

Minutes  
TOWN OF WAREHAM  
SPECIAL TOWN MEETING  
APRIL 10, 2021

WAREHAM HIGH SCHOOL SPILLANE FIELD  
VIKING DRIVE  
WAREHAM, MA 02571

12:30 O'CLOCK P.M.

Special Town Meeting called to order at 12:30pm by Madame Moderator Claire Smith, with meeting taking place at Wareham High School Spillane Field, Viking Drive, Wareham, MA on Saturday, April 10, 2021.

**ARTICLE 1- HOSPITALITY, RECREATION AND ENTERTAINMENT  
OVERLAY DISTRICT – EAST WAREHAM**

To see if the Town will vote to amend the Wareham Zoning By-laws to establish a Hospitality, Recreation and Entertainment District, a copy of which is on file at the office of the Town Clerk, or take any action therto.

Motion made and seconded to refer Article 1 to Planning Board for further study.

Motion declared **PASSED** by majority

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Motion to recess Special Town Meeting and open Special within the Special Town Meeting. Madame Moderator declared a recess of Special Town Meeting at 1:08pm. Special with in the Special Town Meeting called to order at 1:09pm.

**ARTICLE SS1- HOSPITALITY, RECREATION AND ENTERTAINMENT  
OVERLAY DISTRICT – EAST WAREHAM**

To see if Town Meeting will vote to amend the Wareham Zoning By-Laws to:

- Create a new Article 17 Redevelopment Districts and
- Add a new section entitled HOSPITALITY, RECREATION AND ENTERTAINMENT OVERLAY DISTRICT to read as follows:

**1720. HOSPITALITY, RECREATION AND ENTERTAINMENT OVERLAY DISTRICT - HREOD**

**1720.1 Intent and Purpose.**

To encourage mixed-use development within the Town that will allow and promote economic development opportunities that create sustainable employment opportunities and increase the net tax base of the Town by diversifying and expanding development opportunities within

appropriate land areas, that by virtue of their location, infrastructure or transportation access make highly suitable locations for a mixed-use zoning district, while preserving the health and safety of its residents, and to provide protection for the Town's natural resources from environmentally undesirable or adverse impact by encouraging innovative and efficient planning for mixed-use developments.

The purpose of the Hospitality, Recreation and Entertainment Overlay District ("HREOD") is to provide for a mixture of retail, hospitality, recreational, entertainment, commercial and other compatible uses on large tracts of land in order to foster greater opportunity for the construction of quality developments by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage will protect the health, safety and welfare of the public.

**1720.2     Underlying Zoning District.**

The Hospitality, Recreation and Entertainment Overlay District shall overlay but not supersede other zoning districts in which any lot so zoned shall lie. A landowner whose land lies within the HREOD shall not be precluded thereby from (a) electing not to use his/her land for a HREOD Special Permit use and (b) electing instead to use his/her land for an Allowed Use or a Special Permit use in the underlying Zoning District, in which case all of the dimensional, intensity, and other requirements of the Underlying Zoning District shall apply. Once a landowner exercises rights for a development subject to a HREOD Special Permit, the land shall only be developed and used for HREOD Special Permit uses and shall comply with the requirements and restrictions of this Section.

**1720.3     Siting Requirements.**

A mixed-use development within the HREOD may be allowed pursuant to the provisions of this Section through a Special Permit ("HREOD Special Permit") for any parcel or combination of parcels:

1. Having at least 100 acres of total land area, and
2. That are located within the HREOD as identified on the Zoning Map or in Appendix 1 of the Zoning By-Law, and
3. Near a transit station, including bus station and/or commuter bus facility.

The total land area included within a development subject to a HREOD Special Permit, irrespective of the number or configuration of parcels or ownership of such parcels, shall contain contiguous parcels.

**1720.4     Administrative Procedure.**

1720.4.1     Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority for a HREOD Special Permit. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9.

1720.4.2     Administrative Procedures for HREOD Special Permit Applications. The review procedure for a HREOD Special Permit consists of:

1. A pre-application submittal to the Planning Department to be forwarded to the Planning Board for general discussion.
2. Submission by the Applicant and review by the Planning Board of a Master Plan for the proposed development, including all planned phases and elements.
3. The Planning Board shall refer copies of the application to the Board of Health, Town Engineer, Conservation Commission, Water Department(s), Sewer Commissioners, Police Department, Fire Department, EMS, Municipal Maintenance Department, and Building Inspector, which shall review, either jointly or separately, the application and shall submit their recommendations to the Planning Board.

1720.4.3 Information Requirements.

1. A preliminary site development plan shall accompany the request for a pre-submission conference with the Planning Department. The plan shall include, generally, existing topography and site features; the location of all proposed structures; parking and loading areas; access roadways; sanitary facilities; stormwater management facilities; and off-site traffic mitigation measures. The preliminary site development plan(s) shall be accompanied by a complete narrative generally describing all existing topographic features, limiting features within the development area such as wetlands, steep slopes, unusual vegetation and/or large individual trees that may be worth preserving, access to and from particular streets as well as potential connections to other streets in the project area, anticipated type of sanitary facilities and storm water facilities to be used with specific reference to the accompanying preliminary site development plan, impacts, both positive and negative on the immediate community, expectations for phasing of the project, anticipated time of development, temporary measures to be incorporated, alternative energy sources, anticipated water demand, development options that have been considered, in addition to conforming to the format of the Environmental Notification Form (ENF) required under the Massachusetts Environmental Policy Act (301 CMR 11.00). If it is expected that the proposed project will require the preparation of an ENF, a draft copy of the ENF shall be submitted.
2. Special Permit application. Plans accompanying an application for a HREOD Special Permit shall comply with the requirements of Section 1530.
3. The Applicant shall provide a hydrogeological groundwater study that includes an analysis of groundwater flow, direction, supply, depth and nitrogen loading and that demonstrates that there will be no adverse nitrogen impacts to the surrounding groundwater and surface water resources. The study shall include methods of protecting the ground water supply during construction and shall include, at a minimum, observation wells suitably placed for determining current ground water quality and for periodic testing for the life of the project. The Planning Board shall conduct a technical review by a consultant of its choice at the Applicant's expense.

4. The Applicant shall provide a written statement indicating the estimated time required to complete the proposed project and any phases thereof.
5. The Applicant shall provide any other site-specific information, plans, documents or details that may be required by the Planning Board to adequately establish the project's quality of economic and social development as required under Section 1 of this By-Law, above.

**1720.5    Permitted Uses.**

1720.5.1        The specific mixture of uses and square footages within a mixed-use development subject to a HREOD Special Permit shall be proposed by the Applicant consistent with the purpose set out in Section 1720.1 of this By-Law, above, subject to Site Plan Review powers accorded to the Planning Board; except that any development under a HREOD Special Permit must include an indoor and/or outdoor commercial recreation facility or place of amusement and residential uses.

1720.5.2        The following uses shall be allowed within a mixed-use development subject to a HREOD Special Permit:

1. Hotel, motel, conference center and other event/function facilities.
2. Indoor and/or outdoor commercial recreational facilities or other places of amusement.
3. Health or athletic facilities.
4. Non-profit recreation.
5. Restaurant and entertainment uses, including restaurants with drive-through.
6. Food and beverage services and accessory uses related to hospitality, recreation and entertainment uses, facilities and activities.
7. Retail and services uses.
8. Commercial and office uses.
9. Hospital and medical related facilities.
10. Veterinary hospital and facilities.
11. Multiple family dwellings.
12. Public or private educational uses.
13. Municipal facilities.
14. Wireless communication facilities.
15. Structured parking facilities.
16. Public or private transportation facilities.
17. Wastewater treatment facilities.
18. Riding stables.
19. Agriculture, horticulture, viticulture or floriculture, except to the extent exempt under Chapter 40A, Section 3.
20. Dormitories or temporary housing accessory to the above allowed uses as a convenience to employees or participants in onsite uses, providing temporary quarters to such transient persons whose permanent residence is elsewhere. Such temporary housing shall not be occupied by any individual for more than

ninety (90) continuous days. No occupant of such temporary housing may claim residency at such location.

21. Childcare center accessory to the above allowed uses as a convenience to employees within the development, except to the extent exempt under Chapter 40A, Section 3.

22. Accessory uses for educational or scientific research, development or related activities.

23. Uses accessory to the above permitted uses.

1720.5.3 In addition to the permitted uses specified above, additional uses may be permitted as part of the mixed-use development subject to a HREOD Special Permit if, in the judgment of the Planning Board, the proposed uses do not create health, traffic or safety problems for the remainder of the development area and abutter areas and are consistent with the remaining land uses in the development area and the overall plan contemplated by the HREOD Special Permit application.

1720.5.4 The following uses are prohibited as part of a mixed-use development subject to a HREOD Special Permit:

1. Heavy industrial or manufacturing.
2. Junkyards, salvage yards, contractor yards, dumps, and landfills including landscape/asphalt facilities, medical waste disposal facilities, and hazardous waste facilities and recycling operations.
3. Rendering plants and slaughterhouses.
4. Cemeteries and crematories.
5. Trucking terminals.

#### **1720.6 Dimensional Requirements.**

Mixed-use developments subject to a HREOD Special Permit are subject to and shall conform to the following dimensional requirements, notwithstanding any provision of this By-Law to the contrary.

1720.6.1 Density – The maximum allowed Floor Area Ratio for nonresidential uses shall be 0.25. The number of Multiple Family Dwellings, which is defined as three or four units in one building, shall not exceed the number of single-family dwellings that would be allowed for a conventional single-family residential development in the underlying zoning district on up to 10% of the total land area of the mixed-use development.

1720.6.2 Setbacks – No buildings shall be allowed within 300 feet from any existing abutting principal residential structure.

1720.6.3 Height – No building within the mixed-use development subject to a HREOD Special Permit shall exceed 80 feet in height, except that buildings and structures associated with large-scale indoor and/or outdoor commercial recreation facilities, hotel/conference facilities, and associated structured parking facilities, up to 150 feet in height, are allowed not closer than 400 feet from any existing abutting principal residential structure. The Planning Board may allow an increase in the maximum height for any accessory structure(s) reasonably necessary for the safe and efficient operation of the principal use (e.g., support

poles for netting used as part of a driving range or other similar commercial recreation facility), provided such structure(s) complies with applicable federal and state requirements.

1720.6.4 Open Space – A minimum of 25% of the mixed-use development subject to a HREOD Special Permit shall be reserved for Open Space.

**1720.7 Phased Developments.**

Mixed-use developments under this Section may be approved in one or more phases authorized under a single Special Permit. The Special Permit for a project approved for development in one or more phases shall include an approximate development timeline and anticipated construction schedule, and shall ensure that sufficient infrastructure improvements are provided to support each phase of development. A Special Permit for a phased development shall be granted by the Planning Board based on the Planning Board's approval of final plans for one or more early phases of the development, along with the Planning Board's approval of preliminary plans for future phases of the development. In such instance, the Special Permit shall be amended by Planning Board approval of final plans for each subsequent phase of development as such plans become available. The Planning Board shall have the authority to approve, in its sole discretion, phased construction of the residential components of a project, independent of the phased construction of the non-residential components of the same project, and may impose limitations upon the issuance of building permits for residential uses related to a rate of development based upon an approved project development timeline.

**1720.8 Application of Requirements to Individual Lots.**

The requirements of this Section of the By-Law shall not be applied to the individual lots or ownership units within an approved mixed-use development subject to a HREOD Special Permit, but shall be applied as if the entire area subject to the HREOD Special Permit were a single conforming lot, whether or not the same is in single or multiple ownership. Any violation of this By-Law by an owner or occupant of a single lot or ownership unit or demised premises within an approved mixed-use development subject to a HREOD Special Permit shall not constitute a violation by any other owner or occupant.

**1720.9 Review Criteria.**

1720.9.1 In making a decision on an application for a HREOD Special Permit, the Planning Board shall consider the following:

1. The purpose and intent of the Hospitality, Recreation and Entertainment Overlay District.
2. Health, safety and general welfare of the public.
3. Conservation and preservation of the natural environment.
4. Impacts on abutting properties and neighborhoods.
5. Proper drainage of the site.
6. Safe access to and from the development.

7. Capacity of the existing and/or proposed traffic network to accommodate projected increases.
  8. Adequacy of proposed water, sewer, fire protection and public safety provisions.
  9. Impacts on water resources, including wetlands, streams, water bodies, groundwater and floodplains.
  10. Visual and aesthetic quality.
  11. Impacts on municipal services and fiscal capacity.
- 1720.9.2 Prior to the granting of a HREOD Special Permit, the Applicant shall perform a Mass Balance Analysis of the proposed nitrogen and water uses within the boundaries of the development demonstrating that there will be no adverse nitrogen impact to the surrounding groundwater and surface water resources, including a showing that the development subject to a HREOD Special Permit satisfies all applicable local, state and/or federal standards and regulations. The Applicant shall also be required to obtain all other applicable local, state and/or federal permits and approvals required for development of a project subject to a HREOD Special Permit.

**1720.10 Parking.**

- 1720.10.1 The off-street parking and loading requirements of Article 9 shall not apply to a mixed-use development subject to a HREOD Special Permit. The parking and loading requirements applicable for such mixed-use developments are as follows.
- 1720.10.2 In determining the parking requirements for a mixed-use development as part of a development subject to a HREOD Special Permit, the Planning Board shall reference standards published by the Institute of Transportation Engineers and take into consideration any other factors consistent with good traffic engineering practices including the advice of its consultants, and shall set such requirements as are necessary to meet the realistic requirements of the proposed development and satisfy the objectives of this Section. In making such determination, the Planning Board may consider complementary uses and activities having different peak demand periods to share parking facilities, transportation demand management (TDM) measures, and such other means as may be applicable.
- 1720.10.3 Shared parking arrangements may be permitted when determined by the Planning Board to be appropriate based upon an analysis of peak demands, and a finding is made that the reduction in parking would serve the public good and that the surrounding area in which the development is located will not suffer from substantial adverse impacts from the reduction in parking.
- 1720.10.4 The Applicant shall demonstrate sufficient off-street loading space to insure all loading operations take place off the public way and away from active traffic patterns within the development.

**1720.11 Design Guidelines and Performance Standards.**

- 1720.11.1 Building Design

1. Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing.
2. Exterior walls for the project shall use a combination of architectural materials. To avoid long unbroken expanses of wall, the architecture shall incorporate, as appropriate, design features providing horizontal and vertical relief including projections, building jogs, elements of transparency or windows, architectural detailing, and changes in surface materials. The design of public entrance ways shall incorporate architectural features and elements to emphasize the entrance locations and interrupt long stretches of building facade. The facades of parking structures shall be designed to a standard of architectural finish consistent with other buildings within the project. All exterior walls shall be designed and finished with materials that maintain a consistent architectural character with adjoining buildings.
3. Buildings and parking structures shall be designed with common elements that both create a sense of unity and express a relationship to the interior.
4. Rooftop mechanical features, heating and air conditioning units, vents, stacks, and mechanical penthouse(s) shall be screened by use of parapet walls or similar elements.

#### 1720.11.2 Utilities

1. All new, permanent utilities such as electricity, telephone, gas, and fiber optic cable to be installed in connection with the Special Permit development shall be placed underground.
2. Access easements to any utility connections may be granted to the Town and/or utility provider to assure maintenance and emergency repair.

#### 1720.11.3 Exterior Elements and Landscaping

1. Open space or publicly-accessible common areas shall be included within the development, to encourage pedestrian activity and to visually separate buildings or groups of buildings. When reasonably feasible, independently sited common areas shall be connected to other nearby open space and common areas by use of pathways and other similar pedestrian connections. To demonstrate that the requirement for 25% of the project area is left as open space, the proponent shall include a computation of all such areas proposed for inclusion in the total open space of the project. At no time shall the total percentage of open space be reduced to less than 25%.
2. Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the development infrastructure shall be subject to reasonable visual mitigation requirements, including, but not limited to, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods necessary to assure an attractive visual environment.

3. Landscaping shall be composed of low-maintenance plants that are drought tolerant and are pest and disease resistant. Once established, all landscaping shall be kept in good condition and shall be replaced and maintained as necessary for the life of the project.
4. Surface parking lots should be interspersed with trees for shading. Hardwood shade trees should be a minimum three inch (3") caliper and evergreens should be six inch (6") minimum. Ornamental trees should be interspersed within vegetative clusters.
5. Observation wells shall be installed at the down-stream end of the project and in sufficient quantity and depth for the purpose of extracting water samples, determining varying ground water elevations and providing valuable data for assuring safe water quality is maintained. Reports shall be provided to the Planning Board and the Onset and/or Wareham Water Departments on a monthly basis for all measurements taken. This shall be a requirement for the life of the project.

#### 1720.11.4 Lighting

1. The project design of a mixed-use development subject to a HREOD Special Permit is encouraged to be dark sky compliant to reduce light pollution and conserve energy, while maintaining reasonable nighttime safety and security. If this is not feasible due to security or safety concerns, lighting for outdoor nighttime activity and entertainment areas shall be limited to the area of the activity as much as possible, and lighting shall be designed so as to avoid any material light trespass and glare on adjacent neighborhoods and streets. Lighting in minimally-used areas shall be reduced after business hours.
2. Exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare.

#### 1720.11.5 Noise

1. The Applicant shall demonstrate how the project will not adversely affect the noise levels in the neighborhood in general. The expected final noise levels shall not exceed the noise threshold established in the Wareham Town By-Law.

#### 1720.11.6 Green Design

1. A mixed-use development subject to a HREOD Special Permit shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.
2. Wareham has voted itself a green community and has adopted the "Stretch Code," an appendix to the MA Building Code. All designs must comply with Stretch Code requirements for energy- and resource-efficient materials, insulation, lighting, mechanical systems and building systems. The Stretch Code should be made

available to the Planning Board as a reference tool insofar as it impacts site and building development under the Board's purview.

**1720.11.7 Site Preparation**

1. Site clearing of soils, trees and other vegetation for development shall follow the standards of Article 12 of the Zoning By-Law.
2. A disposal plan for vegetative waste shall be submitted prior to clearing that recycles and contains vegetative waste on-site, as much as possible.

**1720.12 Signage.**

Signs within a mixed-use development subject to a HREOD Special Permit are permitted subject to the following requirements and standards.

1. The proposed location and size of all signs must be indicated at the time of submission of the final plan.
2. In recognition of the interrelated nature of signage systems in complex, mixed-use developments, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such developments, notwithstanding any provision of the By-Law to the contrary, the Planning Board shall determine during the hearing(s) on the Special Permit application the appropriate dimensional and design requirements for approval of a signage package for the mixed-use development subject to a HREOD Special Permit. In considering the appropriate signage package for a development, the Planning Board shall consider the scale of the development and buildings, number and types of uses within the development, and whether the signage adequately addresses the needs of the development and traffic safety while appropriately balancing any impacts on the surrounding environment.

**1720.13 Severability.**

If a Court of competent jurisdiction holds any provision of this By-Law invalid, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this By-Law shall not affect the validity of the remainder of the Town of Wareham's Zoning By-Law.

- **And to add a new section entitled HOSPITALITY, RECREATION AND ENTERTAINMENT OVERLAY DISTRICT in Appendix 1: Boundaries of Districts to read as follows:**

#### **HOSPITALITY, RECREATION AND ENTERTAINMENT OVERLAY DISTRICT**

That area within the limits, bounded as follows:

Beginning at the point of intersection of Glen Charlie Road and 1979 Town Way (Spectacle Pond Road), at the southwesterly point of Lot 1114 as shown on Wareham Assessor's Maps (Revised to January 1, 2019), Map 129;

Thence northerly and continuing 12,650 feet more or less along the easterly sideline of Glen Charlie Road to the northeasterly corner of Lot H3 as shown on Wareham Assessor's Map 127;

Thence southerly 1,062 feet more or less along the easterly lot lines of Lots H3 on Map 127 and Lot A3 on Map 128 to the southwesterly point of Lot 1791 as shown on Wareham Assessor's Map 128-A;

Thence easterly 53 feet more or less to the westerly point of intersection of Lot 1000 as shown on Wareham Assessor's Map 128-A;

Thence easterly 1,294 feet more or less along the northerly line of Lots 1000 and 1001 (New Bedford Gas & Edison Light Company Easement), through Lori Lane, as shown on Wareham Assessor's Map 128-A;

Thence northerly 1,136 feet more or less along the westerly lot line of Lot 1002-A as shown on Wareham Assessor's Map 128, to the point to intersection with Lot 1002-B on Map 128;

Thence easterly 330 feet more or less along the northerly lot line of Lot 1002-A as shown on Wareham Assessor's Map 128;

Thence southerly 26 feet more or less to the northwest corner of Lot 1003 as shown on Wareham Assessor's Map 128;

Thence easterly 198 feet more or less along the northerly lot line of Lot 1003 as shown on Wareham Assessor's Map 128;

Thence southerly 5,050 feet more or less along the easterly lot line of Lot 1003, to the Route 25 Massachusetts Highway Layout, as shown on Wareham Assessor's Map 128;

Thence southwesterly 10,000 feet more or less along the northerly sideline of Route 25 Massachusetts Highway Layout and 1979 Town Way (Spectacle Pond Road), as shown on Wareham Assessor's Maps 128 and 129, to the point of the beginning.

After much discussion, Madame Moderator called for a motion for secret ballot vote. After no motion forthcoming, a hand count by the checkers was taken and tallied by Town Counsel and Town Clerk.

VOTES: YES 141 No 814

The motion was declared **FAILED** by required 2/3 vote as declared by Madame Moderator.

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Motion made to close Special within the Special Town Meeting and reconvene Special Town Meeting.

**Article 2 – RESCIND ARTICLE 84 OF THE 2010 FALL TOWN MEETING**

To see if the Town will vote to rescind Article 84 of the October 25, 2010 Fall Town Meeting, said article authorized the Board of Selectmen to lease the Westfield property and place restrictions on the property or to do or act in any manner relative therto.

Motion **PASSED** by unanimous voice vote.

**ARTICLE 3 – LEASE PORTION OF THE WESTFIELD PROPERTY**

To see if the Town will vote to authorize the Board of Selectmen to lease for non-profit recreational purposes a portion of the Town owned property known as the Westfield property; said portion estimated to be 17 acres +/- of the approximately 77 acre complex, the lease to be for a term not to exceed 30 years, or do any action thereto.

Motion **PASSED** by unanimous voice vote.

The meeting was declared dissolved at 3:21