# Tuesday, September 16, 2014 Planning and Economic Development Board 155 Village Street Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Karyl Spiller-Walsh	Tom Gay	Matt Hayes	Rich Di Iulio
Attendance	X	X	X	X	X	X

### ALSO PRESENT:

Consultant, Gino Carlucci, PGC Associates Susy Affleck-Childs, PED Coordinator Judi Barrett, RKG Associates

The Chairman opened the meeting at 7:00 pm.

### STREET ACCEPTANCE UPDATE

### Azalea Drive Layout Plan:

The Board reviewed the Azalea Drive paperwork and the intent to lay out Azalea Drive from Station 0+00 beginning at its intersection with Dogwood Lane running easterly, then northerly, then westerly through to its end at Station 24+87.19 and Azalea Drive from Station 0+00 beginning at Summer Street and running westerly to end of that segment Station 2+47.76, both as shown on the Azalea Drive Street Acceptance Plan dated May 13, 2014 prepared by Precision Land Surveying of Southborough.

The following items were provided to the Board: (See Attached)

- Memorandum dated September 10, 2014 from Susy Affleck-Childs
- Street Acceptance Plan dated May 13, 2014 by Tetra Tech

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board makes a recommendation to recommend to the Board of Selectmen that it lay out Azalea Drive as a public way.

The Board of Selectmen public hearing for Azalea Drive Layout plan will be September 23, 2014.

### **Morningside Drive:**

Susy reported that the Board of Selectmen has received the necessary paperwork for street layout for Morningside Drive.

Tetra Tech performed a site inspection on September 11, 2014. (See Attached.) There are issues with stormwater run-off from the installation of the berm near Lot 8A (10 Morningside Drive)

The owner of Lot 8A did come to speak to Susy about the concern with this berm. The expectation was that it was to be smaller.

Susy did speak with Tetra Tech and they will speak with the applicant about developing an "engineered solution" to deal with the drainage issue.

The Board is comfortable with continuing the process to lay out the road as long as the issues are resolved prior to the public hearing.

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to recommend to the Board of Selectmen that it begin the roadway layout process for Morningside Drive.

### MEDWAY GARDENS SITE PLAN

The final Medway Garden site plan presented for endorsement (See Attached) has been reviewed by Tetra Tech and the specified changes from the Site Plan Decision have been done. (See Attached email from Steve Bouley dated August 22, 2014).

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to endorse the final site plan for Medway Garden.

The Board signed the plan.

### **CUMBERLAND FARMS SITE PLAN:**

The Cumberland Farms project site plan is almost ready for close out.

Tetra Tech provided a punch list (See Attached) dated September 10, 2014 and it appears that all items have been taken care of. The temporary utility pole still needs to be addressed. The Asbuilt plan will be provided and reviewed by Tetra Tech.

Susy reported that the Building Inspector issued a temporary Certificate of Occupancy permit.

Member Spiller-Walsh has been watching the landscape and placement of the rocks.

### PLANNING CONSULTANT REPORT:

There will be a SWAP meeting on Wednesday, October 15, 2014. The topic for discussion is the Long Range Transportation Improvement Plan (TIP).

### **ENGINEERING CONSULTANT - Construction Reports:**

The Board is in receipt of construction observation reports from Tetra Tech for Millstone Village dated August 13, 2014 and September 8, 2014. (See Attached)

### WINTHROP STREET (Millstone Village) - Scenic Road Violation

The following documents were reviewed by the Board (See Attached):

• Memorandum dated September 16, 2014 from Susy Affleck-Childs with attachments

The Board reviewed the scenic road violation paperwork. The Board was provided with a copy of the sheet from the ARCPUD plan with the area in question. There was an email from Mr. Venincasa about the response. The minutes were reviewed and the right of way was part of the same scenic road area. The applicant presented the permit for the right of way for what immediately abuts the Millstone property. The violation is in the ROW adjacent to Betty Vernaglia's property. She was the co-applicant with Mr. Venincasa for the Millstone special permit as she owned the land at that time. The applicant will need to apply to the Board for a scenic road permit public hearing since trees were taken down in the scenic right or way. They are not exempt from this. The original application only pertained to the tree being removed in the ROW near the four model home areas to be built. This is the town's right-of-way. The initial determination was made seven years ago with regards to one pine tree. The initial plan did not include this current area of clearing. There was a recommendation from Sergeant Watson at that time to remove some of the trees. Fred Sibley went out and determined that there was one tree. The application did not reflect the work which took place, and a second permit should have been sought. A question was asked if there is anything in the scenic road bylaw that references public safety.

It was agreed upon that there needs to be more investigation into this. Susy will research this further.

### ZONING BYLAW RECODIFICATION WORK SESSION

The Board was sent documents to review which included:

- Most current version of Table of Contents.
- Article 1 Purpose and Authority
- Article 4 Establishment of Districts
- Article 5 Use Regulations
- Article 6 Density Regulations
- Article 8 Special Regulations

#### See Attached.

The goal for this work session is to get through the Use and Dimensional Regulations. The goal for the Saturday work session (9-20-14) will be Administration and General Regulations. The meeting on September 20, 2014 will begin at 9:30 pm.

The discussion began with Article 5.

### Article 5:

There will be a preamble included and the key will be carried over to the table of uses. The business industrial district was added to the table since it was left out. There was no reference to public utility and this was included and was included as a "yes" in all districts.

### <u>Section 5.5 Non – Conforming Uses and Structures page 6:</u>

The Section 5.5 Non-Conforming Uses and Structures will be provided to the Building Inspector, John Emidy for review. Judi explained that when applications for non-conforming structures are submitted, the building inspector determines whether the situation must go to the Zoning Board of Appeals for a finding. The Zoning Board of Appeals then needs to determine if the intended project increases the non-conformity. The applicants may also be subject to special permits. The Zoning Board of Appeals determines if this is more detrimental to the neighborhood. The idea of what makes something more detrimental varies from town to town. One cannot change a non-conforming use to another non-conforming use and one cannot make a use more non-conforming. One can modify as long as it does not hurt the neighborhood. The Zoning Board of Appeals can find and write a decision that the proposal it is not more detrimental. It was suggested that Town Counsel review this section.

### F. Abandonment:

Non-Conforming Farming: The section regarding non-conforming farming in the existing bylaw needs to be flagged and discussed with Town Counsel. If the land is over 5 acres, it is allowed. The State statute law protects agriculture in regards to five acres. The current bylaw distinguishes smaller farms and prohibits, but the bylaw is not allowed to prohibit piggeries if on 5 acres. All farming is considered to be a commercial enterprise. This will need to be reworked at a later date and the Board should seek Town Counsel's opinion. This will not be a big deal to fix.

### Flood Plain Bylaw:

The Board wanted to make sure that the flood plain section does not violate any State regulations.

Consultant Barrett explained that this does not violate State regulations, but she did delete language listing the addresses of the various state entities. This was on page 9. It was recommended to just include language, "will notify the following" since the names of the various people will change.

The definitions will be pulled and included in Article 2.

There are currently two definitions of "structure". The Mass Department of Conservation Resources provided the definition of "structure" as noted in the flood plain section. Judi communicated that the current definition is really simple. The Board needs to decide if the current definition excludes what is noted in the flood plain section. Some communities do not have a definition of structure when the templates are modeled. The Board needs to think about what is currently there and do they really want two definitions.

It was recommended that when a defined word/term is noted in the body of the bylaw that it be put it in italics and then reference a link/definition. This is helpful to the reader.

The Board decided it would like all definitions in one place.

### Flood Plain Maps:

The Town needs to determine if the town clerk has floodplain maps and make reference to those. This is all you need to reference in the bylaw. There needs to be a consistent standard. The map governs the geography of the districts. This is the official geography of the maps.

Overlay district language and the descriptive language are not needed. This should be taken out. It is already on the map.

There is an issue with page 14E. This is the Mill Conversion Subdistrict. This area should be noted on the map. It was recommend take the text out of the beginning and give the mill a Sub district name "Subsection A". A suggestion was made to call it the "Medway Mill Subdistrict." When this is taken to town meeting have a map along with name of district. You are not changing anything on the map, but showing it on the map. The original date of adoption, should this be inserted. This date is June 28, 2004. The adoption dates are referenced throughout and will be included.

### F: 9 Lighting:

Consultant Barrett communicated that as she was reading through the section on lighting, the wording about lighting was different than another section. The term residential scale lighting needs to be defined. Judi asks the Board what do they mean.

This needs to be clear to the reader; do you want to define by height?

There was a suggestion that the Design Review Committee can assist with defining this and could they discuss it at their meeting on Monday September 22, 2014.

Judi indicted that the applicant needs to be able to measure this for compliance.

### Site Plan Review:

Judi reminded all that the site plan review is an administrative function. This is based on case law. You can have site plan review and can say that a project is subject to site plan review. The way site plan it is written now is unclear to anyone looking to apply. The site plan bylaw needs a lot of work. This is a very complicated site plan bylaw. The word site plan is different from what we are asking for. This section does not require all the submittal requirements. The simple review makes it clear for the applicant. There are provisions for minor and major site plan review. The Board thought it made the most sense to work on site plan during the work on Saturday September 20, 2014.

### **Ground Water Protection:**

Judi informed the Board that the Ground Water Protection section is very close to the State Standard. She did recommend that Section G-H can come out.

Susy wanted to clarify the term building commissioner, inspection, zoning enforcement officer. There are distinct differences in his title. In the bylaw it references the building inspector. The Board is fine with this term.

### Article 6:

### Density\Dimensional Requirements:

Judi indicated that she has pulled information from area standards regarding density and dimensional requirements. There was a question about if the new pavilion is dwelling or structure. A pavilion is a structure and comes under the building code. It was recommended to default to the building code for definition.

The area standards for lot shape factor were referenced. Susy asked if we could have an illustration of lot shape factor. Judi noted that it is good ideas to have diagrams but those are hard to come by. Susy will ask the engineer to provide one.

Information about buildable lots is in the dimensional requirements. There was not a standard for something other than a structure. This needs to be included.

Judi wanted clarity if they wanted the word "building or structure". This needs to be clarified for the reader. The terminology of building and structure will need to be worked on during another session. The buildable lot section was revised in 2005. In relation to "Lot Frontage", Judi added a declaration that frontage must meet the standard it need to say how the lot frontage is determined. Then designation on how frontage is determined from street. What is the policy?

Susy responded that there is a definition of frontage and the practice that the frontage must be continuous and not split but it can wrap a corner.

Judi communicates that this is a liberal approach for frontage. There needs to be shown access over the frontage. This has to be stated. This needs to be worked on and tightened up. The non-conforming policy is so critical. The definition of "measurement of lot frontage" is not clear to the reader.

Susy responded that the town does not have residents show that they can have access over frontage. They need to show on the plan where they get frontage.

There are towns that say you have to have access over the "frontage". It has to be demonstrated. This is not unreasonable. If this is not the practice of the town, it would need to be a policy change and would need to be done separate from recodification.

In relation to the AR2 section, there is a Special Permit provision for a lesser setback for development on adjoining lots which do not conform. Judi comments that this is a design issue.

Typically, towns say that if a lot is within so many feet, then you take the average of the existing lot setbacks in the area to figure out if it will conform. Judi responds that there is an easier way to do this. The way it is now is that it is ZBA may take exception. The town needs to define what the standard is.

The parking standards will need to be addressed at another time.

Industrial areas may want to change the parking density and also define it.

The following terms need definitions:

- Maximum Lot Coverage
- Maximum Building Coverage.
- Maximum Building Coverage

The term impervious coverage could be added for definitions.

It was recommended to use numbers not roman numerals to refer to the different zoning districts. The recommendation is use consistency throughout the document.

### Article 8:

There are two subsections for wireless communication and small wind generation which Judi still needs to work on.

Selectmen Trinade did ask the Board about the progress of recodification. Susy expressed her concerns about putting this together in time for the fall town meeting.

### Adjourn:

On a motion made by Tom Gay, and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 9:30 pm.

Respectfully Submitted,

Recording Secretary

Transcribed from Audio Tape.

Reviewed and edited by,

Serson & CAHON & Dubb

Susan E. Affleck-Childs

Planning and Economic Development Coordinator



### **TOWN OF MEDWAY**

### Planning & Economic Development

155 Village Street Medway, Massachusetts 02053

### **MEMORANDUM**

September 10, 2014

TO:

Medway Planning and Economic Development

FROM:

Susy Affleck-Childs, Planning and Economic Development Coordinator

RE:

Roadway Layout for Azalea Drive

We are working toward street acceptance at the 2014 fall town meeting for Azalea Drive. Azalea Drive is one of the long-standing, unaccepted subdivisions we have focused on during FY 14. The bond funds have been released by TD Bank, the Bank has provided a road deed to the Town, a street acceptance plan has been prepared, and title research has been completed.

The roadway lay out currently under consideration is shown on the *Azalea Drive Street Acceptance Plan*, dated 5/13/2014, prepared by Precision Land Surveying of Southborough, MA and Tetra Tech of Framingham, MA. A copy of this plan is provided for you.

At its August 12, 2014 meeting, the Planning and Economic Development Board voted to request that the Board of Selectmen begin the roadway lay out process by voting its intent to lay out Azalea Drive as a public way.

At its September 2, 2014 meeting, the BOS voted its intent to lay out Azalea Drive as a public way and referred this matter to the PEDB for a report and recommendation. The BOS has scheduled a public hearing on Monday, September 22, 2014 regarding the roadway layout.

Recommended Motion: I move that the Planning and Economic Development Board recommend that the Board of Selectmen lay out as a public way Azalea Drive from Station 0+00 beginning at its intersection with Dogwood Lane running easterly, then northerly, then westerly through to its end at Station 24+87.19 and Azalea Drive from Station 0+00 beginning at Summer Street and running westerly to the end of that segment at Station 2+47.76, both as shown on the Azalea Drive Street Acceptance Plan dated 5/13/2014 prepared by Precision Land Surveying of Southborough, MA and Tetra Tech of Framingham, MA.

Below is a *Synopsis of Roadway Layout/Street Acceptance Process* that was established in 2007 with the assistance of Town Counsel Barbara Saint Andre. The dates for action for Azalea Drive are included.

Telephone: 508-533-3291

Fax: 508-533-3252

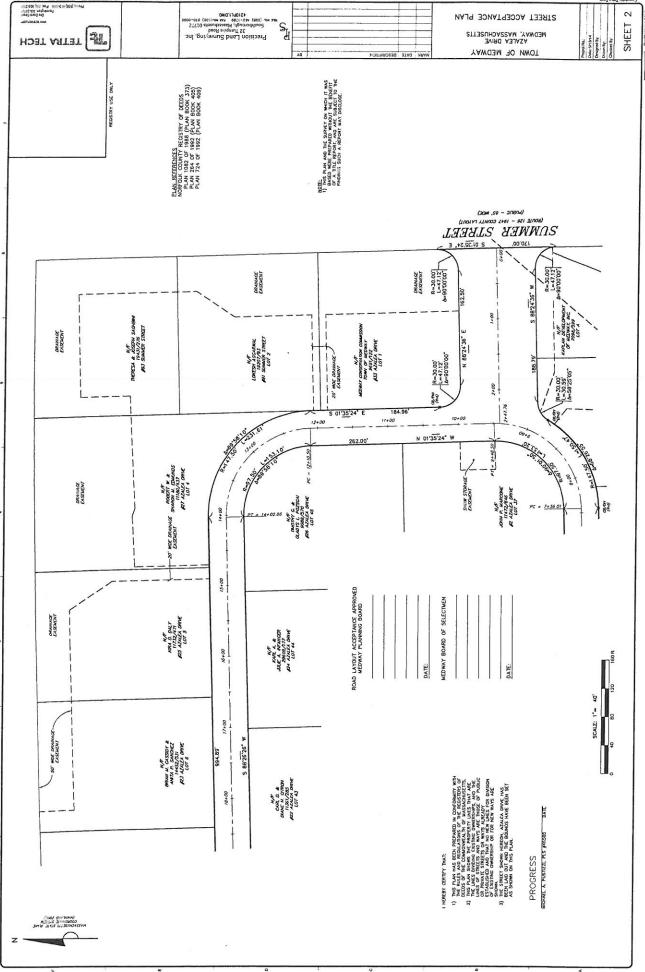
saffleckchilds@townofmedway.org

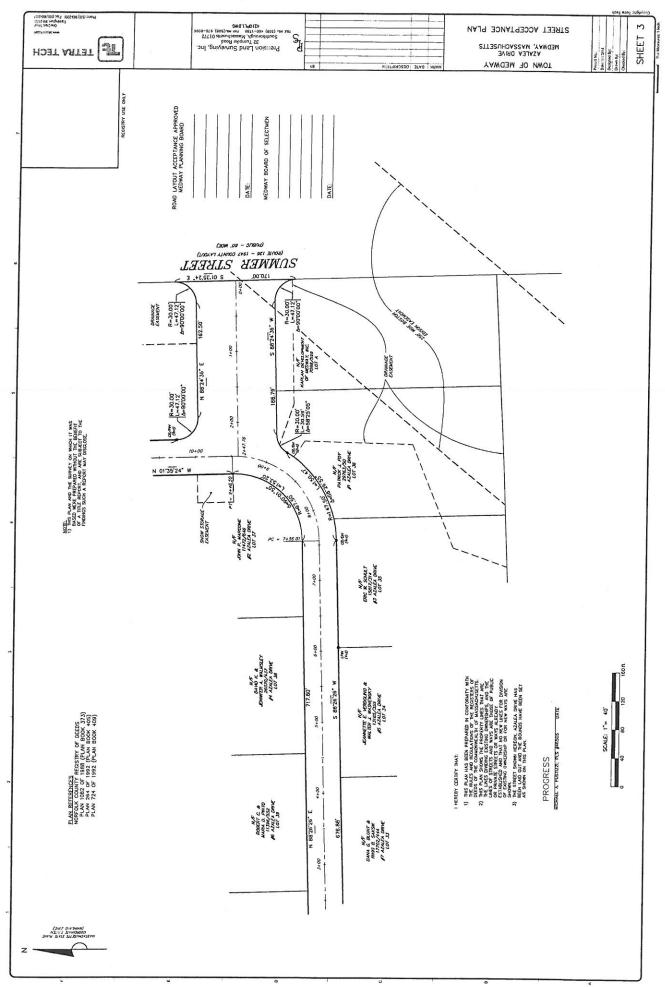
- 1. The BOS, by its own action, or upon request of the PEDB, or by petition by one or more inhabitants, initiates the process to lay out a road as a public way. (DONE 9/2/2014)
- 2. The PEDB has 45 days to consider the matter, vote on it at a duly posted public meeting (9/16/2014) and provide a report and its recommendation back to the BOS.
- 3. The BOS holds a public hearing (9/22/2014) to lay out Azalea Drive. Abutting property owners are notified. The BOS vote should reference the street acceptance plan.
- 4. The BOS vote and the street acceptance plan showing the roadway layout must be filed with the Town Clerk at least seven (7) days prior to the date that Town Meeting votes to accept the road as a public way. (Must be done by 11/3/2014)
- 5. Town Meeting votes to accept the road as laid out by the BOS as a public way. (11/10/2014)
- 6. BOS votes to accept the conveyance of the deed from TD Bank. The BOS signs the Street Acceptance Plan. (11/17/14 or 12/1/14)
- 7. PEDB signs the Street Acceptance Plan (11/11/14 or 11/25/14)
- 8. Town Counsel arranges for road deed, acceptance of deed, and Street Acceptance Plan to be recorded at Norfolk County Registry of Deeds.

Telephone: 508-533-3291 Fax: 508-533-3252 saffleckchilds@townofmedway.org

One Grant Street Framkgham, MA 01701 00 Fax (\$35) 903-2111

STREET ACCEPTANCE PLAN





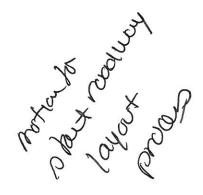


# September 16, 2014 Medway Planning & Economic Development Board Meeting

# Fox Run Farm – Morningside Drive Street Acceptance

- Street Acceptance Plan dated 9-2-2014 by Outback Engineering
- Tetra Tech Review Letter dated 9-8-2014 of Street Acceptance Plan

I would recommend the PEDB vote to request that the BOS begin the process to lay out Morningside Drive as a public way.





September 8, 2014

Ms. Susan E. Affleck-Childs Medway Planning and Economic Development Coordinator Medway Town Hall 155 Village Street Medway, MA 02053

Re: Fox Run Farm/Morningside Drive Street Acceptance Plan Review Medway, Massachusetts

Dear Ms. Affleck-Childs,

Tetra Tech (TT) has performed a review of Street Acceptance Plan for the above mentioned project and is in receipt of the following materials:

• A plan (Plans) entitled "Roadway Acceptance Plan", dated September 2, 2014, prepared by Outback Engineering, Inc. (OEI).

The Plan was reviewed for conformance with the Town of Medway, Massachusetts Planning Board Regulations. The following is a list of comments generated during the review of the Plan. Reference to the applicable regulation requirement is given in parentheses following the comments.

### Conformance with Planning Board Rules and Regulations for the Review and Approval of Land Subdivisions (Chapter 100):

- 1) The Plan is not drawn at the appropriate scale as stated in the regulations. However, it is drawn at a scale previously acceptable by the PEDB. (Ch. 100 §6.8.3.a)
- 2) The Plan does not include a certification that all permanent monumentation has been set. (Ch. 100 §6.8.3.b.4)
- The Plan should be entitled "Street Acceptance Plan" and include the subdivision name and surveyors name. (Ch. 100 §6.8.3.b.6)
- 4) The Plan should be dated, signed and stamped by a registered land surveyor. (Ch. 100 §6.8.3.c)

These comments are offered as guides for use during the Town's review. If you have any questions or comments, please feel free to contact us at (508) 903-2000.

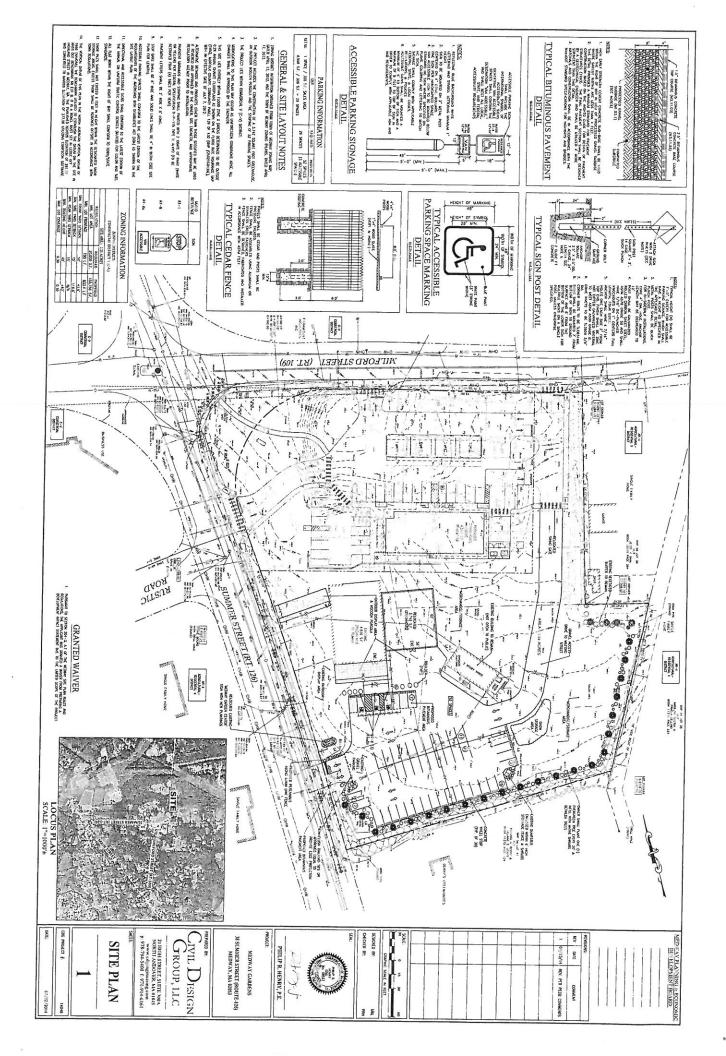
Very truly yours,

Sean P. Reardon, P.E.

S.P.RL

Vice President

 $P. \column{2}{l} 1583. \column{2}{l} 127-21583-11001 \column{2}{l} DOCS \column{2}{l} REVIEW LTR\_FOX RUN FARM-STREET ACCEPTANCE REVIEW COMMENT LETTER-2014-09-08. DOCX \column{2}{l} DOCS \column{2}{l} D$ 



### Susan Affleck-Childs

From:

Bouley, Steven <Steven.Bouley@tetratech.com>

Sent:

Friday, August 22, 2014 10:06 AM

To:

Susan Affleck-Childs

Cc:

Reardon, Sean

Subject:

RE: Medway Gardens Site Plan

Hi Susy,

I checked the plan against the decision and it appears all conditions have been met. Will this message suffice or would you like a memo? Please let me know, thanks.

Steve

From: Susan Affleck-Childs [mailto:sachilds@townofmedway.org]

Sent: Thursday, August 21, 2014 5:11 PM

To: Bouley, Steven Cc: Reardon, Sean

Subject: FW: Medway Gardens Site Plan

Hi Steve,

Please review this final version of the Medway Gardens Site Plan per the decision and let me know if the plan is ready for the PEDB to endorse.

The revised plan and the decision are attached.

Thanks.

### Susy

Susan E. Affleck-Childs Medway Planning and Economic Development Coordinator 508-533-3291 155 Village Street Medway, MA 02053

Town of Medway - A Massachusetts Green Community

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To: Susan Affleck-Childs – Medway Planning and Economic Development Board

Coordinator

Fr: Steven Bouley, E.I.T. – Tetra Tech (TT)

Re: Cumberland Farms

Site Plan Review (Punchlist)

Medway, MA

Dt: September 5, 2014 (Revised September 10, 2014)

On September 5, 2014 at the request of the applicant, Tetra Tech (TT) met with the design engineer, Phil Henry, and performed a Punch List inspection of the Cumberland Farms site. The inspection was conducted based upon the approved plan set titled "Site Plan Set for Cumberland Farms, 38 Summer Street (Route 126), Medway, MA" dated February 13, 2014.

On September 10, 2014 at the request of the applicant, TT performed a punch list inspection of the Cumberland Farms site to review completed punch list items. The below listed items have been updated.

The following is a list of items and issues that should be repaired or resolved:

### Site

- 1. Landscaping along the eastern property boundary appears to be incomplete. It appears two additional 'Colorado Blue Spruce' are required along the boundary. One 'Fraser Fir' along this boundary has been placed to the south of its proposed location to avoid an existing tree on the neighboring property. (See Photo #1 #2)
  - TT 9/10/14 Update: The contractor has planted one additional 'Colorado Blue Spruce' along this boundary and relocated one proposed spruce to the center island located along the northern property boundary as requested by a Design Review Committee (DRC) representative. The contractor stated that the DRC representative inspected all landscaping and is pleased with the result. No further action required for this item.
- 2. The contractor should remove the temporary utility pole in the northeastern portion of the site adjacent to Milford Street. (See Photo #3)

- 3. The contractor should relocate the centerline in Summer Street to the proposed location as shown on the approved plans. (See Photo #4)
  - TT 9/10/14 Update: The centerline has been relocated per the approved plans. No further action required for this item.
- 4. The contractor should seed all loamed areas. (See Photo #5 #8)
  - TT 9/10/14 Update: The contractor has seeded all loamed areas and grass is beginning to grow. The contractor/owner should seed any areas not growing through the fall months, if necessary.
- 5. TT is awaiting an as-built of drainage infrastructure and site grading.

### Building

- 6. On September 9, 2014 the PEDB requested that the applicant remove the green stripe located at the roof line of the building. The green stripe was not located in the approved plans and should be removed.
  - TT 9/10/14 Update: The contractor is painting over the green stripe with white paint. No further action required for this item.

If you have any questions or require additional information, please don't hesitate to contact me at (508) 903-2000.

 $P.\ 21583\ 143-21583-14007\ (CUMERLAND\ FARMS\ CONS\ SERV)\ (CONSTRUCTION\ PUNCH\ LIST\ MEMO-CUMBERLAND\ FARMS\ PUNCH\ LIST\ 2014-09-05\ (REVISED\ 2014-09-10)\ DOC$ 

Photo # 1

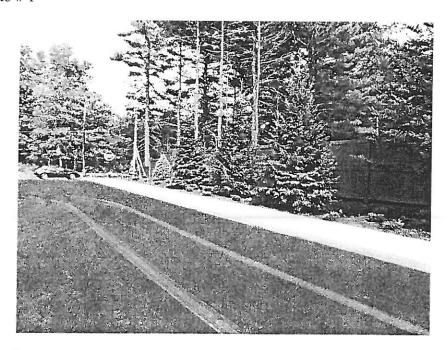


Photo #2



Photo #3

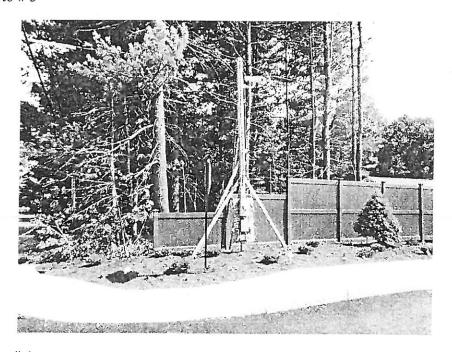


Photo #4

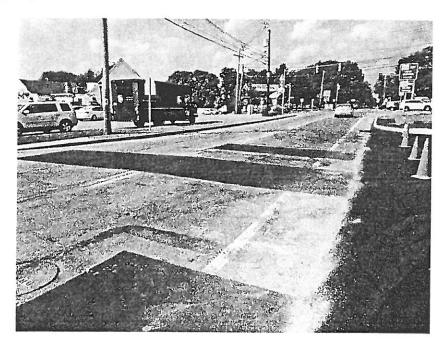


Photo # 5



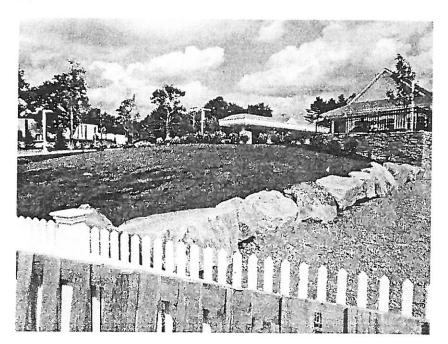
Photo # 6



Photo #7



Photo #8



Tetra Tech		
One Grant Street		
Framingham, MA 01701		
Project	Date	Report No.
Millstone Village	08-13-14	01
Location	Project No.	Sheet 1 of
Winthrop Street	143-21583-14018	2
Contractor	Weather	Temperature
Γitan Contracting	A.M.	A.M.
Dave Zercoe	P.M. SUNNY	P.M. 85°
F	IELD OBSERVATIONS	

On Wednesday, August 13, 2014 Steve Bouley from Tetra Tech (Tt) visited the project site to inspect erosion control and abutter concerns. The following observations were made:

### 1. Observations

A. Several abutters expressed concern regarding the limit of clearing, the placement of erosion controls, time of work and whether or not the contractors acquired the necessary permits to begin work. It was determined in the site inspection that the limit of clearing and placement of silt fencing/mulch tube/construction fence along the roadway appear to be completed per the approved plans. TT did not observe any construction activity at the time of inspection (6:00 P.M.). It appears that the applicant has acquired necessary permits to begin clearing land.

CC	ONTRACTOR'S FORCE AND E	QUIPMENT	WORK DON	NE BY OTHERS
Sup't	Bulldozer	Asphalt Paver	Dept. or Company	Description of Work
Foreman	Backhoe	Asphalt Reclaimer		
Laborers	Loader	Vib. Roller		
Drivers	Rubber Tire Backhoe/Loader	Static Roller		
Oper. Engr.	Bobcat	Vib. Walk Comp.		
Carpenters	Hoeram	Compressor		
Masons	Excavator	Jack Hammer		
Iron Workers	Grader	Power Saw		
Electricians	Crane	Conc. Vib.		T
Flag persons	Scraper	Tree Remover		
Surveyors	Conc. Mixer	Chipper		
	Conc. Truck	Screener	OFFICIAL VI	SITORS TO JOB
	Pickup Truck	Drill Rig		I I I I I I I I I I I I I I I I I I I
	Dump Truck 6 Whl	Boom Lift		
	Dump Truck 10 Whl	Water Tank		
	Dump Truck 14 Whl	Lull		
	Dump Truck 18 Whl	Gradall		
Police Details:		RESIDENT REPRE	SENTATIVE FORCE	
Time on site: $6:00 \text{ P.M.} - 7:0$	00 P.M.	Name	Name	
CONTRACTOR'S Hours of	Work:			
		A CONTRACTOR OF THE CONTRACTOR	Resident Representative: Stev	e Bouley

Project	Date	Report No.
Millstone Village	08-13-14	01
Location	Project No.	Sheet 2 of
Winthrop Street	143-21583-14018	2
Contractor Titan Contracting Dave Zercoe	Weather A.M. P.M. SUNNY	Temperature A.M. P.M. 85°
FIELD	OBSERVATIONS CONTINUED	11111.00

2. Schedule

A. Titan contracting will continue to clear land and stockpile topsoil.

3. New Action Items

A. N/A

4. Previous Open Action Items

A. N/A

5. Materials Delivered to Site Since Last Inspection:

A. N/A

Date	Report No.
09-08-14	02
Project No.	Sheet 1 of
143-21583-14018	2
Weather	Temperature
A.M. SUNNY	A.M. 75°
P.M.	P.M.
	09-08-14 Project No. 143-21583-14018 Weather A.M. SUNNY

FIELD OBSERVATIONS

On Monday, September 8, 2014 Steve Bouley from Tetra Tech (Tt) visited the project site to inspect the current condition of the site and construction progress. The following observations were made:

#### 1. Observations

- A. The contractor is in the process of removing and stockpiling loam. The existing top soil is being stripped from the eastern edge of the site along the roadway, roots and large boulders removed and then transported and stockpiled in the center of the site.
- B. The contractor is in the process of grading proposed Detention Basin #1P. It appears that the basin is being graded per the approved plans.
- C. The contractor is in the process of constructing the field stone wall along the property boundary of Winthrop Street.
- D. TT did not witness any dust blowing while on-site and the ground appeared to be watered just prior to arrival on-site.

Bulldozer Backhoe Loader	1	Asphalt Paver Asphalt Reclaimer		Dept. or Company	Description of Wale
Loader		Asphalt Reclaimer			Description of Work
	-	Asphart receianner			
D 11 M' D 11	1	Vib. Roller			
Rubber Tire Backhoe/Loader		Static Roller			
Bobcat		Vib. Walk Comp.			
Hoeram		Compressor			
Excavator	3	Jack Hammer			
Grader		Power Saw			-
Crane		Conc. Vib.			
Scraper		Tree Remover			
Articulating Dump Truck	2	Chipper			
Conc. Truck		Screener	1	OFFICIAL VISI	TORS TO JOB
Pickup Truck	3	Drill Rig			
Dump Truck 6 Whl		Boom Lift			
Dump Truck 10 Whl		Water Truck	1		
Dump Truck 14 Whl		Lull			
Dump Truck 18 Whl		Gradall			
				RESIDENT REPRES	ENTATIVE FORCE
Time on site: 8:30 A.M. – 9:30 A.M.				Name	Name
:					
				Resident Representative: Steve	Rouley
	Grader Crane Scraper Articulating Dump Truck Cone. Truck Pickup Truck Dump Truck 6 Whl Dump Truck 10 Whl Dump Truck 14 Whl Dump Truck 18 Whl	Grader Crane Scraper Articulating Dump Truck 2 Conc. Truck Pickup Truck 3 Dump Truck 6 Whl Dump Truck 10 Whl Dump Truck 14 Whl Dump Truck 18 Whl	Grader Power Saw Crane Conc. Vib. Scraper Tree Remover Articulating Dump Truck 2 Chipper Conc. Truck Screener Pickup Truck 3 Drill Rig Dump Truck 6 Whl Boom Lift Dump Truck 10 Whl Water Truck Dump Truck 14 Whl Lull Dump Truck 18 Whl Gradall M.	Grader Power Saw Crane Conc. Vib. Scraper Tree Remover Articulating Dump Truck 2 Chipper Conc. Truck Screener 1 Pickup Truck 3 Drill Rig Dump Truck 6 Whl Boom Lift Dump Truck 10 Whl Water Truck 1 Dump Truck 14 Whl Lull Dump Truck 18 Whl Gradall M.	Grader

Project	Date	Report No.
Millstone Village	09-08-14	02
Location	Project No.	Sheet 2 of
Winthrop Street	143-21583-14018	2
Contractor Titan Contracting Dave Zercoe	Weather A.M. SUNNY	Temperature A.M. 75°
	P.M.	P.M.

FIELD OBSERVATIONS CONTINUED

2. Schedule

A. The contractor expects to conduct the water/sewer tie-ins this week.

3. New Action Items

A. N/A

4. Previous Open Action Items

A. N/A

5. Materials Delivered to Site Since Last Inspection:

A. Sewer Manholes

B. 8" PVC (SDR 35) Sewer Pipe

C. 8" CLDI Pipe



### TOWN OF MEDWAY

### Planning & Economic Development

155 Village Street Medway, Massachusetts 02053

### **MEMORANDUM**

UPDATED September 16, 2014

TO:

Planning and Economic Development Board

FROM:

Susy Affleck-Childs, Planning and Economic Development Coordinator

RE:

Scenic Road Violation - West side of Winthrop Street north of Millstone Village

After Millstone started construction, we received several complaints from neighbors on the east side of Winthrop Street who reported that the developer's site contractor had undertaken considerable tree cutting in the Town's right of way on the west side of Main Street, north of the Millstone entrance, on property owned by Betty McCall Vernagli. If the neighbors' observations are correct, the tree cutting could be a violation of the Town's Scenic Road regulations as no Scenic Road work permit had been secured for tree cutting in this area. The neighbors want to know how the Town (PEDB) is going to hold the developer accountable for this unauthorized tree removal.

I asked Tree Warden Fred Sibley to investigate. On August 28, 2014, Fred inventoried the Town owned slope adjacent to Winthrop Street north of the Millstone Village entrance. He has determined that 4 trees over 4" in diameter were cut in the Town's right of way. There is one tree stump at 12-18" high with a diameter of 8". There are three tree stumps at 12-18" high that have a diameter of 5". Fred has provided a photo of the subject trees taken on 9/11/2014. See attached.

You may recollect that the Board did issue a Scenic Road work permit for the removal of one tree in the ROW south of the Millstone entrance. The public hearing on that tree was held on 3/25/2014. The application submitted for that Scenic Road public hearing and permit only addressed one tree and did not include any reference to the above noted trees on the adjacent Vernagli property. See attached portion of the meeting minutes for the 3/25/14 hearing.

I have reviewed the grading sheet for the endorsed Millstone plans. See attached. It clearly specifies that a portion of the ROW adjacent to Betty McCall Vernagli's property will be re-graded to maintain an elevation of 230 feet and that vegetation will be cleared. I believe one of the reasons for the clearing was to provide adequate visibility northbound for traffic exiting out the northern Millstone driveway.

Telephone: 508-533-3291

Fax: 508-321-4987

saffleckchilds@townofmedway.org

Based on Fred's evaluation, it seems reasonable to conclude that the Millstone site contractor did not understand that a Scenic Road Work Permit would be needed to remove trees, located in the Town's right of way on Winthrop Street, with a diameter of 4" or more as measured one foot from the ground. OR, they felt they were exempt because the PEDB had endorsed the Millstone ARCPUD plan.

I first brought this matter to your attention at the September 6<sup>th</sup> PEDB mtg. I recommended that the PEDB inform the applicant of this violation and direct them to immediately file for a scenic road work permit. You concurred. I emailed the applicant on Monday, September 8<sup>th</sup>. Mr. Venincasa responded on September 13<sup>th</sup> and has stated he does not believe a Scenic Road violation occurred since the grading and vegetation clearing were noted on the approved ARCPUD plan. (See attached emails).

### **Tree Replacement Calculations**

Section 405-8 B of the *Scenic Road Rules and Regulations* provides for tree replacement on a 1 sq. inch per 2 sq. inch replacement basis as follows:

A one square inch per two square inch replacement is calculated by finding the diameter of a tree in question at one foot about ground level and determining its trunk area (tree radius squared x 3.14). The resulting figure is halved and that square inch total becomes the square inch total of the replacement trees.

For the subject property, the tree replacement calculations are as follows:

One 8 inch diameter tree (tree radius = 4")

 $4^2 = 16$  sq. inches  $\frac{x \cdot 3.14}{50.24}$  sq. inches Divide  $\frac{by \cdot 2}{25.12}$  sq. inches of replacement trees

Three 5 inch diameter trees (tree radius = 2.5")

2.5² = 6.24 sq. inches

x 3.14

19.6 sq. inches

Divide by 2

8.3 sq. inches of replacement trees

x 3 trees that were cut down

24.9 sq. inches of replacement trees

Total sq. inches of replacement trees = 25.12 (one 8" tree) + 24.9 (three 5" trees) = 50 sq. inches



Minutes of March 25 2014 Meeting Medway Planning & Economic Development Board APPROVED – April 8, 2014

The new owner was sent a new invoice and letter asking what his intentions are for the subdivision.

The board wanted to know if there were any extensions granted on this decision. Susy will follow-up on that item.

### Millstone Village Adult Retirement Community:

The Chairman opened the continued hearing for the Millstone Village Adult Retirement Community.

### Scenic Road Permit:

On a motion made Karyl Spiller-Walsh and seconded by Tom Gay, the board voted unanimously to open and waive the reading of the public hearing notice for the scenic road permit for Millstone Village. (See Attached)

The Tree Warden Fred Sibley is present and referenced his email dated March 24, 2014. (See Attached).

Susy explained that the new permit application pertains to the removal of one tree in the right of way adjacent to Millstone Village where the driveway is being put. The board is in receipt of a packet with a photograph of the pine tree which will be removed. There is also a drawing showing the location. (See Attached)

There was a question about how far back the tree is in the photo.

The engineer indicated that it is outside the right of way.

Susy explained that the bylaw only applies to trees or stonewalls in the right of way which will need to be removed due to the construction. This is how the statute reads.

Fred Sibley explained that he came up with a cost estimate of \$2,500.00. This amount was based on a formula. This takes into account the type, size and health of the tree. It was suggested to replace the pine with three red maples with the hope that the contractor would agree to plant these with the tree warden's supervision.

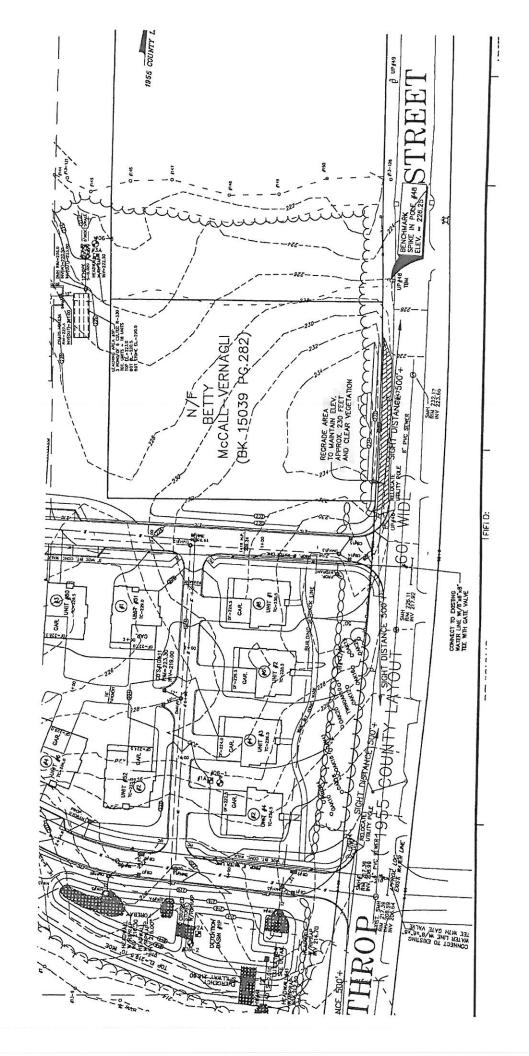
The engineer indicated that the applicant will be amenable to this.

Susy will draft language up for the next meeting.

There was discussion that there needs to be a timeline put in place for the plantings. It was suggested April 30, 2015.

### Close Scenic Road Permit Hearing:

On a motion made Karyl Spiller-Walsh and seconded by Tom Gay, the board voted unanimously to close the public hearing for the scenic road permit for Millstone Village.



### Susan Affleck-Childs

From:

Steven Venincasa <sv@casarealty-builders.com>

Sent:

Saturday, September 13, 2014 10:20 PM

To:

Susan Affleck-Childs

Cc:

Steven Venincasa; Andy Rodenhiser

Subject:

Re: Scenic Road tree cutting on Winthrop Street north of Millstone Village

The trees cut were shown on the approved site plan signed by the planning board. The plan clearly depicts the grade to be lowered in the area in question . No violation occurred .

Steven Venincasa Sent from my iPad

On Sep 8, 2014, at 2:36 PM, Susan Affleck-Childs < sachilds@townofmedway.org > wrote:

Hi Steve,

I am writing to inform you of a matter related to construction at Millstone Village that needs your immediate attention. This pertains to the extensive land clearing that occurred several weeks ago when the Millstone site preparation work began.

Based on the 8/28/14 inspection by Tree Warden Fred Sibley, it appears that the site contractor, in preparing the Millstone site entry area at Winthrop Street, removed 4 trees over 4 inches in diameter that were located in the Town's right of way on the west side of Winthrop Street, immediately north of your site and adjacent to Betty McCall Vernaglia's property. As you know, Winthrop Street is a scenic road and neither you, nor the contractor, nor Betty applied for and secured a Scenic Road work permit for this work. You are now in violation.

I discussed this matter with the Planning and Economic Development Board on Saturday. To remedy this violation, you need to apply for a Scenic Road work permit immediately and the Board needs to hold a Scenic Road public hearing as soon as possible. The application form is attached. Please complete it and return to me.

You can reasonably expect that some remedial tree planting will be required.

Please do not hesitate to contact me if you have any questions. I look forward to receiving the scenic road work permit application from you within the next 2 days along with an application fee of \$150.

Best regards,

Susy Affleck-Childs

Susan E. Affleck-Childs Medway Planning and Economic Development Coordinator 508-533-3291 155 Village Street Medway, MA 02053

Town of Medway - A Massachusetts Green Community

### Medway Zoning Bylaw Table of Contents

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### ARTICLE 1. PURPOSE AND AUTHORITY

### 1.1. Title

The full title of these regulations shall be the "Zoning Bylaw of the Town of Medway, Massachusetts." These regulations shall be referred to herein as the "Zoning Bylaw" or "these Bylaws."

### 1.2. Purposes

This Zoning Bylaw is enacted in order to promote the general welfare of the Town of Medway; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land throughout the town, and to further the goals and policies of the Medway Master Plan, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, Massachusetts General Laws, Chapter 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

### 1.3. Authority.

This Zoning By-Law is enacted in accordance with the provisions of Massachusetts General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### 1.4. Applicability.

All buildings or structures hereinafter erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, shall be in conformity with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

### 1.5. Amendment.

This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided for in Massachusetts General Laws, Chapter 40A, Section 5, and any amendment(s) thereto.

### 1.6. Severability.

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

# ARTICLE 4. ESTABLISHMENT OF DISTRICTS

#### 4.1. Districts

For purposes of this Bylaw, the Town of Medway is divided into the following districts:

Agricultural Residential I

Agricultural Residential II

Commercial I

Commercial III

Commercial IV

Commercial V

Business/Industrial

Industrial I

Industrial II

Industrial III

Flood Plain/Wetland Protection (Overlay)

Adaptive Use Overlay District

Groundwater Protection District

### 4.2. Zoning Map

Except for the Flood Plain/Wetland Protection District and Groundwater Protection District, the boundaries of these districts are defined and founded on the map entitled, "Town of Medway Zoning Map," dated June 30, 2001, as may be amended and revised, signed by the Planning and Economic Development Board and filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

All Flood Plain/Wetland Protection Districts shall be located and bounded as shown on the map described in Article 5, Section 5.X<sup>1</sup> herein, which is incorporated in and made a part of this Bylaw.

The Groundwater Protection District shall be located and bounded as shown on the maps described in Article 5, Section 5.X herein, which is incorporated in and made part of this Bylaw.

# 4.3. Lots Divided by District Boundaries

Where the boundary line of a zoning district divides a lot that was held in one ownership on the date that said boundary was established, the use regulations of the less restrictive district shall apply in the more restrictive district for a distance of twenty-five (25) feet, provided that the

<sup>1 &</sup>quot;X" will convert to an actual cross-reference later in this process.

dimensional regulations of the district in which more than fifty (50) percent of the lot is located shall apply throughout.<sup>2</sup>

<sup>&</sup>lt;sup>2</sup> I realize that Medway's zoning doesn't have a split lot provision today, but it would be very wise to create one. Split lot regulations are very common and they can help to prevent a problem before it happens. I'll remove it if you wish, but I'm putting out there for discussion.

# ARTICLE 5. USE REGULATIONS

#### 5.1. General Provisions

- A. No building or structure shall be erected and no building or structure, or land or water area shall be used for any purpose or in any manner except in accordance with this chapter.
- B. No building permit shall be issued for any use that is subject to Section XX [cross-reference to Site Plan Review] unless a site plan has been reviewed and approved in accordance with the requirements therein.
- C. Accessory uses.
  - 1. An accessory use shall be incidental and subordinate to the principal use on the lot.
  - 2. An accessory use shall be located on the same lot as the principal residential or non-residential use to which it is accessory, and shall not alter the character of the premises on which it is located or have an adverse impact on the surrounding area.

#### 5.2. Prohibited Uses

- A. Any use not listed in § 5.4, Schedule of Uses, or otherwise allowable under the provisions of this Bylaw is prohibited.
- B. In all districts, no use shall be permitted which would be offensive because of injurious or noxious noise, vibration, smoke, gas, fumes, odors, dust, debris, glare, radiation, or electrical interference, or other objectionable features, or be hazardous due to fire or explosions or any other cause.
- C. Mobile homes, except that pursuant to Massachusetts General Laws Chapter 40A, Section 3, a mobile home or temporary manufactured home may be placed on the site of a residence destroyed by fire or natural disaster, for a period not to exceed twelve months while the residence is being rebuilt.

#### 5.3. Permitted in All Districts

The following uses are permitted in all districts:

- A. Federal or state use
- B. Pursuant to Massachusetts General Laws Chapter 40A, Section 3:
  - 1. Public or non-profit educational use
  - 2. Religious use

- 3. Child care facility licensed by the Commonwealth under Massachusetts General Laws Chapter 15D
- 4. Agriculture, horticulture, viticulture, aquaculture, or floriculture on parcels of five or more acres, including an facilities for the sale of produce, wine and dairy products

# 5.4. Schedule of Uses

No land, structure or building shall be used except for the purposes permitted in the district as set forth in Table 1, Schedule of Uses unless permitted under Section 5.3 or as otherwise provided in Section 5.XX [cross-reference to Overlay Districts]. In Table 1, a use permitted by right is denoted by the letter "Y," and a prohibited use is denoted by the letter "N." A use denoted by the letters "SP" may be allowed by special permit from the Zoning Board of Appeals, and a use denoted by the letters "PB" may be allowed by special permit from the Planning and Economic Development Board.

TABLE 1: SCHEDULE OF USES												
	AR-I	AR-II	C-I	C-III	C- IV	C-V	B-I	1-1	1-11	1-111		
A. AGRICULTURE, CONSERVATION, RECREATION USES												
Agriculture, excluding piggeries and fur farms on less than 5 acres of land, and excluding livestock and poultry on less than 44,000 sq. ft. of land.	Y	Y	N	N	N	N	N	N	N	N		
Greenhouse	SP	SP	N	N	N	Y	Y	N	N	N		
Nonprofit recreational use	Y	Y	N	N	N	N	N	N	N	N		
Sawmill	SP	N	N	N	N	N	N	N	N	N		
Boathouse, ski tow, golf course	SP	SP	N	N	N	N	N	N	N	N		
Livery riding stable (except permitted in all districts if conducted as an agricultural use on five or more acres of land)												
Aviation field	SP	SP	N	N	N	N	N	N	N	N		
Gravel, loam, sand, or stone removal <sup>1</sup>	SP	SP	N	N	N	N	N	N	N	N		
B. PUBLIC SERVICE												
Municipal use <sup>2</sup>	Y	N	Y	Y	Y	Y	Y	Y	Y	Y		
Public utility			[[8][]]	Y	Y	Y	Y <sup>3</sup>	Y	Y	Y		
C. RESIDENTIAL AND INSTITUTIONAL USES												
Detached single-family dwelling	Y	Y	N	Y	Y	N	N	N	N	N		
Conversion of single-family dwelling to a two-family dwelling <sup>4</sup>	N	SP	N	N	N	N	N	N	N	N		
Infill dwelling unit, subject to Section XX	N	SP	N	N	N	N	N	N	N	N		
Open space residential development, subject to Section XX	PB	РВ	N	N	N	N	N	N	N	N		
Assisted living residence	N	N	PB	N	N	N	N	N	N	N		
Adult retirement community planned development, subject to Section XX	PB	PB	N	N	N	N	N	N	N	N		
Accessory uses:												
Accessory family dwelling unit	SP	SP	N	SP	SP	N	N	N	N	N		
Home-based business, subject to Section XX	SP	SP	N	Y	Y	N	N	N	N	N		

<sup>&</sup>lt;sup>1</sup> Except that no special permit shall be required when removal of such materials is incidental to the construction or alteration of buildings for which a permit has been issued by the Board of Selectmen or to the construction of a way shown on a subdivision plan approved by the Planning and Economic Development Board.

 $<sup>^2</sup>$  I have listed municipal use as permitted in the AR districts, but the ZBL is confusing. What is a lawful municipal use – and what is an unlawful municipal use? The confusion stems in part from the preamble to the AR district and also from the specific reference to "municipal use" in the nonresidential districts.

<sup>&</sup>lt;sup>3</sup> Not specifically allowed in your existing zoning, but I assume the intent is Y.

<sup>&</sup>lt;sup>4</sup> Provided that the exterior of the dwelling maintains the appearance of a detached single-family dwelling, other than alterations required to comply with the State Building Code. In addition, there shall be two parking spaces for each dwelling unit on the premises, and no parking shall located within 10 feet of any abutting lot line.

	T	E 1: SC		7	T			1		
	AR-I	AR-II	C-I	C-III	C- IV	C-V	B-I	1-1	1-11	1-111
D. BUSINESS USES						+				+
Retail Trade									-	+
Retail store	N	N	Y	Y	Y	Y	Y	N	N	N
Shopping center	N	N	SP	N	N	N	SP	N	N	N
Nursery and florist (except permitted in all districts if conducted as an agricultural use on five or more acres of land)	N	N	N	N	N	Y	Y	N	N	N
Indoor sales of motor vehicles, trailers, boats, farm equipment, with accessory repair services and storage, but excluding auto body, welding, or soldering shop	N	N	Y	N	N	N	N	N	N	N
Sale and storage of building materials to be sold on the premises	N	N	N	N	N	N	Y	Y	N	N
Outdoor retail sales <sup>5</sup>	N	N	N	N	N	N	Y	N	N	N
Hospitality and Food Services										
Restaurant providing food within a building <sup>6</sup>	N	N	Y	Y	Y	Y	Y	N	N	N
Restaurant providing live entertainment within a building	N	N	SP	N	N	N	N	N	N	N
Motel or hotel	N	N	SP	N	N	N	N	N	N	N
Cultural and Entertainment Uses <sup>7</sup>										
Studio for artists, photographers, interior decorators, other design-related uses	N	N	N	N	N	Y	N	N	N	N
Professional Uses and Financial Services										
Bank or other financial institution	N	N	Y	Y	Y	Y	Y	N	N	N
Professional or business office	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Services										
Barber shop, beauty shop, nail salon, and similar personal service establishments	N	N	Y	N	N	Y	Y	N	N	N
Repair shop for small equipment, bicycles, appliances, tools	N	N	Y	N	M	N	N	N	N	N
Commercial indoor amusement or recreation, or similar place of assembly	N	N	SP	N	М	N	N	N	N	N
Funeral home, undertaker	N	N	Y	Y	Y	Y	Y	N	N	N

<sup>&</sup>lt;sup>5</sup> What is the intent of this? The term appears only once in your ZBL. Can we combine it with another use?

<sup>6</sup> What about outdoor seating on a patio?

 $<sup>^{7}</sup>$  I do not see standard uses such as "cinema," "theatre," or "museum" in the ZBL. Do you want to add them?

1	1	т —	HEDULE	OF USI	ES			,		
	AR-I	AR-II	C-I	C-III	C- IV	C-V	B-I	1-1	1-11	1-111
Veterinary hospital	SP		N	N	N	N	N	N	N	N
Kennel (except permitted in all districts if conducted as an agricultural use on five or more acres)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Automotive Uses										
Vehicle fuel station, car wash	N	N	SP	N	N	N	N	N	NI	NI
Car wash	N	N	SP	N	N	N	SP	N	N	N
Vehicle fuel station with convenience store	N	N	PB	N	N	PB	N	N	N	N N
Vehicle repair	N	N	SP	N	N	N	SP	Y	N	N
Other Business Uses; Unclassified										
Any combination of three or more business uses on a single lot <sup>8</sup>	N	N				PB	N	N	N	N
Adult uses	N	N	N	N	N	N	N	Y	N	N
Accessory Uses										
Drive-through	N	N	SP	N	N	PB	SP	N	N	
E. INDUSTRIAL AND RELATED USES										
Warehouse and distribution facility	N	N	N	N	N	Y	N	N	N	N
Wholesale showroom or office, including warehouse	N	N	N	N	N	N	Y	Y	Y	Y
Manufacturing, processing, fabrication, packaging and assembly, and storage of goods manufactured on the premises <sup>9</sup>	N	N	N	N	N	N	Y	Y	Y	Y
Contractor's yard <sup>10</sup>	N	N	N	N	N	N		Y	N	N
Research and development	N	N	N	N	N	N		Y	Y	N
Research and development and/or manufacturing of renewable or alternative energy products	N	N	N	N	N	N		Y	Y	Y
Electric power generation including but not limited to renewable or alternative energy generating facilities such as the construction and operation of large-	N	N	N	N	N	N		N	Y	N

<sup>&</sup>lt;sup>8</sup> This is very unusual. What are you trying to accomplish here? And why is the use listed in the C-V district and not the other C districts? Should one assume that three or more business uses would be allowed in the C-1 district without a special permit from the PEBD?

<sup>&</sup>lt;sup>9</sup> The ZBL expressly prohibits the following manufacturing uses: abattoir and commercial slaughtering; manufacture of corrosive, poisonous or malodorous acids and chemicals; cement, lime, gypsum and plaster-of-paris manufacture; fertilizer manufacture or fat rendering in manufacture of tallow, grease, and oils; glue, size and gelatin manufacture; petroleum and kerosene refining or distillation and derivation of by-products; manufacture of explosives and the storage of explosives in bulk; smelting and reduction of copper, tin, zinc and iron ores; yard for the storage and sale of used building and junk material; asphalt plants. This is a very prescriptive list of prohibitions. It would be much better to describe the *impacts* you want to prohibit. Otherwise, you could end up with a manufacturing use that's just as offensive as those in your list, but because the use isn't specifically listed, it would have to be allowed. This needs discussion.

<sup>&</sup>lt;sup>10</sup> I recommend consolidating contractor's yard and contractor's quarters. It isn't necessary to separate them. The definition of these two terms can (and should) be changed.

	TABL	E 1: SCH	EDULE	OF USE	S					
	AR-I	AR-II	C-I	C-III	C- IV	C-V	B-I	1-1	1-11	1-111
scale ground-mounted solar photovoltaic installations with a rated name plate capacity of 250 kW (DC) or more										
Accessory Uses							-			
Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on the premises	N	N	N	N	N	N		Y	Y	Y

### 5.5. Nonconforming Uses and Structures

- A. Applicability. Except as herein after provided, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a one-family or two-family residential structure does not increase the nonconforming nature of said structure, as set forth below.
- B. Commencement of Construction or Operation. Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw, unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- C. Nonconforming One-Family and Two-Family Dwellings
  - 1. No Increase in Nonconforming Nature. Nonconforming one-family and two-family dwellings may be reconstructed, extended, or altered, or a new accessory structure may be constructed upon a determination by the Building Inspector that the nonconforming nature of the existing structure is not increased. Such determination shall be deemed to be as of right and the applicant entitled to the issuance of a building permit where the proposed reconstruction, extension, or alteration does not violate the setback requirements to a greater extent than the dwelling prior to such reconstruction, extension, or alteration.

2. Increase in Nonconforming Nature. In the event that the Building Inspector determines the nonconforming nature of the structure is increased, the Zoning Board of appeals may grant a special permit to allow such construction, reconstruction, extension, alteration, or change upon finding that the proposed modification does not create a new nonconformity and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

### D. Nonconforming Uses

- 1. Change or Substantial Extension. The Board of Appeals may grant a special permit to change or substantially extend a nonconforming use only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.
- 2. Substitution. The Board of Appeals may grant a special permit to substitute one nonconforming use for another nonconforming use only if it determines that the new use shall be less detrimental than the existing use to the neighborhood.

# E. Nonconforming Structures Other Than One-Family and Two-Family Dwellings

The Board of Appeals may grant a special permit to reconstruct, extend, alter or structurally change a nonconforming structure other than a one-family or two-family structure (which are governed by § 8.4, below), or to alter said structure to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. No part of a structure that does not conform to a minimum yard requirement shall be located closer to a lot line than the closest point of the existing structure to such lot line. No part of a structure that does not conform to a height requirement shall be higher than the existing structure.

### F. Abandonment, Demolition, or Non-Use

- 1. Any non-conforming horticultural and floricultural use that has been abandoned or discontinued for more than five years shall not be reestablished.
- 2. Any other nonconforming use or structure which has been abandoned, demolished without reconstruction, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Bylaw.
- G. Change. Once changed to a conforming use, no use or structure shall revert to a non-conforming use without obtaining a variance from the Zoning Board of Appeals.

# 5.6. Overlay Districts

#### 5.6.1. Flood Plain/Wetland Protection District

- A. Purposes. The purposes of the Flood Plain/Wetland Protection District are to ensure public safety by reducing threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding; avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; eliminate costs associated with the response and cleanup of flooding conditions; and, reduce damage to public and private property resulting from flooding waters.
- B. Overlay District. The Flood Plain/Wetland Protection District shall be deemed to be superimposed over other districts in this Bylaw. In the event any regulations of this Flood Plain/Wetland Protection District are in conflict with the regulations of any other districts, the more restrictive regulation shall govern.
- C. Applicability. The Flood Plain/Wetland Protection District includes:
  - 1. All special flood hazard areas designated as Zone A or AE on the 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 25021C 0136E, 0137E, 0138E, 0139E, 0141E, 0142E, 0413E, and 0144E with a preliminary date of June 12, 2009 and an effective date of July 17, 2012. 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) with an effective date of July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning and Economic Development Board, Conservation Commission, Building Department and Board of Assessors.
  - 2. All land bordering any natural water body 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.
  - 3. All water bodies encircled by boundary lines of the District.
  - 4. 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.
  - 5. 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.

### D. Base Flood Elevation and Floodway Data

- 1. Floodway Data. In Zones A 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.
- 2. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.
- E. In a riverine situation, the Conservation Administrator shall notify the following of any alteration or relocation of a watercourse: adjacent communities, NFIP State Coordinator, and NFIP Program Specialist.

### F. Use Regulations

- 1. Permitted Uses. The following uses shall be permitted in the Flood Plain/Wetland Protection District provided that the Conservation Commission has acted within the scope of its jurisdiction under Massachusetts General Laws, Chapter 131, Section 40.
  - a. Underlying permitted uses are allowed provided they meet the requirements of this Section 5.6.1 and the Massachusetts State Building Code dealing with construction in flood plains.
  - b. Uses directly related to the conservation of water, plants and wildlife.
  - c. Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted.
  - d. 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.
  - e. Grazing and farming, including truck gardening and harvesting of crops.
  - f. Forestry and nurseries.
  - g. 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.
  - h. Creation of ponds with a total water surface area at normal elevation not in excess of 40,000 square feet.
  - i. Removal of salt and other accumulated debris from a water course which tends to interfere with natural flow patterns of the water course.
  - j. Access driveways to land outside the Flood Plain/Wetland Protection District not otherwise accessible.

- k. Buildings lawfully existing prior to the adoption of these provisions.
- 2. All manmade changes to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations in the NFI District, including structural and nonstructural activities, whether permitted by right or by special permit, shall comply with Massachusetts General Laws Chapter 131, Section 40, and the following:
  - a. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
  - b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
  - c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00).
  - d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
- 3. 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.
- 4. Prohibited Uses. The following shall be prohibited in the Flood Plain/Wetland Protection District:
  - a. New construction of a building or structure except as otherwise provided in this Section 5.6.1;
  - b. Movement, alteration, or expansion of an existing building or structure so as to increase its ground coverage by more than a total of 20 percent;
  - c. Dumping or filling or relocation of earth materials except as may be required for the uses permitted in Section E(1)(h)(i) and (j).
  - d. Storage of road salt, fertilizer, manure, or other organic or chemical leachable material.
  - e. In Zone 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.
- G. Subdivisions. All subdivision proposals shall be designed to assure that:
  - 1. Such proposals minimize flood damage;
  - 2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

- 3. 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.
- H. Lot Area Allowance. If any portion 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 minimum lot area regulations of the single-family district. However, no building or structure shall be erected on the portion outside the Flood Plain/Wetland Protection District unless it contains suitable space for a building or structure, for installation of adequate sewage disposal facilities in accordance with Title V of the State Environmental Code, and for meeting the setback, frontage, and other dimensional requirements of this Bylaw, but in no case less than 10,000 square feet.
- I. A lot with a dwelling existing thereon at the time of the adoption of this Bylaw shall not be deemed a non-conforming lot solely because any portion of it lies within the Flood Plain/Wetland Protection District.
- J. Special Permits. The Board of Appeals may grant a special permit for any of the following upon finding that the purposes of the Flood Plain/Wetland Protection District have been met.
  - 1. A special permit from the Board of Appeals shall be required for construction on any lot in a commercial or industrial district when a portion of the lot is overlaid by the Flood Plain/Wetland Protection District.
  - 2. Determination of Flooding and Suitability.
    - a. The Board of Appeals may grant a special permit for a use permitted in the underlying district if the Board determines that:
      - i. The land is not subject to flooding or unsuitable because of drainage conditions;
      - ii. The proposed use of such land will not interfere with the general purposes for which the Flood Plain/Wetland Protection District has been established, and will not be detrimental to the public health, safety and/or welfare; and
      - iii. The proposed use or structure will comply with all other provisions of the underlying district(s) within which the land is located.
    - b. The Board of Appeals shall refer such special permit applications to the Planning Board, Conservation Commission, and Board of Health for review and comment, and shall not act until these agencies have reported their recommendations or forty-five (45) days have elapsed after such referral and no report has been received. The Board may hire technical consultants to assist the Board or any of its reviewing parties with evaluating such special permit applications and the applicant shall be responsible for the cost thereof.

- c. Any special permit granted hereunder shall be conditional upon receipt of all other permits or approvals required by local, state, or federal law.
- 3. No construction requiring a public utility, including electric, water, gas, and telephone lines or waste disposal or drainage facilities, shall be permitted unless the Board of Appeals determines that all such 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.
- 4. Special permit application, review, and decision procedures shall be in accordance with Section XX [reference Article 3, Special Permits] and the rules and regulations of the Board of Appeals.

### 5.6.2. Adaptive Use Overlay District

- A. Purposes. The purposes of the Adaptive Use Overlay District are to promote economic development and preserve community character by encouraging conversion of existing buildings in a manner that maintains their architectural integrity; to provide for limited business uses within portions of residential districts, subject to design and performance standards, in order to preserve historic buildings by providing economic uses for structures that may be obsolete for their original intended uses; and implement the goals of the Medway Master Plan.
- B. Overlay District. The Adaptive Use Overlay District is superimposed on the following areas as shown on maps on file with the Town Clerk:<sup>11</sup>
  - 1. That portion of the ARII district along the north side of Main Street between Mechanic Street and a line formed by the extension of the centerline of Cottage Street across Main Street, except for Choate Park/Pond (Assessors Map 5, Parcel A), and along the south side of Main Street between a line formed by the extension of the centerline of Mechanic Street across Main Street and the western boundary of the Commercial I district at Elm Street.
  - 2. The entire Commercial III district and portions of the ARII zoning district in the Medway Village area on the north and south sides of Village Street.
- C. Applicability. The Planning Board may grant an Adaptive Reuse Special Permit for any property with at least 50 feet of frontage on a Town way in the Adaptive Use Overlay District, provided that each lot in the development includes at least one building constructed prior to June 28, 2004.
- D. Use Regulations

<sup>11</sup> If the Town Clerk has the maps, we can simply identify the maps by title and date and eliminate these text descriptions.

- 1. Uses Allowed As of Right: All uses permitted in the underlying zoning district shall be permitted within the Adaptive Reuse Overlay District.
- 2. Uses Allowed by Special Permit: In approving an Adaptive Use Special Permit under the provisions of Massachusetts General Laws Chapter 40A, Section 9, the Planning and Economic Development Board may provide for the following uses or combination of uses and no others. The Adaptive Use Special Permit shall identify the uses that are specifically allowed, and may impose any conditions, safeguards and limitations deemed necessary by the Planning and Economic Development Board.
  - 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 appearance of the building is characteristic of a single-family dwelling.
- 3. Prohibited Uses: The following uses shall be prohibited from the Adaptive Use Overlay District:
  - a. Motor vehicle sales, repair, or sales of parts
  - b. Manufacturing
  - c. Drive-through windows of any kind
  - d. Exterior storage of equipment or materials
- E. Medway Mill Conversion Subdistrict. The existing Medway Mill building and property within the Adaptive Use Overlay District present unique features and opportunities as part of the district. In addition to the purposes listed in Section 1, the Mill property provides an opportunity to promote diverse housing types and mixed uses. In recognition of these unique features, there is hereby created the Medway Mill Conversion Subdistrict within the

Adaptive Use Overlay District. The Subdistrict shall consist of Parcel 7 of Assessors Map 5G. <sup>12</sup> The following provisions shall apply to the Medway Mill Conversion Subdistrict.

- 1. Permitted Uses. In addition to the uses listed above in Section D(1) and D(2), multifamily dwellings may be allowed by special permit within any of the existing buildings or within any new buildings on the premises, provided that the average number of bedrooms in the development shall not exceed two per unit.
- 2. Density and Dimensional Requirements.
  - a. Residential density shall not exceed 12 units per acre, exclusive of any wetlands as determined by the Conservation Commission. Residential space, measured in square feet, shall not exceed 25 percent of the usable building space on the premises, and the amount of commercial space at the time of adoption of this section shall not be reduced by conversion to housing unless the Planning and Economic Development Board finds that a greater percentage and/or conversion of commercial space to housing is in the Town's best interests as evidenced by a documented need for the type of housing proposed.
  - b. Maximum building coverage shall be 1.25 times the footprint of buildings existing as of the date of adoption of this section.
- F. Adaptive Use Site Development Standards. Adaptive Reuse projects shall conform to the following site development standards to the maximum extent practical.
  - 1. Each Adaptive Use project shall include restoration, renovation, or improvement of the primary existing building(s) on the site sufficient to maintain or enhance the building's original architectural integrity and character. Construction of an addition to an existing building or construction of a new building on the premises may be permitted if it is compatible with other building(s) on the lot and in harmony with the surrounding area.
  - 2. Unless waived by the Planning and Economic Development Board, all parking shall be to the rear and side of the building, and no parking shall be located between the front building line and the street. 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.
  - 3. There shall be at least one (1) off-street parking space per 300 square feet of nonresidential gross floor area, and two (2) off-street parking spaces per dwelling unit, unless the Planning and Economic Development Board finds that a lesser number is adequate based on site characteristics and the proposed use(s).

<sup>12</sup> This is very confusing. Is the Medway Mill subdistrict part of the one of the areas identified in Subsection B above (where the reference maps are identified)?

- 4. The project shall make adequate provisions for on-site retention and treatment of stormwater, as determined by the Planning and Economic Development Board in consultation with its Consulting Engineer.<sup>13</sup>
- 5. No new curb cuts shall be added and no existing curb cut shall be expanded unless the Planning and Economic Development Board finds that such changes are necessary to ensure safe access to the property.
- 6. The project shall provide for pedestrian and bicycle access, including bicycle parking.
- 7. Sidewalks shall be provided or replaced along the entire frontage of the Adaptive Reuse project site along existing Town ways, including the frontage of any lots held in common ownership with the parcel within five (5) years prior to the submission of the AUOD Special Permit. Where sidewalk construction is not feasible or practical, the Planning and Economic Development Board may require the applicant to provide a sidewalk in another location or make a payment in lieu of sidewalk construction to the Town of Medway Special Sidewalk Fund in an amount determined by the Planning and Economic Development Board as recommended by its Consulting Engineer.
- 8. Landscaping shall maintain or enhance the residential character of the property. There shall be a landscaped buffer along any property boundary with an adjacent residential use unless waived by the Planning and Economic Development Board. Parking, loading, and refuse storage facilities shall be screened from the public way and abutting properties by structures and/or landscaping.
- 9. Lighting shall be of residential scale, architecturally compatible with the building, and designed to ensure that no glare is produced on abutting properties or the public way.
- 10. Business signage shall comply with Section XX, Sign Regulations.
- G. Procedures. Submission requirements and review procedures shall be in accordance with the Planning and Economic Development Board's rules and regulations. The uses and improvements for which an Adaptive Use Special Permit is granted shall be exempt from Site Plan Review.
- H. Decision Criteria. The Planning and Economic Development Board may grant an Adaptive Reuse Special Permits upon finding that:
  - 1. The proposed use is allowed under this Section 5.6.2.
  - 2. The site is adequate for the proposed us in terms of size, configuration, and use of abutting properties.
  - 3. Provisions for traffic and parking are adequate for the proposed use.

<sup>13</sup> Shouldn't this just say the project has to comply with the Town's stormwater management bylaw and regulations?

- 4. Provisions for pedestrian and bicycle access are adequate, based on site characteristics and the proposed use.
- 5. The proposal restores or enhances the aesthetic appeal of the primary building and its site.
- 6. The impact on neighborhood visual character, including views and vistas, is positive.
- 7. The provisions for utilities, including sewage disposal, water supply and stormwater management are adequate.
- 8. The proposed project complies with the goals of the Medway Master Plan and the purposes of this Section 5.6.1.

#### 5.6.3. Groundwater Protection District

- A. Purposes. The purposes of the Groundwater Protection District are to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Medway; to preserve and protect existing and potential sources of drinking water supplies; to conserve the natural resources of the Town; and to prevent temporary and permanent contamination of the environment.
- B. Overlay District. The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.
- C. Establishment and Delineation of Groundwater Protection District: For the purposes of this district, there are hereby established within the Town certain groundwater protection areas consisting of all Department of Environmental Protection approved Zone II recharge areas located within the Town of Medway's boundaries, which are delineated on four (4) maps, all on file with the Town Clerk. The maps are entitled:
  - 1. "Medway, MA Zone II and Zone III Delineation", prepared by D.L. Maher Co., and approved by the Department of Environmental Protection in October 1998 (Well #2);
  - 2. "Zone II Delineation, Well #1 and Well #3, Medway Water Department, Medway, MA", prepared by Tighe & Bond, Inc., and approved by the Department of Environmental Protection in August 2001.
  - 3. "Bellingham, MA Conceptual Zone II Wells #7 & #8, Zone II and Zone III Delineation", prepared by Anderson-Nichols & Co., Inc. and approved by the Department of Environmental Protection in November 1992;

- 4. "Wellhead Protection Zones Medway Production Well No. 4", prepared by Haley and Ward Inc., dated February 25, 004 and approved by the Department of Environmental Protection on May 31, 2005.
- D. District Boundary Disputes: If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.
  - The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individuals parcels of land and may charge the owner(s) for all or part of the cost of the investigation.
- E. Use Regulations: In the Groundwater Protection District, the following regulations shall apply.
  - 1. Permitted Uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:
    - a. Conservation of soil, water, plants, and wildlife;
    - b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
    - c. Foot, bicycle and/or horse paths, and bridges;
    - d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
    - e. Maintenance, repair, and enlargement of any existing structure, subject to Section B (prohibited uses) and Section C (special permitted uses);
    - f. New construction, subject to Section B (prohibited uses) and Section C
    - g. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section B (prohibited uses) and Section C (special permitted uses);
    - h. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.
    - i. Underground storage tanks related to these activities are not categorically permitted.
  - 2. Prohibited Uses. The following uses are prohibited:
    - a. Landfills and open dumps as defined in 310 CMR19.006;
    - b. Storage of liquid petroleum products, except the following:

- c. Normal household use, outdoor maintenance, and heating of a structure;
- d. Waste oil retention facilities required by statute, rule or regulation;
- e. Emergency generators required by statute, rule, or regulation;
- f. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that such storage, listed in items (a) through (d) above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;
- g. Landfills receiving only wastewater residuals and/or septage;
- h. Storage of sludge, and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- i. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- j. Storage of animal manure unless stored within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- k. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 6 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- 1. Facilities that generate, treat, store or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.000, except the following:
  - Very small quantity generators as defined under 310 CMR 30.000;
  - ii. Household hazardous waste centers and events under 310 CMR 30.390;
  - iii. Waste oil retention facilities required by MGL Chapter 21, Section 52A;
  - iv. Water remediation treatment works approved by the Department of Environmental Protection for the treatment of contaminated ground or surface waters;
- m. Automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1;
- n. Treatment or disposal works subject to 314 CMR 5.00, for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:

- i. The replacement or repair of existing system(s) that will not result in a design capacity greater than the design capacity of existing system(s);
- o. Treatment works approved by the Department of Environmental Protection designed for treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and
- p. Publicly owned treatment works.
- q. Storage of hazardous materials, as defined in MGL Chapter 21E, unless in a free standing container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity;
- r. Industrial and commercial uses which discharge process wastewater on-site;
- s. Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
- t. Storage of commercial fertilizers, as defined in MGL Chapter 128, Section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;
- u. The use of septic system cleaners which contain toxic or hazardous chemicals.
- 3. Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a Special Permit by the Board of Appeals under such conditions as the Board may require.
  - a. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
  - b. The application of fertilizers for non-domestic or non-agricultural uses. Such application shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
  - c. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zone (except as prohibited under Section B). Such activities shall require a special permit to prevent contamination of groundwater;
  - d. The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity;
  - e. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quantity. For non-residential uses, recharge shall be by

stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

#### F. Special Permits.

- 1. The Board of Appeals may grant a special permit in the Groundwater Protection District if it determines, in conjunction with the Board of Health, the Conservation Commission, the Board of Water/Sewer Commissioners, the Department of Public Works, and the Planning and Economic Development Board, that the special permit addresses the purposes and requirements of Section XX [reference Special Permits] and this Section 5.6.3. Specifically, the proposed use must:
  - a. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District, and
  - b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- 2. The Board of Appeals shall not grant a special permit under this Section 5.6.3 unless the applicant's submission includes, in the Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relations to the standards given herein. The Board of Appeals shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.
- 3. Submission requirements and hearing procedures shall be in accordance with the rules and regulations of the Board of Appeals and Section XX of this Bylaw [reference Special Permits.] Any agency to which the special permit application is referred for review shall provide written comments to the Board of Appeals within 35 days. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
- G. The Board of Appeals may adopt regulations to govern design features of projects. Such regulations shall be consistent with the Planning Board's subdivision rules and regulations.

### H. Violations; Enforcement. 14

1. Written notice of any violations of this Section 5.6.3 shall be given by the Zoning Enforcement Officer to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction

<sup>14</sup> In my opinion you don't need Section H because the ZBL will already have an umbrella enforcement provision.

violated and the nature of the violation, and remedy for the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Department of Public Works, and Board of Water/Sewer Commissioners. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

2. For situations that require remedial action to prevent adverse impact to water resources within the Groundwater Protection District, the Town of Medway, the Building Inspector, the Board of Health or any of their agents may order the owner or operator of the premises to remedy the violation. If the owner and/or operator does not comply, the Town of Medway, the Building Inspector, the Board of Health or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

# ARTICLE 6. DENSITY AND DIMENSIONAL REGULATIONS

### 6.1. Schedule of Dimensional and Density Regulations

Each use, building, or structure shall comply with the standards described in Table 2, Schedule of Dimensional and Density Regulations, except where provided otherwise in this Bylaw.

#### 6.2. General Provisions

- A. One Dwelling Per Lot. More than one dwelling on a lot is prohibited unless specifically authorized by other provisions of this Bylaw.
- B. Change in Lot that Results in Noncompliance. No conforming lot may be changed to make it nonconforming.
- C. Lot Shape Factor. No lot shall be created so as to be so irregularly shaped or extended that it has a "Shape Factor" in excess of twenty-two (22). Shape Factor equals the square of the lot perimeter divided by the lot area. That portion of the lot in excess of the required lot area may be excluded from the computation of the Shape Factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for the calculation.
- D. Buildable Lot. No dwelling may be erected on any lot unless at least 50 percent of the required minimum lot area for the district is contiguous upland. The upland shall be land that is not subject to protection under the Wetlands Protection Act, General Laws Chapter 131, Section 40. The upland shall not include wetland replication areas that may be required by the Medway Conservation Commission.

# E. Lot Frontage.<sup>1</sup>

- 1. Minimum Lot Frontage Required. Every lot must have at least the minimum frontage set forth in Table 2 for the district in which the lot is located on a street, as defined in the Zoning Bylaw. Frontage on unaccepted ways in existence prior to the adoption of the subdivision control law must receive a favorable determination from the Planning Board. Ways laid out, but not constructed, may not be used as frontage.
- 2. Designation of Frontage Street. When a lot is bounded by more than one street, any one of them, but only one, must be designated as the frontage street, provided the street meets the requirements for minimum lot frontage described in this Bylaw. In the case of a lot bounded by two streets forming an interior angle of more than 135°, their combined frontage may be used to satisfy the lot frontage requirement.

<sup>&</sup>lt;sup>1</sup> I did not see this kind of language anywhere in your bylaw, but it's pretty standard and you really should have it (or something like it).

- 3. Measurement of Lot Frontage. Frontage is measured in a continuous line along the sideline of the street right-of-way between the points of intersection of the side lot lines with the street right-of-way line. The measurement of lot frontage excludes jogs in the street width, backup strips and other irregularities in the street line. In the case of a corner lot, the owner may extend to the midpoint of the curve connecting street lines, instead of to their intersection.
- 4. Access. An owner must provide a means of access for vehicles from the frontage street to a principal building for emergency services, for deliveries, and for off-street parking. Alternatively, the owner may provide the access from another street provided it can be demonstrated that it is both physically and legally possible to provide access from the designated frontage street.

TABLE 2. DIMENSIONAL AND DENSITY REGULATIONS											
Requirement	AR-I	AR-II	C-1	C-III	C-IV	C-V <sup>2</sup>	B-I	I-1	1-2	1-3	
Minimum Lot Area (Sq. Ft.)	44,000	22,500 <sup>3</sup>	20,000	20,000	20,000	20,000	20,000	20,000	20,000	40,000	
Minimum Lot Frontage (Ft.)	180'	150'	NA	NA	NA	NA	100	NA	NA	NA	
Minimum Lot Width (Ft.)	NA	NA	100'	100'	100'	100'	NA	100'	100'	100'	
Minimum Setbacks (Ft) <sup>4</sup>											
Front <sup>5</sup>	35'	35'	50'	35'	35'	50'	35'	30'	30'	30'	
Side <sup>6</sup>	15'	15'	25'	15'	15'	15'	15'	20'	20'	20'	
Rear	15'	15'	25'	15'	15'	15'	15'	30'	30'_	30'	
Maximum Building Height (Ft.) <sup>7</sup>	NA	NA	40'	40'	40'	40'	40'	40'	40,40	60'2	
Maximum Lot Coverage (Pct.)	NA	NA	30%	30%	30%	30%	30%	40%	40%	40%	

 $<sup>^{7}</sup>$  I don't see a definition of building height in your ZBL. How is height measured?



<sup>&</sup>lt;sup>2</sup> In the C-V and B-I districts, when a nonresidential use abuts a residential use, the first 10 feet within the 15-ft side or rear setback along the boundary line adjoining the residential use shall be a landscaped buffer not used for parking or storing vehicles. However, when a nonresidential use in the C district abuts a residential use in a different district, the landscaped buffer shall extend at least 15 feet from the lot boundary shared with the residential use.

<sup>&</sup>lt;sup>3</sup> For two-family dwelling, the minimum lot area is 30,000 sq. ft. No parking shall be permitted within 10 feet of an adjoining lot

<sup>&</sup>lt;sup>4</sup> ZBA can grant a special permit for lesser setbacks to be consistent with setbacks on adjoining lots. Many (and probably most) towns allow this by right.

<sup>&</sup>lt;sup>5</sup> Within the 50-ft. front setback on lots in the C-I, C-V, and B-I districts, the first 10 feet closest to the street shall be landscaped and not used for parking. Within the C-I district, the next 20 feet shall be used for through traffic to adjoining lots unless waived by the Planning Board during site plan review.

<sup>6</sup> When a lot in any of the C or B-I districts abuts a residential use, the first 10 feet within the 15-ft side or rear setback along the boundary line adjoining the residential use shall be a landscaped buffer not used for parking or storing vehicles.

# ARTICLE 8. SPECIAL REGULATIONS

### 8.1. Infill Housing

- A. Purposes. The purposes of this Infill Housing bylaw are to increase the supply of affordable housing for low-and moderate-income households, encourage development at a scale and density compatible with existing neighborhoods in the AR-II district, and further the goals of the Medway Master Plan by guiding development toward established areas.
- B. Applicability. The Planning and Economic Development Board may grant a special permit to construct an infill dwelling unit on a lot that does not comply with the minimum lot area or frontage requirements of the AR-II district, including a lot held in common ownership with an adjoining lot, provided such lot existed as of January 1, 2009 and meets the requirements of this section.

### C. Basic Requirements.

- 1. An infill dwelling unit shall be a detached single-family dwelling with not more than three bedrooms. No infill dwelling unit approved under this Section 8.1 shall be converted to a two-family or multi-family dwelling and shall not be altered to include an accessory dwelling unit.
- 2. Affordable Housing. An infill dwelling unit shall be rented or sold only to a low- or moderate-income household, subject to an affordable housing deed restriction with a term of not less than 30 years. The unit shall be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.
- 3. To be eligible for an Infill Housing special permit, the lot shall meet the following requirements:
  - a. Area. An infill lot shall have at least 6,000 sq. feet of land area.
  - b. Lot Shape. An infill lot shall have a "Shape Factor" that falls within 15 percent of the average of the Shape Factor of the lots adjacent to and across the street from it.
  - c. Setbacks. The minimum front, side, and rear setbacks shall be not less than the average corresponding setbacks of principal structures located adjacent to and across the street from the infill lot. Vacant lots shall not be used to determine setbacks.
  - d. Frontage. An infill lot shall have frontage on an existing public way or private way that provides safe and adequate access as determined by the Planning and Economic Development Board. The minimum required frontage shall be not less than the average frontage of lots with principal structures located adjacent to and across the street from the infill lot.
  - e. Utilities. An infill lot shall connect to the public sewer and water system.

- f. Parking. There shall be at least two off-street parking spaces per infill dwelling unit. No parking shall be located nearer than 10 feet to the adjoining property line. Unless waived by the Planning and Economic Development Board, no parking shall be located in the front yard. Parking areas shall be suitably screened from abutting properties.
- 4. An infill lot approved under this Section 5.5.1 shall not be further subdivided or reduced in area, or changed in size or shape. It may be used only for an infill dwelling as provided herein.

### 5. Minimum Design Standards

- a. The Design Review Committee shall review the infill dwelling unit in accordance with the Medway Design Guidelines and provide a recommendation to the Planning and Economic Development Board.
- b. The proposed infill dwelling shall similar to and consistent with the character and scale of the neighborhood and the bulk and height of adjacent residences.
- c. The primary entrance and façade of the infill residence shall be oriented toward the adjacent street.
- 6. Maximum Infill Residential Use Limitation. The maximum number of infill dwelling units that may be permitted under this section shall be limited to a number equal to 1 percent of the total number of detached single-family dwellings in the Town of Medway as determined by the Board of Assessors.

# 8.2. Accessory Family Dwelling Unit1

- A. Purposes. The purposes of this Accessory Family Dwelling Unit bylaw are to assist Medway residents with creating suitable housing to accommodate a family member.
- B. Applicability. The Board of Appeals may grant a special permit for an accessory family dwelling unit in accordance with this Section 8.2 and Table 1, Schedule of Uses.

### C. Basic Requirements.

- 1. An accessory family dwelling unit shall be located within a detached single-family dwelling and designed so as to preserve the appearance of the single-family dwelling.
- 2. There shall be only one accessory family dwelling unit on a lot, and no accessory family dwelling unit shall have more than one bedroom.
- 3. There shall be at least one off-street parking space for the accessory family dwelling unit in addition to parking for the principal dwelling. The off-street parking shall be located in

<sup>&</sup>lt;sup>1</sup> Since Medway doesn't allow accessory apartments except for family members, you could simplify this section by calling it "accessory apartment." Accessory family dwelling unit is a mouthful ...

- a garage or carport, or in the driveway, and shall not be permitted within any required yard area or setback. There shall be no additional driveway or curb cut providing access to the accessory family dwelling unit.
- 4. Occupancy of the single-family dwelling and accessory family dwelling unit shall be restricted as follows:
  - a. The owners of the property shall reside in one of the units as their primary residence. For purposes of this section, "owners" shall mean one or more individuals who hold legal or beneficial title to the premises.
  - b. The unit not occupied by the owners may only be occupied by the owners' immediate family or step-family members, grandparents, or in-laws. A notarized statement of the owner's relationship to the occupant shall be submitted to the Inspector of Buildings prior to the issue of a certificate of occupancy for the accessory family dwelling unit.
- D. Limitations of Special Permit. The special permit for an accessory family dwelling unit shall expire not more than three years after the date of issuance unless extended by the Board of Appeals. Upon transfer or conveyance of the property, the special permit granted hereunder shall become null and void.

#### 8.3. Home-Based Business

- A. Purposes. The purposes of the Home-Based Business bylaw is to provide for the conduct of home occupations in a residential or mixed-use district while preserving the residential character of the premises and preventing adverse effects on the neighborhood.
- B. Applicability. A Home-Based Business shall be allowed by right as shown in Table 1 if it meets the requirements of this Section 8.3.
- C. Basic Requirements.
  - 1. The business use is subordinate to the residential use of the premises. No more than 20 percent of the gross floor area of the dwelling and any accessory structures, up to a maximum of 1,000 square feet of gross floor area, shall be used for the home-based business. As used herein, "gross floor area" means the total floor area of all heated and ventilated (habitable) rooms in the dwelling or on the premises, and includes heated and ventilated basements, attics, and accessory structures.<sup>2</sup>
  - 2. There shall be no visible evidence of the home-based business from the street or an adjacent lot. A home-based business shall be conducted entirely indoors within the principal dwelling on the lot or a building accessory thereto.

<sup>&</sup>lt;sup>2</sup> I suggest removing this definition of GFA and putting it in the Definitions section, which will be Article 2.

- 3. There shall be no outside storage associated with the home-based business. Accessory structures such as sheds, detached garages, and barns may be used for unheated storage of the home-based business's stock in trade, commodities, or products.
- 4. Not more than one non-resident shall be employed on the premises, and the maximum number of customers on the premises at any given time shall not exceed the number that can be accommodated in one passenger vehicle.<sup>3</sup>
- 5. The maximum number of off-street parking spaces for employee and customer parking shall be two (2). There shall be no outside parking of more than two commercial vehicles as defined by the Massachusetts Registry of Motor Vehicles in 540 CMR 4.02.
- 6. There shall be no change in the exterior appearance of the dwelling or accessory building used for the home-based business. Any new building constructed for the business shall not deviate from the residential character of the area. No signs shall be permitted for a home-based business except as provided in Section XX of this Bylaw.
- 7. No equipment or process shall be used in the home-based business which creates noise, vibration, odor, fumes, gas, smoke, dust, or electrical disturbance detectable to the normal senses off the lot.
- 8. A home-based business shall not generate any solid waste or sewage discharge in volume or type greater than that associated with a typical residential use.
- 9. Deliveries or pick-ups of supplies or products for the home-based business are allowed between 8 am and 8 pm. Vehicles used for such delivery and pick-ups shall be limited to those that customarily serve residential neighborhoods.
- D. There is no limit to the number of home based businesses that may occupy a single dwelling unit, provided that the cumulative total of the area used for home-based businesses on the premises shall not exceed Section XX above.
- E. Special Permits. A home-based business that does not comply with all of the above standards shall only be allowed by special permit from the Zoning Board of Appeals. Special permits granted hereunder shall be based upon the criteria in Section XX [cross-reference Special Permits].
- F. Registration. Pursuant to Massachusetts General Laws Chapter 110, Sections 5-6 and Chapter 227, Section 5A, most home-based businesses are required to register with the Town Clerk and obtain a Business Certificate before commencing business operations.

<sup>3</sup> I'm not sure this standard gets at what you're trying to accomplish. A passenger vehicle can include a van that transports up to 14 people. Why not just limit parking for employee and customer use to two off-street spaces?

### 8.4. Open Space Residential Development (OSRD)

- A. Purposes. The purposes of open space-residential development (OSRD) are to preserve open space, agricultural and forestry land, viewsheds, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources; minimize the total amount of disturbance on a site; encourage more efficient development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision; encourage flexibility and creativity in the design of residential developments; and through flexible design and more efficient use of land, facilitate the provision of a variety of housing opportunities in the Town.
- B. Applicability. The Planning and Economic Development Board may grant a special permit for an OSRD concept plan for any tract of land with 10 or more contiguous acres in the AR-I or AR-II district, or a tract of land with less than 10 acres if such property directly abuts the Charles River, Chicken Brook, or Hopping Brook and land abutting any of these waterways is included in the minimum required open space under Section XX below (Common Open Space). For the purposes of this Section 8.4, parcels directly opposite each other on an existing street, each with at least 25 feet of frontage on the same 25-foot section of roadway, may be considered contiguous if they have practical development potential as determined by the Planning and Economic Development Board.
- C. Land Division. The OSRD may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, or a condominium on land not so divided or subdivided.
- D. Use Regulations. An OSRD special permit may provide for any of the following uses as determined by the Planning and Economic Development Board:
  - 1. Detached single-family dwellings
  - 2. Attached single-family dwellings up to a maximum of five (5) per building
  - 3. Local convenience retail, up to a maximum of 7,500 sq. ft. of gross floor area
  - 4. Community center
- E. Density and Dimensional Regulations.
  - 1. The maximum number of dwelling units in an OSRD shall be determined by the Planning and Economic Development Board in accordance Section XX below (Yield Analysis).
  - 2. The Planning and Economic Development Board may waive the applicable minimum lot area, lot shape, minimum lot frontage, and other bulk requirements for lots within an OSRD, subject to the following:
    - a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD unless such reduced lots are consistent with established development patterns in the neighborhood, as determined by the Planning and Economic Development Board.

- b. The minimum lot frontage shall be 50 feet.
- c. The minimum front setback shall be 25 feet unless a reduction is authorized by the Planning and Economic Development Board.
- d. The minimum lot area per unit shall be 50 percent of the minimum lot area in the district in accordance with Article 6 of this Bylaw.<sup>4</sup>
- 3. In order to allow flexibility and creativity in siting buildings while also promoting privacy, buildings shall be separated as follows:<sup>5</sup>

#### [Insert Table from ZBL]

The calculation of average separation distances shall be based on buildings that can be connected with an imaginary line that does not cross a roadway. On a through road, the separation distances on each side of the road shall be calculated separately. On a cul-desac, all of the buildings that can be connected by an imaginary line on both sides and around the bulb of the cul-de-sac shall be counted. On a loop road, the buildings on the exterior and interior of the loop will be calculated separately. Detached accessory buildings such as garages up to two bays and one-story sheds that do not require a building permit shall not be considered in calculating the distances between buildings.

- F. Common Open Space. The OSRD must provide Common Open Space to be protected in perpetuity. Common Open Space shall comprise at least 50 percent of the site for parcels of 25 acres or less, and at least 60 percent of the site for parcels of more than 25 acres. The Common Open Space shall not be further subdivided, and a notation to this effect shall be placed on the plan to be recorded with the Norfolk Registry of Deeds. The following standards apply to the Common Open Space in an OSRD.
  - 1. Use, shape and location.
    - a. Common Open Space shall be functional for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses.
    - b. To the maximum extent feasible, the Common Open Space shall be undisturbed, unaltered and left in its natural or existing condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area. Not more than 10 percent of the open space may be covered by gravel roadways, pavement or structures accessory to the dedicated use or uses of the open space. However, principal or accessory structures and access roads essential to an agricultural use are exempt from this limitation.

<sup>4</sup> Why 50 percent?

<sup>&</sup>lt;sup>5</sup> I've preserved your existing separation rules, but this section is way too complicated. I strongly recommend that you consider a simpler approach – one that is fairly common in OSRD bylaws (something like this): "No dwelling shall exceed 30 feet in height, measured from natural grade. The minimum distance between dwelling units shall be 20 feet unless the Fire Chief requires a greater distance ..."

- c. While protecting natural resources is a primary goal of this Section 5.5.3, the Common Open Space may provide for recreation areas such as commons, parks, and playgrounds.
- d. The percentage of open space that includes wetlands normally shall not exceed the percentage of the site that includes wetlands unless waived by the Planning and Economic Development Board.
- e. Wherever feasible, the Common Open Space shall be contiguous and linked as a unit, and linked to other existing open space.
- f. The following shall not qualify for inclusion in the Common Open Space calculation unless approved by the Planning and Economic Development Board:
  - i. Existing or proposed utility easements;6
  - ii. Surface stormwater management systems or sub-surface drainage, septic, and leaching systems pursuant to Title 5;
  - iii. Land within 30 feet of any dwelling unit;
  - iv. Median strips, landscaped areas within parking lots, or narrow, unconnected strips of land.
  - v. Buffer areas as required in Section XX below.<sup>7</sup>
- 2. Ownership. Common Open Space shall be conveyed in accordance with Massachusetts General Laws Chapter 40A, Section 9, as determined by the Planning and Economic Development Board: either to the Town or accepted by it for a park or open space use, or to a nonprofit organization the principal purpose of which is the conservation of open space, or to a corporation or trust owned by the owners of lots or residential units within the project, or any combination of the above. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units in perpetuity. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not to be built for residential use or developed for accessory uses such as parking and roadway. The restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its function, appearance, and maintenance.
- G. Four-Step Design Process. The proposed layout of streets, dwelling units, and open space in an OSRD shall be designed according to the following Four-Step Design Process, which the applicant shall conduct with assistance of a Registered Landscape Architect (RLA).

<sup>&</sup>lt;sup>6</sup> Note: Most OSRD bylaws allow underground utilities that serve residents of the project to be included in the Common Open Space.

<sup>&</sup>lt;sup>7</sup> Given that your OSRD bylaw requires 50% open space, excluding the buffer is very unusual.

- 1. Identify primary and secondary conservation areas and potential development areas, and features to be preserved. Primary conservation areas shall include wetlands, riverfront areas, and floodplains, and secondary conservation shall include unprotected elements of the natural landscape, e.g., steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats, and historic and archeological sites and scenic views. To the maximum extent feasible, potential development areas shall consist of land outside identified primary and secondary conservation areas.
- Locate the approximate sites of dwelling units within the potentially developable area(s).
   Include the delineation of private yards and shared amenities so as to reflect an integrated community, emphasizing consistency with the Town's historic development patterns. The number of homes with direct access to the development's amenities should be maximized.
- 3. Align streets in order to access the house lots or dwelling units. New streets and trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, existing or proposed new open space parcels, and trails on abutting public or private property.
- 4. Draw in lot lines.

### H. Pre-Application Process

- 1. Pre-Application Review Meeting. The applicant shall schedule an informal preapplication review meeting at a regular meeting of the Planning and Economic Development Board. The purpose of pre-application review is to allow the applicant to receive feedback from the Planning and Economic Development Board, minimize the applicant's costs of engineering and other technical experts, begin negotiations with the Planning and Economic Development Board at the earliest possible stage in the site design process, and set a timetable for filing a formal OSRD special permit application. The Planning and Economic Development Board shall invite other Town boards to review the pre-application materials and attend the informal pre-application review.
- 2. Plans and Documentation. At the pre-application review meeting, the applicant shall present a conceptual plan for the site, natural and cultural resources inventories, maps, photographs, and any other information the Planning and Economic Development Board needs in order to understand and respond to the applicant's proposal. Pre-application materials shall be in accordance with the Planning and Economic Development Board's development regulations and may be based on existing sources of information.
- 3. Site Visit. The applicant shall grant permission to Planning and Economic Development Board, Open Space Committee, and Conservation Commission members and agents to visit the site.

# I. Special Permit Procedures<sup>8</sup>

- 1. General. The special permit application, public hearing, and decision procedures shall be in accordance with this Section 8.4 and Section XX [cross-reference Special Permits in Article 3] and Massachusetts General Laws Chapter 40A, Section 9.
- 2. Application Requirements. The OSRD special permit application shall include the plans and documents listed below. The size, form, number, and contents of the required plans and any supplemental information shall be in accordance with the Planning and Economic Development Board's rules and regulations.
  - a. Site Context and Analysis Map illustrating existing conditions and significant natural resources or features on the site and in the surrounding area. The applicant shall have the burden of proof with respect to the identification of natural features and calculation of wetlands on the site.
  - b. OSRD Concept Plan. The OSRD Concept Plan shall be a schematic representation of the proposed OSRD and supporting documentation. The Concept Plan submission shall provide enough detail about existing and proposed conditions to enable the Planning and Economic Development Board to understand the nature, scope, and impacts of the proposed project. In addition, the Concept Plan submission shall document the OSRD design process outlined in Section XX above and include scaled drawings prepared by a registered landscape architect. At minimum, the Concept Plan shall provide the following information:
    - i. The location of the proposed development;
    - ii. The size of the proposed site in acres;
    - iii. An existing conditions inventory and an analysis of site and context features identified during the OSRD Design Process;
    - iv. The total number and approximate locations of proposed buildings, dwelling units and/or lots, the approximate size of each in sq. ft., and sample façade designs;
    - v. The approximate delineation, acreage, proposed use(s), and proposed ownership of the Common Open Space;
    - vi. The areas or approximate delineation of lots that will be used as building areas;
    - vii. The approximate location of proposed roadways;

<sup>8</sup> Some of the procedures listed in the OSRD section of the ZBL will be moved to the umbrella Special Permits section in Article 3.

<sup>9</sup> You could put most if not all of the items listed here in Planning Board regulations rather than the ZBL.

- viii. A general description of how drainage and wastewater will be handled, including a soils statement and the general area of the site to be used for stormwater management facilities;
- ix. A general description of the applicant's plans for site improvements, including mitigation of noise, odor or visual impacts arising from the operation of a package treatment plant, where applicable; and
- x. Sufficient detail of the proposed area(s) of disturbance and built and natural features to enable the Planning and Economic Development Board to make the required determinations under Section XX below.
- c. Neighborhood Density Analysis, i.e., a calculation of the density of abutting subdivisions and all other existing residential development within 2500 feet of the site's perimeter.
- d. Yield Analysis. The applicant shall submit a Yield Analysis, the purpose of which is to demonstrate the maximum number of lots that could be developed on the site under a conventional plan and the maximum number of units that may be permitted in an OSRD. The Yield Analysis shall identify the total area of the site, existing utility easements, and wetland and riverfront areas as determined by the Medway Conservation Commission. The Yield Analysis shall be based on the formula shown below. For purposes of this computation, "net site area" shall mean the total area of the site minus existing upland utility easements. (Land located both within utility easements and wetland resource areas shall not be counted twice.) The result shall be rounded down to the nearest whole number. Following a review of the Yield Analysis, the Planning and Economic Development Board shall determine the maximum number of units that may be constructed in an OSRD.<sup>10</sup>

Maximum Number of Dwelling Units =

Net Site Area – (50% x wetlands) – (10% Net Site Area) Zoning District Minimum Lot Area

#### 3. Decision.

- a. The Planning and Economic Development Board may grant a special permit for an OSRD with any conditions, safeguards, and limitations necessary to ensure compliance with Section XX [cross-reference Special Permits] and this Section 5.5.3, only upon finding that:
  - i. The conceptual design and layout of the proposed OSRD is superior to a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient

<sup>&</sup>lt;sup>10</sup> How is an applicant supposed to figure out how many lots can be created in an OSRD if the Bylaw doesn't provide some sort of assurance?

- provision of streets, utilities and other public services, and providing a high degree of design quality;
- ii. The OSRD provides for a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- iii. The OSRD furthers the purposes of this section and the goals of the Medway Master Plan.
- b. The Planning Board may deny a special permit upon finding that the application does not provide sufficient information or does not comply with the provisions of this bylaw; or that the site is not suitable for an OSRD and would be more appropriate for a conventional subdivision plan.
- 4. Effect of special permit approval. Approval of a special permit under this Section 8.4 shall not be considered approval for any construction. The special permit is a preliminary approval, intended to give guidance to the proponent for the development of an OSRD definitive plan, and to determine whether the proponent's submittal meets the objectives of this section. Any subsequent application for an OSRD definitive plan shall comply with all material aspects and conditions of the special permit granted hereunder.
- J. Definitive plan procedures. Following issuance of an OSRD special permit, the applicant may submit an OSRD definitive plan to the Planning and Economic Development Board. An OSRD that involves a subdivision shall be submitted under the Town's subdivision rules and regulations. For an OSRD that does not involve a subdivision, the definitive plan shall be a site plan submitted in accordance with Section XX [cross-reference to Site Plan Review]. The Planning Board may approve a definitive plan that substantially complies with the special permit granted under Section XX above and meets all of the following additional requirements for common facilities, operations and maintenance:
  - 1. Each unit and the OSRD as a whole shall be served by a privately owned and maintained on-site sewage disposal or treatment systems. An approved on-site sewage disposal or treatment system serving more than one dwelling unit may be located on land owned in common by the owners of the residential units in the OSRD, subject to requirements of the Medway Board of Health and Title 5 of the Massachusetts Environmental Code or approved in accordance with the requirements of Department of Environmental Protection Groundwater Discharge Permit Program.
  - 2. To ensure proper maintenance of the Common Open Space and common facilities, the OSRD shall have a residents association in the form of a corporation, non-profit organization, or trust, established in accordance with state law by a suitable legal instrument or instruments properly recorded with the Registry of Deeds. As part of the definitive plan submission, the applicant shall supply a copy of such proposed instruments.
  - 3. The Planning Board may conditionally approve an OSRD definitive plan that does not substantially comply with the special permit. A conditional approval shall identify where

the plan does not substantially comply with the special permit, identify the changes to the special permit required to bring the plan into compliance with the special permit, and require the special permit to be amended within a specified time. The public hearing on the application to amend the special permit shall be limited to the significant changes identified in the Planning Board's conditional approval.

- 4. The Planning Board may disapprove a definitive plan for failure to comply with the special permit or for failure to meet the general design standards in Section XX below. The definitive plan will be considered not to comply with the special permit if the Planning Board determines that any of the following conditions exist:
  - a. Any increase in the number of buildings or dwelling units;
  - b. A significant decrease in acres of Common Open Space; or
  - c. A significant change in the general development pattern which adversely affects natural landscape features and open space preservation.
- K. General Design Standards. Wherever possible, the Applicant shall incorporate the following General Design Standards in the design of an OSRD. The Planning and Economic Development Board and Design Review Committee will consider these standards in their review of a proposed OSRD project.
  - 1. Landscape Preservation. The landscape shall be preserved in its natural state by minimizing tree and soil removal. Topography, tree cover, significant landmarks, and natural drainage ways should be treated as fixed determinants of road and lot configuration.
  - 2. Views. Views of the open space shall be maximized for residents of the development, abutting properties, and passersby.
  - 3. Cultural Resources. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized, whether located on the site or adjacent properties.
  - 4. Open Space Access. Each OSRD dwelling unit shall have reasonable access to the open space.
  - 5. Buffer. A buffer area at least 15 feet wide, consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, shall be located along the boundary of the site where it abuts existing neighborhoods unless waived by the Planning and Economic Development Board.
  - 6. Pedestrian paths shall be provided to facilitate movement within the OSRD and between it and any abutting open space. Sidewalks shall be provided along the entire frontage of the OSRD tract along existing Town ways, including the frontage of any lots held in common ownership with the parcels within five (5) years prior to the submission of the OSRD Special Permit application. Where sidewalk construction is not feasible, the Planning Board may require the applicant to construct an equivalent length of sidewalk

elsewhere in the Medway or make a payment in lieu of sidewalk construction to the Town of Medway's Sidewalk Special Account in an amount determined by the Planning Board.

- 7. Architecture. The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.
- 8. Garage Doors. Garage doors facing the street shall be set back at least 5 feet more than the front wall of the principle building. No more than 50 percent of the garage doors within an OSRD shall face the street from which they have access unless waived by the Planning and Economic Development Board.
- 9. Common Driveways. Common or shared driveways may be allowed at the discretion of the Planning and Economic Development Board.
- 10. Parking. A minimum of three (3) off-street parking spaces shall be required for each dwelling unit. 11 The Planning and Economic Board may require additional off-street parking areas for use in common by residents and their guests. Locations for additional guest parking shall be shown on the Concept Plan.
- 11. Dead-end streets not exceeding 1,000 lineal feet may be approved if the applicant provides adequate access for police, fire, ambulance, and other emergency vehicles.

# 8.5. Adult Retirement Community Planned Unit Development

- A. Purpose: The purposes of the Adult Retirement Planned Unit Development (ARCPUD) are to develop a variety of housing for senior citizens and accommodate their long-term social, cultural, recreational, and continuing care needs.
- B. Applicability. The Planning and Economic Development Board may grant a special permit for an Adult Retirement Community Planned Unit Development (ARCPUD) for any tract with 10 or more acres, whether in one parcel or a set of contiguous parcels in the AR-I or AR-II district.
- C. Use Regulations. An ARCPUD is a master planned residential community for people fifty-five (55) years of age and older. It allows for a greater variety of uses and building types, a higher density of development, and greater flexibility in site planning than would normally be allowed in the AR-I or AR-II district. An ARCPUD shall provide a range of housing types and facilities, as follows.
  - 1. The ARCPUD shall include at least one of the following residential uses.
    - a. Congregate housing

<sup>11</sup> Why such an excessive standard?

- b. Assisted living facility
- c. Long-term care facility
- d. Coordinated units (see Article 2 of this Bylaw)
- 2. The ARCPUD may include any of the following:
  - a. Detached single-family dwelling or cottage
  - b. Townhouse
  - c. Local convenience retail, up to a maximum of 7,500 sq. ft. of gross floor area
  - d. Community center
  - e. Conservation, agricultural, and recreation uses
- D. Density and Dimensional Regulations. 12
  - 1. The maximum number of units permitted in an ARCPUD shall be determined by multiplying the gross acreage of the ARCPUD site by a factor of three (3.0). However, the applicant is not entitled to the maximum number of housing units described in this section. The number of housing units for an ARCPUD shall be determined by the Planning and Economic Development Board.
  - 2. For purposes of this Section 8.5, a housing unit shall be defined as equal to:
    - a. A home site in an ARCPUD subdivision, a townhouse, or a dwelling unit as defined in Article II of this Bylaw;
    - b. Two (2) studios or suites of rooms in an Assisted Living or Congregate Living Facility, provided such dwellings do not meet the definition of a dwelling unit in Article II of this Bylaw;
    - c. Three (3) rooms in a Long-Term Care Facility.
  - 3. Each tract of land proposed for an ARCPUD shall have a minimum of 250 linear feet of frontage on an existing public way(s).
  - 4. Each building in the ARCPUD shall have a minimum front yard of no less than 20 feet and a side yard of not less than 10 feet, both measured from the edge of the paved way to the closest point of the structure.
  - 5. No buildings shall be constructed within 50 feet from the right-of-way line of a public way or within 50 feet from the perimeter lot line. The 50-foot buffer shall be maintained in its natural state or a landscaped open space.

<sup>12</sup> I have tried to preserve what I think your Bylaw intends, but this is a more complicated density formula than it needs to be.

- 6. In an ARCPUD residential subdivision, the minimum lot area per unit shall be 6,000 square feet and each lot shall comply with the upland and lot shape requirements of this Bylaw.
- 7. There shall be no minimum side setback on lots within an ARCPUD unless required by the Planning and Economic Development Board.

#### E. Basic Requirements

- 1. Age Restriction. All dwellings in an ARCPUD shall be subject to an age restriction in a legal instrument approved by the Planning and Economic Development Board and recorded with the Norfolk Registry of Deeds or Norfolk Registry District of the Land Court. The age restriction shall limit occupancy of the dwelling units to people age fifty-five (55) or older and their spouses (if applicable) of any age, and provide for reasonable time-limited guest visitation rights. It also shall authorize exceptions for a person of any age to occupy an ARCPUD unit as a personal care assistant for a resident senior with disabilities. The special permit including the age restriction shall run with the land in perpetuity and shall be enforceable by any owner(s) of dwelling units in the ARCPUD or by the Town of Medway.
- 2. Affordability. At least 10 percent of the total number of ARCPUD dwelling units, rounded up to the next higher integer, shall be designated and made available as Affordable Housing Units as defined in this Bylaw.
- F. ARCPUD Site Development Standards. The following site development standards shall apply to an ARCPUD.
  - 1. Each building in the ARCPUD shall face either upon an existing street or a public or private way constructed within the ARCPUD.
  - 2. Existing healthy trees and groundcover shall be preserved wherever possible. Large lawn areas shall be minimized.
  - 3. Parking. The minimum off-street parking requirements for an ARCPUD shall be as follows. The Planning and Economic Development Board may reduce these requirements for an ARCPUD with enhanced pedestrian access or where a majority of the proposed floor space will be in an Assisted Living Facility or Long-Term Care Facility.
    - a. There shall be at least two (2) off-street parking spaces for each dwelling unit.<sup>13</sup> A minimum of one (1) off-street parking space shall be required for each 500 square feet of gross floor area for Local Convenience Retail.
    - b. Required parking space(s) shall be provided on the same lot as the permitted use or on a contiguous lot (within the ARCPUD), subject to easements ensuring rights of access, use and maintenance.

<sup>13</sup> This is excessive for senior housing.

- c. The Planning and Economic Development Board may require additional off-street parking areas for common use by residents or their guests.
- 4. All two-way roadways serving more than one dwelling shall be a minimum paved width of 22 feet. The paved width of a one-way roadway may be less than 22 feet if approved by the Planning and Economic Development Board based on site conditions and standard engineering practice.
- 5. All roadways, driveways and parking areas within the ARCPUD shall be maintained by the applicant or owners or their agents and assigns.
- 6. All utilities shall be underground.
- 7. Utilities and on-site storage shall be shielded from view by walls or fences.
- 8. All solid waste removal within the ARCPUD shall be the responsibility of the residents, owners or their agents.
- G. Open Space. At least 40 percent of the total land area of the ARCPUD shall be set aside and maintained as open space in accordance with the following standards.
  - 1. A minimum of 40 percent shall be suitable and designed for recreational purposes.
  - 2. A minimum of 50 percent of the space in an ARCPUD shall be Common Open Space as described in Section 5.5.3(F) and subject to the requirements and specifications provided therein unless modified or waived by the Planning and Economic Development Board.
  - 3. Wetland resources as defined in Medway Wetlands Protection Bylaw shall comprise not more than 50 percent of the required ARCPUD open space unless waived by the Planning and Economic Development Board.
  - 4. Drainage facilities shall not be located in the ARCPUD open space, but land within the open space may be utilized as natural courses for disposal of stormwater runoff. Other than minor berming and riprap at pipe outflows, no significant disruption of the land for drainage shall be permitted.
- H. Pre-Application Process. An ARCPUD is subject to the pre-application process outlined in Section XX of this Bylaw [cross-reference OSRD].
- I. Four-Step Design Process. An ARCPUD shall be designed in accordance with the four-step process outlined in Section XX of this Bylaw [cross-reference OSRD].
- J. Special Permit Procedures<sup>14</sup>

<sup>14</sup> Some of the procedures listed in the OSRD section of the ZBL will be moved to the umbrella Special Permits section in Article 3.

- 1. General. The special permit application, public hearing, and decision procedures shall be in accordance with this Section 8.5 and Section XX [cross-reference Special Permits in Article 3] and Massachusetts General Laws Chapter 40A, Section 9.
- 2. Application Requirements. The ARCPUD special permit application shall include the plans and documents listed below. <sup>15</sup> The size, form, number, and contents of the required plans and any supplemental information shall be in accordance with the Planning and Economic Development Board's rules and regulations.
  - a. Names, addresses and telephone numbers of the applicant, the owner if other than the applicant and other agents for the applicant, such as the architect, engineer and/or attorney, and the name and address of the proposed project;
  - b. A plot plan (certified by a land surveyor) indicating total land area boundaries, angles and dimensions of the site and a north arrow;
  - c. Locus of the land shown on the plan at a scale of no smaller than 1"=100', with sufficient information to accurately locate the land and adjacent land, all property lines and buildings within 500' of the land;
  - d. Plans showing present and proposed use(s) of the land and existing buildings, if any;
  - e. Dimensions of existing and proposed building(s) and other structures including height, setback(s) from property lines, total floor area of all floors (in square feet), and ground coverage ratio of each building or structure; 16
  - f. Locations and dimensions of any easements, public or private rights-of-way, or other burdens existing or proposed;
  - g. At-grade parking and loading areas showing number, location and dimensions of parking and loading spaces, driveways, access and sidewalks, preferably indicated on plot plan; and
  - h. A brief written description of the proposed project, such as proposed construction or demolition, all uses, who the project is intended to serve, expected number of employees, and/or occupants and methods and hours of operation, as applicable.
  - i. Additional Information, if applicable:
    - i. Front, side and rear elevations;
    - ii. Existing and proposed contour elevations in 2-foot increments;

<sup>&</sup>lt;sup>15</sup> I have maintained most of your existing text, but FYI, virtually everything that's in the ZBL can be removed and placed in the Planning Board's rules and regulations. You do not need all of this in your ZBL.

<sup>&</sup>lt;sup>16</sup> Some of these requirements are currently listed under Additional Information, if applicable, but there seemed to be some repletion, so I consolidated everything into one paragraph e.

- iii. Provisions for vehicular and pedestrian access ways, including proposals for new or relocated curb-cuts and access for emergency vehicles;
- iv. Color, materials, and exterior features of proposed structures;
- v. Landscaping and screening, including trees, stones, walls, fences and other features to be retained and removed as well as color, size and type of landscaped surface materials;
- vi. Measures taken to preserve and protect natural resources
- vii. Outdoor lighting, including location and intensity of lighting facilities;
- viii. Location and significance of historical structures;
- ix. Locations of and adequacy of existing and proposed on-site public utilities, facilities and conditions (water, sewerage and drainage), showing size and direction of flow;
- x. A traffic study, including estimated peak hour traffic volumes generated by the proposed use in relation to existing volumes and projected future conditions;
- xi. Wetlands, ponds, and surface water bodies as defined in the Wetlands
  Protection Act, Massachusetts General Laws Chapter 131, Section 40, and the
  Department of Environmental Protection's (DEP) wetland regulations, 310
  CMR 10.00, and any other applicable local bylaws, rules or regulations; and
- xii. Such other information as the Board deems necessary to understand and act upon the special permit application.
- K. Decision. The Planning and Economic Development Board may grant an ARCPUD special permit with any conditions, safeguards, and limitations necessary to mitigate the project'simpact on the surrounding area and to ensure compliance with Section XX [cross-reference Special Permits] and this Section 8.5, only upon finding that:
  - 1. That the ARCPUD meets the purposes, requirements, and design standards of this Section 8.5.
  - 2. That the ARCPUD is consistent with the goals of the Town of Medway Master Plan;
- L. Development Limitation. The maximum number of housing units in all permitted ARCPUD developments shall be equal to 10 percent of the existing detached single-family dwellings (excluding ARCPUD units) located in the Town of Medway, as determined by the Board of Assessors.

## 8.6. Affordable Housing

- A. Purposes. The purposes of this Affordable Housing bylaw are to provide housing in Medway for people of varying ages and income levels; to increase the supply of affordable housing for low and moderate income households; to promote a mix and geographic distribution of affordable housing throughout the Town; to provide housing options for people who work in Medway; and to create housing units eligible for listing in the Chapter 40B Subsidized Housing Inventory,
- B. Applicability. This Section 8.6 shall apply to any residential or mixed-use development that results in a net increase of 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. Construction of a residential development shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of six or more lots or dwelling units above the number existing 36 months earlier on any parcel or set of contiguous parcels held in common ownership on or after the effective date of this Section 8.6.

This Section shall not apply to:

- 1. The construction of six or more single-family dwellings on individual lots if said lots were in existence prior to the effective date of this Section [enter date].
- 2. An Adult Retirement Community Planned Unit Development.
- 3. An Assisted Living Facility
- C. Mandatory Provision of Affordable Housing Units. In any development subject to this Section 8.6, at least 10 percent of the dwelling units shall be affordable housing. Fractions shall be rounded up to the next whole number.
- D. Density Bonus; Affordable Housing Special Permit
  - 1. The Planning and Economic Development Board may grant an Affordable Housing Special Permit to modify or waive dimensional requirements in order to increase the total number of market-rate units to a number equal to one-half of the required number of affordable units under Section XX below. For example, in a development that must provide two affordable units, an additional market-rate unit may be allowed. Fractions shall be rounded up to the next whole number. The density bonus may be granted for developments that provide affordable units on site or off-site in another location in Medway, pursuant to Section X below. In addition, the density bonus may be granted for a development that provides affordable units voluntarily, i.e., a development not subject to this Section 8.6.

 $<sup>^{17}</sup>$  The ratio is usually in the reverse, i.e., two market-rate units for an affordable unit.

- 2. Dimensional Requirements. The minimum lot area, minimum lot frontage, and minimum front, rear, and side setbacks normally required in the applicable district may be adjusted to allow for the increase in total number of dwelling units as long as the layout of lots meets one of the following requirements:
  - a. No individual lot shall be reduced in area or frontage to less than 80 percent of the required minimum in the district, and any lot with an affordable dwelling unit shall represent the median lot in area and frontage; or
  - b. The lot area and lot frontage of all lots in the subdivision shall not vary by more than 10 percent.
- 3. Type of dwelling unit. An increase in the total number of dwelling units may be accommodated by allowing unit types not otherwise permitted in the district. For example, in a district where only single-family dwellings are allowed by right, a development with an affordable housing density bonus may include duplexes, townhouses, or multi-family dwellings.
- 4. No density bonus shall be granted when the requirements of this Section 8.6 are met with a payment in lieu of units pursuant to Section X below.
- E. Methods of Providing Affordable Housing Units.
  - 1. On-site units. Construction of affordable units on the locus of the development shall be permitted as of right.
  - 2. The Planning Board may grant a special permit for one or more of the following methods, alone or in combination. In no event shall the total number or value of off-site units, land area, or cash payments provided be less than the equivalent number or value of affordable housing units that could be built on-site pursuant to Section E(1) above.
    - a. "Off-site units," or comparable affordable units on another site in Medway. Off-site units need not be located in the same district as the development. The approved location(s) of the off-site affordable housing units shall be identified in the special permit decision. Preservation of existing dwelling units for affordable housing may be accomplished by purchasing deed restrictions and providing funds for capital improvements to create housing with equal or greater value as new-construction units.
    - b. Donation of developable land in Medway to the Medway Affordable Housing Trust or another entity as determined by Planning and Economic Development Board, provided the receiving organization agrees in writing to accept the land and the applicant demonstrates that the land is developable for an equivalent number of affordable units in conformance with this Bylaw. Donated land need not be located in the same district as the development, and shall be subject to a deed restriction limiting its use to affordable or mixed-income housing.
    - c. Payment of a fee in lieu of affordable units to the Medway Affordable Housing Trust. The payment shall be an amount equal to the number of affordable housing units

required by this Section 8.6 multiplied by the calculated Equivalent Affordable Housing Unit Value for that development.

- i. The affordable purchase price shall comply with Local Initiative Program (LIP) guidelines in effect when the Affordable Housing special permit application is filed.
- ii. The assumptions used to determine an affordable purchase price shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Medway, all in accordance with the Planning Board's rules and regulations and requirements of the Department of Housing and Community Development (DHCD).
- iii. Payments in lieu shall be made according to the schedule set forth in paragraph 9 herein.
- F. Location and Comparability of Affordable Housing Units (On and Off Site)
  - 1. Affordable units shall be dispersed throughout a development and be as accessible to public amenities as the market-rate units in the same development. In addition, they shall:
    - a. Be integrated with the rest of the development, and the exterior shall be comparable to the market-rate units in terms of design, exterior appearance, quality of materials, and energy efficiency, and shall include a garage if the market-rate units have a garage.
    - b. Comply with the Local Initiative Program's minimum design and construction standards;
    - c. Contain at least 1,500 square feet of living area and at least three bedrooms for single family detached houses and a minimum of 1,200 square feet of living area and at least two bedrooms for attached or multifamily units, excluding basement space. <sup>18</sup> The Planning and Economic Development Board may make reasonable exceptions for the size of existing units that are purchased and resold or rented as affordable housing units with an appropriate deed restriction.
  - 2. The special permit application shall include a plan showing the proposed location of the affordable housing units. When a special permit is not needed, the location of the affordable housing units shall be identified on plans submitted to the Town for any other required permit.
  - 3. The owners and tenants of market-rate and affordable units shall have the same rights and privileges to access any amenities within the development.
- G. Marketing Plan for Affordable Housing Units. The selection of qualified purchasers or qualified renters shall be carried out under an affirmative fair marketing plan submitted by

<sup>18</sup> These floor areas exceed LIP requirements.

the applicant and approved by the Planning Board in consultation with the Medway Affordable Housing Committee or the Medway Affordable Housing Trust. The marketing plan shall comply with LIP guidelines in effect on the date of the special permit or other permit application.

The affordable units may be told to the Town of Medway, the Medway Housing Authority, the Medway Affordable Housing Trust, or to any non-profit housing development organization serving the Town of Medway, in order to carry out the affirmative marketing plan and homebuyer or renter selection process.

#### H. Timing of Construction.

1. Affordable units shall be constructed or otherwise provided in proportion to market-rate units, but in no event shall the construction of affordable housing units be delayed beyond the schedule below. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for affordable and market-rate units, or lot releases, as applicable. Affordable units shall not be the last units to be built in any development that is subject to this Section 8.6.

Percent Market-Rate Units	Percent Affordable Units
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%

- 2. In the case of payments in lieu of affordable units, the following methods of payment may be used at the option of the applicant:
  - a. 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,
  - b. 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,
  - c. A combination of the above methods if approved by the Planning and Economic Development Board.

## I. Preservation of Affordability

1. Affordable units provided under this Section 5.5.6 shall be subject to an affordable housing restriction that complies with Local Initiative Program requirements for inclusion

- in the Chapter 40B Subsidized Housing Inventory and is enforceable under Massachusetts General Laws Chapter 184, Section 26 or Sections 31-32.
- 2. No building permit shall be issued until the affordable housing deed restriction has been executed and recorded with the Norfolk Registry of Deeds.
- 3. For homeownership units, no certificate of occupancy shall be issued until the applicant provides documentation acceptable to the Planning Department that a DHCD-approved affordable housing deed rider has been signed by the qualified purchaser and recorded with the Norfolk Registry of Deeds.