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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
PLANNING AND ECONOMIC
DEVELOPMENT BOARD

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20 day appeal
Aug. 17, 2022

July 26, 2022

Certificate of Action
Boundary Lane Definitive Subdivision Plan
APPROVED with Waivers and Conditions

Location: 67R and 69 Summer Street
Assessors' Reference: Map 37, Parcels 33 & 36
Parcel Size (combined): 11.38 acres
Name/Address of Applicant: Zachary Lindsey et ux.
69 Summer Street
Medway, MA 00253
Name/Address of Property Owners: Linda Lindsey
69 Summer Street
Medway, MA 02053
David and Renee Sistrand
67R Summer Street
Medway, MA 02053
Engineer: Vito Colonna, P.E.
Connorstone Engineering, Inc.
110 Southwest Cutoff, Suite 7
Northborough, MA 01532
Land Surveyor: Varoujan Hagopian, P.L.S
Connorstone Engineering, Inc.
110 Southwest Cutoff, Suite 7
Northborough, MA 01532
Plan: *Definitive Subdivision Plan of Boundary Lane*
August 20, 2021 last revised July 12, 2022
Connorstone Engineering, Inc.
Zoning District: Agricultural Residential I
Street Name: Boundary Lane

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I. PROJECT DESCRIPTION: The *Definitive Subdivision Plan for Boundary Lane* shows the reorganization of the subject properties at 67R and 69 Summer Street into three residential lots - one lot for the existing house at 67R Summer Street, one lot with the existing house at 69 Summer Street, and a new lot for the construction of a new single-family house for the Applicant. The project also includes construction of an approximately 260' long permanent private roadway (Boundary Lane), the installation of stormwater management facilities, connection to Town sewer, and the installation of private water service. The property is accessed from Summer Street. This application is for a “by right” conventional subdivision as allowed in the Agricultural-Residential I zoning district. A portion of this site is in a Wetland Resource Area which is under the jurisdiction of the Medway Conservation Commission which has issued an Order of Conditions and Land Disturbance Permit.

II. PROCEDURAL SUMMARY:

- A. April 28, 2022, the Planning and Economic Development Board received an application for approval of the *Definitive Subdivision Plan for Boundary Lane*, dated August 20, 2021, last revised February 17, 2022, prepared by Connorstone Engineering, Inc. of Northborough, MA. The application had been preceded by a preliminary subdivision plan application filed with the Board on April 22, 2021.
- B. Notice was posted with the Medway Town Clerk and to the Board’s web site on May 18, 2022 and was mailed by *Certified Sent* mail on May 17, 2022 to abutters in Medway within 300 feet of the subject properties and to parties of interest. The public hearing was duly noticed in the *Milford Daily News* on May 31 and June 2, 2022.
- C. On June 14, 2022, the Board commenced the public hearing. The public hearing was continued to July 26, 2022 when a decision was rendered and the hearing was closed. During the course of the public hearing, the Applicant submitted a revision to the *Definitive Subdivision Plan for Boundary Lane* dated July 12, 2022 for the Board’s review.
- D. All members voting on this Subdivision Certificate of Action were present at all sessions of the public hearing or have provided a certification pursuant to General Laws c. 39 section 23D.

III. PUBLIC HEARING SUMMARY: The public hearing and the Board’s review of the *Definitive Plan for Boundary Lane* were conducted over the course of two Planning and Economic Development Board meetings during which substantive information was presented and evaluated. The plan and its submitted revisions were reviewed for compliance with the Board’s *Rules and Regulations for the Review and Approval of Land Subdivisions* dated April 26, 2005 which were in effect at the time the Applicant submitted a preliminary subdivision plan to the Board on April 22, 2021.

Specified below is a list of plan documents and support materials, public comments, consultant and town departmental board review documents, and supplemental information which have been provided by the Applicant or placed on the record by the Planning and Economic Development Board. All information is on file in the Medway Planning and Economic Development office and is available for public review.

Boundary Lane Definitive Subdivision Plan Application Materials

- Form C – Definitive Plan Application signed April 28, 2022
- Form D – Designer’s Certificate undated, received April 28, 2022, with deeds
- Form E – Certified Abutters’ List dated April 19, 2022
- Form F – Development Impact Report dated April 1, 2021, prepared by Connorstone Engineering
- Requests for Waivers from the *Subdivision Rules and Regulations* (7 requests) prepared by Connorstone Engineering
- Lot closure calculations prepared by Connorstone Engineering

Definitive Subdivision Plan for Boundary Lane – Connorstone Engineering, dated August 20, 2021, revised February 17, 2022
Revised – July 12, 2022

Stormwater Report for Boundary Lane Subdivision – Connorstone Engineering, dated February 15, 2022

Town Engineering Consultant Reviews – Steven Bouley, P.E., Tetra Tech
June 8, 2022
July 20, 2022

Supplemental Information Provided by Applicant’s Consultants

- Letter from Vito Colonna, PE, Connorstone Engineering, Inc. dated July 15, 2022 in response to plan review comments from Tetra Tech dated June 8, 2022
- Draft Boundary Lane Homeowner’s Association Trust document provided by attorney Stephen Kenney
- Additional Waiver Request dated July 26, 2022 regarding drainage parcel prepared by Connorstone Engineering

Supplemental Information Entered into the Record by the Medway Planning and Economic Development Board

- Mullins Rule certification from Jess Chabot for the June 14, 2022 hearing
- Mullins Rule certification from Robert Tucker for the June 14, 2022
- Order of Conditions and Land Disturbance Permit issued March 29, 2022 by the Medway Conservation Commission

Citizen/Resident Letters/Communications

- Email communication dated May 23, 2022 from Courtney & Andy Marshall (2 Trail Drive), Matthew Marshall (3 Trail Drive), and Wayne & Sheila Marshall (65 Summer Street)

Professional Testimony

- Steven Bouley, P.E., Tetra Tech – Marlborough, MA
- Vito Colonna, P.E. Connorstone Engineering – Northborough, MA

Medway Departmental/Board Review Comments

- Email communication dated June 9, 2022 from Health Agent Beth Hallal
- Email communication dated July 20, 2022 from DPW Water/Sewer Superintendent Barry Smith
- Letter dated June 14, 2022 from Deputy Fire Chief Mike Fasolino

- Letter dated June 22, 2022 from Safety Officer Sergeant Jeffrey Watson
- Email communication dated July 26, 2022 from Assessor Donna Greenwood re: separate drainage parcel.

IV. ACTION ON REQUESTS FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS – The Applicant has requested waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

SECTION 7.6.2 UTILITIES b) Water Facilities Installation - Water mains, with hydrants, valves and other fittings, shall be constructed and installed within the subdivision as necessary to provide to all lots therein adequate water supply for domestic and fire protection use. Water facilities must conform to the Medway Water Rules and Regulations, which are under the jurisdiction of the Water and Sewer Department. Proper connections shall be made with existing public water systems. Water lines shall be at least 8-inch diameter cement-lined ductile iron, Class 52 or greater, or as currently required by the Town of Medway Water and Sewer Department and shall be furnished with adequate valves and appurtenances to the specifications of the Town of Medway Water and Sewer Department. Water pipes shall be extended and connected to form a loop type system. Easements across lots shall be used to eliminate dead ends.

FINDINGS – The Applicant has requested a waiver from this requirement to install a water line to access the Town’s public water supply in Summer Street and instead plans to install a private well for the new Lot 3. This will reduce disturbance and work in Summer Street to make the connection and reduce the Town’s ongoing maintenance cost. The plan has been reviewed by the Fire Department which has agreed to waive their requirement for a fire hydrant but has required the new house on Lot 3 to be constructed with a residential sprinkler system to conform with NFPA 13D. The Board of Health has already permitted the private well. ***For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.***

SECTION 7.7. 2 STORMWATER MANAGEMENT p) - 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.

FINDINGS – The Applicant has requested a waiver to allow the planned stormwater drainage basin to be located on Lot 1 (69 Summer Street) as a drainage easement instead of on separate parcels A & B as shown. This adjustment is made at the request of the Town of Medway Assessor so to comply with State land classification codes. It is noted that the proposed location for the basin will be at least 30’ away from the property line with Summer Street, the right-of way for Boundary Lane, and the adjacent property to the north at 71 Summer Street. The basin will also be at least 30’ away (east) from the garage for the existing dwelling on Lot #1 (69 Summer Street). ***For the foregoing reasons, the Board approves this waiver request as being***

consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.

SECTION 7.7.4 STORMWATER MANAGEMENT Construction - d) 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. The system shall be constructed of four inch (4”) perforated HDPE pipe wrapped in filter fabric and installed to withstand an H-20 vehicle loading. The depth of installation should be determined to meet this loading requirement assuming the trunkline must flow by gravity and will pass under proposed driveways.

The trunkline must be located within the roadway layout and discharge to an approved outfall location such as a detention pond or predetermined drainage outfall area with the appropriate easements to allow for maintenance access. A backflow preventor or check valve shall be installed at all outfalls within the designated discharge areas within the drainage easement. The outfall shall not be located such that it will discharge to an area that is not designated for drainage purposes and it must be protected so as not to be damaged or clogged by debris.

Connections to this system shall be accomplished using a compatible “T” connector provided by the manufacturer. The installation will be subject to inspection by the Building Inspector, DPS or the Planning Board’s representative. All homes within a subdivision may not have to be connected to this system provided the flow can be discharged on the lot so as not to affect abutting properties, sidewalks and the roadway right of way. However, the trunkline will have to be installed as part of the roadway construction for future connections as needed. The maintenance of this independent drainage system shall be the responsibility of a subdivision homeowners association established by the developer. All installations associated with this system shall be shown on the as-built plans prepared for the subdivision. No roof drains, basement drains, driveway drains or other on lot sources shall be connected to the independent drainage system or the roadway drainage system.

FINDINGS – The Applicant has requested a waiver from the requirement to install an independent drain system in the road for foundation perimeter drains. Instead, the Applicant proposes to have the foundation drain daylight at the rear of the new house on Lot 3 which will be located downgradient of the proposed roadway. Lot 3 has sufficient elevation and area (6+ acres) to route a foundation drain to the rear of the lot and away from the road and abutting properties so the independent drain system is not needed and would provide no added value. ***For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.***

SECTION 7.9.5. STREETS AND ROADWAYS GRADE – a) The minimum centerline grade for any street shall not be less than two percent (2%).

FINDINGS – The Applicant has requested a waiver to have a centerline grade of 1% instead of the minimum 2%. The reduced slope minimizes the amount of fill needed for the roadway and reduces the impact on the existing driveways for the houses on Lots 1 and 2. The waiver would allow the roadway to match existing conditions and maintain the look and feel of the existing

landscape. *For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.*

SECTION 7.9.5 STREETS AND ROADWAYS GRADE – c) Where changes in grade exceed one percent (1%), vertical curves shall be required. Vertical curves having a length less than one hundred feet (100’) should be avoided. At the intersection of street right-of-way lines, there shall be provided in a residential subdivision a leveling (fixed slope) area of at least one hundred feet (100’) with a maximum grade of two percent (2%), and in all other subdivisions, a leveling (fixed slope) area of at least two hundred feet (200’), with a two percent (2%) grade. Vertical curve calculations, prepared by a Registered Professional Civil Engineer, will be provided for every vertical curve and shown on the drawings. These calculations will show the design speed and conformance with safe stopping sight distance criteria for the design speed.

FINDINGS – The Applicant has requested a waiver of this requirement and wishes to be allowed to have a vertical curve instead of a fixed grade within 100 feet of the intersection (of Boundary Lane and Summer Street). This waiver is requested to minimize the fill needed for road construction and to better match the existing topography and drainage patterns and preserve the look and feel of the existing landscape. It would not exceed the maximum grade of 2% at the noted intersection. *For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.*

SECTION 7.10 CURBS AND BERMS

1. Vertical granite curbing shall be installed at intersection roundings and cul-de-sac entrances
2. Curbing shall be provided along each side of the roadway. Permanent Private Way – Hot Mix Asphalt Cape Cod Berm

FINDINGS - The Applicant has requested a waiver from this requirement and instead indicates that grass swales and waterways will be used in place of traditional curbs and gutters to direct stormwater flow. This will eliminate the need for a closed drainage system. This approach uses low-impact stormwater design measures which will preserve the existing landscape character and provide suitable water quality treatment. Because of the existing sidewalk on the west side of Summer Street, there are no roundings with the current driveway. Safety Officer Sergeant Watson also recommended retaining the current curbing arrangement to maintain the look of a private drive and to not appear to be a through street which is a concern due to its location directly across from Highland Street. *For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.*

SECTION 7.21.1 STREETLIGHTS - It shall be the responsibility of the developer to install street lighting within the subdivision, at the entrance to the subdivision, at all intersections within the subdivision, sharp turns, or other areas where the Traffic Safety Officer deems they are needed for public safety. The quantity, type and location of lights shall be shown on the definitive plan. The developer is responsible for installing the pole, wiring and arranging installation of the light fixture.

FINDINGS - The Applicant proposes to not install any streetlights within the subdivision relying instead on lighting from the existing utility pole on Summer Street which is located 50' north of the proposed Boundary Lane roadway. The road length for Boundary Lane is 260' and only one additional house is to be constructed. The other 2 lots already have houses on them. The Police Department's Safety Officer has reviewed the proposed plan and has advised that the existing streetlight on Summer Street is sufficient for the area. Further, he notes that there are no safety reasons for installing additional lighting on the new roadway. ***For the foregoing reasons, the Board approves this waiver request as being consistent with the purpose and intent of the Medway Subdivision Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Subdivision Review and Approval.***

MITIGATION PLAN - The new road and stormwater drainage system will be privately owned in perpetuity and maintained by the Boundary Lane Homeowner's Trust thus relieving the Town of this on-going responsibility and expense.

ACTION ON REQUESTS FOR WAIVERS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on July 26, 2022, a motion was made by Rich Di Iulio and seconded by Jess Chabot to approve the above noted waiver requests from the *Subdivision Rules and Regulations*. The motion was approved by a roll call vote of five in favor and none opposed.

V. PROJECT EVALUATION CRITERIA – Before taking action on a definitive subdivision plan, the Board shall evaluate the proposed subdivision 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 July 26, 2022, a motion was made by Jess Chabot and seconded by Sarah Raposa to approve the Project Evaluation Findings noted below. The motion was approved by a roll call vote of five in favor and none opposed.

5.16.1 Completeness and technical accuracy of all submissions.

FINDINGS – *All submissions were reviewed by Town staff and/or the Town's Consulting Engineer. Missing or technical inaccuracies were identified and have been remedied through the submittal of a revised plan or requests for waivers from the Subdivision Rules and Regulations.*

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 Board finds that the proposed street pattern within the new subdivision is safe and convenient. The plan has been reviewed by the Town's Fire*

Chief, Police Safety Officer, and the Board’s Consulting Engineer. Comments from them have been incorporated into the design or are specified herein to be added to the plan as a Condition of plan approval. Future roadway extension to adjacent property is not feasible due to the location of the lots.

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 – The Board finds that the location of the development does not entail unwarranted hazard. A drainage plan has been designed to handle anticipated stormwater runoff and the sight distances from the proposed roadway’s intersection with Summer Street. Erosion controls will be in place during construction. The property is subject to an Order of Conditions and Land Disturbance Permit from the Medway Conservation Commission.

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 environment, which damage could be avoided or ameliorated through an alternative development plan.

FINDINGS – Due to the small size of the development, no environmental impact analysis is required. The site of the subdivision is not within a Priority Habitat area and the wetlands of the site will be protected through action of the Medway Conservation Commission. Stormwater management has been reviewed by the Town’s consulting engineer and is adequately addressed. There will be an increase of only one single-family house to be constructed. Low impact stormwater drainage measures have been incorporated into the plan. The Board finds that the subdivision will not cause substantial and irreversible damage to the environment.

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 subdivision site is accessed from Summer Street. The Board finds that the Summer Street is adequate to provide emergency medical, fire and police protection as well as safe travel for the anticipated additional volume of traffic to be generated by one additional residence. The plans have been reviewed by the Fire Chief, Police Safety Officer, and Consulting Engineer. Comments from them have been incorporated into the design or are specified herein to be added to the plan as a Condition of plan approval. The roadway shown on the plan will be built according to the Board’s construction specifications for Permanent Private Ways. The 20-foot paved roadway width meets national Fire Code standards while also reducing impervious surfaces and stormwater impacts.

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

FINDINGS – The Board finds that the lots created by this plan conform to all applicable requirements of the Medway Zoning Bylaw, including minimum area and frontage requirements for the Agricultural Residential I zoning district.

5.16.7 Consistency with the purposes of the Subdivision Control Law.

FINDINGS – The Board finds that the proposed subdivision is consistent with the purposes of the Subdivision Control Law because the infrastructure proposed is adequate for the new development and the impacts of the subdivision have been mitigated to a reasonable extent. Reasonable waivers have been granted herein with good cause.

VI. DECISION – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on July 26, 2022, a motion was made by Jess Chabot and seconded by Sarah Raposa to approve the *Definitive Subdivision Plan for Boundary Lane*, prepared by Connorstone Engineering, dated August 21, 2021, last revised July 12, 2022 to be further revised as specified herein, subject to the Specific and General Conditions as specified and approved herein and with Waivers from the *Subdivision Rules and Regulations* dated April 25, 2005, also as specified and approved herein. The motion was approved by a roll call vote of five in favor and none opposed.

VII. CONDITIONS – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on July 26, 2022, a motion was made by Jess Chabot and seconded by Sarah Raposa to approve Specific and General Conditions as specified below. The motion was approved by a roll call vote of five in favor and none opposed.

The following specific and general conditions shall apply to the Permittee, its executors, administrators, devisees, heirs, successors and assigns:

A. Specific Conditions

1. **Authorization** - The Boundary Lane subdivision is authorized for no more than three, single-family residential house lots. As a permanent condition of the approval of this plan, no further subdivision of the property beyond these three lots is allowed, although lot boundaries within the subdivision may be adjusted so long as no additional lots are created.
2. **Completion Schedule** - The Permittee or its Assignee shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the endorsed Definitive Subdivision Plan for Boundary Lane, to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of endorsement of the plan. The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of the three (3) year period, upon a vote of the majority of the Planning and Economic Development Board then present.
3. **Plan Revisions** - Prior to plan endorsement, the Definitive Subdivision Plan for Boundary Lane, last revised July 12, 2022, shall be further revised as follows:
 - The Signature Box on all sheets shall be revised to include a line for Approval Date and another line for Endorsement Date.

- The cover sheet shall be revised:
 - ❖ to list the APPROVED WAIVERS
 - ❖ to revise the plan title to indicate that Boundary Lane is a permanent private way
- If available from the Assessor’s Department before plan endorsement, the property addresses for the three house lots and the drainage parcel shall be added to the plan sheets.
- Revise the plan to add signage at the entrance to Boundary Lane, either “no Thru Traffic” or “Dead End”, as directed by Safety Officer Watson.
- Revise the plan to add ADA ramping on the Summer Street sidewalks as directed by Safety Officer Watson.
- Add a note on the plan that the house on Lot 3 will be constructed with a residential sprinkler system in conformance with NFPA 13D, as directed by Deputy Fire Chief Fasolino.
- All plan sheets and notes shall be revised to remove all references to Parcels A and B and to depict the stormwater basin as an easement on Lot 1.
- Refine the plan to define the property ownership for each of the 3 lots to the roadway centerline of Boundary Lane.

4. Documents to be Prepared and Approved Before Plan Endorsement – Prior to plan endorsement, the Permittee shall provide the following documents for review, comments, amendment and approval by Town Counsel and the Board.

- a. **Subdivision Covenant** – Prior to plan endorsement, the Permittee shall sign a Subdivision Covenant, on a form acceptable to the Planning and Economic Development Board, to secure construction of the ways and all related infrastructure and installation of utilities and services and any off-site mitigation measures as specified in the approved subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Subdivision Covenant* shall specify that the roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services and any off-site mitigation measures shall be installed to the satisfaction of the Planning and Economic Development Board within three years of the date of plan endorsement. The Subdivision Covenant shall apply to Lot 3 as shown on the plan.
- b. **Articles of Association or Incorporation** - Prior to plan endorsement, the Permittee shall provide a proposed Articles of Association or Incorporation establishing the Boundary Lane Homeowner’s Trust for review and comment by Town Counsel. This document shall include provisions for membership by the owners of Lots 1, 2 and 3, management responsibilities, procedures for voting and fee assessment, and for the ownership and financial responsibility for the on-going maintenance, upkeep and repair of Boundary Lane including but not limited to snowplowing and sanding, the stormwater management system, and any associated landscaping. The documents shall specify that the costs shall be divided equitably among the members.
- c. **Lot Deeds** – Prior to plan endorsement, the Permittee shall provide the proposed deeds to convey the reconfigured house lots for review and comment by Town Counsel. Each lot deed shall reference the endorsed *Definitive Subdivision Plan for Boundary Lane* and clearly state that the Boundary Lane Homeowner’s Trust shall be responsible for the maintenance and upkeep of Boundary Lane as a permanent private road, the landscaping,

and the stormwater drainage system. The deeds shall specify that the owners of Lots 1, 2 and 3 will own to the centerline of Boundary Lane along their property's frontage.

- d. **Easements** – Prior to plan endorsement, the Permittee shall provide a proposed easement for the owners of Lot 1 to grant an easement to the Boundary Lane Homeowner's Trust to maintain the stormwater drainage basin on Lot 1, for review and comment by Town Counsel. The Permittee shall also provide drafts of other easements shown on the plan.

5. **Plan Endorsement**

- a. Within sixty days but no sooner than twenty days after the Board has filed this decision with the Town Clerk, the Permittee shall submit a revised subdivision plan reflecting all Conditions and required revisions as specified herein, to the Planning and Economic Development Board and the Town's Consulting Engineer, for review and approval prior to plan endorsement. All conditions of this Certificate of Action requiring changes to the definitive subdivision plan must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan.
 - b. The endorsed plan shall bear the certification of the Town Clerk that twenty days have elapsed after the decision was filed in the Town Clerk's office and no appeal has been filed within said twenty-day period.
 - c. Within thirty days after plan endorsement, the Permittee shall provide the Town with two sets of the approved plan in 24" x 36" paper format. The Permittee shall also provide the approved plan in pdf format and CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Permittee shall 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 subdivision.
6. **Recording** – The Permittee shall record this decision, the endorsed definitive subdivision plan, the subdivision covenant, and associated easements at the Norfolk County Registry of Deeds. Within thirty days of such recording, the Permittee shall provide proof of recording to the Planning and Economic Development Board. No construction shall begin on the site and no building permit shall be issued before these documents are recorded. The fee for recording or registering shall be paid by the Permittee.
7. **Tree Preservation** – Sheet 2 of 6 (Construction Plan) of the plan set specifies three trees are to be preserved; they are denoted with a tree icon with the text SAVE. Two are located on Lot 1 and one is located in the right-of way of the roadway adjacent to Lot 2.
- a. These trees shall be clearly identified (marked) in the field for preservation and such markings shall be verified by the Town's consulting engineer before site preparation and construction commences.
 - b. The Permittee shall make the fullest possible effort to preserve/retain these three noted trees and prevent their removal, demise or damage during construction.
 - c. If any of the above noted trees designated to be preserved/retained are removed or damaged during construction, the Permittee shall be responsible for tree restoration by replacing the removed or damaged trees with nursery grade trees on a one (1) square inch per two (2) square inch replacement basis. The one (1) square inch per two (2) square

- inch replacement amount is calculated by squaring 1/2 the established diameter of each tree that is removed or damaged and multiplying that amount by 3.14 to determine its trunk area (tree radius squared x Pi (rounded to 3.14)). The resulting figure is halved, and that square inch total is the amount of required square inches of the replacement tree(s). A 3” caliper tree equals seven (7) sq. inches. The location of the replacement trees on the house lots shall be recommended by the Permittee and approved by the Tree Warden and the Planning and Economic Development Board as a field change. The planting of replacement trees shall be verified by the Tree Warden as being fully and skillfully performed. The species of replacement tree(s) shall be reviewed and approved by the Tree Warden, or otherwise will be consistent with the species of the removed tree(s).
- d. In lieu of tree planting on the subdivision property, the Permittee may make a contribution to the Medway Tree Fund in an amount to be determined by the Board upon consultation with the Medway Tree Warden based on wholesale pricing for 3-inch caliper trees from a reputable area landscape supplier. The Permittee may also combine tree planting and a contribution in lieu of tree-planting to be approved by the Board.
 - e. Any such supplemental tree planting shall occur before the occupancy permit is issued for Lot 3. Any contribution in lieu of tree planting shall occur before the occupancy permit is issued for Lot 3.
8. **Sidewalk** – Any damage to the sidewalk on the west side of Summer Street along the subject site’s frontage resulting from site infrastructure and building construction work, shall be repaired or replaced to the satisfaction of the Medway Department of Public Works before the occupancy permit is issued for Lot 3.
 9. **Ownership of Boundary Lane** – There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan.
 10. **Homeowner’s Association** - There shall be established a Boundary Lane Homeowner’s Trust to be responsible for the on-going maintenance, upkeep, and repair of the roadway including but not limited to snowplowing and sanding and for the stormwater detention/infiltration system, and related infrastructure located within the roadway right of way including landscaping. The organizational document shall specifically refer to the Long-Term Pollution Prevention Plan and associated Stormwater Operations and Management Plan included in the *Stormwater Report for Boundary Lane* dated August 20, 2021, last revised February 15, 2022, prepared by Connorstone Engineering and approved by the Medway Conservation Commission.
 11. **Maintenance Responsibility During Construction**
 - a. The Permittee shall provide for snow plowing, sanding and full maintenance of Boundary Lane throughout the entire construction process until the roadway is determined to be complete by the Board. The Permittee shall do nothing which would alter the drainage patterns or characteristics as shown on the approved plan.
 - b. Construction is subject to the Storm Water Pollution Plan included in the most recent version of the *Stormwater Report for Boundary Lane* dated August 20, 2021, last revised February 15, 2022, prepared by Connorstone Engineering, as approved by the Conservation Commission in its March 29, 2022 Order of Conditions with Land Disturbance Permit. This document shall be included in all construction contracts,

- subcontracts and specifications dealing with the proposed work. The Permittee shall ensure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of the Construction Period Operation and Maintenance Plan.
- c. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Construction Meeting.
 - d. Prior to the Pre-Construction Meeting and commencement of any activity on the site, the erosion control plan included in the endorsed plan set and the limit of work lines shall be staked. The location of erosion controls shall be adjusted, if necessary, during the first erosion control inspection.
 - e. Immediately after installation of erosion controls, the Permittee shall notify the Board's consulting engineer to schedule a follow-up inspection to ensure that erosion controls and limits of work have been properly located and installed. No work shall be conducted until the Board's consulting engineer has inspected and approved the installation of the erosion controls.
 - f. It shall be the responsibility of the Permittee to conduct monitoring, maintenance and repair of erosion control measures, as well as to take any other additional measures necessary to control erosion from the site. The erosion control measures designated on the subdivision plan shall be considered a minimum standard for compliance.
 - g. All waste products, refuse, debris, grubbed stumps, slash, excavate, construction materials, etc. associated with the planned construction shall be contained and ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site.
12. ***Maintenance Responsibility Post Construction*** – As Boundary Lane shall be a permanent, private roadway, the ongoing maintenance responsibility for it, all associated infrastructure, landscaping, and the stormwater management system rests with the Boundary Lane Homeowner's Trust. The Town of Medway shall not have, now or ever, any legal responsibility for operation or maintenance of the roadway, snowplowing, stormwater system, sanding, etc. The Trust shall maintain the stormwater management system in accordance with the long-term stormwater operation and maintenance plan included with the stormwater report.
13. ***Water Conservation*** – The Permittee shall incorporate the following water conservation measures for construction of the house on Lot 3.
- a. rain gauge-controlled irrigation systems
 - b. low flow household fixtures
 - c. water efficient appliances (dishwashers, washer/dryers, toilets, etc.)
14. ***Addresses*** – The addresses for Lots 1, 2 and 3 shall be as determined by the Medway Assessor's office upon consultation with the Medway Fire and Police Departments.
15. ***Order of Conditions*** – As a component of this development, the Permittee shall comply fully with the Order of Conditions and the associated Land Disturbance Permit issued by the Medway Conservation Commission on March 29, 2022, to be recorded at the Norfolk County Registry of Deeds.

16. **Community Mailbox** – If the Postmaster determines that a gang or cluster mailbox is required vs. individual mailboxes for each house and before such cluster mailbox is installed, the Permittee shall request the Board’s approval of a field change to specify the location of the communal mailbox and provide a drawing to show a suitable shelter to enclose such mailbox.

B. Standard Conditions

1. **Expiration of Appeal Period** – Prior to endorsement of the definitive subdivision plan, 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.
2. **Payment of Balance of Fees** – Prior to plan endorsement, the Permittee shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board.
3. **Proof of Taxes Paid** – Prior to the Planning and Economic Development Board’s endorsement of the plan, approval of the *Release of Covenant* Lot 3, and any form of surety reduction, proof is required from the Medway Town Treasurer/Collector that all real estate taxes and other municipal fees and charges are current for the properties included in this subdivision and for all property owned in Medway by the Permittee.
4. **Site Access** - Planning and Economic Development Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site during construction for compliance with the endorsed subdivision plan and the provisions of this Decision.
5. **Construction Oversight**
 - a. Construction Account
 - 1) Inspection of roadway and infrastructure and utility construction, and installation of site amenities including landscaping by the Town’s Consulting Engineer and review of legal documents by Town Counsel are required. Prior to plan endorsement the Permittee shall pay a construction services fee to the Town of Medway to establish a construction services account for such inspections and legal services. The amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town’s Consulting Engineer based on the scope of the project. The funds may be used at the Board’s discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction/installation, identify what site work remains to be completed, prepare bond estimates, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue authorize project completion.
 - 2) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to the project’s construction inspection account, upon invoice from the Board, for reasonable additional construction services until the road construction and stormwater drainage system and other utilities are completed and the as-built plan has been reviewed and determined to be satisfactory.

- 3) Any funds remaining in the Permittee’s construction inspection account after project completion shall be returned to the Permittee.
 - b. The Department of Public Works will conduct inspections for any construction work occurring in the Town’s right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit and any utility connection permits.
 - c. The Permittee shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the construction of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Board within 5 days of inspection. Failure of the Permittee to provide these reports may be reason to withhold building or occupancy permits.
6. **Other Permits** – This permit does not relieve the Permittee from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay and comply with all other required Town permits.
 7. **Pre-Construction Meeting** – At least seven days prior to the start of any site preparation or construction, a pre-construction meeting shall take place with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Works, the Medway Conservation Agent, the developer and site contractors. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPPP) as filed with the US Environmental Protection Agency shall be provided to the Town.
 8. **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 Permittee and its contractors shall, at all times, use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.
 - a. **Construction Time** - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 7 p.m. Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Inspector of Buildings. These rules do not apply to interior construction work such as painting, installation of drywall, flooring, etc.
 - b. **Neighborhood Relations** – The Permittee shall notify neighbors in the general area around the site when site work and construction are scheduled to begin and provide a phone number for them to use for questions and concerns that arise during construction.
 - c. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
 - d. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris

- is carried onto a public way, the Permittee shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.
- e. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.
 - f. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Planning and Economic Development Board's consulting engineer and maintained in good repair throughout the construction period.
 - g. *Construction Traffic/Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
 - h. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Zoning Bylaw*, Section 7.3.C.2. Environmental Standards.
9. **Occupancy Permit** – Pursuant to Section 6.6.3 of the *Subdivision Rules and Regulations*, the Permittee shall not be allowed to secure an occupancy permit for Lot 3 until the following subdivision infrastructure items, at a minimum, have been installed, inspected and approved by the Board or its agent:
- a. Gravel subbase
 - b. Binder course
 - c. Drainage system completed to the proposed outfall with frame and grates set to binder grade, as well as detention basins, swales, infiltration systems or any other stormwater management facilities.
 - d. As-built plan of each detention pond and forebay contoured in two-foot (2') intervals; and all critical elevations and details of the structures, pipes and headwalls within the detention pond area.
 - e. Street name sign indicating that Boundary Lane is a Permanent Private Way in a size and form as specified by the Medway Department of Public Works, and all regulatory signs as specified in the approved plan.
 - f. Stop line pavement markings.
 - h. Provisions for fire prevention and protection constructed, installed and functional in the area of the subdivision in which the lots are located.
10. **Subdivision Performance Surety**
- a. *Alternative Performance Security* - At such time as the Permittee wishes to secure a occupancy permit for Lot 3, the security provided by the *Subdivision Covenant* shall be replaced by a subdivision surety in compliance with General Laws chapter 41 §81U and the Board's *Regulations*, which method or combination of methods may be selected and from time to time varied by the Permittee, in a sufficient amount, source and form acceptable to the Board, the Treasurer/Collector and Town Counsel. The surety shall be provided prior to the Planning and Economic Development Board's approval of the *Release of Covenant* for Lot 3.

- b. *Surety 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 Decision and Plan that remain unfinished at the time the performance guarantee estimate is prepared if the Permittee 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 Department of Transportation. 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 roadway and infrastructure in the event the Permittee fails to adequately perform such. 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 30% contingency.
- c. *Surety Agreement* - The Permittee shall enter into a surety agreement with the Planning and Economic Development Board as provided in the *Regulations* to define the obligations of the Permittee and the performance guarantee company including:
 - 1) the date by which construction shall be completed
 - 2) a statement that the agreement does not expire until released in full by the Board
 - 3) procedures for collection upon default.
- d. *Minimum Work for Lot Release* - Prior to releasing Lot 3 from the *Subdivision Covenant*, the items listed in Condition 9 Occupancy Permit herein shall be installed and inspected and approved by the Board.
- e. *Adjustment of Performance Guarantee* - At the Permittee'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 Board upon the partial completion of the roadway 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 approved 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 Department of Transportation. 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. The estimate shall also include the cost to maintain the roadway and infrastructure in the event the Permittee fails to adequately perform such. 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 30% contingency. The Board may authorize up to three reductions in the amount of performance security however, the Board shall not reduce the performance security below \$40,000.
- f. *Final Release of Performance Security* - Final release of performance security is contingent on project completion.

11. Compliance with Plan and Decision

- a. All construction shall be as specified in the approved definitive subdivision plan and any modifications thereto 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 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 or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with this Decision.
- c. The Conditions of Approval are enforceable under Section 3.1. F. of the *Medway Zoning Bylaw* (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

12. On-Site Field Changes

- a. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this decision and the *Bylaw* nor conflict with a specific condition of the decision. Field changes shall not substantially alter the intent, layout or design of the endorsed plan.
- b. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. The Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable. A written authorization of field change will be provided. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

13. Modification of Plan and/or Decision

- a. Proposed modifications to the plan or decision, not included on-site field changes, shall be subject to review by the Board.
- b. This approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions. Any changes to the plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Planning and Economic Development Board for review as a subdivision plan modification.
- c. Any work that deviates from the approved subdivision plan or this Decision shall be a violation of the *Medway Zoning Bylaw*, unless the Permittee requests approval of a plan

modification and such approval is provided in writing by the Planning and Economic Development Board.

- d. Whenever additional reviews by the Planning and Economic Development Board, its staff or consultants are necessary due to proposed subdivision plan modifications, the Permittee shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Planning and Economic Development Board may reduce the scope of the required review and waive part of the filing and review fees.
- e. The Board shall issue its Modification Decision, file such with the Town Clerk and provide copies to the Building Commissioner, other Town officials and the Permittee. Any modifications approved by the Board shall be made a permanent part of the approved project. Any plan modifications shall be shown on the final as-built plan.

14. Landscape Maintenance

- a. Any shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.
- b. Within 60 days after two years after the occupancy permit is issued, the Town's Consulting Engineer or the Inspector of Buildings may conduct an initial inspection of the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time, subsequent to this initial inspection, the Town's Consulting Engineer or the Inspector of Buildings may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Inspector of Buildings/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

15. Project Completion – The Board shall determine project completion and refund/release the performance security once the Permittee has completed the following tasks to the Board's satisfaction:

- a. provided the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all site work has been completed in substantial compliance with the approved and endorsed Plan, and any modifications thereto; and
- b. submitted an As-Built Construction Plan prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts in accordance with the *Subdivision Rules and Regulations* in effect at the time the plans are submitted to the Board for review by the Town's Consulting Engineer and the Board's approval. The Permittee shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp).
- c. paid the Town of Medway for any taxes/fees associated with these parcels or other property owned by the Permittee in the Town of Medway; and
- d. completed any mitigation measures specified in the subdivision certificate of action to the satisfaction of the Board.

VII. APPEAL

The Board and the Permittee have complied with all statutory requirements for the issuance of this Decision on the terms set forth herein. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Permittee and notice of the Decision will be mailed to all parties in interest.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, ch 41, § 81BB, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk.

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**BOUNDARY LANE DEFINITIVE SUBDIVISION PLAN
CERTIFICATE OF ACTION
MEDWAY PLANNING AND ECONOMIC DEVELOPMENT BOARD**

Date of Action by the Medway Planning and Economic Development Board: July 26, 2022

AYE:

_____	_____
Member	Date
_____	_____
Member	Date
_____	_____
Member	Date
_____	_____
Member	Date
_____	_____
Member	Date

NAY:

_____	_____
Member	Date
_____	_____
Member	Date

- Copies To:** Zachary Lindsey
Linda Lindsey
David and Renee Sistrand
Vito Colonna, Connorstone Engineering
Michael Boynton, Town Manager
Stephanie Carlisle, DPW Compliance Officer
Mike Fasolino, Deputy Fire Chief
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner
Pete Pelletier, DPW Director
Joanne Russo, Treasurer/Collector
Barbara Saint Andre, Community and Economic Development Director
Barry Smith, DPW Water/Sewer Superintendent
Lieutenant Jeffrey Watson, Police Safety Officer
Steve Bouley, Tetra Tech

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CERTIFICATE OF ACTION
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AYE:



Member 7-26-2022

Date



Member 7/26/22

Date



Member 7/26/22

Date



Member 7/26/22

Date

Member _____
Date

NAY:

Member _____
Date

Member _____
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