

**FINAL COPY OF ARTICLE 1
INCORPORATING ALL REVISIONS
FOLLOWING PUBLICATION OF THE
SPECIAL TOWN MEETING WARRANT
BOARD OF SELECTMEN**

ARTICLE 1

To see if the Town will vote to Amend the Zoning By-Laws of the Town of Sharon, Massachusetts dated June 2005 as last amended on March 12, 2007 as follows:

AMEND SECTION 2110

Amend Section "2110. Districts" by inserting at the end of Section 2110 after the phrase "Water Resource Protection Districts" the following: "Senior Living Overlay District (Senior Living District)."

AMEND SECTION 2211

Amend Section "2211. Authorization" by inserting at the end of Section 2211 the following: "No premises shall be used in the Senior Living District except as provided in Section 4380, and no building or structure or part thereof shall be erected, altered or extended unless site plan approval therefore has been granted pursuant to Section 4380."

AMEND SECTION 3420

Amend Section "3420. Permit Issuance" by inserting at the beginning of Section 3420 the phrase "Except in a Senior Living District, [t]" such that it reads "Except in a Senior Living District, the Inspector of Buildings shall issue building permits for construction of new dwelling units in subdivisions submitted for approval after December 5, 1978, or for multi-family dwellings (regardless of location) only as follows:"

ADD SECTION 4380

Insert following Section "4371. Decision of the Planning Board"
a new section 4380 as follows:

4380. Senior Living Overlay District (Senior Living District)

4381. Senior Living District Requirements. Senior Living District Development is subject to the following:

a. Purpose. The purpose of the Senior Living District is to enhance the public welfare by creating a vibrant community for senior citizens, including senior citizens with disabilities, by providing a full range of support services ranging from independent living to nursing home care.

b. Eligibility. An applicant may submit a site plan application pursuant to Section 4387 for a Senior Living District Development within the Senior Living District as shown on the *Sharon Zoning Map*.

c. Application. Senior Living Districts shall be considered as superimposed on underlying districts created under this Bylaw. Senior Living District Development shall conform to all other provisions of this Bylaw except to the extent that use, dimensional, parking, and loading requirements are set forth in 4380. The Senior Living District shall not restrict owners' rights relative to the underlying zoning district, including other overlay districts. However, if an applicant elects to use the Senior Living District provisions by filing a site plan approval application for a Senior Living District Development with the Board of Appeals pursuant to Section 4387 and so develops a Senior Living District Development, all development shall conform to the use, dimensional, parking, and loading requirements of 4380. Single family residences shall not be provided on the same lot as Senior Dwelling Units or nursing homes. To the extent there are inconsistencies between provisions of 4380 and the provisions of any underlying district, the provisions of 4380 shall govern.

d. Age Restriction. All dwelling units within Senior Living Districts shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall limit the dwelling units to occupancy by persons of age 62 or older. Occupancy of each dwelling unit is

limited to a maximum of two (2) persons. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole by the owner of one or more dwelling units or by the Town of Sharon. In the event of a violation, and at the request of the Town, the owner of Senior Living District Development shall enforce the age and occupancy restrictions.

e. Open Space Requirements. In order to obtain an initial building permit for a Senior Living District Development, an applicant shall transfer to the Sharon Conservation Commission pursuant to M.G.L. Ch. 40 § 8C not less than 2.8 acres of abutting or adjacent land for each acre of land contained in the lot.

f. Application of Wetland Setbacks. In a Senior Living District Development, the construction and maintenance of a site access drive of minimum legal practical width is permitted within Wetland Setback Areas, even where there is an alternative means of access from a public way to unrestricted land of the same owner, provided that all required Orders-of-Conditions and other required authorizations are obtained under the Massachusetts Wetlands Protection Act (MGL Ch 131 §40) or Town of Sharon Wetlands Protection By-Law.

g. Affordability Requirement. A minimum of ten (10) percent of all Senior Dwelling Units within each Senior Living District Development shall be Affordable Dwelling Units except as provided hereinafter. In lieu of setting aside Affordable Dwelling Units within a Senior Living District Development, Affordable Dwelling Units may be provided elsewhere in the Town of Sharon equal to eleven (11) percent of the Senior Dwelling Units authorized within a Senior Living District Development. The applicant for the Senior Living District Development may (i) construct or otherwise provide off-site Affordable Dwelling Units; (ii) secure construction of off-site Affordable Dwelling Units through a monetary payment to a private, public, or non-profit agency or organization identified in the Site Plan Review process; or (iii) provide funds to the Town of Sharon, acting by or through its Affordable Housing Trust Fund, or otherwise, to promote affordable housing and acceptance by the Town of such funds shall be deemed satisfaction of the affordable housing requirements set forth in this section 4381. Satisfaction of this affordability requirement may be evidenced by a development

agreement or other agreement by and between the Town and the applicant. An applicant may use one or more of these options in satisfying its obligations.

h. Only that portion of a lot within a Water Resource Protection District is subject to such provisions.

i. Sureties. The property owner shall post instruments of surety, insurance policies, letters of credit or similar securities (hereinafter instruments) to the benefit of the Town of Sharon in a form acceptable to Town Counsel to protect the Town and residents of surrounding areas from damage caused by construction or operation of the Senior Living District Development as set forth below. Instruments may encompass the entire project or a specific phase of the project deemed to be independent of other construction phases as determined under 4387. Instruments, in an amount to be reasonably established by the Board of Appeals under 4387, shall be provided as follows:

(1) An instrument to be provided prior to inception of construction to be maintained through substantial completion of construction in an amount to be reasonably established by the Board of Appeals under 4387 sufficient to provide for the securing, from a public health and safety perspective, of partially completed site improvements and to provide for site stabilization, restoration of suitable drainage patterns, and revegetation of disturbed areas.

(2) An instrument, to be provided prior to the issuance of the first certificate of occupancy, to secure incomplete site infrastructure improvements, if any, until such time as such site improvements have been satisfactorily completed.

(3) An instrument to be provided upon completion of all site improvements or issuance of the final Certificate of Occupancy whichever occurs later to be maintained for one year thereafter to replace any plant materials which fail to thrive.

j. Notwithstanding anything to the contrary in these By-Laws and regardless of whether the Senior Living District Development qualifies as a subdivision or a division of land pursuant to M.G.L. c. 41, § 81P, streets and ways, drainage facilities, and utilities in a Senior Living District Development need not be designed and constructed in compliance with the Sharon Rules and Regulations Governing the Subdivision of Land.

4382. Definitions. The following terms shall have the meanings set forth herein notwithstanding any conflicting definitions in Article V:

Affordable Dwelling Unit - A Dwelling Unit fully eligible for inclusion in the Department of Housing and Community Development's *Chapter 40B Subsidized Housing Inventory*. Affordable Housing Units shall be provided that can be sold or rented to households whose income is at or below 80% of the median household income within the Town of Sharon as reported by the U.S. Department of Housing and Urban Development and shall be deed restricted as affordable units for a period of time as provided in a comprehensive permit issued for such housing.

Senior Dwelling Unit - An area within a multi-family building consisting of one or more rooms, providing living facilities for one household (not necessarily including equipment for cooking or provisions for the same), and including space for living and sleeping, but not including nursing home beds.

Senior Living District Development - A project located on a lot of land within the Senior Living District and developed pursuant to the requirements set forth in this Section 4380. A Senior Living District Development may be designed and developed for Senior Living District uses, with open space used for recreational and/or conservation purposes, in a way that departs from the underlying zoning regulations and other provisions of this *Bylaw* solely to the extent that uses of land and buildings or dimensional, parking, and loading requirements are governed by the provisions of 4380.

4383. Use Regulations.

a. Permitted Uses:

- (1) Age qualified multi-family residences in buildings containing a minimum of twenty (20) Senior Dwelling Units, including independent living and assisted living units.
- (2) Nursing homes, including nursing homes on the same lot as Senior Dwelling Units, providing skilled nursing and rehabilitation services or nursing home facilities (with or without dementia wards).

b. Permitted Accessory Uses:

- (1) Support services to meet senior residents' needs including fitness centers, recreation and leisure facilities (including golf courses, tennis courts and pools), community centers, resident and employee locker and lounge rooms, food services (including kitchens and cafeterias).
- (2) Medical services including medical offices, dental offices and other health services, or maintenance and storage facilities; provided however, such medical or dental offices shall not exceed 10,000 square feet of floor area.
- (3) Food services including kitchens, cafeterias, and dining rooms.
- (4) Convenience services, such as retail stores, automatic teller machines and banks, post offices, hair salons, laundries, dry cleaning pick-up/drop-off with no on-site cleaning, convenience stores, restaurants, cafes, bars, grills, movie theaters and services intended primarily to service a Senior Living District Development; provided, however, in no event shall any one of these single uses exceed 15,000 square feet in floor area and in the aggregate not to exceed 60,000 sq. ft. in floor area.
- (5) Security services and related uses, including guard houses.
- (6) A property sales office and facility management office for the Senior Living District Development.
- (7) Parking and loading facilities including at-grade facilities as well as below-grade and above-grade structured facilities, which may include managed parking facilities within structures utilizing parking lifts and stacked parking.
- (8) Wastewater and stormwater treatment facilities and related appurtenances; provided that such wastewater treatment plants shall be subject to the issuance of a Groundwater Discharge Permit issued by the Massachusetts Department of Environmental Protection (DEP) and, as applicable, to the issuance of a Treatment Works Construction Permit by the Sharon Board of Health subject to provision of adequate funding mechanisms ensuring proper operation and maintenance protocols, Town monitoring and testing, and repair and replacement consistent with the requirements of the Department of Environmental Protection and the Sharon Board of Health. In addition, at the boundary of the lot containing the wastewater disposal area, the

groundwater shall meet Massachusetts drinking water standards and other limits on pollutants set forth hereinafter.

(9) Maintenance buildings and garages for parking of service or facility vehicles excluding any vehicle maintenance; provided, however, such maintenance building shall not exceed 10,000 sq. ft. in floor area.

(10) Below-grade, at-grade and above-grade utilities and appurtenances, including a water tower or water tank.

(11) Passive recreation facilities including walking, jogging and bicycle trails.

4384. Performance Standards. Senior Living District Development shall comply with the following:

(a) Wastewater treatment plant effluent shall meet Massachusetts Drinking Water Standards (310 CMR 22.00) and Massachusetts Surface Water Quality Standards for Class A Surface Waters.

(b) Wastewater treatment plant effluent shall limit phosphorous to a maximum of 1 mg/l unless analyses submitted under 4387 demonstrate that higher concentrations will not cause an exceedance of Massachusetts Surface Water Quality Standards for Class A Surface Waters in down gradient surface waters.

(c) Wastewater treatment and stormwater management facilities shall be designed to reasonably minimize transfers outside of the Neponset River basin and transfers shall be mitigated, to the extent permits and approvals are issued, as practicable, through recharge or conservation measures established under 4387.

(d) Stormwater management facilities shall attenuate increases in the volume of off-site discharge for the one-year frequency storm event.

(e) Stormwater management facilities shall conform, as practicable, to the Department of Environmental Protection's Stormwater Management Policies (March 1997) whether or not the activity is subject to the Massachusetts Wetlands Protection Act (MGL Ch 131 §40).

(f) Potable water from the Sharon municipal water distribution system shall not be used for irrigation.

(g) Any on-site sanitary sewers shall be subject to on going requirements for leak detection and repair.

(h) Buildings shall, as practicable, incorporate water conservation devices including water efficient plumbing fixtures.

(i) Rooftop mechanical equipment shall be visually screened and acoustically buffered and day-night average sound levels caused by rooftop equipment shall not exceed fifty-five decibels (55 dBs) at the property line.

4385. Dimensional Regulations. A Senior Living District Development shall comply with the dimensional requirements set forth herein. With respect to all requirements of these Sections 4380 through 4390, leasehold parcels within a lot shall be deemed as part of the lot. Dimensional requirements are as follows:

a. Minimum Lot Area: 70 acres.

b. Maximum Density.

(1) Seven and one-quarter (7.25) Senior Dwelling Units per acre, calculated at the time of Site Plan Review of a Senior Living District Development.

(2) Two and one-quarter (2.25) bedrooms per Senior Dwelling Unit.

(3) One hundred fifty (150) nursing home beds per lot, in addition to Senior Dwelling Units.

c. Maximum Building Height.

(1) For buildings and structures containing Senior Dwelling Units, the maximum height excluding any accessory features, rooftop equipment, and mechanical or elevator penthouses shall exceed neither eight (8) stories nor one hundred and five (105) feet.

(2) For buildings and structures containing Senior Dwelling Units, the maximum height including any accessory features, rooftop equipment, and mechanical penthouses, but excluding elevator penthouses, shall not exceed one hundred and fifteen (115) feet total.

traffic measured between ends of stall lines.

(4) Within managed parking facilities within structures, parking lifts and stacked parking spaces may be provided if (i) parking attendants are available to operate such a facility; and (ii) in the case of stacked parking, not more than two (2) required parking spaces are placed behind a parking space having direct access to an aisle or driveway having the minimum width set forth above. Convenient visitor parking shall be provided within managed parking facilities or in separate visitor parking lots.

b. Loading Requirements. There shall be at least one (1) loading bay for any building containing more than one thousand (1,000) square feet of gross leasable business floor area, which area shall not include any floor area devoted to Senior Dwelling Units. Loading facilities shall conform to the following:

(1) No loading bay shall be less than twelve (12) feet by thirty (30) feet, nor provide less than fourteen (14) feet of vertical clearance.

4387. Site Plan Approval.

Notwithstanding anything to the contrary, within a Senior Living District Development, no building permit shall be issued and no building or structure shall be erected, moved or externally enlarged and no area for parking, loading or vehicular services (including driveways giving access thereto) shall be established or changed, except in conformity with a site plan bearing the endorsement of approval of the Board of Appeals pursuant to this Section 4387. For purposes of the Senior Living District, the site plan approval process and procedures shall be as set forth in this Section 4387. The Board of Appeals is designated as the site plan review authority for all purposes under these Sections 4380 through 4390.

a. An application and site plan shall be submitted to the Board of Appeals. Site plans shall be drawn to a scale of forty feet (40') to the inch (or such other scale as the Board of Appeals may accept) and shall contain the following, except to the extent otherwise waived by the Board of Appeals:

(1) Applicants are encouraged to submit a sketch plan of proposed projects prior to formal site plan submission.

(2) Site plan submissions shall be prepared by a multidisciplinary team. The drawings shall be signed and sealed by a Massachusetts civil professional engineer (PE), a Massachusetts professional land surveyor (PLS), and a Massachusetts registered landscape architect (RLA).

(3) Site plans shall include a cover sheet, layout sheet, grading and drainage sheet, traffic control sheet, landscaping sheet, lighting sheet, photometric sheet, a details sheet, a construction phasing sheet, and a sedimentation and erosion control sheet.

(4) Site plans shall conform to the requirements of the Board with respect to scale, dimensions, legend, form and preparation acceptable to the Board. The Board may promulgate submission standards and requirements for site plan submission. Site plans shall be drawn at a suitable scale and layout shall be tied to the Mass State Coordinate System and elevations shall be on North American Vertical Datum (NAVD 88).

(5) Existing conditions shall be based on an on the ground survey based on fieldwork.

(6) Site plans shall show, among other things, all existing and proposed buildings and structures and their uses, means of building egress, parking areas, access drives, loading areas, trails, recreation areas, pedestrian and bicycle paths, refuse and other waste disposal facilities and dumpsters, driveway openings, driveways, service areas and all other open space areas, zoning summary table, accessible parking spaces, and accessible routes.

(7) Site plans shall show existing and proposed grading with a one foot contour interval and spot grades based on (NAVD 88). Earthwork quantities, geotechnical investigations, and foundation engineering reports shall be provided as required by the Board of Appeals.

(8) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified and all wetland flag locations shall be numbered and placed upon the Site Plan;

(9) Site plans shall show all facilities for sanitary sewer collection systems, wastewater treatment systems, stormwater management systems, stormwater collection systems, water storage and supply systems, fire protection systems, site lighting, lighting and pole details, lighting photometric, and cable utility systems.

(10) Site plans shall include landscape plans and detail sheets showing all hardscape and planting elements. Site lighting fixture locations shall be shown for coordination purposes. Use of native plant materials is encouraged. Invasive plants included on the Massachusetts Department of Agriculture's Massachusetts Prohibited Plant List shall not be used. The drawings shall show the quantity, location, species, and height or caliper of all trees and shrubs and the species, size, and quantity of all groundcovers. Details shall be provided for all structures and hardscape elements and planting details shall be provided for coniferous and deciduous trees and shrubs of each size.

(11) Drainage calculations and a narrative report shall be submitted detailing runoff under existing predeveloped conditions and under future post development conditions and should identify changes in the peak rate and total volume of stormwater runoff for the 1, 2, 10, 25, and 100 year frequency storm events.

(12) Elevations for all structures shall be submitted.

(13) A complete sign package shall be submitted including all advertising and way finding signage. All wall signs and free standing signs shall be shown. Sign plans and details shall show locations, dimensions, colors, materials, finishes, methods of illumination and illumination levels, and methods of structural support.

(14) A traffic study conforming to the EOEA/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989), which shall include information concerning proposed access and egress and the traffic impact to surrounding roadways and intersections and proposed mitigation. Roadway and intersection improvement plans shall be submitted pursuant to 4387(b) (6) (7).

(15) An analysis of groundwater quality at the project boundary or at the boundary of any parcels containing wastewater disposal facilities and an analysis of surface water quality in down

gradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, are required. When the concentration of any pollutant in the effluent discharges from on-site wastewater treatment facilities exceeds the permitted maximum permitted concentration of that pollutant, a geohydrologic analysis shall be performed to evaluate future groundwater quality at the project boundary including the contribution of effluent discharged on-site and background concentrations of water pollutants. Surface and groundwater transport of effluent from on-site wastewater disposal facilities and of landscape chemicals including pesticides, herbicides, and fertilizers to down gradient surface water bodies shall be quantified and post development concentrations of pollutants shall be established. The analysis shall quantify the project impacts on surface water quality in down gradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to determine compliance with the Massachusetts Surface Water Quality Standards for Class A Surface Waters for dissolved oxygen, temperature, pH, fecal coliform bacteria, solids, color and turbidity, oil and grease, and taste and odor (314 CMR 4.05) and to quantify degradation in water quality that would impair existing uses (314 CMR 4.04).

(16) A water balance analysis quantifying pre and post development water use and recharge including any interbasin transfers.

(17) Construction impacts and truck traffic shall be provided for sites disturbing over 5 acres.

(18) Acoustical studies shall be provided where roof top mechanical equipment is proposed or where the proposed use will generate noise when said building or use is within 500 feet of residences.

(19) Pursuant to the EOE/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989), air quality studies will be provided.

(20) Groundwater flow including geohydro models and aquifer recharge studies where on-site wastewater disposal exceeds 5,000 gallons per day or where more than 40,000 sq. ft. of impervious material will be placed within a Water Resource Protection District.

(21) Visibility analysis, including a perspectives study during the winter months.

(22) A fiscal impact study shall be provided.

(23) An infrastructure study shall be provided.

(24) A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, with an accompanying narrative explaining their general purpose.

b. Design Objectives. For projects submitted for Site Plan Review, site improvements shall be constructed to the following design objectives unless waived by the Board of Appeals:

(1) Buildings shall be located and screened with mature plantings to minimize visibility from abutting residential properties and public ways.

(2) Existing off-site structures and utilities shall be protected from damage caused by rock removal by blasting or pneumatic means.

(3) Existing off-site private water supply wells shall be protected from damage caused by rock removal by blasting or pneumatic means and shall be protected from pollution caused by pollutants discharged from wastewater treatment facilities.

(4) Transfers of potable water outside of the Neponset River basin shall be mitigated, to the extent feasible and subject to the issuance of any required permits and approvals, through recharge within the Neponset River basin or water conservation measures.

(5) Wastewater treatment facilities should abate contaminants from such facilities allowing surface water quality in down gradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to meet the Massachusetts Surface Water Quality Standards for Class A Surface Waters for dissolved oxygen, temperature, pH, fecal coliform bacteria, solids, color and turbidity, oil and grease, and taste and odor

(314 CMR 4.05) and not cause degradation of water quality below existing levels. However, applicants shall not be obligated to improve the surface water quality above the existing conditions or mitigate impacts from other sources.

(6) To the extent the applicant obtains the necessary permits and approvals, off-site intersection upgrades shall be provided

to minimize the negative impact of project generated traffic on intersection operations and levels-of-service at all intersections in the Intersection Study Area. The purpose of such upgrades will be to ensure that intersections currently operating at a level-of-service D or better shall not be further degraded below a level-of-service D. The applicant shall not be required to upgrade intersections (i) with existing levels of service below level-of-service D to level-of-service D (but may be required to mitigate such intersection to address project traffic) or (ii) where degradation of the level-of-service is caused by unrelated projects or development. The Intersection Study Area shall be Bay Road from and including its intersection with East Street to the Easton Town Line. The determination of level-of-service and other factors related to traffic will be made through a traffic study conforming to the EOE/EOTC *Guidelines EIR/EIS Traffic Impact Assessment* (1989), which shall include information concerning proposed access and egress and the traffic impact to surrounding roadways and intersections and proposed mitigation. "Level-of-service" shall be as defined by the latest version of the Transportation Research Board of the National Academies' *Highway Capacity Manual 2000*.

(7) Off-site roadway upgrades shall be provided to minimize the negative impact of project generated traffic on operations and safety at all locations along the Roadway Study Corridor. The Roadway Study Corridor shall include Bay Road from East Street to the Easton Town Line. Existing safety, sight distance, and horizontal and vertical geometric deficiencies and substandard pavement widths on roadway segments within the Roadway Study Corridor shall be corrected, provided that such corrections are required to permit safe operations, and further subject to (i) improvements can be completed within the existing right-of-way, and (ii) to the extent permitted by authorities having jurisdiction. The extent of roadway segment corrections or safety protocols may be set forth in a development agreement or other agreement between the Town and applicant. This subsection (7) shall be met to the extent addressed in a development agreement or another agreement.

(8) Buildings shall incorporate, to the extent feasible, energy saving devices and shall promote energy conservation through use of insulation and energy efficient building envelope elements consistent with the Massachusetts Building Code.

(9) Irrigation shall be subject to an *Irrigation Management Plan* that incorporates staged drought management provisions. The *Irrigation Management Plan* may provide for non-municipal

water and treated effluent application to turf in recreation facilities to the extent allowed by regulatory agencies having jurisdiction. On-site well water may be used, but drawdown affecting adjacent water supply wells should be minimized.

(10) Plant materials shall be native species where practicable. Invasive plants listed on the Massachusetts Department of Agriculture's *Massachusetts Prohibited Plant List* shall not be planted. Pesticides and herbicides may be used for landscape maintenance only if applied as part of an Integrated Pest Management program. Methods of application and allowed quantities of pesticides, fertilizers, and herbicides are subject to limitations imposed during Site Plan Review.

(11) Parking lot lighting shall be designed with lower illumination levels consistent with IESNA recommended practice. Parking lot light trespass shall be limited to 0.5 foot candles at the property line except at site access drives and there shall be no point sources of light visible from adjacent streets and properties. Parking lot pole heights shall be limited to eighteen (18) feet. All parking lot lighting fixtures shall incorporate dark skies principals through use of lighting fixtures designed to limit upward projecting light.

(12) Runoff from pedestrian areas, landscape areas, and low volume vehicular areas shall be accommodated using low impact design principals, where practicable.

(13) All site utilities shall be installed underground.

c. Reports to the Board of Appeals. Within ten (10) days following receipt of a duly submitted site plan, the Board of Appeals shall transmit one copy thereof to the Planning Board, Board of Health, and Conservation Commission. The Planning Board, Board of Health, and Conservation Commission shall investigate the case and report in writing their recommendations to the Board of Appeals. The Planning Board, Board of Health, and Conservation Commission may seek pertinent information from

other Town officials or boards and may request additional information from the applicant. The Board of Appeals shall not take final action on said plan until it has received reports thereon from the Planning Board, Board of Health, and Conservation Commission, or until forty-five (45) days have elapsed after receipt of such plan without submission of a report thereon. In reaching its decision, the Board of Appeals shall fully consider the recommendations set forth in these

reports and shall accord particular weight to reports identifying significant adverse impacts that cannot be avoided, minimized, or mitigated.

d. Criteria. In granting site plan approval, the Board of Appeals shall consider the following:

(1) The extent to which the site plan fulfills the objective of the Senior Living District to create a vibrant community for senior citizens including senior citizens with disabilities;

(2) The extent to which Affordable Dwelling Units are provided in accordance with 4381(g);

(3) The extent to which convenient and safe vehicular and pedestrian movements are accommodated within the site, and in relation to adjacent streets, property or improvements;

(4) The extent to which parking areas and other parts of the Senior Living District Development are adequately screened from adjoining premises or from the street, by walls, fences, plantings or other devices;

(5) The extent to which adequate provisions are made for disposal for sewage, refuse or other wastes; drainage for surface water; and removal of snow;

(6) The extent to which adequate supplies of drinking water are provided;

(7) The extent to which adequate provisions are made for off-street parking and loading;

(8) The extent to which adequate fire and police protection and access are provided.

(9) If within the Surface Water Resource Protection District, the extent to which measures are provided to minimize cumulative impacts on Lake Massapoag and its tributary streams, including consideration of nitrate-nitrogen loadings.

(10) If within the Ground Water Resource Protection District, the extent to which measures to minimize cumulative impacts on municipal water supplies are provided, including consideration of nitrate-nitrogen loadings, for that portion of the site within the Ground Water Resource Protection District.

(11) The extent to which wastewater treatment plant effluent meets the Massachusetts Drinking Water Standards (310 CMR 22.00) and the Massachusetts Surface Water Quality Standards for Class A Surface Waters.

(12) The extent to which phosphorous in wastewater effluent is limited to a maximum of 1 mg/l or to concentrations demonstrated not to cause an exceedance of Massachusetts Surface Water Quality Standards for Class A Surface Waters in down gradient surface waters.

(13) The extent to which wastewater treatment and stormwater management facilities reasonably minimize transfers outside of the Neponset River basin with consideration of the extent to which transfers are mitigated, to the extent practicable, through recharge or conservation measures.

(14) The extent to which stormwater management facilities shall attenuate increases in the volume of off-site discharge for the one-year frequency storm event.

(15) The extent to which stormwater management facilities conform, to the extent practicable, to the Massachusetts Department of Environmental Protection's Stormwater Management Policies (March 1997).

(16) The extent to which use of potable water from the Sharon municipal water distribution system for irrigation is avoided;

(17) The extent to which the site's operation and maintenance plan provides for leak detection and repair for all on-site sanitary sewers.

(18) The extent to which on-site buildings incorporate water conservation devices including water efficient plumbing fixtures.

(19) The extent to which rooftop mechanical equipment is visually screened and acoustically buffered and the extent to which day-night average sound levels caused by rooftop equipment do not exceed fifty-five decibels (55 dBs) at the property line.

(20) The extent to which buildings are located and screened with mature plantings to minimize visibility from abutting residential properties and public ways.

(21) The extent to which existing structures and utilities are protected from damage caused by rock removal by blasting or pneumatic means.

(22) The extent to which existing private water supply wells are protected from damage caused by rock removal by blasting or pneumatic means and the extent to which existing private water supply wells are protected from pollution caused by pollutants discharged from wastewater treatment facilities.

(23) The extent to which transfers of potable water outside of the Neponset River basin are mitigated, to the extent practicable, through recharge within the Neponset River basin or water conservation measures.

(24) The extent to which wastewater treatment facilities abate contaminants from such facilities allowing surface water quality in down gradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to meet the Massachusetts Surface Water Quality Standards for Class A Surface Waters and not cause degradation of water quality below existing levels provided, however, that applicants shall not be obligated to improve the surface water quality above the existing conditions.

(25) The extent to which negative traffic impacts are minimized in off-site intersections in the Intersection Study Area through provision of necessary intersection upgrades such that existing intersection currently operating at a level-of-service D or better shall not be further degraded below a level-of-service D.

(26) The extent to which off-site roadway upgrades are provided to minimize the negative impact of project generated traffic on operations and safety at all locations along the Roadway Study Corridor by remediating existing safety, sight distance, and horizontal and vertical geometric, and pavement width deficiencies.

(27) The extent to which buildings incorporate energy saving devices and promote energy conservation through use of insulation and energy efficient building envelope elements.

(28) The extent to which irrigation water use is minimized through adherence to an *Irrigation Management Plan* and the extent to which irrigation well drawdown impacts affecting existing water supply wells on neighboring properties are minimized.

(29) The extent to which native plant materials are used; invasive plants are avoided; pesticides and herbicides are applied in accordance with an Integrated Pest Management program; and the quantities of pesticides, fertilizers, and herbicides are minimized.

(30) The extent to which parking lot lighting limits light trespass to 0.5 foot candles at the property line; limits pole heights to eighteen (18) feet; and uses lighting fixtures that minimize upward projecting light;

(31) The extent to which runoff from pedestrian areas, landscape areas, and low volume vehicular areas is accommodated using low impact design principals;

(32) The extent to which underground utilities are provided.

e. The Board of Appeals shall hold a public hearing, for which notice has been given as provided in M.G.L. Chapter 40A, Section 11, concerning a site plan submitted for review and approval pursuant to this Section 4387.

f. Final Action by the Board of Appeals. The Board of Appeals final action shall consist of either an approval based on the determination that the site plan for the Senior Living District Development is consistent with the criteria and requirements set forth in this Section 4380, an approval subject to reasonable conditions consistent with the criteria and requirements set forth in this Section 4380, or a denial based on a determination that (i) the required site plan application filing materials for the Senior Living District Development is incomplete or (ii) the site plan is unreasonably inconsistent with the criteria and requirements set forth in this Section 4380 (unless otherwise waived) so that it admits of no reasonable solution. Failure of the Board of Appeals to make any determination within sixty days of its hearing, as such hearing may be extended by consent of the applicant, shall constitute a determination of consistency.

4388. Consultants.

To facilitate review of an application for a Site Plan, the Board of Appeals may engage outside consultants in accordance with Section 4390.

Consultants may be engaged to review any or all components of the site plan submission or any offsite improvements proposed in

conjunction with the project. Additionally, for projects requiring issuance of State or Federal permits, consultants may be engaged to peer review submissions to the State or Federal agency and to represent the Town before these agencies to protect the Town's interests. Consultants may be engaged to observe construction of the site improvements authorized by site plan approval.

4389. Enforcement and Implementation.

Any site plan approval issued under this section shall lapse within one (1) year if construction thereof has not commenced sooner, except upon application within one (1) year and for good cause shown. Such time period shall be extended upon request by the applicant for one (1) year. A Senior Living District Development may be constructed in multiple phases over time. Once construction of any portion of a Senior Living District Development has commenced, such site plan approval shall not lapse if the construction proceeds in phases in accordance with an overall project schedule of completion.

4390 Outside Consultants.

(a) Scope of Work. In the course of exercising its powers under this Bylaw, the Board of Appeals may engage outside consultants for peer review of submissions, for peer review and representation in regard to state and federal permits and licensing, or for construction observation. Consultants are selected by majority vote of the Board of Appeals. To the extent practicable, the Board shall work cooperatively with the applicant and when appropriate shall seek input from the Planning Board, Board of Health, and Conservation Commission

with respect to identifying appropriate consultants. Applicants are responsible for payment of consultant fees.

(b) Review Fees. Applicants shall reimburse the Town for the fees and expenses of outside consultants engaged by the Board of Appeals. Fees shall be paid prior to inception of each phase of the work. Escrow accounts shall be replenished within 15 days following receipt of notice. Failure to pay fees in accordance with the aforesaid shall be deemed, after notice to the applicant, with an opportunity to cure, to constitute withdrawal of the project. Fees shall be deposited in a special account established by the Town Treasurer pursuant to MGL. c. 44 § 53G.

These funds may be expended only for the purposes described in above 4390(a), and in compliance with the Uniform Procurement Act, M.G.L. c 30B, §§ 1-19. Within thirty (30) days of completion of the project or of withdrawal the proposal, applicants shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest. The Town Accountant shall submit annually a report of the special account to the Board of Selectmen and Executive Secretary Town Administrator for review and for publication in the Sharon Annual Report.

Review related fees will only be imposed if the work constitutes peer review of materials prepared on behalf of the applicant and not of independent studies performed on behalf of the Board; if the work is performed in connection with the applicants' specific projects; and if the findings and reports are made part of the public record.

Procurement of outside consultant services shall comply with the Uniform Procurement Act, M.G.L., c. 30B, s. 1-19, and with the following additional requirements:

- (1) the applicant shall be given five (5) days' notice and opportunity to attach written comments to the invitation for bids or request for proposals;
- (2) at least three (3) bona fide bids or proposals shall be solicited; and
- (3) the applicant shall be given five (5) days' notice and opportunity to comment on all bids or proposals prior to the selection of the consultant and the award of a contract.

Consultants shall be qualified and where applicable duly licensed to evaluate specific issues before the Board. Bona fide bids or proposals shall include: the name of each person performing the work, the educational and professional credentials of each person performing the work; the work experience of each person performing the work; a description of the work to be performed; the hourly rate charged by each person performing the work; and all other expenses to be incurred. Any invitation for bids or request for proposals shall indicate that

award of the contract is contingent upon payment of a review fee.

Fees assessed pursuant to this section shall be reasonable in light of: the complexity of the proposed project as a whole; the complexity of particular technical issues; the number of housing units proposed; the size and character of the site; the projected construction costs; and fees charged by similar consultants in the area. Generally fees will not exceed amounts that would be expended by the Town to review a comparable project.

(c) Appeal of Selection. Prior to paying the review fee, applicants may appeal selection of a particular consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three (3) or more years of practice in the field at issue or a related field. The required time limits for action upon the application by the Board shall be extended by the duration of the appeal. In the event that no decision is made by the Board of Selectmen within one (1) month following the filing of the appeal, the selection made by the Board shall stand.

or take any other action relative thereto.

BOARD OF SELECTMEN
