

May 14, 2013
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, Chan Rogers and Matthew Hayes.

ABSENT WITH NOTICE: Tom Gay

ALSO PRESENT: Susy Affleck-Childs, Planning and Economic Town Coordinator
Amy Sutherland, Meeting Recording Secretary
Gino Carlucci, PGC Associates

The Chairman opened the meeting at 7:00 pm.

There were no Citizen Comments.

Williamsburg: Receipt of Letter from Affordable Housing Trust:

The Board is also in receipt of a letter from May 6, 2013 from the Medway Affordable Housing Trust. (See Attached).

Douglas Havens, Medway’s Community Housing Coordinator, was present on behalf of the Affordable Housing Trust. It was communicated that the Williamsburg special permit condition of approval and the definitive plan certificate of action indicated that there needs to be an “Affordable Housing Agreement”. This needs to be executed and filed at the Registry of Deeds.

The Trust believes that no affordable housing Regulatory Agreement has been executed or filed at the Registry of Deeds and that no occupancy permits should have been issued to date.

The language of the condition needs to be cleaned up.

Susy Affleck-Childs indicated that the developer has submitted an application to modify the prior decisions to reduce the number of affordable units from 3 to 2. It was filed last week. The public hearing will take place at the June 11, 2013 meeting. The letter from the Trust has been forwarded to Town Counsel for review.

It was noted that the language does note such a requirement. The decision does call out that there needs to be three affordable units.

The Board discussed creating a check list to make sure this part of the affordability component does take place and is monitored. There is now a person who will take on the responsibility.

Certificate of Action for Charles River Village OSRD Definitive Plan:

The Board is in receipt of the draft decision for the Certificate of Action for the Charles River Village Open Space Residential Development Definitive Plan dated May 14, 2013. (**See Attached**)

The Board is also in receipt of an email from Paul Yorkis dated May 14, 2013 with comments regarding the draft decision. (**See Attached**).

Applicant John Claffey, engineer David Faist and surveyor Dan O’Driscoll were present for the discussion.

The Board along with the project team reviewed the draft Certificate of Action for Charles River Village. The term statutory way was discussed and Susy Affleck-Childs reported that Town Counsel advised that streets are not designated this way anymore. This type of road was a creation of past need before subdivision control. Town Counsel advises this language does not need to be included. The bulb at the end of Neelon Lane will be part of the CRV homeowner’s association with an easement for the town. The ownership would remain with the condo association and there could be an easement for maintenance. This could be a separate parcel, but it may not need to be. This could be noted on the plan with stations. The road will have station numbers, why not provide this information and refer to it in decision. Consultant Carlucci will provide language on this.

The next issue was regarding the review email from Fire Chief Jeff Lynch noting the road should be 20 feet wide.

Susy Affleck-Childs placed a call to the Fire Chief and reported that he does want the roadway to be 20 feet. The Board decided to remove all sections in the draft decision relating to the Fire Chief and pavement width.

The Board finds that the 18 ft paved width and the 2 ft Cape Cod berm totals 20 feet. The adding of the paved Cape Cod berm gives a total of 20 ft. of paved surface. This meets the standards as set.

On the top of page 7, member Spiller-Walsh wants more language to specify the widening of the road.

On page 9 (c), the Board discussed how the dimensional requirements will be monitored. John Claffey communicated that Dan O’Driscoll will be monitoring this since the as-built will be stamped and we will indicate the markings. The building inspector will also monitor this. It should be noted that this should be measured by the foundation and principle buildings.

Gino Carlucci noted that a covered porch would count, but steps would not count.

The 30 feet separation between buildings is an average for flexibility in design.

Page 10: Section 5.6.3 will be deleted.

Page 11: Section 6.6.3 will be deleted.

Page 11: Section 6.8.1 – 6.8.6. The language regarding the statutory private way will be deleted.

Page 11: Section 6.8.10 -7.7.2 – This section will be changed to delete the language about the statutory private way.

Page 20: Four Step Design -- Wetland reference delete.

Page 22: Combine E. & G.

Page 23: E. Include language about using woodchips for the path from Mr. Yorkis email. Reference that the condo association will be responsible for maintaining.

Page 25: Include wording from the letter from the tree expert about the tree maintenance.

Page 27: Under #18, make sure the list for Neelon Lane is as Charles View Lane. These should be congruent.

Page 28: Under #19, include recorded by first closing.

Page 30: #22, delete this section.

Page 31 #27, delete this section.

Evaluation Findings:

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the project evaluation findings for Charles River Village.

Other Findings:

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the project findings for Charles River Village.

Action on Waiver Findings:

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the action on waiver findings as modified during the meeting on May 14, 2013 for Charles River Village.

Action on Waiver Requests:

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to grant the noted waivers from the Subdivision Rules and Regulations for Charles River Village.

Action on Waiver Requests (OSRD):

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the action on waiver requests from the OSRD provisions of the Medway Zoning Bylaw as modified during the meeting on May 14, 2013 for Charles River Village.

Vote of Board:

On made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the Charles River Village Plan as prepared by Faist Engineering subject to the specific and general conditions as specified herein and with waivers from Subdivision Rules and Regulations.

The applicant would like to be on the June 11, 2013 agenda for endorsement.

Lawrence Waste Site Plan, 49 Alder Street

The Board is in receipt of a punch list and bond estimate from Tetra Tech dated May14, 2013. (See Attached).

Lawrence Waste has not been provided with this estimate. It will be provided.

The punch list estimate included a list of outstanding items.

Member Tucker has questions about the unit cost prices. He does not think these are accurate. The estimate for mulch appears to be low.

Associate Member Hayes checked figures and believes that the number for the concrete is correct.

The estimate for the mulch was readjusted from \$3,000 to \$5,500.00.

Bond Estimate:

On a motion made by Karyl Spiller-Walsh, and seconded by Chan Rogers, the Board voted unanimously to set the bond amount for Lawrence Waste at \$11,502.00.

(Member Tucker abstained from vote)

Minutes:

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to accept the minutes from the April 23, 2013 meeting.

Plan Review Estimate – Medway Commons Site Plan Modification for Starbuck’s - 67 Main Street:

The Board is in receipt of the plan review estimate from Tetra Tech in the amount of \$4,370 for 67 Main Street. (See Attached.)

On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board voted unanimously to approve the site plan review fee for 67 Main Street for \$4,370.

OTHER BUSINESS:

Planning Consultant Gino Carlucci reported there will be a SWAP transit meeting on May 15, 2013.

Member Tucker noted that the Energy Committee would like to meet with the PEDB. Susy will set up a meeting with the Energy Committee.


The Chairman thanked Chan Rogers for his service to the Town. Tonight is Chan's last meeting as a member of the PEDB as he chose not to run again.

Adjourn:

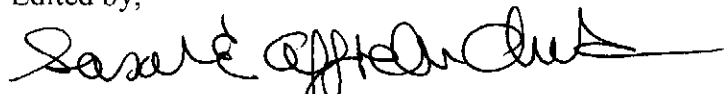
On a motion made by Chan Rogers, and seconded by Karyl Spiller-Walsh, the Board voted unanimously to adjourn the meeting.

The meeting adjourned at 8:56 pm.

Respectfully Submitted,


Amy Sutherland
Recording Secretary

Edited by,


Susan E. Affleck-Childs
Planning and Economic Development Coordinator



RECEIVED
MAY 06 2013

TOWN OF MEDWAY
PLANNING BOARD

TOWN OF MEDWAY
Affordable Housing Trust

Michael Heineman, Esq. *Chair* - Ann Sherry, *Vice Chair* - Douglas Havens, *Community Housing Coordinator*

May 6, 2013

Paul Yorkis, President
Williamsburg Condominium Corporation
159 Main Street
Medway, MA 02053

Suzanne Kennedy, Town Administrator
Town of Medway
155 Village Street
Medway, MA 02053

Board of Selectmen
Town of Medway
155 Village Street
Medway, MA 02053

John Emidy, Building Inspector
Town of Medway
155 Village Street
Medway, MA 02053

Medway Planning and Economic
Development Board
155 Village Street
Medway, MA 02053

RE: Williamsburg Condominiums

At its 4/30/13 meeting Board members of the Affordable Housing Trust reviewed the status of the Williamsburg development and voted to voice our concerns regarding the production of affordable units (an integral condition of the project's special permit and subsequent Certificate of Action, dated 1/19/10), as well as compliance with a number of other actions designed to assure their timely production and sale. To wit:

1. The Special Permit's Conditions of Approval and Certificate of Action set a condition that "(p)rior to the issuance of the occupancy permit for the first dwelling unit" an "Affordable Housing Regulatory Agreement" be prepared, executed (by the Town of Medway, DHCD, and Williamsburg Condominium Corporation), and recorded (at the Norfolk County Registry of Deeds). The Trust's review indicates that no Affordable Housing Regulatory Agreement has been executed or filed at the Registry of Deeds. It appears, therefore, that no occupancy permits should have issued to date.
2. Additionally Mr. Yorkis represented, in person, to the Trustees present at the AHT Board meetings of 10/6/12 and 10/28/12 that one of the units in the next (the project's 5th) duplex to be built would be an affordable unit. The project's 5th duplex, subsequently built under a permit pulled in January 2013, is now nearing completion without action having been taken to comply with the standards or procedures set within the project's Special Permit or the regulations established by the Department of Housing and

Community Development necessary to deem either unit "affordable." It would appear, therefore, that Williamsburg Condominium Corporation does not intend for either of these units to be an affordable unit.

3. Further, while numerous plans and other representations submitted by Williamsburg identify the location and production order in which the units are to be built, over 50% of the entire project is at or near completion, and no affordable units have been constructed, marketed, or sold. At 50% completion the project will cross the absolute threshold in the ratio of affordable to market-rate unit production proscribed in the Town's Zoning Bylaws. The Trust is concerned that the developer appears to be avoiding construction of the required affordable units.

In light of the age, incomplete nature and potentially changing particulars of the Town's LAU application currently on file, the Department of Housing and Community Development will be looking for the Town to issue a new application for the inclusion of Williamsburg affordable units in the Town's Subsidized Housing Inventory. Such application will require a Regulatory Agreement and updated Marketing Plan to be drafted, redlined, reviewed, executed, recorded and filed with the application before marketing of the affordable units may commence. The generation and processing of these addenda are the responsibility of the developer or his agent.

The Trustees request, by copy of this letter, that the Town Building Inspector, Planning Board, Town Administrator, and Board of Selectmen review the Special Permit and Conditions for this project to assure compliance by Williamsburg Condominium Corporation and take all steps necessary to bring the project into compliance.

Sincerely,



Michael J. Heineman
Chairman, Medway Affordable
Housing Trust

cc: Robert Ferrari, Chair Medway Affordable Housing Committee
Barbara St. Andre, Esq. Medway Town Counsel



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
Crumston (Chun) Rogers, P.E.
Karyl Spiller Walsh
Matthew Hayes, P.E., Associate Member

REVISED – 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 AR11 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 an upgrade of the existing Neelon Lane, a statutory private way and a 150' long extension of Neelon Lane with a turnaround, ~~which will be deeded to the Town.~~ From the new end of Neelon Lane at the turnaround, the developer will construct approximately 445 linear feet of an 18' wide private roadway 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

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planningboard@townofmedway.org

Massachusetts DEP stormwater management requirements. 4.18 acres of open space will be preserved and 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 Votes~~

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 _____ and seconded by _____ to _____ 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 ___ in favor (xxxx) and ___ opposed (xxxxx).

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

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5. ~~Action Deadline extension votes =~~

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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 Supenor

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.

~~***DATE email communication from Susan Affleck-Childs to Town Counsel Barbara Saint Andre regarding an inquiry from the Charles River Watershed Association***~~

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 DiJulio, 7 Massasoit Street
Susan DiJulio, 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 Pellegri, 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 ~~March~~ May 14, 2013, a motion was made by _____ and seconded by _____ 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 ___ in favor () and ___ 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 new roadway widens and extends Neelon Lane and adds a cul-de-sac. It is widened to eighteen feet for most of its length but is 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. The private roadway serving the new dwelling units is also eighteen feet wide and includes a one-way loop at its end. The loop as an emergency access connecting to Cherokee Lane. The roadway is of adequate width for the properties served. (We need to address the Fire Chief’s suggestion to widen the pavement to 20 feet). 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.

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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. It has been reviewed by the Medway Police and Fire Departments and has been determined to be adequate for the provision of emergency services. (We need to address the Fire Chief’s suggestion to widen the pavement to 20 feet). Therefore, the Planning and Economic Development Board finds this criterion is met.

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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 # _____ to address this matter.
- D. It is the applicant’s intent that the planned extension of Neelon Lane and its turnaround will become a statutory private way, the same roadway status as the existing Neelon Lane. Accordingly, the Board finds that the portion of Parcel A showing the extension of Neelon Lane should be established as a separate road parcel to facilitate the future conveyance process, to clearly distinguish it from Charles View Lane, the permanent private way to be owned by the condominium association.

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.

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 # ~~XXXXXXXXXX~~ to address this matter.
- D. It is the applicant’s intent that the planned extension of Neelon Lane and its turnaround will become a statutory private way, the same roadway status as the existing Neelon Lane. Accordingly, the Board finds that the portion of Parcel A showing the extension of Neelon Lane should be established as a separate road parcel to ~~facilitate the future conveyance process to clearly distinguish it from Charles View Lane, the permanent private way to be owned by the condominium association.~~

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 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 6.6.3 **The Board shall not grant a partial release from the subdivision security for the partial completion of improvements until certain items are installed, inspected and approved by the Board or its agent.**

Explanation – The applicant requests that the Board grant a partial release from the performance security when the underground utilities are installed, the approved drainage system constructed and the basecoat of pavement has been installed. The applicant believes this is reasonable as Charles View Lane will be a private roadway.

Findings — It is important for the Planning and Economic Development Board to ensure that construction of the project conforms to the approved plans in order to ensure that public safety and the environment are protected. Therefore, the Planning and Economic Development Board finds that this waiver is not in the best interests of the Town and it is denied.

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 for Charles View Lane, but not for the Neelon Lane extension. Since the extension of Neelon Lane will become a statutory private way just as the existing portion of Neelon Lane is, this information will be required for future conveyance purposes.

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Section 6.8.7 Street Acceptance Town/Meeting Warrant

Explanation – The applicant requests a waiver from this regulation. As the development roadway 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 for Charles View Lane, but not for the Neelon Lane extension. Since the extension of Neelon Lane will become a statutory private way just as the existing portion of Neelon Lane is, there is expected to be some review and vote by Town Meeting on it.

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Section 6.8.8 Street Acceptance/Board of Selectman Establish Roadway Layout

Explanation – The applicant requests a waiver from this regulation. As the development roadway 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 for Charles View Lane, but not for the Neelon Lane extension. Since the extension of Neelon Lane will become a statutory private way just as the existing portion of Neelon Lane is, there is expected to be some review and recommendation by the Board of Selectmen.

Section 6.8.9 Approval of Street Acceptance Plans

Explanation – The applicant requests a waiver from this regulation. As the development roadway 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 for Charles View Lane, but not for the Neelon Lane extension. Since the extension of Neelon Lane will

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Findings - The Board is agreeable to waiving these requirements for Charles View Lane, but not for the Neelon Lane extension. Since the extension of Neelon Lane will

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 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. (NEED to address Fire Chief comment about a 20 foot roadway).

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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 serves only this development and does not provide any thru 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.

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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 if 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~~ 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

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 _____ and seconded by _____ to approve the above noted Waiver Findings as modified during the meeting. The motion was approved by a vote of ___ in favor () and ___ 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 _____ and seconded by _____ to grant the above noted Waivers from the *Subdivision Rules and Regulations*. The motion was approved by a vote of ___ in favor () and ___ 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 5 - Four Step Design Process

a) 1) a. Wetland areas shall be verified by the Medway Conservation Commission through an Abbreviated Notice of Resource Area Delineation (ANRAD)/

Explanation - The applicant has requested a waiver from this provision of the Zoning Bylaw. 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 – This requirement of the Zoning Bylaw pertains to the preparation of an OSRD Concept Plan. The Bylaw does not grant the Board any authority to waive this provision. The application before the Board is for the OSRD Definitive Plan. The regulation from which a waiver is requested is not applicable to the petition before the Board. Therefore, the waiver is denied on the basis that it is inapplicable to the current application and the Board does not have the authority to waive this provision of the 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 _____ and seconded by _____ to approve the above noted Waiver Findings as modified during the meeting. The motion was approved by a vote of ___ in favor () and ___ 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 _____ and seconded by _____ to grant the above noted Waiver from the OSRD provisions of the *Medway Zoning Bylaw*. The motion was approved by a vote of ___ in favor () and ___ 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 except as provided in *Specific Condition #4C* herein.
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.

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 west (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. Adjust the surface treatment of Cherokee Lane. Fire Chief didn't like loam and seed. Any further discussion or input on this?

F. The planned extension of Neelon Lane is intended to become a continuation of the Neelon Lane statutory private way. Parcel A shall be split to establish Parcel C - the Neelon Lane extension area. The remaining Parcel A shall be owned by the Charles River Village Condominium Trust. All applicable plan sheets shall be revised to show Parcel C.

G. A note shall be added to all applicable sheets that the emergency access to Cherokee Lane shall be engineered to carry truck weight of least 75,000 pounds.

H. ~~All sheets shall reference that the development is subject to a covenant~~

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 proposed easement to allow public use and passage on Charles View Lane in order to access Open Space Parcel B.
7. **Open Space Parcels** – Open Space Parcel B shall remain as permanent open space accessible to the general public. The Conservation Commission, at its _____ 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 no later than 30 days after the sale of the last market rate dwelling 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 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 mowing at least twice a year and the annual mowing/packing/preparation of a pathway. 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 ~~at least 30~~ least 30 feet between single family detached dwelling units with more than 2,500 sq. ft of habitable space. HOW will this be enforced?? - The applicant has proposed that they will provide an as-built plan when the subdivision is complete showing an average separation between the buildings of thirty (30) feet. NOTE - I feel something that can be monitored on an on-going basis is preferred.

Gino's suggestion – Before the 9th building permit is issued, the applicant must demonstrate to the Building Commissioner that the required separation can be achieved.

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John Emidy's suggestion – During the building inspection process and according to a time frame determined by Building Commissioner-, the location of each structure shall be provided to the Building Department. The Building Commissioner shall monitor the separation between structures to ensure the minimum requirement is enforced.

11. **Possible Tree Damage from Neelon Lane improvements**

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 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. This is to be used as a model house.
- C. Before the Board will authorize a building permit for the second structure, the following items, at a minimum must be installed and inspected and approved by the Board:

Charles View Lane

- 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.

Neelon Lane Extension

- 1)
- 2)

3)

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 Mass Highway 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 the extension of Neelon Lane shall ultimately become a statutory private way 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. **Order of Conditions** - Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all "Order of Conditions" as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Open Space Plan that may be required under the "Order of Conditions" shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to work with the issuing authority to accomplish any mutually acceptable modifications to the "Order of Conditions" that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any "Order of Conditions" requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

28. **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.
29. **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.

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

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

AYE:

NAY:

Date Signed:

Attest:

Susan E. Affleck-Childs
Planning and Economic Development Coordinator

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 Pellegri, Tetra Tech
- Paul Yorkis, Patriot Real Estate
- John Claffey, Charles River Village LLC
- David Faist, Faist Engineering