

## **Town of Sharon Planning Board**

**Minutes of 5/28/20**

### **Sharon Community Center**

#### **Planning Board Members**

Rob Maidman, Chair	Pasqualino Pannone
Kai Yu, Vice Chair	Peter O'Cain, Town Engineer
Shannon McLaughlin, Clerk absent	
David Blaszkowsky left meeting at 7:30 PM	

#### **Other Attendees:**

Bob Shelmerdine - Cape Club

Shane Oates - Civil Engineer

John Beagan - abutter

Laura Nelson - abutter

#### **Meeting Initiation**

Chair Maidman called the meeting to order at 7:07 PM.

#### **Meeting Minutes**

Mr. Blaszkowsky moved that the minutes of 4/30 and 5/14 be approved as submitted. Mr. Yu seconded the motion. The Board voted 4-0-0 in favor of approval.

#### **Cape Club**

The Public Hearing on the revised Cape Club Plan continued. The Board along with Attorney Shelmerdine reviewed the Revised Cape Club Modified Site Plan Approval Decision that he drafted. Additionally Town Counsels comments regarding the draft were also discussed.

**SITE PLAN APPLICATION  
RECREATION AND RESIDENTIAL OVERLAY DISTRICT PROJECT  
CAPE CLUB ESTATES  
MODIFICATION OF PHASES 2 THROUGH PHASE 4 DECISION  
UNITS 27 THROUGH 52**

**Date:**

**May 28, 2020**

**Name/Address of Applicant/Owner:**

25 Tiot Holdings, LLC

25 Tiot Street Sharon, MA 02067

**Designer:**

Center Mount Land Development, LLC 33  
Commercial Street Raynham, MA  
02767

**Site Plan:**

"The Cape Club Townhouses Permitting Plans, 25 Tiot Street, Sharon, Massachusetts 02067," prepared on January 9, 2020 revised March 29, 2020, last revised May 1, 2020 (Will need latest plan date) as prepared by Center Mount Land Development, LLC (the "Revised Overall Site Plan")

**Drainage Report:**

Center Mount Land Development, LLC

**Locus of property:**

Off Tiot Street, Sharon, MA 02067

**Assessor's Reference:**

Map 132, Lot 31

**Zoning District:**

Recreation and Residential Overlay District

**Purpose:**

Modification to Phase 2 through Phase 4 (Units 27 through 52) of the Development of a Fifty-Two Townhouse Unit Residential Condominium complex with the mixed uses of an 18 Hole Golf Course, Multi-Use Function Facility, tennis courts, swimming pool with associated parking, landscaping and drainage and utility infrastructure. This Modification will relocate twenty-six (26) of the Townhouse Units.

**PROCEDURAL BACKGROUND**

In accordance with *Massachusetts General Laws, Chapter 40A* and the *Town of Sharon Zoning By-Laws, Sections 4397 and 6320 through 6343* (Site Plan Approval), application was made for Site Plan Approval by 25 Tiot Holdings, LLC by application dated December 11, 2019.

A public hearing was scheduled on December 19, 2019. Notices of the public hearing were published in the *Times Advocate* December 4, 2019 and December 11, 2019. The Planning Board convened the hearing on December 19, 2019, and continued it to January 23, 2020, February 6, 2020, February 27, 2020, March 12, 2020, March 26, 2020, April 16, 2020, April 30, 2020, May 14, 2020, and May 28, 2020, and closed the hearing on that date.

This Decision is based primarily on the following: a) the "The Cape Club Townhouses Permitting Plans, 25 Tiot Street, Sharon, Massachusetts 02067," prepared on January 9, 2020, revised March 29, 2020, last revised May 1, 2020 as prepared by Center Mount Land Development, LLC (the "Revised Overall Site Plan"); b) "Stormwater Management Report, Limit of Work Analysis, Project Site: The Cape Club of Sharon, 25 Tiot Street, Sharon, Massachusetts 02067," dated January 9, 2020, last revised as prepared by Center Mount Land Development, LLC, c) Lot Layout Plan, The Cape Club of Sharon, 25 Tiot Street, Sharon, MA prepared for Cape Club Builders, LLC, by Cavanaro Consulting, 687 Main Street, Norwell, Massachusetts 02061 consisting of one Sheet dated January 9, 2020 ("ANR Plan") (We do not have this); and d) other preliminary plans and related information. The term "Section" as used herein shall mean the applicable section of the *Town of Sharon Zoning By-Laws*.

The Applicant has been deemed to have elected to develop a Recreation and Residential Overlay District Project with obtaining a Building Permit for principal structures within Phase 1, and in such event all development within the total Recreation and Residential Overlay District Project shall conform to the requirements of Section 4390. Site Plan Approval comprises approval of general site layout, site entrance location, building locations, location and layout of parking areas, and location and typical design for site signage, layout and materials, grading, drainage, utilities, and circulation drives (plans, profiles, and cross sections); site clearing, site wide grading, construction of circulation drives, site entrances, stormwater management systems, site utilities, wastewater treatment and collection systems subject to required state and local approvals; site and related plans for individual buildings or groups of buildings. The scope of Site Plan Approval is site wide. A decision by the Planning Board has been reached following a duly noticed Public Hearing. Construction of buildings and related site work is authorized by this Decision, subject to the Conditions included herein or attached hereto.

**FACTUAL BACKGROUND**

The site is in the Recreational and Residential Overlay District. The proposed development is to construct multiple residential Age-Restricted Townhouse Two-Family Units totaling Fifty-Two Units, each with no more than two bedrooms, in Twenty-Six Buildings and to renovate and add to the Multiuse Clubhouse Building adding a first floor restaurant and second floor offices, and associated on-site parking, drainage, wastewater treatment, lighting and landscaping, and for reconfiguration of certain of the holes on the 18 hole Golf Course.

(New) The Board issued a Decision of Site Plan Application dated April 5, 2018, which authorized development as above described. However, the Developer would prefer to revise the location of up to thirteen (13) of the duplex buildings in Phase 2 through Phase 4 as shown on the "Revised Overall Site Plan", since it will create a better use of the

Open Space and create a better internal traffic flow. Unit 17 through Unit 34, inclusive, and Unit 45 through Unit 52, inclusive, as shown on the initial "Overall Site Plan" dated September 15, 2017, last revised February 27, 2018, will be relocated as Unit 27 through 52, inclusive. Ten (10) Units (Unit 34 through 44, inclusive, as shown on the initial "Overall Site Plan") will not be relocated, but will be re-numbered on the "Revised Overall Site Plan", as follows:

Unit 35 will be re-numbered Unit 17; Unit 36 will be re-numbered Unit 18; Unit 37 will be re-numbered Unit 19; Unit 38 will be re-numbered Unit 20; Unit 39 will be re-numbered Unit 21; Unit 40 will be re-numbered Unit 22; Unit 41 will be re-numbered Unit 23; Unit 42 will be re-numbered Unit 24; Unit 43 will be re-numbered Unit 25; and Unit 44 will be re-numbered Unit 26.

These ten (10) Units will continue to be permitted and constructed pursuant to the Initial Site Plan Approval Decision dated April 5, 2018 and recorded at the Norfolk County Registry of Deeds in Book 35927, Page 162.

Unit 17 through Unit 34, inclusive, and Unit 45 through Unit 52, inclusive, as shown on the initial "Overall Site Plan" dated September 15, 2017, last revised February 27, 2018, will be relocated as Unit 27 through 52, inclusive, and shall be governed by this Modification of Phases 2 through Phase 4 Decision.

#### **VOTE OF THE BOARD**

After reviewing the application and information gathered during the public hearing process, the Board voted to grant, subject to the conditions noted herein or attached hereto, Site Plan Approval for the Site Plan at a duly posted meeting of the Board held on May 28, 2020 (? Plan has yet to be approved).

(New) Modified Site Plan Approval is for thirteen duplex buildings, each containing age-restricted two-family condominium units, with no more than two bedrooms per unit, on Re-configured Lot 2 containing 12.48 acres and reconfiguration of certain of the holes within the 18 hole Golf Course. Approval is also for accessory buildings, as shown on the submitted plans and as subject to the floor area limitations of Section 4393. b. (8), for utility, maintenance, and wastewater treatment purposes.

The Town Engineering Department, Peter M. O'Cain, PE, served as Planning Board's principal peer reviewer for the site plan submission. The Planning Board also retained Professional Services Corporation, PC (PSC), Thomas C. Houston, AICP, PE, principal, to act as Stormwater Peer Reviewer.

Site Plan approval is granted subject to the conditions set forth hereinafter.

Voting Planning Board Members	Approved/Not Approved
David Blaszkowsky	Approved/Not Approved
Kai Yu	Approved/Not Approved
Robert Maidman	Approved/Not Approved
Pasqualino Pannone	Approved/Not Approved
Shannon McLaughlin	Approved/Not Approved

#### **WAIVER REQUESTS**

The specific provisions of the Recreation and Residential Overlay District requirements from which waivers are requested and the Planning Board action and reasons for denial/approval are listed below. All waivers are subject to the Conditions of Approval, which follow this section.

1. Section 4397. f. Traffic Control and Lighting Sheet - It was requested to allow a waiver of the requirement to include a Traffic Control Sheet because there is no traffic control for construction at this time, and during the construction of Phase III, vehicle traffic will be routed through the existing parking lot.

The waiver is granted because adequate measures are to be established without such Traffic Control Sheet.

It was requested to allow a waiver of the requirement to include a Lighting Sheet because there is no proposed street lighting for the Townhouses; there will be driveway light posts at the Townhouse driveways, which are shown on the Utility Plans as part of the Revised Overall Site Plans.

The waiver is granted because adequate measures are to be established addressing the concern of street lighting.

The newly proposed road, Fairway Drive, is a private way in the middle of a golf course, with no through traffic. The introduction of street lighting along this road will serve no purpose from a safety standpoint but instead introduce light pollution to what is presently a dark area at night. Instead, the project proposes to utilize driveway light posts at the townhouse driveways, which were previously approved for the other Phases of the project. The applicant therefore requests the same waivers for the modifications to the approved site plans.

The waiver is granted because adequate measures are to be established addressing the concern of street lighting. (Board may have comments)

2. Section 4397 t. Sign Package – The Applicant submitted all directional and Traffic Control signage, as they are shown on the Revised Overall Site Plans. But the Applicant did not present “decorative” and “informational” signage. It was requested to not require strict adherence to the requirement that “decorative” and “informational” signage be submitted because these plans have not been yet developed.

The waiver is granted as Applicant has not yet applied for “decorative” and “informational” signs. Applicant will present application (s) for approval for such signage, which shall comply with Section 4393. B. (8) prior to installation.

3. Section 4396. a. (2) – Parking Requirement – Multiuse Clubhouse. The Revised Overall Site Plan includes parking spaces available for use by the Multiuse Clubhouse. The Bylaw requires five spaces for every 1,000 square feet of floor area. The Multiuse Clubhouse contains 35,457 square feet of Floor area which means that the required parking is 180 parking spaces. The Bylaw allows the Planning Board to reduce the number of parking spaces. Applicant hereby requests a reduction in the number of parking spaces of 23 parking spaces for a total of 157 parking spaces.

The waiver is granted.

4. Section 4397 (e) and (f) Site Plan Requirements. It was requested to allow a waiver of the requirement to show “existing conditions” based on an on-the-ground survey based on fieldwork performed no more than two years prior to submission [Sec. 6326 (e)] and to show all existing and proposed buildings and structures and their uses. The Revised Overall Site Plan does not show the current “existing conditions” nor “existing buildings” within Phase 1 of the Original Site Plan dated September 15, 2017, last revised February 27, 2018.

This waiver is granted because the fieldwork performed for the Phase 1 land was just beyond the two (2) year limit, and the changes made to the Phase 1 land does not affect the proposed layout modifications.

Further, it was requested to allow a waiver of the requirement to show the changes made to Lot 4 on the Revised Overall Site Plan. The Overall Site Plan pertains to Lot 1, Lot 2 and Lot 3 as shown on that ANR Plan dated March 27, 2018 entitled “Plan of Land, The Cape Club of Sharon” and recorded with the Norfolk County Registry of Deeds in Plan Book 668, Pages 73 & 74. The Revised Overall Site Plan does not include any portion of Lot 4 or Lot 5 on the ANR Plan. While said Lot 4 of the ANR plan has been subsequently altered, the altered Lot 4 is not germane to the Cape Club of Sharon Development, nor does it have effect or impact the proposed layout modification. Therefore, the Planning Board determines that it is not necessary for the existing conditions plan to show such alteration of said Lot 4. (I would prefer to have the ANR plan now)

This waiver is granted.

5. Section 4397 O. Earthwork Quantities. It was requested to allow a waiver of the requirement to include earthwork quantities in the application because a review of the detailed Revised Overall Site Plan grading and drainage plans details that no material will be removed from the Site.

This waiver is granted

## FINDINGS

The Planning Board makes the following findings regarding compliance of the proposed "Cape Club Estates" development project within the Recreation and Residential Overlay District requirements:

### Overlay District Requirements – 4391.

1. Active Open Space Requirements The Revised Overall Site Plan as submitted includes an 18 hole golf course known as “The Cape Club of Sharon”, and the average length of the holes is 378 yards as detailed on Sheet 31 of the Revised Overall Site Plan, thereby this requirement is met.
2. Restriction. Obligations provided in Condition No. AA.1., hereof, establish that prior to issuance of an initial building permit for a Recreation and Residential Overlay District Project within Phase 2 through Phase 4, Units 27 through 52, the property owner shall cause an Amended Restriction to be recorded in the Registry of Deeds or the Land Court in a form acceptable to Town Counsel prohibiting any Residential use or construction of residential living units on the reconfigured golf course Lot 1 and on the reconfigured Multiuse Clubhouse Lot 3, and should the golf course be abandoned or should its owner determine that continued operation is considered not to be viable, ownership of the golf course lot shall be conveyed to the Town of Sharon in fee simple at no cost within ninety (90) days of such abandonment or determination.
3. Phasing. Phasing Plans for phasing are shown on the Revised Overall Site Plan (Sheet 57). Further, see Condition No. H.1 pertaining to construction Phasing.
4. Sureties. The requirements provided in Condition B.1. and G.2, hereof, establish the method and timing of the posting of security or sureties by the property owner during the construction phase of the Development.
5. (Pat?) Green Development. The Planning Board finds that site improvements have incorporated the green development principles of energy efficiency and sustainability by including those Leadership in Energy and Environmental Design (LEED) Plan for

Neighborhood Development (LEED ND: Plan) strategies set forth in Section 4391. i. in the planning and design of the total Recreation and Residential Overlay District Project, as follows:

- a) Open space has been preserved by restricting the total lot area for Two-Family Dwelling and the Multiuse Clubhouse use and requiring a permanent restriction on development of the golf course lot. The Project will preserve significant open space. The Applicant states that the property located at 25 Tiot Street, Sharon, MA, contains approximately 193 acres of land, currently utilized as a golf course, club house and function facility, and asphalted parking lots. The current Open Space, that area with trees, lawns, ponds and brooks, is approximately 180 acres. The proposed Development Plan will result in no more than 12 acres being removed from Open Space, resulting in approximately 168 acres of open space to remain. As stated by the Applicant, an alternative Development Plan was originally considered, using the R-1 Zoning for single Family Homes, which would have largely done away with any open space, or at the very least, severely reduced the amount of Open Space. Finally, the Owner of the land, 25 Tiot holdings, LLC, has agreed to place an Amended Restrictive Covenant enforceable by the Town on re-configured Lot 1 and re-configured Lot 3 that will prohibit any "residential" use on those parcels forever. Finally, the Owner has also agreed that in the event the "Golf Course" ceases to operate, that Parcel 1 (the Golf Course), would be deeded to the town of Sharon.
- b) The development footprint has been reduced by providing a compact Two-Family neighborhood plan that offers an effective alternative to low-density sprawling Single-Family development. The Development Proposal is of 52 Townhouse Units, located in four Clusters: one at the entranceway prior to the Brook, just off the existing driveway into the Site; one located primarily just off of the existing asphalted Parking Lot; a third located in a cluster toward the rear just behind the Clubhouse and Storage facility; and a fourth located between existing fairway 12 and fairway 14. As previously indicated, a prior development alternative was of single family homes spread throughout the golf course, eliminating the Golf Course itself.
- c) Water Resources have been protected by restricting development within the Groundwater Protection District of the Zoning By-Law. The entire proposed 52 Townhouse Development renovated and expanded restaurant and offices, and Wastewater Treatment Facility, are to be located wholly outside the Groundwater Protection District.
- d) Housing diversity has been increased by providing Two-Family Dwellings thereby increasing housing choices for Town residents. The Zoning Bylaw for the Town of Sharon limits residential use within the RROD to Two-Family Residential Dwellings. This will provide for a more varied housing stock within Sharon, since the Town vastly and predominantly contains single family houses
- e) Infrastructure efficiency has been facilitated by providing compact Two-Family development. The Development Proposal is of 52 Townhouse Units, located in four Clusters: one at the entranceway prior to the Brook, just off the existing driveway into the Site; one located primarily just off of the existing asphalted Parking Lot; the third located in a cluster toward the rear just behind the Clubhouse and Storage facility; and a fourth located between existing fairway 12 and fairway 14. As previously indicated, a prior development alternative was of single family homes spread throughout the golf course, eliminating the Golf Course itself.
- f) Multimodal Access and vehicular safety has been enhanced by providing Primary Access Drives that are signed for shared bicycle use, posted for low speed, and designed to include traffic calming measures. The Development Plan provides for safety signs throughout the Property. Additionally, the Developer will establish safety signals off-site as directed by the Planning Board through the Site Plan Approval; provided, however, that the Traffic Impact Assessment concluded that Warrants have not been met for off-site safety signals.
- g) A healthy walkable neighborhood has been encouraged by providing compact development and by constructing sidewalks and other walkways. The Development Proposal concentrates the residential and multi-clubhouse uses within a compact and conjoined 25.77 acres of the 193.06 Acres.
- h) Water Conservation has been promoted by precluding use of potable water for irrigation and requiring that irrigation of the Two-Family Dwelling Units and the Multiuse Clubhouse must be subject to an Irrigation Management Plan. The requirements established in Condition No. A.6., potable water use from the Town of Sharon for irrigation the Two-Family Dwelling Units and Multiuse Clubhouse is prohibited, and that the Development Proposal includes an Irrigation Management Plan, which is acceptable.
- i) Sustainable use of materials have been increased by use of comparable recycled and locally sourced materials for construction of site improvements pursuant to the obligations contained in Condition No. H.4., incorporated herein.
- j) Vehicle required Miles Traveled (VMT) and energy use have been reduced by providing a compact Two-Family development which limits the required length of the Primary Access Drive system in comparison to the roadway system required for a comparable Single-Family development. The Proposed Development of 52 Townhouses utilizes essentially the existing access drive, with some expansion for the Units on the second drive as well as the extended Units. As a comparison, an alternative Plan of Development of Single Family Houses as stated by the Applicant, required 12,000 linear feet of asphalt access. This provides for a

significant decrease in Vehicle Miles Traveled on a daily basis.

k) Existing drainage patterns have been preserved and water resources shall be protected by using Best Management Practices (BMPs) to limit runoff and reduce Total Suspended Solids and related contaminants. The Drainage Report, indicates that the Proposal utilizes Best Management Practices to limit and reduce Total Suspended Solids.

6. Construction Requirements. Site improvements do comply with the following requirements: (a) Primary Access Drives do have minimum pavement widths of twenty-two (22) feet and minimum centerline radii of fifty (50) feet; (b) Segments of Primary Access Drives serving more than ten (10) dwelling units or serving the Multiuse Clubhouse do have minimum pavement widths of twenty-four (24) feet and minimum centerline radii of one hundred (100) feet; (c) Pavement does consist of four (4) inches of hot mix asphalt pavement, a three (3) inch thick dense graded base, and a twelve (12) inch thick gravel base with hot-mix asphalt curb or berm; (d) The centerline of access drives will have a minimum slope of one (1) percent and a maximum slope of seven percent (7%); (e) A hot mix asphalt curb with a five (5) ft. wide walkway will be provided along one side of the Primary Access Drive with a three (3) inch thick hot mix asphalt pavement with an eight (8) inch thick gravel base; and (f) Stormwater management does comply with the performance standards of Section 4394.c.

7. Operation and Maintenance Requirements. All infrastructure shall remain forever private and operation, maintenance, and repair of vehicle and pedestrian access facilities, parking and loading, utilities, stormwater management, sanitary sewer collection and treatment facilities, and landscaping shall be the responsibility of the property owner, as provided in Condition No. B.1. contained herein. Further, Site Plan review has established the organizational structure, funding mechanisms, and responsibilities of organizations which may include one or more homeowners organizations responsible for infrastructure on the Two-Family lots, one or more business owners organizations if applicable responsible for infrastructure on the golf course and Multiuse Clubhouse lots, and an overall property owners organization responsible for infrastructure shared among the Two-Family, golf course, and Multiuse Clubhouse lots as provided in Condition No. B.1. contained herein.

(added space)

#### **Performance Standards – 4394.**

1. Overall Development. Green development principles of energy efficiency and sustainability have been incorporated by including those Leadership in Energy and Environmental Design (LEED) for Neighborhood Development (ND) strategies of Section 4391.i.

2. Wastewater Collection and Treatment. Section 4394. b. requires that Wastewater collection and treatment shall comply with various requirements therein specified. The Planning Board finds that that the submittal **and approval** of the Groundwater Discharge Permit issued by DEP will demonstrate compliance with Section 4394. b.

3. Stormwater Management. Stormwater management facilities do comply with the following requirements as detailed in the Revised Overall Site Plan: (a) the Stormwater management facilities attenuate increases in the rate of off-site discharge for the one-year frequency storm event; (b) the Stormwater management facilities incorporating low impact design measures have been used to abate contaminants from the Townhouse portion of the development; (c) Low impact design using on-lot stormwater management and recharge have been used to the maximum extent practicable including separate roofwater recharge facilities including raingardens and lawn depressions, and porous pavement for unit driveways and walkways. Grading for Two-Family Dwellings including its driveway grading, should disconnect lot runoff from the Primary Access Drive; and the stormwater management system has provided for collection and treatment of runoff from the ten (10) year frequency storm event and has provided for no increase in the peak rate of discharge for the ten (10) and one hundred (100) year frequency storm events. Rainfall is based on NOAA Atlas 14.

4. Irrigation. As specified in Condition No. AA.6., below, irrigation of the Two-Family Dwelling Lot and the Multiuse Clubhouse Lot (but not the golf course area), comply with an Irrigation Management Plan

5. Landscaping. Landscaping has been provided for all Two-Family Dwelling lots and the Multiuse Clubhouse lot (but not the golf course) pursuant to certain criteria, and a Turf Management Plan as required in Condition No. HH.2.

6. Water Conservation. Buildings have, as practicable, incorporated water conservation devices including water efficient plumbing fixtures and appliances pursuant to the requirement in Condition No. H.3., hereto. The Planning Board finds that issuance of a Plumbing Permit by the Town of Sharon shall demonstrate compliance with Section 4394.f.

7. Traffic Mitigation. Off-site intersection upgrades have been deemed not to be necessary, as provided in the "Transportation Impact Assessment Proposed Residential Development, Sharon, Massachusetts" dated September, 2017 as Supplemented by Memorandum dated November 20, 2017. However, pursuant to the requirement in Condition No. AA.3., hereto, there are requirements regarding on-site traffic flow and patterns.

#### **Dimensional Requirements – Section 4395**

The Recreation and Residential Overlay District Project does comply with dimensional requirements as follows:

- a) The proposed lot area of the development is 193.06 acres, which exceeds the minimum requirement of 180 acres.
- b) The proposed lot area of the development for Two-Family Dwelling Use is 12.48 acres, which is less than the 20 acre maximum and the proposed lot area of the development for Multi-Use Clubhouse Use without golf course is 13.29 acres, which is less than the 24 acre maximum.
- c) The proposed number of Two-Family dwellings is Fifty-Two (52), which does not exceed the Fifty-Two (52) Dwelling Unit



maximum allowed; only one (1) Multi-Use Clubhouse is proposed, which does not exceed the One (1) Multiuse Clubhouse allowed; and the proposed number of bedrooms per dwelling units is 104 bedrooms, which does not exceed the 104 bedroom maximum allowed.

d) The proposed development coverage by impervious materials is 4.72% percent, which does not exceed the maximum area of impervious coverage of 15%; and the proposed natural vegetation coverage of the proposed development is 40%, which exceeds the minimum coverage of natural vegetation of 10%.

e) **(Not done)** The filing of the ANR Plan will provide that the proposed development will include three (3) lots, reconfigured Lot 1 shall contain the Golf Course, reconfigured Lot 2 shall contain the 52 multi-Family Dwelling Units, and reconfigured Lot 3 shall contain the Multi-Use Clubhouse, and therefore, the Golf Course and the Multiuse Clubhouse shall be located on separate Lots.

f) As detailed on the Revised Overall Site Plan, each of the twenty-six (26) Two-Family Dwellings have access to a Primary Access drive. Additionally, none of the Two-Family Dwellings are provided with curb cuts to a public way existing as of September 18, 2017, the date of the Application for Site Plan Approval.

g) As detailed on the Revised Overall Site Plan, the following are found:

(1) The lot area for reconfigured Lot 2, the Townhouse Lot, is 543,628.8 square feet (12.48 acres), which is greater than sixty thousand square feet per lot minimum, and the lot density per dwelling unit is 10,454.4 square feet, which is greater than the 8,500 square feet per dwelling unit minimum as required by Section 4395 c. (1).

(2) The lot area for reconfigured Lot 1 (the Golf Lot) is 167.29 acres, which is greater than the 160 acres as required by Section 4395 c. (2).

(3) The lot area of reconfigured Lot 3 (the Multiuse Clubhouse Lot) is 13.29 acres, which is greater than the 10 acre minimum as required by Section 4395 c.(3).

(4) The lot width for reconfigured Lot 1 is 282, for reconfigured Lot 2 is 307 and for reconfigured Lot 3 is 258, all of which are greater than the minimum lot Width requirement of 210 **(210?)** feet as required by Section 4395 c. (4).

(5) The lot frontage for reconfigured Lot 1 is 279.94 feet, for reconfigured Lot 2 is 282.57 feet, and for reconfigured Lot 3 is 423.68 feet, all of which are equal to or greater than the lot frontage requirement of 140 feet, which is two thirds of the required lot width of 210 feet, as required by Section 4395 c. (5).

(6) The lot coverage for reconfigured Lot 1 is 2%, for reconfigured Lot 2 is 22.6%, and for reconfigured Lot 3 is 2%, all of which are equal to less than the lot coverage requirement of 25% as required by Section 4395 c. (6).

(7) The lot coverage of impervious materials for reconfigured Lot 1 is 0.12%, for reconfigured Lot 2 is 38.06%, and for reconfigured Lot 3 is 34.49%, each of which is less than the maximum permitted lot coverage of impervious materials requirement of 10%, 50% and 40%, respectively, as required by Section 4395 c. (7).

(8) The square footage of the of the Multiuse Clubhouse, as renovated, is 35,457 square feet, which is less than the 50,000 maximum permitted Gross Floor area allowed by Section 4395 c.

(9) The minimum street setback for reconfigured Lot 2 is 77.8 feet from Tiot Street (for Units 7 & 8), and for reconfigured Lot 3 is 26 feet from Edge Hill Road (for the Maintenance Building), which are both less than the maximum permitted 100 feet as required by Section 4395 c. (9). However, by Variance granted by the Zoning Board of Appeals filed with the Town Clerk on March 15, 2018, a variance of the street setback for Units 7 & 8 has been granted to 77 feet, for which the proposed Units 7 & 8 are in compliance. Further, the Maintenance Building on Edgehill Road predated the Zoning of the RR0D, and therefore is a pre-existing non-conforming use and structure.

(10) The side line set-back for reconfigured lot 2 is 30 feet, and for reconfigured Lot 3 is 52 feet, which are both greater than the minimum side line setback of 15 feet as required by Section 4395 c (10).

(11) The separation between principal or accessory buildings on the same lot for reconfigured Lot 2 is 11 feet which is greater than or equal to the 10 feet required by Section 4395 (11). The multiuse clubhouse is the only building on reconfigured Lot 3 so the requirement of the minimum separation between principal or accessory buildings on the same lot is not applicable.

(12) The maximum separation between principal buildings for Multiuse Clubhouse Use on the same lot for reconfigured Lot 3 which is 50 feet required by Section 4395 (12) is not applicable because there is only one building, the multiuse clubhouse, on reconfigured Lot 3.

h) As detailed on the Revised Overall Site Plan, the following are found:

(1) The Maximum Building Height for Dwellings on reconfigured Lot 2 is 35 feet, which is not greater than the more restrictive of 35 feet or 2 1/2 stories.

(2) The Maximum Building Height for the addition to the Multiuse Clubhouses on reconfigured Lot 3 is 36 feet, 10 inches, which is not greater than the more restrictive of 40 feet or 2 stories.

(3) The Maximum Building Height for Accessory Buildings on reconfigured Lot 2 or 3 is 30 feet, which is not greater than the more restrictive of 30 feet or 2 stories.

#### **Required Off Street Parking and Loading – 4396**

The off-street parking and loading requirements have been met, as follows:

a) As detailed on the Revised Overall Site Plan, each of the dwelling units contains two parking spaces within their driveways, as required by Section 4396 a. (1), and the Multiuse Clubhouse having 35,457 square feet of floor area, has available to it 157 parking spaces, which means that the Revised Overall Site Plan shows 23 fewer parking spaces available to the Multiuse Clubhouse than the 180 parking spaces required by Section 4396 a. (2). The Applicant has requested a waiver **(Note waiver request)** of this requirement to allow provision of 157 parking spaces.

- b) As detailed on the Revised Overall Site Plan for the Two-Family Dwellings: (i) each of the parking spaces are located within 20 feet of the residence, which is less than the 100 feet required; (ii) each parking space has direct access to an access drive; and (iii) each parking space is capable of containing a rectangle not less than 9 by 18 feet.
- c) As detailed on the Revised Overall Site Plan for Lot 1 and Lot 3: (1) all parking spaces available to the Multiuse Clubhouse are located within 700 feet; (2) each parking space has direct access to an aisle or access drive and is capable of containing a rectangle not less than 9 by 18 feet; and (3) each parking aisle is at least 24 feet wide.
- d) As required by Condition No. 4 hereto, the Homeowner and property owner organization documents must include provisions for establishing and enforcing parking restrictions and prohibitions.
- e) As detailed on the Revised Overall Site Plan, there is provided one (1) loading space for the Multiuse Clubhouse, and the loading space has direct access to an access drive and contains a rectangle of at least 12 feet by 40 feet and a vertical clearance of 14 feet. .

#### **Site Plan Review and Approval - 4397**

The Planning Board specifically finds that with respect to Phase 2 through Phase 4, Units 27 through 52, inclusive, the following were submitted by the Applicant, in accordance with Section 4397 of the Zoning Bylaw:

- a. On March 21, 2019, the Applicants did submit sketch plans and meet informally with the Planning Board prior to formal submission of a Site Plan Approval Application.
- b. On December 11, 2019, the Applicant filed a copy of the Site Plan application with the Town Clerk and a copy of the application, including the certification by the Town Clerk, was filed forthwith by the petitioner with the Planning Board. The Planning Board held a public hearing, on December 19, 2019, for which notice has been given as provided in M.G.L. Chapter 40A.
- c. The Revised Overall Site Plans do show the total Recreational and Residential Overlay District Project including all lot boundaries and all proposed phases of development within the Recreation and Residential Overlay District Project, and all contiguous land within the Recreation and Residential Overlay District.
- d. The Revised Overall Site Plans are drawn to a scale of forty feet (40') to the inch (or such other scale as the Planning Board may accept). The Revised Overall Site Plans are prepared by a multidisciplinary team and are signed and sealed by a Massachusetts Civil Professional Engineer (PE), a Massachusetts Professional Land Surveyor (PLS), and a Massachusetts Registered Landscape Architect (RLA).
- e. The Existing conditions survey is based upon on-the-ground fieldwork. Layout has been tied to the Mass State Coordinate System and elevations utilize North American Vertical Datum (NAVD 88).
- f. The Revised Overall Site Plans do include a cover sheet, layout sheet, grading and drainage sheet, landscaping sheet, details sheet, a sedimentation and erosion control sheet, and a construction phasing sheet. The Plans do show, among other things, all existing and proposed lot boundaries, buildings and structures and their uses, means of building egress, parking areas, driveway openings, driveways for individual dwelling units, and zoning summary table.
- g. Revised Overall Site Plans do show existing and proposed grading with a one foot (1') contour interval and spot grades based on NAVD 88.
- h. Revised Overall Site Plans do show all on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified and all wetland flag locations are numbered and placed upon the Revised Overall Site Plan.
- i. Revised Overall Site Plans do show stormwater management systems; water distribution systems; and, cable utility systems. The detailing of the sanitary sewer collection systems and wastewater treatment systems including septic systems in compliance with Massachusetts Department of Environmental Protection and Sharon Board of Health Regulations, if and as applicable, are required pursuant to Condition No. G.1., hereof.
- j. The Applicant submitted the "Stormwater Management Report, Limit of Work Analysis, Project Site: The Cape Club of Sharon, 25 Tiot Street, Sharon, Massachusetts 02067," dated January 9, 2020, as prepared by Center Mount Land Development, LLC, which included a narrative, a Stormwater Checklist signed and sealed by a Civil Professional Engineer (PE), TR-55/TR-20 based hydrologic analysis, rational formula pipe sizing calculations, a Long-Term Pollution Prevention Plan (Standards 4-6), a Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan (Standard 8), and an Operation and Maintenance Plan (Standard 9).
- k. Revised Overall Site Plans do show Primary Access Drives, parking areas, accessible parking spaces and accessible routes, loading and service areas, pedestrian and bicycle facilities, waste disposal facilities and dumpsters, and open space.
- l. Revised Overall Site Plans do also show all proposed Two-Family Dwellings and related site improvements.



- m. Revised Overall Site Plans do show a detailed plan of all golf course elements to be established or existing elements to be disturbed or changed including fairways, tees, greens, rough areas and hazards, cart paths, golf driving range and practice facilities, irrigation system, irrigation wells, maintenance facilities; parking and loading areas; and do show a detailed plan of open space including Natural Vegetation Areas.
- n. Revised Overall Site Plans do show all components of the Multiuse Clubhouse including means of building egress, parking and loading areas, pedestrian and bicycle facilities, refuse and other waste disposal facilities, and dumpsters.
- o. Earthwork quantities have been provided. A waiver of this requirement has been granted. (They were not provided)
- p. Revised Overall Site Plans do show all hydrants, fire protection systems, site lighting, and lighting fixture and pole details and all lighting fixtures shall be designed based upon dark skies principles by minimizing the upward projection of light.
- q. Revised Overall Site Plans do include landscape plantings and planting details, and all hardscape elements. Site lighting fixture locations shall be shown for coordination purposes. The drawings do show the quantity, location, species, and height or caliper of all trees and shrubs and the species, size, and quantity of all groundcovers. Details have been provided for all structures and hardscape elements and planting details have been provided for coniferous and deciduous trees and shrubs of each size.
- r. The Cape Club LEED ND: Plan Report dated January 17, 2018 had been submitted with the initial Application hearing evaluating the LEED for Neighborhood Development: Plan points for which the site improvements within the Recreation and Residential Overlay District are eligible.
- s. Cape Club Clubhouse, Sharon, MA Architectural Elevations and Floor Plans, drawn by The MZO Group, Designers, Architects & Planners, 335 Main Street, Suite 201, Stoneham, MA 02180, consisting of four sheets, Front Elevation, Rear Elevation, First Floor Plan and Second Floor Plan, dated November 28, 2017 had been submitted with the initial Application hearing showing typical architectural plans and elevations and colors and materials have been submitted for the Two-Family Dwelling type, and they remain effective and incorporated herein this Modified Application Decision.
- t. A sign package has been submitted including all directional and Traffic Control signage, as they are shown on the Revised Overall Site Plans, including locations, dimensions, colors, materials, finishes, methods of illumination and illumination levels, and methods of structural support. The Applicant did not present “decorative” and “informational” signage, for which a waiver has been granted to allow deferred submittal for approval, if any.
- u. A traffic study, “Transportation Impact Assessment Proposed Residential Development, Sharon, Massachusetts” dated September, 2017, as Supplemented by Memorandum dated November 20, 2017, prepared by Vanasse & Associates, Inc., Transportation Engineers & Planners, 35 New England Business Center Drive, Suite 140, Andover, MA, prepared for Coneco Engineers & Scientists, Bridgewater, Massachusetts had been submitted with the initial Application dated September 18, 2017, and remains effective and incorporated herein this Modified Application Decision; which complies with the requirements of Section 4397. U.

#### **Site Plan Review and Approval Criteria – 4397. w.**

Criteria. In granting Site Plan approval, the Planning Board has reviewed the various reports and submittals made by the Applicant, which has been reviewed by the Town Engineer, Assistant Town Engineer, and an outside Consultant regarding stormwater management. Further, the Planning Board held multiple hearings reviewing and discussing the Development. Based on these reports and reviews, the Planning Board concludes that overall, the Revised Overall Site Plan as presented by the Applicant incorporates and full fills the criteria established in Section 4397. w. of the Zoning Bylaws.

#### **SPECIFIC CONDITIONS OF APPROVAL**

The Modification of Phase 2 through Phase 4 Decison, (effecting Units 27 through 52, inclusive), as shown on the Revised Overall Site Plan, are subject to the following conditions of the Approval of the Planning Board as herein specified.

##### **A. General (I think all of these items should be in this decision)**

AA.1. Residential Use Prohibition Restriction, Conveyance on Abandonment and Town Meeting Vote – Reconfigured Lots 1 and 3. Pursuant to Section 4391. f., prior to issuance of an initial building permit for any two-family townhouse building or structure within Phase 2 through Phase 4, Units 27 through 52, inclusive, of the Development, the Owner shall cause documents to be recorded in the Registry of Deeds or the Land Court in a form acceptable to Town Counsel, as follows: a) a Restriction prohibiting any Residential use or construction of residential living units on the reconfigured golf course lot and on the reconfigured Multiuse Clubhouse lot; b) a Requirement that should the reconfigured golf course be abandoned (as defined in Section 4391. f.) or should its owner determine that continued operation is considered not to be viable, ownership of the reconfigured golf course lot shall be conveyed to the Town of Sharon in fee simple at no cost within ninety (90) days of such abandonment or determination. Further, prior to recording the reconfigured Restriction, the Town of Sharon, by an appropriate Town Meeting Vote, shall have “released” the

previous Residential Restriction on portions of Lot 1 and Lot 3 which will now be used as "residential" as reflected on the Revised Overall Site Plan".

AA.2. Operation & Maintenance Standards. In perpetuity, the operation, maintenance, and repair of all site improvements shall fully comply with the following:

- a) Operation & Maintenance Plan dated September 15, 2017 and last revised February 27, 2018 prepared by Coneco Engineers and Scientists.
- b) Turf and Landscape Management Plan dated March 28, 2018, prepared by Coneco Engineers and Scientists.
- c) Irrigation Management Plan dated March 28, 2018, prepared by Coneco Engineers and Scientists. If proposed for irrigation, on-site well water may be used if authorized by agencies having jurisdiction, but drawdown affecting adjacent water supply wells shall be minimized.

AA.3.. Traffic Mitigation. The Applicant shall make those improvements as are detailed in the "Transportation Impact Assessment Proposed Residential Development, Sharon, Massachusetts" dated September, 2017, as Supplemented by Memorandum dated November 20, 2017, namely: (a) The Site Driveway be placed under STOP-sign (Manual of Uniform Traffic Control Designation R1-1) control, with a painted STOP-bar included; (b) All signs and other pavement markings to be installed within the Project site shall conform to the applicable standards of the current Manual on Uniform Traffic Devices (MUTCD); and (c) Any proposed landscaping or building features should not exceed 24 inches in height or should be placed out of the lines of sight for motorists exiting the Site and those approaching the driveway on Tiot/Union Street.

A.4.. Age-Restriction. The fifty-two condominium units to be constructed shall be age-restricted, meaning that at least eighty (80%) percent of the occupied units permitted hereunder shall house at least one person who is age fifty-five (55) years of age or older, and the development shall adhere to a policy that demonstrates intent to house persons who are age fifty-five (55) and older. The remaining twenty (20%) percent of the occupied units will not be age-restricted. The eighty (80%) percent age-restricted condominium units shall be subject to an age restriction described in a deed or other document approved by Town Counsel for the Town of Sharon and shall comply with the provisions of the Fair Housing Act and M.G.L. c. 151B.

AA.5.. 226 Edge Hill Road. The Applicant shall cause additional visual screening along a portion of the western side of the property located at 226 Edge Hill Road, which is adjacent to the Green for Hole 5, as follows: establishment of a living buffer of trees along the 120 foot stretch behind the Hole 5, which trees shall be 6'-8' from the top of the root ball at the time of planting, and shall be Fir (*Abies balsamea* or *Abies concolor*), Eastern Redcedar (*Juniperus virginiana*), or Spruce (*Picea abies*), planted at 15 ft. on center or Green Giant Arborvitae (*Thuja 'Green Giant'*) planted at 8 ft. on-center, as selected by the Applicant. Planting shall occur during and no later than May 31, 2020, subject to seasonal issues.

AA.6. Irrigation. In perpetuity, irrigation on any lot containing Two-Family Dwellings or the Multiuse Clubhouse (but not including the golf course) shall comply with Section 4394.d., and shall (a) not be allowed to use potable water from the Sharon municipal water distribution system. and (b) be subject to an Irrigation Management Plan dated March 28, 2018 that incorporates staged drought management provisions and incorporates use of non- municipal water and treated effluent application to turf to the extent allowed by regulatory agencies. On-site well water may be used if authorized by agencies having jurisdiction (Board of Health), but drawdown (excluding drawdown by wells serving the golf course) affecting adjacent water supply wells shall be minimized. Irrigation of the golf course lot or any portions of the golf course within easements on contiguous lots to the golf course lot shall not be required to comply with the above restrictions.

AA.7. Memorandum of Understanding. The project shall comply fully with all provisions of the Memorandum of Understanding (the "MOU") dated March 22, 2017, as amended on April 28, 2017, and March 26, 2018 between the Applicant and the Board of Selectmen on behalf of the Town of Sharon, copies of which are attached hereto and incorporated herein.

AA.8. Parking Review. The Board's agents have right of entry to the site in order to observe parking for the multiuse clubhouse from time to time following renovation and occupancy. Should parking shortfalls be observed, the Board reserves the right to require reasonable remedial action including construction of 23 additional permanent or temporary overflow parking spaces pursuant to Section 4395. D (3) c. (4) or implementation of parking management measures.

AA.9. No on-street parking for any of the uses within the development shall be allowed within or on the public ways abutting the site, including Tiot Street and Edge Hill Road.

AA.10. 236 Edge Hill Road. The Applicant shall cause additional visual screening along a portion of the northerly side of the property located at 236 Edge Hill Road, adjacent to the fairway for Hole 5 where eight (8) existing spruce trees run on the Golf Course property parallel to the northerly lot line with 236 Edge Hill Road, as follows: the planting of eight (8) trees staggered with the existing Spruce trees, which trees shall be 6'-8' from the top of the root ball at the time of planting, and shall be Fir (*Abies balsamea* or *Abies concolor*) or Spruce (*Picea abies*), as selected by the Applicant. Planting shall occur during and no later than May 31, 2020, subject to seasonal issues.

AA.11. Model Unit. Prior to the issuance of a Groundwater Discharge Permit, the Applicant shall be allowed to be able to construct a "Model" unit to be located at one of the locations of those Units as shown on the Revised Overall Site Plan for showing purposes to the general public, only ("Model Unit") and that is not occupiable for human habitation before issuance of the Groundwater Discharge Permit. The Applicant agrees not to connect the Model Unit to sewer and the Applicant will use a port-o-potty, and will agree on the face of whatever permit is necessary that this structure is not being built for human habitability until a Groundwater Discharge Permit is obtained. The issuance of a Building Permit for this non-occupiable Model Unit shall not require the posting of any bond for a covenant release.

**B. Organizational Documents** For said organizational documents, please see the following: (a) that Declaration of Trust of The Cape Club of Sharon Management Trust, dated July 5, 2019 and recorded at the Norfolk County Registry of Deeds in Book 36949, Page 347; (b) ) that Declaration of Covenant, Conditions, Restrictions and Easements, dated July 5, 2019 and recorded at the Norfolk County Registry of Deeds in Book 36949, Page 366; (c) ) that Master Deed Cape Club Estates of Sharon Condominium, dated July 9, 2019 and recorded at the Norfolk County Registry of Deeds in Book 36949, Page 422; and (d) ) that Declaration of Cape Club Estates of Sharon Condominium Trust, dated July 9, 2019 and recorded at the Norfolk County Registry of Deeds in Book 36949, Page 467.

**BB.1.. Operation and Maintenance Requirements.** Pursuant to Section 4391. k., all infrastructure within Project shall remain forever private. Operation, maintenance, and repair of vehicle and pedestrian access facilities, parking and loading, utilities, stormwater management, sanitary sewer collection and treatment facilities, and landscaping shall be the responsibility of the property owner or the Cape Club Estates Condominium and they will adhere to conditions for operation and maintenance as set by the Conservation Commission, Mass DEP for the septic system operation and the requirements of the submitted stormwater management plan operation and maintenance section, which will be included in the Master Deed to be recorded at the Norfolk County Registry of Deeds. The organizational structure, funding mechanisms, and responsibilities of organizations which may include one or more homeowners organizations responsible for infrastructure on the Two-Family lots, one or more business owners organizations if applicable responsible for infrastructure on the golf course and Multiuse Clubhouse lots, and an overall property owners organization responsible for infrastructure shared among the Two-Family, golf course, and Multiuse Clubhouse lots shall be established and shall comply with the following requirements, all of which shall be drafted by Legal Counsel for the Golf Course/Multiuse Clubhouse and Town Counsel and presented to the Planning Board for approval within sixty (60) days after this Decision has been recorded at the Norfolk County Registry of Deeds:

- (a) The Organizational Structure shall be as follows and in compliance with the outline submitted by Legal Counsel for the Applicant, dated March 28, 2018, and delivered to the Town Engineer, which shall be incorporated herein. Provided that changes to the sequencing and non- material changes to the substantive requirements, if approved by Town Counsel, and which do not violate any other condition or provision of the Approval, will not be a violation of this condition:
  - (i). Master Deed for Cape Club Estates, the 52 Townhouse Units. An organization of Unit Owners will be established to manage and operate the common elements of the Condominium, meaning, the structures and common elements of the Condominium. Provided, however, that the Owner of the Golf Course/Multiuse Clubhouse shall maintain, repair and operate the landscaping, roadway and drainage infrastructure, in order to coordinate the landscaping and access road maintenance so that they will be kept in a first-class condition suitable for an upscale golf course. The Owner will provide for the services and work and bill the Condominium Association for its proportionate share of costs and expenses.
  - (ii). Waste Water Treatment Facility Sharing Agreement. DEP requires that the Waste Water Treatment Facility be owned and operated by a single entity, and in this case, it will be the Owner of the Golf Course/Multiuse Clubhouse. A Sharing Agreement shall provide that the Owner must manage the facility and all its appurtenance's, and file security with and as determined by DEP. The Owner will then charge all parties their appropriate share based on usage, which will be metered. The Owner and the Town of Sharon shall prepare a contingent agreement with respect to a possible future conveyance of the Golf Course Lot to the Town of Sharon as is required pursuant to Section 4391. f. regarding the operation and maintenance of the Waste Water Treatment Facility after the conveyance.
  - (iii). Declaration of Covenants, Conditions and Restrictions. A Declaration of Covenants, Conditions and Restrictions document shall be prepared to establish various cross easements and obligation and responsibilities across the Multiuse Club House, Golf Course and Two-Family Dwelling uses within the Site, including the two-bedroom limitation for each condominium unit, as well as establishing and enforcing parking restrictions and prohibitions. Further, aspects of the Memorandum of Understanding between 25 Tiot Holdings, LLC and the Town of Sharon, dated March 22, 2017, as amended on April 25, 2017, and March 26, 2018 are to run with the land, and shall be incorporated into the Declaration. Such Declaration of Covenants shall be in a form approved by Town Counsel to the Town of Sharon and recorded prior to the issuance of the first certificate of occupancy.
- (b) The Funding Mechanism shall be as follows:
  - (i). Initial Development. The Owner/Developer of the Golf Course/Multiuse Clubhouse will initially be responsible for all construction and improvement costs and expenses. This will include the roadways and drives, drainage infrastructure, storm water structures, water lines and utilities (all such work signed-off by the Town of Sharon shall be known as "Initial Development"). The Owner/Developer will also be required to fund any and all security to the Town of Sharon.
  - (ii) Subsequent to Initial Development. The Owner of the Golf Course/Multiuse Clubhouse shall be responsible for the management, maintenance and repair of the roadways and drives, drainage infrastructures, stormwater structures, water line and utilities and shall apportion the costs and expenses thereof with the 52 Unit Townhouse Condominium.
  - (iii). WWTF. The Owner/Developer of the Golf Course/Multiuse Clubhouse will initially be responsible for construction and improvement of the waste water collection and treatment facility. Further, the Owner/Developer will have the continuing responsibility for the operation and management of the Waste Water Collection and Treatment Facility, and will be required to post security with DEP and be required to maintain and operate the Waste Water Collection and Treatment Facility. The Waste Water Treatment Facility Usage costs and expenses going forward will be billed according to usage, which will be measured by meter.
- (c) Disclosure to Condominium Buyers. The Owner/Developer/Builder shall be obligated to deliver, at the time of negotiation of the purchase and sales agreement, to each potential Buyer of a Townhouse Condominium Unit the "Condominium Documents", which will include the Master Deed, Condominium Trust, and Rules and Regulations, as well as all the costs and responsibilities of said Townhouse Unit Owner during their ownership of said Townhouse Condominium Unit.

**CC. Compliance with State Requirements.**

**CC.1. MEPA.** Pursuant to the MEPA review thresholds of 301 CMR 11.03 (11) Areas of Critical Environmental Concern, an

Environmental Notification Form (ENF) was filed with the MEPA Unit of the Executive Office of Energy and Environmental Affairs and a Certificate of the Secretary on the Environmental Notification Form for The Cape Club of Sharon was issued on July 13, 2018, EA15855, indicating that the project does not require an Environmental Impact Report (EIR). As a consequence of the relocation of up to thirteen of the Duplex Buildings as authorized by this Modified Site Approval Decision, except for all Units within Phase 1, and the re-numbered Units No. 17 through No. 26, inclusive, no building permit may be issued prior to a filing **and approval** of a Notice Of Project Change (NPC) with the MEPA Unit of the Executive Office of Energy and Environmental Affairs and a determination by the Secretary pursuant to said NPC.

CC.2. Surface Stormwater Basins. For surface stormwater basins that are unconstructed as of the date of Decision, the design engineer shall recalculate the inflow hydrograph analyzing the basin surface area as impervious (CN=98). The design engineer shall use best reasonable efforts to minimize any increase in the peak rate of discharge by modifying the design. Revised stormwater calculations and plan revisions if any, shall be submitted to the Town Engineer/Peer Review Consultant for review within 60 days of the date of Decision. The Town Engineer/Peer Review Consultant shall review the design and provide comments. The design engineer shall revise the design in response to the Town Engineer/Peer Review Consultant's comments and resubmit final calculations and plans within 30 days of receipt of comments.

#### **D. Compliance with Local Requirements**

DD.1. Order of Conditions. The Applicant shall file a Notice of Intent or Amended Order of Conditions with the Conservation Commission for any area within the Modified Overall Site Plan for Phase 2 through Phase 4, Units 27 through 52, inclusive, that requires site work for the Project. An Order of Conditions must be approved and issued by the Conservation Commission prior to any work or construction activity takes place within any resource Area within the jurisdiction of the Conservation Commission.

DD.2. Earth Removal Permit. Prior to any import of fill within the Site, the Applicant shall obtain an Earth Removal Permit from the Sharon Board of Health pursuant to Chapter 300: Board of Health Regulations, Article 18: Earth Relocation Regulations, Section 2.

DD.3. Zoning Bylaws. The project shall fully comply with all applicable provisions of the Town of Sharon Zoning Bylaw, as amended from time to time unless and as modified or varied, by relief from the Zoning Board of Appeals..

DD.4. In case of conflict among this Decision and the Zoning Bylaws or General Bylaws of the Town, the Town of Sharon Bylaws shall govern. In case of conflict between this Decision and the submitted site plans, the terms of this Decision shall govern.

#### **EE. Conditions Precedent to Commencement of Project**

EE.1. Prior to construction within Phase 2 through Phase 4, Units 27 through 52, inclusive, a final detailed construction schedule should be submitted and approved by the Town Engineer. The schedule should be regularly revised and submitted as construction proceeds. A pre-construction meeting will be held with the Town Engineering Department, and any Town officials deemed necessary at least one week prior to any site work relating to Townhouse Condominium Unit construction commencing. All erosion controls deemed necessary by the Conservation Agent will be in place. The Town of Sharon will be notified at least 72 hours prior to any construction work taking place at the site. This includes clearing, excavation, tree cutting and the placement of construction equipment at the site.

#### **F. Conditions Precedent to Issuance of Building Permit** (These items should be ion this decision, especially F2 regarding groundwater discharge permit and F4 regarding bonding)

FF.1. Restriction. Prior to issuance of an initial building permit for any Unit 27 through 52 within Phase 2 through Phase 4, inclusive,, the property owner shall cause an Amended Restriction to be recorded in the Registry of Deeds or the Land Court in a form acceptable to Town Counsel prohibiting any Residential use or construction of residential living units within the reconfigured golf course lot and within the reconfigured Multiuse Clubhouse lot and complying with the requirements of Section 4391. f. of the Zoning Bylaw.

FF.2. Groundwater Discharge Permit or Approval to Use. Prior to the issuance of a building permit (foundation permit excluded from this requirement) for any Townhouse Condominium Unit 27 through 52 of the revised Phase 2 through Phase 4, inclusive,, the Applicant shall have furnished a copy of a DEP Groundwater Discharge Permit or Approval to use to the Planning Board with respect to Units 27 through 52 within the revised Phase 2 through Phase 4, inclusive,.

FF.3. Addition to Multiuse Clubhouse. Deleted in its Entirety

FF.4. Sureties. Pursuant to Section 4391. h., and by Phase, the Owner shall post lot covenants and other, instruments of surety in the form outlined below, (hereinafter instruments) to be provided prior to the issuance of any building permit (foundation permit excluded from this requirement) for any two-family townhouse structure for each phase of the project, if applicable, to the benefit of the Town of Sharon in amounts to be reasonably established by the Planning Board upon advice from the Town Engineer in order to secure incomplete site infrastructure improvements. The form of surety shall be approved by Town Counsel and shall be one of the following: cash, an irrevocable letter of credit from a financial institution; a tripartite agreement with a financial institution; or a performance bond. Such surety shall provide, inter alia, that payment(s) from such surety will be "on demand," that is, issued

without question solely upon notice by the Planning Board to the financial institution. Release mechanisms for building permits for any two-family townhouse structure shall be as provided in the Planning Board's subdivision regulations for release of lots. Except as provided below, excluded from this requirement of Sureties is the Wastewater Treatment Facility costs and expenses. The Town recognizes that DEP will require sureties for the maintenance, repair and/or the replacement of the Wastewater Treatment Facility. If for any reason, the DEP fails to impose such sureties, or if such sureties are inadequate in the opinion of the the Town Engineer, as measured by Wastewater Treatment Facilities in similar situations, the Board of Health may require adequate sureties for the maintenance, repair and/or replacement of the Wastewater Treatment Facility.

#### **G. Conditions Precedent to Issuance of Certificate of Occupancy**

GG.1. Wastewater Collection and Treatment. Prior to the issuance of a Certificate of Occupancy for Units 27 through 52, inclusive, the Applicant shall furnish a copy of a DEP Approval to Start-Up the Wastewater Treatment Facility, or other DEP Approval, to the Planning Board. In perpetuity, the wastewater collection and treatment shall comply with the provisions of Section 4393. b. (6) and Section 4394, including the following:

- a) Wastewater shall be collected and treated in compliance with requirements of the Massachusetts Department of Environmental Protection and the Sharon Board of Health, if and as applicable.
- b) Wastewater may be discharged to sanitary sewers tributary to the sanitary sewer systems in other municipalities or the Massachusetts Water Resources Authority sanitary sewer system.
- c) Wastewater may be discharged to an on-site wastewater treatment plant authorized by a DEP Groundwater Discharge Permit and as authorized by the Sharon Board of Health, if an as applicable, as provided by Town Counsel.
- d) 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.
- e) Any on-site sanitary sewers shall be subject to ongoing requirements for leak detection and repair, as required by DEP.
- f) If the DEP approves a temporary storage tank for the project, all pumping records will be provided to the Board of Health Agent within 30 days of each tank pumping.
- g) There is in place requirements in the DEP Groundwater Discharge Permit that regulate how the Wastewater Treatment Facility will be used by the Unit Owner organization and a sharing agreement between the Unit Owners organization and the owner of the Wastewater Treatment Facility, which agreement shall not conflict with the DEP Groundwater Discharge Permit.
- h) Easements are executed and recorded at the Norfolk Registry of Deeds between the Unit Owners organization and the owner of the Wastewater Treatment Facility to allow use of the Wastewater Treatment Facility by the Unit Owner organization.
- i) All other relevant conditions required to be satisfied prior to issuance of a Certificate of Occupancy under this Site Plan have been satisfied.

GG.2. Utilities. Prior to the issuance of a Certificate of Occupancy for any Townhouse Condominium Unit 27 through 52, the utilities of water, drainage and sewer piping shall be installed and operational for that Townhouse Condominium Unit.

#### **H. Conditions Relating to Construction. (I want these items in this document)**

HH.1. Construction Requirements and Phasing. Pursuant to Section 4391. j., site improvements shall comply with the following:

(a) Materials for site improvements shall comply with the Sharon Planning Board's Rules and Regulations Governing the Subdivision of Land and shall be recycled or locally sourced when comparable; (b) Water distribution and sanitary sewer systems shall comply with the design requirements of the Planning Board Rules & Regulations and Mass DEP requirements; and (c) Cable and proposed new electric utilities shall be installed underground. The Owner/Developer shall have the right to construct the Project by Phase, making improvements to the roadway, drainage and drainage infrastructure and the utilities of water, gas and electric, by Phase. Such phasing shall be subject to the requirements of the "Phasing Plan" contained in the Site Plans, and to requirements that each phase is independent and can stand alone with respect to vital access and utility service pursuant to Section 4391 g. The Owner/Developer will also be required to fund any and all security to the Town of Sharon, for a Covenant Release in order to obtain any Certificate of Occupancy, by Phase. For each Unit, the Owner/Developer shall complete the provision of wastewater treatment and collection deemed sufficient by DEP prior to the issuance of a Certificate of Occupancy for any of Units 27 through 52.

HH.2. Landscaping. Landscaping for the Two-Family Dwelling lot and the Multiuse Clubhouse lot (excluding the golf course) shall be as detailed on Sheets 45-49 of the Revised Overall Site Plan, and methods of application and allowed quantities of fertilizers are subject to limitations of a turf management plan approved during Site Plan Review.

HH.3. Water Conservation. The Two-Family buildings shall, as practicable, incorporate water conservation devices including water efficient plumbing fixtures and appliances.

HH.4. Sustainability. During construction, the Applicant shall, to the extent reasonable and practicable, use comparable recycled and locally sourced materials for construction of site improvement.

HH.5. During construction, the applicant grants the Town of Sharon and its agents right of entry onto the lot for purposes of



observing construction, determining compliance with this Decision, code requirements, DEP, Conservation and MEPA orders that are applicable to the project, and completing site improvements in case of the applicant's default.

**HH.6.** During construction, **the Town Engineer or the Board's Engineering Agent shall monitor construction work on behalf of the Planning Board. The applicant shall schedule the work and cooperate with site inspection requirements.** No succeeding construction operation shall be initiated until the prior operation has been inspected. The Town may hire outside consultants to perform inspection work when necessary but will minimize the hiring of outside parties whenever possible.

**HH.7.** During construction, the applicant shall cease and desist work if directed by written order of the Town Engineer or Building Inspector/Zoning Enforcement Officer.

**HH.8.** During construction, site access during construction shall comply with requirements of the Sharon Police Department with respect to routes, hours, provision of traffic control devices, and use of uniformed traffic officers. Hours of construction and equipment operation startup or delivery truck idling are 7:00 am - 7:00 pm, except on Saturdays, which shall be from 8:00am – 5:00pm, and no work shall be allowed on Sundays. No deliveries, noise or disruption to the neighborhood may begin before 7:00 am. There will be no disruption of water service to abutters on national holidays or weekends. Exceptions may be granted by the Board upon request of the Applicant and the Board may designate an agent to authorize temporary exceptions until the request can be deliberated by the Board.

**HH.9.** Upon completion of the initial excavation for each stormwater infiltration or detention facility, construction including the placement of stone or structures shall not proceed until the subgrade has been inspected by the Town Engineer or his agent to confirm that the soil texture and seasonal high groundwater data is consistent with the data used in the design. Should inconsistencies be observed between in situ conditions and the soil and groundwater data used in the design, the applicant shall obtain approval of a revised design for the facility from the Town Engineer or the Planning Board as may be required prior to proceeding with construction.

**HH.10.** During construction, conveniently located sanitary facilities shall be provided for all construction personnel. Construction dumpsters or other facilities shall be provided for the proper removal of trash and debris

**HH.11.** During construction, fencing or other access controls shall be provided to prevent injury.

**HH.12. During construction** erosion and sedimentation controls shall be provided in accordance with the approved plans and shall be adjusted, maintained, and expanded and shall comply with the Sharon Code, Ch. 230, Article II Construction Activity Discharges and directives of the Town Engineer or the Board's Engineering Agent. Erosion controls shall be installed prior to any other construction activity. Disturbed areas shall be stabilized with grass, wood chips, or comparable measures within a maximum of 30 days or as deemed necessary by the Sharon Conservation Agent or Town Engineer.

**HH.13. During construction** dust controls shall be provided and shall be adjusted, maintained, and expanded and shall comply with the Sharon General Bylaws and directives of the Town Engineer or the Board's Engineering Agent. Disturbed areas shall be stabilized with grass, wood chips, or comparable measures within a maximum of 30 days.

**HH.14.** During construction, all refueling shall be performed in a designated area outside any wetland buffer with pavement or other impervious material and other spill containment measures.

## **II. Administrative.**

**II.1. Recording of Decision.** Prior to any construction activity on the Site, the Owner/Applicant shall cause this Decision to be recorded in the Norfolk County Registry of Deeds or filed with the Land Court and shall provide proof of recording or filing to the Board.

**II.2. Site Plan.** All site improvements shall be constructed in compliance with the "*Revised Overall Site Plan*" as modified by these Conditions of Approval. The Cover Sheet (Sheet 1 of 57) and the Layout Plans (Sheets 20 to 23 of 57), of the *Revised Overall Site Plan* are attached hereto this Decision as Exhibit "A".

**II.3. Division of Lots.** Simultaneously with the recording of this Site Plan Approval Decision, the Owner shall prepare and file a Form A Plan of land with the Planning Board **in compliance with the Planning Board Rules and Regulations** dividing the entire Site into three (3) lots of land, establishing re-configured lots for Lot 1, Lot 2 and Lot 3 consistent with the "Revised Overall Site Plan". This endorsed plan shall be recorded at the Registry of Deeds and/or Land Court with the recording of this Modified Site Plan Approval Decision.

**II.4. Utilities – As-Built.** The design and location of all electrical transformer, CATV boxes, and telephone boxes including size, type, number, and location will be provided by the utility purveyor of each utility service. Any design document received from a utility company can be submitted to the Town Engineer for record if required. These utilities shall be shown on an as-built plan. Any



conflict of these utilities with proposed roadway or utility infrastructure that is shown on the approved design plans, that require plan modification, must be approved by the Town Engineer or his assignee.

#### **LIMITATION**

Said site plan approval is granted pursuant to the *Town of Sharon Zoning By-Laws* and a copy of this Decision shall be filed with the Town Clerk. If the rights authorized by site plan approval are not exercised within one (1) year after the date that this Decision is filed with the Town Clerk, then these rights may only be reestablished only after a notice and a new hearing has been held pursuant to Section 17 of Chapter 40A, Massachusetts General Laws, unless the Planning Board finds that the construction or use permitted by the site plan approval was not commenced for good cause.

#### **SHARON PLANNING BOARD**

The undersigned members of the Planning Board vote to authorize the Site Plan Approval as herein stated, subject to the above-stated conditions and limitations.

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David Blaszkowsky

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Kai Yu

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Robert Maidman

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Pasqualino Pannone

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Shannon McLaughlin

With reference to the above document Mr. O'Cain commented that the latest plan date was missing and suggested to include tonight's date (5/28) as the revised date.

Mr. Maidman expressed his concern as to why the Board should be signing this document when it is incomplete.

Mr. Yu and Mr. O'Cain both commented that this document references an ANR that does not exist.

Fairway Drive referenced within the document as the new street already exists as a street in Sharon. Mr. Shelmerdine said they would change the name of the new street to Wedge Lane.

The ANR for this property will be submitted at a later date.

With reference to item #5, Mr. Pannone said that he does not want to belabor the issue but the fact that the project meets the point of energy efficiency does not mean it is compliant with LEED certification. He said he was expecting to see how you meet points without submitting for certification.

Page 8 #2 words and approval needs to be added.

Overlay district #E is all set.

Off-street parking (note waiver request) is not applicable.

Under Specific Conditions of Approval, AA Mr. O'Cain said he is all set on page 13.

AA5 and AA10 236 Edge Hill Road relative to trees needing planting, Mr. Shelmerdine showed the nursery invoice to obtain 8 Norway spruce and 15 arborvitae and green giants to be delivered next week. Mr. O'Cain suggested changing the date to 6/15. Ms. Nelson asked Mr. Shelmerdine to confirm with Tom Houston that this date is acceptable from a vegetative perspective as well. AA5 and AA10 will have the dates changed to no longer than 6/15/20.

HH is now included.

Ms. Nelson asked if the golf course was surveyed as she wants the trees for her buffer planted on golf course property. Mr. Shelmerdine stated he was unsure if the land was surveyed. Mr. Beagan said he saw markers on the property. Mr. Oates said he has the map of the perimeter of the golf course and it is important to know the shared property line and he will look at the plan. Mr. O'Cain suggested they use Ms. Nelson's survey or plot plan. He said he will look at her property file and suggested the plan should also be at the Registry of Deeds.

HH6, HH12, HH13 standard.

II3 agreed to Mr. O'Cain's language.

On page 12 Mr. Yu asked if this is still appropriate with the new footprint as it says January 17, 2018. Mr. Pannone said he was looking for more details to support the statement. Mr. Yu said it is not the same as the new plan. Mr. O'Cain commented that all they are saying in this section is they are listing documents.

Mr. Shelmerdine said they do not need to do LEED. The 1<sup>st</sup> time they provided a scorecard but it is not a requirement they need to do. Mr. Pannone said that you can run through the scorecard but it doesn't mean you are meeting sustainables. It removes objections. Mr. Yu said that aspiration and execution are two different things. The Planning Board finds green development principles are based on what you submitted in 2018 with the old plan. The Planning Board he said cannot agree to item 5 as a finding because we haven't found it.

Mr. Shelmerdine said to Mr. Yu that he is mixing section 4391 (macro design) and 4397 (micro design).

Mr. Yu asked with regards to finding 5 - 4391 is the new plan more or less green than the old one?

Mr. Pannone said he would say it's the same cluster units, the same intent. The configuration is slightly different by Bob's definition but it does meet the intent. It is the same number of units. He said this is not worth hammering. He said the document should not state that we approve the LEED document.

Mr. Shelmerdine said to Mr. Yu regarding section 5, the bylaw states what we need to do and he said we met all requirements for 4391.

Mr. Pannone said we should take this up with Mr. O'Cain separately to work on our LEED requirements. In the next round we need to be clearer as to what deliverables have to be met.

Mr. O'Cain said we can edit the Planning Board regulations in house.

Ms. Nelson said she cares about the land and wanted this to be hammered out for this development. Mr. Pannone said we cannot hold the feet to the fire based on how this language is written. It is not specific enough for what the deliverable should be.

Mr. Shelmerdine commented that by the context of the bylaw the owner of the property wanted to buy 208 acres and put in 50-60 family homes. In context of the 12.5 acres 52 units is compact. He said that Mr. Pannone is expressing he is concerned with LEED development. He said we have met the language of the bylaw. He said section 4391 is compliant in his opinion.

Mr. Maidman said Mr. Pannone was pointing out the key issues and priorities not addressed. It complies but hoped more concern for this matter would have been taken.

Mr. Maidman surveyed the Board to see if anything was missed after the draft decision was reviewed and Peter, Kai and Pat all commented they were all set.

Laura Nelson asked the Board if anyone drove by at night to see the brightness of the first unit in the development as she felt the brightness was distracting.

Mr. Pannone said the fixture is not dark sky compliant.

Mr. Shelmerdine said the bulbs are 100 watt and that brightness is a subjective matter. He did not have any issue with the brightness.

Ms. Nelson requested a louver on the light on the Tiot Street side to point down rather than straight up.

Mr. Shelmerdine asked that the Town Engineer visit and provide direction and if he feels it is a safety issue they will change the fixture.

Mr. Pannone said he is sending Mr. Shelmerdine an email regarding dark sky fixtures.

Mr. O'Cain said the requirement should be on the cut sheet.

Mr. Maidman asked Mr. Shelmerdine if he will agree to look at what Mr. Pannone sends as a choice and Mr. Shelmerdine said yes.

Mr. Shelmerdine said to the Board that he will ensure the light fixtures are dark sky compliant and will run thru Mr. O'Cain if not correct.

Mr. Shelmerdine reviewed that in looking at the decision there are 5 changes to be made:

1. On page 1, change the date to the last revised date of 5/28/2020.

2. Mid page take out the language in parentheses ANR Plan and replace with sheet 18. This will eliminate confusion that the ANR Plan was done and it has not been.

3. On page 4 change the street name from Fairway Drive to Wedge Lane.

4/5. On page 14, AA5 and AA19 change the date of 5/31/20 to 6/15/20. Mr. Shelmerdine will be sending a letter to Laura Nelson after he speaks with Tom Houston regarding the appropriate date for the plantings.

Additionally on page 12, Mr. Shelmerdine said he could change the date on the plan filed from January 17, 2018 and Mr. Yu said it is accurate and to leave it.

Mr. Shelmerdine then went on to say that this is a better design for many reasons including better traffic flow, the line of sight in two areas is better, 18 units are being moved away from the environmental buffer. He said the purpose of the bylaw under 4391A is to create a viable residential community with amenities and not to have the town need to take over the golf course.

Mr. Oates said from an engineering perspective, he agrees with Mr. Shelmerdine that it promotes better safety.

Mr. Pannone called for a vote.

Mr. Maidman said in his personal opinion, he was not keen on voting on a document that was not clean.

Mr. Pannone asked Mr. O'Cain for his opinion and he stated to take a vote and note the 5 changes in the vote.

Mr. Maidman moved to vote to approve the submission subject to the 5 changes Mr. Shelmerdine will make (1. On page 1, change the date to the last revised date of 5/28/2020. 2. Mid page take out the language in parentheses ANR Plan and replace with sheet 18. This will eliminate confusion that the ANR Plan was done and it has not been. 3. On page 4 change street name from Fairway Drive to Wedge Lane. 4/5. On page 14, AA5 and AA19 change the date of 5/31/20 to 6/15/20. Mr. Shelmerdine will be sending a letter to Laura Nelson after he speaks with Tom Houston regarding the appropriate date for the plantings.) and to authorize Peter O'Cain as Agent of the Board should there be any discrepancy. Any discrepancies shall be noted and discussed at an appropriate forum at Town Meeting. Mr. Yu seconded the motion and the Board voted 3-0-0 in favor of approval.

Mr. O'Cain said the ANR should be filed in the usual way and it needs to be submitted before Town Meeting.

The Board appointed Peter O'Cain as the Board representative to allow him to sign plans as needed.

Mr. Shelmerdine said he will drop the decision at the Planning Board mailbox in Town Hall for the voting members to sign the document.

Mr. Pannone moved to close the Public Hearing and Mr. Yu seconded the motion. The Board voted 3-0-0 in favor of approval.

### **Future Agenda Topics**

Review of Post Office Square Design Guidelines

Discussion on the need for a Town Planner

### **Future Scheduled Meetings**

6/18 – Scenic Road Public Hearing regarding replacement of Maskownicut Bridge., 7/9, 7/30

### **Invoices**

Mr. Maidman moved and Mr. Pannone seconded the motion to approve an invoice for Gelerman in the amount of \$682.50 and W.B. Mason in the amount of \$276.44.

### **Adjournment**

The Board voted 3-0-0 to adjourn the meeting at 9:20 PM