

Tuesday June 9, 2020
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Tom Gay	Matt Hayes	Rich Di Iulio	Jessica Chabot
Attendance	X	X	X	X	Absent with Notice	X

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, no in-person attendance of members of the public will be permitted at this meeting. Members of the public who wish to watch the meeting may do so, on Medway Cable Access: channel 11 on Comcast Cable, or channel 35 on Verizon Cable; or on Medway Cable’s Facebook page @medwaycable.

ALSO PRESENT IN ZOOM MEETING:

- Susy Affleck-Childs, Planning and Economic Development Coordinator
- Amy Sutherland, Recording Secretary
- Steve Carew, Tree Warden
- Barbara Saint Andre, Director of Community and Economic Development

The Chairman opened the meeting at 7:03 pm.

There were no Citizen Comments.

MEDWAY MILLS SITE PLAN PUBLIC HEARING

- Due to the State of Emergency the Chairman declared that this hearing will be continued until June 23, 2020. (See Attached)

SCENIC ROAD WORK PERMIT – CHOATE TRAIL SUBDIVISION 42 HIGHLAND STREET:

The Board is in receipt of the following: (See Attached)

- Revised draft Scenic Road Work Permit dated 6-3-20
- 3-9-20 letter from Vito Colonna, Connorstone Engineering

Applicants Robert Pace and Matt Silverstein and project engineer Vito Colonna were present at the meeting. Also, Tree Warden Steve Carew was present for the discussion.

The Board is in receipt of the revised draft of the Scenic Road Work Permit for the Choate Trail Subdivision for 42 Highland Street. It was explained that the revised scenic road work permit incorporated much of the applicant’s proposed tree replacement plan. The 4 maple trees in the right of way will be moved to another location. There was a condition added to require a payment in lieu of tree planting for the two trees that are to be retained and the four trees that are

to be replanted if they are damaged during the construction process. The Tree Warden is comfortable with what is being proposed. There was a suggestion to require the applicant to install some shrubbery along the southern boundary of Lot #4 between the trail and the abutter at 40 Highland Street to provide comparable screening being provided to the abutter at 38 Highland Street.

Matt Silverstein communicated that he has been working with the abutters. He voiced his concern that the installation of more shrubs seems to be expanding after each meeting he attends with now having to address shrubbery on the third property which increases the number of plantings.

There is language for a payment to the tree fund at \$355.00 per replacement tree (equal to 7 caliper inches). The Tree Warden would inspect the trees, and this could be incorporated into the performance security. The planting would be such that they are 5 ft. apart with 3-gallon plants for the length of the property line along Lot #4 with 38 and 40 Highland Street.

It was suggested that there be language to put shrubbery on the property line and not on the easement side on the entire length from 38 Highland to 40 Highland with no limit to just rhododendrons but a mixture of evergreen plant types.

On a motion made by Matt Hayes and seconded by Tom Gay, the Board voted by Roll Call to approve the Scenic Road Work Permit for Choate Trail Subdivision at 42 Highland Street with revisions as discussed.

Roll Call Vote:

Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye
Steve Carew	aye

PEDB MEETING MINUTES:

May 26, 2020 Meeting (See Attached)

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted by Roll Call to approve the minutes from the May 26, 2020 meeting.

Roll Call Vote:

Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

DISCUSSION OF FUTURE MEETING FORMATS:

The Board discussed future meeting formats regarding social distancing and requirements from the State. The current COVID-19 state of emergency requirements is that no more than 10 people can gather in a room and if they meet it needs to be with social distancing. With all

the Planning Board members and consultants present the number would reach 9. This number does not include the applicant, engineer or abutters who may have an interest in attending. There was a suggestion to hold the meetings to a big meeting room at the middle school. This space would provide suitable space for social distancing. There was also a suggestion if the relocation to another space is not possible then maybe a Zoom webinar option could work instead of a Zoom meeting. The Zoom webinar is ideal for large audiences that are open to the public but typically do not allow attendees to interact with one another. The webinar also only has the attendees join in listening only mode. In the Zoom meeting, all participants can mute/unmute their own audio. The host can also set all participants to mute upon entry. There was an explanation of the hand function within Zoom. There was a recommendation to have instructions to read prior to a public hearing with Zoom. The current Zoom service the town is using does not include Zoom webinar. This would need to be researched along with the cost for membership. The Board would like to continue as is but if there is an opportunity to be in person then this would be the preferred means of meeting.

REPORTS:

- There was a partial application received for the proposed 218 Main Street multi-family development. A plan review estimate will be provided once the submittal is complete.
- The Town Hall staff is taking part in the Citizen Serve Online permitting system. There is a lot to this process. Dialogue is happening about what forms and information will be loading into this program. This will be further discussed about how to make sure all the information is retained in a format which works for all.

ENVIRONMENTAL STANDARDS:

The Board is in receipt of the following: (See Attached)

- Email John Lally dated June 8, 2020.

NOTE – Community and Economic Development Director Barbara Saint Andre joined the meeting.

The Board was made aware that Susy spoke with member Gay about the Environmental Standards. Member Gay began the discussion by explaining that he has concerns that the scope of what has been prepared is too narrow and there are holes within the document which have been overlooked. It was suggested that a more sensorial approach be used. Member Gay does not recommend using the dilution threshold as the only measurement method. The alternative would include recording complaints within a certain block area of a site. A standard could be written that there would be non-compliance if five or more complaints are received in this area. The five complaints would trigger a field inspection by the zoning code enforcement officer. This approach could be tracked on a GIS system within the town. It could also indicate multiple locations throughout town and create a history of what was non-compliant within a block system of recording. All this language would need to be defined regarding the length of time an event occurs. There was a question if this system could track wind direction when the complaint is lodged for an odor complaint. The system would not be this sophisticated.

Mr. Lally was present during the discussion and thanked member Gay for his explanation and appreciates what he explained. The recording of complaints within a GIS system would assist in creating a bylaw to have enforcement if needed. He would be in support of this approach.

There was a question if this should be governed by a Special Permit or through a modification of the site plan. The approach would be like what was done with 2 Marc Road. When there is an issue, then a mitigation plan would need to be put in place. There is a mechanism for enforcement if there are situations which need to be addressed for those situations which do not comply. This is done through ticketing with non-criminal disposition. The plan for mitigation could be reviewed by the building code enforcement officer to make sure it complies and the cost to review is on the violator.

The Board would like member Gay to continue working this concept of a sensorial approach for dealing with the environmental standards. The goal is to have this ready for the Fall Town Meeting.

OTHER BUSINESS

REVISED RULES AND REGULATIONS FOR ADAPTIVE USE OVERLAY DISTRICT:

The Board is in receipt of the following: **(See Attached)**

- Adaptive Use Overlay District Rules and Regs with edits dated June 9, 2020.

The Board is in receipt of the Adaptive Use Overlay District section of the Zoning Bylaw along with the proposed revisions to the AUOD Rules and Regulation section. The draft contains mark ups with comments from Barbara, Stefany and Susy. There were not many substantive changes but mostly just clean -up to make the regs consistent with the bylaw language. The existing Rules and Regulations require that the Board hold a public hearing to make these changes. The Board was asked if the June 23, 2020 meeting is a possible date to hold this public hearing. The Board is hesitant to bring this to a public hearing without any prior board discussion. The Board will discuss this at the June 23rd meeting and then select a date for a public hearing.

MEDWAY PLACE SHOPPING PLAZA SITE PLAN PUBLIC HEARING

- Due to the State of Emergency the Chairman declared that this hearing will be continued until June 23, 2020 at 8:15 pm. **(See Attached)**

The discussion during the continued hearing will focus on stormwater. Tetra Tech is involved with the review of this site along with the DPW as the applicant also needs a MS4 permit. The Board would like to have the applicant appear and update the Board on progress.

FUTURE PEDB MEETING:

- Tuesday, June 23, 2020

ADJOURN:

On a motion made by Tom Gay and seconded by Matt Hayes, the Board voted by Roll Call vote to adjourn the meeting.

Roll Call Vote:

Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye

Matt Hayes aye

The meeting was adjourned at 9:05 pm.

Prepared by,
Amy Sutherland
Recording Secretary

Reviewed and edited by,
Susan E. Affleck-Childs
Planning and Economic Development Coordinator

Susan Affleck-Childs

From: Andy Rodenhiser <Andy@rodenhiser.com>
Sent: Wednesday, June 03, 2020 9:47 AM
To: Susan Affleck-Childs
Subject: Medway Mill Site Plan

Dear Susy,

In my role as Chairman of the Medway Planning and Economic Development Board, I declare that the public hearing for Medway Mill Site Plan scheduled for Tuesday, May 26, 2020 has been continued to Tuesday, June 23, 2020 at 7:15 PM due to the COVID-19 pandemic and the limitations on meetings.

Thank you.

Andy S. Rodenhiser
President
Rodenhiser Home Services



June 9, 2020

**Medway Planning & Economic Development Board
Meeting**

Choate Trail Scenic Road Work Permit

- Revised draft Scenic Road Work Permit dated 6-3-20
- 3-9-20 letter from Vito Colonna, Connorstone Engineering with the applicant's tree replacement plan. This was mentioned at the last meeting.

The revised scenic road work permit incorporates much of the applicant's tree replacement plan. I have asked them for more information on their plans to relocate the 4 maple trees in the right of way to elsewhere on the property. I included a condition to require a payment in lieu of tree planting for the two trees that are to be retained and the four trees that are to be replanted if they are damaged during the construction process.

I did review the applicant's tree replacement plan with Tree Warden Steve Carew, and he is comfortable with it.

I would encourage you to also require the applicant to install some shrubbery along the southern boundary of lot #4 between the trail and the abutter at 40 Highland Street to provide comparable screening to that being provided to the abutter at 38 Highland Street.

Board Members

Andy Rodenhiser, Chair
Robert Tucker, Vice Chair
Thomas Gay, Clerk
Matthew Hayes, P.E., Member
Richard Di Iulio, Member
Jessica Chabot, Associate
Member



Medway Town Hall
155 Village Street
Medway, MA 02053
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Email: planningboard@townofmedway.org
www.townofmedway.org

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

PLANNING AND ECONOMIC DEVELOPMENT BOARD

REVISED DRAFT – June 3, 2020

SCENIC ROAD WORK PERMIT

Choate Trail Way Subdivision – 42 Highland Street

APPLICANT – Residences at Choate Trail, LLC

LOCATION – North side of Highland Street, along the frontage of 42 Highland Street

PROJECT DESCRIPTION – Residences at Choate Trail LLC proposes to construct a 4-lot residential subdivision on a 5.88 site at 42 and 42 R Highland Street (Map 37, Parcels 64 & 67). Highland Street is a designated Medway Scenic Road. The development will include construction of an approximately 578' long permanent, private roadway (Copper Drive) and the installation of stormwater management facilities, sidewalk, landscaping, and private sewer and water services. On May 12, 2020, the Planning and Economic Development Board approved a definitive subdivision plan pursuant to the Board's *Land Subdivision Rules and Regulations*.

SCENIC ROAD WORK - The Scenic Road Work Permit application proposed the following work in and adjacent to the Town's right-of-way on Highland Street:

- Removal of seven trees to allow for the construction of the entrance to Copper Drive, the planned road for the Choate Trail subdivision.
- Removal of approximately 60 linear feet of existing stone walls to establish the new roadway. Reuse of the removed fieldstone to construct accent stone walls on both sides of the roadway entrance roundings from Highland Street.

See attached *Scenic Road Intersection Plan* prepared by Connorstone Engineering, Inc.

DATE OF APPLICATION – The Scenic Road Work Permit application was filed with the Board on January 3, 2020.

DATE OF PUBLIC HEARING – Pursuant to M.G.L., Section 15C of Chapter 40 (*the Scenic Roads Act*) and the Medway *Scenic Road Rules and Regulations*, the Medway Planning and Economic Development Board commenced a public hearing on January 28, 2020. The hearing was held in conjunction with the subdivision plan public hearing.

POSTED NOTICE - The Scenic Road public hearing notice was posted with the Medway Town Clerk on January 8, 2020.

ABUTTER NOTICE - The public hearing notice was sent by first class mail to all abutters on January 8, 2020. Posters were also affixed to the specified trees and portions of the stone wall to be removed.

ADVERTISEMENT – The public hearing notice was published in the *Milford Daily News* on January 14 and 20, 2020.

PUBLIC HEARING – The public hearing commenced January 28, 2020 and was continued several times into May 2020 in conjunction with the subdivision public hearings. During the public hearings, the applicant attended along with his engineering consultant from Connorstone Engineering. Several abutters provided comments about the proposed development. Tree Warden Steve Carew participated in the hearing providing both verbal and written testimony (Tree Warden’s recommendations dated February 14, 2020. Planning and Economic Development Coordinator Susy Affleck-Childs provided notes on tree placement requirements per the *Scenic Road Work Permit Rules and Regulations*. On March 9, 2020, the applicant proposed a tree replacement plan to offset the loss of trees in the scenic road right of way.

DECISION CRITERIA - Pursuant to s. 405 – 7 of the Scenic Road Rules and Regulations, the Planning Board shall consider the following in making its determination on an application for a Scenic Road Work Permit:

- A. Public safety;
- B. Scenic and aesthetic characteristics and quality of the area;
- C. Quality and extent of shade and *tree* canopy;
- D. Accident history within five hundred (500) feet of *tree(s)* and *stone walls* at issue;
- E. Commentary contributed by the Tree Warden, town agencies, *abutters* and other interested parties;
- F. Preservation of natural resources and environmental systems;
- G. Preservation of historical and cultural resources values;
- H. Compatibility with surrounding neighborhood;
- I. Recreational uses of the proposed Scenic Road, taking into account the nature and extent of such uses;
- J. Relationship of the *road* design to the standards of the Planning Board’s *Subdivision Rules and Regulations* but recognizing that a variance from the standards should be allowed when a way has been designated as a Scenic Road by the Town Meeting;
- K. Adequacy and value of compensatory actions proposed, such as replacement of *trees* or *stone walls* or restoration of the same;

- L. Traffic patterns, volume, congestion and posted speed limit;
- M. Consistency with articulated Town policies and the Medway Master Plan;
- N. Feasibility for avoiding disturbance to *trees* or *stone walls* by proposing a safe location for a walkway, driveway or *road* elsewhere; and
- O. Other sound planning principles and considerations.

FINDINGS

1. The proposed Choate Trail subdivision has approximately 200 linear feet of frontage on Highland Street, a Medway scenic road.
2. There are seven trees located in the Town’s right-of-way on Highland Street where Copper Drive will be constructed to provide access and frontage to the 4 subdivision house lots.

Choate Trail Way Subdivision – Proposed Tree Plan

Tree Size - Diameter	Radius	Radius ²	Radius ² x 3.14	Replacement	Notes
12" dead tree	NA	NA	NA	NA	No replacement required
5" maple	2.5	6.25	19.625	10 sq. inches	To be transplanted on site
5" maple	2.5	6.25	19.625	10 sq. inches	To be transplanted on site
26" oak	13	169	530.66	265 sq. inches	Tree mitigation
7" maple	3.5	12.25	38.465	19 sq. inches	To be transplanted on site
9" maple	4.5	20.25	63.585	32 sq. inches	To be transplanted on site
14" hickory	7	49	153.86	77 sq. inches	Tree to be retained & protected
12" maple	6	36	113.04	56 sq. inches	This tree is on private property very near the right of way. Will be retained and protected.

Application of the Scenic Road tree replacement formula (see below)

$$\frac{\text{tree radius}^2 \times 3.14}{2}$$

for removal of the 26" oak tree results in a total of 265 square inches of required tree replacement. A 3" caliper tree = 7 sq. inches. Based on this formula, thirty-eight 3" caliper trees would need to be planted to replace the 26" oak tree.

3. The applicant provided a proposed tree replacement plan included in a letter dated March 9, 2020 from Vito Colonna, P.E., of Connorstone Engineering. The proposal provides for an equivalency of 2 shrubs = 1 tree.

DECISION – On June 9, 2020, the Planning and Economic Development Board voted to approve a Scenic Road Work Permit to authorize the following work in the right-of-way at 42 Highland Street subject to the following conditions:

1. **Stone Wall** - Approximately 60 linear feet of fieldstone may be removed but shall be reused to fabricate new stone walls at the roundings of Copper Drive from Highland Street.

Condition - The new walls shall be constructed to replicate the rustic quality and character of the existing stone wall and shall be of comparable height. This standard also applies to any additional field stone that may need to be brought in to supplement what is available on site.

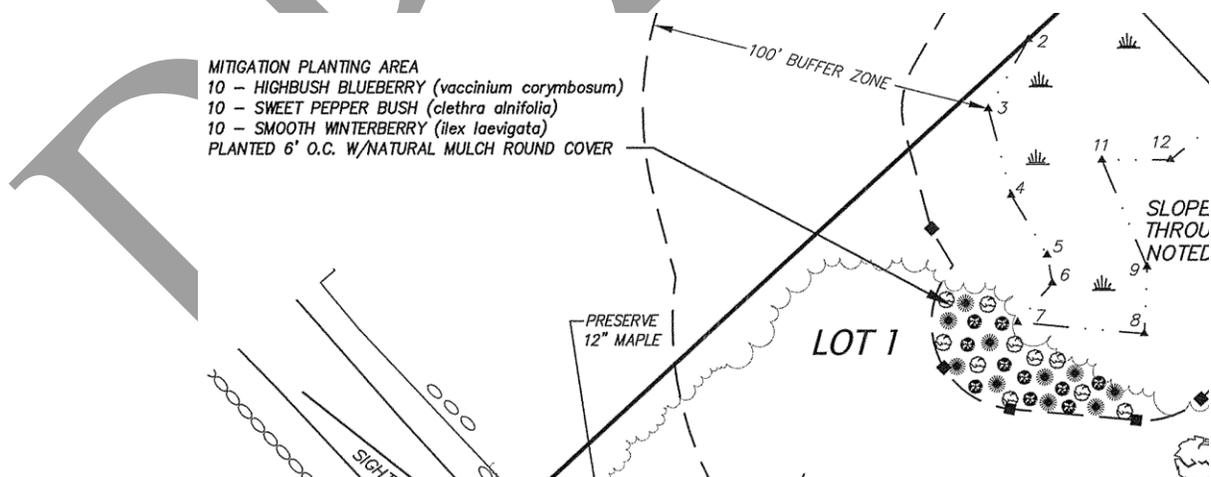
2. **Trees** - 6 trees may be removed from the Highland Street scenic road right of way (4 living maple trees, 1 oak tree and 1 dead tree).

a. Four maple trees will be transplanted on site. **MORE NEEDED HERE**

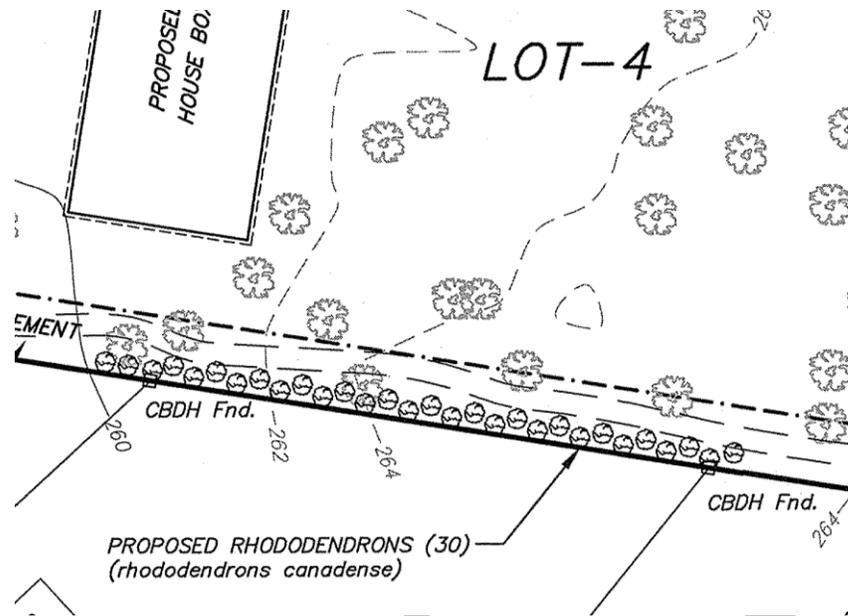
b. The 14" hickory tree shall be retained and preserved.

c. As mitigation for removal of the 26" oak tree, the applicant shall undertake the following plant replacement plan for the equivalent of 38 trees.

- 1) A 12" maple on Lot #1 which close to but not in the Highland Street right of way shall be retained. This is equivalent to 8 replacement trees.
- 2) A mix of 30 native shrubs shall be planted in the inner 25' buffer area of the wetland resource area on Lot 1 as shown below. This is equivalent to 15 replacement trees.



- 3) A mix of 30 native shrubs will be planted along the southern boundary of Lot #4 within the 15' trail easement area to provide a buffer to the neighbor at 38 Highland Street. See drawing below. This is the equivalent of 15 trees.



d) Let's also include a requirement for shrubbery on Lot 4 adjacent to 40 Highland Street. Recommend comparable to what is being done for the residents at 38 Highland Street.

Conditions

- a) In the instance that the four replanted maple trees, the retained hickory tree, or the retained maple tree are damaged during the construction process, the Applicant shall make a payment to the Medway Tree Fund based on a tree replacement value of \$355 per 2.5-3" caliper tree which is the equivalent of 7 sq. inches. Before the building permit for the fourth house is issued, the Tree Warden shall inspect the above noted trees to determine their condition, viability and need for alternative mitigation. Any required payment in lieu shall be provided to the Town before the occupancy permit for the fourth house is issued.
- b) The shrubs to be planted on Lots #1 and Lot #4 shall be installed prior to issuance of the occupancy permit for the respective houses.
- c) The value of the new shrubbery and the replanting value of these 6 trees noted above shall be incorporated into any performance security amount established by the Board for the Choate Trail subdivision. The value shall include that for both plant materials and installation.

d)

e)

The provisions of this Permit shall apply and be binding upon the Applicant and all successors and assigns in interest. Failure to comply with all conditions stated herein shall be deemed cause to revoke or modify this Permit. This Permit does not relieve the Applicant or any other person of complying with all other applicable federal, state or local statutes, by-laws or regulations.

VOTING THIS 9th day of June 2020

IN FAVOR:

Planning and Economic Development Board Members:

Andy Rodenhiser

Bob Tucker

Thomas Gay

Matthew Hayes, P.E.

Richard Di Iulio

Tree Warden: *Steve Carew*

ATTEST

Susan E. Affleck-Childs
Planning and Economic Development Coordinator

A copy of this permit is filed in the Office of the Medway Town Clerk:

cc: Michael Boynton, Town Administrator
Steve Carew, Tree Warden
David D'Amico, Director Department of Public Works
Jack Mee, Building Commissioner
Ericka Robertson, Building Department Compliance Officer
Robert Pace, Residences at Choate Trail, LLC
Matthew Silverstein, Residences at Choate Trail, LLC
Vito Colona, P.E., Connorstone Engineering



CONNORSTONE ENGINEERING, INC.

10 SOUTHWEST CUTOFF, SUITE #7
NORTHBOROUGH, MASSACHUSETTS 01532
TEL: (508) 393-9727 • FAX: (508) 393-5242

Medway Planning & Economic Development Board
Town of Medway
155 Village Street
Medway, MA 02053

March 9, 2020

**Re: 42 Highland Street (Choate Trail Way)
Revised Definitive Subdivision Plans**

Dear Ms. Affleck-Childs:

On behalf of the applicant please find the enclosed plans related to the definitive subdivision application for Choate Trail Way. The plans have been revised based upon discussions at the previous Planning Board meeting.

Tree Mitigation:

The revised plans have been updated to include mitigation for the proposed scenic road tree removal. The plans have been modified slightly to protect the existing 14-inch Hickory on the right side of the entrance.

- 12" Dead Tree – no replacement required
- 5" Maple – to be transplanted
- 5" Maple – to be transplanted
- 26" Oak – 38 replacement trees required (3" caliper)
- 7" Maple – to be transplanted
- 9" Maple – to be transplanted
- 14" Hickory – to be protected (removal not required)
- Total replacement required = 38 Trees

Proposed Mitigation Measure	Replacement Tree Equivalent
Preserve an existing 12" Maple along Highland Street. The tree is outside the right of way, but will be preserved and protected. If the replacement formula were applied to this tree it would require 8 replacement trees.	8 Trees
Buffer Restoration Area. Pre-existing disturbance of the inner 25 foot buffer to be planted with a mix of native shrubs Total shrubs = 30 (2:1 shrub to tree ratio)	15 Trees
Trail Buffer Plantings. Proposed planting buffer between the walking trail and the abutting residential property. Plantings to include native shrubs Total shrubs = 30 (2:1 shrub to tree ratio)	15 Trees

Total replacement tree equivalent = 38 Trees

Trail Connection:

The proposed walking trail connection has been provided on the plans. The trail will be located along the side of Lot 4 and consists of a 5 foot wide trail within a 15' wide easement. An easement over the sidewalk area has also been provided to access the trail entrance.

Other Plan Revisions:

The plans have also been revised based upon Conservation Commission comments and earlier Planning Board Comments these include:

Planning Board items:

- Switching the sidewalk to the east side of the road to reduce the limit of tree removal and earthwork toward the wetlands.
- Show the electric utility pole with overhead wires to the site and then underground connection.
- Specified the curbing type at the cul-de-sac as sloped granite.
- Added the street name as Copper Drive.

Conservation Commission Items:

- Modifying the wetland delineation (delete flag #10).
- Modify the erosion barrier detail to compost sock rather than straw wattles, and the limit of barriers on Lot 2 to correspond with the buffer zone limits.
- Note snow storage plowing away from wetland buffers toward the right shoulder.
- Note the existing house has been removed.
- Add a temporary sediment trap on Lot 4.
- Specify the side slope near the wetland to be seeded with a native conservation seed mix.

Should you have any questions please contact our office at 508-393-9727.

Sincerely,
Connorstone Engineering, Inc.



Vito Colonna, PE



June 9, 2020

**Medway Planning & Economic Development Board
Meeting**

PEDB Meeting Minutes

- DRAFT minutes of the May 26, 2020 PEBB meeting

Tuesday May 26, 2020
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Tom Gay	Matt Hayes	Rich Di Iulio	Jessica Chabot
Attendance	X	X	X	X	X	X

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, no in-person attendance of members of the public will be permitted at this meeting. Members of the public who wish to watch the meeting may do so, on Medway Cable Access: channel 11 on Comcast Cable, or channel 35 on Verizon Cable; or on Medway Cable’s Facebook page @medwaycable.

ALSO PRESENT IN ZOOM MEETING:

- Susy Affleck-Childs, Planning and Economic Development Coordinator
- Amy Sutherland Recording Secretary

The Chairman opened the meeting at 7:03 pm.

There were no Citizen Comments.

HIDDEN ACRES (FOREST ROAD):

The Board of Selectmen and Mr. John Rivard and Mr. Paul Rivard signed the Mutual Release of Claim agreement. The next step is to formally secure the bond funds from Middlesex Bank.

On a motion made by Matt Hayes and seconded by Rich Di Iulio, the Board voted by Roll Call to ratify and affirm the Mutual Release of Claims executed as of May 4, 2020 by Paul Rivard and John Rivard and the Board of Selectmen regarding the Hidden Pines Subdivision and Forest Road and request that the Town Treasurer transfer the balance of funds from Middlesex Savings bank in its entirety (\$6,436.48) as of March 21,2020 to the Planning Board Development Board’s Subdivision Bond Default Account.

Roll Call Vote:

Rich Di Iulio aye
Bob Tucker aye
Tom Gay aye
Andy Rodenhiser aye
Matt Hayes aye

EVERGREEN VILLAGE – Scenic Road Work Permit

The Board is in receipt of the following: (See Attached)

- DRAFT Evergreen Village Scenic Road Work Permit dated 5-20-20

The applicant has received the draft of the decision and had no comments.

The permit for Evergreen Village was reviewed.

It was noted that the Tree Warden is named as a voting party in the language of the decision. This language will be revised.

On a motion made by Bob Tucker and seconded by Rich Di Iulio, the Board voted by Roll Call to accept the decision for Evergreen Village as prepared.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	abstained
Matt Hayes	aye

MEDWAY MILL SITE PLAN:

- Due to the State of Emergency the Chairman declared that this hearing will be continued until June 9, 2020.

CHOATE TRAIL SUBDIVISION – Scenic Work Permit:

The Board is in receipt of the following: (See Attached)

- Draft Scenic Road Work Permit dated 5-21-20

The following were present during the zoom meeting:

- Vito Colonna, P.E. Connorstone Engineering
- Bob Pace, Residences at Choate Trail, LLC
- Matthew Silverstein, Residences at Choate Trail, LLC

The draft Scenic Road work permit for the Choate Trail Subdivision was reviewed the mitigation plan for tree removal. At the last meeting, the Applicant reported that the hickory tree will not need to be removed and can be retained. That change brings the new revised amount of tree replacement to 336 square inches. The quantity of 59 new trees is therefore reduced to 48 trees. The revised tree planting amount for a payment in lieu of tree planting becomes \$17,040.00. The stone will be reused on site. The Board needed to decide when the payment will be made. The Tree Warden has not commented about the timing of the payment. The Board indicated that the funds should be paid before the last building permit is issued. There was a suggestion to have the applicant use some of the funds to install some landscaping at the entryway to the high school or it can be left to the Tree Warden to decide. The Board would like to leave this at the discretion of the Tree Warden. Regarding the Hickory Tree, if the Tree Warden decides that the Hickory Tree is at risk of dying, there would be provision for what happens. It was suggested to put a date on this such as a year of last building permit. Susy will draft this language.

The applicant reported that he had discussed with the Tree Warden and Susy their idea to plant some trees on site in lieu of the cash payment. An abutter on Highland Street wanted some landscaping in the area between the planned trail and her property. The applicant was informed if this is what they intend to do, there needs to be a proposal presented. The plantings with the abutter should not be tied to this but should be worked out with the parties. Some tree planting was put on the landscape plan by the Conservation Commission.

The Board needs to hear from Tree Warden Steve Carew. This will be put on hold until there is further conversation with Vito Colonna. The tree mitigation is along the trail and on private property. The rules and regulations are silent about whether scenic road mitigation can be on private property. It was noted that the board packet for the May 12, 2020 meeting included a memo dated March 9, 2020 from Connorstone Engineering with the proposed planting mitigation plan with trees and shrubs and what the equivalent values are. There was no vote or action on this item. This will be placed on the June 9, 2020 meeting agenda. Susy will work with the applicant and Vito Colonna to resolve this.

Choate Trail Construction Services Estimate

The Board is in receipt of the following: (See Attached)

- Construction Services estimate from Tetra Tech dated 5-22-20

The Board is in receipt of the Tetra Tech estimate for construction services for the Choate Trail subdivision. On a motion made by Tom Gay and seconded by Rich Di Iulio, the Board voted by Roll Call vote to accept the Choate Trail Estimate in the amount of \$9,506.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

PEDB MEETING MINUTES:

May 12, 2020:

On a motion made by Rich Di Iulio and seconded by Matt Hayes, the Board voted by Roll Call to approve the minutes from May 12, 2020.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

APPOINTMENTS TO OPEN SPACE, DESIGN REVIEW, AND ECONOMIC DEVELOPMENT COMMITTEES:

The Board is in receipt of the following: **(See Attached)**

- SAC memo dated 5-22-20 re: appointments to the Open Space Committee
- SAC memo dated 5-22-20 re: appointment to the Design Review Committee

Open Space Committee:

The term of office for the following members of the Open Space Committee expires on June 30, 2020: Charlie Ross, Denise Legee, Joanne Williams and Jim Wickis. All have expressed their interest to continue to serve on the OSC and it is recommended the PEDB reappoint them to the Open Space Committee for another two-year term through June 30, 2022.

On a motion made by Rich Di Iulio and seconded by Bob Tucker, the Board voted by Roll Call to appoint Charlie Ross, Denise Legee, Joanne Williams and Jim Wickis to the Open Space Committee through June 30, 2022.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

Design Review Committee:

The term of office for DRC members Matt Buckley and Rachel Wolff Lander concludes on June 30, 2020. Matt Buckley would like to continue to serve. Rachel Wolff Lander has decided to conclude her time on the DRC.

On a motion made by Matt Hayes and seconded by Bob Tucker, the Board voted by Roll Call to appoint Matt Buckley to the Design Review Committee through June 30, 2022.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

ENVIRONMENTAL STANDARDS:

The Board is in receipt of the following: **(See Attached)**

- Revised draft of Environmental Standards dated May 21, 2020

The Board was informed that after the last meeting, Susy worked on some revisions and sent them to members Hayes and Gay for review. The feedback they provided was incorporated into the revised version for the Board’s discussion tonight. This version provides that the Building Commissioner may use the reasonableness standard or two options for measurement standards to decide whether an odor is objectionable. Comments provided by Barbara Saint Andre and abutter John Lally were incorporated into this recent version of the draft standards.

Member Gay commented on his review of a number of documents he had researched. He indicated his uneasiness about the bylaw not having ways of measurement or justification for the Building Commissioner. He found further documentation about enforceable standards for odor. It is his recommendation to add a dilution threshold back into the language. There are multiple devices which can accomplish this. The Town does not have to settle on a single device and can be stricter on what the dilution threshold is to trigger a violation.

The Chairman and Susy discussed if this issue can be covered by a zoning special permit. Not all agree that this fits what a special permit is meant to do. If there were to be a special permit, the Board would need to decide if this would rest with the Planning and Economic Development Board or Zoning Board of Appeals. The Chairman noted that the applicant would need to present a plan and mitigation measures when applying for the special permit. There are analytical standards which could be objective. There is a continuum if someone finds an odor to be objectionable. It is not reasonable or realistic to think that there would be no odor. There are five components of the odor and noise sections which were added to the document – standards, investigation, mitigation plan, corrective measures and exemptions. Tom Gay indicated that the threshold could be lower in the dilution standard. There are different dilutions used for different industries. The Town could set a dilution of 2 or 3. This would be our jurisdiction to determine the dilution. This could help when determining the mitigation plan. Mr. Lally provided comments late in the day (see Attached) but the Board has not had time to review those comments.

Mr. Lally commented about the dilution threshold being reinserted which he is opposed to. The criteria with dilution was promising early on as seen in Denver but over time, experience has shown that some odors have low concentrations that any dilution renders ineffective. This happened to the residents of Denver. There is an analytic method which is undiluted, and this is what the residents experience. When we allow a diluted option, it creates confusion. He will oppose this at town meeting. There is no analytical method where odors can be measured since the instrument has not met the human threshold. There is a sensorial standard. This is where he has disagreement. This is specific sensorial undiluted measurement.

The Board would like to have a more productive discussion once everyone gets a chance to review the comments from Mr. Lally.

Member Gay will send the research he has done on the topic to Mr. Lally and the other PEDB members.

This will be tabled until Barbara Saint Andre can also be part of the discussion.

MEDWAY PLACE SITE PLAN:

- Due to the State of Emergency the Chairman declared that this hearing will be continued until June 9, 2020 at 8:15 pm.

CONSTRUCTION REPORTS:

The Board is in receipt of the following: (See Attached)

- Millstone #83 (4-22-20)

- Salmon #37 (5-12-20)
- Medway Community Church #28 (5-14-20)

The Chairman explained to the Board that Jeff Robinson from Salmon has a video of the drone going over the Salmon site. Susy Affleck-Childs will follow-up with Jeff Robinson to secure the video and place on the Salmon section of the Board’s web page.

CORRESPONDENCE:

- A copy of the 5-14-20 email to Steve Venincasa was provided. The email addresses the incomplete landscaping installation.
- There was a memo from the Town Manager about the plans for town hall and interacting with the public.
- Susy informed the Board that she will be back next week working at Town Hall every day. There are safety precautions being put in place for dealing with COVID-19.

FUTURE MEETING:

- Tuesday, June 9, 2020

ADJOURN:

On a motion made by Rich Di Iulio and seconded by Matt Hayes, the Board voted by Roll Call vote to adjourn the meeting.

Roll Call Vote:

Rich Di Iulio	aye
Bob Tucker	aye
Tom Gay	aye
Andy Rodenhiser	aye
Matt Hayes	aye

The meeting was adjourned at 10:01 pm.

Prepared by,
Amy Sutherland
Recording Secretary

Reviewed and edited by,
Susan E. Affleck-Childs
Planning and Economic Development Coordinator



June 9, 2020

**Medway Planning & Economic Development Board
Meeting**

Environmental Standards

- 6-1-20 John Lally email
- 6-1-20 John Lally edits to previous draft

I have attached the 6-1-20 email from John Lally and his recommended edits to the most recent previous draft. I have not made any further edits at this time. I would suggest the Board discuss the direction it wants to take with the Environmental Standards. Tom is prepared to facilitate that discussion.

Susan Affleck-Childs

From: Lally, John - 0666 - MITLL <jlally@ll.mit.edu>
Sent: Monday, June 01, 2020 8:56 AM
To: Susan Affleck-Childs
Subject: Env Std Updates
Attachments: More Odor Update Discussion (4.84 MB); 2020.05.12 Environmental Standards bjs edits (002 - May 26 2020)_JLComments_01Jun2020.docx; atmosphere-11-00092.pdf; Enforceable Permit Odor Limits.pdf; Odor info from Bruce Straughan.pdf

Good morning Susy,

I have read the references and emails from Tom Re: odor updates, and have the following to offer for further odor update discussions.

As usual I ask that you please share this email and attachments with those involved in the discussions, and anyone else as you see fit.

First, think it's always helpful to recall the elements needed in the updates so they provide no less odor protections than the existing Bylaw.

Those elements are:

- 1.) No discernible odor outside the odor source property line. I'm pretty sure that's what "...no emission of odorous gases or odoriferous matter in such quantities as to be discernible outside the property line..." means.
 - a. This would be an Emission Standard, per the terminology in the reference Tom sent.
- 2.) No objectionable odor greater than that caused by the thresholds in the Air pollution Abatement Manual of 1951, as brought up to date by using the most current odor threshold tables.
 - a. This would be an Instrumental Emission Measurement Standard, per the terminology in the reference Tom sent.
 - b. The word "objectionable" is getting us into all sorts of difficulty because it can be so subjective and personalized, fortunately the odor thresholds referenced in the existing Bylaw are clearly defined as the detection threshold. Therefore, that defines what's objectionable in the existing Bylaw. As I detail below, adding a D/T criteria option has the potential to become the de facto odor standard in Medway, this would be a serious degradation in odor protection for Medway residents.
 - c. Suspect what would go a long way towards clearing up a lot of this confusion is including the definition of an objectionable odor as an odor that is at or above the detection threshold. This would be the same as what's in our current Bylaw, the attached edits have this definition added.
 - d. These chemical measurements are the most objective standard that exists to help: Applicants, Facility Operators & Town Officials. They also can be invaluable in identifying a violator by creating a chemical signature that can be correlated with the nature of various facilities, so think really important to keep the odorant threshold tables in the updates.

A few points:

1. As we have come to learn there are many odorants and odorant mixtures that can cause intense odors at concentrations well below the current state of the art of chemical sensors and so it would be a good idea to add a Sensorial Emission Measurement standard as part of the updates. That can be accomplished by specifying an olfactometry measurement per ASTM E679 (or perhaps EN13725). ASTM E679 was offered in the last set of edits, that remains in the attached edits.
2. Folks may recall how dramatically the noise from 2 Marc Rd varies as location varies, that's why we kept the noise performance location at the source property line. Odor varies even more by location

and by a lot, especially based on how the wind happens to be blowing. So it's extremely important for odor compliance to be at the source property, i.e. Use Emission Standards. I have added the source property as the measurement location in the attached edits.

3. Going through the exercise of determining if the AIHA odor threshold tables would have protected the residents of Denver, found they would have. However, doing this exercise revealed that the requirement to verify threshold testing methods will likely cause the cost, and time of compliance and enforcement to increase dramatically, and is redundant with specifying the lowest thresholds from the tables. Therefore, in the attached edits I have deleted the methods verification, the comments give the details on this.
4. I gave considerable attention to the D/T criteria option, especially with regard to the "objectionable-odor" standard, and having the backstop of the other undiluted criteria as "catch-all-safety-nets", and ultimately concluded the likely outcome would be for the D/T criteria to become the de facto odor standard for Medway, and therefore remains inappropriate. I sensed this could be an ongoing sticking point in the discussions, so thought a detailed enumeration of the analysis I performed to reach this conclusion is warranted. That analysis is below, it's rather detailed and somewhat technical but I encourage folks to please give a shot at reading through it:

I.) Analysis of D/T based criteria option with reliance on the other undiluted criteria as "catch-all-safety-nets":

- a. The D/T to odor categories shown on pg8 (from 1960 Huey reference) of the McGinley white paper (attached) are only accurate for a limited number of odorants, they are not accurate for many odorants and odorant mixtures, these include: Those specific to cannabis grow facilities, other non-cannabis specific VOC's (Volatile Organic Compounds, often responsible for objectionable odors), PAH's (Polycyclic Aromatic Hydrocarbons, e.g. Naphthalene often associated with mothball smells & tar/coal smells which was one of the major odorants involved in the Denver odor issue). The unfortunate irony here is that these odorants warrant the most protection, and they're the odorants least effectively protected by D/T based criteria. For this reason and for those previously documented (see email from me of 12Mar2020 attached as outlook item here), D/T based criteria have not stood the test of time, have proven they can be unreliable and ineffective, and so should not be considered as an option. Indeed, some communities who had adopted D/T odor criteria find themselves having to amend their odor regulations to address the inadequacies of D/T based criteria:
 - i. In 2008 Denver had to add the provision for allowing complaints to trigger violations because the D/T criteria wasn't providing adequate protection. (See Pg 5 Info from Bruce Straughan attached).
 1. Also in the Info from Bruce on Pg6: "Denver's existing odor regulations are limited in their ability to adequately address both existing sources and this new source of odor complaints." Where the new sources are cannabis grow facilities & the existing are other than cannabis, this is an example that documents the inadequacy of D/T based criteria for non-cannabis odorants.
 - ii. Most (if not all) communities that adopt special odor regulations for cannabis grow facilities do not use D/T based criteria. As we now know, the reasons for this are not unique to cannabis.
- b. Furthermore, we have been warned:
 - i. By the Denver neighborhood odor study: There are many odorants with extremely low odor concentration thresholds, and in at least one instance even a D/T=2 would not have provided adequate protection for Denver residents. Please note the odorants involved in the Denver odor issue were not related to cannabis.
 - ii. By our odor consultant, Bruce: There is no appropriate D/T based criteria for cannabis odors that will adequately protect the community.
 - iii. By the most recent reference sent by Tom - "How Can Odors Be Measured? An overview of Methods and Their Applications":

1. Pg1: "...odors can be perceived far below normal exposure limit concentrations, because some odorous compounds have extremely low odor detection threshold concentrations..."
 2. Pg 5: "...often, VOCs, which are responsible for the odor properties of gaseous mixtures, are present at concentrations in the range of ppb or even ppt, which is lower than the instrumental detection limit..."
- iv. The above warnings are in addition to the descriptions of how bad odors would have to be to exceed a D/T=7 described in the Popular Mechanics & Denver Post articles provided previously.
- c. Problems with relying on the other undiluted criteria as "catch-all-safety-nets" are revealed by thinking through some situations that are likely to occur with D/T based criteria as an option, and applying the benefit of hindsight we've gained from the 2 Marc Rd. situation:
- i. Baseless odor complaints will likely be weeded out without much difficulty.
 - ii. Likewise, egregious applicants or violators (like what's happening in Denver) will likely be caught and resolved by the undiluted criteria. Although residents still run the risk (hopefully low risk) of a savvy applicant or violator, with a sophisticated odor consultant somehow convincing folks that: "Sorry, it's the D/T based criteria that's controlling for this facility..." I seriously doubt this would ever happen with the current composition of the PEDB, but with a much less technically oriented board it's not hard to imagine.
 - iii. That leaves what are likely the vast majority of situations where odors are in the "grey-area". The odor varies in: intensity, type, frequency, and persistence, based on: facility operations, weather, and seasonal conditions, and are experienced to greater or lesser degrees by resident's depending upon their locations and when they're home. This is exactly the frustrating situation residents found themselves in with 2 Marc Rd.
 1. In these situations the building commissioner or designee will have to make a judgement call on whether or not the odor is objectionable. To make that call what's likely to happen is the odorant will be diluted per the D/T criteria option. As we now know there are many odorants that when diluted even by small amounts go from intense odors to not detected at all. Therefore, in these situations it's reasonable to expect residents risk not being protected from these odors because when diluted they will not be detected, and therefore won't be considered objectionable.
 2. A not unlikely outcome of including a D/T based criteria option is: The D/T based criteria option will become the de facto odor standard in Medway.
- d. It seems that c.iii.) above (grey-area-odors), spawns a fundamental policy position question for board members:
- i. Should the grey area odors described in c.iii.) above be investigated and potentially mitigated or not?
 1. If yes, these types of odor sources should be investigated and potentially mitigated then a D/T criteria option is likely not appropriate for Medway.
 - a. This would be consistent with the existing odor protections currently afforded Medway residents.
 2. If no, these types of odor sources should not be investigated and mitigated, a D/T based criteria option might be consistent with that.
 - a. However, if this is the decision of the board I ask board members to please be mindful of:
 - i. It would be a considerable degradation of the odor protections currently afforded Medway residents, per the no discernable odor beyond the source property line and no odor at or above the detection threshold requirements in the existing Bylaw.
 - ii. It seems counter-intuitive to be degrading odor protections for Medway residents contemporaneous with Medway having allowed

cannabis grow facilities which are known to generate intense odors.

Respectfully submitted,
John Lally, Resident
35 Coffee Street
Medway, MA 02053

7.3. ENVIRONMENTAL STANDARDS

A. **Purpose.** The intent of this section is to provide standards for uses that may generate impacts that are potentially hazardous, harmful to the environment, disturbing or offensive. The Medway Zoning Bylaw, § 5.2, Prohibited Uses, expressly prohibits all uses in any zoning district that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or light and shadow flicker. Furthermore, the Zoning Bylaw, § 5.2, Prohibited Uses, B.14 prohibits any use that produces “disturbing or offensive” noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features. For the purposes of this section, “disturbing or offensive” impacts are those that a reasonable person with normal sensory sensitivities would find objectionable, as interpreted by the Building Commissioner or designee.

Commented [SA1]: I suggest we also include the word “objectionable” in here as it is used extensively throughout this section. .

Commented [BSA2]: Why do we keep saying “Medway” ZBL? We don’t do that elsewhere in the ZBL, and is seems unnecessary. Section 7.3 is part of the Zoning By-law.

Commented [BSA3]: We probably don’t need to have both 5.2 and 5.2.B.14 provisions prohibiting offensive uses, but that is an issue for another day.

B. **Enforcement:** The Medway Zoning Bylaw, § 3.1, Enforcement, Violations, and Penalties authorizes the Building Commissioner, or designee, to interpret and enforce this Bylaw. ~~The police department, fire department, or board of health officials are authorized to enforce standards that are based on certain sections of 310 Code of Massachusetts Regulations (CMR), § 7, Air Pollution Control Regulations.~~ At the discretion of the Building Commissioner, a technical consultant may be engaged by the Town of Medway to investigate and document violations.

Advisory Note – State regulations authorize the police department, fire department, and board of health officials to enforce noise standards that are based on certain sections of 310 Code of Massachusetts Regulations (CMR), § 7, Air Pollution Control Regulations. Such regulations are distinct and separate from the Town’s zoning regulations.

C. **Standards.** The following standards shall apply to all zoning districts and shall be determined at the location of use:

Commented [SA4]: This is not an accurate statement. In the noise section, the determination is made at the property line.

Commented [BSA5]: Agreed

1. **Smoke, Fly Ash, Dust, Fume, Vapors, Gases, Other Forms of Air Pollution:** Medway Zoning Bylaw, § 5.2, Prohibited Uses, 14, prohibits any use “that produces disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.” In addition, all activities involving smoke, fly ash, dust, fume, vapors, gases, other forms of air pollution, as defined in CMR 310, § 7, Air Pollution Control Regulations, as amended, which can cause damage to human health, to animals or vegetation, or other forms of property, or which cause any excessive soiling at any point are prohibited.

2. **Noise Disturbance:** The Building Commissioner may determine that a noise source is subject to investigation, violations, penalties, and/or corrective measures.

a. **Standards.** No person or persons owning, leasing, or controlling the operation of any source or sources of noise shall willfully, negligently, or through the failure to provide

necessary equipment or facilities or to take necessary precautions, permit the establishment of a condition of noise pollution. In addition, all activities involving noise must also meet the standards of 310 CMR § 7.10, Air Pollution Control Regulations, as amended, which regulates outdoor noise. Section 7.10 (1) of this regulation prohibits any person owning, leasing, or controlling a source of sound to “cause, suffer, allow, or permit unnecessary emissions from said source of sound that may cause noise.”

Commented [BSA6]: Is this necessary? Do we care how the noise is caused? Can we just delete this?

Commented [SA7]: Again, are we saying that the state noise regulations are the Town’s as well?

1) **Continuous Noise.** For the purposes of this bylaw, continuous noise restrictions apply to permanent non-residential installations and home-based businesses where noise is a by-product of business operations (such as from exhaust equipment). Maximum permissible sound pressure levels measured at the property line of the noise source for noise radiated continuously from the noise source shall not exceed the values specified in the table below where Daytime is defined as between the hours of 7:00 a.m. and 9:00 p.m. and Nighttime is defined as between the hours of 9:00 p.m. and 7:00 a.m.

Commented [BSA8]: Not sure what this means. Does it mean uses? The term non-residential uses is used in other parts of the By-law. Or is it premises?

Commented [BSA9]: Can’t help myself, this is a formal document.

Commented [SA10]: Let’s define Hz, dB, and dBA and octave band so that a regular person may have some idea what this all means!?!?

Octave Band Center Frequency (Hz)	Daytime (dB)		Nighttime (dB)	
	7:00 a.m. – 9:00 p.m.		9:00 p.m. – 7:00 a.m.	
63	72	55		
125	60	48		
250	53	42		
500	47	39		
1000	43	36		
2000	40	33		
4000	37	30		
8000	33	27		
Overall Level (dBA)	52	42		

(Hz) Hertz. A unit of frequency of change in the cycle of a sound wave
 (dB) Decibel. A unit of measurement of the intensity of sound
 (dBA) A-weighted decibel. An expression of the relative loudness of sounds in the air as perceived by the human ear.
 Octave Band - ??????????????

Commented [BSA11]: Where do these definitions come from? We want to use the recognized definitions; otherwise, putting in a definition could have unintended consequences.

Commented [SA12]: It might be helpful to define “ambient noise” or replace this with “background”.

Commented [BSA13]: I believe “ambient” is a term of art in the noise field, I would be reluctant to use “background”.

Compliance with all octave band limits is required. If the Building Commissioner determines that the noise source contributes significantly to ambient noise levels at any distance from the property, sound levels may be measured in those locations beyond the source property line.

2) **Temporary Noise.** For the purposes of this bylaw, non-continuous noise restrictions apply to permanent non-residential installations and home-based businesses where noise is periodically produced. No person shall use or cause the use of any noise-

producing equipment or tool (such as for construction, repair, or demolition operations) between the hours of 9:00 p.m. and 7:00 a.m.

- 3). **Construction Noise.** Work at construction sites and in the operation of construction equipment including start-up and movement of trucks, vehicles, and machines ~~start-up and movement~~ shall commence no earlier than 7:00 a.m. and shall cease no later than 6:00 p.m., Monday ~~through~~– Saturday. No construction shall take place on Sundays, ~~or~~ federal holidays or ~~and~~ state legal holidays without the advance written approval of the Building Commissioner,

Commented [SAC14]: I believe we should include something to address construction noise. This is our standard language we have been incorporating into decisions.

Tom asks if this is located in rules and regs. Also asks if this really belongs here at all in light of the purpose of this section.

Commented [BSA15]: May want to include this, thinking just an email would do, but good to have a paper trail.

- b. **Investigation.** The Building Commissioner may determine that the noise source is subject to investigation, violations, penalties, and/or corrective measures. If the Building Commissioner determines that an investigation is warranted, he or she may order the owner or operator to address the issue, which may include undertaking a noise study at their expense. Such noise study including sound measurements shall be conducted by a qualified acoustical consultant (INCE board certification or equivalent experience) in accordance with industry best practices. Depending on the particular site and noise generators, the noise study shall include, at a minimum, measurements of:

- ambient ~~(background)~~ noise ~~(D~~daytime and ~~n~~Nighttime) and
- operational noise levels ~~(d~~Daytime and ~~n~~Nighttime) at the facility property line and residential receptors.

Commented [BSA16]: Are we using these as defined terms (see above). If so, I would capitalize.

The Building Commissioner may provide the noise study to the Town’s noise consultant for peer review, comment, and recommendations at the owner or operator’s expense.

Commented [BSA17]: You should have Town Counsel comment on this. Investigation of a potential violation involves potential criminal penalties; not sure we can force a land owner or lessee to provide a noise study as part of that. (Unless it is part of the special permit conditions, such as for the marijuana facilities.)

- c. **Noise Control Plan.** If the Building Commissioner, after evaluating the noise study, determines that corrective measures are necessary to remedy the noise violation ~~there is a violation~~, the owner and/or operator of the noise producing use shall provide a noise control, abatement and mitigation plan to the Building Commissioner for review and approval. The plan shall address how the site will become compliant. The plan shall be prepared by a qualified acoustical consultant whose qualifications include Institute of Noise Control Engineering (INCE) board certification or ~~f~~ equivalent experience. If the Town requires consulting assistance to evaluate the plan, all costs will be borne by the owner or operator pursuant to G.L. c. 44, § 53G.

Commented [SAC18]: Pretty much the same language as in the marijuana special permit section.

Commented [BSA19]: Isn’t the question whether there is a violation?

- d. **Corrective Measures** - Non-residential uses that produce non-compliant noise must install and maintain noise reducing equipment in accordance with the approved noise control plan to meet the requirements of this section. Compliance shall be achieved through industry best practices and suitable mitigation measures and may include reports of ongoing noise compliance reporting.

Commented [BSA20]: See comment above.

e. **Exemptions**

- 1) Noise caused by agricultural, farm-related, or forestry-related activities as defined by [G.L., c 128, Agriculture, § 1A](#), as amended, is exempt from this restriction when such activities follow generally accepted practices (Right to Farm Bylaw, [G.L., c 111, §125A](#)).
- 2) The limitations of this section do not apply to any construction, demolition, or repair work on public improvements authorized by a governmental body or agency.

3. Vibration: No vibration which is discernible to the human sense of feeling for 3 minutes or more in any hour between 7:00 a.m. and 7:00 p.m., or for 30 seconds or more in any one hour from 7:00 p.m. to 7:00 a.m. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitude and frequencies beyond the "safe" range on [Table 7, U.S. Bureau of Mines Bulletin NO. 442](#). Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 9:00 p.m. shall be exempt from this section.

4. Odors: The Building Commissioner may determine that an odor source is subject to investigation, violations, penalties, and/or corrective measures.

a. **Standards – Failure to meet** Either of the two standards listed below shall be [a violation of this section as determined by the Building Commissioner](#). [For the purposes of this Bylaw an objectionable odor is defined as an odor at or above the detection threshold.](#)

1) Reasonableness Standard - Disturbing or offensive odors as defined in Paragraph A above shall not be produced in any zoning district or impact any public space where people live, work or assemble in a way that unreasonably interferes with the comfortable enjoyment of life or the use of property. The Building Commissioner may determine, using only her or ~~her~~ **his** sense of smell, that an odor is one which is offensive or objectionable to a reasonable person with normal olfactory sensitivity.

2) Measurement Standards – Violation of Either of the following two measurement standards: ~~may be used.~~

a) **Instrument Measurement Standard:** No disturbing or offensive odor ~~at the source~~ [property line](#) greater than that caused by the lowest odor detection thresholds as listed in the most recent edition of the [American Industrial Hygiene Association](#) (AIHA) Odor Thresholds for Chemicals with Established Occupational Health Standards, Reported Odor Thresholds (EG Table 6.3 in 2nd Edition) shall be permitted. ~~Only those reported detection thresholds determined with equal to or better than the following control measures shall apply:~~

Commented [SAC21]: Are there any other noise exemptions we should include?

Commented [MJH22]: Other requirements are 9:00pm. Is there a reason to be different?

Tom suggests we use the same hours as in the noise table.

Commented [SA23]: perhaps provide a link to this referenced source.

Commented [LJ-0-M24]: Important to define what an objectionable odor is. Perhaps this should go in Section 2: Definitions of the Bylaw.

Commented [LJ-0-M25]: Important to specify compliance location at the source.

Commented [SAC26]: Perhaps provide a link to this referenced resource.

Commented [LJ-0-M27]: Going through the exercise of determining if the AIHA Odor tables would have protected the Denver residents, found they would. However, I spent the better part of a day trying to find a single reference to a relevant study for the test methods. It was in an Australian Library & might have to be ordered, so I left it at that. Imagine having to do this for dozens of odorants, which as we have experienced can be on the low side for some facilities.

Applicants, Facility Operators & Town Officials need to be able to reference the Tables efficiently without having to spend days if not weeks researching references for testing methodologies.

All but a very few of the lowest reported thresholds in the Tables are 1950's and later, when testing methods became much more controlled. The AIHA states that: "the most accurate estimate of a chemical's odor detection threshold would tend to be the lowest concentration reported using good methodology" Think it makes a lot of sense to rely on specifying the lowest thresholds shall apply, and deleting the text associated with methodology verification, since that's redundant with having specified the lowest threshold.

- ~~• Measured delivered concentration~~
- ~~• Used force choice methods~~
- ~~• Provided sample blanks~~
- ~~• Delivered odorant such that the delivery person could not dilute the sample~~

Due to the potential of odorant mixtures causing more intense odors than individual odorant compounds in isolation, nothing in this Bylaw shall be interpreted as allowing for any objectionable odor at or above the ~~cited~~ detection thresholds.

- b). Sensorial Measurement Standard: No objectionable odor at the source property line greater than the detection threshold as determined through field inspections by the building commissioner or their designee or determined using olfactometry as specified in ASTM E679, shall be permitted.

~~A measured “Dilution to Threshold ratio” (D/T) of [redacted] or greater at the property line from where the odor is created shall constitute non-compliance. The Dilution to Threshold ratio is a measure of the number of dilutions needed to make the odorous ambient air non-detectable. The method of calculating D/T for the field olfactometer is:~~

$$D/T = \frac{\text{Volume of Carbon Filtered Air}}{\text{Volume of Odorous Air}}$$

- b). **Investigation.** If the Building Commissioner determines that an investigation is warranted, he or she shall undertake an odor observation to determine if an objectionable odor exists ~~at the property line~~ at the source property line. As a component of the investigation, measurements may be done in the field by the Building Commissioner or designee, or by using laboratory means and methods. The following forms of investigation may be used:

- 1) Undiluted odor field observations (i.e. sniffing at ~~the source the property line(s)~~ or odor sampling shall be performed at a frequency, duration, and source property line locations appropriate for the odor source under investigation and any odor complaints that have been received by the Town. Field observations shall include the use of carbon filtering masks to refresh the olfactory sense between observations (sniffing).

- 2) ~~A field olfactometer may be used measure odor strength using a dilution to threshold ratio.~~

Commented [LJ-0-M28]: By deleting “cited”, any objectionable odor above the detection threshold is covered, independent of the cited detection thresholds.

That way if an odorant isn’t in the AIHA tables, either because it just hasn’t been characterized yet or it can’t be characterized because the state of the art can’t measure it’s detection threshold (i.e. cannabis based & other highly sensitive compounds) residents will still be protected.

Commented [LJ-0-M29]: Due to limitations of current state of the art in odor sensor instruments very important to include sensorial based measurements.

After thorough consideration of the D/T based option I remain opposed to it.

Commented [BSA30]: Interesting that we direct the BC on how to conduct the investigation.

Commented [MJH31]: What is an Odor Observation? Is this what is defined in the next section?

Commented [BSA32]: Are these the exclusive methods?

Commented [LJ-0-M33]: Once an objectionable odor has been found at the source property line in order to get to the bottom of what’s going on an investigator may need the latitude to make observations on the source property other than at the property line so in the investigation section just specify source property.

Commented [MJH34]: This may be ok to keep, but I wouldn’t want it to be confused with the dilution device that we are trying not to use.

Commented [LJ-0-M35]: I remain opposed to D/T based criteria and measurements.

3) At the discretion of the Building Commissioner, a technical odor consultant may be engaged by the Town of Medway for this investigation including odor observation and documentation of violations.

~~Because certain odors cannot be detected by mechanical or electrical instruments and their odor strength cannot be effectively measured with a field olfactometer, As a result of the investigation, the Building Commissioner may determine without using field devices and using only the sense of smell of the inspector that the odor is one which is objectionable to a reasonable person with normal sensitivity and that the odor source is subject to violations, penalties, and/or corrective measures.~~

c. **Odor Control Plan** – If, based on the investigation, the Building Commissioner determines that ~~corrective measures are necessary~~ there is a violation, the owner and/or operator of the odor-producing use ~~shall~~ ~~may~~ ~~shall~~ be required to provide an odor control, abatement and mitigation plan to the Building Commissioner for review and approval. The plan shall address how the odor standards will be met. The plan shall be prepared by a certified environmental engineer or certified environmental professional with experience in odor management, abatement and mitigation technologies. If the Town requires consulting assistance to evaluate the plan, all costs will be borne by the owner or operator pursuant to [G.L. c. 44, § 53G](#).

Commented [SAC36]: Same language as in the marijuana special permit section

Commented [SA37]: Or “shall?”

Commented [LJ-0-M38]: Should this be shall?

d. **Corrective Measures** - Non-residential uses that produce non-compliant odors ~~may~~ ~~shall~~ be required to install and maintain odor-eliminating equipment in accordance with the approved odor control plan to meet the requirements of this section. ~~to the satisfaction of the Building Commissioner~~. This may include reports of ongoing odor compliance monitoring.

Commented [BSA39]: Check with Town Counsel; §53G is generally associated with permits rather than enforcement.

Commented [SA40]: Or shall?

Commented [LJ-0-M41]: Think it should be shall?

e. **Exemptions**

1) **Farming**. Odors resulting from farming practices as defined in Medway General Bylaws, Article XXXI 31, § 2, Right to Farm, are exempt from these restrictions when such activities follow generally accepted practices ([G.L., c 111, §125A](#)).

2) **Residential Uses**. Periodic odors resulting from residential activities such as but not limited to barbecues, wood stove exhaust, and house painting are exempt from these restrictions.

Commented [SAC42]: Recommended by odor consultant Bruce Straughan

3) **Repair and infrequent maintenance activities**. Repair and infrequent maintenance activities such as but not limited to those for septic and sewer systems shall be exempt from these restrictions.

Commented [SAC43]: Recommended by odor consultant Bruce Straughan

D. **Special Permits** ~~A non-residential use that does not comply with the environmental standards herein shall only be allowed by special permit from _____.~~ ~~Special permits granted hereunder shall be based upon the criteria in Section ____ of this Bylaw. Nothing in this Bylaw prevents the special permit granting authority from attaching additional conditions to its approval of a special permit application.~~

~~Possible definition for Ambient Noise – The sound pressure level produced by everything else excluding the source of sound being evaluated. Also referred to as background noise.~~

DRAFT

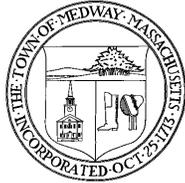
Commented [LJ-0-M44]: Agree with Tom.

Commented [SAC45]: Tom doesn't feel that we should allow an7 non-residential use to not comply.

Who should be the special permit granting authority? ZBA or PEDB?

Commented [SAC46]: Are there any other specialized criteria pertaining to environmental standards that we should include?

Commented [BSA47]: I tend to agree with Tom, seems a slippery slope. Chapter 40A, §6 seems to provide grandfathering for uses lawfully in existence; any new uses should comply.



TOWN OF MEDWAY
Planning and Economic Development Board Rules & Regulations

Chapter 500
**ADAPTIVE USE OVERLAY DISTRICT
(AUOD)**

Rules & Regulations for the Review and Approval of
Adaptive Use Overlay District (AUOD) Plans
and Issuance of Adaptive Use Special Permits

Adopted: ~~July 26, 2005~~ July 26, 2005

Amended: _____

Medway Planning and Economic Development Board

~~Matthew J. Hayes~~ Andy Rodenhiser, Chairman

~~Robert K. Tucker~~ Andy Rodenhiser, Vice-Chairman

~~Alan DeToma~~ Tom Gay, Clerk

~~Karyl Spiller Walsh~~ Matthew J. Hayes, P.E.

~~Cranston (Chan) Rogers~~ Richard Di Iulio

~~Jessica Chabot~~, Associate Member

TOWN OF MEDWAY
Planning and Economic Development Board Rules & Regulations

Chapter 500
**ADAPTIVE USE OVERLAY DISTRICT
(AUOD)**

Rules & Regulations for the Review and Approval of Adaptive Use Overlay District (AUOD)
Plans and Issuance of Adaptive Use Special Permits

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Chapter 500

ADAPTIVE USE OVERLAY DISTRICT (AUOD)

Rules and Regulations for Review and Approval of AUOD Plans and Issuance of Adaptive Use Special Permits

Adopted by the Medway Planning and Economic Development Board, July 26, 2005

ARTICLE I AUTHORITY

s. **501-1 ADOPTION** – The Planning and Economic Development Board (hereinafter referred to as the “Board”), hereby adopts these *Rules and Regulations* governing the review and approval of AUOD plans and the issuance of Adaptive Use Special Permits for AUOD developments pursuant to ~~SECTION 5V, SECTION USE REGULATIONS, 5.6.2, Sub-Section W,~~ of the Medway Zoning Bylaw, approved as Article 19 at the June 28, 2004 Special Town Meeting and as further revised as Articles 43 and 44 at the June 6, 2005 Annual Town Meeting.

s. **501-2 PURPOSE** – These *Rules and Regulations* provide for the procedural and substantive requirements of ~~SECTION 5V, 5.6.2, Sub-Section W,~~ of the ~~Medway~~ Zoning Bylaw including the process for submission, review and processing of AUOD plans, issuance of Adaptive Use Special Permits, applicable site, open space, design and construction standards, and the corresponding fees. The purpose of these *Rules and Regulations* is to guide the applicant and their consultants, Town officials and Boards, and others involved in the preparation, processing and review of AUOD plans and issuance of Adaptive Use Special Permits.

ARTICLE II DEFINITIONS

s. **502-1 APPLICABILITY** – The terms used in these *Rules and Regulations* shall have the meaning as specified in the ~~Medway~~ Zoning Bylaw, Section ~~2H~~. DEFINITIONS in effect at the time the AUOD application is submitted, unless a contrary meaning is required by the context or is specifically prescribed.

ARTICLE III ADAPTIVE USE SPECIAL PERMIT APPLICATION

s. **503-1 GENERAL INFORMATION**

A. General – An AUOD development shall be permitted only upon the granting of an Adaptive Use Special Permit by the Board. An applicant shall apply for an Adaptive Use Special Permit by submitting an AUOD Plan and all other required information in accordance with the requirements set forth in these *Rules and Regulations*. The Planning Board shall review an Adaptive Use Special Permit Application pursuant to the submission and procedural requirements set forth in these *Rules and Regulations*, and shall review the AUOD Plan for conformance with all standards of ~~SECTION 5V, 5.6.2, Sub-Section W~~ of the ~~Medway~~ Zoning Bylaw. The application, submission, and procedural review process for an Adaptive Use Special Permit shall adhere to all

minimum requirements specified herein. The exact content of an Adaptive Use Special Permit Application beyond the minimum requirements may vary depending on the exact use(s) and structure(s) proposed by the applicant.

- B. Coordination with Site Plan Approval** – As specified in SECTION ~~V. 5.6.2.H. Sub-Section W~~, of the ~~Medway~~ Zoning Bylaw, the uses and improvements that are the subject of an Approved Adaptive Use Special Permit shall be exempt from the Site Plan Approval requirements of SECTION ~~III. 3.5.5V. Sub-Section C~~. Site Plan Approval of the ~~Medway~~ Zoning Bylaw. However, in reviewing Adaptive Use Special Permit applications, the ~~Planning~~ Board will consider the impacts of features that are normally the subject of Site Plan Approval including but not limited to drainage, parking, lighting and landscaping. The Development Standards included in the *Site Plan Rules and Regulations* shall be adhered to to the extent feasible in light of the AUOD purposes of preserving the architectural integrity of the existing buildings and maintaining community character.
- C. Pre-Application Meeting** – A Pre-Application Meeting with the ~~Planning~~ Board prior to submission of an Adaptive Use Special Permit Application is highly recommended. A Pre-Application Meeting will provide the applicant with the opportunity to present preliminary concepts for its AUOD project and gain informal feedback and input from the ~~Planning~~ Board, other Town officials and interested citizens at an early stage of project planning. This meeting will also allow the ~~Planning~~ Board and other involved officials to provide guidance to the applicant regarding the proposed project as well as the Adaptive Use Special Permit application and review process.
- D. Application Form** – The ~~Planning~~ Board has prepared an application form for the Adaptive Use Special Permit that may be obtained from the ~~Planning~~ **Board-Planning and Economic Development** office or the Town’s web site at townofmedway.org. The form requests general information about the applicant and its agents, the location, size and nature of the proposed AUOD development site and a general description of the proposed AUOD development project.

s. **503-2 STANDARDS FOR AUOD PLAN PREPARATION**

- A.** The AUOD Plan shall be prepared by a Professional Engineer (PE) ~~and or~~ a Registered Land Surveyor (RLS) licensed to perform work in ~~Massachusetts, and Massachusetts and~~ certified by same with their seal stamp and signature. At the discretion of the ~~Planning~~ Board, this requirement may be waived for projects whose impact on the site and abutting properties is minimal, in the ~~Planning~~ Board’s opinion. Conversely, additional professionals, such as an architect and/or landscape architect, may be required in cases where the ~~Planning~~ Board determines that the impact on the site and/or abutting properties is significant.
- B.** In cases where site changes are minimal, the ~~Planning~~ Board may consider waiving the requirement for an AUOD plan of proposed improvements to be prepared by a Professional Engineer. ~~Examples of minimal changes include proposals in which the architectural features of the existing building(s) are not altered, and site work is limited to repairs such as painting; replacement of siding, windows or roof; adding fencing or landscaping; increasing impervious surface by no more than one thousand (1,000) square-~~ **feet**. At a minimum, however, an AUOD application shall include a plan, prepared by an RLS, of all existing conditions, including bearings and distances of lot lines, building

locations, driveways and parking spaces, utilities, fences and walls, any other impervious surfaces, and significant landscape features.

- C. The ~~Planning~~ Board may also require that plans prepared by a Registered Architect, licensed to perform work in Massachusetts, be submitted in cases where the existing building(s) is being altered by increasing the footprint; relocating or adding windows or doors; adding or removing porches, dormers or other architectural features; changing the roof style, etc. The Board, at its discretion, may also require that a plan, prepared by a professional landscape designer or Registered Landscape Architect, be submitted in cases where landscaping comprises a significant component of the character of the site or neighborhood or where significant buffers for abutting properties are required by the Board.
- D. All plans submitted in support of the AUOD Application shall be clearly and legibly presented in black or blue ink. The plan illustrating site improvements shall be prepared in accordance with Rules and Regulations of the Registry of Deeds, Chapter 36, Section 13A, as amended, pertaining to plan size, materials, ink, lettering height, and related requirements.
- E. The AUOD plan shall be at a scale of ~~one inch one (1") equals forty feet (40')~~ or such other scale as the ~~Planning~~ Board may have accepted in advance to show details clearly and adequately.
- F. All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88).
- G. Sheet sizes shall be ~~twenty-four~~ twenty-four by ~~thirty-six~~ thirty-six inches (~~24" X 36"~~), including a three quarter inch (~~3/4"~~) border on the top, bottom and right sides and a one and one-half inch (~~1 1/2"~~) border on the left side.

s. **503-3 TOWN CLERK SUBMITTAL REQUIREMENTS – TOWN CLERK**

- A. The applicant shall file by delivery in hand, or registered or certified mail, the following:
 - (1) A copy of the Adaptive Use Special Permit Application filed on a form supplied by the ~~Planning~~ Board.
 - (2) One set of the AUOD Plans in conformance with these *Rules and Regulations* and the requirements of the ~~Medway~~ Zoning Bylaw, SECTION ~~5. V. Sub-Section~~ 5.6.2. Adaptive Use Overlay District.
 - (3) Project Narrative as described in s. 503-4, B. 12 of these *Rules and Regulations*.
- B. The applicant shall secure a receipt from the Town Clerk and provide a copy of such to the ~~Planning~~ Board. Said receipt shall include the date and time the application was filed with the Town Clerk.

s. **503-4 BOARD SUBMITTAL REQUIREMENTS**

- A. **Basic Information** – Any person or entity that submits an application and plan for an Adaptive Use Special Permit shall file with the ~~Planning~~ Board all items required herein

for the application to be “*duly submitted*” in accordance with these *Rules and Regulations*. Such submissions shall be made directly to the ~~Planning~~ Board.

B. Submittals - The applicant shall file by delivery in hand, or registered or certified mail, the following items to constitute a complete Adaptive Use Special Permit Application:

- (1) The original Adaptive Use Special Permit Application Form, properly executed, filed on a form supplied by the ~~Planning~~ Board including the names, addresses, email and telephone numbers of the applicant, land owner if other than the applicant, and all agents such as architect, engineer and attorney;
- (2) ~~Eighteen (18) Three~~ copies of the AUOD Plan in conformance with these *Rules and Regulations* and the requirements of the ~~Medway~~-Zoning Bylaw, SECTION ~~5.V. Use Regulations, 5.6.2 Sub-Section W~~ - Adaptive Use Overlay District.
- (3) An AUOD Plan Filing Fee as established in *s. 505-2* of these *Rules and Regulations* and an advance of the Plan Review Fee, both of which are specified in the ~~Planning~~ Board’s Fee and Bond Schedule.
- (4) A list of all abutters within three hundred ~~(300)~~ feet of the site’s property lines as appearing on the most recent tax list as certified by the Board of Assessors.
- (5) Three ~~(3)~~ copies of a storm drainage report. At a minimum, this report must consist of a letter signed and stamped by a Professional Engineer discussing the existing drainage on the site and how the proposed drainage design will address the proposed site changes. The ~~Planning~~ Board reserves the right to require higher levels of drainage information (*up to and including complete drainage system design and calculations*) depending on the extent of changes proposed and the sensitivity of the site and its abutting properties.
- (6) Copies of all relevant approvals received to date by the applicant from other Boards or commissions (*i.e. Determination of Applicability or Order of Conditions from the Conservation Commission; zoning variance from the Zoning Board of Appeals, etc.*)
- (7) Three ~~(3)~~ sets of Layout/Floor plans with the uses of areas labeled and three ~~(3)~~ sets of Elevation Drawings of the building(s) facades from all four directions. If no major changes are planned to the buildings, photographs may be substituted for elevation drawings.
- (8) Locus Map – A locus map of the project area showing the street configuration, major land uses, major natural features and zoning district boundaries within two thousand ~~(2,000)~~ feet of the perimeter boundaries of the site, at a minimum scale of one ~~(1)~~-inch equals eight hundred ~~(800)~~-feet.
- (9) Context Plan – A plan showing all property lines and buildings, as shown on the current Assessor’s Maps, structures, freestanding signs, driveways and walkways on abutting properties at a minimum scale of one ~~(1)~~-inch equals one hundred ~~(100)~~-feet.
- (10) Plot Plan, certified by a Registered Land Surveyor, indicating total land area boundaries, angles, and dimensions of the site and a north arrow.

- (11) AUOD Plan(s) or plan sets, at a minimum scale of one ~~(1)~~ inch equals forty ~~(40)~~ feet, showing the following on-site conditions:
- (a) Existing use(s) of land and existing buildings, if any;
 - (b) Proposed use(s) of land and proposed buildings;
 - (c) Dimensions of existing and proposed building(s) or other structures including height, setbacks from property line and total square footage of building area;
 - (d) Design features of the buildings(s) and structures, including, as appropriate, elevations, materials, colors, etc.
 - (e) For non-residential buildings and for non-residential uses in any building, the total square footage of building area on each floor or the total square footage occupied on a given floor by non-residential uses;
 - (e) Locations and dimensions of any easements, public or private rights-of-way, or other burdens (existing or proposed);
 - (g) All parking and loading areas, including surface (at-grade) parking lots and parking structures, showing the number, location and dimension of parking and loading spaces, driveways, other access ways, sidewalks and the like;
 - (h) Other existing and proposed site features including, but not limited to, topography, walls, fences, signs, utilities, trash disposal facilities, landscaping, impervious surface and drainage facilities, and natural features (including wetlands).
- (12) Project Narrative – A written narrative describing the proposed AUOD development including the following information:
- (a) The architectural features of the existing building(s) on site, as well as any historic character of the site;
 - (b) The current and proposed uses of the site;
 - (c) The impacts of the proposed uses on the architectural and historic features of the building and site, with particular emphasis on how such features will be preserved and/or enhanced;
 - (d) Existing and proposed means of access and egress, including how pedestrian access will be accommodated and encouraged;
 - (e) Impacts of the proposed site changes and uses on abutting properties and the neighborhood in general in terms of landscaping, lighting, parking and drainage;
 - (f) A statement describing how the proposed project complies with the purposes and requirements of SECTION ~~5.V, 5.6.2~~ Sub Section W. Adaptive Use Overlay District of the ~~Medway~~ Zoning Bylaw and the ~~Decision Special Permit Standards and Criteria specified in paragraph 7 thereof.~~

~~(13) Receipt from the Town Clerk acknowledging the date and time of the filing of the Adaptive Use Special Permit Application with the AUOD Plan.~~

C. Completeness Review

- (1) To ensure the Adaptive Use Special Permit Application contains all required information and to avoid the possibility of denial due to an incomplete application, the applicant is encouraged to review the application and plan documents with the ~~Planning~~ Board or its designee prior to filing the application with the Town Clerk to determine if it meets all submission requirements. Once this completeness review is completed, the applicant may officially file the Adaptive Use Special Permit Application with the Town Clerk and the ~~Planning~~ Board to commence the formal review process.
- (2) The ~~Planning~~ Board may, within fourteen ~~(14)~~ days of the date of receipt of an Adaptive Use Special Permit application, reject the application upon a determination that it does not satisfy the information/submission requirements of these *Rules and Regulations*. The ~~Planning~~ Board shall provide the applicant with a written explanation as to the specific reason(s) for the determination of incompleteness with a citation of the specific provisions of these *Rules and Regulations* regarding the missing or incomplete information and the remedies required to make the application complete. The ~~Planning~~ Board shall send a notice of its determination to the Town Clerk. The Adaptive Use Special Permit Filing Fee shall be retained by the ~~Planning~~ Board and be applied to any future resubmission of the application. When brought into conformity with the content requirements of these *Rules and Regulations*, an Adaptive Use Special Permit application may be resubmitted for consideration by the ~~Planning~~ Board without prejudice.

s. **503 - 5 USE OF OUTSIDE CONSULTANTS** - Upon receipt of an Adaptive Use Special Permit application, the ~~Planning and Economic Development~~ Board may determine that the assistance of outside consultants is warranted due to the size, scale, or complexity of the proposed project or its potential impact on the Town and community. In hiring outside consultants, the ~~Planning~~ Board may engage the services of engineers, planners, traffic consultants, lawyers, urban designers or other appropriate professionals who can assist the ~~Planning~~ Board in analyzing the application and project to ensure compliance with all relevant laws, Bylaws and regulations. If the ~~Planning~~ Board determines that such services are required, the applicant shall pay an *AUOD Plan Review Fee* as specified in s. 505 – 3 of these *Rules and Regulations*.

s. **503 – 6 REVIEW BY TOWN OFFICIALS**

- A. Within ten ~~(10)~~ business days of receipt of an Adaptive Use Special Permit application, the ~~Planning~~ Board shall circulate ~~one (1) copy~~ of the AUOD Plan, Application and Narrative to the following boards, commissions, and departments, inform them of the public hearing schedule and request their review and preparation of an advisory report to assist the ~~Planning~~ Board in evaluating the project.
- (1) ~~Building Commissioner~~ Zoning Enforcement Officer
 - (2) Conservation Commission
 - (3) Fire Department

- (4) Police Department
- ~~(5) Water/Sewer Department~~
- (6) Assessor's Office
- (7) Board of Health
- (8) Department of Public ~~Works~~Services
- (9) Design Review Committee
- (10) Historical Commission
- ~~(11) Disability Commission~~
- (12) Others as determined to be appropriate depending on the nature of the project.

B. Said boards, commissions, and departments may submit an advisory report or recommendation to the ~~Planning Board~~ at their discretion. If no report is submitted to the ~~Planning Board~~ within ~~twenty-one (21)~~ thirty-five days of distribution, this shall be deemed lack of opposition thereto.

C. The advisory report may include an assessment of the project's impact on the community, the status of any meetings or actions the respective board or department has taken or is taking regarding the project and any recommended conditions or remedial measures to avoid, accommodate or mitigate the expected impacts of the proposed development. All reports shall be entered into the public record during the public hearing.

D. The ~~Zoning Enforcement Officer~~Building Commissioner is requested to review the Adaptive Use Special Permit application and all associated submittals for compliance with the ~~Medway~~-Zoning Bylaw and provide written communication to the ~~Planning Board~~, prior to the first public hearing date. Said communication may include, but not be limited to, the ~~Zoning Enforcement Officer's~~Building Commissioner's findings and any questions or concerns that could be clarified during the Adaptive Use Special Permit review process so as to avoid the need for subsequent modifications after special permit approval and plan endorsement.

s. **503 – 7 PUBLIC HEARING — The Board shall conduct a public hearing in accordance with G.L. c. 40A**

A. ~~**General**—The Planning Board shall hold a public hearing at which the applicant shall present their proposed AUOD plan and the public shall have an opportunity to be heard, in person, or by agent or attorney, or in writing.~~

~~**B. Timing**—The public hearing shall commence within sixty-five (65) days after the Adaptive Use Special Permit Application is duly filed with the Town Clerk. The Planning Board may continue the public hearing as needed.~~

~~**C. Abutter Notice**—The Planning Board shall prepare the public hearing notice and provide it to the applicant who shall notify all abutters and parties of interest of the time, date and location of the public hearing. The notice shall include a brief description of the site plan project. Said notification shall be sent by certified mail, return receipt requested, at least fourteen (14) days prior to the date of the public hearing. The cost of certified mailing shall be borne by the applicant. The applicant shall submit the signed certified mail cards and receipts from all parties of interest to the Planning Board shall provide notice in accordance with G.L. Chapter 40A prior to the public hearing.~~

~~D. — Legal Notice — The Planning Board shall provide notice of the public hearing by advertisement in a newspaper of general circulation in the community fourteen (14) days prior to the public hearing and again eight (8) days prior to the public hearing. The cost of the advertisement shall be borne by the applicant. The Planning Board shall also file the public hearing notice with the Town Clerk for posting in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of the hearing.~~

~~E. — Closing the Public Hearing — Before making its Special Permit Decision, the Planning Board shall close the public hearing.~~

ARTICLE IV ADAPTIVE USE SPECIAL PERMIT DECISION

s. ~~504-1~~ **TIMING** - The ~~Planning~~ Board shall file a copy of its decision with the Town Clerk along with a detailed record of its decision within ninety ~~(90)~~ days of the close of the public hearing and within fourteen ~~(14)~~ days of its vote. A minimum of four ~~(4)~~ affirmative votes is necessary to grant the special permit. A certified copy of the decision shall be provided to the applicant. The ~~Planning~~ Board shall send a notice of the decision to all parties in interest.

s. ~~504-2~~ **GENERAL REQUIREMENTS** - In making its decision, the ~~Planning~~ Board must find that the parcel proposed for the Adaptive Use Special Permit has a minimum of fifty ~~(50)~~ feet of frontage on Main Street within the boundaries of the Adaptive Use Overlay District, as illustrated in the Adaptive Use Overlay District map, attached to these *Rules and Regulations*.

s. ~~504-3.~~ **ALLOWABLE USES—USES** - In approving an Adaptive Use Special Permit, the ~~Planning~~ Board may provide for the following uses or combination of uses and ~~no other uses as set forth in Section 5.6.2. of the Zoning Bylaw:~~

- ~~A. — Offices for business or professional uses, including, but not limited to accountants, architects, attorneys, counselors, engineers, insurance agents, medical practitioners, planners, real estate sales, and similar uses;~~
- ~~B. — Studios for artists, photographers, interior decorators, and similar design related uses;~~
- ~~C. — Retail sales for handcrafted merchandise, original arts and crafts or copies thereof, antiques, and second hand goods;~~
- ~~D. — Food services, including but not limited to, bakeries, cafes, coffee shops, delicatessens, frozen dessert shops, pastry shops, or sandwich shops;~~
- ~~E. — Repair shops for small electronic equipment, appliances or tools;~~
- ~~F. — Personal care services such as barber shops, beauty parlors, and nail salons;~~
- ~~G. — Florists;~~
- ~~H. — The alteration of, addition to, and/or conversion of an existing building to one or two residential dwelling units and one or more business uses listed in items A-G above, provided that the exterior appearance of the building is characteristic of a single family dwelling~~

An Adaptive Use Special Permit shall indicate which of the above allowed uses is specifically permitted and may impose conditions, safeguards and limitations on the permitted use(s).

s. **504-4 SITE DEVELOPMENT STANDARDS** - The following site development standards shall apply to any Adaptive Use Special Permit development.

- A. Each lot subject to an Adaptive Use Special Permit shall have a building or buildings located on it that was constructed prior to June 28, 2004.
- B. Each Adaptive Use project shall include restoration, renovation or improvement of the primary existing building(s) to maintain, restore or enhance its original architectural integrity. Construction of an addition to an existing building or construction of a new building on the premises may be permitted provided that it is designed to be compatible with other building(s) on the lot and maintain the overall residential character of the Adaptive Use Overlay District.
- C. Unless determined by the ~~Planning Board~~ to be not feasible, all parking shall be to the rear and side of the building and not in the front yard. Parking areas shall be screened from the public way and abutting properties by structures and/or landscaping. Adequate provisions for on-site retention and treatment of stormwater shall be included. Parking areas shall include provisions for current or future shared and/or linked parking with adjacent properties when such linking can be accomplished without significant degradation of the character of the neighborhood.
- D. Lighting shall be ~~of residential scale~~, architecturally compatible with the building **and character of the neighborhood** and shall be designed to ensure that no glare is produced on abutting properties or the public way.
- E. No new curb cuts shall be added, and no existing curb cut shall be expanded, unless the ~~Planning Board~~ finds that such changes are necessary to ensure safe access to the property.
- F. Significant pedestrian and bicycle access (including bicycle parking) shall be provided.
- G. All developments shall include a landscape plan that maintains or enhances the residential character of the property. The landscape plan shall also provide, in the opinion of the ~~Planning Board~~, a buffer zone (including one or more of shrubs, trees, grass and fencing) appropriate for the proposed use along any property boundaries with an adjacent residential use, as well as screening for parking, loading and refuse storage facilities.
- H. For every 300 square feet of gross floor space, at least one ~~(+)~~ off-street parking space shall be provided, unless the ~~Planning Board~~ finds that a lesser number is adequate based ~~on site~~**on-site** characteristics and the proposed use (s).
- I. For every residential unit in a building with one ~~(+)~~ or more residences or mixed commercial and residential uses, at least two ~~(-)~~ off-street parking spaces shall be provided, unless the ~~Planning Board~~ finds that a lesser number is adequate based on site characteristics and the proposed use(s).

The ~~Planning Board~~ may also consider the Development Standards of the *Site Plan Rules and Regulations* for matters not specifically covered by these Adaptive Use Site Development

Standards. Design and construction details not covered by either these *Rules and Regulations* or the *Site Plan Rules and Regulations* shall follow accepted engineering, construction and landscape architectural practice.

s. **504-5 SPECIAL PERMIT STANDARDS AND CRITERIA** - To approve an Adaptive Use Special Permit, the ~~Planning Board~~ must make ~~the following~~ findings pursuant to SECTION ~~5.V. USE REGULATIONS, 5.6.2. Sub-Section W.6.2., I, Decision Criteria, paragraph 7~~ of the Zoning Bylaw, ~~as follows:~~

~~A. The proposed use(s) is allowed under the provisions of paragraph 3. b) of SECTION 5.V. USE REGULATIONS, 5.6.2. Sub-Section W. Adaptive Use Overlay District of the Zoning Bylaw.~~

~~B. The site is adequate for the proposed use in terms of size, configuration and uses of abutting properties;~~

~~C. Provisions for traffic and parking are adequate for the proposed use(s);~~

~~D. Provisions for pedestrian and bicycle access are adequate, based on site characteristics and the proposed use(s);~~

~~E. The proposal restores or enhances the aesthetic appeal of the primary building and its site;~~

~~F. The impact on the neighborhood's visual character, including views and vistas, is positive;~~

~~G. The provision for utilities, including sewage disposal, water supply and stormwater management are adequate.~~

~~H. The proposed project complies with the goals of the Master Plan and the purposes of SECTION 5.V., 5.6.2. Sub-Section W.6.2. of the Zoning Bylaw.~~

ARTICLE V. ADMINISTRATION

s. **505-1 VARIATION** - Strict compliance with the requirements of these *Rules and Regulations* may be waived when, in the judgment of the ~~Planning Board~~, such action is in the public interest and is not inconsistent with SECTION ~~5.V. USE REGULATIONS, 5.6.2 Sub-Section W.~~ of the ~~Medway~~-Zoning Bylaw.

s. **502-2 CONSTRUCTION OBSERVATION** - When an Adaptive Use Special Permit and AUOD Plan are approved by the ~~Planning Board~~, the Board may determine that the assistance of outside consultants is warranted to observe and inspect the construction due to the size, scale or complexity of the approved plan with any terms or conditions or because of its impact on the Town and the community. In hiring outside consultants, the ~~Planning Board~~ may engage the services of engineers or other appropriate professionals who can assist the ~~Planning Board~~ in the inspection of the Adaptive Use project. The assistance of these consultants may include but not be limited to pre-construction meetings, monitoring or inspecting a project during construction or implementation, preparation of bond estimates and reductions, review of as-built plans and other related professional services. The cost for such services shall be borne by the applicant.

s. **502 - 3 AUOD FEES** – The ~~Planning~~ Board shall adopt a Fee and ~~Bond Surety~~ Schedule, which shall specify the amount of the filing, plan review, construction observation, other applicable fees, and minimum ~~bonds surety~~ amounts for ~~all~~ AUOD projects.

~~A. **Pre Application Meeting Fee** – A non-refundable Pre Application Meeting Fee shall be remitted to the Planning Board at such time as a Pre Application Meeting with the Planning Board is requested.~~

~~B. **Adaptive Use Special Permit Filing Fee** – A non-refundable Adaptive Use Special Permit Filing Fee shall be remitted to the Planning Board at the time the Adaptive Use Special Permit application and AUOD Plan are submitted to the Planning Board.~~

~~C. **AUOD Plan Review Fee**~~

- (1) Pursuant to MGL Chapter ~~40, 22F 44, section 53G, as adopted by the Medway Town Meeting on October 16, 2000,~~ an AUOD Plan Review Fee shall be established by the ~~Planning~~ Board for review of the AUOD Plan based on an itemized budget estimate prepared by an outside consultant(s). This fee shall be the reasonable costs to be incurred by the ~~Planning~~ Board to assist in the review of the proposed project. The AUOD Plan Review Fee shall not be a fixed amount but will vary with the costs incurred by the Board.
- (2) The applicant shall remit the AUOD Plan Review Fee to the ~~Planning~~ Board upon receipt of notice and invoice of the estimated AUOD Plan Review Fee and prior to the public hearing. Failure of the applicant to pay the AUOD Plan Review Fee shall be grounds for the ~~Planning~~ Board to reject the plan, withhold plan approval and endorsement, and deny the AUOD Special Permit.
- (3) Should the services of outside consultants be required after the initial AUOD Plan Review Fee has been expended, the applicant shall be required to pay additional fees for the subsequent review of resubmitted and/or revised documents. A new estimate for additional review services shall be remitted to the applicant. Failure of the applicant to pay the necessary additional AUOD Plan Review Fee shall be grounds for the ~~Planning~~ Board to reject the plan, withhold plan approval and endorsement, and deny the AUOD Special Permit.

~~D. **AUOD Construction Observation/Inspection Fee**~~

- (1) If the ~~Planning~~ Board determines that construction observation services are required, the applicant shall pay an AUOD Construction Observation Fee to the ~~Town of Medway~~ as a condition of AUOD plan endorsement.
- (2) This fee shall be the reasonable costs to be incurred by the ~~Planning~~ Board to observe and inspect the construction of the proposed project and shall be based on an estimate provided by an outside consultant. The AUOD Construction Observation Fee shall not be a fixed amount but will vary with the costs incurred by the ~~Planning~~ Board.
- (3) Should the services of outside consultants be required after the initial AUOD Construction Observation Fee has been expended, the applicant shall be required

to pay an additional fee for the subsequent observation of construction. The ~~Planning Board~~ will keep the developer apprized of the status of the account and invoice as needed. Failure of the applicant to pay necessary additional AUOD Construction Observation Fees shall be grounds for the ~~Planning Board~~ to direct its outside consultant to halt all construction observation services. This may constitute a zoning violation subject to enforcement by the ~~Zoning Enforcement Officer/Building Commissioner~~.

~~E.D~~ Other Costs and Expenses – All expenses for advertising, publication of notices, postage and mailings, recording and filing of documents and all other expenses in connection with an AUOD project including without limitation sampling and/or testing required by the Board or its agents shall be borne solely by the applicant.

~~F.E~~ Payment of Fees

- (1) Fees paid by the applicant shall be by ~~certified~~ check made payable to the Town of Medway and submitted to the ~~Planning Board~~. When the AUOD Plan Review Fee and the Construction Observation/Inspection Fee are received by the ~~Planning Board~~ pursuant to this section, they shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the ~~Planning Board~~, by majority vote, without further appropriation. Expenditures from the special account shall be made only for services rendered in connection with a specific AUOD project or projects for which a fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose.
- (2) At the completion of the project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

s. **505 –4 APPEAL**

A. Selection of Outside Consultant – Any applicant may make an administrative appeal of the ~~Planning Board's~~ selection of the outside consultant (*for plan review or construction observation services*) to the Medway Board of Selectmen. Such appeal must be made in writing and may be taken only within twenty ~~(20)~~ days after the ~~Planning Board~~ has mailed or hand-delivered notice to the applicant of the consultant's selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall either consist of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for the ~~Planning Board's~~ action upon an application shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one ~~(1)~~ month following the filing of the appeal, the consultant selection made by the ~~Planning Board~~ shall stand.

B. Appeal of Special Permit Decision - Any person aggrieved by an Adaptive Use Special Permit decision of the ~~Planning Board~~ may file an appeal to the Court of the

Commonwealth by bringing an action within twenty ~~(20)~~ days of the date the ~~Planning~~ Board filed its decision with the Town Clerk.

s. **505 – 5 PERFORMANCE GUARANTEE**

- A. **General Information** – In situations it deems appropriate, the ~~Planning~~ Board may require that a performance guarantee be posted with the Town of Medway to secure faithful and satisfactory construction of the proposed improvements.
- B. **Cash ~~Bond Surety~~**– If the Adaptive Use Special Permit includes a requirement for a performance guarantee, a deposit of funds shall be made ~~in a joint passbook account~~ with the Town of Medway. Prior to ~~Planning~~ Board’s endorsement of the AUOD Plan, the account shall be ~~established~~~~established and a signed withdrawal slip provided to the Treasurer for this account.~~
- C. **Amount** - The ~~Planning~~ Board shall set the amount of the guarantee, which shall be in the form of a cash ~~bond, surety~~. The amount shall reflect the estimated cost to the Town of Medway to complete the work or remediate environmental concerns caused by construction activities should the applicant fail to do so.
- D. **~~Bond Surety~~ Release** – Upon submission of the as-built plan (*s. 505-6 C*) and execution of the Certificate of Completion (*s. 505-6 D*), the ~~Planning~~ Board shall vote to release the applicant from the performance obligation.

s. **505 –6 PROJECT COMPLETION**

- A. ~~AUOD special permits are subject to the lapse provisions of Section 3.4.E of the Zoning Bylaw. Construction on an approved AUOD Plan must commence within one (1) year of the issuance of an Adaptive Use Special Permit and must be completed within two (2) years, unless otherwise specified by the Planning Board in the Adaptive Use Special Permit.~~
- B. The applicant shall construct the improvements in compliance with the Adaptive Use Special Permit and approved AUOD Plan. An applicant may make limited on-site changes based on unforeseen conditions, situations or emergencies. Prior to undertaking any on-site alteration, the applicant shall submit a letter to the ~~Planning~~ Board detailing the proposed changes and the reasons therefore. The ~~Planning~~ Board shall make a determination of minor or major revision pursuant to *s. 505-7* of these *Rules and Regulations*.
- C. **As-Built Plans**
 - (1) The applicant shall file with the ~~Planning~~ Board ~~an original and six (6) copies of the “as-built” plan of the completed site work. Additionally,~~ an electronic file ~~may be required by the Planning Board~~ in a format to be specified by the Town of Medway. The “as-built” plans shall show all improvements on the site, including driveways and parking areas, walkways, utilities, drainage facilities, landscaping, fencing and lighting as constructed on the site.
 - (2) The “as-built” plans shall be drawn with a minimum lettering height of 1/8 inch (Registry of Deeds standards) and to a 1” = 40’ scale or other approved scale.

- (3) The “as-built” plans will contain the following:
- (a) graphical scale;
 - (b) property lines and all easements;
 - (c) reference to the approved Adaptive Use Special Permit and AUOD Plan including all plan recording data;
 - (d) locus map;
 - (e) curb type/limits, sidewalks, pedestrian ramps and driveways;
 - (f) all monumentation, including vertical benchmarks;
 - (g) all utilities (water, water services and valves, sanitary sewers, storm drains, manholes, catch basins, electric/telephone/cable TV, gas and fire alarm system) in plan view. A Symbol Key shall be provided along with appropriate labels.
 - (h) water, sanitary sewer and drainage shown on the profile, noting inverts, rims, pipe type and sizes; and
 - (i) centerline stationing with the starting and ending of the layout clearly noted.

D. Certificate of Completion – Upon completion of all required improvements as specified in the Adaptive Use Special Permit and AUOD Plan, the applicant’s registered Professional Engineer shall submit a Certificate of Completion to the ~~Planning~~ Board verifying that the improvements were constructed in accordance with the AUOD Plan. The ~~Planning~~ Board, or its agent, shall conduct a final inspection of the site within twenty-one ~~(21)~~ days of receipt of the Certificate of Completion. If all work has been completed to the ~~Planning~~ Board’s satisfaction, the Board shall sign the Certificate of Completion at the next regularly scheduled ~~Planning~~ Board meeting and file such Certificate with the Town Clerk and the Inspector of Buildings. If the ~~Planning~~ Board does not sign a Certificate of Completion, a complete list of work yet to be completed on or off-site in compliance with the Adaptive Use Special Permit and AUOD Plan shall be provided to the applicant.

~~**E. Occupancy Permit** – The Inspector of Buildings shall not issue an Occupancy Permit for an Adaptive Use Project without a Certificate of Completion signed by the Planning Board or a notification from the Planning Board that adequate security has been provided in an amount determined by the Planning Board to be sufficient to cover the cost of the remaining work.~~

s. 505 – 7 REVISIONS TO APPROVED ADAPTIVE USE SPECIAL PERMIT AND AUOD PLAN

A. Minor Revisions - Subsequent to an Adaptive Use Special Permit granted by the ~~Planning~~ Board, minor revisions in the AUOD Plan and/or Permit may be made from time to time in accordance with applicable law, ordinances, and regulations but the use(s) or development approved under the Adaptive Use Special Permit shall otherwise be in accordance with the plan referred to, and such conditions as may be included, in the decision of the ~~Planning~~ Board.

- (1) If revisions to an approved AUOD Plan and/or Permit are requested by the applicant, the applicant shall provide written notification to the ~~Planning~~ Board in advance of such revision including an explanation as to the need for the change. Proposed revisions, which in the opinion of the ~~Planning~~ Board are minor in nature, must be reviewed and may be approved by a majority of the ~~Planning~~

Board without a public hearing. Such revisions shall not be effective until approved by vote of the ~~Planning~~ Board.

- (2) The ~~Planning~~ Board will notify the Town Clerk of any approved minor revisions to an approved AUOD Plan and/or Permit.

B. Major Revisions - Subsequent to an Adaptive Use Special Permit granted by the ~~Planning~~ Board, major revisions in the AUOD Plan and/or Permit may be made from time to time in accordance with applicable law, ordinances, and regulations but the use(s) or development approved under the Adaptive Use Special Permit shall otherwise be in accordance with the plan referred to, and such conditions as may be included, in the decision of the ~~Planning~~ Board.

- (1) If revisions to an approved AUOD Plan and/or Permit are requested by the applicant, the applicant shall provide written notification to the ~~Planning~~ Board in advance of such revision including an explanation as to the need for the change. Proposed revisions, which in the opinion of the ~~Planning~~ Board, are major in nature, must be reviewed and may be approved by a majority of the ~~Planning~~ Board with a public hearing. Such revisions shall not be effective until approved by vote of the ~~Planning~~ Board.
- (2) The ~~Planning~~ Board shall determine whether the proposed revisions are major. Major revisions may include but are not limited to any significant change in the size, type, or location of buildings, access and exit curb cuts, overall parking layout, buffer strips or screening, overall appearance of the building, including building material or fenestration, or the type or intensity of use, or in the conditions specifically addressed in the decision of the ~~Planning~~ Board.
- (3) The ~~Planning~~ Board shall order that an application for a Revised Adaptive Use Special Permit and AUOD Plan be filed and that additional plan reviews and a new public hearing will be held in the same manner as set forth herein.
- (4) The ~~Planning~~ Board will notify the Town Clerk of any proposed major revisions to an approved AUOD Plan.

C. Revision Fees

- (1) Whenever additional reviews by the ~~Planning~~ Board, its staff or consultants are necessary due to plan revisions, the applicant shall be billed for all costs incurred including but not limited to additional AUOD Filing and Plan Review Fees and any other expenses including but not limited to advertising and mailing costs.
- (2) If the revisions affect only specific limited aspects of the site, the ~~Planning~~ Board may reduce the scope of the required review and waive a portion of the additional AUOD Filing and Plan Review Fees.

s. **505 – 8 PENALTIES** – Any applicant, individual, property owner or business entity that violates or permits a violation of these *Rules and Regulations* shall be subject to enforcement pursuant to Section 3 of the Zoning Bylaw. a fine as follows:

~~Maximum fine allowed: \$3100.00~~
~~Enforcement Agent: Building Commissioner Zoning Enforcement Officer~~
~~Fine Schedule:~~
~~First Offense: Warning (verbal or written)~~

~~Second Offense: \$ 10025.00~~
~~Third Offense: \$ 20050.00~~
~~Fourth and each subsequent offense: \$ 300100.00 maximum per day~~

~~Each day to constitute a separate violation.~~

s. **505 – 9** **AMENDMENTS** – These *Rules and Regulations* may be amended from time to time by the Planning Board. ~~A public hearing shall be held with appropriate notice in compliance with state statute and local Bylaws.~~

s. **505 – 10** **VALIDITY** – If, in any respect, any provision of these *Rules and Regulations* in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be held invalid and in all other respects these *Rules and Regulations* shall stand.

These *Adaptive Use Overlay District Rules and Regulations* were initially adopted by a vote of the Medway Planning Board on July 26, 2005. ~~A series of amendments were approved on [redacted]. A copy thereof has been filed with the Town Clerk and the Norfolk County Registry of Deeds.~~

Attest:

Susan E. Affleck-Childs
Planning and Economic Development Coordinator

Date
Board Assistant

Commented [SA1]:

There is no requirement in the zoning bylaw that you have to have a public hearing to adopt or amend Rules and Regulations. Do you want to remove this requirement going forward?

Commented [BSA2R1]: Yes, there is no requirement in state statute or local bylaws, so I would delete.

Commented [SA3]: There is no requirement to file these rules and regs with the Registry of deeds.

Susan Affleck-Childs

From: Andy Rodenhiser <Andy@rodenhiser.com>
Sent: Wednesday, June 03, 2020 9:40 AM
To: Susan Affleck-Childs
Subject: Medway Place Shopping Plaza

Dear Susy,

In my role as Chairman of the Medway Planning and Economic Development Board, I declare that the public hearing for Medway Place Shopping Plaza scheduled for Tuesday, May 26, 2020 has been continued to Tuesday, June 23, 2020 at 8:15 PM due to the COVID-19 pandemic and the limitations on meetings.

Thank you.

Andy S. Rodenhiser
President
Rodenhiser Home Services