folks came to this recognizing that there is some real public benefit to returning the Desert to its former glory or exceeding its former glory. There is really something special in the town for this to happen. For FEDC, they see this as an opportunity to further one of their goals which is to diversify the experience for people coming to Freeport. Beyond that, there is an opportunity for residents to see something special come out of this that they can take advantage of as well. It truly can become one of the crown jewels of Freeport and this is a great effort to help Doug and Mela get that accomplished. He thanked everyone for their effort on that including this Board and he encouraged the Board to send it to the Council with a recommendation that it ought to pass.

Deb Smith of Lower Flying Point advised that Wolfe's Neck Farm used to do weddings and no longer do them. As a neighbor she can say she is really glad and can see why eliminating that as a use would be the preferred way to go for all the neighbors. Weddings turn into something completely different than having a concert, especially the nature of what is being planned. What is being proposed sounds very nice.

**MOVED AND SECONDED:** To close the Public Hearing. **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Torres) (0 Nays)

Mr. Canaan advised that he feels the latest edition of the language looks great and he would be willing to read a motion when the rest of the Board is ready. Chair Kapala noted he is on the same page. He feels it was helpful to hear from Deb about weddings and that is a clean-cut way to get at the noise issue late at night. Mr. Jortner asked if there is a way for the applicants to get that restriction reconsidered if they were to change their minds. Chair Kapala added that they would have to come back for a text amendment. Mr. Jortner feels that governmental entities shouldn't be doing things that are arbitrary. You could have a party exactly like a wedding without someone getting married and then the prohibition would no longer apply. He noted he would not make an issue of it here but it is good to know the applicants could change their mind and seek a change if they wanted to.

Mr. Joseph explained that at the Council level we heard about noise through the Short-term Rental Ordinance process. We hear complaints about weddings which is one of the big ones for events when people do rental houses. It is something generating noise complaints in the community but there are other times noise is generated by corporate events, parties, bachelor parties, etc. Weddings is a big one but there are others.

Attorney Mazer pointed out that we are still under the RR-I Noise Ordinance as well which is the most stringent in the town so there is no intention of having Bachelor or Bachelorette parties. Weddings was something called out to them and they were happy to work with the neighbors that had concerns about that use. If there was a need to amend, they could come back for that amendment but are happy to leave the restriction in as is.

Chair Kapala feels that Mr. Jortner's point is a valid one. Ms. Pelletier noted that weddings are something the Town Staff, applicant and the attorney talked about really for the reasons Mr. Joseph mentioned. We do get traffic and noise complaints when there have been weddings in places where they are or not permitted. We also

get a lot of calls from people that want to have weddings in barns so when we worked through this with the applicant. We have had some enforcement issues with weddings and there were concerns for the impact on abutting properties. There could be a lot of other events we are missing but that seems to be the most common one we have enforcement issues with and get complaints about. This was agreeable to everyone so Staff would definitely support that based on enforcement issues we have had in other places. Chair Kapala noted that it is good enough for him. He reminded everyone that assuming that the Board finds this to be consistent with the Comprehensive Plan, it then goes to the Council where there will be another public comment period. He reminded who from the Board gets to read the motion that the key part is that this proposal has been found to meet the 2011 Comprehensive Plan.

**MOVED AND SECONDED:** Be it ordered that the Freeport Planning Board recommend that the Freeport Town Council adopt a proposed amendment to the Town of Freeport Zoning Map, and to Sections 104, 301, new Section 428, Section 514 and Section 515 of the Town of Freeport Zoning Ordinance, pertaining to the establishment of a new Nature-Based and Art Overlay District (NBAOD), in that the Board finds that the proposal is consistent with the 2011 Town of Freeport Comprehensive Plan in that it protects natural and historic resources, it encourages the expansion of the creative arts and it promotes Freeport as a destination to visitors. (Canaan & Jortner) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Torres) (0 Nays)

Chair Kapala thanked the Heestands for sticking with this process. It seems as if he speaks for the vast majority of the town in saying we are excited to see what they will put together but is aware there are still many steps in the process. He wished them the best of luck with all of those as well. He thanked members of the public who commented.

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