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FIRST AMENDMENT

TO

DEVELOPMENT AGREEMENT

Brickstone Sharon, LLC, a Massachusetts limited liability company (the “Developer”) and the Town of Sharon, acting by and through its Board of Selectmen (the “Town”) enter into this First Amendment to Development Agreement as of the ____ day of December, 2008 (the “First Amendment”).

WHEREAS, the Developer and the Town and for those provisions specifically enumerated, the Sharon Conservation Commission, entered into a Development Agreement dated as of May 2, 2007 (the “Agreement”);

WHEREAS, the Developer and the Town each desire to clarify and/or amend certain provisions of the Agreement;

WHEREAS, these changes or amendments do not concern Section 6.2 of the Agreement and, therefore, do not require the assent to this First Amendment by the Conservation Commission.

NOW THEREFORE, in consideration of the commitments contained herein and other good and valuable consideration, the receipt, sufficiency and delivery of which are hereby acknowledged, the Developer and the Town (sometimes referred to together as the “parties”) hereby agree to amend the Agreement as follows:

1. Replace the Exhibit A first referenced in the introductory paragraph with the Exhibit A-1 attached hereto. All references to Exhibit A in the Agreement shall be deemed to reference Exhibit A-1. (*updates Site Plan*)

2. In Section 1.4, delete the word “three” in the second sentence and insert in place thereof the following:

“two or more” (*clarifies that First Phase may include two or more residential buildings*)

3. In Section 1.4, delete the word “three” in the third sentence. (*clarifies that First Phase may include two or more residential buildings*)

4. In Section 2.3, delete the first sentence and insert in place thereof the following:

“The Developer shall pay a sum equal to two (2) times the reasonable, standard, actual expenses of initial and ongoing inspection and review of all building permit applications customarily reviewed by the Building Inspector and Building Department and required in connection with this Project on a so-called “controlled construction” basis in which the applications and plans are submitted with certifications from the preparing professionals that the plans have been drawn to meet the requirements of the State Building Code. Inspection and

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review fees referenced in the preceding sentence shall include inspections and reviews by the Building Inspector, Electrical Inspector, Plumbing Inspector and Fire Department for (i) plan review; (ii) pre-construction meetings; (iii) progress meetings; (iv) final occupancy meetings; and (v) inspectional services, including inspections of (a) Senior Dwelling Units; (b) the clubhouse amenities building and spaces therein; (c) building foundations; (d) site work; (e) excavation work; and (f) the nursing facility. Excluded from the two (2) times reimbursement mechanism of this Section 2.3 are inspections and filing fees related to the Zoning Board of Appeals, Planning Board, Board of Health; Conservation Commission; Water Department or other non-building permit related reviews and approvals.” ***(clarifies building permit fee reimbursement mechanism- Town still gets two times costs)***

5. In amended Section 2.3, delete the text after the seventh sentence and insert in place thereof the following:

“For each payment for actual reimbursement made, the Developer shall also simultaneously deposit an additional 50% of said amount with the Town Treasurer. The remaining amount due (50% of the particular cost) shall be paid not later than one year after the Town incurs such cost or expense. At the issuance of a final Occupancy Permit for the last residential unit constructed at each Phase of the Project, in the event such payments have not previously been paid for costs relating to such Phase, the Developer shall pay the Town any additional monies needed so that the total payments are equal to two (2) times the actual expenses of initial and ongoing inspection and review of the construction process, as provided above. The Town agrees that it will not engage consultants to undertake reviews or inspections that are duplicative of work performed above, and this provision shall not apply to consultants engaged prior to the filing of a building permit for the Project. The Town agrees a reasonable estimate for the review fees referenced in this Section 2.3 (prior to the two (2) times multiplier) is \$ 200,000, subject to unforeseen or unanticipated circumstances or delays in commencement of construction, and, prior to the Town exceeding this amount, the parties shall meet and discuss a method to limit any costs in excess to this estimate to reasonable amounts.” For purposes of this Section 2.3, the payments herein are intended to be a replacement for, and in substitution of, all building permit fees, connection fees (except as otherwise referred to herein), plan review and construction inspection fees, costs and expenses of any kind whatsoever customarily assessed in the building process. The Town and Developer acknowledge and agree that the Project is subject to various ministerial application and inspection fees customarily and uniformly applied to all applicants, except as modified by the Agreement, but that the Project, Developer and Site shall not be subject to new fees or charges imposed after the date of this Agreement which are specifically targeted to or applicable to the Developer, Project or Site. ***(clarifying building permit fee reimbursement mechanism - Town still gets two times costs)***

6. Replace the Exhibit D first mentioned in existing Section 3.3(a) with the Exhibit D-1 attached hereto. All references to Exhibit D in the Agreement shall be deemed to reference Exhibit D-1. ***(update waterline exhibit depicting water line to Coach Lane with exhibit depicting waterline to Coach Lane and Boulder Lane)***

7. In Section 3.3(a), delete the first sentence following “(a)” and insert in place thereof the following:

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“an 8-inch diameter CLDI water line, with appropriately spaced fire hydrant assemblies and line valves, as reasonably approved by the Town Fire Chief, extending through the Site, as generally depicted on Exhibit D-1, attached hereto and incorporated as if fully set forth herein, and then (i) to the center or sideline of Coach Lane, as necessitated by the existing roadway layout, boring results, ownership or other engineering reasons, and to the Sharon sideline of Bay Road and subject to relocation within the existing roadway layout; and (ii) to the center of Boulder Lane, subject to relocation within the existing roadway based on boring results or other engineering reasons, and to the Sharon the sideline of Bay Road to allow Project abutters to connect to Town water. Provided the Town has secured all necessary easements or other rights necessary for the Developer to extend a waterline from the Site to Coach Lane and Boulder Lane prior to March 1, 2009 (and the Town has provided, in writing, satisfactory evidence of such rights to the Developer prior to March 1, 2009), the Developer shall install such waterline to, in and through Coach Lane and Boulder Lane on or before it seeks the first certificate of occupancy for a residential building. If the Town has not secured all necessary easements or rights for the Developer to extend a waterline from the Site to Coach Lane or Boulder Lane prior to March 1, 2009, the Developer shall not be obligated to extend such waterline to the Lane(s) lacking such necessary easement or other rights.” ***(conforming change to treat Boulder Lane waterline similar to Coach Lane waterline)***

8. In Section 3.3(a), delete the second paragraph and replace with the following:

“In connection with the above described water lines, the Water Department and Board of Selectmen agree to waive all connection fees for the existing houses located on properties identified as 2 Coach Lane (Burr), 4 Coach Lane (Weinstein), 2131 Bay Road (MacInnis), 2111 Bay Road (Hogan), 1 Coach Lane (Apse), 1 Boulder Lane (Tarasenko), 2 Boulder Lane (Kurland), 5 Boulder Lane (Huh), 9 Boulder Lane (Kamara), provided that the property owner consents to connect contemporaneously with the water main installation. The Developer agrees to promptly reimburse upon receipt of bills (but shall not be required to perform the work) the actual reasonable cost of connection for the nine homes enumerated above, but in any event not to exceed an average of \$3,500 per home. The Developer shall have no obligation to perform the connection work described in this Section 3.3(a).” ***(conforming change to treat Boulder Lane waterline similar to Coach Lane waterline)***

9. In Section 3.3(b), delete the following text after the words “Section 3.2”:

“through and within land to be given to the Town, acting by and through its Board of Selectmen and then extending through and within land to be given to the Town acting by and through its Conservation Commission, as described in Section 6.1 and 6.2 hereof and further.” ***(updates language to reflect waterline south of Project Site will run in Mountain Street, not through future Town conservation land)***

10. Replace the Exhibit E first referenced in Section 3.3(b) with the Exhibit E-1 attached hereto. All references to Exhibit E in the Agreement shall be deemed to reference Exhibit E-1. ***(updates plan to reflect waterline south of Project Site will run in Mountain Street, not through future Town conservation land)***

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11. In the first sentence of Section 3.4, insert after the two occurrences of the words “water line” the following:

“(or lines)” ***(conforming change to treat Boulder Lane waterline similar to Coach Lane waterline)***

12. In Section 5.1(a)(i), delete the words “on or before June 30, 2008” and insert in place thereof the following:

“-- Paid” ***(acknowledges that Developer has previously paid these funds)***

13. In Section 5.1(a)(ii), insert after the words “June 30, 2009” the following:

“, provided however, if (i) the Developer has obtained site plan approval from the Zoning Board of Appeals for, at a minimum, the off-site traffic impacts and mitigation for the Project, including the use of Mountain Street for construction access to and from the Site; and (ii) the Sharon Town Meeting has approved the use of Mountain Street for construction access to and from the Site and the related conditions approved by the Board of Appeals, (i) and (ii) being to the satisfaction of the Developer, then Developer shall pay such \$325,000.00 to the Town on or before the Spring 2009 Annual Town Meeting. In connection with obtaining site plan approval for the Project’s off-site traffic impacts and mitigation, including the use of Mountain Street for construction access, the Town agrees to cooperate with the Developer, at the Developer’s request and election, in filing a site plan approval application with any necessary waivers or relief for the Board of Appeals to consider the traffic impacts and mitigation on an expedited or bifurcated basis from the remainder of the Project.” ***(Developer to advance future payment if permits and approvals obtained; otherwise, payment obligation and timing unchanged)***

14. In Section 5.1(b)(v), delete the text after the words “installation of lighting” and insert in place thereof the following:

“-- Paid” ***(acknowledges that Developer has previously paid these funds)***

15. In Section 5.1, insert a new subsection (e) after existing subsection (d) as follows:

“If the 150 bed nursing facility should become owned by a non-profit entity, or for any reason the owner becomes an entity or the nursing facility becomes located upon realty exempt by law from the payment of real estate taxes, the Developer agrees that the nursing facility owner will enter into a payment-in-lieu-of-taxes (PILOT) program with the Town whereby the nursing facility owner will pay to the Town payments equivalent to the estimated tax payments that would otherwise be due from such facility if it were not owned by a non-profit entity at the times tax payments are due and payable in Town. The obligation in this Section 5.1(e) will be contained in any deed, lease or other document transferring ownership of the nursing facility to such entity and shall provide such obligation shall be enforceable by the Town.” ***(provides for payment-in-lieu-of-real estate taxes - if nursing facility is owned by a non-profit)***

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16. Replace Exhibit H with the Exhibit H-1 attached hereto. All references to Exhibit H in the Agreement shall be deemed to reference Exhibit H-1. *(updates privately restricted area plan to reflect updated site plan)*

17. Insert as a new sentence at the end of Section 6.3 the following:

“Once the land has been so restricted, the Developer shall have the right and ability in its sole and absolute discretion, to substitute the restricted land or portions thereof with other land at the Site. In order to substitute the restricted land or portions thereof, the Developer shall prepare and deliver an amendment to the recorded deed restriction or other instrument, in a form acceptable to Town Counsel. In addition, and notwithstanding the foregoing, the Developer shall have the right to use the restricted land for construction staging or similar such activities related to any construction of a phase or portion of the Project or to construct, install, maintain, repair and replace the improvements identified in the fourth sentence of this Section 6.3. In the event a portion of the restricted land is utilized for construction staging or similar such activity or for the activities or improvements identified in the preceding sentence, it shall be restored substantially to its previous condition once such use has ended.” *(provides for substitution of restricted land to accommodate phased construction)*

18. Change title of Section 7 to be “**BLASTING AND ROCK PROCESSING COMMITMENTS AND MITIGATION**”

19. Insert a new Section 7.2 after Section 7.1.3 as follows:

“Rock Processing Mitigation: The Developer shall undertake the following mitigation measures to minimize noise, dust or vibration impacts to neighbors and abutters from any rock processing operations planned, and/or performed on the Site in connection with the Project:

1. Locate the rock processing operation to maximize buffer distances from abutters.
2. Locate the rock processing operation in a “bowl” created by approximately 15 feet of excavated rock.
3. Strategically stockpile excavated soils and processed materials to create “sound barriers” of earth materials to assist in sound mitigation.
4. Use rubber or similar material chutes and screener covering, subject to reasonable availability, to muffle stone “tumbling” sound.
5. Properly maintain rock processing equipment, including muffler and exhaust sound control devices.
6. Create a vibration buffer consisting of a prepared pad of semi compacted soil materials beneath the rock crushing equipment.
7. Mitigate dust through hydration on a daily and as needed basis.”

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8. Review rock crushing operational protocols with the Board of Appeals during site plan approval (*insert new section concerning mitigation for rock crushing*).

20. Replace the Exhibit K first referenced in Section 8.1 with the Exhibit K-1 attached hereto. All references to Exhibit K in the Agreement shall be deemed to reference Exhibit K-1. (*updates Traffic Report*)

21. Insert a new sentence at the end of Section 8.1 as follows:

“The traffic study attached as Exhibit K-1 will be subject to peer review and comment, including without limitation by the Police Chief, Fire Chief and Department of Public Works, during the site plan approval process.” (*clarify peer review provision*)

22. In Section 11.6, replace the last sentence with the following sentences:

“The Town and Developer shall cooperate in good faith and with diligent efforts in achieving the Project depicted on Exhibit A-1 (as the same may be changed pursuant to the terms of this Section) and the goals set forth in this Agreement. The Town and Developer acknowledge the parties’ intention to discuss, after January 1, 2009, issues such as Mountain Street construction access, the scope of the fire sub-station design, timing of obligations and related issues.” (*clarify cooperation language*)

23. Capitalized terms not defined in the First Amendment shall have the definitions provided in the Agreement.

24. To the extent there are any conflicts between the Agreement and the First Amendment, the provisions of the First Amendment shall control.

25. The Agreement, as modified by the First Amendment, is hereby ratified and confirmed and all references to the Development Agreement shall mean the Development Agreement as modified by the First Amendment. The Agreement constitutes the entire agreement and understanding of the parties with regard to the subject matter hereof, and shall supersede and merge all prior and contemporaneous written or oral representations, agreements, communications, undertakings and understandings between the Town and the Developer.

[signatures on next following pages]

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EXECUTED under seal as of the date and year first above written.

BRICKSTONE SHARON, LLC

By: _____

Name: John Kusmiersky

Its: Manager

Hereunto Duly Authorized

TOWN OF SHARON BOARD OF SELECTMEN

By: _____

Name: Richard Powell

Its: Chair

Hereunto Duly Authorized

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared John Kusmiersky, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as the Manager of Brickstone Sharon, LLC.

Notary Public

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss.

On this ____ day of _____, 2008, before me, the undersigned notary public, personally appeared Richard A. Powell, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Chair of the Town of Sharon Board of Selectmen.

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EXHIBIT A-1

[Updated Site plan attached]

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EXHIBIT D-1

[Updated Plan of Water line running through Site to Site boundary and off-Site down Coach Lane and Boulder Lane attached]

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EXHIBIT E-1

[Updated plan showing Water line extending south from water tank down Mountain Street to Mountain Street Extension attached]

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EXHIBIT H-1

[Updated plan showing areas of 36 acres to be privately restricted attached]

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EXHIBIT K-1

[Updated Traffic Impact and Access Study attached]

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