TOWN OF MEDWAY
Planning 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

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TOWN OF MEDWAY
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ARTICLE I  AUTHORITY

s. 501-1  ADOPTION – The Planning 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 V. USE REGULATIONS, Sub-Section W. of the Medway Zoning By-Law 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 V, Sub-Section W. of the Medway Zoning By-Law 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 By-Law, Section II. 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 Planning 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 V. Sub-Section W of the Medway Zoning By-Law. 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. Sub-Section W, of the Medway Zoning By-Law, 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 V. Sub-Section C. Site Plan Approval of the Medway Zoning By-Law. 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 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 a Registered Land Surveyor (RLS) licensed to perform work in 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) sq. ft. 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,
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 (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 by 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 ½”) border on the left side.

s. 503-3 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 By-Law, SECTION V. Sub-Section W. 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.
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, 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) copies of the AUOD Plan in conformance with these Rules and Regulations and the requirements of the Medway Zoning By-Law, SECTION V. Use Regulations, 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 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;

(f) 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 V. Sub-Section W. Adaptive Use Overlay District of the Medway Zoning By-Law and the 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 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, by-laws 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. 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 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) 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 is requested to review the Adaptive Use Special Permit application and all associated submittals for compliance with the Medway Zoning By-law 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 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**

**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 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** - In approving an Adaptive Use Special Permit, the Planning Board may provide for the following uses or combination of uses and no others:

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 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 (1) off-street parking space shall be provided, unless the Planning Board finds that a lesser number is adequate based on site characteristics and the proposed use(s).

I. For every residential unit in a building with one (1) or more residences or mixed commercial and residential uses, at least two (2) 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 V. USE REGULATIONS, Sub-Section W., paragraph 7 of the Zoning By-Law as follows:

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

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 V., Sub-Section W. of the Zoning By-Law.
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 V. USE REGULATIONS, Sub-Section W. of the Medway Zoning By-Law.

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 Schedule, which shall specify the amount of the filing, plan review, construction observation, other applicable fees, and minimum bond 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, 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.

E. 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. 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 – 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 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. 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 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. 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
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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 a fine as follows:

Maximum fine allowed: $100.00

Enforcement Agent: Zoning Enforcement Officer

Fine Schedule:
First Offense: Warning
Second Offense: $25.00
Third Offense: $50.00
Fourth and each subsequent offense: $100.00 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 by-laws.

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 copy thereof has been filed with the Town Clerk and the Norfolk County Registry of Deeds.

Attest:

__________________________ __________________
Susan E. Affleck-Childs Date
Planning Board Assistant