

**SECTION 23**  
**PLANNED RESIDENTIAL DEVELOPMENT FOR ELDERLY PERSONS**

**23.1**            **General:**

In order to provide for the special needs of elderly and handicapped persons who may require multifamily type living accommodations, and to ensure land development for such purposes remains consistent with the adopted comprehensive Plan of Development of the town of Middlebury, land development allowed by this Section is subject to greater administrative standards and procedures due to the greater densities of development provided for planned elderly multi-family development. Due to the densities associated with such elderly multi-family developments this use is restricted to those areas of town where existing services and facilities are already in place.

**23.2**            **Qualifying Standards:**

No tract of land shall be considered for a Planned Residential Development for Elderly Persons unless it meets the following minimum qualifying standards:

- 23.2.1            The tract of land shall consist of a single lot or a number of contiguous lots under one ownership or control having a total area of not less than five (5) acres.
- 23.2.2            The tract shall be located within a Residential R-40 Zone south of Nutmeg Road and east of Regan Road.
- 23.2.3            The tracts shall be served by a public sewer.
- 23.2.4            That tract shall have two hundred (200) feet of street frontage on Route 64 or on an existing street planned for extension to the site. In addition, the tract may have access on other roads if the Commission finds traffic conditions warrant it.
- 23.2.5            All dwelling units in each tract shall be restricted to occupancy by “elderly persons”, who are defined to be persons at least fifty five (55) years of age or older, and by “disabled persons” and “handicapped persons” as defined in regulations adopted by the United States Department of Housing and Urban Development under the Housing Authorization Act of 1976. One unit, however, may be occupied by a full-time resident custodian. The spouse of a resident elderly persons and another person determined to be essential to the care and well-being of a disabled or handicapped person may also occupy his or her dwelling unit. The Developer shall present evidence satisfactory to the

Commission of such effective legal restrictions and of the relevant state or federal agency's requirements.

- 23.2.6 The tract shall be served by a public water supply if more than 30 dwelling units are contemplated. As used herein "public water supply" means water obtained from a private or municipal entity regulated by the Department of Public Utility Control or holding a Certificate of Public Convenience as provided in Public Act 84-330.

### **23.3 Procedure:**

All Planned Residential Developments for Elderly Persons shall be considered Special Exceptions subject to the requirements and procedures of Section 51 and 52, in addition to those specified herein. Prior to submission of the application for a Special Exception, a preliminary plan of development of the entire tract shall be submitted to the Commission. The purpose of the preliminary plan shall be to indicate the general intent and arrangement of the proposed Structures and uses to be included in the development. The Commission shall approve, approve with modification or disapprove the preliminary plan within sixty-five (65) days from the acceptance at the submission thereof at a regular meeting, unless the Commission determines to hold a public hearing, which must be within said sixty-five (65) day period. In such event the Commission shall take one of the above alternative actions within sixty-five (65) days from said public hearing.

- 23.3.1 In the case of an approval, the application for a Special Exception as required by Section 52, shall be submitted within one hundred eighty (180) days from the date of such approval. Otherwise the preliminary plan approval is null and void. Such application may be for only part of the approved preliminary plan if it is determined by the Commission that as a result of the size of the project, it would be unreasonable to require a final application for the entire project. Final application for subsequent parts or phases of the project shall be submitted at maximum intervals of three hundred sixty-five (365) days.

- 23.3.2 When the application for Special Exception for a Planned Residential Development for Elderly Persons is accepted as a complete application at a regular monthly meeting, the Commission shall (1) hold a Public Hearing on said application as required by Section 52, which when held on the first phase shall include the preliminary plan of development of the entire tract, and (2) decide upon such application, all in accordance with the provisions of Section 8-3C of the Connecticut General Statutes, as amended. A Public Hearing may be held on subsequent phases and shall be held if, in the opinion of the Commission, there is a substantial change in the preliminary plan of development.

## **23.4            Design Standards:**

The following standards shall apply to the design and development of Planned Residential Developments for Elderly Persons.

- 23.4.1            The maximum number of dwelling units shall be no greater than eight (8) dwellings per gross acre over the total area of the tract.
  
- 23.4.2            No buildings shall contain more than eight (8) dwelling units. In addition, one building in each development may contain a community facility either separately or together with up to six (6) dwelling units, which shall be adequately insulated from noise and separated from foot traffic.
  
- 23.4.3            No building shall extend within less than one hundred fifty (150) feet of any state highway line, fifty (50) and feet of any other street line or fifty (50) feet of any other property line.
  
- 23.4.4            No building shall extend within less than thirty (30) feet of any other dwelling, except that where any facing walls contain a window or windows, such distance shall be increased by one foot for each foot of height of the higher facing wall above the lowest adjacent ground elevation thereto. Any walls which are facing at an angle of thirty degrees (30°) or less shall be considered facing walls. Stairwells and similar architectural appurtenances shall be considered as part of the wall and shall maintain the required setback.
  
- 23.4.5            At least fifty (50%) percent of the dwelling units in all phases shall be provided with their own separate entrance directly from the outside and all dwelling units shall be provided with no less than sixty (60) square feet of private usable outdoor space, such space to be directly accessible by the occupants of the dwelling units.
  
- 23.4.6            No building containing a dwelling shall exceed a length of one hundred fifty (150) feet. No exterior wall of any such building shall exceed thirty (30) feet in length in an unbroken plane without an offset of at least two (2) feet, but the Commission may permit reasonable variations if they enhance the quality of the building, or the project, or are required because of substantial site problems.
  
- 23.4.7            All dwellings shall be of a single consistent architectural style to create a harmonious unity of appearance.
  
- 23.4.8            All utility shall be underground.

- 23.4.9 Each dwelling unit shall be provided with water, electrical and drainage hookups for washing machines and clothes dryers, or be located within such reasonable distance of a community laundry facility as may be approved by the Commission.
- 23.4.10 Garages, carports and off-street parking spaces or a combination thereof shall be provided on the tract for not less than one and one-half (1 ½) cars per dwelling unit. No parking spaces shall be located in a required front yard facing a public street, and all parking spaces visible from a public street shall be separated from said street by a landscape area. No open parking shall extend within twenty (20) feet of any dwelling. Parking shall be located within 200 feet from the farthest dwelling units to be served if the average topographical grade between the parking spaces and the dwelling units is less than five percent (5%). If the average topographical grade between the parking spaces and the dwelling units is greater than five (5%), such parking shall be located within one hundred (100) feet of the farthest dwelling unit to be served.
- 23.4.11 All driveways and parking areas shall be paved with asphalt or concrete, walkways shall be surfaced with concrete, brick or flagstone, and all curbs shall be of concrete or granite. Asphalt curbing may be used where in the judgment of the Commission it is sufficient for the particular area of the development.
- 23.4.12 All land not utilized for dwellings and private usable outdoor space shall be considered common land. Not less than one thousand (1,000) square feet of permanent usable open space per dwelling unit shall be provided for outdoor activities. Required paved vehicular areas, wetlands, and private outdoor space shall not be considered permanent usable open space. Such land shall be of such condition, size and shape as to be readily usable for pedestrian circulation, and passive recreation for the residents of the development and shall be permanently reserved by one of the following means:
- A. Held in corporate ownership by the occupants. Membership in said corporation shall be mandatory for all residents of the development and shall be so stipulated in the deed or lease as the case may be.
  - B. Held in ownership by the developer subject to a legal agreement with the town regarding the developer's responsibility for the maintenance of the common land.
  - C. A combination of the above.

23.4.13 Evidence shall be submitted that the Planned Residential Development for Elderly Persons has been designed in accordance with the design and construction standards pertaining to solar energy set forth in Section 4 of the Middlebury Subdivision Regulations, to the extent applicable, so as to enable maximum effective use of solar energy systems in the future.

23.4.14 Each Planned Residential Development for Elderly Persons shall be served by an approved private street designed so as to discourage through traffic. Such street shall not extend within less than twenty (20) feet of any dwelling, shall have a pavement width of twenty-two (22) feet excluding parking areas, and shall be constructed in accordance with the requirement of the Town of Middlebury Board of Selectmen.

**23.5 Height:**

No dwelling shall exceed two stories or thirty (30) feet whichever is less. No other accessory structures shall exceed one and one half (1 ½) stories or twenty (20) feet in height, whichever is less. (See definition of “Story”, Section 9).

**23.6 Coverage:**

The aggregate land area covered by all buildings and other structures shall not exceed twenty-five percent (25%) of the total area of the parcel. A 300-foot square must fit within the set back lines.

**23.7 Floor Area:**

In buildings containing more than one dwelling units there shall be provided the following:

23.7.1 A minimum of 400 square feet and a maximum of 550 square feet for single occupancy efficiency.

23.7.2 A minimum of 550 square feet and a maximum of 700 square feet for double occupancy, single bedroom.

23.7.3 A minimum of 600 square feet and a maximum of 800 square feet for double occupancy, two bedrooms. No more than ten percent (10%) of the dwelling units in a development shall contain two (2) bedrooms.

**23.8            Development Standards:**

Each application shall be signed by the owner and developer accompanied by the following:

- 23.8.1            A financing plan describing the Federal or State subsidy program and the subsidizing agency, if applicable, the estimated costs of land, site development, building, operation and maintenance, an approximation of the schedule of rents, leases or sale prices, and the number of units to be provided for occupants under federal or state current rent subsidy guidelines, together with the certificate required by Subsection 21.2.5.
  
- 23.8.2            A tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage, and a summary showing the percentages of the tract to be occupied by buildings, parking and other paved vehicular areas, sidewalks and walkways, and the usable open space.
  
- 23.8.3            Descriptive material providing information about the owner and developer, the developer's experience in building, and the developer's eligibility as a public, non-profit or limited dividend housing sponsor, evidence of preliminary site approval under the subsidy program where applicable, the names and addresses of the architect, engineer, and landscape architect, if any, and other pertinent information.
  
- 23.8.4            A general description of the tract in question and surrounding areas, describing degree of compatibility of proposed use with existing neighborhood.
  
- 23.8.5            An evaluation of the probable impact of the proposed development on the Town of Middlebury's services, facilities and environment.
  
- 23.8.6            A description of the size and availability of permanent public open space in the immediate vicinity.
  
- 23.8.7            The proximity of the proposed development to public transportation, recreation facilities, neighborhood shopping and service facilities.
  
- 23.8.8            Evidence that the developer's financial ability to complete and administer the proposed development in accordance with the plans and specifications submitted and as finally modified and approved.
  
- 23.8.9            Acknowledgement that a performance bond for site improvements will be required under Section 51 and evidence that such bonding is available to him.

- 23.8.10 Evidence that commitments for other bonding required by governmental agencies and lenders (if needed) have been obtained.
- 23.8.11 If the developer is a corporation or partnership, identification of the natural persons who are the ultimate controlling stockholders or persons.
- 23.8.12 All other information required by Sections 51 and 52 above.

**23.9 Findings Required:**

The Planning and Zoning Commission may approve the creation of a Planned Residential Development for Elderly Persons provided that a finding is made that the facts submitted with the application establish that:

- 23.9.1 The standards and conditions of this Section 23 and Section 51 and 52 of these regulations have been met.
- 23.9.2 The developer has provided, where appropriate, for the sustained maintenance of the development in general, and also for the open space in accordance with Subsection 23.4.12 above.
- 23.9.3 The streets and drives will be suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network in the area.
- 23.9.4 The existing or proposed utility services are adequate for the population densities and building intensities.
- 23.9.5 Utilities and drainage have been laid-out so as not to unduly burden the capacity of such facilities both on and off the site, or create water problems on properties located off the site.
- 23.9.6 The development will be in keeping with the general intent and spirit of the Middlebury Plan of Development.

**23.10 Approval:**

The Commission may approve, disapprove or approve with modifications an application to develop land under this Section.

- 23.10.1 Before any approval by the Commission becomes effective, the Applicant shall

post the performance bond required by Section 51. It will be sufficient compliance if the Town is included as an obligee under a bond or bonds provided to any state or federal agency covering the same project in such amounts and on such terms as the Commission may approve.

- 23.10.2 When acting to approve any application, the Commission shall file with the Town Clerk at least one (1) copy of the approved site plan, showing the Commission's modifications, if any, and no development or significant alteration shall be permitted except in conformity with such approved plan. Prior to issuance of a Certificate of Occupancy the Applicant must provide evidence of completion in conformity with such Plan by submitting an as-built Class A-2 survey of the completed development certified by a professional engineer or registered land surveyor. Any substantial revision of an approved Special Exception application and any reconstruction, enlargement, extension, moving or structural alteration of an approved Special Exception use or any building or structure in connection therewith shall require submission of a Special Exception application in the same manner as for the original application.
- 23.10.3 No Certificate of Occupancy shall be issued until it has been determined by the Zoning Enforcement Officer that all provisions of the approval as granted by the Planning and Zoning Commission have been complied with. In those cases where seasonal conditions prevent compliance with the provisions of the approval before the site improvements are complete, the Commission may authorize the Zoning Enforcement Officer to approve issuance of a Temporary Certificate of Occupancy on the condition that all provisions of the approval are complied with as the season permits. Non-compliance within the stated time shall make the approval null and void unless further extended for good cause shown.
- 23.10.4 Any approval given by the Commission shall be valid only as long as the Developer owns or controls the particular development. Upon a change in Developer, the successor Developer shall submit a new application requesting that he be substituted for the original Developer. The acquisition of voting control of a corporate or partnership Developer by a person not a stockholder or partner at the time the original application was approved shall cause said corporation or partnership to be a successor Developer. Such application shall identify the successor Developer and clearly delineate any changes contemplated in the project to the same extent as an original application and shall provide evidence of his willingness and ability to carry out the project as originally approved, including any changes proposed. Where no change in the project has occurred during construction or no changes are contemplated, it will not be necessary for the successor Developer to submit new site plans or other similar data. The

original performance bond shall remain in full force and effect unless the successor Developer arranges for his substitution as obligor thereunder. The Commission may require an additional bond or an increased bond if the successor Developer proposed changes not covered by the original bond or bonds. The Commission shall issue a new approval of the project as originally approved if it finds that the successor Developer is ready, willing and able to carry out the project as approved. If, however, the successor Developer proposes changes or if actual changes have taken place during construction, then such approval will be made on the same basis as an original application based on the standards set forth in this Section 23.

23.10.5 Any person, firm or corporation having obtained approval of a Special Exception under this Section, shall commence work within one (1) year after said approval and shall complete all work and comply with all conditions of approval within two years after said approval. In the event all such work and/or all such conditions are not completed within said time, the approval granted shall become null and void. The Planning and Zoning Commission may file a statement to that effect upon the Land Records if it deems such notice necessary and in the best interest of the Town. The commission, however, may by resolution and without public hearing extend its approval for two additional periods of one year each for either commencement or completion for good cause shown.

- A. Approval of an application for a special exception under this section shall be conditioned upon the applicant's filing of the special exception approval on the Middlebury Land Records as per the requirements of Public Act 75-317. Said filing must take place within thirty (30) days of the approval.
- B. No other use, except the approved use, shall be allowed on the parcel of land approved for a Planned Residential Development for Elderly Persons. Said approved use shall be developed in compliance with the Commission approval.

**23.11 Severability:**

No section or subsection of the Special Exception use and procedures established herein shall be deemed severable from other sections or subsections of this Special Exception Section for the construction of a Planned Residential Development for Elderly Persons. In the event that any section or subsection of this section or any portion thereof, shall later be invalidated, whether by judicial decree or otherwise, all other provisions contained herein relating to the issuance of Special Exceptions for Planned Residential Developments for Elderly Persons shall become inoperative, except that Special Exceptions previously issued by the Commission hereunder shall remain valid.