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AMESBURY CITY CLERK

**PLANNING BOARD DECISION**  
**MINOR MODIFICATION**

*Property Ownership:*        **Thomas Anderson**  
   **Anderson Treacy Real Estate**  
   **One Tremont Street Stoneham, MA 02180**

*Applicant:*                    **Thomas Anderson**  
   **Lot G – Middle Road, Realty Trust**  
   **37 Middle Road, Amesbury, MA 01913**

*Application Type:*        **Minor Modification – Definitive Subdivision Plan & Special Permit Decision**

*Project:*                      **Eastern Lights Subdivision**

*Location:*                  **37 Middle Road, Amesbury, MA 01913**

*Date:*                         **July 25, 2016**

**A. BACKGROUND**

In a decision dated 05/02/07 (“Decision”), recorded with the Essex South Registry of Deeds at Book 26944, Page 168, the Amesbury Planning Board granted a Special Permit and Definitive Subdivision Approval to Thomas Anderson and Lot G – Middle Road, Realty Trust at 37 Middle Road, Amesbury MA, subject to conditions as stated in the Decision. The Decision approved a Definitive Subdivision Plan set drawn by Merrimack Engineering, 66 Park Street, Andover MA on 04/28/2006 and last revised on 03/26/2007. The plan set consists of eleven (11) sheets.

## B. FACTS & FINDINGS

The Planning Board received a letter from Charles Houghton, Esq., 271 Main Street, Suite 202, Stoneham, MA 02180 dated June 8, 2016 on behalf of the Applicant. The Board reviewed the request and based on the information and comments from City staff and Conservation Commission, the Board made the following findings:

1. Planning Board received a letter from Atty. Charles Houghton dated June 8, 2016 on behalf of the Applicant with a request to modify Sheet 4 of 11 of the approved definitive subdivision plan and replace it with a plan prepared by Millenium Engineering, Inc. dated May 13,-2016 entitled, "Plan of Land in Amesbury, MA: Showing Wetland Replication at 37 Middle Road", Sheet 1 of 1 (Exhibit-A);
2. MassDEP entered into an Administrative Consent Order (ACOP) with the Applicant on April 7, 2016 for failure to comply with the terms and conditions of MassDEP's Superseding Order of Conditions, and for the unauthorized alteration to Bordering Vegetated Wetlands (BVW). In addition to incurring a financial penalty, the ACOP required the Applicant to submit a restoration plan and schedule, which includes removal of the fill from the BVW, full restoration to pre-existing conditions, and long-term monitoring. This plan prepared by Millenium Engineering, Inc. dated May 13,-2016 entitled, "Plan of Land in Amesbury, MA: Showing Wetland Replication at 37 Middle Road", Sheet 1 of 1 and schedule has been reviewed and approved by MassDEP via letter dated June 3, 2016. The ACOP also requires that the BVW be restored no later than Thursday, June 30, 2016. MassDEP has approved the Superceding Order of Conditions and it has since been recorded which extends the Order until April 7, 2018;
3. The site contains addition wetland violations that are jurisdictional to the Amesbury Wetlands Ordinance only; specifically, the alteration to the Isolated Vegetated Wetland (IVW). This violation is separate from the violations and restoration activities documented in MassDEP's ACOP, and has been documented in an Enforcement Order issued by the Amesbury Conservation Commission (ACC);

4. The current Environmental Permit issued by ACC under the local wetlands ordinance expire shortly and the Applicant needs to request and received extensions of said permit;
5. The culvert proposed along Middle Road has preliminary designs. The final designs have not been prepared and additional permits are still required from ACC before the culvert can be installed as shown on the approved subdivision plan;
6. Some of the infrastructure improvements made on the site were installed without proper inspections by the Board's inspectional engineer or City Staff. Interim As-built Plan and cost estimates for the remaining work have been requested along with an updated Project Schedule; and
7. The Board finds that the proposed modification will not change its prior approval. However, there is information on the original sheet that is pertinent to the approved subdivision but it is not included on the modified sheet.

The Board agrees to amend its Decision 05/02/07 and approved subdivision plan dated as noted below, which amendment shall become final upon the expiration of the applicable appeal period and the recording of such amendment to the Decision at the South Essex Registry of Deeds.

### **C. MINOR MODIFICATION – PLANNING BOARD APPROVAL**

The Board hereby amends the Decision by modifying specific plans/conditions and adding new conditions, as specified below. **All other conditions in the Decision remain in force and effect as stated in the Decision, except as noted below:**

1. **Modifications Approved:** Definitive Subdivision Plan Set - Sheet 4 of 11 as recorded at the South Registry of Deeds at Plan Book 442, Page 98, shall be modified to the extent that the replacement Sheet 1 of 1 titled "Wetland Restoration at 37 Middle Road," drawn by Millennium Engineering, Inc., 62 Elm Street Salisbury, MA 01952 on 05/13/2016 shows the replication area as approved by MassDEP. The information shown on the said sheet 4 about the culvert engineering and design shall remain valid and applicable to the approved subdivision and all associated work shall still be required along Middle Road;

2. **Culvert Design and Permitting:** The Applicant shall provide any and all necessary drawings and details for review and approval by the Board. All other local and state permits needed to build the culvert shall be applied for and received by the Applicant or their heirs and successors prior to release of any lots for building;
3. **Interim As-built Plan and Inspections:** The Applicant shall provide interim As-built Plan prepared and stamped by a P.E. licensed to practice in the Commonwealth of Massachusetts. The plan shall be reviewed by the Board's inspectional engineer and used as a baseline to verify the water, sewer and drainage improvements installed thus far. Any deviations from the approved plan or City's standards shall be immediately corrected to the satisfaction of the Board and DPW. All future work shall be performed as per project schedule submitted in advance to the Board or its representatives;
4. **Project Schedule:** The Applicant and their representatives, heirs or successors shall provide a final project schedule to the Board and its representatives prior to starting any further construction activity on site. The Applicant and site contractor shall be responsible for coordinating with the Board's inspectional engineer any improvements on site that require the sign off from the Board; and
5. **Compliance with Environmental Permits:** The Applicant shall submit copies of extension granted for all permits necessary to perform the work approved by MassDEP and ACC. The requirements of those permits and accompanying plans are included by reference in this Decision. Further, the Board shall require the inspection and monitoring of all approved improvements within the environmental jurisdictional areas to ensure that the work performed is as per said plans and permits. Any violation of those permits shall be deemed a violation of the Board's Decision as well.

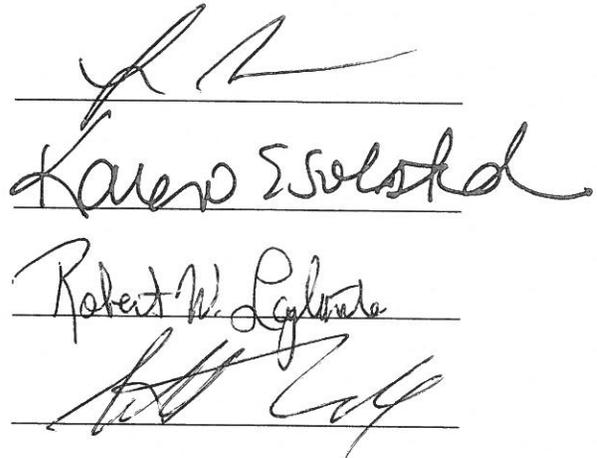


TO:

Thomas Anderson  
Lot G – Middle Road, Realty Trust  
37 Middle Road, Amesbury, MA 01913

PLANNING BOARD VOTE:

On July 25, 2016, the Amesbury Planning Board voted in favor of the approval of the Minor Modification to the Approved Definitive Subdivision Plan set (Plan Book 442, Page 98), for Eastern Lights Subdivision located at 37 Middle Road Amesbury, MA 01913 subject to the findings, and conditions noted in this Decision.



Filed with the City Clerk on

August 9, 2016

Bonnie Kitchin  
City Clerk