

January 31, 2012
Medway Planning and Economic Development Board
Medway Senior Center, 76 Oakland Street
Medway, MA 02053

BOARD MEMBERS PRESENT: Bob Tucker, Tom Gay, Chan Rogers and Karyl Spiller-Walsh

ABSENT WITH NOTICE: Andy Rodenhiser

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susy Affleck Childs, Planning and Economic Development Coordinator
Amy Sutherland, Meeting Recording Secretary
Gino Carlucci, PGC Associates
Barbara Saint Andre, Town Counsel

Vice-Chairman Tucker opened the meeting at 7:00 pm.

Vice-Chairman Tucker asked for any citizen comments. There were none.

On a motion made by Chan Rogers and seconded by Karyl Spiller-Walsh, the members voted by roll call vote to go into executive session under G.L. c. 30A, Section (a) (3) to discuss strategy with respect to litigation, specifically McDonald v. Medway Planning and Economic Development Board, where an open session would have a detrimental effect on the litigating position of the town. (This lawsuit pertains to the Charles River Village Open Space Residential Development (OSRD) Special Permit for 6 Neelon Lane).

Vice Chairman Tucker announced the Board would return to regular session after executive session adjourns.

Roll Call Vote:

Chan Rogers	aye
Karyl Spiller-Walsh	aye
Tom Gay	aye
Bob Tucker	aye

NOTE - The Board returned from executive session to open session at 7:52 pm.

Vice Chairman Tucker provided an overview of the topics to be covered within the Zoning Bylaw work session. The first item will be the draft revisions to Affordable Housing section. The second item covered will be the draft of the new definitions. The third item will be draft revisions to the floodplain/wetlands district section.

Susy would like a member of the Board to attend the Board of Selectmen meeting which is to be held on February 6, 2012 night to discuss the settlement proposal for MacDonald vs. Medway Planning and Economic Development Board.

Street Acceptance:

Susy indicated that she would like to include Claybrook II and Hartney Acres on the warrant for the 2012 annual town meeting for street acceptance.

Zoning Bylaw Amendments:

The Zoning Articles noted below were not placed on the warrant for the fall 2011 special town meeting, but will be placed on the Spring Warrant.

- Rezone area west of I-495 from AR1 to Ind. III.
- Allow home based businesses in Commercial III, IV and Bus/Industrial
- Allow accessory family dwelling units in Commercial III and IV.

Affordable Housing:

The document was reviewed by the Board and revised January 26, 2012. **(See Attached).**

Under Section 1. Item f will be deleted and the bold sentence will be added noting it is intended this sub-section provide a mechanism to offset.....

3. Applicability:

There were new numbers one and two added with language relative to General Laws Chapter 41 Section 81U and Chapter Section 81P (ANR). The old number four will be removed and a new one added.

Section C was added for provisions which shall not apply.

Section 4 entitled Special Permit Required was deleted.

Under Section 5 a). Each development project subject to the provisions of paragraph herein shall provide at least 10% affordable housing units as compared to the existing 15% requirements. The Board recommended that the chart should be referenced.

These changes are intended to unburden the small developments.

8. Methods of Providing Affordable Housing Units (e)

This section was added to provide combination of alternatives.

9. Provisions Applicable to Affordable Housing Units:

The units required should be changed. There is an error in the computation of the affordable housing units. The percentages need to be fixed on the chart.

b). Sitting of Affordable Housing Units- The bold language was added per Town Counsel.

Consultant Carlucci will review the numbers indicated on the chart.

It was recommended to stay consistent throughout the document writing out the numbers. Ex. (six) vs. 6.

Zoning Bylaw Definitions

The Board is in receipt of proposed zoning bylaw definitions for consideration at the May 2012 town meeting. **(See Attached.)**

The Board suggested that the retail sales be changed to indoor retail sales.

The Board discussed the deletion of the existing definition for Automotive Station and added vehicular_fuel station and vehicle repair. The Board agrees that the definition for vehicle repair has too many words. Tom Gay suggested edits. Susy will make the changes.

Frontage: The Board has no problem with this definition but does not want the word frontage referenced within the definition. Tom Gay suggested suitable edits. Susy will make the changes.

Zoning Bylaw Amendment:

The Board is in receipt of the document entitled Zoning Bylaw Amendment ideas. **(See Attached).**

ARII: There will be clarity on any single family dwelling hereafter erected in this district shall be....

Commercial I: This is in relation to the sales from the motor vehicles. There is a concern about used car sales in C1. This will change from by right to special permit. The discussion was about the best use of land.

Business/Industrial:

This section will change Automobile Service Station to Vehicular Station. The Board does not want the word fuel added.

Sign Regulations:

The Board is comfortable with the sign regulation section.

New Flood Plain Maps

The Board is in receipt of the proposed revisions to reflect new flood plain maps. (See Attached). It was suggested that maps be added. The Board is comfortable with the text as recommended by the Mass Department of Conservation and Recreation. The Board suggested that at the end of the document, the Building Enforcement Officer should be specified as the person to notify others when a river boundary is adjusted.

Adjourn:

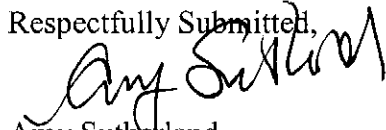
On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to adjourn the meeting at 9:40 pm.

Future Meetings:

The next meetings scheduled are: Tuesday, February 7 & February 14 2012.

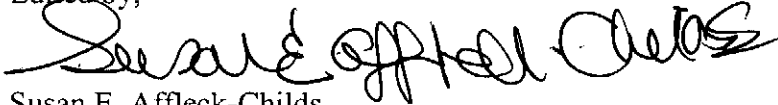
The meeting was adjourned at 9:40 PM.

Respectfully Submitted,



Amy Sutherland
Meeting Recording Secretary

Edited by,



Susan E. Affleck-Childs
Planning and Economic Development Coordinator



TOWN OF MEDWAY
Planning & Economic Development
155 Village Street
Medway, Massachusetts 02053

MEMORANDUM

January 26, 2012

TO: Medway Planning and Economic Development Board
FROM: Susy Affleck-Childs
RE: Warrant Articles for 2012 Annual Town Meeting

Street Acceptance

Claybrook II
Hartney Acres

Zoning Bylaw Amendments

Zoning articles submitted for the fall 2011 special town meeting that were not placed on the warrant. These are all ready to go:

- Rezone area west of I-495 from AR1 to Ind. III
- Allow home based businesses in Commercial III, IV and Bus/Industrial
- Allow accessory family dwelling units in Commercial III and IV

Other Zoning articles I recommend we prepare for submittal

- OSRD revisions
- Affordable Housing revisions
- NEW - Estate/Back Lots
- NEW - Definitions
- Revision to Flood Plain section to reference new National Flood Insurance Maps

Future Zoning Bylaw Work – Spring 2013 Town Meeting

- Updated parking standards (per forthcoming MAPC report)
- NEW - Outdoor dining
- Revise Accessory Family Dwelling Units (as recommended by Town Counsel)
- NEW - Use tables
- Changes re: infill zoning for Affordable Housing
- NEW - Village Residential Zoning District (allow 2 family by right and multi-family (3-5) units by special permit from PEDB)
- Series of zoning map changes – clean-ups
- Rezone selected parcels to provide for more business/industrial opportunities
- Establish an Administrative Site Plan review option (for very small projects)

Longer Term Zoning Work

- Traditional Neighborhood Development Overlay Special Permit
- Oak Grove Mixed Use Overlay District
- Route 109 Mixed Use Overlay District

IDEAS for possible amendments to the Medway Affordable Housing/ Inclusionary Zoning Bylaw

REVISED – February 6, 2012

X. AFFORDABLE HOUSING

1. **Purpose and Intent** – The purpose of Sub-Section X., hereafter referred to as this sub-section, is to further the Master Plan goal of encouraging the provision of various housing types in Medway for persons of various age and income levels and to:

- a) increase the supply of housing in the Town of Medway that is available to and affordable by low and moderate income households;
- b) encourage the construction or renovation of a diversity of housing types in Medway to meet the needs of low and moderate income households;
- c) promote a reasonable mix and geographic distribution of affordable housing units throughout the community;
- d) produce housing units eligible for listing as Local Initiative Units on the *Subsidized Housing Inventory* under M.G.L. c. 40B, Sections 20-23;
- e) provide more opportunities to enable Town of Medway employees to live in the community;
- f) ~~help maintain a stable economy.~~ **provide a mechanism to offset the decreases in the Town's percentage of affordable housing that are directly caused by increases in the Town's overall housing stock.**

2. Definitions

Affordable Housing Restriction – A covenant agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Medway, that effectively restricts occupancy of an Affordable Housing Unit to a *Qualified Purchaser* or *Qualified Renter*, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An

Affordable Housing Restriction shall run with the land or dwelling unit in perpetuity from the time of a unit's initial occupancy, so as to be binding on and enforceable against any person claiming an interest in the property. An *Affordable Housing Restriction* shall be enforceable under the provisions of M.G.L. c. 184, Section 32, and be approved by the Massachusetts Department of Housing and Community Development (DHCD).

Affordable Housing Trust Fund – An account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing units in the Town of Medway.

Equivalent Affordable Housing Unit Value – An amount equal to the difference between the median sale price for market rate single family homes sold in Medway during the thirty six (36) months preceding the date of application, as determined by the Medway Board of Assessors based on deeds recorded at the Norfolk Registry of Deeds for arms-length transactions, and the purchase price of a home that is affordable to a qualified purchaser as determined by DHCD, assuming a household size of **four 4**, or one person per bedroom plus one additional person with the number of bedrooms being the average number in the development, whichever is less. For developments other than single-family detached structures (e.g. duplexes or multifamily condominiums) the Planning Board may substitute the median sale price of the

applicable type of market rate dwelling unit for the median sale price of single family homes in the preceding formula.

DHCD – The Massachusetts Department of Housing and Community Development or a successor agency.

Local Initiative Program (LIP) – A program administered by *DHCD* to develop and implement local housing initiatives to produce low and moderate income housing, pursuant to state regulations which may be amended from time to time.

Maximum Affordable Purchase Price or Rent - A selling price or monthly rent that does not exceed the maximum purchase price or rent guidelines of the program used to qualify dwelling units for inclusion on the *Subsidized Housing Inventory*.

Qualified Purchaser: A Low- or Moderate-Income Household that purchases and occupies an Affordable Housing Unit as its principal residence.

Qualified Renter: A Low or Moderate-Income Household that rents and occupies an Affordable Housing Unit as its principal residence.

Subsidized Housing Inventory: The Massachusetts Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory pursuant to state regulations as may be amended from time to time.

(NOTE - Certain other terms used in this sub-section are defined in SECTION II, Definitions of the Medway Zoning Bylaw.)

3. **Applicability** – In all zoning districts, the provisions of this sub-section shall apply to the following:

a) ~~Division of Land – The division of land into 3 or more lots under M.G.L. Chapter 41 (the Subdivision Control Act), Sections 8P, and 81 U for conventional or grid subdivisions and including those divisions of land that do not require subdivision approval.~~

a) b) **Multiple Units** – Any residential or mixed-use development project, **for which a Town permit is applied for after the effective date of this sub-section**, except for developments approved pursuant to an ARCPUD Special Permit under Section V. Use Regulations, Sub-Section U, that results in a net increase of ~~3~~ **six** or more dwelling units whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space, whether on one or more contiguous parcels. Such may be developed pursuant but not limited to the following:

- 1) **The development of lots shown on a subdivision plan approved under the General Laws chapter 41 section 81U.**
- 2) **The development of lots on a plan endorsed as not requiring approval under the subdivision control law under the General Laws chapter 41 Section 81P (ANR)**
- 3) Sub-Section T. (OSRD) of SECTION V. USE REGULATIONS of the Medway Zoning Bylaw.
- 4) Sub-Section W. (AUOD) of SECTION V. USE REGULATIONS of the Medway Zoning Bylaw.
- 5) Any other Residential or Mixed-Use Development which may be allowed by right or authorized by special permit in the future under the Medway Zoning Bylaw pursuant to M.G.L., c. 40A, sec 9.

b) ~~e)~~–The construction of a residential development may not be segmented to avoid compliance with these provisions. Segmentation shall mean one or more divisions of land that

cumulatively result in an **a net** increase of **3 six** or more lots or dwelling units above the number existing thirty-six (36) months earlier on any parcel or a set of contiguous parcels that were in common ownership on or after the effective date of the adoption of this section by Town Meeting.

c) **These provisions shall not apply to:**

- 1) **The construction of six or more single-family dwellings on individual lots, if said six or more lots were in existence prior to the effective date of the adoption of this sub-section.**
- 2) **Adult Retirement Community approved pursuant to an ARCPUD Special Permit under Section V. USE REGULATIONS, Sub-Section U.**
- 3) **Assisted Living Residence Facility approved pursuant to a Special Permit under Section V. USE REGULATIONS, Sub-Section G. Commercial District I**

4. ~~*Special Permit Required*~~—An affordable housing special permit granted by the Planning Board shall be required for any development specified in paragraph 3 herein. ~~A special permit may be granted if the proposed development meets the requirements of this sub-section. Where the proposed subdivision of land is for 3 or more lots pursuant to M.G.L. Chapter 40A, Sections 81K—81GG (the Subdivision Control Act), the Planning Board's special permit authority shall be limited only to enforcing the affordable housing provisions of this sub-section.~~

5. ~~*Types of Affordable Housing Units*~~—Affordable housing units may be of the following types:

- a) ~~single family dwellings~~
- b) ~~duplexes~~
- c) ~~three family dwelling units~~
- d) ~~multi family dwelling units~~
- e) ~~mixed use development dwelling units~~
- f) ~~such other types of dwelling units as may be allowed and approved pursuant to the Zoning Bylaw~~

6. 4. ~~*Mandatory Provision of Affordable Housing Units*~~ - In each development project subject to the provisions of paragraph 3 herein, at least ten percent (10%) of the lots or dwelling units shall be established as affordable housing units. ~~In those housing developments using an Affordable Housing Special Permit to meet this requirement, the affordable housing units will be provided using one or more of the methods specified in paragraph 7 herein. In those developments where there is no Affordable Housing Special Permit sought to meet this requirement, the affordable housing units shall be constructed or rehabilitated on the locus of the development as provided in paragraph 7 a) herein. See Figure 1.~~

- a) ~~The Planning Board shall, as a condition of approval of any development referred to in paragraph 3 herein, require that the applicant comply with the obligation to provide affordable housing pursuant to this sub-section of the Zoning Bylaw.~~
- b) ~~The Planning Board shall deny any application for a special permit for any development subject to the provisions of paragraph 3 herein, if the applicant does not provide, at a minimum, at least fifteen percent (15%) of the lots in a division of land or fifteen percent (15%) of the dwelling units in a multiple unit residential or mixed use development as affordable housing units using one or more of the options specified in paragraph 9 herein.~~

7. 5. **Density Bonus – Affordable Housing Special Permit**

- a) To facilitate meeting the objectives of this sub-section, the Planning Board shall have the authority to **issue an Affordable Housing Special Permit to adjust** ~~reduce the minimum~~ **any zoning** requirements in any zoning district for any development subject to these provisions as follows, but only to the extent needed to increase the total number of lots or dwelling units on-site by a number equal to **one-half** of the number of affordable **housing** units required, pursuant to paragraph 8 7 a) or 8 7 c) below. For example, if two ~~(2)~~ affordable **housing** units are required, an additional ~~two (2)~~ **one (1)** market rate units may be constructed. **See Figure 1.**
- b) *Dimensional Requirements* - The minimum lot area and frontage per dwelling unit and the standard front, rear and side setbacks normally required in the applicable zoning district may be adjusted by the amount necessary to allow for the increase in the total number of dwelling units. **ADDITIONAL TEXT NEEDED HERE – Gino**
- c) *Type of dwelling unit* – The type of dwelling unit normally required in the applicable zoning district may be varied to allow for the increase in the total number of dwelling units. **This may include:**
- 1) **single family dwellings**
 - 2) **duplexes**
 - 3) **three-family dwelling units**
 - 4) **multi-family dwelling units**
 - 5) **mixed-use development dwelling units**
 - 6) **such other types of dwelling units as may be allowed and approved pursuant to the Zoning Bylaw**
- d) Where the Planning Board allows for a density increase, the Planning Board shall make affirmative findings that the density increase was appropriate in light of the public benefits offered by the applicant and as consistent with M.G.L, c. 40A, s. 9 and this sub-section.
- e) When the requirements of this section are being met by providing the affordable **housing** units off-site pursuant to paragraph 7 b) or 7 c) below, the Planning Board shall have the authority to reduce the minimum requirements of the zoning district as outlined in 7. a) above, but only to the extent needed to increase the total number of lots or dwelling units by a number equal to **one-half** the number of affordable units required, rounded to the nearest whole number. For example, if two affordable **housing** units are required, **and will be provided off-site**, an additional one market rate unit may be constructed **on site**.
- f) No density bonus is provided when the requirements of this section are met with a *Payment in Lieu of Direct Provision of Affordable Housing Units* pursuant to 7 d) below.

8. 6. **Voluntary Affordable Housing Bonus** – A new housing development that is not subject to the provisions of paragraph 5 herein but provides the minimum affordable housing requirements specified in paragraph 4 b) herein may **apply for an Affordable Housing Special Permit** receive the same density bonus as specified in paragraph 5 herein, but only when the development is approved by special permit by the Planning Board.

9. 7. **Methods of Providing Affordable Housing Units** - The Planning Board, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of affordable housing units for a development that is subject to this sub-section, provided that in no event shall the total number or value of affordable housing units, land area or cash payments

provided be less than the equivalent number or value of affordable **housing** units required by this sub-section.

- a) *On-Site* - The affordable housing units may be constructed or rehabilitated on the locus of the development. ~~subject to the special permit;~~
- b) *Off-Site* - Affordable housing units may be provided on a locus different than that of the development. ~~subject to the special permit.~~ The Planning Board, in its discretion, may allow a developer of non-rental dwelling units to develop, construct or otherwise provide affordable **housing** units equivalent to those required by this sub-section in an off-site location(s) in the Town of Medway, provided the applicant demonstrates to the satisfaction of the Planning Board that the alternative location(s) better meets the needs of the Town with respect to the provision of affordable housing. The location(s) of the off-site affordable housing units shall be approved by the Planning Board and specified in the special permit decision. The Planning Board shall evaluate proposed off-site locations according to the following criteria:
 - 1) Whether the off-site **affordable housing** unit(s) help preserve existing housing stock;
 - 2) Whether the off-site location promotes geographic diversity of affordable housing units within the community.
 - 3) Whether the off-site **affordable housing** unit(s) are compatible with the neighborhood where such would be located.
 - 4) The proximity, concentration and zoning of other affordable housing units within the immediate vicinity of the proposed location.

Preservation of existing dwelling units in Medway to be used as affordable housing units may be accomplished through the purchase of deed restrictions and provision of funding for the rehabilitation of such units equal to or greater than the value of on-site development and construction of **affordable housing** units.

All requirements of this sub-section that apply to on-site provision of affordable housing units shall apply to the provision of off-site affordable housing units.

- c) *Donation of Land* - In the event the Planning Board determines that **the required** affordable housing cannot be produced pursuant to a) and b) above, an applicant may make a donation ~~in fee simple~~ of **off-site** land to the *Medway Affordable Housing Trust Fund*, if and when said Fund is established pursuant to M.G.L. chapter 44, section 55c, or another legally created account or organization for the development and preservation of affordable housing in Medway as may be approved by the Planning Board. Such donations of land ~~in fee simple, on or off site,~~ are acceptable only when **the recipient organization agrees to such donation and** the Planning Board, in its sole discretion, determines that:
 - 1) the land is suitable for the construction of at least the number of affordable housing units necessary to meet the requirements of this sub-section, either by itself or in combination with the other methods herein; and
 - 2) its value is equal to or greater than the number of affordable housing units required times the *Equivalent Affordable Housing Unit Value*,

The Planning Board may require, prior to accepting land as satisfaction of the requirements of this sub-section, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The appraiser shall be mutually agreed upon by the Planning Board and the applicant. The expense of the appraisal shall be borne by the developer/applicant.

Any such land donation shall be made prior to the issuance of any building permit for the development or prior to the sale of any lots, if applicable.

d) *Payment in Lieu of Direct Provision of Affordable Housing Units* – In the event the Planning Board determines that affordable housing cannot be produced pursuant to paragraph 7 a), b) or c), an applicant for a development subject to the provisions of this sub-section may, in lieu of producing affordable housing units pursuant to paragraph 5 herein, contribute an equivalent cash payment to the *Medway Affordable Housing Trust Fund*, if and when said Fund is established pursuant to M.G.L. c. 44, s. 55C, or to another legally created account or organization to be used to develop or preserve affordable housing in Medway as may be approved by the Planning Board.

- 1) For each affordable housing unit not provided through one or a combination of the methods specified in paragraph 7 a) through c), the payment shall be an amount equal to the number of affordable housing units required by this sub-section multiplied by the calculated *Equivalent Affordable Housing Unit Value* for that development.
- 2) The methodology used to determine an affordable purchase price shall comply with the *Local Initiative Program* guidelines in effect at the time an application for **the Affordable Housing** special permit is filed.
- 3) The assumptions used to determine an affordable purchase price, including but not limited to minimum down payment, mortgage interest rate, term, closing and other costs shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Medway at the time of application for a **the Affordable Housing** special permit, all in accordance with the *Rules and Regulations* adopted by the Planning Board and filed with the Town Clerk and the requirements of *DHCD*.
- 4) Schedule for payment in lieu of – Payments in lieu of shall be made according to the schedule set forth in paragraph ~~17~~ 9 herein.

e) **Combination of alternatives** – The applicant may offer, and the Board may approve the acceptance of any combination of the alternatives of providing affordable housing units provided that in no event shall the net result of the combination provided be less than the equivalent number or value of affordable housing units required by this sub-section.

e) f) Donations of land and/or buildings or cash contributions made to pursuant to paragraph 7 c. and d. herein shall be used only for purposes of providing affordable housing in Medway for low or moderate income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments.

10. 8. Provisions Applicable to Affordable Housing Units (On and Off Site)

a) *Partial Units* - In the instance when the provision of affordable units required by paragraph 6. 4 b) (1) produces a requirement for a percentage of an affordable lot or unit, **the percentage shall be rounded up to the nearest whole number. For example, a development proposing a total of eight lots or units requires .8 affordable housing units; accordingly, the number of required affordable housing units is rounded up to one. A development proposing a total of fourteen lots or units requires 1.4 affordable housing units; therefore the**

number of required affordable housing units is rounded up to two. the partial affordable lot or unit shall be provided as follows: **See Figure 1.**

1) For any development of seven (7) ~~six (6)~~ or more lots or units, any percentage of a lot or dwelling unit shall be rounded up to the nearest whole number. For example, a development proposing a total of nine (9) lots or units requires 1.35 affordables; accordingly, the number of required affordables is rounded up to two (2). A development proposing a total of eighteen (18) lots or units requires 2.7 affordables; therefore the number of affordables is rounded up to three (3).

2) For any development of 3-6 lots or units, the affordable lots or units shall be provided by:

a. rounding up to one (1); or

b. by making a cash payment equal to the corresponding proportion of the per unit amount established in paragraph 2.d) (1) or (2). For example, for a 5-unit development, the applicant would be required to provide .75 affordable units. In this instance, the applicant could provide a cash payment to the Medway Affordable Housing Trust Fund, if and when said Fund is established pursuant to M.G.L. c. 44, s. 5E, or to another legally created account or organization to be used to develop or preserve affordable housing in Medway, in an amount equal to equal to 75% of the amount established in paragraph 2.d) (1) or (2).

b) *Siting of affordable housing units* – All affordable housing units constructed or rehabilitated under the provisions of this sub-section shall be:

- 1) situated throughout the development or the building(s) in a development so as to not be in less desirable locations than market-rate units; and
- 2) shall on average, be no less accessible to public amenities, such as open space, as the market-rate units.

When an Affordable Housing special permit is applied for, the location of the affordable housing units **to be provided on site** shall be identified on a plan during the public hearing process and specifically referenced in the special permit decision.

When an Affordable Housing special permit is not needed, the location of the affordable housing units shall be identified in the plans submitted to the Town for any other required permit.

c) *Minimum design and construction standards for affordable housing units* – Affordable housing units within market rate developments shall:

- 1) be integrated with the rest of the development and the exterior shall be of compatible design, appearance, character, construction and quality of materials with the market rate units; **this shall include the provision of a garage for each affordable housing unit if the market rate units have a garage.**
- 2) be designed so as to not be obviously identifiable by a visitor as being affordable by their exterior appearance;
- 3) comply in all respects to the minimum design and constructions standards set forth in the Local Initiative Guidelines by DHCD, July 1996, or as amended pertaining to the interior features of affordable dwelling units; and

- 4) have a minimum size of 1500 square feet **of living area** and **at least** three (3) bedrooms for single family detached houses and **a minimum size of** 1200 square feet **of living area** and **at least** two (2) bedrooms for attached or multifamily units, excluding basement space. Notwithstanding the preceding, in no case shall the affordable **housing** units be required to be larger or have more bedrooms than the market rate units of the development. Existing units that are purchased and resold or rented as affordable **housing** units with an appropriate deed restriction to satisfy the affordable housing requirement may be smaller.
- d) *Rights and Privileges* – The owners and tenants of market-rate dwelling units and the owners and tenants of the affordable housing units shall have the same rights and privileges to access any amenities available in the development.
- e) *Marketing Plan for Affordable Housing Units* - The selection of qualified purchasers or qualified renters shall be carried out under a marketing plan submitted by the applicant and approved by the Planning Board after consultation with the Medway Affordable Housing Committee **and/or the Medway Affordable Housing Trust**. The duration and design of the marketing plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units. The marketing plan shall include a description of the lottery or other process to be used for selecting buyers or tenants. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the program qualifying dwelling units for inclusion on the *Subsidized Housing Inventory*.
- f) Developers may sell affordable units to the Town of Medway, the Medway Housing Authority, **the Medway Affordable Housing Trust** or to any non-profit housing development organization identified by the Medway Affordable Housing Committee as serving the Town of Medway, in order that such entity may carry out the steps needed to market the affordable housing units and manage the choice of buyers.
- g) In no event shall the sales price or monthly rent of an affordable housing unit exceed the sales price or monthly rent of a unit that would be eligible for listing on the Subsidized Housing Inventory and each **affordable housing** unit shall be subject to an *Affordable Housing Restriction*.

9. **Timing of Construction**

- a) Affordable housing units on or off site shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable **housing** units be delayed beyond the schedule below. Fractions of units shall not be counted.

<i>MARKET-RATE UNIT %</i>	<i>AFFORDABLE HOUSING UNIT %</i>
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

- b) Certificates of occupancy for any market-rate housing units shall be issued at a ratio of certificates of occupancy for required affordable housing units or fees paid in lieu of units in accordance with the schedule above.
- ~~c) Pertaining to the donation of a parcel(s) of land in lieu of providing affordable units in accordance with the schedule above, the Planning Board shall determine the timing of the donation in relation to the issuance of certificates of occupancy for the market rate housing units.~~
- a) **c)** In the case of cash payments being made in lieu of providing affordable units, the following methods of payment may be used at the option of the applicant:
 - 1) the total amount due shall be paid upon the release of any lots or, in the case of a development other than a subdivision, upon the issuance of the first building permit; or,
 - 2) the total amount due shall be divided by the total number of market rate units in the development. The resulting quotient shall be payable at, or prior to, the closing of each market rate unit. or,
 - 3) a combination of the above methods as may be approved by the Planning Board.
- c) In no case shall a building permit for the last market rate dwelling unit in the development be issued prior to the issuance of the building permit for the last affordable dwelling **housing** unit.

~~12.~~ **10. Affordable Housing Special Permit Approval Requirements** - The Planning Board shall consider the following factors in determining whether to approve or deny a special permit under the provisions of this sub-section.

- a) whether the applicant has conformed to the provisions of paragraph ~~40-8~~ herein and will deliver the affordable housing units;
- b) whether the proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character complementary to and integral with the site's natural features; and
- c) whether the development, density increase or relaxation of zoning standards has a material detrimental effect on the character of the neighborhood or the Town.

~~13.~~ **11. Preservation of Affordability; Restrictions on Resale**

- a) Each Affordable Housing Unit created in accordance with this sub-section shall be subject to an *Affordable Housing Restriction* or regulatory agreement that contains limitations on use, resale and rents. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for income qualified households in the future. The affordable housing restriction or regulatory agreement shall:
 - 1) meet the requirements of the Town of Medway and the program (s) qualifying the affordable dwelling units for inclusion on the *Subsidized Housing Inventory*;
 - 2) be enforceable under the provisions of M.G.L. c.184 and shall be in force in perpetuity, or for the maximum period allowed by law. The affordable housing restriction shall meet the requirements of the *Local Initiative Program*; and
 - 3) be recorded at the Norfolk County Registry of Deeds.

- b) The applicant shall comply with the mandatory provision of Affordable Housing Units and accompanying restrictions on affordability, including the execution of the *Affordable Housing Restriction* or regulatory agreement. The Building Inspector shall not issue an occupancy permit until the deed restriction is recorded.
- c) All documents necessary to ensure compliance with this sub-section shall be subject to the review and approval of the Planning Board and Town Counsel. ~~Such documents shall be executed and recorded simultaneous to the recording of the definitive subdivision plan or special permit.~~
- d) *Resale price* – Sales beyond the initial sale to a qualified income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the affordable housing restriction or regulatory agreement. For example, if a unit appraised for \$300,000 is sold for \$225,000 because of these provisions, it has sold for seventy-five percent (75%) of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or seventy-five percent (75%) of the current appraised value. Notwithstanding the foregoing, the resale price of an affordable unit shall in no event exceed that amount which will require a household earning eighty percent (80%) of the most recent area median income number, as published by the U.S. Department of Housing and Urban Development and adjusted for the household size that corresponds with the number of bedrooms in the affordable unit, to spend a maximum of thirty percent (30%) of the household's annual income on housing costs. Housing costs shall include principal, interest, property tax, insurance payments, and association or condominium fees.
- e) *Right of first refusal to purchase* - The purchaser of an Affordable Housing Unit produced as a result of this sub-section shall agree to execute a deed rider prepared by the Town, granting, among other things, the municipality's right of first refusal for a period not less than the maximum period allowable under guidelines set by *DHCD* for Local Initiative Units, to purchase the property or assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.
- ~~14.~~ **12. Rules and Regulations** – Upon approval of these provisions by Town Meeting, the Planning Board shall adopt and maintain *Affordable Housing Rules and Regulations*, after holding a public hearing on the same, that contain the necessary policies, procedures and requirements to implement the provisions of this sub-section including but not limited to submission requirements and procedures, minimum requirements for a marketing plan, local preference criteria, criteria for approval of off-site locations, methods of setting the maximum affordable sale price or rent, verification of maximum household income, and any other documentation required to qualify the affordable housing units for listing on the Chapter 40B *Subsidized Housing Inventory*.
- ~~15.~~ **13. Conflict with other Bylaws** – The provisions of this sub-section of the Zoning Bylaw shall be considered supplemental to other portions of the Zoning Bylaw. To the extent that a conflict exists between this sub-section and other parts of the Zoning Bylaw, the more restrictive provisions shall apply.
- ~~16.~~ **15. Severability** – If any provision of this sub-section of the Zoning Bylaw is declared to be invalid by a court of competent jurisdiction, the remainder of the Zoning Bylaw shall not be affected thereby and shall continue to be in full force and effect.

(Sub-Section X. Affordable Housing was added June 2, 2008)

~~The Chart Below is for Informational Purposes Only and pertains to affordable housing units constructed pursuant to SECTION V, Sub-Section X, Affordable Housing, Paragraph 9 a) only.~~

Proposed # of Dwelling Units	Required # of Affordable Dwelling Units to be Provided Based on 15% (rounded-up)	# of Additional Market Rate Units Allowed as a Density Bonus	Total # of Market Rate and Affordable Dwelling Units	Overall Affordable % Achieved
3	.45 > 1	+1	4	25%
4	.6 > 1	+1	5	20%
5	.75 > 1	+1	6	16.7%
6	.9 > 1	+1	7	14.3%
7	1.05 > 2	+2	9	22.2%
8	1.2 > 2	+2	10	20%
9	1.35 > 2	+2	11	18.2%
10	1.5 > 2	+2	12	16.7%
11	1.65 > 2	+2	13	15.4%
12	1.8 > 2	+2	14	14.3%
13	1.95 > 2	+2	15	13.3%
14	2.1 > 3	+3	17	17.7%
15	2.25 > 3	+3	18	16.7%
16	2.4 > 3	+3	19	15.8%
17	2.55 > 3	+3	20	15%
18	2.7 > 3	+3	21	14.3%
19	2.85 > 3	+3	22	13.6%
20	3	+3	23	13%
25	3.75 > 4	+4	29	13.8%
30	4.5 > 5	+5	35	14.3%
35	5.25 > 6	+6	41	14.6%
40	6	+6	46	13%
45	6.75 > 7	+7	52	13.46%
50	7.5 > 8	+8	58	13.8%

FIGURE 1 - The Chart Below is for Informational Purposes Only and pertains to affordable housing units constructed pursuant to SECTION V. Sub-Section X. Affordable Housing, Paragraph 6 a) only.

A Net increase in Number of Lots or Dwelling Units	B Required # of Affordable Dwelling Units to be Provided based on 10% (rounded up)	C # of Additional Market Rate Units Allowed as a Density Bonus based on +1 market rate for every 2 required affordable (rounded up)	D Total # of Market Rate and Affordable Dwelling Units (A + B)	E Overall Affordable % achieved based on the number of affordable units as a % of the total # of units (D / B)
6	.6 > 1	0	7	14.3%
7	.7 > 1	0	8	12.5%
8	.8 > 1	0	9	11.2%
9	.9 > 1	0	10	10%
10	1 > 1	0	11	9.1%
11	1.1 > 2	+1	12	8.3%
12	1.2 > 2	+1	13	7.7%
13	1.3 > 2	+1	14	7.1%
14	1.4 > 2	+1	15	6.7%
15	1.5 > 2	+1	16	6.25%
16	1.6 > 2	+1	17	5.9%
17	1.7 > 2	+1	18	5.6%
18	1.8 > 2	+1	19	5.3%
19	1.9 > 2	+1	20	5%
20	2	+1	21	9.5%
21	2.1 > 3	+1.5 > 2	23	13%
22	2.2 > 3	+1.5 > 2	24	12.5%
23	2.3 > 3	+1.5 > 2	25	12%
24	2.4 > 3	+1.5 > 2	26	11.5%
25	2.5 > 3	+1.5 > 2	27	11.1%
26	2.6 > 3	+1.5 > 2	28	10.7%
27	2.7 > 3	+1.5 > 2	29	10.3%
28	2.8 > 3	+1.5 > 2	30	10%
29	2.9 > 3	+1.5 > 2	31	9.7%
30	3	+1.5 > 2	32	9.4%
35	3.5 > 4	+2	37	10.8%
40	4	+2	42	9.5%
45	4.5 > 5	+2.5 > 3	48	10.4%
50	5	+2.5 > 3	53	9.4%

Ideas for Additional Zoning Bylaw DEFINITIONS for May 2012 town meeting

1-27-2012/sac

SECTION II.

<i>Lot Area</i>	The total area within the lots lines of a lot, excluding any street rights-of-way.
<i>Lot Coverage</i>	That portion of the lot that is covered by buildings/structures including accessory buildings. Lot coverage shall be determined by dividing the area of the footprint of all building on a lot by the total lot area.
<i>Lot Frontage</i>	The length of a lot line(s) measured at the street right-of-way line
<i>Lot Line</i>	A line of record bounding a lot that divides one lot from another lot, or from a way or any public space. <i>The existing definition in the Medway Zoning Bylaw is: The established division line between lots or between a lot and the street.</i>
<i>Lot Line, Front</i>	A lot line separating a lot from a street right-of-way
<i>Lot Line, Rear</i>	The line opposite and most distant from the front lot line. Or/ A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the frontage street.
<i>Lot Line, Side</i>	Any lot line other than a front or rear lot line.
<i>Lot Line, Street</i>	A lot line separating a lot from a street right-of-way
<i>Retail Sales</i>	Establishments engaged in the buying, receiving, selling and renting of goods or merchandise to the general public and which may include the rendering of associated services incidental to the sale of such goods or merchandise.

Retail Sales, Outdoors Retail sales establishments where the display of products occurs primarily outside of a building or structure, including but not limited to automotive and recreational vehicles, boats, garden supplies, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yard.

Services Establishments engaged primarily in providing assistance, as opposed to providing products, to individuals or businesses and other enterprises, including but not limited to business, social, personal and educational services.

Setback The distance between a structure and any lot line.

Common Driveway A privately owned road, paved or not, providing vehicular access between two or more buildings and a street. A common driveway does not serve as legal frontage for a lot.

Contractor's Yard An area on a premises used for any of the following outside activities associated with the operation of a building, construction, plumbing, wiring, landscaping, excavating or other similar contracting or sub-contracting business:

1. the storage of equipment, supplies and materials;
2. the fabrication of sub-assemblies;
3. the parking of wheeled equipment;
4. the parking of 2 or more motorized vehicles with six (6) wheels or more;
5. the parking of 1 or more "commercial motor vehicles" as defined by the Massachusetts Registry of Motor Vehicles in 540 CMR 4.02.

Delete existing definition for *Automotive Service Station*

Add new definitions instead:

Vehicular Fuel Station – any building, land area, or other premises, or portion thereof, used for the retail dispensing or sale of fuel for motor vehicles.

Vehicle Repair – Any building, land area, or other premises, or portion thereof, in which or upon which a business establishment is engaged in the maintenance, painting, servicing, repair, or leasing of automobiles and other motor vehicles.

Frontage That portion of a lot which fronts on a street or streets from which physical access to the principal building on the lots can be provided. Frontage is measured as the horizontal distance between the points of intersection of the side lot lines with the front lot line.

In the case of a corner lot with frontage on more than one way or street, the frontage on both streets may be used to determine if the lot meets the minimum frontage requirement of the particular zoning district. With a corner lot, the frontage is measured from the side lot line to the midpoint of the arc that constitutes the corner rounding at the intersection of the two streets or ways.

For purposes of this Zoning Bylaw, only sufficient frontage on one of the following types of ways shall be recognized.

- A public way or a way certified by the Town Clerk that is maintained and used as a public way
- A way shown and constructed or secured through a suitable performance guarantee as specified on a Definitive Subdivision Plan approved and endorsed under the Subdivision Control Law and recorded at the Norfolk County Registry of Deeds
- A way already physically in existence on the ground when the Subdivision Control Law became effective in Medway and having, in the opinion of the Planning and Economic Development Board, adequate width, construction, and grades for the needs of the existing and future buildings and uses abutting thereon or to be served thereby.

With this definition for *Frontage*, the following sub-sections would need to be amended as follows:

Delete the term "Minimum lot width" and replace it with the term "Minimum Continuous Frontage" in SECTION V. USE REGULATIONS as follows:

- Sub-Section G. Commercial District I – 2. c)
- Sub-Section I. Commercial District III – 3. c)
- Sub-Section J. Commercial District IV – 3. c)
- Sub-Section K. Commercial District V – 2. c)
- Sub-Section M. Industrial District I – 2. c)
- Sub-Section N. Industrial District II – 2. c)
- Sub-Section O. Industrial District III – 2. c)
- Sub-Section V. Business/Industrial – 2. c)

NOTE – Existing Zoning Definitions of interest

Lot – A single area of land in one ownership defined by bounds or boundary lines in a recorded deed or shown on a recorded plan.

Existing Definition from the Subdivision Rules and Regs

Frontage – The boundary of a lot coinciding with a street line providing rights of access across that boundary to a potential building site, measured continuously along one street line between side lot lines, or in the case of a corner lot, from the side lot line to the midpoint of the arc that constitutes the corner rounding at the intersection of the two streets or ways.

ZONING BYLAW AMENDMENT ideas

1-26-2012/sac

AUTHORITY AND PURPOSE

Delete Sub-Section C. Purpose and Intent (all related to adult uses)

DEFINITIONS – See separate handout

USE REGULATIONS A. GENERAL REQUIREMENTS

Delete paragraph 7 re: Kennels not being allowed in any district unless permitted by a special permit from the ZBA

ARI

1 c) insert a new 6) *Kennel when authorized by a special permit of the Zoning Board of Appeals*

Add a new item 7. *Estate Lot when authorized by a special permit from the Planning and Economic Development Board*

ARII

1 c) Insert a new 6)
6) Kennel when authorized by a special permit of the Zoning Board of Appeals

4) Insert
Any *single* family dwelling hereafter erected in this district shall be

COMMERCIAL I

1. b) Change Retail Stores to *Retail Sales* and delete the rest of the first sentence.

d) Do we want to do something re: salesroom for motor vehicles, etc.???
concern about used car sales in CI

j) Add 8. *Kennel* to list of special permits by ZBA

Item 7. Change *Automobile Service Station* to *Vehicular Fuel Station*

k) Add *Local Convenience Retail with Associated Vehicular Fuel Station* to list of special permits by PB

COMMERCIAL III

1 b) change Retail Stores to *Retail Sales* and delete the rest of the first sentence.

Add 1 g) *kennel* as a special permit by ZBA

COMMERCIAL IV

1 b) change Retail Stores to *Retail Sales* and delete the rest of the first sentence.

Add 1 g) *kennel* as a special permit by ZBA

COMMERCIAL V

1b) change Retail Stores to *Retail Sales* and delete the rest of the first sentence.

Add 1 m) *kennel* as a special permit by ZBA??

INDUSTRIAL I

Add 1. l) *Contractor's Yard* by right.

Add 1. m) *Vehicle Repair* by right

Add 1. n) *kennel* by special permit from the ZBA

- Allow outdoor storage of materials and parking of vehicles and equipment associated with the operation of a business located in a structure on the premises
- Prevent land from being used for outdoor parking and outdoor storage for a business which does not operate in a structure on the premises.

INDUSTRIAL II

Add 1. i) *kennel* by special permit from the ZBA

- Allow outdoor storage of materials and parking of vehicles and equipment associated with the operation of a business located in a structure on the premises
- Prevent land from being used for outdoor parking and outdoor storage for a business which does not operate in a structure on the premises.

INDUSTRIAL III

Add 1. i) *kennel* by special permit from the ZBA

- Allow outdoor storage of materials and parking of vehicles and equipment associated with the operation of a business located in a structure on the premises
- Prevent land from being used for outdoor parking and outdoor storage for a business which does not operate in a structure on the premises.

BUSINESS/INDUSTRIAL

1. l) Add *kennel* to list of special permit uses

Change *Automobile Service Station* to *Vehicular Fuel Station*

1 o) Add *Outdoor Retail Sales* and *Vehicle Repair* to list of by right/ allowable uses

SIGN REGULATION

9 b) 10 Change requirement for a DRC review and letter to apply to any individual sign of 6 square feet or more (instead of 8 feet)

9 e) 1. Any individual sign 6 square feet or more shall be required to go to DRC (instead of 8 feet)

10. New item c) – A sign not specified in Sub-Section R as either allowed or permitted may be authorized by the ZBA for a Special Permit.

Relabel current item c) to d)

1-24-2012 - With proposed revisions to reflect new flood plain maps and further recommendations from DCR

Q. FLOOD PLAIN/WETLAND PROTECTION DISTRICTS

1. **Purpose:** In addition to the purpose in Section I of this Bylaw, the purposes of this district are:
 - a) To provide that lands in the Town of Medway subject to seasonal or periodic flooding as described hereinafter shall not be used for residences or other purposes in such a manner as to endanger the health or safety of the occupants thereof, or the public generally, or to burden the public with costs *associated with the response and cleanup of flooding conditions* resulting from the unwise individual choices of land use.
 - b) To protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the Town and the Metropolitan area.
 - c) To assure the continuation of the natural flow pattern of the watercourses within Medway and to preserve natural floodwater storage areas so as to protect persons and property against the hazards of flood inundation *and reduce damage to public and private property resulting from flooding waters.*
 - d) *To avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact areas of the community beyond the site of flooding.*

2. **Flood Plain/Wetland Protection District:** The Flood/Plain/Wetland Protection District is hereby established as an overlay district. The Flood Plain/wetland Protection District includes:
 - a) ~~The Flood Plain/*Wetland Protection* District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain/*Wetland Protection* District includes~~
 - a) All special flood hazard areas designated as Zone A, *AE, AH, AO, A99, V, or VE* A1-30 on the *Medway Norfolk County* Flood Insurance Rate Map (FIRM) *issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Medway are panel numbers [redacted] dated [redacted]. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated [redacted]. The FIRM and FIS report are incorporated herein by reference and are and the Flood Boundary and Floodway Maps dated June 18, 1980 on file with the Town Clerk, Planning and Economic Development Board, Conservation Commission, Building Department and Board of Assessors. Town Engineering Department. These maps as well as the accompanying Medway Flood Insurance Study are incorporated herein by reference.*
 - b) All that land bordering any natural waterbody that lies within a horizontal distance of twenty-five (25) feet from the mean high water line except as otherwise defined on the Flood Plain/Wetland Protection District Map.
 - c) All water bodies encircled by boundary lines of the District.

- d) All that land along the following named brooks and their tributaries: Stall Brook, Hopping Brook, Chicken Brook and certain unnamed brooks and streams that lie within a horizontal distance of twenty-five (25) feet of the thread of said brooks and streams except as otherwise defined on the Flood Plain/Wetland Protection District Map.
- e) All those wetlands which may be described as upland swamps or marshes which lie at the source of the brooks or their tributaries or which lie in surface depressions without drainage outlets, as defined on the Flood Plain/Wetland Protection District Map.

3. *Base Flood Elevation and Floodway Data*

- a) ***Floodway Data.*** *In Zones A, a1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.*
- b) ***Base Flood Elevation Data.*** *Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.*

3.4. *Use Regulations:*

- a) The Flood Plain/Wetland Protection District *is an overlay district to all* ~~shall be considered as overlying~~ other districts established by this Bylaw. *The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains.* ~~Any uses permitted in the portion of the districts so overlaid shall be permitted except that:~~
 - 1) No new building or structure shall be erected or constructed;
 - 2) No existing building or structure shall be moved, altered or enlarged so as to increase its ground coverage by more than a total of twenty (20) percent; and
 - 3) No dumping or filling or relocation of earth materials shall be permitted except as may be required for the uses permitted in paragraphs b. (7) and (8) below.
 - 4) No storage of road salt, fertilizer, manure or other organic or chemical leachable material shall be permitted.
- b) In addition, the following uses shall be permitted in the Flood Plain/Wetland Protection District subject specifically to paragraphs 4 3, a, 1, 2, 3 and 4 above, above as applicable provided that prior approval of the Conservation Commission under the provisions of the General Laws, Ch. 131, S. 40 has been given.
 - 1) Uses directly related to the conservation of water, plants and wildlife.
 - 2) Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted.
 - 3) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any water course.
 - 4) Grazing and farming, including truck gardening and harvesting of crops.
 - 5) Forestry and nurseries.
 - 6) Small non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage or sale of crops raised on the premises.
 - 7) Creation of ponds with a total water surface area at normal elevation not in excess of 40,000 square feet.
 - 8) Removal of salt and other accumulated debris from a water course which tends to interfere with natural flow patterns of the water course.

- 9) Access driveways to land outside the Flood Plain/Wetland Protection District not otherwise accessible.
- c) *All development in the district including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:*
 - 1) *Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMG 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");*
 - 2) *Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 13.00);*
 - 3) *Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).*

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- d) *Other Use Regulations*
 - 1) *In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Norfolk County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.*
 - 3) *All subdivision proposals must be designed to assure that:*
 - a. *such proposals minimize flood damage;*
 - b. *all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and*
 - c. *adequate drainage is provided to reduce exposure to flood hazards.*
 - 4) *Existing contour intervals of site and elevations of existing structures must be included on plan proposal.*

4.5. **Lot Area Allowance:** If any area of a lot in a single family residence district is overlaid by the Flood Plain/Wetland Protection District, said portion may be used to meet the area regulations of that district provided that no building or structure may be erected on the portion remaining outside the Flood Plain/Wetland Protection District unless appropriate space on that portion is available for siting a building or structure, for installation of adequate sewage disposal facilities in accordance with Article XI of the State Sanitary Code and for meeting the setback, frontage and other dimensional requirements in this Bylaw , but in no case less than 10,000 square feet.

A lot with a dwelling existing thereon at the time of the adoption of this Bylaw shall not be deemed a non-conforming lot because any portion of it lies within the Flood Plain/Wetland Protection District.

If any portion of a lot in a commercial or industrial district is overlaid by the Flood Plain/Wetland Protection District, any use of the lot shall require a special permit from the Board of Appeals.

5.6. **Boundary Line Plot Plan:** Whenever an application is made for a building permit which the Building Inspector believes may be affected by a Flood Plain/Wetland Protection District boundary, the Inspector shall require the applicant for such permit to provide as part of such application a plan, certified by a registered land surveyor, of the lot on which such building is intended to be built showing the exact location of the District boundary as described on the Zoning Map, "Flood Plain/Wetland Protection District, Medway, Mass. 1975" and in paragraph 2 herein. In the case of a building permit for an interior improvement to a building or structure where the outside dimensions and the total ground coverage are not to be increased, the boundary line location shall not be required.

6. 7. **Determination of Flooding and Suitability:** If any land in the Flood Plain/Wetland Protection District is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for a use or structure which would otherwise be prohibited by this section, and the Board of Appeals determines that the use of such land for such use or structure will not interfere with the general purposes for which the District has been established, and will not be detrimental to the public health, safety and/or welfare, the Board of Appeals may grant a special permit for such use or structure which will comply with all respects with all other provisions of the underlying District or Districts within which the land is located, provided that any and all necessary permits, orders or approvals required by local, State or Federal law are obtained. The Board of Appeals shall refer each question to the Planning Board, Conservation Commission and Board of Health and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report have been received.

7.8. **Special Permit Requirements:** Any other Bylaw or regulation to the contrary notwithstanding, no construction requiring any utility, including electric, water, gas and telephone lines or waste disposal or drainage facilities shall be permitted within the District unless the Board of Appeals shall determine that all utilities are located, elevated and constructed so as to minimize or eliminate flood damage and that methods of disposal of sewage, refuse and other wastes and methods of providing drainage are adequate to reduce flood hazards.

8. 9. If the Conservation Commission shall determine it necessary to require engineering, hydrological, or general site review in order to make an informed decision on the applicability of wetlands regulations to a given site, it may require the applicant to undertake the needed investigation. No such study shall be initiated until the applicant has provided written guarantee to the Commission that he/she will assume responsibility for its costs and terms of payment. The selection of a consultant for the study shall be subject to the approval of the Commission.

Any permit or Order of Condition issued under this requirement shall be released to the applicant only after receipt from the consultant of acknowledgment of payment or other satisfactory arrangement.

This requirement shall apply only to those projects or sites which the Conservation Commission shall determine to have a potentially significant impact upon the environment.

10. **Notification of Watercourse Alteration – In a riverine situation, the [redacted] shall notify the following of any alteration or relocation of a watercourse:** *BY*

- a) **Adjacent Communities**
- b) **NFIP State Coordinator**
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600 - 700
Boston, MA 02114-2104
- c) **NFIP Program Specialist**
Federal Emergency Management Agency, Region 1
99 High Street, 6th Floor
Boston, MA 02110

11. **In this sub-section, the words used shall be defined as follows:**

Include applicable words . . . which words should be included??

ARI – Estate Lots

sac – revised draft 1-26-2012.

Add a new item 7. Estate Lots in the ARI zoning district

7. **Estate Lots** – The purpose of estate lot zoning is to provide, through a special permit process, for the reasonable use/development of residential parcels which significantly exceed the minimum lot area required by the zoning district but which do not have the required minimum frontage. The option for an Estate Lot is provided as an alternative to ~~creating~~ **dividing a land parcel into** multiple minimum size lots under a conventional subdivision plan. This alternative is meant to preserve rural character by reducing density, infrastructure construction, and congestion.

The **Planning and Economic Development Board** may grant a special permit to **authorize for the construction** development of a single family dwelling on a lot in the ARI district which lacks the minimum frontage required for the district by designating it as an Estate Lot, subject to the criteria set forth herein. Estate Lot status may be granted to pre-existing parcels or newly established parcels, **however in no circumstance shall a special permit be issued to permit an Estate Lot on land upon which there is already an existing dwelling.**

a) **General Requirements/Conditions** – A parcel which lacks the minimum frontage requirement may be designated as an Estate Lot and utilized for residential purposes provided that all of the following conditions are met.

1. An Estate Lot shall be located entirely within the ARI zoning district.

2. An Estate Lot shall have a minimum street frontage of least **35'**
~~50' (35, 40')~~. At no point between the public way and the rear of
the Estate Lot shall the width of an Estate Lot be less than **35' 50'**
~~(35', 40')~~.

3. The required frontage for an Estate Lot shall be on a public way accepted by the Town of Medway.

4. The area of an Estate Lot, exclusive of the access strip, shall be at least three **(or two??)** times the minimum area required for this zoning district. The access strip is the portion of the Estate Lot from the **public way** street to the point where the lot width equals one hundred feet or more. ~~The Estate Lot must be capable of containing a square with each side having a length equal to or greater than the standard minimum required lot frontage for this zoning district.~~

5. All buildings and structures on an Estate Lot shall be located at least 100' from any street.
6. Front, rear and side yard setbacks. All buildings on an Estate Lot shall be located a minimum distance of 50' from abutting property lines. ***THIS is more stringent than the conventional setbacks. Is it too much?***
7. All utilities shall be installed underground.
8. No applicant shall be eligible to create for more than one Estate Lot from a single parcel of land, or from adjoining parcels of land held in common ownership, based on the ownership status of the land as determined by instruments and plans on file at the Norfolk County Registry of Deeds.
9. ~~An Estate Lot shall not be permitted adjacent to another Estate Lot.~~
10. The maximum length of an Estate Lot access strip shall not exceed _____ (400'). ***DO WE NEED THIS?***
11. Access/egress to and from the Estate Lot from the public way shall be within the boundary limits of the lot and shall not be subject to any right-of-way or any public or private easement over adjacent land.
12. The driveway to be constructed within the access strip to provide access for the home to be constructed on the Estate Lot shall:
 - a. be at least 14' wide and have a vertical clearance of at least 10'. At least the first 50' of the driveway from the public way shall be paved.
 - b. be located, constructed and maintained at a distance of at least 5' from any abutting property line.
 - c. be designed to drain as to prevent damage or hazard to abutting properties. The existing drainage patterns shall not be disrupted by the construction of a driveway on the access strip portion of the Estate Lot.
 - d. have, in the opinion of the ***Planning and Economic Development Board***, acceptable design grade and suitable construction for the safe access and turn-around of vehicles including moving vans, ambulances, fire and police vehicles and delivery trucks.
13. The sight distance at the intersection of the Estate Lot driveway and the ***public way*** street shall be such as to provide for safety to all vehicular traffic.

14. Said Estate Lot shall be in compliance with all other zoning requirements.
 15. No Estate Lot shall be further subdivided or developed pursuant to other special permit options except that the ZBA may issue an accessory family dwelling unit special permit pursuant to the provisions of the Zoning Bylaw.
 16. The Plan for an approved Estate Lot shall be endorsed "Approved as an Estate Lot." The following notes shall also be placed on the plan: "*Lot shown on this plan shall not be further subdivided.*" and "*No building permit shall be issued to construct a dwelling on the subject lot until a copy of the recorded special permit is provided to the Medway Building Commissioner.*"
- b) **Application** – The applicant shall submit with the Estate Lot special permit application a plan depicting the proposed Estate Lot.
1. The plan shall be prepared by a civil engineer or land surveyor registered in the Commonwealth of Massachusetts and shall be in such form as will be required for recording with the Registry of Deeds or filing with the Land Court.
 2. The building area shall be designated on the plan. Front, rear and side yard ~~backs~~ setbacks shall be shown.
 3. The plan shall show the frontage and area of all lots abutting and adjacent to the subject lot.
- The plan shall show existing and proposed grading and sloping.
- c) **Findings** - The **Planning and Economic Development Board** shall not issue a special permit under this section except upon making the following findings:
1. The applicant has provided for safe access for public safety vehicles and personnel to the residence to be constructed on the Estate Lot, and the intersection of such access driveway and the public way has been placed so as to minimize conflicts with curb cuts on abutting lots and to maximize sight distances for exiting traffic.
 2. Egress from the Estate Lot must have no greater hazard owing to grade and visibility limitations than would be expected for a standard land subdivision road at that location.
 3. The development of the property as an Estate Lot will be more in keeping with the character of the adjacent neighborhood and the

protection of open space, significant or important natural resources and to historic structures or places (where such features are present) than other development options available to the applicant would be.

4. The existing drainage patterns shall not be disrupted by the construction of a driveway on the reduced frontage portion of the Estate Lot.

- d) **Decision** - In determining whether or not to grant a special permit for an Estate Lot, and in determining what limitations, conditions, and safeguards if any, to impose on such a special permit, the **Planning and Economic Development Board** may consider circumstances relating to soil conditions, topography, lot history, wetlands, proposed building locations, and public safety and convenience. Such limitations, conditions and safeguards shall be included in the written decision.

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Issues to Discuss/Decisions to Be Made:

1. Apply the standard lot shape factor requirement or/ require the ability to insert a 180' source within the estate lot
2. Review # of levels. This might apply to