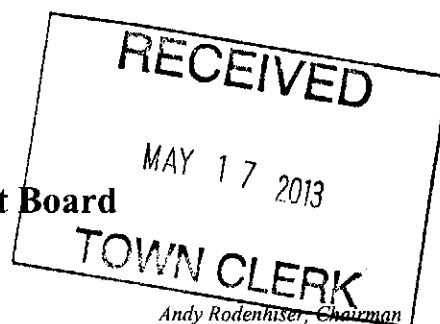




TOWN OF MEDWAY
Planning & Economic Development Board
155 Village Street
Medway, Massachusetts 02053



Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Cranston (Chan) Rogers, P.E.
Karyl Spiller Walsh
Matthew Hayes, P.E., Associate Member

May 14, 2013

CERTIFICATE OF ACTION
CHARLES RIVER VILLAGE
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)
DEFINITIVE PLAN
(APPROVED with Waivers and Conditions)

I. APPLICANT: Charles River Village LLC
John Claffey
P.O. Box 1
Medway, MA 02053

II. PROPERTY OWNER:
Estate of Carol Supernor
Estate of Michael Acquafresca

III. SUBJECT PROPERTY - The subject property is a 7.61 acre site located at 6 Neelon Lane. The property is located on the west side of Neelon Lane, adjacent to the Charles River and is in the ARII zoning district. Medway Parcel ID #70-002. On site features include an existing single family residential house with attached barn and a dilapidated shed structure. A large portion of the property is presently overgrown woods. The property abuts the Charles River along its southern boundary.

IV. PROJECT DESCRIPTION - The *Charles River Village OSRD Definitive Plan* as revised 2-15-13 depicts an eleven unit detached single family cottage style condominium community. Planned site improvements include reconstructing the existing Neelon Lane, a statutory private way, and constructing a 150' long extension of Neelon Lane with a turnaround. From the new end of Neelon Lane at the turnaround, the developer will construct approximately 445 linear feet of an 18' wide private roadway (20' wide with Cape Cod berm) to be known as Charles View Lane to provide access to the eleven homes. Private sewer and water installations will connect to the Town's system along with two fire hydrants. An emergency access/egress and a pedestrian pathway through to Cherokee Lane will also be constructed. Other planned improvements include the construction of a stormwater drainage system to comply with

Massachusetts DEP stormwater management requirements and the preservation of 4.18 acres of open space accessible to the public. In lieu of constructing two affordable housing units, the applicant has proposed to fulfill its affordable housing responsibilities by making a payment to the Medway Affordable Housing Trust.

The proposed plan shows the division of the land into two parcels as follows:

- *Parcel A – Development Parcel – 3.43 acres including all 11 dwelling units, private roadway, utilities, and stormwater facilities (all to be owned by the Charles River Village Condominium Trust)*
- *Parcel B - Open Space Parcel – 4.18 acres to be conveyed to the Town of Medway through its Conservation Commission but maintained by the Charles River Village Condominium Trust*

V. BACKGROUND - This application was filed pursuant to the Charles River Village Open Space Residential Development (OSRD) Special Permit and Affordable Housing Special Permit previously approved by the Medway Planning and Economic Development Board on March 30, 2011 and the Charles River Village OSRD Concept Plan dated July 28, 2010, last revised August 20, 2012 which was endorsed by the Planning and Economic Development Board on August 28, 2012.

The above noted Charles River Village Special Permit was recorded at the Norfolk County Registry of Deeds on November 20, 2012 in Book 30700, Page 541. The above noted Charles River Village OSRD Concept Plan was recorded on November 20, 2012 in Plan Book 617, Page 97.

A modification to the Charles River Village Special Permit was approved by the Medway Planning and Economic Development Board on April 9, 2013 and was recorded at the Norfolk County Registry of Deeds on May 1, 2013 in Book 31288, Page 334.

VI. PROCEDURAL SUMMARY: With respect to *Charles River Village OSRD Definitive Plan*, the Planning and Economic Development Board verifies that:

1. On November 30, 2012, it received an application for approval of the *Charles River Village OSRD Definitive Plan*, dated November 20, 2012 prepared by FAIST Engineering of Southbridge, MA and O'Driscoll Land Surveying Co of Medway, MA. NOTE - This application was NOT preceded by a preliminary subdivision plan.
2. On December 11, 2012, it circulated the *Charles River Village OSRD Definitive Plan* to various Town boards and departments, including the Board of Health, soliciting review comments and noting that a public hearing was scheduled to begin on January 8, 2013. The Board of Health did not provide any written comments.
3. The public hearing notice was filed with the Medway Town Clerk and posted to the Town's web page on December 12, 2012. The hearing was duly noticed in the December 18 and December 27, 2012 editions of in the *Milford Daily News*. Abutter notice was sent by certified sent mail to abutters, parties of interest and to the planning boards of adjacent communities on December 13, 2012.

4. On January 8, 2013, it commenced the public hearing. The public hearing was continued to January 22, February 19, February 26, and March 19, 2013 at which time it was closed. At the public hearing, comments were received from the general public, municipal boards/ departments, PGC Associates (*the Town's Consulting Planner*), Tetra Tech (*the Town's Consulting Engineer*), the applicant and members of the applicant's development team. All persons in attendance were provided the opportunity to comment and present evidence. All Planning and Economic Development Board members voting on this definitive plan were present at all sessions or provided a Mullins Rule Certification when absent.
5. Action Deadline Extension – On February 26, 2013, the Board approved the applicant's request to extend the action deadline to April 26, 2013. On April 9, 2013, the Board approved the applicant's request to extend the action deadline to May 17, 2013. The Town Clerk was notified in both instances.

VII. VOTE OF THE BOARD – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, after having carefully reviewed the application and all plans, materials and documentation presented by the applicant, the Board's consultants, abutters and the general public, and comments from Town officials and boards, a motion was made by Chan Rogers and seconded by Robert Tucker to approve the Charles River Village OSRD Definitive Plan prepared by FAIST Engineering and O'Driscoll Land Surveying, Inc., originally dated November 20, 2012 and last revised February 15, 2013 subject to the *Specific and General Conditions* as specified herein and with *Waivers* from the *Subdivision Rules and Regulations* dated April 26, 2005 as also specified herein. The motion was approved by a vote of 4 in favor (*Rodenhiser, Rogers, Spiller-Walsh and Tucker*) and 0 opposed).

VIII. EXHIBITS – Plans and Documents

Specified below is a list of application materials, public comments, consultant and town review documents, and supplemental information filed by the Applicant, Board or other parties. All information is on file with the Planning and Economic Development Board and is available for public review.

Charles River Village OSRD Definitive Plan application dated 11-30-2012

Charles River Village OSRD Definitive Plan

Prepared by FAIST Engineering (*Sturbridge, MA*) & O'Driscoll Land Surveying (*Medway, MA*) - November 20, 2012, last revised February 15, 2013

MODIFIED Charles River Village OSRD Concept Plan

Prepared by FAIST Engineering (*Sturbridge, MA*) & O'Driscoll Land Surveying (*Medway, MA*) – February 5, 2013

Designer's Certificate re: ownership of subject property by Michael Acquafresca and Carol Supernor

Signed by David Faist, Faist Engineering and Daniel O'Driscoll, O'Driscoll Land Surveying.

Stormwater Management Report (including drainage calculations and soil survey, percolation and high groundwater testing by O'Driscoll Land Surveying Co. August 2012 and long term operations and maintenance plan)

Prepared by Faist Engineering – November 2012

Revised – February 20, 2013.

Explanation of How the Proposed Definitive Plan Complies with the Previously Issued Special Permit – Prepared by Paul Yorkis and submitted on November 30, 2012.

Waiver Request Worksheet

November 30, 2012 – Paul Yorkis, Patriot Real Estate

Town Engineering Consultant Review Letters

David Pellegrini, P.E., Tetra Tech Rizzo, Inc.

Review letter dated December 21, 2012 responding to initial the application and plan

Review letter dated March 11, 2013 responding to revised plans dated February 15, 2013 and additional information submitted on February 26, 2013.

Town Planning and Economic Development Consultant Review Letters

Gino Carlucci, AICP, PGC Associates

Review letter dated January 3, 2013 responding to initial definitive plan application

Review letter dated March 14, 2013 responding to the application to modify the special permit

Medway Departmental/Board Review Comments

Letter dated February 18, 2013 from the Medway Design Review Committee

Letter dated March 18, 2013 from the Medway Design Review Committee

Email Memorandum dated March 19, 2013 Medway Fire Chief Jeff Lynch

Letter dated March 4, 2013 from the Medway Affordable Housing Trust

Letter dated March 15, 2013 from the Medway Affordable Housing Trust

Email communication dated February 28, 2013 from DPS Director Tom Holder

Supplemental Information Provided By Applicant

Letter dated December 10, 2012 from David Faist, Faist Engineering re: how the definitive plan complies with the provisions of the OSRD special permit.

Application to the Medway Historical Commission dated February 5, 2013 pursuant to Medway's Demolition Delay Bylaw – Notice of Intent to Demolish a Historically Significant Building (6 Neelon Lane), prepared by Paul Yorkis and submitted to the Planning and Economic Development Board on 2-21-2013. This was followed by submittal on April 26, 2013 of a determination by the Medway Historical Commission dated 3-26-13 that the subject building was not "historically significant" and could be demolished.

Memo dated February 4, 2013 from Paul Yorkis re: landscape plans for foundation plantings

Letter dated February 20, 2013 (*with attachments*) from David Faist, Faist Engineering in response to Tetra Tech review letter dated December 21, 2012.

Letter dated February 21, 2013 from Paul Yorkis in response to the PGC Associates' review letter dated January 3, 2013.

February 21, 2013 Letter with photographs from S. G Brody Landscaping re: condition of trees along Neelon Lane

Revised landscape plan including rain garden landscaping design provided February 22, 2013 by David Faist, Faist Engineering

Collection of photographs of trees on Neelon lane – provided by Paul Yorkis at the February 22, 2013 public hearing.

Letter dated February 25, 2013 from Paul Yorkis in response to the DRC review letter dated February 18, 2013.

Email communication dated March 4, 2013 from Paul Yorkis with sample cottage style housing elevation prepared by Anson Courtright, AIA dated March 4, 2013.

Letter dated March 11, 2013 from Daniel O'Driscoll, PLS regarding the location of a tree at the southwest corner of Village Street and Neelon Lane.

Letter dated March 19, 2013 from Paul Yorkis discussing "cottage style" homes.

Citizen/Resident Communications

Letter dated January 28, 2013 from Ken and Terri Bancewicz, owners of 223 Village Street

Supplemental Information Entered Into the Record by the Planning and Economic Development Board

Charles River Village OSRD and Affordable Housing Special Permit issued by the Medway Planning and Economic Development Board on March 30, 2011 and the Charles River Village OSRD Concept Plan dated July 28, 2010, last revised August 20, 2012 as endorsed by the Planning and Economic Development Board on August 28, 2012.

Email communication dated January 15, 2013 from Susan Affleck-Childs to Paul Yorkis re: impact of not constructing two affordable dwelling units on site and making a payment in lieu of construction

Memo dated March 4, 2013 from Susan Affleck-Childs to Medway Affordable Housing Trust re: the possibility of allowing the developer to make a payment to the Medway Affordable Housing Trust in lieu of constructing two affordable dwelling units on site.

IX. PUBLIC HEARING SUMMARY: The public hearing and review of the *Charles River Village Open Space Definitive Plan* was conducted over the course of five Planning and Economic Development Board meetings (*1-8-13, 1-22-13, 2-19-13, 2-26-13 and 3-19-13*) during

which substantive information was presented, evaluated and discussed. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005.

Citizen/Resident Testimony

Ken Bancewicz, 223 Village Street
Richard DiIulio, 7 Massasoit Street
Susan DiIulio, 7 Massasoit Street
Joanne Kramer, 231 Village Street
Resident, 9 Neelon Lane

Professional Review/Testimony

Gino Carlucci, AICP, PGC Associates, Inc.
David Faist, PE, FAIST Engineering
Paul Yorkis, Patriot Real Estate
David Pellegrini, PE, Tetra Tech Rizzo, Inc.

Other Testimony

Representative of the Charles River Tennis Club

X. PROJECT EVALUATION CRITERIA – Before taking action on a Definitive Plan, the Board must evaluate the proposed development according to the criteria as specified in Section 5.16 of the *Subdivision Rules and Regulations*.

At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, a motion was made by Chan Rogers and seconded by Bob Tucker to approve the Project Evaluation *Findings* noted below as conditioned and approved by this Certificate of Action. The motion was approved by a vote of 4 in favor (Rodenhiser, Rogers, Spiller-Walsh and Tucker) and 0 opposed.

5.16.1 Completeness and technical accuracy of all submissions.

Findings – The staff and consultants have reviewed the submitted information and the applicant and its development team have provided additional submissions, information and revisions as requested. Therefore, the Planning and Economic Development Board finds that this criterion is met.

5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

Findings – The proposed reconstructed Neelon Lane will be widened (*presently it has a variable 14' paved width*) and extended with a cul-de-sac at its end. Its pavement is widened to eighteen feet for most of its length but will be widened to twenty feet for the first thirty-five feet from the intersection with Village Street. Sight distances and street lighting on Village Street have been determined to be adequate.

Charles View Lane, the private roadway serving the new dwelling units will also be eighteen feet wide paved and includes a one-way loop at its end. The Cape Cod berm

provides a minimum paved surface of 20 feet for the entire length of the road. Off the loop is an emergency access connecting to Cherokee Lane. The roadway is of adequate width for the properties served. Therefore, the Planning and Economic Development Board finds this criterion is met.

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

Findings – As an OSRD, the project is limiting disturbance of the natural area and development is kept outside the wetlands and flood plain areas of the site. As mentioned above, the roadway design does not pose a traffic hazard and it includes an emergency access with Cherokee Lane. Therefore, the Planning and Economic Development Board finds this criterion is met.

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environmental, which damage could be avoided or ameliorated through an alternative development plan.

Findings – As an OSRD, the proposed development does represent an alternative development style that limits damage to the environment and preserves open space along the Charles River, which is a priority in Medway's Open Space & Recreation Plan and its Master Plan. Therefore, the Planning and Economic Development Board finds this criterion is met.

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

Findings – The proposed new roadway has adequate width and adequate sight distance and includes an emergency access with Cherokee Lane. The Cape Cod berm provides a minimum paved surface of 20 feet for the entire length of the road. It has been reviewed by the Medway Police and Fire Departments and has been determined to be adequate for the provision of emergency services. Therefore, the Planning and Economic Development Board finds this criterion is met.

5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.

Findings – The 7.61 acre site is located along the Charles River so it qualifies for an OSRD as required by the Zoning Bylaw. The project provides 4.18 acres of open space, which exceeds the 50% minimum required and also meets the minimum when easement areas and wetlands and floodplain areas are taken into account. The area of uplands within the open space is 3.42 acres, meeting the required minimum of 3.42

acres. Since this is a condominium development and no individual house lots are being created, there are no area and frontage standards for the individual dwelling units. The plan shows the proposed footprints that meet the required separation distances from open space and from each other. Therefore, subject to the conditions below, the Planning and Economic Development Board finds this criterion is met.

5.16.7 Consistency with the purposes of the Subdivision Control Law.

Findings – The proposed development will result in a new road that meets the applicable safety and construction standards. The Cape Cod berm provides a minimum paved surface of 20 feet for the entire length of the road. The stormwater drainage system also complies with applicable regulations and minimizes impacts. Therefore, the Planning and Economic Development Board finds that this criterion is met.

XI. OTHER FINDINGS – In accordance with the Medway Zoning Bylaw, SECTION V. USE REGULATIONS, Sub-Section T. Open Space Residential Development (OSRD), paragraph 12. 3), the Planning and Economic Development Board makes the following additional findings regarding this application:

- A. The Charles River Village OSRD Definitive Plan (*last revised February 15, 2013*) and to be revised as conditioned herein substantially complies with the previously approved OSRD Concept Plan dated July 28, 2010 (*last revised August 20, 2012*). The differences of note are:
- 1) The Definitive Plan shows eleven dwelling units instead of thirteen units. The previously approved two affordable housing units will not be constructed; instead the applicant will make a series of payments to the Medway Affordable Housing Trust,
 - 2) The roadway layout area for Charles View Lane is shown at 40' wide instead of 30' wide.
 - 3) The paved width of the first 35 feet of Neelon Lane to be reconstructed repaved is 20 feet instead of 18 feet

NOTE – The above specified differences are also addressed in the revised Special Permit Decision and associated modified OSRD Concept Plan dated 2-5-2013 as approved by the Planning and Economic Development Board on 4-9-2013.

- B. All Conditions of Approval specified in the March 30, 2010 Charles River Village Special Permit Decision have been addressed to the satisfaction of the Planning and Economic Development Board by conditions of this Certificate of Action, by the Charles River Village OSRD Definitive Plan dated February 15, 2013 as will be revised in accordance with this Certificate of Action, and the modified Charles River Village Special Permit Decision dated 4-9-2013.
- C. Paragraph 8, item 3 of the OSRD section of the *Medway Zoning Bylaw* – Adjustment of Dimensional Requirements specifies that the average separation between single family detached dwelling units of more than 2,500 sq. ft. of habitable space must be at least 30 feet. According to the review letter dated January 3, 2013 from Medway's planning

consultant, Gino Carlucci, the average distance between the structures as shown on the November 20, 2012 proposed definitive plan is 31.8 feet. A review of the revised February 15, 2013 definitive plan indicates the average distance between the structures to be 29.1 feet. Please see Condition #10 to address this matter.

- D. It is the applicant's intent that the planned extension of Neelon Lane and its turnaround will be owned by the Charles River Village condominium association but will function in a manner as if it were a public way. An access and maintenance easement in favor of the Town will be provided (See Condition #6).

XII. WAIVERS TO SUBDIVISION RULES AND REGULATIONS – The applicant has requested and the Board has identified the need for waivers from the following sections of the *Subdivision Rules and Regulations*. In acting on any waiver request, the Board may impose conditions, safeguards and limitations in the best interest of the Town of Medway.

The following list includes the specific *Subdivision Rules & Regulations* from which waivers have been requested and one additional regulation from which a waiver needs to be considered.

SECTION 5 - CONTENTS OF DEFINITIVE PLAN

Section 5.5.14 ***An ANRAD determination from the Medway Conservation Commission certifying the limit of all wetland and adjacent upland resource areas within the proposed subdivision and up to one-hundred fifty feet (150') beyond the property line of the subdivision shall be submitted (as part of the definitive plan application)***

Explanation – The applicant has requested a waiver from this regulation. They have represented that there is no activity proposed within 136' of any Wetlands Resource Area on this site. The entire development area is outside both the 100' wetlands buffer zone and the 200' riparian zone associated with the adjacent Charles River. This representation has been verified by O'Driscoll Land Surveying Company and is documented on the Charles River Village OSRD Definitive Plan.

Findings – The Planning and Economic Development Board finds the waiver is justified because sufficient information has been provided to document that no work will take place within the jurisdictional area of the Medway Conservation Commission.

Section 5.7.19 ***Proposed Layout of Electric, Telecomm, Gas, & Cable TV Utility Lines is to be shown on the definitive plan.***

Explanation – The applicant requests a waiver from this regulation as it is not possible to show these locations on the definitive plan. NSTAR is the utility in the Town of Medway that prepares the initial design for underground utilities for electric, phone, and cable service; Verizon and Comcast follow the NSTAR design. NSTAR does not begin the design process until it receives three copies of the endorsed plans. The underground utility services will be shown on the as-built plans.

Findings – The Planning and Economic Development Board finds that sufficient information has been provided for the Board to generally understand how the underground utilities will be provided. The applicant will provide the Planning and Economic Development Board with a copy of the NSTAR utility plan once it is completed.

Section 5.20.2 (a) *A restrictive Covenant shall be executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be completed to serve any lot before such lot may be built upon or conveyed.*

Explanation – As this is a condominium development, there is only one “house lot” which will include all eleven dwellings. The applicant has requested that the ways and services not be required to be completed before such lot may be built upon. Instead, the applicant seeks permission to be authorized to apply for one building permit to construct one model house.

Findings – The Planning and Economic Development Board finds that this variation is acceptable because public safety will not be jeopardized as no occupancy will be involved. The standard Covenant will need to be revised to allow for construction to begin one building before the way and services are fully completed. No release from the Covenant will be required before a building permit is issued for the first structure.

SECTION 6 - ADMINISTRATION OF APPROVED DEVELOPMENTS

Section 6.4.1 *No building permit shall be issued within a subdivision without written permission from the Board by release of covenant, bond, or securities resulting from the fulfillment of developer obligations.*

Explanation – The applicant requests authorization to allow one building permit to be issued to construct a model house (unit #1 as shown on the definitive plan) before the Board releases the covenant, bond or securities and to allow the Building Commissioner to issue an occupancy permit upon completion of the driveway (roadway) basecoat.

Findings – The Planning and Economic Development Board finds that this waiver is acceptable because public safety is not jeopardized as no occupancy is involved. However, the minimum improvements specified in 6.6.3 shall be completed before a building permit is authorized for any additional structures.

Section 6.8.1 *Street Acceptance: Legal Description, Deeds, & Easements*

Explanation – Applicant requests a waiver from this regulation as the development roadway be a Private Roadway when constructed and therefore these items are not needed.

Findings – The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.2 Street Acceptance/Infrastructure Acceptance Fee

Explanation – Applicant requests a waiver from this regulation. As the development roadway will be a Private Roadway when constructed, the Town will not be accepting the road as a public way and therefore, the requirement for a street acceptance fee does not apply to this development. Therefore, no fee is needed.

Findings – The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.3 Street Acceptance Plan

Explanation – The Applicant requests a waiver from this regulation. As the development roadway will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, the requirement for a street acceptance plan does not apply to this development. Therefore, a street acceptance plan is not needed.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.4 Pre-Acceptance Inspection & Review by Other Town Boards

Explanation – The Applicant requests a waiver from this regulation. As the development roadway will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the various town boards and departments do not need to conduct such inspections.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.6 Street Acceptance - Planning Board Recommendation

Explanation – The applicant requests a waiver from this regulation. As the development roadway will be a Private Roadway when constructed and the Town will

not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Planning Board does not need to make any recommendation regarding street acceptance.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.7 **Street Acceptance Town/Meeting Warrant**

Explanation – The applicant requests a waiver from this regulation. As Charles View Lane will be a permanent private roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, this matter does not need to be included on a warrant for town meeting consideration.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.8 **Street Acceptance/Board of Selectman Establish Roadway Layout**

Explanation – The applicant requests a waiver from this regulation. As the Charles View Lane will be a permanent private roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore, the Board of Selectmen does not need to approve a roadway layout.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.9 **Approval of Street Acceptance Plans**

Explanation – The applicant requests a waiver from this regulation. As Charles View Lane will be a permanent private roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action to approve a street acceptance plan is needed.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.10 **Street Acceptance/Town Meeting Acceptance**

Explanation – The applicant requests a waiver from this regulation. As Charles View Lane will be a permanent private roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. Therefore no action is required at a Town Meeting.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

Section 6.8.11 **Street Acceptance/Recording of Street Acceptance Plan**

Explanation – The applicant requests a waiver from this regulation. As the development roadway will be a Private Roadway when constructed and the Town will not be accepting this roadway as a public way, this requirement does not apply to this development. As no action will be taken by the Board of Selectmen, Planning Board, or Town Meeting, no recording is necessary.

Findings - The Board is agreeable to waiving these requirements since neither the extension of Neelon Lane nor Charles View Lane, will be proposed for acceptance as a public way.

SECTION 7. CONSTRUCTION STANDARDS

Section 7.7.2 p) **Stormwater Management – Detention and retention basins and underground infiltration systems and any related drainage structures shall be located on separate parcels and shall not be included on individual house/building lots. The limits of detention and retention basins and related structures shall not be closer than thirty feet (30') from its lot/parcel line and any right-of-way.**

Explanation – A waiver is needed from this regulation because stormwater basins #1 and #2 are located on the condominium's one development parcel along with all of the residential dwelling units. Further, the cul-de-sac island at the end of the extended Neelon Lane which includes a rain garden for drainage is located within the Neelon Lane right of way.

Findings – Since this is a condominium development with no individual house lots, street right-of-ways, or other parcels, and because the entire development will be owned by the condominium association, the Planning and Economic Development Board finds it is reasonable to waive this requirement and allow the detention basins to be part of the single development parcel.

Section 7.7.4 d) Stormwater Management Construction – An independent drainage system shall be provided to collect and discharge subsurface runoff from the foundation perimeter drains for the houses along the proposed roadway.

Explanation – The applicant seeks a waiver from this regulation. The drainage system has been designed to adequately treat and discharge all stormwater in accordance with Mass DEP standards. The foundations are to be set a minimum of 6” above the water table so foundation drains may not be required by the Building Department. No separate independent system is needed for foundation perimeter drains.

Findings – The Planning and Economic Development Board finds that stormwater has been adequately addressed based on a review from the Town’s consulting engineer and the Department of Public Services. If foundation drains are required by the Building Department, they shall discharge to daylight and not connect to the subsurface drainage structures.

Section 7.9.1 (e) Use of Local Street construction standards for subdivisions of six and more lots/dwelling units.

Explanation - The Applicant requests a waiver from this regulation to allow the construction of Charles View Lane to not be built to the construction standards for a Local Street. Although the development roadway will serve eleven dwelling units, the roadway will be a permanent private way. Instead the roadway will be built to the construction standards provided on the definitive plan.

Findings – Since Charles View Lane is to be a permanent private roadway owned and maintained by the condominium association in perpetuity, the Planning and Economic Development Board finds this waiver is acceptable. The roadway standards specified on Detail Sheet #1 – that is a 12 gravel base (including 8” of gravel borrow topped by 4” of dense graded crushed stone), 1 ½” binder course and a 1 ½” finish course, with a width of 20 feet for the first 35 feet of Neelon Lane from Village Charles and the remaining roadway width of 18’, are acceptable. Including the Cape Cod berm on both sides of the road, the minimum paved surface width for the entire length of the road will be 20 feet.

Section 7.9.4 (a) The minimum right of way width of any permanent private way, neighborhood, minor or secondary street will be fifty feet.

Explanation – The applicant requests a waiver from this regulation for the construction of Charles View Lane. The roadway will be a permanent private way to be owned by the Charles River Village Condominium Association. The roadway is planned to be paved to an eighteen foot width and will be one way only around the loop. The roadway will not exist as a separate parcel but is incorporated into the development parcel. While there is not a separate right-of-way of any width per se, there is a functional ROW of 40 feet to allow for access.

Findings – The Planning and Economic Development Board finds that since Charles View Lane will be owned and maintained by the condominium association as a permanent private way in perpetuity, no separate right-of-way is needed and this waiver is acceptable.

Section 7.9.5 (a) Grade – The maximum centerline grade for any street shall not be less than two percent (2%).

Explanation – The proposed centerline grade at both the entrance and exit driveway will be at or approximately 1%. This grade is necessary to accommodate minimal grade changes at the site's entrance and storm water runoff conditions at the site exit due to similar grades along Neelon Lane and the relatively flat site topography.

Findings – The Planning and Economic Development Board finds that, due to the topography of the site, this waiver is acceptable. However, the centerline grade shall be a minimum of 1% to ensure proper drainage.

Section 7.9.6 (b) Dead End Streets – The maximum distance of a dead end street shall be six-hundred feet (600')

Explanation – The applicant proposes to rebuild and extend the existing Neelon Lane and construct an additional 577' long permanent private way loop road within the development site. This results in a dead end street of 1012 feet which is longer than the 600 feet allowed by the *Rules and Regulations*. An emergency access to Cherokee Lane from the shared driveway serving units 4, 5 and 6 will be constructed as part of the project.

Findings – The Board finds that this waiver has merit and appears to be reasonable for this particular site. The applicant has provided information from a traffic engineer indicating that the constructed Neelon Lane will be sufficient for the additional traffic generated by the development, and the emergency access to the development through Cherokee Lane will ensure that public safety vehicles have access to the site from 2 directions. Further, the design of the site minimizes impacts to the abutting neighborhood while also improving public access to the new open space along the Charles River.

Section 7.9.7. (g) Minimum Paved Roadway Width - 26' for a Local Street; 20' for a Neighborhood Street & 18' for a Private Way

Explanation – The applicant requests a waiver from this regulation. The proposed condominium development roadway will serve 11 homes and is planned to be a permanent private way. The size of the development would require the road to be paved to Local Street standards (26' wide) if it were to be accepted by the Town as a public way. However, the new roadway/driveway is planned to be a Permanent Private

Roadway. Medway Subdivision Standards for permanent private ways allow for a paved width of eighteen feet.

Findings – The Planning and Economic Development Board finds that the 18 foot width (and 20 feet for the first 35 feet from Village Street is adequate for Neelon Lane since it will be widened to that width from its current variable width of as little as 14 feet and the existing right-of-way constrains further expansion. Also, the private roadway will be 20' wide including the Cape Cod berm and will serve only this development and does not provide any through connection to another road.

Section 7.10.2 *Curbs/Berms - Sloped Granite Edging (Type S-B) for a Local Street*

Explanation – The applicant proposes to utilize a low impact drainage design to manage stormwater. The reconfiguration of the roadway pavement at the end of Neelon Lane will create a new cul-de-sac which will utilize a “rain garden” for the collection of stormwater runoff. The applicant proposes to use cape cod curbing around the outside edge of the cul de sac turnaround area. Either no curbing is planned or flush mounted curbing with a gravel strip will surround the island/rain garden. Cape cod curbing is planned along off of the edges of the edges of Charles View Lane.

Findings – The Planning and Economic Development Board finds that, since Charles View Lane will be a permanent private way to be owned and maintained by the condominium association in perpetuity, that this waiver is acceptable.

Section 7.11.2 *Catch Basins shall not be located within 14 feet of driveways.*

Explanation - The applicant requests a waiver from this regulation because the close proximity of each dwelling unit and the cluster design layout of the development make it difficult to provide 14 feet of separation between the driveways and catch basins.

Findings – The Planning and Economic Development Board finds that the compact nature of the development, which allows for the provision of more than 4 acres of open space along the Charles River, makes this requirement difficult to comply with and therefore a waiver is acceptable.

Section 7.13.2 *Sidewalks shall extend the full length of the street and around the perimeter of a cul de sac with pedestrian ramps at both sides of the cul-de-sac entry. For a Local Street, they shall be six feet wide on one side – Hot Mix Asphalt with a minimum six and one-half foot grass strip.*

Explanation – The applicant requests a waiver from this regulation and does not plan to install any sidewalks or pedestrian pathways. The proposed development roadway will serve 11 homes and its sidewalk would need to be constructed to Local Street standards the road was to be accepted by the Town as a public way. However, the

roadway is planned to be a Permanent Private Roadway to be owned and maintained by the condominium association.

Findings – The Planning and Economic Development Board finds that, due to the compact nature of the development, which allows for the provision of more than 4 acres of open space along the Charles River, the minimum traffic within the development, the fact that new trail connections will be made within the open space, and that a pedestrian connection/emergency access with Cherokee Lane will be provided, this waiver is acceptable.

Section 7.13.3 ***Sidewalks shall be provided along the entire frontage of the subdivision parcel along existing Town ways . . . (or make a payment in lieu of sidewalk construction to the Town of Medway for offsite sidewalk construction.)***

Explanation – The applicant requests a waiver from this regulation. The applicant states that presently there are no sidewalks on Neelon Lane nor are any proposed due to the narrowness of its existing 25' right of way.

Findings – The Board finds that this parcel does have frontage along 3 public ways – Cherokee Lane, Massasoit and Riverview Streets, for a total of 92 feet. The parcel also has 25 feet of frontage on Neelon Lane. Total frontage on a public way = 117 feet. However, providing a sidewalk along the separate short segments is impractical. As has been the Board's practice, in lieu of providing sidewalks, the applicant will be required to contribute to the Town's sidewalk fund an amount equal to the cost of building 117 feet of sidewalk. See Condition #13.

Section 7.17.1 ***A fire alarm system shall be installed in accordance with the specifications of and located as directed by the Medway Fire Department or a sum of money paid to the Town equal to the cost of installing a fire alarm system within the subdivision, for use by the Fire Department for capital purchases.***

Explanation – The Fire Department does not wish to have subdivision developers continue to install outdated fire alarm system. The Board usually requires an applicant to make a payment in lieu of.

Findings – The Town Accountant has determined that the Town does not have the legal authority to collect funds for such a fund. Accordingly the Fire Department has ceased its requests for a payment in lieu installing a fire alarm system. Therefore, this regulation can no longer be enforced. The Board hereby waives compliance with this particular regulation.

Section 7.19.2 *Street Trees shall be planted on each side of the street (at least three trees per lot).*

Section 7.19.4 *At least three species of approved street trees shall be planted and shall be staggered so that no one species shall be planted net to a like species.*

Explanation - The applicant requests a waiver from these regulations. This development will not be divided into individual house lots. Instead there will be one development parcel with eleven residential structures.

Findings – The applicant has submitted a planting plan for the entire project. That plan shows the planting of 10 street trees along Charles View Lane and depicts the use of two species (northern red oak and sugar maple). The Board finds this to be an acceptable alternative and the waiver is granted.

Action on WAIVER FINDINGS - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, a motion was made by Chan Rogers and seconded by Bob Tucker to approve the above noted Waiver Findings as modified during the meeting. The motion was approved by a vote of 4 in favor (*Rodenhiser, Rogers, Spiller-Walsh and Tucker*) and 0 opposed.

Action on WAIVER REQUESTS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, a motion was made by Chan Rogers and seconded by Bob Tucker to grant the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was approved by a vote of 4 in favor (*Rodenhiser, Rogers, Spiller-Walsh and Tucker*) and 0 opposed.

XIII. WAIVERS FROM OSRD Section of the MEDWAY ZONING BYLAW

The applicant has requested waivers from the following provisions of the OSRD Section of the Medway Zoning Bylaw.

Paragraph 8 – Adjustment of Dimensional Requirements, f) Garage doors facing the street shall be set back a minimum of five feet (5') more than the front wall of the principle building. No more than 50% of the garage doors within an OSRD shall face the street from which the dwelling unit is accessed. These requirements may be waived by the Planning and Economic Development Board for corner lots where the garage doors face a different street than the front of the house or for other extraordinary circumstances that the Board deems to be in the Town's best interests.

Explanation - The applicant requests a waiver from the provision regarding the 5 ft. garage setback for a maximum of two dwelling units. A waiver is also needed as more than 50% of the garage doors within the development face the street from which the dwelling is accessed.

Findings – The Planning and Economic Development Board finds that it is reasonable to waive this requirement for two out of eleven dwelling units in light of the open space

provided and the dimensional requirements of the bylaw. It does not appear that more than 50% of the garage doors face the street. However, if house plans change, the Board is agreeable to allowing six garages to face the same street as the front of the house.

Action on WAIVER FINDINGS - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, a motion was made by Chan Rogers and seconded by Bob Tucker to approve the above noted Waiver Findings as modified during the meeting. The motion was approved by a vote of 4 in favor (*Rodenhiser, Rogers, Spiller-Walsh and Tucker*) and 0 opposed.

Action on WAIVER REQUESTS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on May 14, 2013, a motion was made by Chan Rogers and seconded by Bob Tucker to grant the above noted Waiver from the OSRD provisions of the *Medway Zoning Bylaw*. The motion was approved by a vote of 4 in favor (*Rodenhiser, Rogers, Spiller-Walsh and Tucker*) and 0 opposed.

XIV. CONDITIONS – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

Specific Conditions

1. It is expressly understood that this condominium development is authorized for Parcels A and B as shown on the OSRD Definitive Plan and shall have no more than eleven single family detached dwelling units. As a permanent condition of this plan, no further subdivision of the property will be allowed.
2. **Ownership/Maintenance of Common Areas**
 - A. Charles View Lane, the various utilities including water, sewer and stormwater drainage facilities shall be owned and maintained for the Charles River Village Condominium Trust. Note that the special permit for this development specifies that these facilities will not be accepted by the Town of Medway.
 - B. The Board requires that the following aspects of the development shall be and shall remain forever private, and that the Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of same:
 - 1) Charles View Lane
 - 2) Stormwater management facilities
 - 3) Sewer
 - 4) Water
 - 5) Snowplowing/sanding
 - 6) Landscaping
 - 7) Street lights
3. **Timetable for Completion** – Notwithstanding the provisions of the Charles River Village Special Permit, the Applicant shall complete construction of the roadway and all

related infrastructure including the stormwater management system, and install all utilities as shown on the OSRD Definitive Plan, to the satisfaction of the Planning and Economic Development Board, within three years of the date of endorsement of the definitive plan. A request to extend the completion time limits must be made in writing to the Board at least thirty days prior to said expiration date. The Board reserves its right and power to grant or deny such extension, to make any appropriate changes to this decision, and to require any appropriate modifications of the OSRD Definitive Plan.

4. **OSRD Definitive Plan Revisions** - Prior to plan endorsement, the Charles River Village OSRD Definitive Plan dated February 15, 2013 shall be further revised as follows:

- A. Sheet 1 - Title Sheet
 - 1) The final plan revision date
 - 2) The list of Waivers approved herein
 - 3) Reference to the OSRD Concept Plan dated August 20, 2012 and the Modification to the Special Permit dated April 9, 2013 with recording information specified for each.
 - 4) Note #5 should be revised to specify that the water and sewer service within the development will be privately owned and maintained by the condominium association.

- B. Sheet 14 – Planting Plan
 - 1) A note shall be added indicating that the existing natural vegetation shall be retained along the border to the house to the east (9 Neelon Lane).
 - 2) A note shall be added to indicate that plantings will also be installed around all utility boxes for screening purposes.
 - 3) A note shall be added to indicate that a suitable landscape treatment will be installed between each home.

- C. Sheet 16 – Conceptual Building Elevations
 - 1) Information regarding the approved siding and color palette shall be added as a note as follows: *Georgia Pacific Forest Edge vinyl siding (or equivalent). Authorized Colors – All standard and premium colors noted except Pearl and Cream. Varied color combinations to be used for siding, shutters and trim.*
 - 2) The four building elevations for House Style D dated March 4, 2013 by Anson Courtright AIA shall be incorporated.

- D. Revise the plans at the CI outlet that discharges to the swale down Cherokee Lane. Adjust the angle of the pipe to point away from the abutter’s property.

- E. The surface treatment of the emergency access from Cherokee Lane shall be designed to accommodate vehicles with a weight of at least 75,000 pounds. A note shall be added to the plans indicating that this is the case.

- F. The planned extension of Neelon is intended to remain in the ownership of the condominium association but with an access and maintenance easement in favor of the Town (*See Condition #6*).

- G. A note shall be added to all sheets indicating that the development is subject to a covenant to be recorded at the Registry of Deeds.
- H. A note shall be added to the plans to label the access and maintenance easement on the extension of Neelon Lane within the area shown on Sheet 2.

The plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Planning and Economic Development Board will endorse the OSRD definitive plan.

- 5. **Unit Deeds** – Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of a sample deed to be used to convey each dwelling unit for review, comment, amendment and approval by Town Counsel. The deed shall clearly state that the Charles River Village Condominium Trust shall own and be responsible for the maintenance and upkeep of Charles View Lane, a permanent private way, the stormwater management system, and all property located on Parcel A as well as being responsible for the maintenance and upkeep of the Open Space Parcel B as shown on the definitive plan.
- 6. **Easements** – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the following proposed easements for review, comment, amendment and approval by Town Counsel.
 - A. to allow public use and passage on Charles View Lane in order to access Open Space Parcel B; and
 - B. to allow public access and maintenance by the Town on the extension of Neelon Lane within the area shown on Sheet 2 of the plans as revised through February 15, 2013.
- 7. **Open Space Parcels** – Open Space Parcel B shall remain as permanent open space accessible to the general public. The Conservation Commission, at its February 17, 2011 meeting, agreed in principle to receive on behalf of the Town of Medway the conveyance of Open Space Parcel B for open space/conservation purposes.
 - A. Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey the Open Space Parcel to the Town of Medway through its Conservation Commission . Said deed shall be prepared to the satisfaction of Medway Town Counsel.
 - B. Open Space Parcel B shall be conveyed to the Town through its Conservation Commission prior to the issuance of an occupancy permit for the 11th unit. Prior to the conveyance of Parcel B to the Town, the Charles River Village

Condominium Trust or its assigns shall provide a pathway/trail on Open Space Parcel B to the satisfaction of the Planning and Economic Development Board.

- C. If Open Space Parcel B is not conveyed to the Town of Medway through its Conservation Commission, another entity acceptable to the Planning and Economic Development Board must agree to the land ownership. If conveyed to another entity or if retained by the condominium association, a conservation restriction in compliance with the Open Space Residential Development (OSRD) provisions of the Medway Zoning Bylaw and acceptable to the Planning and Economic Development Board is required.
 - D. It is understood that the construction of trails on Open Space Parcel B may occur in the future by other parties subject to appropriate approvals. This condition does not require nor specifically allow the Charles River Village Condominium Association to construct additional trails on the Open Space Parcel.
 - E. The Charles River Village Condominium Association will be responsible for the on-going upkeep and maintenance of Open Space Parcel B. This shall include keeping the pathways free of weeds and debris (both natural and man-made) and the replacement of wood chips where necessary. All maintenance work performed on Open Space Parcel B after it has been conveyed to the Town shall be performed in accordance with all requirements of the Town of Medway, through the Director of the Department of Public Services. The Association will notify the Director of the Department of Public Services prior to performing any maintenance on the Open Space Parcel after it has been conveyed to the Town, and shall provide the Town with adequate evidence of insurance prior to performing maintenance work, and shall execute an agreement holding the Town harmless and indemnifying the Town for such maintenance work, and comply with any other directives and requirements of the Town in performing the maintenance work on the Open Space Parcel.
8. **Affordable Housing** – Pursuant to the modified Charles River Village OSRD Special Permit dated April 9, 2013, and in fulfillment of its affordable housing requirements under the Medway Zoning Bylaw (V. X. 3, 4 and 7), the applicant will make a payment of \$322,000 to the Medway Affordable Housing Trust in lieu of constructing two affordable dwelling units on the Charles River Village site. The payment schedule shall be as follows: \$29,291 shall be provided to the Trust at or prior to the closing on the sale of each market rate unit except that the total amount shall be paid in full before the Town issues a building permit for the last dwelling unit.
9. **Cottage Style** – The applicant has represented that Charles River Village shall be a cottage style development and has provided illustrative images of five cottage style houses on Sheet 16 of the plan set. The applicant has agreed to build house Style D for the first building as a model home; specific building elevations for house style D are to be included on Sheet 16.

The applicant has indicated that “cottage style” is also referred to as “Craftsman style”, “Arts and Crafts style”, “Stickley style” or “Bungalow style”. The applicant has specified that common elements of “cottage style” include:

- large front porch
- hipped, gabled or shed style dormers sometimes in combination
- double hung windows with multiple lights over single pane below
- casement windows
- siding that is lapped, clapboard or shingle.

The design of the other homes in Charles River Village shall be “cottage style” reflecting the above listed elements and shall be in harmony with Style D. All homes within Charles River Village shall be complimentary with one another in terms of “cottage style” design, features, architectural details and scale.

10. **Distance Between Dwelling Units** – Pursuant to the provisions of Paragraph 8 e) in the OSRD section of the Medway Zoning Bylaw, there must be an average distance of at least 20 feet between single family detached homes with less than 2,500 sq. ft. of habitable space and an average of at least 30 feet between single family detached dwelling units with more than 2,500 sq. ft of habitable space. The Building Inspector shall monitor this requirement. Accordingly, as each dwelling unit is constructed, the applicant shall provide the Building Inspector a certified plot plan of all the foundations installed to that point and document the average distance between them and indicate the available building footprint available on unbuilt lots in order to document that the required separation distance can be met as each new unit is constructed.
11. **Tree Preservation During Neelon Lane Improvements** - The applicant and its contractors will exercise all due care to minimize damage to the trees adjacent to Neelon Lane during its reconstruction/repaving. The applicant will retain a tree specialist to be available during the reconstruction of Neelon Lane to prune tree roots that may be exposed as a result of the roadway work.
12. **Landscaping**
 - A. **Buffers between buildings** – The planting plan do not show a landscaped buffer area between each residential dwelling and this is a requirement of the special permit. The applicant shall install a suitable landscape treatment between each home. The landscaping may vary depending on the building’s footprint, location of garage and driveway and the location of underground utilities.
 - B. **Utility boxes** - Plantings shall be installed around all utility boxes for screening purposes but shall not interfere with the function of the utility boxes or the underground cables.
13. **Sidewalk Construction** - The construction standards of the *Subdivision Rules and Regulations* require the installation of sidewalks along the subject property’s frontage on existing Town ways. The subject property’s frontage along Neelon, Cherokee, Massasoit and Riverview is 117 feet.

The Planning and Economic Development Board finds that sidewalk construction along the property's frontage with the above noted streets is not feasible or practical. Accordingly, to fulfill its responsibility to support sidewalk construction in Medway, the applicant or its assigns shall, in lieu of sidewalk construction, make a payment to the Medway Sidewalk Improvement Fund in an amount equal to the estimated cost for the Town to construct 117 linear feet of 5.5' width HMA sidewalk with a 12 gravel borrow subbase, in accordance with the Town's requirements per the Medway *Subdivision Rules and Regulations*.

The applicant shall provide the payment to the Town before the occupancy permit for the sixth dwelling unit is granted or within three years after the building permit for the first dwelling unit is issued, whichever comes first. At that time, the amount of the payment in lieu of sidewalk construction shall be determined by the Planning and Economic Development Board and shall be calculated based on the latest Weighted Average Bid Prices issued by Mass Highway in effect at that time. The present day estimate is \$3,347 as provided by Tetra Tech, the Town's Consulting Engineer (5/8/2013).

14. **Water Conservation** –The applicant shall install low flow toilets, faucets and showerheads in all dwelling units. Drought resistant species have been selected for the landscaping plan.
15. **Definitive Plan Endorsement**
 - A. The original drawings of all sheets of the final Charles River Village OSRD Definitive Plan shall be endorsed by the signatures of a majority of the Planning and Economic Development Board within ninety days after the statutory twenty day appeal period has elapsed following the filing of the Board's Certificate of Action with the Town Clerk and the Clerk has notified the Board that no appeal has been filed. If the final Charles River Village OSRD Definitive Plan is not submitted for endorsement within ninety days, this approval decision shall expire unless the deadline is extended at the developer's request by the Planning and Economic Development Board.
 - B. *Copies of Endorsed Plans* - Within thirty days after plan endorsement, the Applicant shall provide the Town with one set of the approved plans in 11" x 17" size and five sets in 24" by 36" paper format. The Applicant shall also provide the endorsed plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The applicant may be asked to pay any reasonable associated costs, to update the Medway GIS/Assessor's maps relative to this subdivision.
16. **Recording of Plans and Documents**
 - A. Within ninety days of plan endorsement, the following documents/plans shall be recorded at the Norfolk County Registry of Deeds:
 - 1) Charles River Village OSRD Definitive Plan
 - 2) Charles River Village OSRD Definitive Plan Certificate of Action

- 3) Covenant
 - 4) Certificate of No Appeal from the Medway Town Clerk
- B. Within thirty days of recording the OSRD Definitive Plan and associated documents with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.

17. Construction

- A. Maintenance Responsibility During Construction - The Applicant and/or the future Charles River Village Condominium Association shall provide for snow plowing, sanding and full maintenance of the extension of Neelon Lane and the full extent of Charles View Lane and all related infrastructure including stormwater management facilities throughout the entire construction process.
- B. The applicant shall not allow its contractors to use Cherokee Lane for access/egress to the site during construction with the exception of the work required to install the underground utilities including the water main and the sidewalk/gravel emergency access.

18. Building Permits

- A. No building permit shall be issued before the Planning and Economic Development Board endorses the Charles River Village OSRD Definitive Plan.
- B. The Planning and Economic Development Board authorizes the applicant to apply for a building permit to begin construction on unit #1 as a model house prior to installation of the base coat of paving (binder course) on Charles View Lane.
- C. Before the Board will authorize a building permit for the second structure, the following items, at a minimum must be installed on Charles View Lane and Neelon Lane Extension, and inspected and approved by the Board:
- 1) Roadway gravel subbase
 - 2) Roadway binder course
 - 3) Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltrations systems or any other stormwater management facilities.
 - 4) As-built plan of each detention pond and forebay and all critical elevations and details of the associated structures, pipes and headwalls.
 - 5) Street name signs in a size and form as specified by the Medway Department of Public Works, and all regulatory signs as specified on the approved OSRD Definitive Plan.
 - 6) Stop line pavement markings.
 - 7) Provisions for fire prevention and protection. Municipal water service to be constructed, installed and functional.

19. **Condominium Documents** - Prior to the issuance of an occupancy permit for the first unit in the development the following documents shall be recorded at the Norfolk County Registry of Deeds.
 - A. Charles River Village Condominium Master Deed, Bylaws, Rules & Regulations, and the Stormwater Operation and Maintenance and Management Plan
 - B. Declaration of Trust of the Charles River Village Condominium organization
20. **Development Identification Signage** – Any signage associated with identifying the Charles River Village Condominium development shall comply with the Medway Zoning Bylaw, Section V. Sub-Section R. Sign Regulations for a freestanding residential development sign.
21. **Performance Security**
 - A. *Covenant* - Prior to plan endorsement, the Applicant shall sign a *Covenant*, on a form provided by the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services, sidewalks and site amenities as specified in the approved OSRD Definitive Plan. Reference to the *Covenant* shall be noted on the cover sheet of the OSRD Definitive Plan. The *Covenant* shall specify that no unit may be occupied or conveyed until such services are completed or an alternative form of security is provided. The *Covenant* shall specify that the roadway and all infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three years of the date of plan endorsement. The *Covenant* shall be recorded at the Norfolk County Registry of Deeds at the same time the OSRD Definitive Plan and this Decision are recorded.
 - B. *Modification to Performance Security*
 - 1) At such time as the Applicant wishes to secure a building permit for the second structure within the development, the security provided by the *Covenant* shall be replaced by one of the types of performance guarantees set forth in M.G.L. Ch. 41, Section 81U, which method or combination of methods may be selected and from time to time varied by the applicant, in a sufficient amount, source and form acceptable to the Planning and Economic Development Board, the Treasurer/Collector and Town Counsel. The performance guarantee shall be accompanied by an agreement which shall define the obligations of the developer and the performance guarantee company including:
 - a. the date by which the developer shall complete construction
 - b. a statement that the agreement does not expire until released in full by the Planning and Economic Development Board
 - c. procedures for collection upon default.

- 2) *Amount* - The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the roadway and installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the OSRD Definitive Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so. The security amount shall be approved by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the roadways and infrastructure in the event the developer fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a twenty-five percent (25%) contingency.
- C. *Reduction of Performance Guarantee* – At the developer's written request, the amount of the performance guarantee may be reduced from time to time over the course of the construction project by vote of the Planning and Economic Development Board upon the partial completion of the roadways and infrastructure improvements as defined herein. In order to establish the amount to adjust the performance guarantee, the Town's Consulting Engineer shall prepare an estimate of the current cost for the Town to complete all work as specified on the Charles River Village OSRD Definitive Plan that remains unfinished at the time the estimate is submitted to the Board. The estimate shall be based on unit prices in the latest Weighted Average Bid Prices issued by the MassHighway Department. The estimate shall also include the cost to maintain the roadways, stormwater management system and other infrastructure in the event the developer fails to adequately perform such. The estimate shall reflect the cost for the Town to complete the work as a public works project, which may necessitate additional engineering, inspection, legal and administrative fees, staff time and public bidding procedures. In determining the amount of the adjustment of the performance guarantee, the Board shall be guided by the following formula to determine the reduction amount: the estimate of the Town's Consulting Engineer of the cost to complete the work; plus a twenty-five percent (25%) contingency.
- D. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.
22. **Street Acceptance** – It is the intent that neither the extension of Neelon Lane nor Charles View Lane will be accepted by the Town, and that Charles View Lane will become a permanent private way.

23. **Project Completion**

- A. As-Built Plans – Upon completion of all work included on the plan and specified in the Decision, the Applicant shall prepare and provide as-built construction plans of the roadways, utilities and other infrastructure prepared in accordance with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, determined to be complete and approved by the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors. The Applicant may be directed to pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/ Assessor’s maps relative to this development.
 - B. Certification of Completion and Compliance – A Letter of Completion and Compliance signed under oath by the developer and signed and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts, who shall attest and certify that all facets of the subdivision work including roadway and all infrastructure was constructed and completed in strict compliance with the approved and endorsed Charles River Village Condominium OSRD Definitive Plan and the *Subdivision Rules and Regulations*, shall be provided to the Board.
 - C. Conveyance of Open Space Parcel B to the Town of Medway
 - F. Proof of taxes paid to the Town of Medway for all property owned by Charles River Village LLC and the Charles River Village Condominium Association.
 - G. Sign-offs from the Planning and Economic Development Board, the Town’s Consulting Engineer, Medway Department of Public Works, Medway Fire Department, Medway Police Department and other Town departments/boards/committees with jurisdiction.
24. All other provisions/conditions of the original Charles River Village Special Permit and as modified shall also apply to this Decision.

General Conditions

- 25. **Expiration of Appeal Period** - Prior to plan endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty day appeal period from the Town Clerk’s office.
- 26. **Payment of Balance of Fees/Taxes** - Prior to plan endorsement, releases, security adjustments or plan modifications, the Applicant shall pay the balance of any outstanding plan review and construction services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations or fees due the Town of Medway pertaining to these properties. The Applicant shall also provide proof from the Medway Town Treasurer/Collector that all real estate taxes are current to that date for all property included in this development.

27. **Construction Account** – Inspection of roadway, infrastructure and utility construction by the Town’s Consulting Engineer and review of legal documents by Town Counsel is required. Prior to plan endorsement, the Applicant shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer. A construction account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway, for reasonable construction inspection and legal services, upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed, municipal services are installed, the as-built plan is reviewed and all legal documents associated with this development have been reviewed and determined to be satisfactory.
28. **Restrictions on Construction Activities** - During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads. The applicant and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following restrictions on construction activity shall apply:
- A. Outside construction shall not commence any day before 7 am and shall not continue beyond 6:00 p.m. including truck and machine start-up and movement.
 - B. There shall be no construction on any Sunday or legal holiday without the advance approval of the Board of Selectmen.
 - C. There shall be no off-site tracking of materials. Daily sweeping of roadways adjacent to the site shall be done to ensure that loose gravel/dirt does not create a hazardous or deleterious conditions for vehicles, pedestrians or abutting residents.
 - D. Blasting, if necessary, shall be limited to the hours between 9:00 am and 5:00 pm Monday through Friday.
29. **Modifications to Plan and/or Decision** – The Board, on its own motion on the petition of the Applicant or any person interested, may modify or amend or require a change in the Definitive Plan and/or the associated Certificate of Action. All of the provisions of the Medway *Subdivision Rules and Regulations* relating to the submission and approval of a plan shall be applicable to the approval of a modification or amendment to the Certificate of Action. Any changes are subject to the *Rules and Regulations* in effect at the time a modification or amendment is sought.
30. **Compliance**
- A. All construction shall be as specified in the approved OSRD Definitive Plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act

(Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

- B. The Planning and Economic Development Board shall use all legal options available to it, including referral of any violation to the Building Commissioner/ Zoning Enforcement Officer for appropriate enforcement action to ensure compliance with this Decision.

XVI. APPEALS – Appeals, if any from this Decision shall be made to the Superior Court or to Land Court in accordance with M.G.L. Chapter 41, Section 81BB, and shall be filed within twenty days after the date of filing of this Decision in the office of the Medway Town Clerk.

**CHARLES RIVER VILLAGE
OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)
DEFINITIVE PLAN
CERTIFICATE OF ACTION**

Date of Action by the Medway Planning and Economic Development Board:

May 14, 2013

AYE:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

NAY:

Date Signed: May 14, 2013

Attest: Susan E. Affleck-Childs
Susan E. Affleck-Childs
Planning and Economic Development Coordinator

May 16, 2013
Date

Date Filed with the Town Clerk: _____

- Copies To:**
- Stephanie Bacon, Health Agent
 - John Emidy, Building Commissioner
 - Doug Havens, Community Housing Coordinator
 - Thomas Holder, DPW
 - Suzanne Kennedy, Town Administrator
 - Jeff Lynch, Fire Chief
 - Will Naser, Assessor
 - Melanie Philips, Treasurer/Collector
 - Barbara Saint Andre, Petrini & Associates Town Counsel
 - Karon Skinner-Catrone, Conservation Agent
 - Jeffrey Watson, Police Safety Officer
 - Maryjane White, Town Clerk
 - Gino Carlucci, PGC Associates
 - Dave Pellegrini, Tetra Tech
 - Paul Yorkis, Patriot Real Estate
 - John Claffey, Charles River Village LLC
 - David Faist, Faist Engineering

