

## DEVELOPMENT AGREEMENT

This Agreement is entered into as of this \_\_\_ day of August, 2015, by and between Brickstone Sharon, LLC, a Massachusetts limited liability company, (the "Brickstone" or the "Developer") and the Town of Sharon, acting by and through its Board of Selectmen (the "Board" or "Town" and together with the Developer, the "Parties") for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged (the "Agreement").

This Agreement is entered into by the Town and the Developer to in an effort to facilitate a settlement of outstanding litigation involving this Property, defined below. The previous Property owner applied for a Comprehensive Permit pursuant to M.G.L. Chapter 40B seeking approval for 250 housing units on the Property. The Zoning Board of Appeals ("ZBA") granted a Comprehensive Permit for only 120 age-restricted units (the "Existing Comprehensive Permit"). The previous Property owner appealed issuance of the Existing Comprehensive Permit to the Housing Appeals Committee in Docket # \_\_\_\_\_ (the "HAC Litigation") and certain private parties also appealed issuance of the Comprehensive Permit to the Norfolk County Superior Court in Docket # \_\_\_\_\_ (the "Superior Court Litigation"). The HAC Litigation and Superior Court Litigation have been stayed.

Brickstone now owns the Property, the Existing Comprehensive Permit, and all associated rights. The Parties hereby support the settlement of the HAC Litigation and dismissal of the Superior Court Litigation generally including, without limitation, and subject to ZBA approval, the terms outlined herein.

This Agreement represents the understanding between the Parties with respect to contributions and commitments of the Developer and the Board's support thereof to the ZBA with respect to mitigating impacts arising from the development of a 200 unit affordable housing project (the "40B Project," as particularly described below) located off Mountain Street in the Town of Sharon, as more particularly shown as a portion of the 337-acre Property, located between Bay Road and Mountain Street, on Exhibit A (the "Site"). Related to the 40B Project, the Developer may seek to create Approval Not Required ("ANR") lots within the Property as more particularly depicted on Exhibit A (the "ANR Project"). The depictions of the 40B Project and ANR Project are preliminary and subject to change prior to and during the approval process. The 40B Project, together with the ANR Project, are referred to herein as the "Project".

The parties understand that settlement of the HAC Litigation and approval of the 40B Project requires input by and approval from the ZBA. Nothing contained herein is intended to create any obligation upon the ZBA to adopt any of the within provisions. They do, however, represent what would be acceptable to the Board, and are offered for the consideration of the ZBA.

### 1. GENERAL

- 1.1 In consideration of the Developer's promises contained herein, the Town agrees to support the proposed Project to effectuate the terms and intent of this Agreement. The Town will use its best efforts to assist the Developer in obtaining all permits or approvals required

under the Laws and will continue to support the Project before and while the Project is constructed. Nothing contained herein shall be construed as a guarantee of the issuance of a Comprehensive Permit or amended Comprehensive Permit by the ZBA. The parties hereby acknowledge nothing herein is intended to limit or otherwise impinge upon the ZBA's sole jurisdiction regarding the modification or issuance of any Comprehensive Permit for the 40B Project.

- 1.2 The 40B Project is anticipated to consist of approximately (a) 200 units of for-sale housing (150 market rate/50 affordable) consisting of (x) eighty (80) single family homes (30 three bedroom market rate single family homes; 10 three bedroom affordable rate single family homes; 30 two bedroom market rate single family homes; and 10 two bedroom affordable rate single family homes); (y) one hundred (100) duplex town houses (56 two bedroom duplex market rate town houses; 19 two bedroom duplex affordable rate town houses; 19 three bedroom duplex market rate town houses; and 6 three bedroom duplex affordable rate town houses); and (z) twenty (20) triplex town houses (15 two bedroom triplex market rate town houses; and 5 two bedroom triplex affordable town houses); (b) with access from Mountain Street; (c) a shared wastewater treatment system (which system may be shared by the ANR lots); (d) trails, and (e) other related infrastructure and amenities, if and to the extent proposed by the Developer.

The Parties acknowledge such description of the 40B Project's units and unit types is preliminary and subject to change prior to and during the Amended Comprehensive Permit approval process, provided however, that neither the total amount of units (200 units) nor the total number of bedrooms (465 bedrooms) shall be increased and the total number of three bedroom units shall not exceed 70 such units.

## 2. **PROCESS**

The parties anticipate the following process to approve the 40B Project and resolve the HAC Litigation and Superior Court Litigation. The Parties and, as necessary, the ZBA, will seek to have the HAC remand the HAC Litigation to the ZBA. Such remand will request the HAC retain jurisdiction over the Existing Comprehensive Permit. The Board and, as necessary, the ZBA, will support requesting that MassHousing issue a combined Project Eligibility Letter/Final Approval. The Developer will file an application with the ZBA requesting that the ZBA modify the Existing Comprehensive Permit and issue a modified or amended Comprehensive Permit approving the 40B Project (the "Amended Comprehensive Permit"). The Board will support the Developer's filing of such application without precondition upon remand and will endeavor to obtain the ZBA's support of reviewing the application and issuing the Amended Comprehensive Permit without precondition on remand.

If (a) the Amended Comprehensive Permit is issued with (i) no conditions deemed unreasonable or uneconomic by the Developer; (ii) no appeals taken during the appeal period; (iii) any appeals taken during the appeal period having been finally resolved to the Developer's satisfaction; (iv) MassHousing having issued its combined Project Eligibility Letter/Final Approval; (v) all permits and approvals (other than building permit) having been issued for the 40B Project with no conditions deemed unreasonable or uneconomic by

the Developer; (b) the ANR lots having been created by the Sharon Planning Board through endorsement of an Approval Not Required plan, or the Developer having not sought such endorsement within thirty (30) days of the satisfaction of the conditions in (a) above, then (c) the Parties and ZBA, as necessary, shall dismiss the HAC Litigation with prejudice and seek to have Superior Court Litigation dismissed with prejudice. The occurrence and satisfaction of all of (a) through (c) shall be defined as the "Condition Satisfaction."

The Parties acknowledge and agree that the above "process" description is preliminary and depends, among other things, on the involvement and input of third parties such as the HAC and ZBA. As such, the parties further acknowledge and agree that such "process" description is subject to refinement by mutual agreement, provided however, that such refinements are adopted so as to assist in issuance of the Amended Comprehensive Permit and resolution of the HAC Litigation and Superior Court Litigation as quickly as possible.

If the Amended Comprehensive Permit is appealed by a third party, or a party contests the dismissal of the Superior Court litigation, the parties agree to cooperate in the defense or dismissal, as appropriate, of such actions.

### 3. **40B PROJECT ANTICIPATED MITIGATION**

Since the Developer's acquisition of the Property in 2006, the Developer, Board and Town have worked cooperatively on a number of alternative development scenarios for the Property. These prior efforts have included a thorough review and comment by various Town Boards, Committees, and Departments including, but not limited to, the Conservation Commission, Board of Health, Finance Committee, Sharon Housing Trust, Planning Board, Fire Department, Police Department, and Department of Public Works, as well as outside "peer review" consultants. As a result of these prior, thorough reviews, the Developer and the Board entered into development agreements regarding such alternative scenarios, with such agreements including mitigation and other requirements.

The Board believes the ZBA's review of the 40B Project would be benefited by an understanding of the types of mitigation commitments that were included in these prior development agreements, so as to provide a sense of the scale and scope of such commitments for similarly sized developments, particularly the alternative development scenario proposed in the spring of 2014, which was of a comparable scale to the Project.

Accordingly, attached as Exhibit B is a list of mitigation commitments previously made by the Developer that the Board thinks may be appropriate to incorporate into the Amended Comprehensive Project. As more particularly described on Exhibit B, in connection with the 40B Project, the Developer will (i) construct, own and maintain a private wastewater treatment facility; and (ii) will construct water improvements, both as necessary to service the 40B Project.

### 4. **LAND TRANSFERS**

- 4.1 In accordance with the schedule set forth in this Section 4.1, the Developer shall transfer by grant its fee title interest of certain land within the Property to the Town, totaling

approximately 210 acres, consisting of (a) land to be held forever as open and undeveloped land and to remain in its natural condition ("Conservation Gift Land") except as provided herein, and (b) land for general municipal purposes ("General Municipal Land" and together with the Conservation Gift Land, the "Gift Land"). The General Municipal Land shall not be used for uses that would be materially harmful to a first-class residential development. . The Developer shall transfer its fee title interest in the Conservation Gift Land to the Conservation Commission and the General Municipal Land to the Town. Such land is generally shown on Exhibit C, attached hereto and incorporated as if fully set forth herein. As a precondition to the transfers described herein, the Conservation Commission and the Town shall provide the Developer with a letter, suitable for submission to the Internal Revenue Service and Massachusetts Department of Revenue, recognizing the transfer of land described herein as a gift under the federal Internal Revenue Code and applicable Massachusetts tax laws. The transaction of the Gift Land contemplated in this Section 4.1 shall occur upon the issuance of the first building or foundation permit for the 40B Project. If Developer commences site work related to the 40B Project prior to issuance of a building or foundation permit for the 40B Project, it shall post a bond or surety with the Sharon Town Clerk in such amount as to secure the restoration of the portion of the Property subject to such site work if a building permit is not issued for the 40B Project within two (2) years of the commencement of such site work. The bond or surety shall be in a form reasonably acceptable to Town Counsel and shall be released upon issuance of the first building permit for the 40B Project.

- 4.2 The Developer shall be able to access and use the Gift Land for the purposes of constructing and maintaining access trails, the design and location of which shall be mutually agreed upon between the Developer, the Town, and the Commission. The Developer shall have the ability to use the Gift Land for purposes of constructing, locating, maintaining, repairing, reconstructing and using wastewater and stormwater collection and distribution pipes and infiltration systems and interception wells and pipes for irrigation purposes for the purposes of (a) stormwater management facilities; (b) interception wells and irrigation systems; and (c) wastewater facilities serving the Project. The specific design and location of such a groundwater discharge system and stormwater management facilities shall be performed in cooperation and consultation with the Town and the Commission. The Developer shall also have the ability to use the Gift Land for locating, maintaining, repairing or reconstructing or otherwise restricting areas for any wildlife habitat enhancements requested or required by the Natural Heritage & Endangered Species Program pursuant to the Massachusetts Endangered Species Act in cooperation and consultation with the Commission.
- 4.3 The Board agrees to solicit Town Meeting approval of the acceptance of the General Municipal Land to allow the conveyance upon the terms provided herein.

## 5. MISCELLANEOUS

- 5.1 Upon the earlier of the issuance of the first building permit or foundation permit for the 40B Project, the Developer, with the Town's cooperation, shall terminate the Development Agreement dated as of May 2, 2007, by and between the Developer and the Town, as amended, concerning the Sharon Hills project, so called, and Developer shall have no

rights or obligations thereunder. In connection with the termination of such prior Development Agreement, the Town agrees to record in the Registry of Deeds a termination of Notice of such Development Agreement. Failure of the Town to record such Notice within seven (7) days of issuance of the first building permit or foundation permit for the 40B Project shall entitle the Developer to record a release of such Notice. Upon the earlier of the issuance of the first building permit or foundation permit for the 40B Project, the parties also agree to take such actions necessary to terminate any other Development Agreements between the parties related to the Site, and release any recorded notices thereto.

5.2 In the event that further State or federal authorizations or approvals are needed to effectuate the terms and intent of this Agreement, the Town and Developer shall mutually cooperate to obtain such authorizations or approvals.

5.3 Documentary Production

Concurrent with the presentation of this Agreement, the Developer shall provide representation from the Managing Member of Brickstone Sharon, LLC that it intends, subject to Section 5.10, to maintain said LLC as a going concern able to discharge its responsibilities hereunder, but only for so long as it owns fee title to the Property and the Agreement is in full force and effect.

5.4 Forbearance from Suit

Developer shall forego any actions at law or equity attempting to contest the validity or prevent the enforceability of any provisions of this Agreement and shall procure written acknowledgment that such forbearance shall bind any successor or assign, provided such forbearance shall not apply to claims of interpretation, selective or improper enforcement or compliance, or whether the Agreement has terminated. Such forbearance shall not preclude the Developer from bringing any action for breach of contract on the part of the Town or acts of intentional misconduct on the part of the Town with respect to matters contemplated herein.

5.5 Successors and Assigns

The Developer may assign the rights and obligations contained in this Agreement in whole or part. Notice of the transfer shall be provided to the Town upon such transfer provided that the Town shall have the ability to reasonably approve (i) the transfer of the wastewater treatment plant and roadways within the 40B Project to any association or entity created to assume such ownership; and (ii) that the successor or assignee has approved acceptance of monetary claims hereunder related to the portion of the 40B Project being succeeded to or assigned for such successor or assignee. All terms of this Agreement, including the Land Transfer provisions shall bind and inure to the benefit or burden of any successor or assign of this Agreement and shall run with the land. Claims of Developer noncompliance hereunder shall only be brought against the fee owner of the portion of the Property subject to such claim. Notice of this Agreement (the "Notice"), in a form reasonably acceptable to Town Counsel and counsel for the Developer, shall be recorded at the Registry of Deeds, at

no cost to the Town, within twenty-four (24) hours of expiration of the appeal period of the issuance of the Amended Comprehensive Permit with no appeals having been taken or, if taken, resolved to the Developer's satisfaction. In the event that this Agreement is terminated by its terms, the parties agree to immediately record a release of Notice. Failure by the Town to record such a release within seven (7) days of any such termination shall entitle the Developer to record a release of said Notice. A release of the Notice, fully executed by the parties, in recordable form, shall be delivered in escrow to be held by counsel to the Developer at the time the Notice is recorded at the Registry of Deeds.

#### 5.6 Notices

Unless otherwise specified herein, all required Notices hereunder shall be deemed sufficient if sent registered or overnight mail to the parties at the following addresses:

Town:                   Town of Sharon  
Town Hall  
90 South Main St.  
Sharon, MA 02067  
Attn: Town Clerk

with a copy to

Richard A. Gelerman, Esq.  
Gelerman and Cabral, LLC  
30 Walpole Street  
Norwood, MA 02062

Developer:           Brickstone Sharon, LLC  
c/o The Brickstone Companies  
The Plaza at Continental Park  
2101 Rosecrans Avenue, Suite 5252  
El Segundo, CA 90245  
Attn: John Kusmiersky

and

The Brickstone Companies  
149 River Road  
Andover, MA 01810  
Attn: Jeff Spagat

with a copy to:

The Brickstone Companies  
The Plaza at Continental Park  
2101 Rosecrans Avenue, Suite 5252  
El Segundo, CA 90245

Attn: John G. Baker, Esq.

and

Goulston & Storrs, P.C.  
400 Atlantic Avenue  
Boston, MA 02110-3333  
Attn: John E. Twohig, Esq.

For the purposes of this Section, the date of receipt shall be the day after the date of mailing.

#### 5.7 Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The Parties hereby consent to non-exclusive jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the Counties of Norfolk or Suffolk.

#### 5.8 Incorporation/Amendments to this Agreement

This Agreement, as may be amended from time to time, may be incorporated into the terms of the Amended Comprehensive Permit. Amendments to the terms of this Agreement must be in writing and may be agreed to on behalf of the Town by the Board of Selectmen and the incorporation of this Agreement into the terms of the Amended Comprehensive Permit does not prohibit the ability of the Board of Selectmen to amend this Agreement.

#### 5.9 Indemnity

Developer agrees to indemnify and hold harmless the Town, its officers, agents and employees from and against all claims and liabilities, including reasonable attorney's fees and expenses incurred in the defense thereof, relating to physical personal injury or tangible property damage to the extent arising out of the acts or omissions of the Developer and/or its officers, directors, employees or agents in connection with their duties under this Agreement, provided such indemnity shall exclude the acts or omissions of the Town, Board or their departments or personnel.

#### 5.10 Miscellaneous

The Developer acknowledges and agrees that this Agreement shall be binding upon the Developer and each of its successors or assigns as to the whole or part of the 40B Project, as applicable, as to the obligations which arise under this Agreement during their respective periods of ownership of a phase or phases of the 40B Project. As and when requested by the Developer, the Town will promptly advise, in writing, the status of the Developer's obligations or satisfaction thereof under this Agreement for the benefit of existing and prospective mortgagees of all or a portion of the Project and such other persons as the Developer may designate.

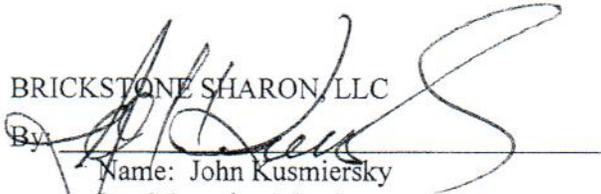
The Developer shall not be considered to be in breach of this Agreement for so long as the Developer is unable to complete any work or obligations required hereunder due to a force majeure event or other events beyond the reasonable control of Developer. In the event that the Town believes that a breach by Developer under this Agreement exists, it shall give written notice of the same to the Developer and give the Developer a reasonable period of time to cure such breach before taking any action on the same.

The Developer shall not be considered to be in breach of this Agreement in the event that the Developer decides, in its sole discretion and for any reason or no reason, to decline to commence construction of the Project under this Agreement or to halt, permanently or temporarily, completion of the Project. Nothing herein shall prohibit or hinder the Developer from using the Site alternatively for the uses allowed by the Sharon Zoning By-Laws if the Developer does not proceed with the 40B Project. If the Developer proposes a use on the Property other than the uses described herein, it agrees to advise the Town thereof.

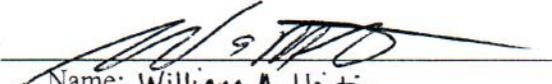
The Developer shall use good faith efforts to pursue the Amended Comprehensive Permit upon the full execution of this Agreement. The Developer shall use good faith efforts to seek the necessary permits and approvals necessary for the 40B Project upon receipt of the Amended Comprehensive Permit. In the event the Developer is denied a permit or approval required to proceed with the 40B Project, the Developer has no obligation to appeal such denial and may use the Property alternatively. The Developer may terminate this Agreement prior to issuance of the Amended Comprehensive Permit or if all reviews and all final approvals and permits necessary for issuance of a building permit for the 40B Project have not occurred or been received without unreasonable delay or unreasonable conditions, fees or charges imposed therein, consisting of not less than 200 residential units and necessary related water, wastewater, roadways, and other infrastructure (which approvals shall contemplate and allow, without lapse, the phasing of construction of such units and infrastructure) all as described in this Agreement.

[Signatures on next following pages]

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

BRICKSTONE SHARON, LLC  
By:   
Name: John Kusmiersky  
Its: Managing Member  
Hereunto Duly Authorized

TOWN OF SHARON BOARD OF SELECTMEN

By:   
Name: William A. Heitin  
Its: Chair  
Hereunto Duly Authorized

TOWN OF SHARON CONSERVATION COMMISSION  
(as to Sections 4.1 only and for no other provisions or purposes)

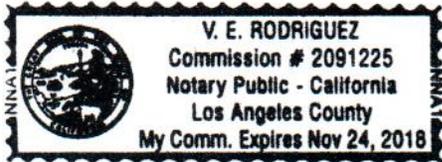
By: \_\_\_\_\_  
Name: Margaret Arguimbau  
Its: Chair  
Hereunto Duly Authorized

State of California )

County of Los Angeles )

On September 15, 2015 before me, V. E. Rodriguez, Notary Public, personally appeared John Kusmiersky, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

*V. E. Rodriguez*  
\_\_\_\_\_  
Notary Public

My Commission Expires: November 24, 2018

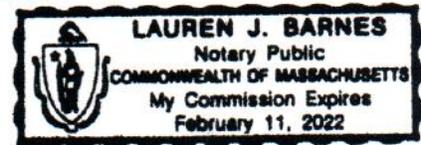
COMMONWEALTH OF MASSACHUSETTS

County of Norfolk, ss.

On this 25<sup>th</sup> day of August, 2015, before me, the undersigned notary public, personally appeared William A. Heitin, proved to me through satisfactory evidence of identification, which was personally known, 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.

*Lauren J. Barnes*  
\_\_\_\_\_  
Notary Public

My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

County of \_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned notary public, personally appeared Margaret Arguimbau, 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 Conservation Commission.

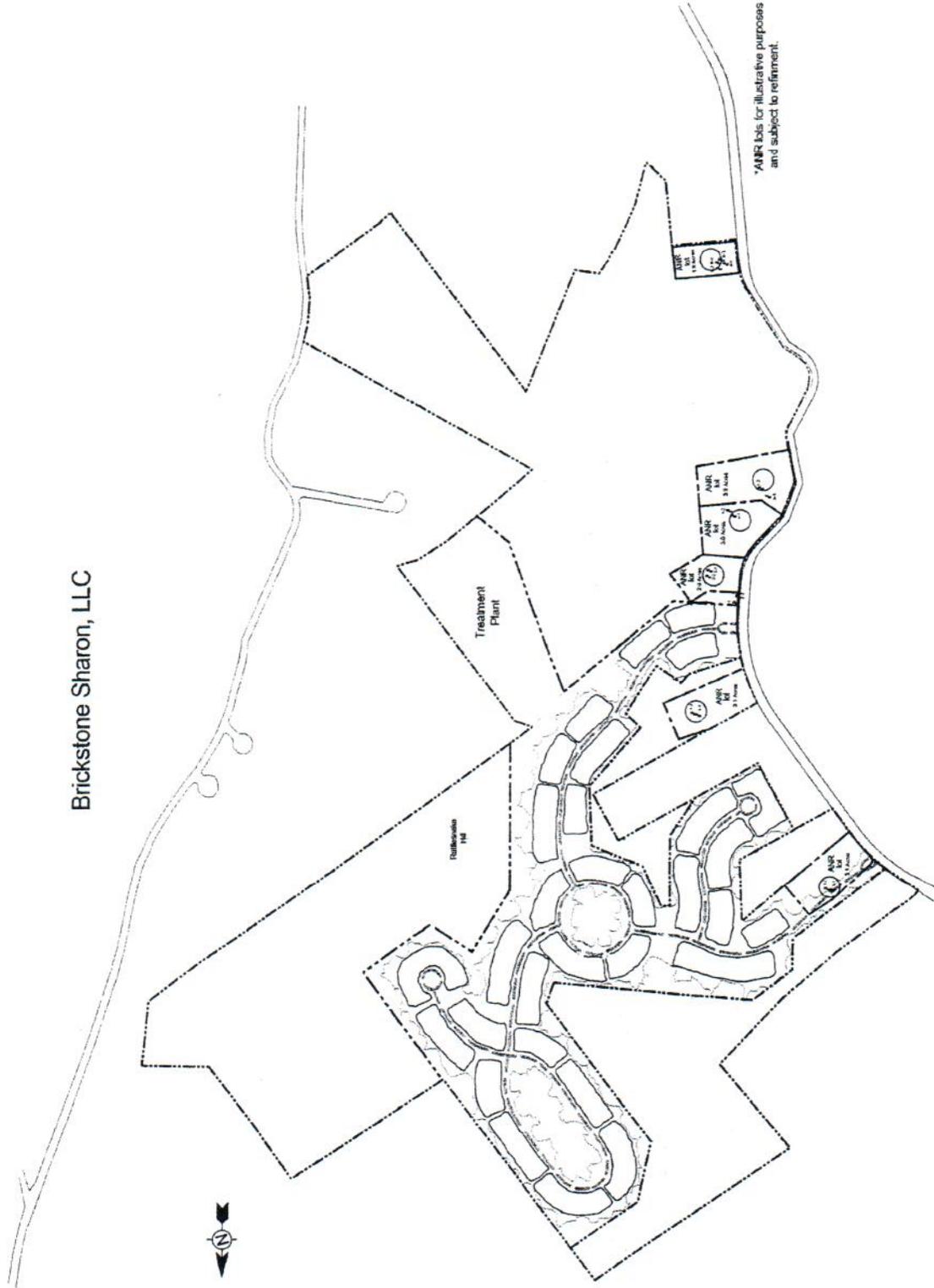
\_\_\_\_\_  
Notary Public

My Commission Expires:

**EXHIBIT A**

(See Attached)

Brickstone Sharon, LLC



APR is for illustrative purposes and subject to refinement.

EXHIBIT A

## EXHIBIT B

### Mitigation Topics

1. **Phasing:** To the extent the 40B Project, including without limitation all infrastructure, roadways, utilities, residential units, and recreational facilities, is constructed in phases, by one or more different successors to the Developer, said phases may overlap. However, the completion of any one proposed phase of the 40B Project shall not be a prerequisite for the commencement of any other phase(s) of the 40B Project if, prior to the receipt of any certificate of occupancy in any additional or subsequent phase of the 40B Project, the waste water treatment facility and water utilities are installed and have sufficient capacity to accommodate waste water generated by the phase that is about to begin construction.

2. **Compliance with Laws:** The 40B Project shall comply with all applicable governmental statutes, rules, regulations and by-laws of (i) the Town of Sharon, including, but not limited to those of the Board of Selectmen, the Board of Health, the Planning Board, the Commission, the Zoning Board of Appeals, (ii) the Commonwealth of Massachusetts and (iii) Federal Agencies as they apply to the construction, operation and maintenance of the Project, including, without limitation, compliance with Wetlands Protection Act final orders, the Massachusetts Environmental Policy Act (MEPA), General Laws Chapter 30, Section 61, and the State Building Code, unless variances, exceptions, waivers or other relief is granted pursuant to local, state or federal regulations by the appropriate regulatory or permit granting authority (the "Laws").

3. **Water Improvement Commitments and Mitigation:** In conjunction with the development of the 40B Project, the Developer shall construct and transfer to the Town ownership of certain improvements to the Town's water distribution system. These improvements will include:

(a) extension of the existing water main located in Mountain Street at a distance North of the 40B Project and within the Mountain Street right-of-way to be mutually reasonably agreed upon by the Parties working cooperatively.

(b) an 8-inch diameter CLDI water line "loop" through the 40B Project constructed off the distribution system running along Mountain Street, with appropriately spaced fire hydrant assemblies and line valves, as set forth in the Land Subdivision Rules and Regulations of the Town of Sharon, extending through the Site. The loop will connect with the Mountain Street main at the intersections of the 40B Project's two proposed roadways off of Mountain Street and each of the two connections will include taps and curb stops.

(c) any and all pumping station(s), if necessary to maintain minimum required water pressure and supply, servicing the above-described water-related infrastructure improvements and the 40B Project and located within the Mountain Street right-of-way. It is understood that the Town will cooperate with the Developer to provide any necessary temporary or permanent easements, licenses, or other authority to construct water-related infrastructure improvements in the right-of-way. If the 40B Project installs a pumping station at the intersection of Mountain Street and Hampton Road, the Developer will replace the approximately 1500 feet of AC pipe located between Hampton Road and the

current terminus of the water line in Mountain Street. If the 40B Project installs a pumping station at the northern 40B Project driveway on Mountain Street, the Parties agree to work cooperatively to determine whether the 1500 feet of AC pipe described in the prior sentence needs to be replaced by the Developer, based in part on the modeling analysis.

Installation of improvements to the water distribution system to be provided by the Developer shall comply with the following:

(a) The design engineer for all water-related infrastructure improvements shall be acceptable to the Sharon Water Department ("Water Department"). Final construction plans and specifications of all water-related infrastructure improvements shall be submitted for review and approval by the Water Department, which the Town agrees shall be reviewed in a reasonable and timely manner. The Developer shall compensate the Town for the reasonable and actual cost of a peer review engineer engaged to review submissions related to the 40B Project and to observe construction of the water distribution improvements from time to time.

(b) Water distribution improvements shall comply in all respects with the standards and requirements of the American Waterworks Association and the Water Department. At a minimum, all water mains shall be 8-inch cement lined bituminous coated ductile iron pipe class 52 minimum, hereinafter CLDI. Hydrant assemblies meeting the Water Department's specifications shall be installed at 500 foot intervals and all hydrants will have their own shutoff valves. Full diameter line valves shall be installed at maximum intervals of 1,000 feet. All water main junctions shall be provided with three full diameter gate valves. Any and all pumping station(s), if necessary, shall have standby power provided by natural gas, if available, or liquid natural gas or propane.

(c) In the event any water mains are installed within paved streets, such streets shall be patched in a mutually acceptable manner to be agreed upon by the Parties. The condition of such patching/repaving will be reviewed one year after completion to determine, in a mutually acceptable manner to be agreed upon by the Parties, if any pavement repair is necessary on account of earth or pavement settling.

(d) The Water Department may alter any of the foregoing water-related infrastructure construction standards as may be required to meet field conditions, provided such changes are reasonably necessary and are proposed in good faith to advance the development of the Project. Any other changes shall be mutually agreed by the Developer and the Water Department.

(e) The Developer shall prepare a construction management plan specifically designed to address the installation of the water-related infrastructure improvements set forth herein, which shall be submitted for approval by the Sharon Police Department and the Sharon Department of Public Works. All materials, equipment, and personnel required for maintenance of traffic related to such installation shall be furnished at no cost to the Town.

The Town agrees to cooperate with the Developer in applying for and obtaining any permits or approvals necessary to construct the water-related infrastructure improvements described in this

Section. The Developer shall pay all typical and customary costs associated with obtaining such permits and approvals. Ownership of such water improvements shall be transferred to the Town upon the completion of construction of such improvements. The Town hereby agrees to accept delivery and ownership thereof upon certification by the Town Engineer that said improvements have been constructed and installed to his reasonable satisfaction.

To the extent roadways within the 40B Project remain privately-owned, the Developer shall grant to the Town, acting as the Board of Water Commissioners, a twenty foot (20') wide easement so that the easement area extends horizontally approximately ten feet (10') on either side of the water line and a ten foot (10') wide easement centered upon each lateral extending from such 8-inch line up to the boundary of the subdivision street line and house lot line. An easement agreement, in a form mutually acceptable to the Parties shall be recorded at the Registry of Deeds when ownership of the water-related infrastructure improvements set forth in this Section is transferred to the Town. As built plans showing the areas subject to said easement shall be provided to the Town Engineer.

4. **Traffic and Roadway:** The Developer shall retain and pay the fee of a Traffic Consultant to perform a traffic impact study (the "TIAS") of the proposed 40B Project as part of the Amended Comprehensive Permit approval process for the 40B Project. The TIAS will be submitted to the building inspector and the Town. The Developer shall implement the recommendations and requirements contained in the TIAS or those reasonably required by the ZBA at no expense to the Town. All primary access to the 40B Project shall be designed to be from Mountain Street.

5. **Water Quality Commitment and Mitigation:** As part of the 40B Project, the Developer proposes to install a waste water treatment facility and soil absorption system (the "Waste Water System"). The Waste Water System shall be designed to service no more than 200 residential units of the type proposed, plus, at Developer's election, the approximately 6 ANR lots, and shall comply with all applicable state and local requirements and must obtain all necessary approvals prior to construction and operation unless waivers or variances are granted therefrom.

The Developer shall simultaneously provide the Town with copies of all reports and monitoring logs that will be submitted to the Commonwealth.

The Developer may install shallow interceptor wells (not located in the existing underlying aquifer) for purposes of recapturing water from the Waste Water System for non-potable water purposes, including but not limited to, irrigation uses.

6. **Bonding:** Prior to the commencement of any work with regard to the water system improvements the Developer shall post with the Sharon Town Treasurer a bond or surety in such amount as shall be determined by the Town Engineer and consistent with the normal and customary bonding requirements for contractors performing public utility work to secure proper completion of the water system improvements. Said performance bond shall be in a form reasonably acceptable to Town Counsel.

**EXHIBIT C**

(See Attached)

Brickstone Sharon, LLC

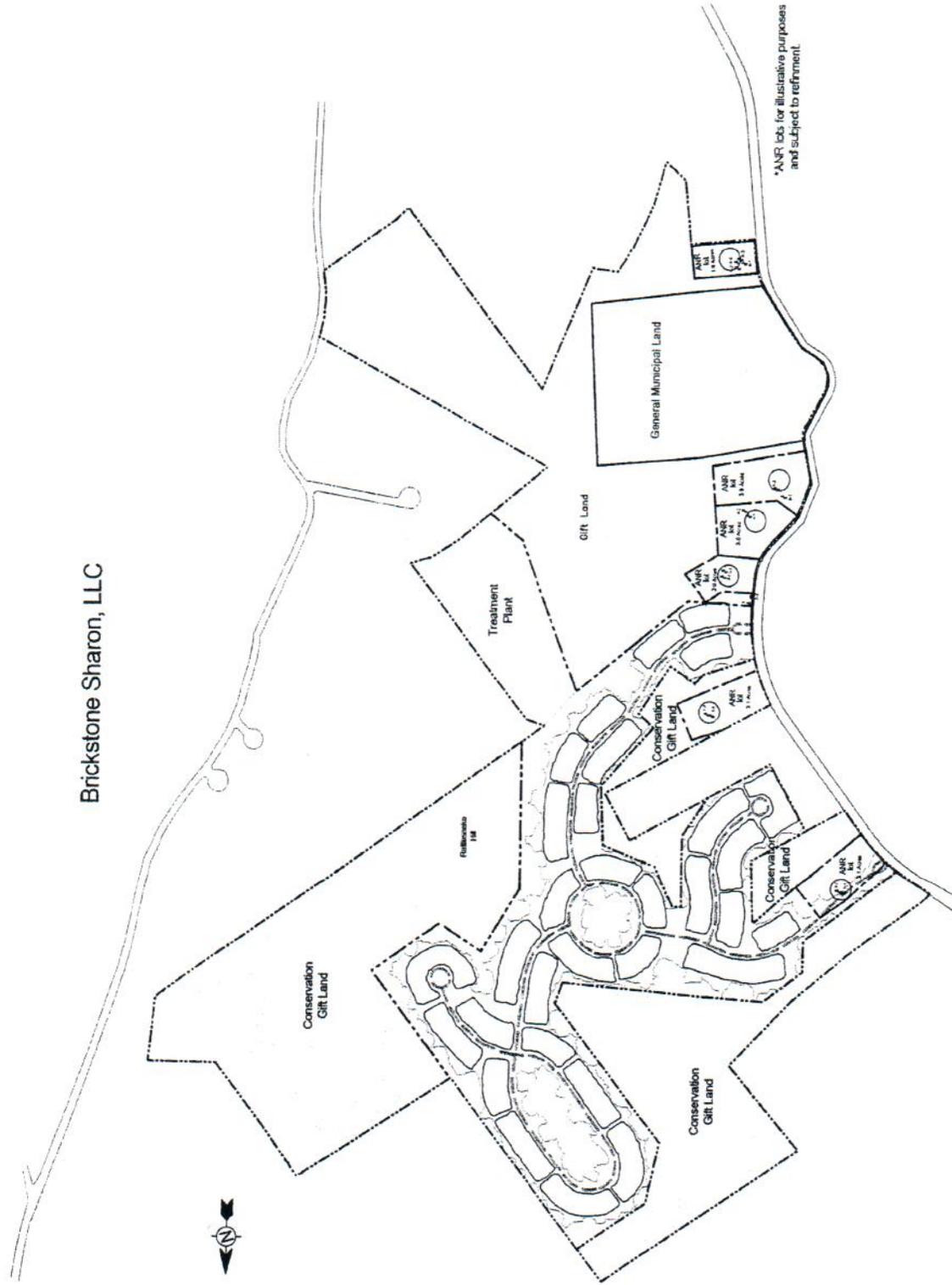


EXHIBIT C