

MINUTES

FREEPORT PLANNING BOARD Freeport Town Hall Council Chambers Wednesday, December 6, 2023: 6 p.m.

Attending: Rose Mary Burwell, Chair Sam Kapala, Bonnie Myles, Mitch Rouda, David Speirs and Assistant Planner Cecilia Smith

NOTE: Andy Arsenault arrived at 7:16 p.m.

Excused: Wayne Jortner

Chair Kapala called the meeting to order at 6:06 p.m. and asked the Board to turn on their microphones. He welcomed members of the public and noted the Board always welcomes public participation.

ITEM I: Information Exchange

1) Update on Comprehensive Plan

Ms. Smith pointed out that nothing has changed but this month we will be having two Planning Board meetings. Next Wednesday, December 13 at 5 o'clock the consulting firm that will be working on the Comp Plan will be here to introduce themselves in sort of a Meet & Greet. It will be an initial opportunity for the Planning Board to get to know them. Chair Kapala hopes everybody in this room will be in the room. It will be open to the public but informal.

2) Update on Freeport Downtown Vision Plan Implementation Task Force

Chair Kapala advised that this Task Force has been on a bit of a hiatus but there is some momentum building to get it back in the running. The movement he knows about was just today. A selection for the parking consultant will be made soon so we are close in selecting a consultant in an RFP to help us study parking downtown and help us determine what the right amount is for our community and to achieve our goals.

Ms. Pelletier added that Mary Davis has an update from last night's Council meeting regarding the Transportation Charter. Ms. Davis advised that a Transportation Group came out of the Downtown Planning that met with the Council in February and said we want to look at transportation and how we can meet all the goals of our parking lots and get people out to our beautiful assets. Starting next weekend, we will be doing a trial of a shuttle bus in our downtown. They determined that it is hard for people to get around in Freeport sometimes because of cell service and sometimes because there are no Ubers and such around. We know there are two areas that we need to get people from the hotels, to the stores, the beer companies and all the way up and down there. The second place is to get people out to some of our wonderful resources like Wolfe's Neck, Pettingill Farm and all those great places. This is a trial to see what will happen if we go up and down Main Street. The shuttle will run on Saturday and Sunday for four weeks in December. It is an ADA accessible bus with a wheelchair lift in the back. It will have an hour loop that goes between the British Store and goes all the way down to Goodfire and back

again with a couple of stop in between. We want people to ride it and we want to ask people why they are riding it because this is really a trial for us to find out. Last night the Council said, yes, go forward. They have \$10,000 that they put away and said we could use it for other trials in the future. This was 100% supported by Freeport businesses.

Mr. Rouda asked who is funding the Parking Study? Brett advised that it is being funded by GPCOG on behalf of Freeport. Ms. Davis added that Brett did get them to pay for it.

3) Update on the Freeport Climate Action Plan

Ms. Smith advised that we are entering the final phase of the Climate Action Plan. We had two workshops that were pretty much the same to provide people with an opportunity to participate either on the evening of November 14 or on a Saturday morning on 11/18. We got some feedback about priority actions and which actions the Town should take so we can meet our emissions target. It was very informative with great presentations and lots of opportunities to interact with each other. Moving forward we will be entering into the drafting phase but she is not sure what date they will have the draft available.

Mr. Rouda asked if there was going to be a report on the Central Core Working Group? Chair Kapala advised that Item No. 3 is the report. There has not been a report from the Central Core Working Group since what we will discuss tonight.

4) Report of items reviewed by the Freeport Project Review Board

Ms. Smith believed we had a shoreland stabilization project reviewed on November 15 and also a subdivision that came in. Chair Kapala advised that they had a great site walk with L.L. Bean where they unveiled some of their most recent plans for the first phase of updates at the flagship store which include removing part of the original 1940s era building and moving some entrances around. All of that stuff is public and should be on the Town's website if anyone is interested in viewing those plans. He attended holding his son on his back and found it fun for him to see a process on how the Project Review works and how projects move through. He highly recommended it to anyone who is interested in how things happen.

Ms. Pelletier added that we don't normally have plans for a site walk but, in this case, based on the conceptual presentation to the Board, they submitted a revision so if you go on the Town's website to the meeting calendar for November 29th, you will see Project Review Board site walk. Click on that and you can see the latest renderings for that L.L. Bean project. They will also be returning to the Board later this month.

Mr. Rouda had a comment on that project and Ms. Pelletier suggested that he come to the Project Review Board and participate in the public process to provide his comment. Mr. Rouda asked where the subdivision is located that Ms. Smith mentioned? Ms. Pelletier advised that it is on Cigri Drive that is off Independence Drive. The back house is proposing to split off a lot and do some road upgrades. Chair Kapala thanked Ms. Pelletier for her months of service pulling double duty. He knows it has been a lot and he congratulated her.

5) Update on status of current and future Planning Board projects

Chair Kapala mentioned he knows that the Board has a busy week or two ahead of us and he is looking forward to lots of things they will be working on including this one which they could potentially take action on tonight and move forward the recommendations of the Central Core Working Group. We also

have next week hopefully buttoning up the LD 2003 updates that is expansive and touches all parts of our ordinance and hopefully we can move forward and recommend that the Council take that up and almost be in compliance with the January 1st deadline for adopting that. Then there is the Comprehensive Plan update that will start in earnest with our meeting with the consultants next week that will be a bit informal and then there will be lots of opportunities for public input and subcommittee work and all that going forward as we update our Comprehensive Plan. Of course, there is always clean up which Cecilia might be able to do a better job summarizing.

Ms. Smith advised that we are starting off with a busy end of the year and moving onto the next with the Comprehensive Plan so hopefully, next week we will be finalizing our amendments that we have so we can meet the State's LD 2003 requirements. Those are requirements based on housing and housing production that we have been discussing extensively this year. In the middle of doing that we had to amend our Zoning Ordinance, Subdivision Ordinance and our Shoreland Zoning Ordinance. For the Shoreland it is mostly unsubstantial. We want to make sure that the definitions match with the Subdivision Ordinance. Several meetings ago earlier this year we discussed also incorporating some of the State standards and doing some clean-ups. When that comes back, the Board will see a lot of clean up. With the Zoning Ordinance there will be a little bit of clean up here and there, mostly things that are unsubstantial. She has binders for the Board to take home and take a look at.

Regarding the Parking Study, Jay Yilmaz advised that he has been involved in businesses in town for a long time and there has been many studies over the years and some of the studies he feels were done on a Tuesday evening at 2 a.m. during a February snowstorm and he feels do not represent what we really need. It is really important that the times for peak parking needs are incredibly important and what professional landlords and professional tenants understand as well as having the study comprehensibly taken between July through December during this peak time. He wanted to say this publicly for the record that it is critical because we are here during peak times and see people parking all over the place. The time between the peaks and valleys is longer than it used to be so it appears there is no need for more parking. He would caution people to not assume that because there are a lot of empty parking spaces on more days than they think, they are not needed. That is what he really wants people to consider.

ITEM II: Review of the minutes from the November 1st, 2023, Planning Board meeting.

Chair Kapala added that his only thought going through them is that it sort of makes it seem like with all the discussion we wanted to address some buffering issues and think in more depth about a couple of things and then all of a sudden, we voted to move it forward without considering those things. He wanted to say for the record, that we took some of those things into account before moving forward and we had one nay vote on that but those of us who voted to move that recommendation forward for changing the height requirements for ground-mounted solar did so, speaking for himself but maybe others did too, weighed the considerations of promoting solar development and understanding how that advance in certain causes in town with potential negatives of the unsightliness of some of these and we in general came down on the side of wanting to move forward solar development in town and recognizing that as a social bid. He wanted to put that out there that we did pay some attention to that. He is not going to hold up approving the minutes. He just wanted to put that out there. Mr. Rouda noted it is a very fair statement.

MOVED AND SECONDED: To approve the Minutes as printed. (Burwell & Rouda) **VOTE:**
(6 Ayes) (1 Excused: Jortner) (0 Nays)

ITEM III: PUBLIC HEARING

Proposed Amendment to Chapter 22 – Town of Freeport Design Review Ordinance

The Planning Board will hold a Public Hearing to discuss proposed text and map amendments to Chapter 22 – Town of Freeport Design Review Ordinance. The purpose of the proposed amendments is to: clarify definitions, including adding new definitions for previously undefined terms; clarify review standards; change some of the thresholds for when review is required and what type of review is required; add exemptions for certain projects that will no longer require a Design Review Certificate, and thresholds for projects that will qualify for Administrative Approvals; clarify submission requirements; change the appeals process; eliminate the Color Overlay District; and, modify the Design Review District boundaries and update the district map(s). The draft amendments incorporate the recommendations for the Central Core Working Group (CCWG).

Chair Kapala advised that all of the proposals are coming out of the Central Core Working Group. Ms. Pelletier has put together a PowerPoint presentation to walk us through some of the history of these recommendations and explain some of the context for them to hopefully bring everybody up to speed. He knows that many of you have been following along very closely to this process and we are lucky enough to have many of the members of the Central Core Working Group in the audience tonight. He thanked those who have been part of this process for a long time for coming back out tonight. Hopefully we can move it forward to the Council tonight in some form and keep this process moving forward.

Ms. Pelletier displayed a slide showing the names of the Central Core Working Group. Chair Kapala noted that everyone listed has worn multiple hats in the group. For example, Councilor John Egan is also a member of the Housing Committee and Councilor Dan Piltch is a member of the Downtown Vision Implementation Task Force. Linda Berger not only represents the Social and Racial Equity Committee but is also a member of the Project Review Board. Guy Blanchard is a former member of the PRB but is also involved in the Freeport Historical Society. Chair Kapala noted he lives in the Design Review District in addition to his role here so a lot of us brought multiple perspectives. He wanted to say that the group brought a wide range of perspectives to the table. They are certainly not all pushing in the same direction and the recommendations that came out of this group reflected a lot of compromise and a lot of thought and he thinks we really want to move something forward something that was measured and took into account a lot of viewpoints. He is proud of what came out of that group. He feels we all left some important things on the table perhaps but we moved the recommendations forward in the spirit of progress and achievement of goals. Related to that last point, he thinks that as we were buttoning up our recommendations, the metric they used to consider whether they would advance a particular recommendation was is it better than what we have right now? Is this change to the Design Review Ordinance better than the current Design Review Ordinance? We are not shooting for perfection at all. They understood this was a patch fix. They are trying to make certain things better and trying to address some low hanging fruit but we are not “solving” the Design Review Ordinance. We recognize that it is still in many ways a challenging document and there is a lot of work to be done to streamline the permitting process downtown and to listen to voices downtown and put together a document over the next months or year that does a better job of clarifying what the Town is looking for in its downtown district. He wanted everyone to know that nobody who put these recommendations together thinks it is perfect but we think it is a step in the right direction and that is why we are moving the recommendation forward, not because we think it is perfection but it is better than it was. That was the guiding point of the Central Core Working Group at the end of the weeks they spent together. They met every week for five or six weeks but have had a few weeks off now. A good amount of work went into it.

Ms. Pelletier suggested starting with the Design Review Ordinance that was established in 1983. The specific intent of the Ordinance was to:

1. encourage the continued use of existing historically or architecturally important buildings and those which contribute to the character of the districts and discourage their demolition and removal;
2. Prevent inappropriate alterations to buildings of historic value;
3. Assure that new buildings are designed and built in a manner compatible with the character of the district in terms of scale and appearance;
4. Assure that changes to contemporary buildings and new construction do not detract from adjacent historic buildings.

Ms. Pelletier advised that in 1983 we had one district. The district pretty much goes from Kendall Lane down to Freeport Crossing or Shaw's and the Concord Brook Condos. The original district was amended here and there over time with a parcel or two and there was another house on East Street. Overall, in the beginning it remained pretty much the same. In District One it was predominantly buildings which were constructed before 1930 that includes one of Freeport's two federal historic districts, the Main Street Historic District and there are many historic buildings representing a variety of architectural styles and other buildings that contribute to the historic settings. Back in 1983 we had some contemporary buildings in there. In 2007 we did some downtown mixed-use zoning changes, created some new zoning and overlays and actually expanded Design Review. We added a second Design Review District. She pointed out the area near Bow Street Market and South Street. It is tucked in between the Main Street Historic District and the Harraseeket Historic District which encompasses the water side of Freeport and probably contains hundreds of parcels. She explained the maps we have on file and pointed out the original district. She could not recall the year we had a building painted in vibrant colors in downtown Freeport. There was a lot of community thought on that so we developed the Color Overlay District. She displayed the unofficial map in front of the Board and explained the magenta line in the middle going from Kendall Lane along the Main Street corridor down to Freeport Crossing. Anything between those purple lines, we regulate the color. Back in the day, 2008 was when we got this, some manufacturers, not all, had historic paint color palettes so if you were going to change the color of your building in Design Review, in that Overlay District, you could use a color from any paint manufacturer's historic paint color palette and by right, you would not need approval. If you were going to use a color not on a historic palette, you would have to come in and get approval. As the years have gone by, there are a lot more options and more historic color palettes. Pretty much most major paint manufacturers have them and there are a lot more colors. While we regulate the color, one thing to note here is we don't regulate how you use the color. You can do patterns, stripes or you can do a couple of colors. We just regulate the color. It is interesting that we don't regulate colors on signage in the same way. As you go through downtown you might notice that there is some signage that doesn't look so historic because although color is a standard, it is regulated in a different way when they come in. Ms. Pelletier noted this is a snapshot of the two Design Review Districts and the Color Overlay.

Ms. Pelletier explained that we have had some other related things happening that might be more interesting than just land use. Pre-Pandemic the Project Review Board and the Planning Board had actually been talking about updating the Design Review Ordinance. A lot of other people were not interested but they were interested but then we had the pandemic and things slowed down and shifted course. Before the pandemic hit, the Town had a little bit of money so the Project Review Board put out an RFP and actually had an Architectural Historian survey the Class A and B Buildings (which she will get into in a few minutes) in Design Review District I. There were 120 properties that had not been

inventoried since the early 80s and the Historian went around and filled out a sheet and determined which ones still had some architectural and historic significance and which ones were too far altered and too far gone. Of the 120, only 13 from 1983 to 2019 were determined to no longer be contributing. We did not do Design Review District II because it was a lot more recent back in the mid-2000s. So, we had that information and we thought it would give a good baseline and it would be good at such time the Board wanted to look at boundaries and if we wanted to make changes to the Ordinance. Mr. Rouda asked about the building classes. Ms. Pelletier explained that the building classes did not change. When we did that study, the intent was when we updated the Ordinance, instead of going to this three-category A, B, C, buildings would either be contributing or not contributing. Mr. Rouda asked if we are only talking about A's and B's and most of those we see here will continue to be contributing. Ms. Pelletier agreed and added that sometimes a building will come in and it will say C but most of the C's are newer. As most of us are aware, in 2022 we completed a Downtown Vision Plan so we identified goals and guiding principles and got a robust list of goals and implementation strategies, many of which we are working on. Some of the ones that came up in the Visioning that kind of tie into what we are talking about tonight, were supporting a variety of uses in our downtown with the recognition of the importance of encouraging residential uses, having more clear and predictable regulations and streamlining our review process for both residential and commercial projects that require some level of municipal review. In the late summer the Freeport Town Council hosted a Housing workshop and it was brought to life based upon some recommendations that the Freeport Housing Task Force had brought forward. One of those recommendations was a short-term fix to make an emergency repair to the Design Review Ordinance to exclude new residential and residential mixed-use construction from Design Review and our community held thoughts on that so that is why we are here tonight. The other thing to be aware of is that we have a lot of different rules and regulations in Freeport and she displayed a map showing colors. She noted that the map shows overlapping districts and two things to be aware of when we talk about Design Review and some of the recommendations we will walk through later. She explained that the central corridor shown in solid blue and pink which are Design Review I and II. You see the Color Overlay down the middle and then you see these two areas that are kind of hatched, one on the north side that kind of goes around what we know as the Commercial core for the most part, not right in the center of Downtown. That is the Freeport Village Overlay District that came into play back in the 2000s when we extended Design Review District II. We added some mixed uses outside of the Main Street area. The other thing that comes into play and we will talk a bit more about tonight is on the bottom of that drawing you will see this triangular white hatch mark. That is the Commercial III Zoning District. She explained the Commercial Districts and Freeport actually has some design and performance standards down there. They are not as intense as Design Review but we have some standards about breaking up building facades and looking at signage colors. She suggested the Board file that in the back of their brains. To review our current Design Review Ordinance, we have two districts District I and District II and the Color Overlay District. Each building in the district has an A, B or C ranking based upon its determined architectural and historical significance. If you are an A or B, you are the most important buildings in downtown Freeport. We have a value for those two things. C Buildings are less important and in a lot of cases, it is a newer structure. If you have an A Building and you have approval to take it down, per the current ordinance it automatically gets demoted to a Class C property which comes into play with some of the standards. Pretty much the way Design Review is written, is that almost any exterior building in our Site modification requires review and approval of a Design Review Certificate from the Project Review Board. We have been interpreting that over the years to be if it is visible from any public right-of-way. There is very little that Staff can approve. Staff can approve signage changes and outdoor seating. If you live in Design Review and want to change your door on a weekend or you want to replace your wood window with vinyl, you can't. You need to apply and come to the Project Review Board once a month for anything. We have tried to be sensitive to removing historic A and B Buildings. It

is not a Historic Preservation Ordinance. It does not save a building but if you want to tear a building down or a portion of it, we want to be sensitive to it. We have this four-month notice period, you put some ads in the paper, you come to the Board and try to find someone to save the building. If you do all that and at the end of the four months, there are no takers, the Board has to grant approval for you to take the building down. We have saved some buildings. They got relocated to other places in town and in cases where we can't save the building, a lot of times it has given the Freeport Historical Society an opportunity to take photos or do drawings to document them as part of Freeport's history. She explained there are ten guidelines for anyone wanting to get approval for a Design Review Certificate which she will get into a bit tonight. It really has to do with the visual compatibility of the proposal of buildings, squares, places and how they specifically relate to the A and B Buildings. It does not say today where those A and B Buildings are because they are all throughout the district in District I and District II. Appeals of a Board decision go to the Board of Appeals and then to Superior Court.

Chair Kapala walked through the proposed changes. Starting with the Definition Section, we have added a couple of definitions and clarified some terms that were not clear and again, the Central Core Working Group recognizes that these definitions may not be perfect but they think they are significant and are improvements. The biggest one is the addition of the nearby building definition. Previously, in the design guidelines each of those ten sections made reference to neighborhood buildings or nearby buildings or close by building. It used different language and each one was a little bit different and at no point was it clear what counted as nearby or the neighborhood. The Central Core Working Group identified a goal fairly early is let's put a radius of compatibility. How close is close enough that they should be counted and considered as nearby buildings so we came up with the objective standard of within 500' of a project seeking a Design Review Certificate as measured from the center of a project's primary building façade along the center line of the paved portion of any public rights-of-way. This is trying to say that if a project is located in a particular parcel within the Design Review District, it should consider other buildings within 500' as measured in that particular way and not buildings that are a mile away on the other side of town out of view but buildings within that radius. He explained that Ms. Pelletier put up a graphic that shows what that 500' measured in the way they defined it might look like. Ms. Pelletier pointed out the 500' distance. Chair Kapala advised that it appears a lot of our block lengths are about 500'. The 500' distance seems to make sense to the way the town is laid out but of course, there is no one number that will catch it perfectly in every situation but they felt it was a really good starting point and a good way to clarify for the Project Review Board and applicants which buildings they should look at for inspiration and compatibility. We will continue to talk about that definition as we get into some of the other language but that is one of the big changes.

In order to make that definition work, we added also a definition of primary façade. Primary façade can be one or more exterior facades visible from a public right-of-way. Again, that term was used in the Design Review Ordinance but it was not defined. We wanted to put a definition to it. The definition of visually compatible has been updated. The definition before did not really define anything at all and did not make much sense. They tried to use some architecturally accepted terms and relate this definition to the criteria that the PRB considers when reviewing projects so height of the building, proportion of the building, primary facades, etc. Compatible projects are visually and architecturally harmonious with the predominant pattern if one exists of nearby buildings in the district. That is the meat of that definition. Chair Kapala thinks those were the highlights of the Definition Section.

Chair Kapala explained that the Color Overlay District was a funny little district that only exists within the Design Review District. It does not have its own section. It is all within the Design Review Ordinance. The Central Core Working Group felt that there are so many colors available on historic color palettes and

the fact that we didn't regulate colors in other ways, it felt to them that it was an arbitrary distinction and that it just added a level of confusion and they didn't feel like the service it was providing was really worth that extra confusion in Freeport. In the future, if there are other ways we want to regulate color, maybe that is a possibility but at this point it seemed like we really needed to simplify and recognize the ordinance is not doing what it was intended to do at all. The Central Core Working Group is recommending removing references to the regulation of color including eliminating the Color Overlay District.

Mr. Rouda asked if chair Kapala will be doing a fly by and the Board will then go through it slowly? Chair Kapala agreed and noted that we have been through this as a Board but hopefully he is trying to bring everybody up to speed. He is trying to move quickly but is aware there is a lot of information here. There will be an opportunity for the Board to respond as well as the public.

Chair Kapala mentioned the next section is clarifying and expanding the thresholds for review. One of the things they wanted to do was allow for certain small projects to be undertaken without having to go before the PRB. There are two levels for projects of that type. There is the permit by rule or exempt from a Design Review Permit altogether. Projects that might fall into that category might be adding solar panels to your roof, replacement deck boards, handrails, balusters, etc. Those would be exempt. There are some projects they felt would be appropriate for administrative review to have Caroline as the Town Planner or any future Town Planner to sign off on replacement doors of identical size and style, replacement windows that meet certain criteria of keeping existing light patterns and certain standards for simulated divided lights that are not just grills between the glass. They tried to be specific and clear with the levels and hopefully provide some relief for property owners in this District without having to go to the PRB and figure out what they need for submission requirements and go through the whole process. Hopefully it will be a little easier for certain projects in the future.

They also cleaned up the existing projects that need to go before the PRB. They struck the old Items 6 and 7 from the proposed draft. The change is proposing that any material change needs a Design Review Certificate only if it is visible from a public right-of-way. Ms. Pelletier informed him that this is the way it has been enforced. We are just clarifying that we really care about things that are visible from a public right-of-way within the district. That is the Thresholds Section and clarifies what needs a Design Review Certificate.

Chair Kapala advised that they are proposing changing the voting rules of the PRB. The existing rules are quite complicated and they are suggesting just changing the rules to be that a motion made by the PRB passes with a majority vote of the present and voting Board members rather than this convoluted process that existed previously. They feel this is more in line with all the other Boards in town and makes things a lot simpler in trying to figure out how motions are made and how they pass. That is a relatively minor change but he wanted to call it out here.

Chair Kapala referred to Page 6 of the draft and at the bottom there is Section 7. It is really the Submission Requirements Section and we are clarifying the process of applying for and receiving a Design Review Permit. Ms. Pelletier explained that it is mirrored out of the base requirements for a site plan that people are submitting anyways. Chair Kapala added that it helps to bring it into the Design Review Ordinance for applicants to know what is required of them to go before the PRB.

Section 8, Design Guidelines. Chair Kapala noted that here we see the definition of nearby buildings come back. We have used that definition throughout and we have done a lot of language clean up and

tried to make the Design Guidelines read clearer and better and be more consistent throughout. The things to pay attention to here are really in 1 and 2 at the top. We have stricken the requirement for A and B Buildings to be considered for all these design criteria so we can be selective of where all nearby buildings including C Buildings and when we can look just to nearby A and B Buildings. So, for scale and height which are under Nos. 1 and 2 under the Design Guidelines for all buildings, we want to look to all nearby buildings. For example, if somebody were proposing a project that is near a small single-family home and an existing very large building, both of those buildings should be able to be used for the scale and the height and we do not want to restrict future projects to consider just the height of a very small building that happens to be close by and there may be other existing buildings in the neighborhood that are much larger. For those two criteria, scale and height we want future projects to be able to consider all existing nearby buildings. For everything else, for proportion, for rhythm of solids and voids, for proportion of openings, roof shapes, relationship of façade materials, etc. we think that A and B Buildings should still have the priority so they are looking to nearby A and B Buildings when determining the visual compatibility of the proposed project with existing buildings. It is hard to wrap that up concisely and make it make sense talking about it but hopefully that makes sense to the Board and the public. He will be happy to answer more questions about this later. Most of the other stuff in that section is mostly clean up. That is the big change and they tried to be clear about façade materials. They decided they wanted to move forward a simplified version of this and leave those really in the weeds discussions for the future when the town figures out what it wants to see in the downtown district in terms of what materials are appropriate, what types of windows, what shapes of buildings are appropriate. That is the next step after we are done with this.

A big change here in Section 9 is a recommendation to change the Appeals process. Essentially the way it reads today is that any decision of the PRB can be appealed to the Board of Appeals in Freeport. Ms. Pelletier advised that the ones that overlap with their site plans go directly to court. Subdivisions get appealed to the Board of Appeals and Design Review gets the Board of Appeals. Chair Kapala explained that the goal is to streamline the appeals process so that it is consistent and we have clarity that decisions of volunteer boards and appeals go to one place throughout our ordinances. This change would make it so that Staff decisions could be appealed to the Board of Appeals. If a bigger project is taken to the PRB, and they deny that project, under this proposal the appeal would be taken to Superior Court not the Board of Appeals. Potentially, this is a large change but it was supported by the Central Core Working Group, Town attorneys and Staff. As far as text goes, there is a change to the Fees Section where we take the fees out of this ordinance and put them in the Municipal Fee Schedule where they belong and it is much easier to change them there.

Chair Kapala advised that the other big change is the proposed Map Amendment. After much discussion and various versions of this, the Central Core Working Group has suggested a relatively simple adjustment to the existing map. As Ms. Pelletier showed on previous slides, the Design Review District extends to Shaw's. They are suggesting shrinking the boundary to the railroad tracks. Ms. Pelletier displayed a slide and explained what is being proposed. Chair Kapala added that there are some A and B Buildings but they are on the west side of the street but as the Working Group felt it was a good step in simplifying the district and hopefully allowing Section 527 to be the guiding design standard down there. Of course, it could be updated in the future as well but there is Section 527 Performance Standards in place down there so they thought it was a good layer of regulation to have down there without layering an additional Design Review process on top of that. They talked quite a bit about other changes to the map but at this stage, the Working Group felt starting with that simple move of the southern border up to the railroad tracks was a really good starting point especially given that the 527 is there and they didn't want to leave holes where there are no standards in place. They are very weary of shrinking the

district down only to grow it again at the next round of revisions to this process once we engage a consultant. They wanted to start with a good common-sense move and then if in a public process and a process with some Design Review Consultants going forward we find other ways to tighten and clarify the district we can potentially do that later but we would rather shrink the district further than shrink it and start to grow it again. He thinks this is a really good starting point and one they felt good about after a fair amount of discussion.

Mr. Rouda pointed out that there is a plan to rewrite this entire ordinance from top to bottom. This work is being done as a stopgap until then. His question is when is then because he thinks all of the Board's decisions will have some bearing on how long is this document going to be in place until it is reconsidered? Ms. Pelletier advised that the plan is to see what happens tonight. The plan is to move forward. She thinks one of the big conversations and big pieces tonight that will impact the work and the cost of work is if and how the district boundaries shrink. Depending how the discussions go tonight, there is still a path for the RFP but it could look two different ways if we are talking about not having to have a consultant look at all the zoning and design standards south of the railroad bridge and north. So, the thought is to move forward as soon as possible in two slightly different written ways depending on the discussion tonight. She thinks we have a good base as to some things that we now want and the consultant can look at and the thought is that the Working Group can help us get that launched in a quicker way to bring something forward to the Board.

Mr. Rouda noted the second comment he wanted to make is that these are fundamentally recommendations of the Working Group and not this Planning Board. Chair Kapala agreed and mentioned that is a good point. He explained that these recommendations are coming from the Central Core Working Group. Originally when that group was formed, part of the reason for forming it and part of the reason for looking exclusively at the Design Review District is because the Design Review District is its own ordinance. There was a thought that they might be able to make updates to the Design Review Ordinance without coming to the Planning Board. They have since realized, with help from some legal advice and through working through some of those ideas that a lot of the recommendations could be considered zoning even though they exist in the Design Review Ordinance document they still count as zoning especially map changes would be considered zoning. Because they are considered zoning, they need to come to the Planning Board. That is why we are here. The Central Core Working Group made those recommendations and it has always been important to everybody involved in this that there be a proper public process. The original intent was never to circumvent the public process. As soon as they got legal advice that this is zoning in the technical sense, they wanted to bring it to the Planning Board, have a public hearing and proceed with the normal process for zoning changes. Tonight, there will be a public hearing and the Board could vote to take action tonight to recommend this to the Council. If that happens, the Council will have a meeting to discuss it and assuming they like the proposal, they could schedule their own public hearing at their meeting on January 2. Ms. Pelletier explained that Cecilia has been very busy this month mailing out over 800 notices for tonight's meeting. Chair Kapala added that extra notifications were sent out to people beyond the buffer for the Design Review District. He advised that there is still another chance for public input to the Council before this is adopted assuming it is adopted.

Mr. Rouda mentioned he would like to hear from the public but he has opinions to share. Chair Kapala suggested taking a 2-minute break.

MOVED AND SECONDED: To open the Public Comment. (Burwell & Speirs) **VOTE:** (6 Ayes)
(1 Excused: Jortner) (0 Nays)

Chair Kapala reminded the public to please make their way to the podium and state their name. The podium and microphone do not need to be moved. Or touched.

Ford Reiche advised that he is the Chair of the Project Review Board. He mentioned that he served on the committee with Chair Kapala and Mr. Rouda and others. He wanted to give feedback on how this was communicated back to members of the PRB. They have seen what happened. Only positive feedback came to him. He feels the Chair did a great job as Chair.

Bob Stevens asked the Town Planner to put back the one slide that showed 500'. Any of those buildings pictured are nearby buildings within that district. Ms. Pelletier asked him to keep in mind that this is her estimate of 500'. Mr. Stevens added that none of those projects have to be visually visible from any of those buildings. Ms. Pelletier added that it was in there at one point but it was struck. Mr. Stevens asked about the primary façade and can it be any one or more exterior facades of a building? Mr. Rouda advised that with a corner you would have two 500' points. Chair Kapala advised that the way it is currently, any building in the Design Review District could be considered for visual compatibility. Mr. Stevens noted he feels this is little betterment but not very good for that to be the standard that it has to compared within 500' even if they can't be seen together. Chair Kapala mentioned the intent here is to narrow the scope of focus so there will be some objectivity but it is within a smaller area and we won't have people cherry picking buildings that are way across town. Mr. Stevens advised that he thinks it is hard what they are trying to do but feels this could be seen as unreasonable.

Eric Smith, Director of the Freeport Historical Society thanked everyone who worked on the Central Core Working Group. It is an enormous challenge to try to take all of the concerns that came to the massive public hearing held at the Library a few months ago from the Housing Committee, the PRB, Planning Board and the Town Council. He thinks the work everybody has done in a short amount of time is impressive. In terms of the clean up of the operations of the ordinance, having sat through quite a few PRB meetings, the number of things that have been taken out of this that can be addressed by Town Staff like solar panels and lots of other things will allow the PRB to spend more time on critical issues related to Design Review rather than incidental material changes and things like that will be very helpful. He appreciates the reduction of the size of the Design Review District in part because again it will allow the PRB to focus on what is the most historically sensitive areas of the downtown. He appreciates that there are still A and B Buildings on Route One that will still have an area of protection. There are historic buildings throughout the town and do not lie within the Design Review District and are not particularly protected since we do not have a Historic Preservation Ordinance. He would like to encourage the Board to move this forward because it does continue the long-stated goal within Freeport and within the Design Review Ordinance to protect the historic character of the downtown as well as move forward a lot of the goals many of us have within the Downtown Vision Project to bring housing back into the downtown as well as help modify downtown to be more appealing not only to visitors but residents. He reminded everyone that historic preservation is also economic development.

Mary Davis, President of FEDC advised that they are so appreciative that you put this together and included members from so many groups. They know that this is wicked sticky work and they have a broad Board that have a lot of different opinions. As you know, they really support the Downtown Vision and are excited about the changes you are doing. She wanted to thank the Board. They are so happy to see this moving forward and making changes to the ordinance. They want to preserve the downtown because it brings people here and keeps our personal real estate taxes in line. They also want housing in the downtown specifically because they know it is a good economic driver for us and helps all the

conservation things we have in place. We would love to see the Board continue to shrink that district so that it is along Main Street. On Depot Street, that is where they would like to have housing and as the current design things come into place, if you are building on Depot Street now, you are comparing a building that should be able to be three stories but you are comparing it to two-story wooden Mallet houses and small brick houses. It makes it unpredictable for developers to come here and uncertain and when they are uncertain, they don't choose this as a place to come to. She suggested that the Board keep working on this.

Bob Stevens wanted to support what Mary just proposed. If there is a building down on Depot Street and again 500' from that façade again, that is a tough requirement. Maybe you would end up with a predominant visual effect but maybe you wouldn't but until you do, it maybe a lot different from what is actually down on Depot Street and what you might think should go there. We have two issues here. We are trying to keep our historically significant buildings but we also have a need for housing. He thinks in trying to balance those two objectives, he sees housing to be the more important of the two when you get to an area that isn't really the core of a historic district. He doesn't think Depot Street is and it should be treated differently so the standards that are good and important for a real historic district are applied where they ought to be and not to an area where they need not be.

Chalmers Hardenbergh of 11 Somerset had a handout to share with the Board. He is here to object to only one part of the revisions before the Board. He is for affordable housing for downtown. He approves all the revisions to the standards. He is opposed to only one part that is the part that eliminates the jurisdiction of the Board of Appeals that is on page 11 of the draft you have. He is certain he knows why that jurisdiction was axed out. Some people didn't like the decision by the Board of Appeals which was a legally correct decision which reversed the 22 Main apartment project approval. This is a terrible precedent to set to get rid of the Board of Appeals' jurisdiction because some people didn't like the decision the Board made. What's next? It is not conducive to getting residents to volunteer on the Town's Boards. His last point is requiring residents who don't like a decision of the Project Review Board to go to Superior Court is anti-democratic. We, as a town, say we want social equity. This is a step backward. Take a resident who lives in one of the Affordable Housing areas we like, she thinks the Project Review Board made a mistake on something and wants to appeal. Right now, she doesn't need an attorney. She can come into Town Hall and file an appeal and get a hearing in front of the Board of Appeals. If this change goes through, she will have to go to Superior Court. Mr. Hardenbergh advised that he is a lawyer and he has been to Superior Court and we are talking tens of thousands of dollars. He asked if the Board will revise the ordinance to make it easier for developers to build houses to welcome the less well to do? Yes, good! At the same time, are you going to revise the ordinance to only let the very well to make an appeal? That's bad! Superior Court is not going to be faster. David Latulippe, who is a member of the Central Core Working Group and a developer said once someone appeals a decision into Superior Court, developers tend to give up. It is expensive and it takes two years to get a decision. This year the Board of Appeals got the appeal for 22 Main in April and decided in July. It would have been quicker but all the attorneys had to coordinate their calendars. The Board only took three months to render a decision. He suggested putting this change aside until the Town looks at the different places where the Board of Appeals comes in and as Sam said, let's try to make it consistent. He mentioned all the areas that go to the Board of Appeals. He suggested slowing down. We have a consultant that we will hear from next week on the Comprehensive Plan and we will have a consultant look at Design Review. Let's let them help us.

Guy Quartrucci advised that he feels removing rights to a local appeal from the ordinance is a bad optic considering it was invaluable in the recent successful utilization by the public in opposition to an ill

thought out and inappropriate project at 22 Main Street. It appears retaliatory and it moves the goal post. It curbs public participation and intimidating and silencing critics. It robs the public of its voice and creates a chilling effect. This proposed elimination poses a potential barrier to the right to petition. Removing what was referred to south of the railroad tracks from Design Review might that be deferred for further consideration and well represented of the residential component in that district? It is an unusual development back there for sure. The west side of Main Street in that district from the tracks down to Shaw's is almost a small village setting within a contemporary New England structure size style. To him it provides an attractive soft, smooth and inviting transition into the downtown. It would be a shame to see it become a breeding ground for incongruous structures of development. On Section 2 Material Change, he would say buildings should be considered nearby when they are within a 1,000 feet of a project seeking Design Review approval. If not 1,000 feet, at least consider the furthest boundary of whatever lot line that circle encompasses. For those that say our ordinances impede affordable housing development, he thinks it demonstrates a complete lack of understanding of the current climate in general and particularly affordable housing right now everywhere, not just here. The numbers do not work. There are not deep subsidies out there. If you happen to be a non-profit or a governmental organization, you can have access to it but you still have to find a developer willing to work on a thin margin. Affordable housing is a tough one.

Kristen Dorsey mentioned that in talking about the concept of visual compatibility, she is wondering as the Board continues to finetune the language, that the Board lean more into historic preservation and away from that visual compatibility which she feels is also kind of subjective. There are plenty of places around the world that have ancient buildings sprinkled in with modern buildings. She is not opposed to mixing architectural styles and time periods being co-mingled. What disappoints her about Freeport's development back in the 70s and jumping on the retail-mall bandwagon, which is what she is afraid we might continue to do unless we really have a Comprehensive Plan that has long-range possibilities. A lot of the buildings downtown that are historically significant have been gutted on the inside and she would hate to see that continue to happen. She suggested that the Board think about preserving those older buildings.

Jay Yilmaz referred to page 6, does the Project Review Board have to have four members present to be a quorum? Mr. Rouda agreed. Mr. Yilmaz supported what Mr. Hardenbergh brought forward. He implored the Board and everyone else to slow down the idea of getting rid of the Board of Appeals. We have heard people speak about how charming this town is. We had this project at 22 Main that had an incredible amount of pushback. Ford Reiche noted how much pushback was expressed and not enough respect was given to it. It gave the developer plenty of chance to modify and change the roof lines and things like that. Meanwhile, David Latulippe was at the same time putting a project through that was approved. This Board of Appeals served as a check and balance and he was one of the co-appellants. His lawyer advised that he was lucky there was a Board of Appeals. It is a much more difficult task when you take it to court to a place that used to rubber stamp and say, we don't want to deal with this. It doesn't mean that it doesn't leave open the opportunity for a group to appeal something. He asked the Board to find out how many times a situation such as 22 Main has really come up. He doesn't know that there have been many. He begged the Board to look into that before passing that change along. It is a check and balance and they are important.

Linda Berger advised that she is a member of the Working Group and also on the Project Review Board. She wanted to address the comments put forth by FEDC about removing anything other than Main Street from the district. She feels and Sam said at the beginning, to have no restrictions and no review in areas of town where there are historic buildings is a great disservice to the historic features of this town

and what we should be maintaining. She thinks the point is that the Design Review Ordinance does not create a prohibition on anything. It is a guideline and is used by the Project Review Board as guidance and as a point of fact, the building that was presented for being built on Depot Street that is Depot Street and is the part they are talking about now that they would like to have no review on. The Project Review Board approved that building given Mallet houses or whatever was around there, given the rules in the ordinance that were in front of them, they still approved that building. Taking away a review she thinks is inappropriate reasoning and not necessary.

Loraina Coffin advised she is in the historic district and wanted to say she appreciates the work the Board is doing to create some design standards. She suggested that the Board try to slow down the process a bit. The Board is taking on a lot and you said you are just looking at it for the first time tonight. Sometime you just need to review things and let it digest and see what the impact is. It seems to her that this LD 2003 coming up will be impacted by this. You just talked about solar energy and creating solar panels that can go 35' in the air. People mentioned other districts and there is an Overlay that has not been discussed. Near her in the historic district there is a Water District Overlay that she has talked to Caroline about. There are all these other impacts and it is complicated and a lot of work. She doesn't feel that this one meeting and going over it and checking it off will be the best benefit for all of us. She feels the appeal project is really important for residents in town. She feels that the appeals give you a chance to know about it and you can go to the town and learn about it. She did not get any notification about what is happening next to her property.

Howie Berger of 45 Intervale Road thanked the Board for doing this. He is sure we all agree that rules are interesting and you as a Board are required to create the rules we live by. When you look and consider rules, it would seem logical to look at the benefit. Why would we as townspeople if we have a way to avoid going to court which we all know is costly, why would we say we should eliminate that rule without understanding what the benefit would be. If there is no Board of Appeals and you have every right to get rid of, if the Board of Appeals was not functioning correctly, maybe that was the reason you wanted to get rid of it in your opinion, then you could make that rule change. If you looked at who would benefit from that, clearly from the townspeople that spoke, it was not the townspeople. Someone who had means and could go to Superior Court could benefit from having that rule changed. Otherwise, what would it do if you didn't like the way the appeals process went, change the rules of the Appeals Board but don't get rid of the rule simply because the rumor in the town people did not enjoy the outcome. In closing, the Board has great power but also to protect the population of Freeport and that speaks volumes over what you would get by eliminating the rule.

Chair Kapala invited people on zoom to raise their virtual hand and they would be brought over. No one offered to speak so chair Kapala turned it over to the Board.

Mr. Spiers advised that he is curious as to how the Working Group came to the decision to get rid of the Board of Appeals process and go straight to Superior Court. Chair Kapala advised that there was some consensus among the Board but not everybody agreed 100% that the Appeals process should be altered in the way of the recommendations. There was consensus that the process of having one volunteer Board review the decisions of another volunteer Board on standards that really at the heart are subjective is not something we saw in other towns. The phrase was used multiple time as a second bite of the apple. You didn't like this decision; you can roll the dice and take a second bite of the apple. He is sensitive to all the arguments against changing the process and leaving the Board of Appeals in place, especially the cost argument. He has yet to hear a convincing argument that the Board of Appeals is definitely qualified than the Project Review Board is. To him he hears the public perception that this is a

reaction that he thought a lot about how he would feel if a project went the other way. He feels he could see both sides of 22 Main Street and there may be a path forward in the future that may ultimately be a much better outcome for the town with future opportunities for 22 Main Street. If that is the case, then we do owe a debt to people that appealed that project and the whole process. For him, going through that process again and relitigating future decisions is again a roll of the dice for him and it doesn't make logical to have that second bite of the apple. Mr. Rouda advised that there are lots of things he would like to take issue with but this particular change he wants to support. The issue is that the appeal must be based on a process error. It is never to be a second hearing of the good work of the Project Review Board. His question is what is the qualification of the Appeals Board to judge what is essentially a legal argument of whether the Project Review Board did its job properly according to process. It is a process review and he does not believe a volunteer Appeals Board has the wherewithal to make a sound decision on a process violation which is the only reason that anything should go to an appeal. To the question of who benefits? The Town benefits because there will be zero development in this town under the current conditions. He feels this entire document is flawed from start to finish and he believes to have an arbitrary and capricious decision-making process on Depot Street and there will be no development until this is done. This is why he is interested in the real review. This will not fix the problem. The Town got together to create a Downtown Vision Plan and the Vision Plan depends on housing. If we don't have housing downtown, our downtown commercial space will decay. We do not have the retail support to support the retail space we have until we have housing downtown so it is a paramount priority and this is a year's long delay. He feels strongly on that one. He also wanted to say something on Guy's comment. He was the only one that made him wince because the optics are bad and he agrees with that. He does not want it to be a reaction. It is a reaction to thinking that no developer would come to town ever again after that process in his opinion.

A hand came up on zoom. Melindas' voice was broken up and she was impossible to hear. She was instructed on how to call in.

Jay Yilmaz mentioned that it is incredibly helpful to have the public comment continue. Mr. Rouda brought up some good points and he respectfully pointed out to Mr. Rouda that he talked to developers and talked to the developer of 22 Main and he indicated that if interest rates were at 3%, he would already be at the Superior Court. It was a function of dollars and cents. He asked the Board to not take his word for it, but if interest rates were at 3% and costs were lower, the Town would have building going on everywhere. That is something to be cognizant about. In response to what Mr. Rouda said about a volunteer Board dealing with another volunteer Board, he is okay with that but he asked that some lawyers weigh in on that. He would love to hear from both sides. He noted that the Town Attorney acknowledged that this ordinance needs a lot of changes. Chair Kapala agreed.

Mr. Hardenbergh appreciated the Board letting him get up again. As you know, he was on the Board of Appeals when they made that decision and agrees with Jay that there was an error at the Project Review Board and he would love to sit down with everybody and talk about what the PRB went through and just look at what happened. The point he wants to make is about what volunteer Board reviewing what another volunteer Board does and that happens all the time. This Board is going to make a decision on this draft ordinance as a volunteer Board and the next volunteer Board is the Town Council. Chair Kapala pointed out that a decision by the Project Review Board is effectively a legal decision. Ms. Pelletier added that the Planning Board makes an advisory recommendation to the Council. Mr. Rouda advised that this Board does not do anything, the Council does it. Mr. Hardenbergh added that in terms of qualifications, the Board of Appeals had their own attorney there for legal advice.

Mr. Quartrucci pointed out that he is a little confused by Chair Kapala and Mr. Rouda's comments. All the boards in Freeport are voluntary except for the Council which is an elected Board. People on those boards are appointed based on their credentials to do the job that they are supposed to do. Everything that these boards look at in terms of reviewing ordinances, deal with statutory requirements so, either we should have no review boards if it isn't a review Board of attorneys or we should have review boards who have the benefit of counsel to guide them in that process. He thinks it is a disservice and an insult to say, "you don't have qualifications to do that even though we essentially hired you to do that." He feels we could debate this forever. As a former developer, he is saying that people are not developing now not because our Design Review standards are too restrictive. Money and materials are incredibly expensive. Chair Kapala feels that is a very valid point and it is absolutely true. It isn't a surprise that there has been a slowdown in development. Where he takes that information and what he hopes this Board does with it. If it is this hard to build, we need to find ways for the health of our community to allow people to build even in a difficult environment. He recognizes that this is an imperfect move in that direction but thinks it is an important step to lower barriers and provide additional clarity however small that step is to try to help some of these projects if they are on the margins to move forward. He understands that fundamentally that is the biggest single reason we are not seeing more housing development but to do nothing about it doesn't strike him as the right approach either.

Bob Stevens pointed out that if he was a judge on this, he would ask how am I going to make a decision on this with so many subjective judgments involved in this process. He would be inclined to rubber stamp whatever came before him because he does not have the qualifications to delve into what the Board is considering in making its decision. He would look at it and say, they had meetings, they have an ordinance and made decisions based upon it. What is wrong with that? Meanwhile what might not be looked at is the reality and whether it was a proper decision. Mr. Rouda added it is not a question of whether it is a proper decision. It is a question of whether it is a process violation and he feels it is almost impossible to have a process violation against this document and that is why he feels the PRB had the power to do this and anything else is a second trying of the same case. Mr. Stevens added there should not be any appeal and Mr. Rouda added unless they didn't follow process or they didn't hold a public hearing. To him that is the only basis for an appeal of their decisions if they didn't do what they were supposed to do but they did. They considered it and they voted. He understands Mr. Stevens' point. Chair Kapala added for him personally against the reactionary, or to see this recommendation of changing the Appeals process is purely reactionary. The Appeals process for him highlighted some existing problems but it does not make changing those problems purely reaction. This has not happened very often. There have been very few. This exposed some process issues and the logical thing to do is to take steps to address that.

Melinda (that could not connect on zoom) advised it was easier to drive down than try to work the zoom call. She wanted to give a small person's perspective regarding eliminating the Board of Appeals. On September 20, 2021 the Design Review Board held a meeting that she was not informed on regarding the construction of a new house on an abutter's parcel. It involved going across her property and she was never informed of the meeting. By the time she found out about the meeting, it was past the 30-day appeal process. She was told that she would have to go to the Court which she could not afford to do. While the Board is talking about the project on Main Street, there are little people too that could be affected by eliminating the right to an appeal at the Town's level.

Mr. Arsenault advised that he has always been a proponent of the local Appeals Board and certainly was a proponent of the project next door. He was not happy with the way the Appeals Board handled it. He

thought it was a terrible outcome and he was in favor of what the Project Review Board came up with. He is still in favor of a local Appeals Board and can't do away with it. He feels a lot of this is subjective.

Chair Kapala feels hearing Melinda's story is helpful. We do tend to get caught up in the big things. Where he comes down on this again, where we started and if we don't move this forward in some capacity, the way we approached it with the Working Group at the end, we had a draft that was quite a bit bigger and if there was a lot of opposition to things, we pared it back until we got something that could be moved forward. He feels strongly that we need to move something forward. Slowing the process down is delaying a more thorough and more comprehensive and better look at what we really need to do in the future. We have heard from a lot of people and there has been a diverse group of people saying there is a problem here. This is a small step toward addressing that and conversations need to happen but he feels that stopping this particular draft at this stage would do a disservice to the whole process. He wants to keep in mind what the Central Core Working Group kept in mind. Are we making this document better or are we not? If there are specific things in here that are not making it better, we can talk about removing them from this draft but in general, if it is making it better, yes, we know it is subjective and the definitions are not perfect. If we go back to the way it was before, it is even worse. We should not let perfection be the enemy of the Council.

Mr. Stevens agrees the Board should go forward with something but doesn't think the Board should go forward knocking out the Board of Appeals. He thinks the Board should take a vote here as to whether you want it in or not and then go forward with whatever you decide. Chair Kapala agreed.

Lorraina Coffin advised she doesn't feel the same urgency that something needs to be passed tonight because the Board will be stonewalling something or delaying something. We are talking about something for a nine-month period and with a resident not knowing information if she wanted to do a project and she has been waiting for over a year for information and she has not received it. She has kind of given up on it because it is probably not as relevant. Chair Kapala noted it is nine months but the Board has been talking about it since 2019. His view is that it is a relatively incremental step and doesn't solve everything but we need to move the ball on these issues. More discussion followed.

Mr. Rouda wanted to make two comments. The first one is that there are lots of improvements in here. As a process, he has changed his mind on the Appeals thing just because he feels it is too hot so we are trying to make incremental improvements and get things done. He is wondering if we could go through this document and just decide what is okay and push that forward? Chair Kapala mentioned he was the Chair of the Central Core Working Group and is perfectly happy to do that here even though he supported the change and will continue to support the change. In the interest of moving this forward, if it is a hot button issue, he is totally happy with that.

Linda Berger thinks incrementally this is helpful. There are so many little things that have been moved out of the vision of the Project Review Board and to the Planning Staff that will help the time we spend and the little things that people do. She feels it is very important to get that done and move forward with at least those things.

MOVED AND SECONDED: To close the Public Hearing. (Burwell & Spiers) **VOTE:** (6 Ayes) (1 Excused: Jortner) (0 Nays)

A 2-minute break was taken at 8:31 p.m.

Chair Kapala called the meeting back to order at 8:33 p.m. He mentioned the Board would be going through any questions or comments with the Board now. He feels the Board does not need to take a straw vote to advance with the Appeals part removed since it is kind of the consensus. Ms. Pelletier advised that when the Board goes through it, she would like to pause on the Appeals thing because there is a new portion. If you decide to change a lot of stuff to Town Planner approval, you really should have an Appeals process. Chair Kapala agrees the Board should leave in the part that clarifies that decisions of the Town Planner should go to the Board of Appeals.

Mr. Rouda noted everything here is small except the map and the map is at the very end. It is a big one. Ms. Burwell referred to page 6, Roofing Materials. It was deemed to go to the PRB but Chair Kapala advised that it was axed and explained why. It just means that applicants have to go to the Board.

Ms. Burwell referred to page 13-A, the third line down where it says *he* shall notify. It was changed to *they*. Mr. Rouda suggested changing it to the officer but Ms. Pelletier has it changed to they.

Mr. Rouda referred to page 2 and he does not understand what neighborhood significance is all about and if it needs any clarification. He didn't know what that meant. Is it historic or not? Is there any language that could make it clearer. Eric Smith did not know but knows that what is considered subjective language in this comes actually from well accepted historic language specifically from the National Parks Service language. While it is not commonly understood to say what does that mean in the preservation sense? Mr. Rouda feels that is good enough for him. Chair Kapala searched a fair amount of other town's ordinances and looked for definitions of some of these same terms. He found better definitions of visually compatible but a lot of the languages that is in the Definition Section exists in slightly altered but recognizable forms in other towns.

Page 3, Mr. Rouda wanted to praise the group on the redefinition of visually compatible in particularly such that abrupt or severe differences are avoided. He felt that it was as good as you could do. He wondered if immediate street scape needed definition. What is immediate? Chair Kapala noted he would read that as right out front. Chair Kapala suggested changing it to *nearby* street scape. Others agreed.

Page 4 where you deleted the Color Overlay District, Mr. Rouda noted for the public record, there is still a protection of compatibility with nearby buildings. Chair Kapala explained that we stepped back from regulating paint.

Page 10, Mr. Rouda would like to strike under No. 7. contribute to its architectural significance because he does not know what that means. We already have visibly compatible which is big enough to drive a truck through. He did not realize we were referring to A and B Buildings and again where a historic preservation ordinance may fix the problem here. If you are trying to protect A and B Buildings, that is clear. Mr. Smith wonders if it is where the word should is? It was also suggested to strike *other* in No. 7. Mr. Rouda feels the materials matter and they should be compatible.

Mr. Rouda has a question about appeals from the Town Planner to the Board of Appeals. He feels it is a process problem. Ms. Pelletier explained that anytime the Board ups the threshold for Staff Approval she gets nervous because it always makes more room for Staff to make a decision that people won't agree with. The Board has done a good job here with the proposal being very clear of what Staff can approve. They usually don't deny anything but urge applicants to go to the PRB. Quite often people don't want to go to the Board so she says, hey shrink that by 100' and I can sign off on it. When you go to

the PRB or another Board, you have a clear record, you have findings, notices of decision and it is very formal. We have been so limited in Staff Approval ability; we have handled it very casually. Send me something and I will mark the plan and sign it. I will send you an e-mail. In order to go to Superior Court, you need a record, findings so going to the Board of Appeals who can handle those appeals and is used to seeing stuff like that. The PRB is not an Appeals Board and they don't have the same right under law so if we want to send it locally, we would send it to the Board of Appeals. If you send something to court, you would need a record so if you send a piece of paper with a drawing and Caroline Pelletier's signature on it, the Court will kick it back. Knowing that Staff Approvals are small, they should be clear and not controversial. We need a process somehow to create that record in case it goes to Court.

Chair Kapala advised that the Planner always has the discretion to say this would be better served by going to the Project Review Board. Ms. Pelletier mentioned it happens quite a bit.

Mr. Arsenault pointed out his concerns. He referred to page 1, line 3, scale and appearance. What is the definition of scale and who decides? Chair Kapala advised that they battered around a couple of ideas for objective standards. Ms. Pelletier feels it was better left up to a professional.

Page 2 Historical Significance, once again who decides this? Who decides what is the significant time period? Ms. Pelletier noted they were decided off the original inventory sheets done in the 80s and 2007.

Mr. Arsenault asked about neighborhood significance on Page 2. Which period?

Page 3, blend well. He has concerns about that. What does it mean?

Page 9, scale of building and height. He feels it is too subjective and who decides scale?

Page 10 he really doesn't want a town full of just A and B Buildings. This town was built with a variety of buildings. This is not Williamsburg and it does not have to be perfect. He will not vote for this if the Appeals process is removed.

Chair Kapala explained that the idea behind the Central Core Working Group when the Council formed it was that that same group of people would continue to work with consultants to help shepherd the next round of Design Review changes or potentially scrap and restart. That group will continue to work through this process in the next round. There is much more to come.

Mr. Rouda noted it is 9 p.m and with respect to Chair Kapala's desire to pass something, knowing that adjusting this map may be problematic but for the life of him he can't understand why certain areas are still included in here such as Mallett Drive and Depot Street and the back of Justin's way. He feels that is where we should be building new buildings. Those are the precise places you would expect it and they are still sitting under here and there is nothing to protect that zoning doesn't already protect in his opinion. He respects the Working Group.

Chair Kapala agreed with Mr. Rouda but added that Mallett Drive could be. There is a reimagining of Mallett Drive coming down the pike in the next couple of years. We are moving incrementally and in the spirit of moving in one direction, that is what informed our ultimate decision to recommend the one simple change. At one point we chopped off Justin's Way, chopped off Mallett Drive, shortened Route One North, we cut out part of South Street and Bow Street. More discussion followed.

Chair Kapala pointed out that we made a few changes significantly to the Appeals process. Ms. Pelletier added that we need to look at that. When it goes to the Council, it will be noted what changes you made and what kind of came out of the Central Core Working Group. We added the Administrative Appeals with what the town Attorney gave us for language. To keep it in, you would have to keep No. 1. Change the heading of No. 2 so instead of appeals to Superior Court it would be PRB appeals leaving the language that was in there acknowledging that the Board put it back in at the meeting and it would warrant some legal review. She will see if it is something they can clean up. Also, if you are going to do that, you need to leave it on Page 12. Mr. Rouda asked if she could give the Board the language at next week's meeting? He also asked if we make changes, are we going to have to have another public hearing? Ms. Pelletier advised that would be necessary. If the Board wants to correct the Appeals section, she could bring it back in January with this cleaned up. Chair Kapala feels the cleanest way to do it is to flag it to the Council. She thinks the Board can just make a little change to rename Nol. 2 Project Review Board Appeals and strike the new language and keep the old language as is. In the meantime, we can reach out to the attorney and see how best to handle that. Mr. Rouda suggested putting a No. 2 where it says appeals from the PRB goes to the Board of Appeals and keep the rest of it. It would become No. 3 so they can still appeal to Superior Court. Ms. Pelletier reviewed the changes.

MOVED AND SECONDED: That the Freeport Planning Board accept the proposed amendments to Chapter 22, Town of Freeport Design Review Ordinance as presented at the public hearing on December 6, 2023 and as amended at the meeting and read by the Town Planner. We find these changes to be consistent with the Town of Freeport Comprehensive Plan and particularly that it would allow a variety of neighborhoods and housing types to be constructed and support economic development in the downtown area. (Rouda & Arsenault) **VOTE:** (6 Ayes) (1 Excused: Jortner) (0 Nays)

ITEM IV: Election of Officers for the positions of Chairperson, Vice-Chairperson and Secretary

MOVED AND SECONDED: To table the election of officers until the whole Board is here. (Arsenault & Burwell) **VOTE:** (6 Ayes) (1 Excused: Jortner) (0 Nays)

ITEM V: Persons wishing to address the Board on non-agenda items.

Ms. Pelletier advised the Board that the next meeting will be held on January 3rd.

Chair Kapala mentioned that Ms. Dorsey e-mailed him today but he did not have an opportunity to read it but he did forward it to the Board. Kristen Dorsey advised that she is a member of the sustainability Advisory Board and also on the Tree task Force. She has zoning changes that they drafted as a group. They came to a workshop last winter and one of the first things they did was dive into a Tree Ordinance since one does not exist. Before doing that, they dug around in other ordinances to find out where landscaping of trees and tree canopy was addressed. They landed in the Zoning Ordinance in Sections 514 and 602 and were simultaneously drafting a Tree Ordinance. They were fortunate to have a member who is a retired landscape architect. Now that it is delivered, she doesn't know what happens next. Chair Kapala thinks there are a couple of different opportunities. One would be to ask the Council for a bit of direction and say we have this in the mix. The first draft has been undertaken and do you mind if we spend a little bit of meeting time looking at this. That would be one approach and see if the Council says yes, go for it. His first inclination would be to go to the Council for guidance for how to spend the time. We have so much going on in the next couple of months. Ms. Dorsey advised that they

did go to the Council last night and were on the agenda as an update. They did not have a copy of this in their packets so they were all kind of blinking at them. They ran through their purpose and reasons so they know it is in the pipe. She wanted to show up. Chair Kapala noted it is great to see so much of the legwork done. Everybody has a chance to look through it and get acquainted with it. He will talk to Caroline and John Egan and see what the best pathway is for getting this through. These are zoning changes so they would end up before the Planning Board at some point if they are going to be put in ordinance language and then they would go back to the Council. He understands that the process sometimes seems cumbersome. He feels the next step is to talk to Caroline and John and see how soon we can look at this. Ms. Dorsey is excited to learn that Cecilia is her Town Hall liaison. Ms. Pelletier mentioned that they presented a whole package of ideas to the Council last night so we will need to go back and see how they want to move forward. There was talk about a stand-alone ordinance.

ITEM VI: Adjourn

MOVED AND SECONDED: To adjourn at 9:15 p.m. (Arsenault & Burwell) **VOTE:** (6 Ayes) (1 Excused: Jortner) (0 Nays)