

FALL TOWN MEETING WARRANT TOWN OF WAREHAM

OCTOBER 26, 2009

WAREHAM HIGH SCHOOL
7 VIKING DRIVE
WAREHAM, MA

7:00 PM

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH §

TO EITHER OF THE CONSTABLES OF THE TOWN OF WAREHAM

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the legal voters of the Town qualified to vote in Town affairs to meet in the High School Auditorium, 7 Viking Drive, Wareham, MA on Monday, October 26, 2009 to act on the following articles:

ARTICLE 1

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds a sum of money to amend or supplement the Fiscal Year 2010 budget, to defray the costs of a projected deficit or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 2

To see if the Town will vote to authorize the Board of Selectmen, pursuant to G.L. c. 40, s.15A, to lease the care and custody of the real property and improvements thereon known as Westfield Site, more specifically located at Charlotte Furnace Road, consisting of 18.5 acres, more or less, and identified on Wareham Assessor's Map 105, Parcel 1001 and Assessors' Map 105A, Parcels 107 through 130 and Parcels 162 through 175 and Parcels 198 through 213 and Parcels 215 through 221 and Parcels 229 through 238 and Parcels 259 through 287, and described in the instrument recorded with the Plymouth District Registry of Deeds in Book 4314, Page 189, said portion containing 24.49 acres, more or less, being the premises shown as Westfield Overall Plan surveyed by G.A.F Engineering on May 11, 2006, to be placed under the Selectmen's care and custody for the purposes of continuing and expanding the use of the parcel for affordable senior rental housing and further, to authorize the Board of Selectmen, if the Board of Selectmen so vote, to lease or convey said property and improvements for the purposes of improving, expanding and the perpetual management

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of the property for affordable rental housing pursuant to the requirements of G.L. c.40, s.3 and G.L. c.30B, et seq. and upon terms and conditions acceptable to the Board of Selectmen and pursuant to the authority granted the Board of Selectmen by G.L. c.44, s.55C, and further, that if the Board of Selectmen is to lease for a maximum of 99 years said property, that lease be subject to the prior placement of a restriction on said property, including but not limited to that found at G.L. c.184, ss.31-33, ensuring that all dwelling units constructed thereon be restricted for affordable housing purposes in perpetuity; or take any other action thereon or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

ARTICLE 3

To see if the Town will vote to accept the provisions of M.G.L. c. 64L s. 2(a) to impose a Local Option Meals Excise at a rate .75% above the current State Rate of 6.25%.

Submitted by the Board of Selectmen at the Request of the Interim Town Administrator

ARTICLE 4

To see if the Town will vote to amend its local room occupancy excise under M.G.L. c. 64L s. 3(a) to a rate of 6% which is 2% above the current town tax of 4%.

Submitted by the Board of Selectmen at the Request of the Interim Town Administrator

ARTICLE 5

To see if the Town will vote to revoke its acceptance of the provisions of G.L. c. 31, as voted under Article 52 of the March 7, 1938 Annual Town Meeting, and thus remove from civil service the position of Chief of Police of the Wareham Police Department; provided, however, that this revocation shall not impair the civil service status of any incumbent presently holding the position of permanent Chief of Police, or take any other action relative thereto.

Inserted by the Board of Selectmen

ARTICLE 6

To see if the Town will vote to accept the layouts of Agawam Lake Shore Drive, Regent Avenue and Shaker Avenue as public ways and to raise and appropriate or transfer a sum of money to reconstruct the roadways, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

ARTICLE 7

To see if the Town will vote to amend the Town of Wareham By-laws and place in the appropriate place the following addition:

The Preservation of Historically Significant Buildings

Intent and Purpose

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This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the Town and to limit the detrimental effect of demolition on the character of the Town. Through this Bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this Bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

Definitions

APPLICANT-Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION-An application for the demolition of a building.

BUILDING-Any combination of materials forming a shelter for persons, animals, or property.

DIRECTOR OF INSPECTIONAL SERVICES - The person occupying the office of Director of Inspectional Services or otherwise authorized to issue demolition permits.

COMMISSION – The Wareham Historical Commission or its designee.

DEMOLITION-Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with substantial destruction so that the Building will no longer exist as it has customarily.

DEMOLITION PERMIT - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED - Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period of this Bylaw.

SIGNIFICANT BUILDING – Any building within the Town which is in whole or in part fifty years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Procedure

No demolition permit for a building which is in whole or in part fifty years or more old

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shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over 50 years old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Director of Inspectional Services an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Director of Inspectional Services shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Director of Inspectional Services and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Director of Inspectional Services within thirty (30) days of receipt of the application, the Director of Inspectional Services may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Director of Inspectional Services. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Director of Inspectional Services and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Director of Inspectional Services in writing within twenty-one days of the public hearing, the Director of Inspectional Services may issue the demolition permit.

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Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Director of Inspectional Services and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy, including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Director of Inspectional Services may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Director of Inspectional Services in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the six (6) month delay period, the Director of Inspectional Services may issue the demolition permit.

Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this Bylaw.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission.

The Commission may pro-actively develop a list of significant buildings that will be subject to this Bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

Emergency Demolition

No provision of this Bylaw shall be interpreted or applied so as to conflict with the provisions set forth under G.L. c.143 and the State Building Code, regarding emergency demolition procedures. The Commission may request the Applicant to provide the Director of Inspectional Services or any Board of Survey convened under 780 CMR 121.4-5 with an independent evaluation from a qualified structural engineer as to the structural soundness of the subject Building.

Enforcement and Remedies

Any person who violates this Bylaw by demolishing a building without first obtaining a demolition permit in accordance with the provisions of this Bylaw shall be punished by a fine of \$300 or in accordance with the Town's Non-Criminal Disposition Bylaw, Division X, Article I. The enforcing person for non-criminal disposition under this Bylaw shall be the Commissioner, the Director of Inspectional Services or a police officer of the Town.

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Each day that the violation exists shall constitute a separate offense until restoration of the demolished building is completed.

If a building subject to this Bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Inserted by the Board of Selectmen at the request of the Historical Commission

ARTICLE 8

To see if the Town will vote to adopt Chapter 32B Section 18 which shall require that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, or eligible for coverage there under at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the town.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 9

To see if the Town will vote to appropriate from the Community Preservation Fund Affordable Housing reserve, the amount of \$40,000 for the support of community housing. Said funds shall be used to provide a grant to the Buzzards Bay Area Habitat for Humanity, a non-profit organization, for the construction of a single-family home on Minot Ave., Wareham. Habitat for Humanity must conform to the Local Initiative Program that will ensure that the restricted home, created through LIP can be entered into the subsidized housing inventory for the Town of Wareham, or to take any action relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

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ARTICLE 10

To see if the Town will vote to appropriate from the Community Preservation funds estimated annual revenues under the category of Historic Preservation, the amount of \$50,000 more or less, for the preservation of historical Town records and journals in the Town Clerks and Assessors' office or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 11

To see if the Town will vote to appropriate from the Community Preservation estimated annual revenues under the category of Recreation, the sum of \$200,000 more or less, for the Engineering and Design phase of the Wareham Community Pathway or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 12

To see if the Town will vote to appropriate from the Community Preservation estimated annual revenues under the category of Historic Preservation, the sum of \$20,000 for the Preliminary Study Report for the expansion of the Parker Mills and Center Park Historic Districts, and the National Register Nominations for the Fearing Tavern and Dr. Andrew Mackie House or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 13

To see if the Town will vote to appropriate from the Community Preservation estimated annual revenues under the category of Historic Preservation, the sum of \$50,000 for building assessments and a preservation plan for the Kendrick Museum, the Methodist Meeting House, the School House, Union Chapel and Fearing Tavern, owned by the Wareham Historical Society or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 14

To see if the Town will vote to appropriate from the Community Preservation Historic Preservation Reserve, the sum of \$84,950 and from the Community Preservation estimated annual revenues the sum of \$24,778 totaling \$109,728 for payment of debt service on the Tremont Nail property and further, to appropriate from the Community Preservation Open Space Reserve the sum of \$7,823 for payment of debt service on the property known as Bryant Farm, which purchases were authorized by vote of the April, 2004 Town Meeting, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

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ARTICLE 15

To see if the Town will vote to transfer the following sum into the unrestricted Community Preservation budgeted reserve account, \$500,000 approved under Article 22 at the April 2007 Town Meeting for the acquisition of a Conservation / Development Rights Restriction for the property commonly known as The Sacred Hearts Seminary, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 16

To see if the Town will vote to appropriate from the Community Preservation Funds estimated annual revenues under the category of Open Space, \$320,000 for the acquisition of a Development Rights/ Conservation Restriction, with respect of approximately 92 acres, more or less of the property commonly known as the Great Neck Mass Audubon Land and designated on Assessor's Map 23, Lot 1000; Assessor's Map 24, Lot 1002B; and Assessor's Map 27, Lot 1007. Recommended by the Community Preservation Committee for meeting the Open Space Goal of the Wareham Community Preservation Plan, such conservation restriction to be under the care, custody, management and control of the Wareham Conservation Commission and the Wareham Land Trust, a non-profit organization, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

ARTICLE 17

To see if the Town will vote to raise and appropriate or to transfer \$35,000 from the Harbor Service Permit Reserved for Appropriations Account, to the Harbormaster Maintenance and Improvement account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 18

To see if the Town will vote to raise and appropriate or to transfer \$60,000 from the Harbor Service Permit Reserved for Appropriations Account, to the Harbormaster Maintenance and Improvement account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 19

To see if the Town will vote to transfer a sum of money from the parking meter fund to the Municipal Maintenance line painting account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

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ARTICLE 20

To see if the Town will vote to appropriate and transfer a sum of money from the Waterways Improvement and Maintenance fund to the Harbors and Beaches Maintenance account or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 21

To see if the Town will vote to transfer a sum of money from the Parking Meter Fund to the Municipal Maintenance Department Sign Materials account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Interim Town Administrator

ARTICLE 22

To see if the Town will vote to amend the Zoning By-Law by adding a new section 590 Special Permit for large tracts in the Conference Recreational District, to Article 5 Supplemental Regulations

590 Special Permit for large tracts in the Conference Recreational District

590.1. General

In order to permit a mixture of retail, residential, open space, general commercial and office uses, and a variety of building types, tracts of land within the Conference Recreational District may be developed under a Special Permit granted by the Planning Board as herein defined and limited.

590.2 Special Permit Authority

The Planning Board (Board) may grant a Special Permit for construction of a mixed-use project in the Conference Recreational District. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9 and to regulations which the Board may adopt for carrying out its requirements hereunder.

- a. Purpose - The purpose of the mixed-use Special Permit is to provide for a mixture of residential, open space, retail, office and other compatible uses within the Conference Recreational District in order to foster greater opportunity for the construction of quality developments on large tracts of land by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage is shown to be for the public good and will serve to preserve and protect the public health, safety and welfare; and
- b. will improve the physical and aesthetic qualities of the Conference Recreational District and encourage the most appropriate use of land within the Conference Recreational District and improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment; and
- c. is consistent with the objectives of the Zoning By-Law.

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- 590.3 Review Procedure for Mixed Use Special Permit Applications
The review procedure for a mixed use Special Permit consists of three steps:
- a. a pre-application conference;
 - b. submission by the applicant and review by the Planning Board of a Preliminary Plan for the proposed mixed-use development; and
 - c. submission by the applicant and review by the Planning Board of an application and final plan for a mixed-use Special Permit.
- 590.4.
- a. Procedure for Preliminary Plan
 - i. The applicant shall file with the Town Clerk, at least fourteen (14) days before a regularly scheduled meeting of the Planning Board, the original and one (1) copy of the preliminary plan accompanied by the form entitled "Submission of Preliminary Plan Mixed-Uses". The applicant shall at the same time submit to the Planning Board eight (8) copies of the preliminary plan.
 - ii. A fee of \$350.00 (certified check) made out to the "Town of Wareham" shall accompany the submission of the preliminary plan to the Town Clerk.
 - iii. The applicant shall also, at the time the preliminary plan is filed, submit additional copies of the preliminary plan for distribution by the Planning Board to such Town boards and agencies as the Planning Board shall deem appropriate.
 - iv. The applicant shall meet with the Planning Board to discuss the preliminary plan.
 - v. The Town boards and agencies receiving copies of the preliminary plan shall submit to the Planning Board written recommendations on the preliminary plan within 30 days after filing of the preliminary plan. Failure to report to the Planning Board within 30 days shall be deemed lack of objection to the application, unless the Planning Board elects to contact such Town board or agencies requesting such a response.
 - vi. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the preliminary plan during the review period.
 - vii. The Planning Board within 45 days from filing of the preliminary plan shall review and determine whether the proposed project is consistent with the development of the Town and this By-Law. The Planning Board may suggest modifications and changes to the development described in the preliminary plan and shall make a written report of its recommendations to guide the applicant in the preparation of the final plan. The written report of the Planning Board shall be filed in the Town Clerk's office; after such filing the applicant may proceed to file its final plan.
 - viii. If the Planning Board is unable to file its written report within 45 days after filing of the preliminary plan, the Planning Board shall notify the applicant, in writing, of the issue(s) preventing such a report in which case the Planning Board shall have an additional 21 days to file said written report.
- 590.5 Contents of Preliminary Plan
A preliminary plan shall comprise the graphic and narrative materials described below.

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- a. Graphic materials shall include plans of sufficient number, character and clarity to show the proposed development and the existing conditions on the site. Such graphic materials shall show at least:
 - i. existing and proposed lines of streets, ways, utility and all easements, and any public areas within or next to the parcel;
 - ii. the approximate boundary lines of existing and proposed lots with appropriate areas and dimensions;
 - iii. the proposed system of drainage, including adjacent existing natural waterways, including any planned nitrogen reduction from surface water runoff;
 - iv. the existing and proposed topography of the site at five foot or smaller contour intervals;
 - v. the proposed wastewater disposal system
 - vi. existing and proposed buildings, significant structures and proposed open space and proposed site amenities, and proposed circulation patterns; and,
 - vii. an analysis of the natural features of the site, including wetlands, flood plain, slopes over 10%, soil conditions and other features requested by the Planning Board or required by any regulation of the Board.
- b. Written materials shall include the following:
 - i. a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;
 - ii. a description of the neighborhood in which the parcel lies, including utilities and other public facilities and the general impact of the proposed mixed use upon them; and,
 - iii. a summary of environmental concerns.
 - iv. a pro-forma for the entire proposal along with evidence of financial capacity to undertake and complete the proposed development.

590.6 Submission of Final Plan

- a. The applicant shall file the original application for a mixed use Special Permit and the original of the final plan together with one (1) copy of those materials, with the Town Clerk. The applicant shall also submit to the Planning Board and to those boards and agencies set forth in subparagraph 590.4.a.iii of this Section at the time the application is filed with the Town Clerk, a copy of the application and the final plan. The Final Plan shall comply, except as may be waived by the Planning Board, with the substantive Rules and Regulations of the Planning Board and with Sections 1530-1534, inclusive, of this By-Law and the Design Standards and Guidelines contained in Section 730 of this By-Law.
- b. The Town boards and agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the application and final plan within 30 days of the filing of the transmittal letter certifying that copies of the final plan have been forwarded.
- c. The Planning Board, within 65 days of the filing of the final plan with the Town Clerk, shall hold a public hearing, notice of which shall be given in

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the manner and to the parties provided in of this By-Law and Massachusetts General Laws Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.

- d. The Board shall, within 90 days following the public hearing, issue a written decision setting forth the reason or reasons for its decision or actions. Such written decision may provide that the application is approved as submitted, is approved subject to modifications or conditions, or is denied. A copy of the Board's decision shall be filed within fourteen days with the Town Clerk and shall be mailed forthwith to the applicant. Failure by the Board to issue a written decision taking final action on the application within 90 days following the public hearing shall be deemed to be a grant of the application and the Town Clerk shall issue forthwith, upon request, a certificate of such failure to act.
- e. Approval of a Special Permit for a mixed-use shall require a majority vote of the Board.
- f. The final plan, as approved by the Board, shall be filed with the Town Clerk and recorded with the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, as appropriate.
- g. Special Permits granted under this Section shall lapse in two years, excluding time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use has not sooner commenced or if construction has not been begun. The Board may grant an extension for good cause after a hearing, as provided in Massachusetts General Laws Chapter 40A, Section 11, and shall grant an extension if the delay has been caused by the need to seek other permits related to the development.
- h. No construction or reconstruction except as shown on the recorded final plan, or as provided in Section 590.11 hereof, approved amendments to such plan, shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded final plan and upon deeds to any property within the mixed-use parcel.
- i. Following filing with the Wareham Town Clerk and recording with the Plymouth Registry District, a final plan which has been approved pursuant to the provisions of this By-Law shall be deemed to run with the land, as provided in this Section of the By-Law.

590.7. Minimum Requirements - The mixed-use Special Permit shall be subject to the following conditions, and the Planning Board shall make a determination that the project meets the requirements of Massachusetts General Laws Chapter 40A, Section 9 and this mixed-use By-Law as to all the following conditions:

- a. the mixed use is consistent with the purpose set out in 590.2 of this By-Law;
- b. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding on the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board may require, and in form and substance satisfactory to it, in order to insure adherence to the terms of the Special Permit issued hereunder;

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- c. the prior approval of detailed plans for the project including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall, except as waived by the Planning Board, comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board deems desirable in order to assist it in making its determination;
- d. the Board may, in appropriate cases, impose density, dimensional and setback requirements in addition to those required by this By-Law; and
- e. the Board may, in appropriate cases, reduce the density, dimensional and setback requirements set forth elsewhere in this By-Law.

590.8 Permitted Uses and Intensity of Use:

- a. The specific mixture of uses and square footages within the Conference Recreational District shall be the prerogative of the developer, subject to design and site plan review powers accorded to the Planning Board, except that any special permit application with the Conference Recreational District must include an existing or proposed regulation 18 hole golf course, par 70 or higher and meet the minimum lot size requirement set forth in 590.9.a below.

b. Permitted Uses

In addition to the uses allowed with the Conference Recreational District, the Planning Board may allow such other uses, including, but not limited to, residential units, single family or multi-family, free standing, attached and/or multi-story, that the Planning Board deems to be appropriate, best and highest land uses within the Conference Recreational District and in harmony with the general purpose of this By-Law, upon finding that allowing said uses will encourage the preservation of valuable open space and promote the more efficient use of land in harmony with its natural features and will protect and promote the health, safety and general welfare of the inhabitants of the Town.

Uses not allowed in Section 320 of this By-Law may be permitted as part of the originally approved final plan if, in the judgment of the Board, the proposed use does not create health, traffic or safety problems for the remainder of the development area and abutter areas and is consistent with the remaining land uses in the mixed-use area and the overall plan contemplated by the Special Permit Application.

590.9. Dimensional Requirements

- a. Site Area Requirements - A minimum of 100 acres is required within the Conference Recreational District. The parcel(s) shall be contiguous;

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however, a public transportation, utility, parking area or public ways shall not constitute a boundary or property line in computing the size of the contiguous parcel. The public transport, utility, parking area or public way, however, shall not be used in the calculation of the total project area.

- b. Density – The Planning Board shall determine the appropriate density during the Hearing on the Special Permit application, notwithstanding any provision of this By-Law to the contrary.
- c. Dimensional Requirements - The Planning Board shall determine the appropriate dimensional requirements during the Hearing on the Special Permit application, notwithstanding any provision of this By-Law to the contrary.
- d. Setbacks - The Planning Board shall determine the appropriate dimensional requirements during the Hearing on the Special Permit application, notwithstanding any provision of this By-Law to the contrary.
- e. Open Space - The Open Space (as that term is defined in Article 16 of this By-Law) within the proposed development may be used for recreational purposes as described in Section 817.3 of this By-Law.
- f. Height - No building within the mixed-use development shall exceed 55 feet in height above the average finished grade of abutting properties. Parking facilities within the building(s) shall not be calculated as part of the allowable height.

590.10. Parking Requirements

- a. In all mixed-use developments adequate off-street parking shall be provided. The Board and the applicant shall have as a goal, for the purposes of defining adequate off-street parking for the development, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall make provision for complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in reductions in the parking requirements set out in this subsection of the By-Law. The parking may be at ground level, underground or in a parking garage. Parking garages can be free standing (in which case 55 feet is the allowed maximum height) or as part of buildings with commercial or residential purposes. If a free standing parking structure is proposed, the spaces must be assigned to specific uses at the time of the submission of the final plan.

590.11 Amendments - After approval of the mixed use Special Permit by the Board, the developer may seek amendments to the final plan as approved by the Board as provided below:

- a. Minor amendments shall be defined and administered in accordance with regulations adopted by the Board.
- b. An application for a major amendment shall be filed with the Town Clerk. The applicant shall also submit copies of the application for a major amendment with the Building Commissioner and the Planning Board. An

OCTOBER 26, 2009
FALL TOWN MEETING WARRANT (CONT'D)

application for a major amendment shall comply with subsections 5 and 6
of this Section.

or take any other action relative thereto.

Inserted by the Planning Board

Petitioned Article

ARTICLE 23

Honorable Board of Selectmen
Wareham, Massachusetts

September 11, 2009

We the undersigned registered voters of the Town of Wareham, do hereby petition the Board of Selectmen to insert the following in the Warrant for the 2009 Fall Town Meeting:

To see if the Town will vote to change the zoning of lots 1030, 1029A, 1029B MAP 15 to Commercial Strip.

NOTE: this article was reproduced exactly as presented, in accordance with the law.

Inserted at the request of William Bachant, et al

OCTOBER 26, 2009
FALL TOWN MEETING WARRANT (CONT'D)

You are hereby directed to serve this Warrant by posting attested copies thereof on or before September 18, 2009 in at least one public place in each precinct within the Town, and by publishing a copy of the Warrant by October 8, 2009.

Hereof fail not and make sure due return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 15th day of September in the year 2009.

WAREHAM BOARD OF SELECTMEN

Bruce D. Sauvageau, Chairman

John P. Cronan, Clerk

Brenda Eckstrom

M. Jane Donahue

Walter B. Cruz, Sr.

A True Copy

ATTEST:

DATE: September, 2009

Constable of Wareham

Plymouth, S.S.

Pursuant to the within Warrant, I have notified the inhabitants of the Town of Wareham herein described, to meet at the time and place for the purpose within mentioned by posting attested copies thereof in at least one public place in each precinct within the Town on or before September 4, 2009, and by causing this Warrant to be published on or before October 8, 2009.

Date: September, 2009

Constable of Wareham

The original posting with return made was delivered to Mary Ann Silva, Town Clerk.

Date: September, 2009

Constable of Wareham

OCTOBER 26, 2009
FALL TOWN MEETING WARRANT (CONT'D)

In accordance with the Wareham Charter, Article 2 - Legislative Branch - Section 2-4, Town Meeting Warrants, Item (d), I have hand delivered a copy of the Warrant for the Annual Town Meeting to be held on October 26, 2009 at 7:00 o'clock p.m. to the Town Moderator, Chairman of the Finance Committee, Chairman of the Planning Board, Chairman of the Capital Planning Committee and Chairman of the Personnel Board.

Date: September, 2009

Constable of Wareham