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AMESBURY CITY CLERK

PLANNING BOARD DECISION

Property Ownership: Bradley Kutcher & TRS Michael Realty Trust (4 Fourth St.)
Bradley Kutcher & Jacqueline Realty Trust (6 Fourth St.)
Bradley Kutcher & TRS Kimberly Realty Trust (8 Fourth St.)

Applicant: 242 Main Street Suite 5, Amesbury MA 01913

Application Type: DEFINITIVE SUBDIVISION

Project: Right of Way Improvement Subdivision Plan at Fourth St, Amesbury, MA

Date: April 14, 2014

A. BACKGROUND

On or about 03/17/2014, the Planning Board of Amesbury ("Board") received an application from Bradley Kutcher (the "Applicant") for a Definitive Subdivision as defined under Chapter 41, Section 81-O and T and pursuant to the provisions of Subdivision Rules and Regulations of the City of Amesbury for a Right of Way improvement and access subdivision plan showing access and utility improvements for three single family lots, located at 4th Street in Amesbury MA. The plans were drawn on 03/14/2014 by DGT Survey Group – North Shore, 18 Center Street Suite 1, Newburyport, MA 01950. The Plan set includes four (4) sheets.

The Board held the initial public hearing on 04-14-2014. The public hearing was closed on 04-14-2014 and a decision was rendered on the application on 04-14-2014. This is the Decision of the Board ("Decision").

A TRUE COPY ATTEST
Bonny Kutcher
CITY CLERK

Three (3) lot Definitive Subdivision and RoW improvement plan
4th Street, Amesbury, MA

B. FINDINGS

1. Property Description - The three parcels ("Property") are shown on Map 82 Lots 62, 63 and 64 of the Assessors Database. The property is located off Old County Road along Fourth Street in the R-20 district where the minimum lot area is 20,000 sq. ft. and the minimum frontage is 125 feet. The property is currently undeveloped;
2. Yield Plan - The existing three lots have frontage along Fourth (4th) Street. These lots are grand-fathered lots and therefore do not have to meet the current requirements for minimum lot area and frontage. Single family structures can be built on these lots provided there is reasonable and actual access from a way or street. Since Fourth Street is an unimproved way, this subdivision plan seeks to make reasonable improvements to the street under subdivision rules and regulations to provide access to these lots from Fourth Street. No other new lots are proposed. The Applicant proposes to construct single family structures that are comparable in architectural character and layout to the existing houses in the neighborhood;
3. Project Description - The proposed development ("Project") consists of three (3) lots as shown on the Subdivision Plan(s) ("Plans"). All proposed lots have frontage along Fourth (4th) Street, an existing dead end way. The "Undeveloped Street" ("Street") is a way shown on a Plan of Land, dated June 1940 and recorded at the South Essex Registry of Dceds, Plan Bk 72, Plan 15. The Board's action on this subdivision application does not grant any new development rights or allow any other improvements along this "Street" or access to property abutting this "Street" other than any rights that may exist or were granted upon the recording of the existing subdivision plan;
4. Utility Layout - The Project proposes to tie into public sewer and water services that already exist in the area. As certain portions of Fourth (4th) Street are maintained by the City, the Board is going to defer to the DPW as to the improvements needed to extend existing public utilities and for providing adequate services to these lots. DPW has

indicated that it will coordinate utility and other public infrastructure improvements before any building permits can be issued.

5. Access and Circulation – Fourth (4th) Street is currently 16.5 feet wide and there is no sidewalk for any pedestrian movement. With the construction of these 3 single family residential structures and the two additional single family structures along Fourth (4th) Street, the public safety officials have concerns about adequate access for emergencies and public safety. The Plan shows that the paved portion of Fourth (4th) Street will be increased to 20 feet in width. These improvements will be made by the applicant in coordination with DPW. The improved layout along with the proposed access easement will improve the existing public way such that it allows for safe access for emergency and fire response vehicles and other public safety purposes.

6. Stormwater Management –As it relates to the ROW on Fourth (4th) Street, DPW has requested that the proposed grades on the new lots and associated drainage information be provided by the Applicant for review and approval prior to requesting building permits for construction on these lots. This would allow the City to ensure that the proposed Project has no adverse impacts on abutting properties due to stormwater runoff or soil disturbance and erosion from construction activities. In lieu of design requirements under Section 6 of the subdivision rules and regulations, the Board considers this is a reasonable request in the interest of public health, welfare and safety of the surrounding properties;

7. Site Layout and Building Design – The Applicant met with the Planning Board in a pre-application conference and presented conceptual designs of residential structures proposed in this subdivision. The Applicant is proposing to house designs similar to those that were approved by the Board in other locations in Amesbury. These new residential structures will be appropriately scaled building designs that incorporate traditional house styles (including dormers); use of natural materials for the exterior; double hung windows with simulated divided light. The Board finds that this proposed

design criteria and the layout of buildings shown on the Plan would make the Project consistent with the character of the neighborhood;

8. Limit-of-Work and affected Property - Except for the work within the existing ROW and on the proposed lots, no other changes to existing land use or property boundaries is being proposed at this time. This subdivision plan does not seek to layout any new subdivision roads or ways, nor does it create any new lots. The Plan shows the improvements required pursuant to the subdivision rules and regulations to provide adequate access to these Lots as shown on the definitive subdivision plan.

C. WAIVERS

By application and as noted on the subdivision plan dated 03/14/2014, the Applicant sought waivers from the provisions of Section 6 and 7 of the Amesbury's Subdivision Rules and Regulations. The Board has granted waivers from those rules and regulations, only to the extent necessary, to construct the definitive subdivision plan as presented and revised, where the waivers are consistent with the purpose and intent of the regulations and would not threaten public health, safety or welfare and to minimize harm and disruption to the locus and real property abutting the locus.

D. GRANT OF PERMIT AND CONDITIONS THERETO

After public hearing, upon notice in accordance with the statute, and after full consideration of the evidence presented, and upon the findings made by the Board and hereinafter set forth, a Definitive Subdivision Plan Approval for the Right of Way improvements along Fourth (4th) Street in Amesbury, MA is granted to the Applicant for the premises described in the application, further upon the conditions that follow:

I. PRIOR TO ENDORSEMENT OF PLANS

The approved plans shall become Final Plans upon recording of the endorsed subdivision plan.

The following conditions shall be met prior to endorsement of the approved plan:

1. Turnaround Access Easement – As per request by the Fire Department, a copy of legal documents and plans describing the permanent turnaround access easement as shown on Lot 63 of the Final subdivision shall be submitted to the City for review and approval. The easement area shall remain unobstructed at all times for access by emergency vehicles. The Applicant also shall submit to the Board any other written or recorded instruments granting or agreeing to easements and covenants affecting the use of the subject parcels;

2. Notations - The following notes shall be added to the Plan prior to endorsement:
 - a. A note shall be added that states that "*A permanent no-clearing area shall be established no less than 25 feet in width from the rear property line of each of the lots along 5th street. The existing trees and vegetative buffer in this area shall be permanently maintained and shall be so noted on the individual deeds for each of these lots and shall be so noted on the recorded subdivision plan.*" and a notation to this effect shall also appear upon any deeds to any property within the subdivision;

 - b. A note shall be added that states that "*No further subdivision of any parcel or any changes to the number of residential lots, the lot configuration, or the lot lines shall occur without a further review and approval from the Board*" and a notation to this effect shall also appear upon any deeds to any property within the subdivision;

 - c. A note shall be added that states that "*All roadway improvements shall conform to design and construction standards as presented and required by the Amesbury Department of Public Works*"; and

 - d. A note shall be added that states that "*This RoW improvement plan for an existing way shown on a subdivision of Land is subject to the Planning Board decision recorded herewith and conditions stated therein*";

3. Covenant - A covenant shall be placed on the development as outlined in Section 6.09.B of the Subdivision Rules and Regulations stipulating that "No lots shall be released for building purposes until such time as DPW and Engineering departments have received, reviewed and approved plans and documents pertaining to underground utilities, drainage and other Right of Way (ROW) improvements." Upon such approval, the Applicant shall submit request to the Planning Board for release from such covenant prior to making request for a building permit;
4. Recorded Copy - A copy of this Decision as recorded at the Essex Registry of Deeds shall be submitted to the Board;
5. CAD Drawings - Three copies of all drawings and site plans as approved by Board shall be provided as Computer Assisted Drawings (CAD) on Compact Disks to the Board;
6. GIS Mapping - Compliance, to the greatest extent possible, with Municipal Mapping Requirements as per attached requirements (see Exhibit A) should be submitted to the Planning Office and approved by the Engineering Department;

II. PRIOR TO RELEASE OF LOTS FOR CONSTRUCTION

Prior to making request for release of lots for building, the Applicant shall file pertinent documents with the Board and all other relevant public agencies consistent with this Decision for review and shall have completed the following actions:

1. Recorded Plans - A copy of the set of Final Plan, signed by the City Clerk and recorded at the Essex Registry of Deeds shall be submitted to the Board and to the Building Inspector;
2. Adequate Access: The Applicant shall submit an interim As-Built plan or a written statement from the City's DPW and Engineering departments showing that the site has been stabilized and that access along Fourth Street is adequate for public safety;

3. Stormwater Management: Adequate stormwater control measures and drainage systems shall be in place or substantially complete and a written statement from the City's DPW and Engineering departments to this effect shall be submitted by the Applicant to the Board;
4. Municipal Services: The Applicant shall meet with both the Engineering Department and Department of Public Works (DPW) to finalize all details associated with all connections to existing municipal utilities. Service stub locations and connection locations should be coordinated with, and approved by, the City Engineer; and
5. Detailed Architectural Elevations: Architectural elevation drawings, including information on exterior building materials and finishes shall be submitted for review and approval by the City Planner. These architectural drawings shall be consistent with the Plan, photographs and renderings submitted and presented with the application.

III. DURING CONSTRUCTION

1. ROW Improvements: The Applicant shall be required to meet the requirements of DPW for all utility connections and the construction standards for Right of Way (ROW) repairs. At all times, the access to existing residential structures along Fourth Street shall be maintained and unobstructed to the greatest extent possible.

IV. PRIOR TO MAKING REQUEST FOR AN OCCUPANCY PERMIT

The Applicant shall file with the Board and all other relevant public agencies for review and for consistency with this Decision any documents and shall have completed the following actions:

1. Infrastructure Improvements - All ROW infrastructure shall be completed as per Final Plans and a written statement from the City's DPW and Engineering departments to this effect shall be submitted by the Applicant to the Board;

2. Street Trees - All proposed trees as presented on the Final Plan shall be placed in position or staked out for approval by the Planner prior to digging;
3. As-Built Plans— The Applicant shall submit plans as required by DPW with a certification from a Professional Engineer or Architect registered in the Commonwealth of Massachusetts that the ROW improvements "As-Built Plan" complies in all substantive respects with this Decision.
4. Turn-around Access Easement - Documentation and proof of recording of a turn-around access easement along the driveway on Lot 63 as approved by the City. The Applicant should have executed and caused to be recorded at the Essex South District Registry of Deeds the above referenced legal documents;

IV. GENERAL AND IN PERPETUITY CONDITONS

1. Repair and Cleanup: The existing roadway shall be kept clean of all earth materials during the construction phase. Any damage to public roads and walkways shall be repaired and/or replaced to the satisfaction of the DPW Director and City Engineer;
2. Notation on Deeds for specific Lots - Reference to the permanent turnaround access easement shall be made on the deeds for Lot 63. Reference to the permanently protected existing vegetative buffers ranging from 25 – 30 feet wide along the rear of the property abutting 5th Street shall be made on the deeds for Lots 62, 63 and 64;
3. RoW improvements – The paved portion of Fourth Street shall be no less than twenty (20) feet from Old County Road to the end of the paved portion of Fourth Street in front of Lot 63. Any retaining walls along the edge of RoW shall be no more than 18 inches in height. The Applicant shall submit a letter from DPW stating that all improvements along the RoW have been installed to the satisfaction of the City prior to making request for a building permit for Lot 62. If all improvements have not been completed, then the

Applicant shall be required to post a bond with the DPW. The infrastructure and utility improvements to 4th Street shown on the plan shall be completed prior to the request for occupancy permit for Lot 63;

4. Building Design Guidelines - The proposed structures shall generally meet the criteria set forth and outlined below:
 - Building Design - The proposed house designs for all new structures shall be consistent with the architectural house styles shown on Exhibit 2;
 - Exterior Siding - Only wood shingles, wood lap siding, or masonry shall be used. Fiber-cement siding materials such as HardiPlank or CertainTeed's Weatherboards may be substituted. Vinyl, aluminum and steel siding are specifically prohibited;
 - Windows - Simulated true divided light is acceptable but snap on grilles will not be allowed. Blank walls shall not be allowed. Large Palladian windows on the second floor above the main entrance shall not be allowed. Double ganged windows shall not be allowed;
 - Doors and Entrances - Following traditional entrance design, the door surrounds, moldings, steps, entablatures, transoms, pediments, door casings, projections, porticos, and door canopies and columns should all follow the principles of the *Orders* for traditional buildings;
 - Exterior Trim/Porches - Articulated trim details for the windows, fascia, rakes, corner boards and porches shall be in keeping with the architectural style of each home. Trex decking or the like may be used. Pressure treated wood may be used for framing, but except for rear yard applications, it shall not be left exposed;
 - Garages - Garage doors shall be setback at a minimum of five (5) feet from the main façade along the front yard. Other preferred design criteria include: individual doors for each bay for two bay garages; transom light in garage doors; detached or semi-attached garages.

5. Waivers - Except as waived specifically in the Decision, the development of this Project, including the construction of all dwelling units, utilities, roads, drainage structures and

other appurtenances, shall comply with the Amesbury Subdivision Rules and Regulations and Zoning By-Law in effect at the time of this Decision. The Applicant or their assignees shall make a request in writing to the Board for any additional waivers that may be needed to construct this subdivision as per this Decision; and

- 6. Street Trees and Landscaping Plan – Street trees shall be planted along the frontage of these lots pursuant to the requirements of the subdivision rules and regulations. The Applicant shall submit for review and approval by the City Planner a typical landscape plan for shrubs to be planted around the building footprint in lieu of a detailed landscaping plan for the entire subdivision;

- 7. Finished Grades: The finished grades of the garages, detached or attached, shall be no higher than 18 inches from the finished grades towards the rear of the lots shown on the subdivision plan.

Chair, Amesbury Planning Board



EXHIBITS

- a. Exhibit 1 – Site Plan Set
- b. Exhibit 2 – Architectural Renderings

PLEASE RETURN TO:
HEALEY, S. GAGLIARDI & WOELFEL, PC
BOX 5



CITY OF AMESBURY

Bonnijo Kitchin
City Clerk

City Hall, 62 Friend Street
Amesbury, MA 01913-2886
Tel: (978) 388-8100
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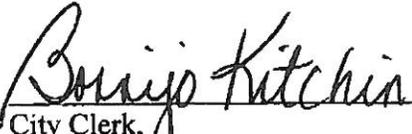
APPEAL CERTIFICATION

Applicant: Bradley Kutcher & TRS Michael Realty Trust
Bradley Kutcher & Jacqueline Realty Trust
Bradley Kutcher & TRS Kimberly Realty Trust

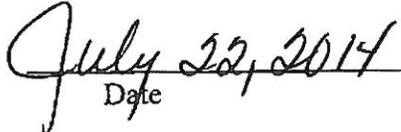
Property: Fourth Street

I hereby certify that 20 days have elapsed from the date this certification was issued and no appeal has been filed in this office.

A true copy. Attest:



City Clerk,
Amesbury, MA.



Date