

# **TOWN OF MEDWAY**

## **Planning & Economic Development Board**

### **Rules and Regulations**

#### **Chapter 800 – Multi-family Overlay District Development Plan Rules & Regulations**

#### **Medway Planning and Economic Development Board**

Andy Rodenhiser, Chair

Sarah Raposa, A.I.C.P., Vice-Chair

Timothy Harris, Clerk

John Parlee

Approved by Board vote: December 10, 2024

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## ARTICLE I      GENERAL PROVISIONS

**s. 801 – 1      Purpose** – These Rules and Regulations provide for the uniform procedural and substantive requirements of Section 5.6.5.I Development Plan Review of the Zoning Bylaw. Their purpose is to guide Applicants, Town officials and boards, and others involved in the preparation, processing and review of Development Plans and the issuance of Development Plan approval and modifications thereto.

**s. 801 - 2      Requirement for Development Plan Review** – No building permit shall be issued for any use, development, or building alteration, or other improvement subject to Section 5.6.5 of the Zoning Bylaw unless an application for Development Plan Review has been prepared in accordance with the requirements of these Rules and Regulations, and unless such application has been approved by the Planning and Economic Development Board (the Board). Development Plan approval cannot be denied.

**s. 801 – 3      Definitions** – Terms used in these Rules and Regulations shall have the meanings as set forth in the Zoning Bylaw and G.L. c. 40A. Additional terms are defined below:

Agent: Individual(s) authorized by the Board to review plans and/or observe and inspect construction.

Earth Materials: Soil, loam, gravel, sand, sod, topsoil, borrow, rock, peat, humus, clay, quarry stone and other similar earth materials.

Land Disturbance Area (Limit of Work) – The boundaries of the full extent of the area(s) of a development's existing vegetation and/or underlying soil to be altered or disturbed during a construction project by demolition, clearing, grading, development preparation (e.g., excavating, cutting, and filling), soil compaction, construction, movement and stockpiling of topsoils, equipment and material storage, and other similar and related development work activities.

Private Road: A roadway within a development which is designated on the Development Plan and/or in the decision of the Board as a Private Road and which will be or has been given a street name.

Rules and Regulations: Medway Planning and Economic Development Board Rules and Regulations for Submission, Review and Approval of Development Plans.

### **s. 801 – 4      Waivers of Development Plan Rules and Regulations**

- A.      The Board may grant waivers from strict compliance with these Rules and Regulations if it determines that:
- 1) the Rule or Regulation requested to be waived does not apply to the particular development or situation under review; or
  - 2) a waiver would permit a superior design; or
  - 3) a waiver would allow construction which will have no significant detriment to the achievement of any of the purposes of Development Plan Review and Approval; or

- 4) a waiver is in the best interests of the Town; or
  - 5) a waiver is consistent with the purpose and intent of G.L. c.40A, §3A, or the Zoning Bylaw, or these Rules and Regulations; or
  - 6) the Rule or Regulation requested to be waived is required or allowed by federal, state, or local statutes and/or regulations.
- B. Any request for waivers shall be submitted in writing at the time of application on a Waiver Request form to be provided by the Board. Supplemental Waiver Requests may be submitted during the course of the Development Plan Review process. If an oral request for a waiver is made during the course of the Board's review, it shall also be submitted to the Board as a written request.
- s. **801 – 5 Permit Coordination** – When a development project requires other permits from the Board such as a land disturbance permit, or a scenic road work permit, the Board's review may be consolidated and run concurrently.
- s. **801 - 6 Use of Forms** – Reference is made throughout these Rules and Regulations to various administrative forms to be used by the Applicant and Board for the orderly and reasonable administration of these Rules and Regulations. These forms shall be developed and maintained by the Board and may be revised, updated, or added to without amendment of these Rules and Regulations.
- s. **801 - 7 Validity** – If, in any respect, any provision of these Rules and Regulations in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provisions which shall be held invalid. In all other respects these Rules and Regulations shall stand. In the event of a conflict between these Rules and Regulations and the Zoning Bylaw, the provisions of the Zoning Bylaw shall control.

## ARTICLE II APPLICATION PROCEDURES

- s. **802 - 1 Eligible Applicants** - An Applicant for Development Plan Review shall be as defined in the Zoning Bylaw. In the case where the Applicant is a person other than the record owner of the property, the Applicant shall submit, as part of the application, a written certification executed by the record owner of the property that the application is submitted with the knowledge and consent of the record owner.
- s. **802 - 2 Pre-Application Review**
- A. **Consultation with Town Staff** – A pre-application consultation between a prospective Applicant and the Town's Community and Economic Development staff is recommended to provide the Applicant with an opportunity to discuss the design concept of the proposed development during the early stages of the design process. Town staff are not responsible for assuring the accuracy, correctness or thoroughness of any application provided for review during a pre-application consultation. Any opinion given to the Applicant by employees of the Town during a pre-application consultation is advisory only and shall not be binding on the Board or the Town.
- B. **Interdepartmental Project Review**
- 1) Prior to filing a Development Plan application with the Board, prospective Applicants may request that the Director of Community and Economic Development

schedule a meeting with the Applicant and the Town's interdepartmental project review team. The purpose of such meeting is for the Applicant to brief representatives of Town departments on the proposed project and to help the Applicant better understand the permitting procedures of various Town agencies. This meeting also allows Town officials to identify project issues and opportunities which may benefit from further municipal attention, coordination, or assistance.

- 2) Any opinion or information given to the Applicant by employees of the Town during the Interdepartmental Project Review Meeting shall be considered advisory only and shall not be binding on the Board or the Town.

C. **Informal Pre-Application Meeting with the Board** – Prior to filing a Development Plan Application with the Board, prospective Applicants may request an informal, pre-application meeting with the Board to review conceptual plans and discuss permitting procedures. The requested pre-application meeting shall occur during a regularly scheduled Board meeting. This meeting provides the Applicant and the Board with the opportunity to:

- discuss the project's objectives, preliminary conceptual plan for the development, building design, and development amenities;
- review the Town's Development Plan review process and Rules and Regulations;
- identify possible requests for waivers;
- clarify what submittal items are required based on the scope of the project; and
- develop a preliminary schedule for application submittal and plan review.

Requests for a pre-application meeting with the Board shall be made through the Community and Economic Development office. Any opinion or information given to the Applicant by an individual Board member, Town employee or its consultants during a pre-application meeting shall be considered advisory only and shall not be binding on the Board or the Town.

s. **802 – 3 Submittal of Development Plan Application**

An Applicant for Development Plan review shall submit an application to the Town Clerk and the Board. The official Development Plan submission date is the date the Development Plan application is filed with the Board and the Town Clerk, unless the Board notifies the Applicant within twenty-one days of submission that the application is incomplete. In such cases, the Development Plan application will not be deemed to have been submitted.

s. **802 - 4 Use of Outside Consultants**

- A. The Board may determine that the assistance of outside consultants such as engineers, lawyers, planners, urban or landscape design professionals, environmental consultants or other appropriate professionals is warranted due to the size, scale, or complexity of the proposed project or its potential impact on the Town and community. The Board may engage the services of outside consultants to assist in reviewing the application and associated project documents to ensure compliance with all relevant laws, bylaws, and regulations and to address technical, legal, or other issues. The Board shall have full authority to select the outside consultants. If the Board determines that such services are required, the Applicant shall pay a Development Plan Review Fee as authorized in s. 806 – 1 B. of these Rules and Regulations.

- B. The minimum qualifications for outside consultants shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or in a related field.
- C. The Applicant may appeal the selection of a particular outside consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The Applicant shall identify the specific grounds which the Applicant claims constitute the conflict of interest or how the consultant does not meet the minimum required qualifications. If no decision is made by the Select Board within thirty days following the filing of an appeal, the Board's consultant selection stands.

### **ARTICLE III DEVELOPMENT PLAN REVIEW**

**s. 803 – 1 Town Clerk Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Town Clerk during regular business hours:

- A. The Development Plan Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. One set of the Development Plan (11" x 17") prepared in conformance with these Rules and Regulations including all items as specified in s. 803 – 4.

**s. 803 – 2 Planning and Economic Development Board Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Board:

- A. The Development Plan Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. Two sets of the Development Plan (24" x 36") and one set of the Development Plan (11" x 17") prepared in conformance with these Rules and Regulations including all items as specified in s. 803 – 4.
- C. One written Project Narrative regarding the proposed development. At a minimum, the Narrative shall include the following information wherever applicable:
  - 1) current and proposed uses;
  - 2) description of proposed development improvements including paving, stormwater management, landscaping, sidewalks, refuse storage and disposal facilities, development amenities, fencing, lighting, accessible development features, water and sewer service, and open space;
  - 3) description of proposed building construction, renovation, façade improvements, including the size of the proposed building(s) or additions;
  - 4) projected water and sewer demand;
  - 5) existing and proposed means of vehicular and pedestrian access and egress;
  - 6) number of parking spaces required and how this number was determined;
  - 7) calculation of proposed lot coverage and impervious surface;

- 8) list of other required local, state, and federal permits needed for the project and the status of each;
  - 9) description of how the project has been designed to incorporate the use of low-impact design and nature-based techniques for stormwater management;
  - 10) description of energy conservation and sustainability measures incorporated into the development and building design; and
  - 11) any other information the Applicant believes will assist the Board in reviewing and understanding the Development Plan application.
- D. One list and three sets of mailing labels of all parties in interest as defined in G.L. c. 40A, §11 appearing on the most recent tax records list maintained by the Assessor's office. The list shall be certified by the Board of Assessors of Medway and all applicable adjacent communities.
- E. One copy of all relevant approvals, land use permits, or decisions received to date from other Town boards and committees (ZBA, Conservation Commission, Board of Health, Historical Commission, Department of Public Works, etc.) and federal or state government agencies.
- F. Traffic Impact Statement
- 1) A brief Analysis of existing traffic safety and capacity issues at the development and a summary of anticipated traffic impacts as a result of the proposed development; or
  - 2) A full Traffic Impact Assessment is required if the project:
    - a. proposes an additional thirty or more parking spaces; and
    - b. contains frontage or proposes access on a public way; and
    - c. is expected to generate an additional one hundred trips to or from the development on an adjacent roadway during a peak hour based on the most recent edition of the Institute of Traffic Engineers publication Trip Generation Manual.
  - 3) The Traffic Impact Assessment shall:
    - a. document existing traffic volumes, capacities, controls, sidewalk and road conditions, roadway geometrics, hazards, and level of service on the development and streets adjacent to the development and intersections near the development including but not limited to conditions within one-quarter mile of the proposed project; and
    - b. describe the volume and effect of projected traffic generated by the proposed project (total and peak hour) and post project level of service (LOS); and
    - c. identify traffic management and structural improvements and mitigation measures, both on and off the development, to reduce adverse impacts of the proposed project on traffic. These could



include but are not limited to demand management strategies, traffic control measures as well as capacity enhancements.

- 4) A Traffic Impact Assessment shall be prepared by a qualified and experienced person under the supervision of a Professional Engineer with specific training in traffic and transportation engineering with three or more years of experience related to preparing traffic studies for existing or proposed developments.

G. Stormwater Documentation in accordance with Section 5.6.5.H.9 of the Zoning Bylaw

H. Earth Removal Calculations of the estimated volume of earth materials to be removed from the development which shall be prepared by and show the seal of a licensed Professional Engineer certified to practice in the Commonwealth of Massachusetts.

NOTE - The extent of planned earth removal may be subject to the requirements of Article 10, Removal of Earth Products of the Medway General Bylaws.

I. Earth Fill Estimates of the volume of earth materials in excess of 500 cubic yards to be brought on development from elsewhere which shall be prepared by and show the seal of a licensed Professional Engineer certified to practice in the Commonwealth of Massachusetts.

J. Resource Areas Documentation – If available, a copy of an Order of Resource Area Delineation (ORAD) from the Conservation Commission, or an Order of Conditions issued within the past three years, or a Determination of Applicability from the Conservation Commission.

K. Property Ownership Documentation - A copy of the latest recorded deed to the property(s) comprising the proposed development site to document proof of ownership, or a purchase and sale agreement.

L. Waivers - Requests for Waivers from these Rules and Regulations with specific reference to the applicable section(s) of these Rules and Regulations for which a waiver is requested, the scope of the requested waiver, and the supporting rationale for each requested waiver. Waiver requests may be combined where the regulations are related and the reasons for the waivers are the same.

M. All application materials (including forms, plans, reports, and attachments) shall also be submitted in a searchable electronic format via email, on a portable electronic storage device, or to a central cloud repository on the internet.

N. A Filing Fee as authorized by s. 806 – 1.A.

### **s. 803 – 3 Standards for Development Plan Preparation**

A. The Development Plan shall be prepared, stamped, signed, and dated by qualified professionals including a Registered Professional Engineer, a Registered Land Surveyor, a Registered Architect, and/or a Registered Landscape Architect or other professional, registered in the Commonwealth of Massachusetts.

- B. The Development Plan shall be drawn at a scale of one inch equals forty feet or such other scale that is approved by the Board and that clearly and adequately represents the proposed improvements.
- C. All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88). Horizontal plan information shall reference Massachusetts State Plane Coordinate System.
- D. All Development Plan sheets shall be bound together in a complete set including building elevation plans.
- E. All Development Plan sheets shall contain a referenced north arrow, sheet number, plan dates and plan revision dates, name of project, name of plan, plan scale, legend, stamp of registered professional responsible for the content of said sheet, applicable notes, the Board's signature block, including Decision date and plan endorsement date, and a box for the Town Clerk's No Appeal Certification.
- F. The Development Plan shall be prepared in a manner and format acceptable for recording at the Norfolk County Registry of Deeds.
- G. The Development Plan shall be prepared such that its final version can be provided as a shape file or other GIS displayable file.

**s. 803 – 4 Development Plan Contents** – To be considered complete, a Development Plan submitted pursuant to these Rules and Regulations shall include the information listed below.

- A. Cover Sheet – The cover sheet shall include the project name and address, name and address of owner, name and address of Applicant, name and address of engineer and other professional firms responsible for the plan, plan date, list of plan revision dates, project Assessor's Map and Parcel number, zoning district classification, list of requested waivers, Board signature block for decision date and plan endorsement date, a complete index of drawings, and a listing of prior planning documents recorded at the Norfolk County Registry of Deeds.
- B. Development Context Sheet which includes the following:
  - 1) A locus plan showing the development and its boundaries in relation to all surrounding streets within two thousand feet of the perimeter of the development. The plan shall be at a maximum scale of one inch equals one thousand feet. Scenic roads shall be noted. Streets, buildings, brooks, streams, rivers, wooded areas, protected open spaces, recreation fields, landmarks and public facilities shall be shown on the locus plan with sufficient clarity to be easily discernable.
  - 2) Abutters' names and property addresses with assessor's map/parcel references.
  - 3) Lot lines with dimensions and easement areas for the development site.
  - 4) Existing topography at two-foot intervals from USGS survey maps or actual land survey of the development site.
  - 5) All easements (utility, conservation and other) and rights-of-way on the development site.

- 6) Zoning district boundaries including overlay zones on the development site.

C. Existing Conditions Sheet(s)

- 1) The location of all existing man-made features and infrastructure on the development shall be delineated including but not limited to buildings and structures, streets, bridges, utility poles, utilities and underground infrastructure including water, gas, sewer, electric, cable, and telephone, fire hydrants and fire alarm boxes, wells, septic systems, utility easements and other property encumbrances, sidewalks, driveways, pedestrian walkways, sidewalks, trails, stone walls, fences, monuments, historic markers, and stormwater drainage infrastructure including basins, sub-surface systems, leaching galleys, swales and other methods to dispose of stormwater; refuse and solid waste storage and disposal facilities, and all entrances and exits on the development and within one hundred feet of the development entrances and exits.
- 2) Location and delineation of all existing natural features of the development site including but not limited to ledge or rock outcroppings, cliffs, sinkholes, ditches, wetland resources as defined by the Wetlands Protection Act and Article 21 of the Medway General Bylaws if known, including their associated buffers per state and local laws, and natural drainage courses and swales.
- 3) An Existing Landscape Inventory including a “mapped” overview of existing landscape features and structures including the specific identification of existing hardwood trees with a diameter of fifteen inches or greater at four and one-half feet above grade (dbh) and any trees of fifteen inches or greater at dbh in zoning setbacks, all in order to determine their value for preservation. Tree drip lines (the outermost circumference of a tree's canopy, from which water drips onto the ground) shall be shown or detailed in order to ensure trees are protected during construction. The mapped inventory shall also designate which of the above noted trees are expected to be removed during construction.

D. Development Plan Information Sheets – NOTE, Development Plan information sheets may be combined.

- 1) Location and dimensions of proposed buildings and structures including building setbacks from front, side, and rear lot lines.
- 2) Delineation of Land Disturbance Area as defined herein and a calculation of the amount of area included therein.
- 3) Development Grading - Topography showing proposed grading contours at two-foot intervals.
- 4) Parking Plan - Location and dimensions of proposed parking, including lot line setbacks, loading, and unloading areas with traffic patterns, access lanes and curb radii. The Parking Plan shall be in conformance with the provisions of Section 5..6.5 of the Zoning Bylaw.
- 5) Proposed Development Improvements - Location and dimensions of proposed improvements and development amenities including but not limited to, roads, driveways, maneuvering spaces and drive aisles, fire lanes, parking areas,

loading and unloading areas, utility boxes, curbs, curb cuts, wheel stops, bollards, bumpers, decorative and retaining walls, fences, outdoor lighting, open space areas, recreational areas, improvements to provide for accessibility for persons with disabilities, service entries, snow storage areas, facilities for waste disposal and storage, sidewalks, pedestrian walkways and bike pathways with cross sections, design and materials details and dimensions, easements, and survey monument markers to denote boundaries of open space areas to be donated or subject to a conservation restriction.

- 6) Erosion and Sediment Control Plan – Erosion control measures shall be specified including sedimentation barriers, construction entrances, stabilizing materials to be used on development during and after construction, and temporary blocking of entrances when construction is not active. The Erosion and Sediment Control Plan shall be as specified in Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance and the Town’s Land Disturbance Permit Rules and Regulations.

NOTE – If the proposed development also needs to file a Notice of Intent with the Medway Conservation Commission for an Order of Conditions, the Erosion and Sediment Control Plan shall be submitted to and be reviewed and acted on by the Conservation Commission and not to the Board as specified in Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance.

- 7) Stormwater Operations and Maintenance Plan During Construction – Such plan shall comply with the requirements of Medway General Bylaws, Article 26 Stormwater Management and Land Disturbance and the Town’s Land Disturbance Rules and Regulations

- 8) Post-Construction Stormwater Management Plan –

- a) The Post Construction Stormwater Management Plan and the associated Long-Term Operations and Maintenance Plan shall comply with the requirements and performance standards of Section 5.6.5 of the Zoning Bylaw, Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance and the Town’s Land Disturbance Permit Rules and Regulations; the Massachusetts DEP Stormwater Handbook, and EPA’s National Pollutant Discharge Elimination System (NPDES) requirements if applicable.
- b) For each proposed stormwater BMP and/or treatment train, provide a table outlining the contributing catchment area information including land use type, soil group, impervious and pervious surface area, BMP treatment type, storage capacity, and infiltration rate.

NOTE - If the proposed development also needs to file a Notice of Intent with the Medway Conservation Commission for an Order of Conditions, the above noted Post Construction Stormwater Management Plan shall be submitted to and be reviewed and acted on by the Conservation Commission and not the Board as specified in Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance.

- 9) Text of the Long-Term Stormwater Operations and Maintenance Plan - NOTE, this sheet may need to be updated if changes to the type of BMP measures are made during the course of the plan review process.
- 10) Development Utilities Plan – All proposed utilities, mechanisms, materials and layouts for refuse and trash disposal enclosures and systems, water, electricity, gas, cable, fire hydrants, and telephone and internet service, sewage disposal.
- 11) Landscape Plan
  - a) A Landscape Plan shall be prepared by a Registered Professional Landscape Architect licensed to practice in the Commonwealth of Massachusetts, a Massachusetts Certified Landscape Professional (MA Association of Landscape Professionals), a Certified Professional Landscape Designer (Association of Professional Landscape Designers), or a Certified Professional Engineer with experience in landscape design.
  - b) The Landscape Plan shall be prepared as an overlay of the Existing Conditions sheets and shall incorporate, whenever feasible, the significant features of the existing development and topography to be retained, particularly existing trees with a diameter of fifteen inches or greater at dbh.
  - c) The Landscape Plan shall indicate the areas of proposed excavation; any woodlands, trees or other existing features or structures to be retained; all new plantings by common and Latin name including their proposed locations and sizes at the time of installation. Plan graphics for tree canopies shall reflect, as closely as possible, the actual canopy dimension of proposed tree plantings at the time of installation with a screened graphic used to represent expected tree canopy at maturity.
  - d) The Landscape Plan shall specify a suitable maintenance program to ensure the viability and longevity of the landscape installation.
- 12) Building Elevations and Architectural Plan with dimensions and details of façade designs of each building from all directions including specifications on building style, architectural features, and materials.
- 13) Development Amenities - Details for benches, bollards, planters, fences, walls, bike racks, seating areas, and any other forms of outdoor development amenities to be installed.
- 14) Lighting Plan prepared in conformance with Section 7.1.2 of the Zoning Bylaw.
- 15) Horizontal sight distances on the public way(s) at all entrances and exits in both directions.
- 16) A table outlining the proposed development's conformance with the Zoning Bylaw requirements.
- 17) Locations of proposed fire hydrants, fire lanes and access for equipment shall be provided in compliance with all applicable state codes and Town regulations. Plan shall also show an analysis and evaluation of fire apparatus maneuvers

throughout the drive aisles by swept path analysis and turn simulation software bearing the seal and signature of the responsible registered professional engineer.

- 18) Any proposed off-development roadway and traffic management improvements.
- 19) Any proposed off-development improvements to mitigate project impacts on abutting properties.

**s. 803 – 5 Review by Town Officials**

- A. Community and Economic Development staff may provide the plan and associated documents to appropriate Town boards, departments, and committees, inform them of the public hearing schedule, and request their review and comments to assist the Board with its review.
- B. Said departments, boards, and committees may evaluate the Development Plan and submit review comments or recommendation to the Board. If no comments are submitted to the Board within thirty days of the Board's request for comments, this shall be deemed lack of opposition.

**s. 803 –6 Public Hearing**

- A. The Board shall conduct a public hearing on the Development Plan application.
- B. The Board will prepare the public hearing notice and post such notice at least 14 days prior to the date of the public hearing. The Board will notify all parties in interest of the time, date and location of the public hearing as provided in G.L. c. 40A, §11.
- C. An Applicant may appear on his own behalf or be represented by a designated representative. It is the responsibility of the Applicant or the designated representative to present the Development Plan to the Board and public during the public hearing. In the absence of an appearance by the Applicant or designated representative, the Board shall decide the matter using the information it has received.
- D. The Board may continue the public hearing to other dates as may be needed.
- E. The Board will coordinate its review with other Town boards, committees or officials which have jurisdiction over other permits and approvals required for the project to proceed when reasonably able to do so.

**s. 803 – 7 Decision**

- A. **Deadline to File Decision** - Following the Board's review, the Board shall prepare and file its written Development Plan Decision with the Town Clerk within ninety calendar days from the official date of Development Plan application. Failure of the Board to take final action by filing its Decision with the Town Clerk within the prescribed time period shall be deemed constructive approval of the application.
- B. **Deadline Extension** - The deadline by which the Board shall file its Decision may be extended upon mutual agreement of the Board and Applicant when the Applicant or its designated representative requests such an extension in writing and the Board agrees thereto. Notice of the Board's acceptance of the Applicant's request for a deadline extension shall be provided in writing by the Board to the Town Clerk.

- C. Voting – An affirmative vote of a simple majority of the membership of the Board shall be sufficient for the Decision.
  - D. Approval Findings – In making its Decision, the Board shall consider whether the Development Plan meets the requirements of the Zoning Bylaw and these Regulations, except to the extent any Rules and Regulations are waived by the Board.
  - E. Approval Conditions, Limitations & Safeguards - In a Decision to approve a Development Plan, the Board may waive provisions of these Rules and Regulations in accordance with s. 801-4. The Board may also require plan modifications, conditions, mitigation measures, limitations, and safeguards which the Board finds are consistent with Town bylaws, regulations, and standards.
  - F. Distribution of Development Plan Decision - The Board will prepare and mail a Notice of Development Plan Decision by first class mail to all parties in interest after the Decision has been filed with the Town Clerk. A copy of the decision will also be provided to the Applicant.
- s. 803 – 8 Appeal** - Any person aggrieved by the Board’s Decision may appeal to the appropriate court within twenty days of the date the Decision is filed with the Town Clerk, as provided in G.L. c. 40A, section 17.

**s. 803 – 9 Plan Endorsement**

- A. In cases where the Board has approved or conditionally approved the proposed Development Plan, the Applicant, within sixty days after the Board has filed its Decision with the Town Clerk, shall submit a final mylar plan reflecting all required changes, if any, to the Board for endorsement. The deadline for plan endorsement may be extended upon mutual agreement when the Applicant or its designated representative requests such an extension in writing and the Board agrees thereto.
  - B. The Board shall not endorse a Development Plan until it is brought into compliance with the Board’s Decision and the twenty-day appeal period has elapsed following the filing of the Board’s Decision with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If an appeal is properly filed, plan endorsement shall not occur until after the court’s decision sustaining the Board’s Development Plan Decision.
  - C. After endorsement, the Applicant shall provide two paper copies of the endorsed Development Plan to the Board. The Applicant shall also provide the endorsed plan in portable document format (PDF) format and as a shape file or other GIS displayable file.
- s. 803 – 10 Recording** – The Applicant shall record the Decision with the endorsed Development Plan at the Registry of Deeds and submit evidence of such recording to the Board and the Building Commissioner. No construction shall be allowed to begin at the subject development until such recording verification is presented.

**ARTICLE IV. DEVELOPMENT STANDARDS** – Development projects requiring Development Plan Review shall be designed to comply with the applicable development standards set forth in the Zoning Bylaw, including but not limited to Section 5.6.5,

as well as the Town's General Bylaws, and Department of Public Works regulations and requirements.

## **ARTICLE V        CONSTRUCTION ADMINISTRATION**

**s. 805 – 1    Preconstruction Meeting** - Prior to the commencement of any development work (earth removal, clearing of vegetation, mobilization of construction equipment, etc.) for an approved Development Plan project, the Developer, the development general contractor, and other representatives of the Developer shall attend a preconstruction meeting with the Town's Consulting Engineer, Community and Economic Development Staff, Building Commissioner, Department of Public Works Director, Conservation Agent, or their designees, and other Town staff as may be determined appropriate.

- A.     The Developer or general contractor shall request the pre-construction meeting at least one week prior to commencing any development work on the property by contacting the Community and Economic Development office.
- B.     The Developer shall provide a detailed construction schedule, copies of other permits or approvals, and emergency contacts list.
- C.     If applicable to the project, the Developer shall provide a copy of the final Stormwater Pollution Prevention Plan (SWPPP) required by the U.S. Environmental Protection Agency (EPA) to the Town at or prior to the pre-construction conference.
- D.     For projects involving the filling or removal of earth materials in excess of two thousand cubic yards, a schedule for the removal and import of earth materials shall be provided. This schedule shall state the size of the trucks or other vehicles to be used, their gross vehicle weight, the estimated number of trips per day for each vehicle, the travel routes to be taken by the vehicles, and the approximate proposed hours of operation for such activities. A description of the clearing procedures to be used shall also be provided. Travel routes may be restricted by the Town.
- E.     A Construction Management Plan (CMP) which includes the proposed construction sequence, timetable, and methods for managing the construction process and minimizing the impacts of construction on public ways and to abutters. The CMP shall identify areas for parking, staging, and stockpile areas for construction materials and earth removed from or brought onto the development. Such areas shall be located as far from existing private and public streets as practicable and visually screened to the maximum extent practicable from such ways and surrounding residences or other buildings. The CMP shall note hours of construction and deliveries associated with construction.

**s. 805 – 2    Development Maintenance During Construction**

- A.     The developer and contractors shall comply with the Stormwater Pollution Prevention Plan (SWPPP) required by the U.S. Environmental Protection Agency (EPA), when applicable, and the Sediment and Erosion Control Plan included in the Development Plan set.
- B.     Any construction site is required to have a stone mat construction entrance for a minimum of fifty feet or as development constraints allow. The stone mat shall be maintained regularly to allow for proper reduction of sediment tracking onto adjacent



roadways. In events where excessive mud is generated at the development, wheel washing stations may be required to further prevent sediment tracking onto Town ways.

- C. Construction of the approved development shall not create any significant emission of light, noise, dust, fumes, odors, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impacts without suitable mitigation measures and remedies.
- D. Upon completion of all work on the site, the Developer shall remove from the site and adjoining property, all temporary structures, all surplus material, debris, tree stumps, loose rocks, silt fences and synthetic erosion control measures unless authorized by an Order of Conditions to be left in place, and any such rubbish which may have accumulated during construction and shall leave the work site in a neat and orderly fashion.

**s. 805 – 3 Construction Inspections and Reporting**

- A. The Board may determine site inspections of the infrastructure and site improvements and the ongoing maintenance of such are necessary to ensure that the development project is constructed to comply with the approved Development Plan and Decision. The Board may determine that the assistance of outside consultants is needed to monitor construction of the development due to the size, scale, or complexity of the approved project. If the Board determines that such consultant services are required, the Applicant shall pay a Construction Services fee prior to the Board's endorsement of the plan. See s. 806 – 1. C.
- B. The Developer or its representative shall notify the Town's Consulting Engineer at least 48 hours in advance of needed inspections.
- C. Development Plan projects with a land disturbance area of one acre or more are required to provide copies of all required SWPPP inspection reports and corrective action reports to the Board and the Consulting Engineer for review during the construction term of the project.

**s. 805 – 4 Modification of Approved Development Plans and Decisions - Construction work shall comply with the approved Development Plan, unless the Developer requests approval of a modification to the Development Plan and/or Decision and such approval is provided pursuant to any one of the methods specified below:**

- A. On-Site Field Changes - During construction, the Developer may be authorized to make limited, minor, on-development field changes to an approved Development Plan project based on unforeseen development or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the development's compliance with the Zoning Bylaw or these regulations or conflict with a specific condition of the decision. Field changes shall not substantially alter the intent, layout, or design of the endorsed Development Plan.
  - 1) Prior to undertaking such field changes, the Developer and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Community and Economic Development Department and the Building Commissioner describing the proposed changes

and what conditions, situations, or emergencies necessitate such changes. In accordance with Section 3.5.2.C of the Zoning Bylaw, the Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable.

- 2) The Board shall prepare a Field Change Decision to document whether the field change is authorized. The Decision may include suitable conditions. The Field Change Decision shall be provided to the Developer and the Building Commissioner. Any approved field change shall be made a permanent part of the approved Development Plan documents and shall be shown on the final as-built plan.
- 3) The Board may determine that a proposed field change or a combination of field changes are such that the proposal warrants consideration as a plan modification. If so, the modification shall be handled in accordance with the provisions for reviewing and approving the corresponding category of Development Plan modification by the Board.

#### B. Development Plan Projects

- 1) Plan Modification
  - a) Proposed modifications (not including field changes) to a previously approved Development Plan shall be subject to review by the Board.
  - b) Plan modifications include, but are not limited to, the following (unless *de minimis*; *de minimis* changes may be made as field changes):
    1. Changes in the design of the stormwater management facilities
    2. Changes in the location, dimensions and composition of buffer areas and screening measures
    3. An increase in the size of a building footprint
    4. An increase in the height of a building
    5. A change in the location of a building on the development
    6. A change in the location and quantity of curb cuts (access and egress points)
    7. A change in the layout of parking
    8. An increase in the quantity of parking
  - c) The request for a Modification to a previously approved Development Plan shall be subject to the same application and review process including a public hearing as provided in Article II of these Rules and Regulations, including the payment of plan modification filing fee and plan review fee. Any modifications approved by the Board shall be made a permanent part of the approved Development Plan project documents and shall be shown on the final as-built plan.
- 2) Decision Modification – If the Developer proposes a modification to the original Decision for a Development Plan including any specific condition thereof, the

proposed modification shall be subject to the same application and review process including a public hearing as provided in Articles II and III of these Rules and Regulations, including the payment of modification filing fee, and plan review fee if applicable. Any decision modification approved by the Board shall be filed with the Town Clerk and made a permanent part of the approved Development Plan project documents, including filing at the Norfolk County Registry of Deeds.

- s. **805 - 5      Change in Ownership** - When the ownership of an approved Development Plan project changes in whole or in part, the new owner or owners shall notify the Board of the change within 30 days. The new owner or owners shall be responsible for ensuring compliance with the Decision and the Zoning Bylaw. The notification to the Board shall include a statement with respect to any peer review, construction observation, or surety funds held by the Town with respect to the project, as to which entity any refund of excess funds should be returned to after the close of the project. In the absence of such a statement, any excess funds at the completion of the project shall be returned to the entity which deposited the funds with the Town.
- s. **805 – 6      Compliance** - If a Developer seeks an occupancy permit for a portion of the project before completion of the approved development improvements, the Developer may request to use the provisions of Section 208-6.B of the Site Plan Rules and Regulations.
- s. **805 – 7      Project Completion**
  - A.      Construction Deadline - Development plan approval shall lapse after two years of the grant thereof, which shall not include such time required to pursue or await the determination of an appeal, if construction has not commenced except for good cause. Upon receipt of a written request by the Developer filed at least thirty days prior to the date of expiration, the Board shall consider the request at a public meeting and may grant an extension for good cause. Such extension shall not exceed two years beyond the original expiration date of the Development Plan approval.
  - B.      As-Built Plans
    - 1)      Developers of Development Plan Projects shall provide an as-built plan stamped by a Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, which shall show actual as-built locations and conditions and any plan modifications authorized by the Board. The as-built plan shall be accompanied by a certification from a Registered Professional Engineer that the development has been developed in substantial conformance with the approved Development Plan.
    - 2)      As-built information shall be submitted as a shape file or other GIS displayable file.
  - C.      Certificate of Development Plan Completion
    - 1)      Before the Board issues a Certificate of Development Plan Completion, the following items must be completed or provided to the satisfaction of the Board:

- a) Receipts to document cleaning of the stormwater system
  - b) A signed statement from the Developer and/or Owner committing to the ongoing maintenance of the stormwater management facilities per the Post Construction Stormwater Management Plan and replacement of landscaping.
  - c) Removal of erosion controls
  - d) Full stabilization of the development
  - e) Off-development improvements
- 2) Upon completion of all required improvements as shown on the approved Development Plan, including any off-site mitigation measures, the Developer's engineer shall submit a letter verifying completion to the Board. The letter shall certify that the project, as constructed, substantially conforms to the approved Development Plan and that any provisions of the Decision including construction of any required on and off-site improvements have been completed.
  - 3) The Board's Agent shall conduct a final inspection of the site within thirty days of the filing of the Developer's engineer's letter with the Board and provide a written report and punch list to the Board and Developer identifying any remaining work to be completed.
  - 4) The Board shall determine if all work has been completed in substantial conformance with the Development Plan approval and, if so, the Board, shall sign a Certificate of Development Plan Completion to document that the project as constructed has been completed, in its opinion, in conformance with the approved Development Plan and any conditions. If a Certificate of Development Plan Completion is not signed, a complete list of work to be completed on or off-site in compliance with the approved Development Plan and Decision shall be provided to the Developer.

**s. 805 – 8 Post Construction On-Going Maintenance** – The Owner shall maintain development amenities, landscape installations, and stormwater management facilities in good condition throughout the life of the facility and to the same extent as shown on the endorsed Development Plan and in accordance with the approved long term stormwater operations and maintenance plan including reporting requirements. Failure to carry out the long-term stormwater operations and maintenance plan is a violation of the Development Plan permit. Trees, shrubs, bushes, and other landscape features shown on the plan which die or become diseased shall be replaced by the following planting season.

## **ARTICLE VI FEES**

**s. 806 – 1 Fee Structure** – The Board shall adopt a Fee Schedule, which shall specify the amount of filing and other applicable fees.

- A. Development Plan Filing Fee - A non-refundable Development Plan Filing Fee as specified in the Board's Fee Schedule shall be remitted to the Board at the time the Development Plan application is filed with the Board.
- B. Development Plan Review Fee

- 1) **Applicability** – A Development Plan Review Fee shall be established by the Board for review of the Development Plan based on an itemized budget estimate prepared by an outside consultant(s). This fee shall be the reasonable costs to be incurred to retain outside consultant(s) to assist in the review of the proposed project. The Development Plan Review Fee shall not be a fixed amount but will vary depending on the nature and scale of the project and the expected costs to be incurred.
- 2) **Fee Payment** - The Applicant shall remit the amount upon receipt of an invoice from the Board or the Department of Community and Economic Development prior to the substantive review of the application by the outside consultants, and before the public hearing or meeting commences. Failure to pay the full Development Plan Review Fee before the public hearing or meeting begins may delay the public review process and constitute grounds for denial of the proposed Development Plan.
- 3) **Additional Review Fees** – If the expense of the consultant(s)' review of the Development Plan exceeds the original estimate or if the services of additional outside consultants be required after the initial Development Plan Review Fee has been expended, the Applicant shall be required to pay all additional fees incurred to cover the cost of additional reviews. A new estimate for additional plan review services shall be prepared and remitted to the Applicant. The Applicant's failure to pay plan review fees in their entirety shall constitute grounds for the Board to deny approval and endorsement of the plan.

**C. Construction Services Fee**

- 1) **Applicability** – The Board may establish a Construction Services Fee for the reasonable costs to be incurred by the Board to retain outside consultant(s) to assist in the inspection of the construction and on-going maintenance of the development's infrastructure and the review of any legal documents associated with performance security and project completion. The Construction Services Fee shall not be a fixed amount but will vary with the scale of the project and the expected costs to be incurred by the Board.
- 2) **Fee Payment** - The Applicant shall remit the Construction Services Fee to the Board before the Development Plan is endorsed. Failure to pay the Construction Services Fee shall constitute grounds for the Board to not endorse the Development Plan.
- 3) **Additional Fees** – If the expense of the consultant(s)' services exceed the original estimate, or if the services of additional outside consultants be required after the initial Construction Services Fee has been expended, the Developer shall be required to pay all additional fees incurred to cover the additional cost. The Board shall prepare a new estimate for additional construction services and remit an invoice to the Developer for payment.

**D. Other Costs and Expenses** - All expenses for professional plan reviews, advertising, publication of notices, and all other expenses in connection with Development Plan Review and construction including plan or decision modification fees shall be borne by the Applicant and/or Developer.

**s. 806 – 2     Payment of Fees**

- A.     Fees paid shall be by check made payable to the **Town of Medway** and submitted to the Community and Economic Development office.
- B.     When the Development Plan Review Fee and Construction Services Fee are received by the Board pursuant to this section, they shall be deposited with the Town Treasurer/Collector in special accounts for these purposes established pursuant to G. L. c. 44, Section 53G. Expenditures from the special account may be made without further appropriation. Expenditures from the special account shall be made only for services rendered in connection with a specific project or projects for which a fee has been or will be collected. Accrued interest may also be spent for this purpose.
- C     At the completion of the project, any excess amount in the plan review and construction accounts, including interest, attributable to a specific project shall be repaid to the Applicant or Developer or their successor in interest. Upon request, a final report of said account shall be made available. For the purpose of these Rules and Regulations, any person or entity claiming to be the Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

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Approved: December 10, 2024