

MEMORANDUM

PLANNING COMMISSION EXHIBIT #108

To: Stuart Z. Cohen, Ph.D.

Copy to: Dwight H. Merriam

From: Gregory W. McCracken

Date: November 22, 2004

Subject: Golf Courses Designed and Maintained According to Organic Standards in Sharon, Massachusetts

Section 4370 of the Zoning Bylaw for the Town of Sharon, Massachusetts allows a cluster subdivision on at least 150 acres of land to include a golf course by special permit provided, among other things, that the golf course is designed and maintained according to recognized organic standards, such as the Standards for Organic Land Care of the Northeast Organic Farming Association of Connecticut, with two narrow exceptions. In addition, Section 4370 requires a groundwater monitoring plan and a nutrient management plan for the operation of the golf course. Section 4370 was approved at the annual town meeting on December 3, 2001. You requested that we investigate whether the Town of Sharon has approved any golf courses under Section 4370.

The Town of Sharon has two private golf courses, the Sharon Country Club and the Spring Valley Country Club, and no public courses. The Sharon Country Club was constructed approximately 100 years ago, and the Spring Valley Country Club was constructed in 1961. Thus, both golf courses predate the effective date of Section 4370.

Based on inquiries to the managers and groundskeepers of the Sharon Country Club and the Spring Valley Country Club, we learned that both golf courses are maintained at least in part under organic standards. The Sharon Country Club follows a largely organic maintenance process, but the groundskeeper mixes chemical and organic products together for fertilizer. The groundskeeper was reluctant to speak concerning the full extent of the usage of chemicals, but it is clear that that the golf course is not exclusively maintained according to recognized organic standards. Similarly, the Spring Valley Country Club stated that it follows organic maintenance standards, yet the groundskeepers use some chemical fertilizers and pesticides while attempting to keep such usage to a minimum. The golf course operator indicated that it is not possible to maintain a golf course in a lush, green condition without some chemical usage.

One of the two exceptions in Section 4370 to organic maintenance standards is the implementation of "non-organic rescue treatments" in emergency situations when certain requirements are met. Because such treatments constitute pesticides according to the Department of Food and Agriculture, the Office of the Attorney General in the Commonwealth of Massachusetts concluded that the Town of Sharon could not apply Section 4370 in a manner that could be interpreted as regulating the application of pesticides, as Massachusetts law

preempts local law in this area. The Office of the Attorney General recommended that the Town of Sharon enlist the assistance of its counsel in conjunction with any application of Section 4370.

EXCERPT FROM
TOWN OF SHARON ZONING BY-LAW
Copied from Ordinance.com on November 15, 2004

NOTE: Article IV of the Sharon Zoning By-Law is entitled "Special Regulations" and Section 4370, below, is within this article and under a series of headings starting at Section 4300 with the overall title of "Flexible Development."

4370. RECREATIONAL SUBDIVISION

1. Any CSD [Cluster Subdivision Design] of at least one hundred and fifty (150) acres in size may contain a golf course by special permit only.

2.(a) When a golf course is included, the maximum amount of dwelling units that can be constructed shall be the amount allowed under Section 4367, divided by three(3).

(b) In all CSD's that include a golf course, at least twenty-five (25) [should be 25 acres?] of the land shall be set aside as a natural vegetation area, and this shall be required before any density bonuses for housing units may be calculated.

3. Uses which are incidental to the golf course include:

- a. club house/dining facility
- b. function hall
- c. putting or practice greens
- d. driving ranges
- e. a pro shop
- f. lounge
- g. ancillary buildings which are incidental to the golf course use
- h. the illumination of parking areas and other outdoor areas used at night
- i. wastewater treatment facilities and
- j. any other uses that the Planning Board may approve which are customarily incidental to such golf course use.

4. A golf course shall be designed and maintained according to recognized organic standards such as the Standards for Organic Land Care of the Northeast Organic Farming Association of Connecticut with the two exceptions that greens, fairways and tees may be mowed to less than two inches and emergency non-organic rescue treatments may be

applied upon demonstration of severe need and by obtaining approval from the Permit Granting Authority or its designee (Organic Standards). In addition, the applicant must abide by a groundwater monitoring plan, to be approved by the permit granting authority, for assessing the potential of pesticide contamination and levels of nutrients in groundwater. Evidence of Organic Standards design and management will be regularly certified in a manner and schedule acceptable to the permit granting authority. In addition, the applicant will create a nutrient management plan to evaluate nutrient loading that must be approved by the permit granting authority. Failure to obtain and maintain certification shall result in revocation of the permit to operate the golf course.

5. All water used on the golf course must be returned to the watershed from which it is taken. The applicant must demonstrate that water usage, including new wells drilled for the purpose of supplying water to the golf course or to its auxiliary structures and uses, as defined above, will not adversely affect the quality or quantity of the water drawn from private wells, public supply wells, or wetland resources. The applicant must submit, prior to approval, a monitoring plan to evaluate the impact of water quantity and nutrient loading. Evidence of compliance with this requirement will be the annual certification of an independent hydrogeologist/environmental engineer retained by the Town of Sharon, whose cost is borne by the owners of the golf course, that no such adverse effects have occurred. Copies of the certification shall be submitted to the Board of Health, Conservation Commission, Planning Board and Town Engineer. Failure to obtain and submit to the Town of Sharon an annual certification of compliance shall result in revocation of the permit to operate the golf course.

6. A golf course should conserve water resources using the following methods, including, but not limited to

(a) wastewater re-use to the extent feasible, and

(b) control of storm water run-off in a manner which will cause runoff to infiltrate into the ground or into irrigation ponds.

7. As a condition of its issuance of a special permit for a CSD which includes a golf course, the Planning Board shall require the applicant to enter into an agreement or covenant running with the land, providing for a lien or other appropriate security to the Town, to ensure compliance with the obligations of the owners of the golf course to reimburse the Town for the cost of the services of an independent hydrological engineer under Subsection 5 herein above.

****Webmasters Note:** The previous section 4370 has been added as per Case No. 1920 approved at annual town meeting 12/3/01.