

# TOWN OF SOUTH HADLEY

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RICHARD L. HARRIS, AICP  
Town Planner

DORIS LECLAIR  
Senior Clerk

Received  
Town of South Hadley  
NOV 12 2014 1:35p

Town Clerk

## OFFICE OF THE PLANNING BOARD

116 Main Street, Room 204  
South Hadley, MA. 01075-2896  
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www.southhadleyma.gov  
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## NOTICE

### CERTIFICATE OF PLANNING BOARD DECISION FOR DEFINITIVE SUBDIVISION PLAN AND STORMWATER MANAGEMENT PERMIT REQUEST SUBMITTED BY:

- APPLICANT:** Ethan L. Bagg  
57 Hadley Street  
South Hadley, MA 01075
- SUBDIVISION NAME:** Ethan Circle
- LOCATION:** North side of Hadley Street (Route 47)  
South Hadley, MA 01075  
Assessor's Map #47, Parcels #6, #9, #10, #11, & #12
- SURVEYORS & ENGINEERS:** Harold L. Eaton & Associates, Inc.  
235 Russell Street  
Hadley, MA  
and  
Charles H. Dauchy, Environmental Consultant  
24 Old Long Plain Road  
Leverett, MA 01054  
and  
Shawn K. Kimberly, PE  
S. K. Kimberly Engineering  
309 Thompson Road  
Colrain, MA 01340
- PUBLIC HEARING:** A public hearing was opened on June 9, 2014, continued on June 23, 2014 and August 12, 2014 and concluded on October 27, 2014 in accordance with the South Hadley Subdivision Regulations and the Massachusetts General Laws.

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This Certificate is filed in accordance with the provisions of Chapter 41, Section 81U of the Massachusetts General Laws to show that the Planning Board at its regular meeting on November 10, 2014 by a vote of **Four (4)** out of **Four (4)** members present (Jeff Squire

abstained as he did not attend the first public hearing) approved the above-referenced Application for Approval of a Definitive Plan for the Ethan Circle subdivision project as describe herein subject to the following conditions and requirements:

1. Area Included in Subdivision and Limit on Number of Lots. The Ethan Circle subdivision includes all of the approximately 3.624 acres depicted and described on the Definitive Plans within the ownership of the applicant and identified on Assessor's Map #56 as Parcels #6, #9, #10, #11, & #12 including all lands contained within the proposed rights of way and easements. The Definitive Plan is approved for no more than six (6) building lots as depicted on the Definitive Plan which has been incorporated into and made a part of this Decision. No lots may be divided with the effect of creating a new building lot. No further subdivision of the parcels or roadway extension is to be permitted except for minor lot line modifications without a prior amendment approved by the Planning Board pursuant to Chapter 41, Section 81-W, MGL.
2. Conformance to Regulations. The applicant shall conform to all applicable provisions of the Subdivision Regulations of the Town of South Hadley, except as expressly provided for in this Decision including the layout as depicted on the plans referenced herein.
3. No Parking Signs. To ensure that emergency and other larger vehicles are able to access the residences on Ethan Circle, the "Y" turnaround in front of lots 4, 5, and 6 the developer shall 1) install signs denoting this area as a "No Parking" area, 2) require that each grantor and grantee associated with Lots #2 through #7 sign an acknowledgement indicating they are aware of the area for which on-street parking is prohibited on Ethan Circle, and 3) take such action as required by the Town of South Hadley to have this area designated as an official "No Parking" zone subject to enforcement by the Town of South Hadley Police Department. These actions are to be taken prior to occupancy of any houses being occupied on lots 4, 5, or 6.
4. Sewer Line Responsibility and Liability. The Ethan Circle subdivision includes several types of sewer lines. The maintenance responsibilities and liability of these lines – once properly installed and operational – will vary as follows and such responsibilities and liabilities are to be documented as provided below:
  - a. *8" Gravity Flow Sewer Line:* The Town will maintain the 8" gravity flow sewer lines; but only the gravity flow sewer lines. This maintenance responsibility will only transfer after the subdivision is completed and the roadway accepted by Town Meeting – unless the Town provides a written acceptance of the responsibility at an earlier date.
  - b. *Pressurized Sewer Lines:* The pressurized lines are to be solely the responsibility and liability of the individual lot owners with appropriate easements given to them.
  - c. *4" Gravity Flow Sewer Lines:* These 4" gravity sewer lines from the houses are service lines and are to be solely the responsibility and liability of the individual lot owners for the entire length of these 4" pipes.
  - d. *Easements and Deed Attachment Regarding Private Property Owners' Responsibilities and Liabilities:* In addition to the easements to accompany the sewer lines traversing the individual lots, a document to be attached to each applicable deed conveying a lot

outlining and detailing the private property owner's maintenance responsibilities and liability. This document shall make clear that the Town has NO responsibility or liability for the subject lines. This document is to be submitted to, and approved by, the Planning Board prior to the Board's endorsement of the Definitive Plan. The approved document is to be acknowledged by both grantor and grantee and recorded as an attachment to each and every applicable deed of conveyance.

5. Peer Review Confirmation. Receipt of a confirmation from the Peer Review Engineer that the revisions to the Stormwater Plan and Stormwater Report presented at the October 27, 2014 Public Hearing do not change the project's compliance with the Town's Stormwater Management Bylaw. This confirmation must be received by the Planning Board prior to endorsement of the Definitive Plan.
6. Order of Conditions. Conservation Commission Order of Conditions for this project including any revisions required by said Order of Conditions.
7. Drainage and Erosion. The applicant shall not cause any increased storm water run-off or drainage to flow onto adjacent property including but not limited to public ways (Route 47 aka Hadley Street). The project shall conform to the provisions of the South Hadley Storm Water Management Bylaw.
8. Stormwater Performance Guarantee. In accordance with Section 1609 of the Town's General Bylaws and as noted in the Peer Review Report of October 8, 2014, the applicant is to provide a Financial Guarantee in the form satisfactory to the Board. Since the General Bylaw requires the Stormwater Performance Guarantee to be a financial guarantee, a Covenant Agreement will not satisfy this provision. However, if the applicant provides a Financial Guarantee for the Definitive Subdivision Plan as allowed under the Subdivision Regulations, the Board may allow said guarantee to satisfy the requirement of Section 1609 if the Board determines the two guarantees serve the same function, the purposes of the Stormwater Management Bylaw are adequately furthered, and the Town Engineer does not object to the substitution.
9. Homeowners' Association. In accordance with the applicant's representations as to who is to maintain the drainage facilities (including but not limited to, the detention and infiltration basins), the developer must create a Homeowners' Association consisting of the owners of Lots #2 through #7. Documentation establishing this Homeowners' Association must be submitted to the Planning Board for review and concurrence prior to submittal of the Definitive Plan for endorsement. The maintenance requirements associated with the drainage facilities (procedures, checklist, schedule, etc.) shall be appended to and made a part of the document creating and establishing the Homeowners' Association.
10. Town is Not Obligated to Maintain. The Town of South Hadley bears no obligation for, nor liabilities associated with, the drainage facilities not accepted by Town Meeting. Nor does the Town of South Hadley bear liability for damage resulting from any private drainage which flows into any Town-maintained facilities.

11. Maintenance Responsibility for Drainage Facilities.

- a. *Maintenance of Detention Basin and Infiltration Basin:* The Homeowners' Association shall be responsible for maintenance of the detention and infiltration basins and access to the detention and infiltration basins.
- b. *Rain Gardens on lots 2 & 3:* The owners of lots 2 and 3 shall have primary responsibility for maintenance of the rain gardens on their respective properties. In the event that the owners fail to properly maintain the rain gardens, the Homeowners' Association shall have the right and responsibility to enter the subject properties and do any required maintenance to restore hydraulic function, but shall not be responsible for replacing any plantings or other vegetation.
- c. *Grass swale on lots 4 & 5:* The owners of lots 4 and 5 shall have primary responsibility for maintenance of the grass swale on their respective properties. In the event that the owners fail to properly maintain the swale to allow unobstructed flow, the Homeowners' Association shall have the right and responsibility to enter the subject properties and do any required maintenance to restore unobstructed flow, but shall not be responsible for replacing any plantings or other vegetation other than that required to prevent erosion.
- d. *Foundation Drains.* The foundation drains are not the responsibility of the Town of South Hadley and the Town bears no liability for any damage resulting from their failure. The foundation drains are to be forever the responsibility of the Homeowners' Association and the individual lot owners benefiting from such drains.

12. Recourse for Failure to Maintain Drainage Facilities. In the event the Homeowners' Association fails to maintain the Drainage Facilities as required by the Maintenance Schedule, the Town of South Hadley shall have the right, but not the responsibility, to enter the subject property and do such maintenance.

- a. *Pro-Rata Shares of Cost.* In the event the Town undertakes any of the maintenance work required of the Homeowners' Association, the owner of each lot in the subdivision shall be responsible for their proportional share of the total direct and indirect costs incurred by the Town for maintenance of the facilities. This pro-rata share will be allocated equally among the four lots.
- b. *Lien Against the Properties.* The Town shall have the authority to file a lien against each property in the subdivision for the pro-rata share of the costs incurred by the Town for maintenance of the drainage facilities (including any and all administrative and indirect costs associated with such activities) for which the Homeowners' Association (and the individual property owners through the Homeowners' Association) were responsible.
- c. *Deed Attachment.* A document to be attached to each deed conveying a lot outlining and detailing the Town's authority to assess costs (plus interest accrual) for the aforementioned maintenance and upkeep is to be submitted to, and approved by, the Planning Board prior to the Board's endorsement of the Definitive Plan. The approved

document is to be acknowledged by both grantor and grantee and recorded as an attachment to each and every deed of conveyance.

13. Interim Maintenance. The applicant is responsible for maintenance of all roadways and related facilities (including, but not limited to, storm water detention basin, other drainage and sewage elements) until the Town or a Homeowners' Association has accepted the elements for maintenance. Accordingly, the applicant is to ensure that all elements are maintained to ensure they function properly. **HOWEVER**, nothing in this decision obligates the Town to take over any of the elements for maintenance, particularly the storm water detention basin.
14. So-called Street Trees. Section 8.10.1 of the Subdivision Regulations requires "street trees". The following conditions apply to the requirements of Section 8.06 and 8.10:
  - a. *Planting Specifications:* Planting specifications, a plant list, and locations of large trees must be provided to insure conformity with Sections 8.06 and 8.10 of the Subdivision Regulations.
  - b. *Number of Trees:* At least two trees shall be provided on each new lot. Thus, this applies to lots #2 through #7 but not to lots #1 and #8 since they presently have residences constructed thereon.
  - c. *Location of Trees:* The required trees shall be located between the front of the house and the right of way line but not within any drainage or sewer easement nor in any location which would interfere with the operation or maintenance of any utilities.
  - d. *Acknowledgement of Requirement:* If any of the lots #2 through #7 are to be conveyed prior to the developer completing the subdivision and receiving the final Release of Performance Guarantee, the grantor and grantee must sign an acknowledgement of the requirement for planting of trees and provide the grantor (and their authorized agents) with authority to enter upon the property and have the trees planted.
15. Application Materials and Revisions Incorporated. All application materials (including subsequent revisions thereto) submitted to, and received by the Planning Board as part of the applicant's "Form C – Application for Approval of a Definitive Plan" received by the Town Clerk on May 6, 2014 are hereby incorporated into and made part of this Decision. Furthermore, related materials are also hereby incorporated into and made part of this Decision. Said application and related materials specifically include, but are not limited to, the following:
  - a. The Plan of Land entitled "Ethan Circle Definitive Subdivision South Hadley, Massachusetts" prepared by Harold L. Eaton & Associates, Inc. dated December 24, 2013 as revised through October 21, 2014 inclusive of the cover sheet and subsequent Detail Sheets 2 through 7 and as further amended as a result of conditions included in this Decision.
  - b. "Details, Water Supply" dated 10/8/08, by P. B. Hatch
  - c. Stormwater Calculations Report dated January 20, 2014 as revised through October 27, 2014
  - d. Development Impact Statement submitted as part of the application.

16. Minutes. Minutes (including materials referenced therein) of the following hearings and meetings regarding this project are also incorporated into and made part of this Decision:
    - a. Planning Board public hearings held on June 9, 2014, June 23, 2014, August 12, 2014, and October 27, 2014.
    - b. Departmental Review meeting held on November 10, 2014.
    - c. Planning Board meeting held November 10, 2014.
  17. Comments. Department and Peer Review comments are also incorporated into and made part of this Decision with specific reference to the following:
    - a. Emails from Sharon Hart, Director of Public Health dated August 27, 2014 and October 2, 2014.
    - b. Email from Janice Stone, Conservation Commission Administrator dated October 27, 2014.
    - c. Email from Fire District #2 Fire Chief David Keefe dated October 21, 2014.
    - d. Email from DPW Superintendent Jim Reidy dated October 24, 2014.
    - e. October 8, 2014 Peer Review Report from Greg Newman
  18. Street Lights. The Selectboard has sole authority to approve the number and location of streetlights.
  19. Street Name. The name of the subdivision street shall be **Ethan Circle**.
  20. Building/Street Numbers. The building/street numbers are as follows:

Lot 1: <b><u># 61 Hadley Street</u></b>	Lot 5: <b><u># 5 Ethan Circle</u></b>
Lot 2: <b><u># 2 Ethan Circle</u></b>	Lot 6: <b><u># 3 Ethan Circle</u></b>
Lot 3: <b><u># 4 Ethan Circle</u></b>	Lot 7: <b><u># 1 Ethan Circle</u></b>
Lot 4: <b><u># 6 Ethan Circle</u></b>	Lot 8: <b><u># 57 Hadley Street</u></b>
- These street address numbers shall be affixed and displayed on the Definitive Plan submitted for endorsement.
21. Pre-Endorsement Requirements. Prior to the Planning Board's endorsement of an approved plan, the applicant shall:
    - a. No later than **April 10, 2015**, submit revised plans reflecting changes imposed by the conditions of this decision (including a reference to this decision and the conditions stated herein).

- b. No later than **April 10, 2015**, submit drafts of documents required by conditions of this approval. Drafts of easement documents called for on the proposed plans must be included in the documents to be submitted.
- c. Fulfill the pre-endorsement requirements specified in Section 5.05 Subpart 4 “Endorsement” and in Section 5.05 Subpart 5 “Performance Guarantee” of the South Hadley Subdivision Regulations.

Failure to satisfy the above conditions as stated shall result in rescission of the **November 10, 2015** Planning Board approval as provided in Section 5.05, Part 4 of the South Hadley Subdivision Regulations.

- 22. Inspection Requirements. At various specified stages of construction of streets and ways, utilities, and other improvements, inspections are mandatory and shall follow the administrative procedure set forth in Section 9.0, Part 9.01, Subsections 1 through 7.
- 23. Underground Utilities. All utilities must be placed underground pursuant to Section 8.08 of the Subdivision Regulations. The applicant is solely responsible for all costs associated with such installations.
- 24. Releases. No releases from the performance guarantee established pursuant to Section 5.05 shall be granted unless and until all utilities and drainage facilities have been completely installed.
  - a. Before any releases are granted from either a Covenant Agreement or other form of Performance Guarantee, the applicant shall submit a request for such a release accompanied by a set of “Interim As-Built Plans” and a Certification of Partial Completion prepared by and stamped by a qualified Engineer/Surveyor.
- 25. Performance Guarantee – Covenant Agreement. If the applicant desires to provide a Covenant Agreement as the initial form of Performance Guarantee, the Planning Board is agreeable to allowing foundations to be installed on all of the lots for the proposed residential buildings while the Covenant Agreement is in place. However, the Covenant Agreement will not permit transfer of ownership of any of the lots which is a standard restriction under such an agreement. The purpose for allowing the installation of foundations is to enable all excavation activity associated with the foundations, roadway, etc. to be undertaken at one time; thus, minimizing the disruption associated with excavation activity.
- 26. Bounds. All bounds are to be set in accordance with DPW specifications.
- 27. Changes Due to Departmental Comments. If changes in the Definitive Subdivision Plans become necessary due to comments from the various departments, the applicant/developer must submit the revised plans to the Town Planner to determine if further Board review is warranted before submittal of Plans for Endorsement.
  - a. If the Town Planner determines that further Board review is warranted, the applicant/developer shall submit sufficient copies of the revised plans for Departmental and Planning Board reviews as determined by the Town Planner. In such cases, the

Planning Board may require further public hearings and submittal of a formal application to amend the Definitive Subdivision Plan.

- b. If the Town Planner determines that the changes required by the departments result in minor changes in the plans of a nature as to not substantively alter the approved plans, further Planning Board review shall be deemed not necessary. In such instance, the applicant shall incorporate the changes into the plans submitted for Endorsement pursuant to Section 5.05 Subpart 4 "Endorsement" of the South Hadley Subdivision Regulations.
28. Stormwater Management Permit. This approval and the conditions within it shall constitute an approval of a Stormwater Management Permit under Article XVI (the Stormwater Management Bylaw) of the South Hadley General By-Laws.
  29. Absence of Town Engineer. Recognizing that the Town may not always employ a Town Engineer and that said Town Engineer position is customarily supervised by the DPW Superintendent, in the absence of a Town Engineer, the DPW Superintendent shall exercise such role as accorded the Town Engineer in this Decision.
  30. Water System Improvements. The water system shall be designed and laid out as required by the Fire District #2 Water Department. Accordingly, based on the comments made at the Departmental Review Meeting held on November 10, 2014 pursuant to Section 5.06 of the Subdivision Regulations, the following are some of the changes to be made from the plans noted herein to meet the Fire District #2 Water Department:
    - a. A looped water line is not required.
    - b. The water line shall be shifted to the opposite side of the roadway from what is depicted on the referenced plans and from under the pavement as much as practical.
    - c. An easement for future extension of the line to Sycamore Parc shall be provided from the right of way of Ethan Circle along the common line of Lots 4 and 5 to the northern boundary of the subject property. This water easement is to be assigned to the Fire District #2 Water Department for their use.

In accordance with the provisions of Chapter 41, Section 81-U, M. G. L., a copy of this Certificate is sent by certified mail to the applicant (subdivider/developer) as a notice of the action taken by the Planning Board.

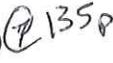
ATTESTED AND AFFIRMED

S/   
Jeff Squire, Chairman  
South Hadley Planning Board

November 10, 2014

Date

Received  
Town of South Hadley

Cc: Town Clerk (Date Filed **NOV 12 2014**)   
Town Administrator/Selectboard  
Building Commissioner **Town Clerk**  
DPW Superintendent  
Conservation Commission  
Water Dept., District #2  
Fire Chief, District #2  
Electric Light Dept.  
Ethan Bagg  
Charles Dauchey