

ARTICLE 4: HISTORIC STRUCTURES PRESERVATION DEVELOPMENT BY-LAW

To amend Section V the Zoning By-law of the Town of Weston, by adopting a new Subsection M as follows:

M. HISTORIC STRUCTURES PRESERVATION DEVELOPMENT

1. Definition and Applicability

An Historic Structures Preservation Development ("HSPD") provides a framework for adaptation of important older structures within the Town to uses that might not otherwise be permitted in the underlying zone in which such structures are located, including mixed uses, where deemed beneficial to the interests of the community, while preserving the natural, rural character and appearance of the property on which the historic structure is located.

2. Purpose and Qualifications

The purpose of an HSPD is to provide flexibility in site planning in order to encourage and promote thoughtful and appropriate rehabilitation and re-use of historically important structures in a manner that protects natural features, scenic views into the property, and existing vegetation and land forms; to encourage utilization of the land in harmony with neighboring properties; and to preserve a recognized Town asset for the benefit of the public.

In order to qualify as an HSPD, the property must involve at least one principal structure that meets all of the following qualifying criteria:

- a. Have been constructed prior to 1945.
- b. Have been found to be "Historically Significant" by the Weston Historical Commission
- c. Before issuance of a building permit, have a preservation restriction executed by the property owner, the proposed developer and any mortgagees and approved by the Massachusetts Historical Commission per G.L. c.184 §§31-32, enforceable in perpetuity.
- d. Be publicly owned.

3. Permitted Uses

An HSPD is allowed in the Single Family Residence District (A), Single Family Residence District (B), Single Family Residence (C), Single Family Residence (D) and Business District (B). **Major HSPD Projects** with a total occupancy of 30 or greater require Concept Plan approval by a majority vote of the Town Meeting and subsequent Site Plan Approval - Special Permit issued by the Planning Board. **Minor HSPD Projects** with an occupancy of fewer than 30 require Site Plan Approval - Special Permit issued by the Planning Board.

For purposes of this Bylaw, occupancy shall be defined as the total number of people commonly occupying uses of the nature proposed as defined in the Massachusetts State Building Code calculations for occupancy for purposes of egress.

Uses allowed in an HSPD shall be limited to the following, either singly or in combination, as approved in the Special Permit.

a. By-Right Uses:

- 1) All By-Right uses permitted in the underlying zone.
- 2) Customary accessory uses associated with the principal use(s) permitted in the underlying zone.

b. Uses Allowed By Special Permit with Site Plan Approval by the Planning Board:

- 1) All uses permitted in the underlying zone with Site Plan Approval.
- 2) Single family residence.
- 3) Multi-unit, attached residences in a single structure.
- 4) Bed and breakfast establishment of no more than 4 guest suites offering overnight accommodation and breakfast to guests lodged as overnight guests. No meals other than breakfast shall be served, and no breakfast shall be served to members of the public not lodged as overnight guests.
- 5) Professional or general office.
- 6) Shop or studio of an artist, potter, sculptor, silversmith, woodcarver, or similar craftsman.
- 7) Retail business establishment.
- 8) Restaurant/ Eating Place, excluding those defined as a fast food establishment, with food primarily prepared and cooked on the premises.
- 9) Nonprofit organization for any civic, benevolent, artistic or charitable purposes.

4. Changes of Use, Occupancy and Operations

Any changes in the type or nature of use, service requirements, and style of retail or restaurant operation, and any material increase in the number of occupants or parking demand, shall be subject to approval of a Revised Concept Plan by majority vote of the Town Meeting and subsequent Revised Special Permit with Site Plan Approval issued by the Planning Board for Major Projects. For Minor Projects, Revised Special Permit with Site Plan Approval issued by the Planning Board shall be required.

Changes in Minor Projects that result in occupancies exceeding the Major Project occupancy thresholds shall be subject to Major Project submittal, review and approval requirements.

5. Concept Plan

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The purpose of the Concept Plan is to present the proposed project to Town Meeting in such a way that the Town can determine the impacts from a proposed HSPD and decide whether the proposed HSPD is suitable for the property. The Concept Plan shall include: (1) Preliminary Site Plan which provides a conceptual layout for the HSPD, including a tree survey; trees required for removal; roadway, driveway and walkway locations, including parking and vehicular service areas; location of utilities which may be on-site or off-site subject to a perpetual easement; grading plans for structures, roads, driveways and walkways; location of wastewater management structures and other features with associated grading; storm water management structures with associated grading; general landscaping; trash management facilities; and exterior lighting. (2) Preliminary Architectural Plans and Elevations. (3) Traffic Analysis of the HSPD. (4) A Municipal Impact Analysis of the HSPD. (5) Site Impact Analysis of the HSPD.

The drawings and supporting material submitted to the Planning Board and Town Meeting shall be sufficiently detailed to enable the Planning Board and Town Meeting to evaluate the impacts of the HSPD. The submission requirements for the Concept Plan shall be specified in rules and regulations to be adopted by the Planning Board.

The HSPD shall be evaluated according to the following Design Guidelines and Standards:

a. Design Guidelines

1) Site and Landscape Design

The development shall be sensitive to man-made architectural and historical resources, including, but not limited to, the following: buildings and other structures, trails, stone walls, and scenic views into the property from public ways.

The development shall be sensitive to the natural character and appearance of the property and take into consideration existing natural resources, including, but not limited to, the following: land forms, woodlands, wetlands, vernal pools, significant trees and geological features. Landscape design for the HSPD shall reflect the desire of Weston residents to preserve the Town's rural character.

Landscaping style and character shall be compatible with, and sensitive to, the historical character of the architecture. Finishes, materials, and features associated with courtyards, terraces, and other public gathering spaces visible from adjacent properties shall be compatible with, and complement, the character of the natural landscape features.

Effective vegetative buffers at site boundaries shall be established to screen the HSPD from adjacent properties and roadways to the extent necessary, as determined by the Planning Board. In cases where topography renders the perimeter buffers ineffective, additional screen plantings in the interior of the tract will be required.

The development shall take into account Low Impact Development techniques for storm water management and shall incorporate "green" principles in building materials, systems and site design. Where possible, proposed new construction shall take advantage of solar and wind orientation.

2) Relationship to Neighboring Properties

The property shall be developed in consideration of neighboring properties in regard to scale, character, impact, drainage, and storm water runoff.

Visual impacts of the development shall be mitigated by sensitive use of landscaping features, screening views from neighboring properties and nearby streets through the effective use of existing landforms, alterations thereto, berms and existing vegetation supplemented with new plantings.

Open space shall be located and designed so as to increase the visual amenities for abutting properties, as well as for the benefit of occupants of the development.

Access points to the Town's public streets shall be minimized and located so as to minimize traffic congestion.

3) Architecture

Restoration of existing structures shall comply in every respect with the requirements of the associated preservation deed restriction(s), both interior and exterior, where applicable, to the satisfaction of the Planning Board and of the entity or entities holding and enforcing the restriction(s). The interface of new and existing construction shall not violate the letter or intent of the preservation restriction(s).

Provision of public access to the important interior and exterior spaces and features of the historical construction is strongly encouraged.

New construction shall reflect or complement the historically important structures on site, and shall reflect the historic architectural fabric and character of the Town generally. Examples of preferred materials include wood clapboard, shingle, and fieldstone.

New construction shall harmonize with the scale of existing structures and with landforms, trees, and other natural features of the site.

b. Standards

1) Parking

The developer shall demonstrate that sufficient on-site parking space is available to satisfy the provisions of SECTION VIII. VEHICULAR REQUIREMENTS of the Zoning By-law, or to accommodate parking associated with the actual occupancies generated by the project use(s), whichever is greater.

For **Major Projects**, if ability to comply with this requirement is demonstrated, the Planning Board shall have the discretion to waive it if it deems that such action would benefit the quality and character of the project, of neighboring properties, or of the Town generally, provided that the developer shall submit a Comprehensive Parking Plan satisfactory to the Planning Board showing alternate parking locations as part of the Traffic Analysis.

Parking lots and vehicular service areas must be landscaped to the satisfaction of the Planning Board.

2) New Construction

New free-standing structures intended for human occupancy and habitation are not permitted in an HSPD. Accessory structures such as storage sheds for garden equipment, gazebos, and the like are permitted, but free-standing vehicle garages are prohibited.

The intent of this By-law is the intact preservation of important historical structures to the greatest extent possible. Therefore, an addition or additions to existing construction shall not exceed a total of 25% of the RGFA of the existing structure to which the new construction is appended.

New construction must comply with all provisions of SECTION VI. DIMENSIONAL AND OTHER REQUIREMENTS of the Zoning By-law.

3) Restoration, Replacement and Infill

Components of the existing building fabric designated for preservation shall be refurbished to a condition consonant with the preservation restriction(s) satisfactory to the entity holding and enforcing the preservation restriction. Replacement components shall match the original in material type, style, size and configuration.

New components added to, or integral with, the existing building fabric shall be appropriate to the surrounding historical building fabric and satisfactory to the entity holding and enforcing the preservation restriction.

4) Development Agreement

Prior to Town Meeting approval of a Concept Plan, the applicant shall execute a Development Agreement with the Board of Selectmen, after review and approval by the Planning Board. Such Development Agreement shall memorialize any additional obligations which the

applicant has agreed to undertake in addition to those obligations which are expressly required by the Concept Plan or the Zoning By-law including, but not limited to, obligations relating to off-site improvements; traffic mitigation; construction timing and truck access; architectural standards; accommodation of public amenities such as walking trails, open space, parks, and playgrounds; and reimbursement of Town costs for consulting or other services related to review of the HSPD proposal and monitoring of the project. The Development Agreement may also require that in the event that an HSPD property is sold to a private entity after approval hereunder, the owner shall grant the Town a covenant that the Town shall have first right of offer to repurchase the property, or each portion thereof if a condominium, cooperative, or similar entity. Such Development Agreement may be conditional upon Town Meeting approval of a Concept Plan.

5) Waivers

The Planning Board shall have, at its sole discretion, the ability to waive provisions of the Design Guidelines and Standards relating to a particular application if it deems that such action would benefit the quality and character of the project, of neighboring properties, or of the Town generally.

c. Procedures

- 1) Approval of an HSPD Concept Plan for a Major HSPD Project shall be by a majority vote of the Town Meeting, following a recommendation and report to Town Meeting by the Planning Board as to whether and how the proposed Concept Plan meets the purposes of the HSPD and the Design Guidelines and Standards for Concept Plans as set forth in this By-law. It shall be the obligation of the applicant to timely submit an article to the Board of Selectmen for inclusion of the HSPD Concept Plan proposal on the warrant for the Town Meeting at which the applicant will be seeking concept approval.
- 2) The HSPD Concept Plan approval process commences with the filing of the proposed Concept Plan with the Planning Board. Before filing the Concept Plan, the applicant shall meet informally with the Planning Board to discuss the project, including scope, timing of the public hearing and Town Meeting, and program. A filing fee and review fee shall be deposited with the Planning Board at the time of submission of the Concept Plan to the Board. The filing and review fees shall be specified in Rules and Regulations to be adopted by the Planning Board. In addition to filing the Concept Plan with the Planning Board, the Concept Plan shall be filed with the Board of Selectmen, Town Engineer, Board of Health, Conservation Commission, Fire Department, and Police Department. The Planning Board will determine whether the Concept Plan is complete and schedule a public hearing within a reasonable time from receiving a complete submission.

6. Site Plan Approval - Special Permit

a. Timing

For **Major Projects**, not more than twelve (12) months after the Concept Plan has been approved by Town Meeting, and prior to applying for any other permits or commencing any work on the site, including, but not limited to, demolition, tree or vegetation removal, earth removal, or grading, application shall be made to the Planning Board for an HSPD Special Permit with Site Plan Approval.

For **Minor Projects**, application for HSPD Site Plan Approval and Special Permit shall be made to the Planning Board. No work on site shall commence prior to the Special Permit application.

b. Site Plan Approval - Special Permit Submission

For **Major Projects**, the submissions required of an applicant for a Special Permit with Site Plan Approval for an HSPD shall be set forth in rules and regulations to be adopted by the Planning Board. For **Major Projects**, such submissions shall include the documentation that will govern the use, occupancy, and other matters related to the HSPD, such as, but not limited to, the master deed, declaration of trust, and rules and regulations, if the HSPD will be a condominium (collectively, the "HSPD Governance Documents").

For **Minor Projects**, the Planning Board shall issue Site Plan Approval and a Special Permit for an HSPD if it finds that the HSPD presented in the application substantially complies with the Design Guidelines and Standards defined in this By-law, and if it specifically finds that:

- 1) The Site Plan provides for no uses which are not permitted by this By-law.
- 2) Fire, police and other emergency personnel have reasonable access to all structures.
- 3) All utilities, other lines, and equipment, including, but not limited to, electric, telephone, and cable TV, are located underground.
- 4) Compressors, generators, transformers, and other similar equipment are adequately and appropriately screened, and that noise generated by such equipment, either singly or in combination, does not exceed 40 dba at any property line.
- 5) Exterior lighting levels are generally consonant with Planning Board standards for residential construction, that there are no up-lights, spotlights or floodlights, and that parking and service area lighting levels are an average of one foot-candle or less on the ground.
- 6) The Site Plan locates and screens refuse disposal area(s), utility building(s), storage area(s), and other support facilities to make them less visible from sites external and internal to the HSPD parcel.
- 7) The Development is consistent with the letter and intent of the preservation restriction(s).

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- 8) The Development is in harmony with the general intent and purpose of the Town of Weston Zoning By-law.

For **Major Projects**, the Planning Board shall issue a Special Permit and Site Plan Approval for an HSPD if it finds that the HSPD presented in the application is not substantially different from the Concept Plan approved at Town Meeting, and if it specifically finds that:

- 1) The Site Plan provides for no reduction in setbacks and no increase in the intensity and type(s) of use, and no substantial change, in the sole opinion of the Planning Board, in the location of the facilities, gross floor area, height, configuration, and amount of open space, as provided for in the approved Concept Plan. However, in the Special Permit, the Planning Board may require additional plantings beyond those shown on the Concept Plan and specify an increase in the size of plantings if it furthers the goals of this By-law.
- 2) The Site Plan provides for no uses which are not permitted by this By-law and the approved Concept Plan.
- 3) The applicant makes provision that any land shown in the approved Concept Plan as permanent open or recreation space be subject to a permanent conservation restriction, according to MGL S.31-32 of Chapter 184, simultaneously with the issuance of a building permit for construction on the HSPD site. Proof of execution and recordation of this restriction shall be delivered to the Planning Board. The restriction shall be held by the Town of Weston Historical Commission or other board or officer as may be authorized by vote of Town Meeting to acquire such restriction, and the open land may be used for limited recreation by residents of the Town in a manner deemed appropriate by the restriction holder.
- 4) To the extent applicable, walking trails are established within the HSPD parcel consonant with the configuration, disposition and extent stipulated in the Concept Plan. Trails to be used by the public are established by permanent easement.
- 5) Fire, police and other emergency personnel have reasonable access to all structures.
- 6) All utilities, other lines, and equipment, including, but not limited to, electric, telephone, and cable TV, are located underground.
- 7) Compressors, generators, transformers, and other similar equipment is adequately and appropriately screened, and that noise generated by such equipment, either singly or in combination, does not exceed 40 dba at any property line.
- 8) Exterior lighting levels are generally consonant with Planning Board standards for residential construction, that there are no up-lights, spotlights or floodlights, and that parking and service area lighting levels are an average of one foot-candle or less on the ground.

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- 9) The Site Plan locates and screens refuse disposal area(s), utility building(s), storage area(s), and other support facilities to make them less visible from sites external and internal to the HSPD parcel.
- 10) The provisions of the HSPD Governance Documents are satisfactory to the Planning Board and approved as to form by Town Counsel.
- 11) The Development is consistent with the letter and intent of the Preservation Restriction(s).
- 12) The Development is in harmony with the general intent and purpose of the Town of Weston Zoning By-law.

c. Site Plan Approval - Special Permit Rules and Regulations

The Planning Board shall adopt rules and regulations in a separate document that are consistent with this By-law specifying design standards for site development features, including, but not limited to: exterior lighting; storm water management; landscaping; erosion control; architectural design; design and construction standards for streets, drives and walkways; street and parcel monumentation.

d. Construction and Phasing Plan

In cases where a Concept Plan has been adopted, a Construction Plan shall be submitted by the applicant and approved by the Planning Board as part of the Special Permit process, and where phased construction is proposed, a Phasing Plan shall be incorporated into the Construction Plan. Surety may be required, at the Planning Board's discretion, for the construction, or to the phases thereof, to guarantee performance and implementation of the Concept Plan and Special Permit Plan(s). The Planning Board shall determine the type and amount of surety with the Town. The Construction (and Phasing) Plan shall be endorsed by the Planning Board prior to any work done at the site, including tree removal, grubbing, and excavation of any sort, prior to application for a Building or Demolition Permit.

A list of submission items associated with the Construction (and Phasing) Plan shall be listed on a separate document approved by the Planning Board and may include, but not be limited to, the following items: hours of operation, truck routes, construction vehicle management, site staging of construction materials, material safety sheets, erosion and storm water control, and protection of historical assets.