



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT
DEFINITIVE SUBDIVISION DECISION
August 11, 2020

500 Dedham Ave
Needham, MA 02492
781-455-7550

PLANNING

Heather Lane
764, 766, 768-768A, and 768B Chestnut Street

William John Piersiak
William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust
Koby Kempel, Manager of the 766 Chestnut LLC

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts of 2020)

DECISION of the Planning Board of the Town of Needham, Massachusetts, (hereinafter together with any entity succeeding the powers of said Planning Board referred to as the Board) on the petition of William John Piersiak, 768-768A Chestnut Street, Needham, MA; William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, 768B Chestnut Street, Needham, MA; and Koby Kempel, Manager of the 766 Chestnut LLC, 766 Chestnut Street, Needham, MA (to be referred to hereinafter as the Petitioner) for property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Massachusetts. Said property is described as follows:

Beginning at a point on the easterly side of Chestnut Street, at the northwesterly corner of the herein described premises, thence; Running S36° 23' 52"E a distance of 38.05' to a point; Thence turning and running S 87° 02' 45"E a distance of 703.32' to a point; Thence turning and running N82° 55' 00"E a distance of 428.45' to a point; Thence turning and running S19° 23' 30"E a distance of 230.30' to a point; Thence turning and running S18° 57' 00"E a distance of 625', more or less to the Charles River; Thence turning and running southerly and westerly by the Charles River a distance of 1,564', more or less, to a point; Thence turning and running N14° 09' 11"E a distance of 679.53' to a point; Thence running along a curve to the right having a radius of 1,917.51' and an arc length of 144.78' to a point; Thence running along a curve to the left having a radius of 115.80' and an arc length of 49.25' to a point; Thence turning and running N73° 13' 00"W a distance of 42.86' to a point; Thence running along a curve to the right having a radius of 192.40' and an arc length of 59.52' to a point; Thence turning and running N55° 29' 32"W a distance of 100.92' to a point; Thence running along a curve to the left having a radius of 276.96' and an arc length of 62.36' to a point; Thence running along a curve to the left having a radius of 720.00' and an arc length of 92.46' to a point; Thence turning and running N75° 45' 00"W a distance of 85.00' to a point on the easterly side of Chestnut Street; Thence turning and running by the easterly side of Chestnut Street N14° 15' 00"E a distance of 150.00' to the point and place of beginning. The described area contains 26.904 acres.

This decision is in response to an application for approval by the Petitioner of a Definitive Subdivision Plan submitted to the Board on April 29, 2020, under Massachusetts General Laws, Chapter 41, Sections 81-K through 81-GG, inclusive.

If approved, the Plan would create six (6) individual house lots that conform to current zoning, all lots would have frontage and be accessed from the new proposed roadway. Currently, the land to be subdivided is in multiple ownerships, and there are several buildings on the land. All were constructed pursuant to permit and are lawful. Some of the buildings will remain, and some will be demolished, as shown on the Subdivision Plan. Lot 4 of the Heather Lane subdivision is

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intended to itself be further subdivided into five Residential Compound lots, which will have access and frontage via a private way called Heather Lane Extension.

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest, as required by law, Martin Jacobs, Chairperson of the Board, called the hearing to order on Tuesday, June 16, 2020 at 7:30 p.m. via remote meeting using Zoom ID [826-5899-3198](#). Board members, Martin Jacobs, Paul S. Alpert, Jeanne S. McKnight, Ted Owens, and Adam Block were present throughout the June 16, 2020 public hearing. The hearing was continued to Tuesday, July 21, 2020 at 8:00 p.m. via remote meeting using Zoom ID [826-5899-3198](#). Board members, Jeanne S. McKnight, Martin Jacobs, Paul S. Alpert, and Adam Block were present throughout the July 21, 2020 public hearing. The hearing was continued to Tuesday, August 11, 2020 at 8:30 p.m. via remote meeting using Zoom ID [826-5899-3198](#). Board members, Jeanne S. McKnight, Martin Jacobs, Paul S. Alpert, Ted Owens and Adam Block were present throughout the August 11, 2020 public hearing. Board member Ted Owens was present for all of the proceedings except the hearing occurring on July 21, 2020. Pursuant to Massachusetts General Laws Chapter 39, Section 23D, Adjudicatory Hearing, adopted by the Town of Needham in May of 2009, Mr. Owens examined all evidence received at the missed session and watched the recorded session of the Zoom meeting. The record of the proceedings and submissions upon which this approval is based may be referred to in the office of the Town Clerk or the Planning Board Office.

The Board met on August 11, 2020, to deliberate on the proceedings and to consider the evidence. Submitted for their deliberations prior to the close of the public hearing were the following exhibits.

- Exhibit 1 - The Plan entitled, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA ”, dated March 3, 2020; Sheet 2, No. 2, “Key Sheet”, dated March 3, 2020; Sheet 3, No. 3A “Existing Conditions Plan,” dated March 3, 2020; Sheet 4, No. 3B, “Existing Conditions Plan”, dated March 3, 2020; Sheet 5, No. 3C, “Existing Conditions Plan”, dated March 3, 2020; Sheet 6, No. 4A, “Lotting Plan”, dated March 3, 2020; Sheet 7, No. 4B, “Lotting Plan”, dated March 3, 2020; Sheet 8, No. 4C, “Lotting Plan”, dated March 3, 2020; Sheet 9, No. 5, “Plan & Profile Heather Lane”, dated March 3, 2020; Sheet 10, No. 6, “Grading Plan”, dated March 3, 2020; Sheet 11, No. 7, “Utility Plan,” dated March 3, 2020; Sheet 12, No. 8, “Detail Plan,” dated March 3, 2020; Sheet 13, No. 9, “Detail Sheet,” dated March 3, 2020.
- Exhibit 2 - Two letters from Attorney Robert Smart, directed to Lee Newman, Director of Planning and Community Development, dated April 27, 2020.
- Exhibit 3 - Application for Approval of a Definitive Subdivision Plan, dated April 27, 2020, with owner information attached. Filed with the Town Clerk on April 29, 2020.
- Exhibit 4 - Letter from Evelyn Soule Maloomian, dated March 11, 2020.
- Exhibit 5 - Letter from Koby Kempel, Manager, 766 Chestnut LLC, dated March 18, 2020.
- Exhibit 6 - Legal Description of Land proposed to be subdivided.

- Exhibit 7 - Abutter information from abutting municipalities of Dover, Westwood and Dedham.
- Exhibit 8 - Letter from Attorney Robert Smart, directed to Tedi Eaton, Town Clerk, dated April 27, 2020.
- Exhibit 9 - Letter from Attorney Robert Smart, directed to Members of the Board of Health, dated April 27, 2020.
- Exhibit 10 - List of Waivers, provided by Kelly Engineering, undated.
- Exhibit 11 - Letter from Attorney Robert Smart, directed to Members of the Planning Board, dated April 27, 2020.
- Exhibit 12 - Drafts of the following documents received April 27, 2020: (1) Declaration of Restrictive Covenants; (2) Heather Lane Homeowners Association Declaration of Trust; (3) Subdivision Covenant Under Provisions of General Laws Chapter 41, Section 81-U; (4) Grant of Utility Easement; and (5) Grant of Drainage Easement from 768B Chestnut Street Realty Trust to the Town of Needham, Massachusetts, Heather Lane Homeowners Association Trust, and the Heather Lane Extension Homeowners Association Trust.
- Exhibit 13 - Stormwater Management Report, Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184, dated March 3, 2020.
- Exhibit 14 - Email from George Hasiotis, 750 Chestnut Street, Needham, dated June 15, 2020.
- Exhibit 15 - Email from Sarah Grossman, 754 Chestnut Street, Needham, dated June 16, 2020.
- Exhibit 16 - Email from Kevin and Sara Jay, 776 Chestnut Street, Needham, dated June 16, 2020.
- Exhibit 17 - Presentation at June 16, 2020 hearing including the following: Sheet 1, with satellite photo, entitled "764, 766, 768-768A, 768B Chestnut Street, Existing Conditions," prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184, undated; Sheet 2, with satellite photo, entitled "764, 766, 768-768A, 768B Chestnut Street, Heather Lane 6 Lot Subdivision," prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184, undated; Sheet 3, with satellite photo, entitled "Proposed 5 Lot Residential Compound, 768-768A Chestnut Street, Lot 4 Heather Lane Needham, MA," prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184, undated; Sheet 4, entitled "Street Cross Section, prepared by Kelly Engineering Group, undated; Sheet 5, Zoning Legend, Residential Compound; Sheet 6, Heather Lane: Compliance with Subdivision Rules and Regulations; Sheet 7, Heather Lane Extension Residential Compound: Compliance with Subdivision Rules and Regulations; Sheet 8, List of Waivers, Heather Lane Subdivision, prepared by Kelly Engineering Group, Inc.; Sheet 9, List of Waivers, Heather Lane Extension Residential Compound, prepared by Kelly Engineering Group, Inc.; Sheet 10, showing Lanterns, entitled "Grande Jefferson,

8400 Series, Post Top, H.I.D. Lantern,” dated February 11, 2002; Sheets 11-13, photographs of the existing roadway, taken January 30, 2020.

- Exhibit 18 - Letter from Attorney Robert Smart, directed to Lee Newman, Director of Planning and Community Development and Members of the Board, dated June 30, 2020, with attached new Drafts of the following documents received July 30, 2020: (1) Declaration of Restrictive Covenants; (2) Heather Lane Homeowners Association Declaration of Trust; (3) Subdivision Covenant Under Provisions of General Laws Chapter 41, Section 81-U; (4) Grant of Utility Easement; and (5) Grant of Drainage Easement from 768B Chestnut Street Realty Trust to the Town of Needham, Massachusetts, Heather Lane Homeowners Association Trust, and the Heather Lane Extension Homeowners Association Trust.
- Exhibit 19 - Two letters from Attorney Robert Smart, directed to Lee Newman, Director of Planning and Community Development, and Members of the Board, dated July 13, 2020.
- Exhibit 20 - Draft Heather Lane Extension Conservation Restriction to Town of Needham, MA, received July 9, 2020 with Exhibit A Plan entitled “Conservation Restriction Plan,” dated June 24, 2020.
- Exhibit 21 - The Plan entitled, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA ”, dated March 3, 2020, revised July 7, 2020; Sheet 2, No. 2, “Key Sheet”, dated March 3, 2020, revised July 7, 2020; Sheet 3, No 3A “Existing Conditions Plan,” dated March 3, 2020; Sheet 4, No. 3B, “Existing Conditions Plan”, dated March 3, 2020; Sheet 5, No. 3C, “Existing Conditions Plan”, dated March 3, 2020; Sheet 6, No. 4A, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020; Sheet 7, No. 4B, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020; Sheet 8, No. 4C, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020; Sheet 9, No. 5, “Plan & Profile Heather Lane”, dated March 3, 2020, revised July 7, 2020; Sheet 10, No. 6, “Grading Plan”, dated March 3, 2020; Sheet 11, No. 7, “Utility Plan,” dated March 3, 2020, revised July 7, 2020; Sheet 12, No. 8, “Detail Plan,” dated March 3, 2020; Sheet 13, No. 9, “Detail Sheet,” dated March 3, 2020.
- Exhibit 22 - Letter from Attorney Robert Smart, directed to Lee Newman, Director of Planning and Community Development, and Members of the Board, dated July 17, 2020 with attachments.
- Exhibit 23 - Letter from Attorney Robert Smart, directed to Lee Newman, Director of Planning and Community Development and Members of the Board, dated July 30, 2020.
- Exhibit 24 - The Plan entitled, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA ”, dated March 3, 2020, revised July 22, 2020; Sheet 2, No. 2, “Key Sheet”, dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 3, No 3A “Existing Conditions Plan,”

dated March 3, 2020; Sheet 4, No. 3B, "Existing Conditions Plan", dated March 3, 2020; Sheet 5, No. 3C, "Existing Conditions Plan", dated March 3, 2020; Sheet 6, No. 4A, "Lotting Plan", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 7, No. 4B, "Lotting Plan", dated March 3, 2020, revised July 7, 2020; Sheet 8, No. 4C, "Lotting Plan", dated March 3, 2020, revised July 7, 2020; Sheet 9, No. 5, "Plan & Profile Heather Lane", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 10, No. 6, "Grading Plan", dated March 3, 2020, revised July 7, 2020 (no change) and July 22, 2020; Sheet 11, No. 7, "Utility Plan," dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 12, No. 8, "Detail Plan," dated March 3, 2020; Sheet 13, No. 9, "Detail Sheet," dated March 3, 2020.

Exhibit 25 - Communication (IDC) to the Board from Thomas Ryder, Assistant Town Engineer, dated June 12, 2020 and August 6, 2020; IDC to the Board from Anthony Del Gaizo, Town Engineer, dated June 16, 2020; IDC to the Board from Dennis Condon, Chief, Needham Fire Department, dated June 10, 2020 and June 16, 2020 ; IDC to the Board from John Schlittler, Chief, Needham Police Department, dated June 16, 2020; IDC to the Board from Tara Gurge, Assistant Director, Health Department, dated June 14, 2020 and July 29, 2020; and IDC to the Board from Debbie Anderson, Director of Conservation, dated June 12, 2020, July 28, 2020 and August 6, 2020.

Exhibits 13, 18 and 25 are referred to hereinafter as the Plan.

The Board by a vote of 5-0 hereby APPROVES the Subdivision, as shown on the Plan, located in Needham, Norfolk County, Massachusetts, to be recorded herewith, for the reasons and subject to the plan modifications, conditions and waivers herein set forth. The approval herein granted is based on the Plan entitled, "Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA", prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, "Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA", dated March 3, 2020; Sheet 2, No. 2, "Key Sheet", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 3, No. 3A "Existing Conditions Plan," dated March 3, 2020; Sheet 4, No. 3B, "Existing Conditions Plan", dated March 3, 2020; Sheet 5, No. 3C, "Existing Conditions Plan", dated March 3, 2020 and revised July 22, 2020; Sheet 6, No. 4A, "Lotting Plan", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 7, No. 4B, "Lotting Plan", dated March 3, 2020, revised July 7, 2020; Sheet 8, No. 4C, "Lotting Plan", dated March 3, 2020, revised July 7, 2020; Sheet 9, No. 5, "Plan & Profile Heather Lane", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 10, No. 6, "Grading Plan", dated March 3, 2020, revised July 7, 2020 (no change) and July 22, 2020; Sheet 11, No. 7, "Utility Plan," dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 12, No. 8, "Detail Plan," dated March 3, 2020; Sheet 13, No. 9, "Detail Sheet," dated March 3, 2020.

1. The Board hereby waives compliance with the following requirements of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, having found that such action is in the public interest and is not inconsistent with the intent and purposes of the Subdivision Control Law.

a) The Board hereby waives the requirements of Section 3.3.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that all streets be laid out to a width of 50 feet and approves instead a 40-foot wide right-of-way, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the

provisions of paragraphs 3 through 13 of this Decision. The Board found a right-of-way width of 40 feet to be sufficient to accommodate the residential subdivision.

b) The Board hereby waives the requirements of Section 3.3.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that all streets be paved to a width of 24 feet and approves instead a pavement width of 20 feet, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this Decision. In the granting of this waiver, the Board considered the Plan and the specific goal of limiting the amount of impervious surface on the site so as to minimize off-site drainage impacts on neighboring properties and the visual impact the 24 feet of bituminous concrete paving would have on the existing landscape. The Board specifically found a bituminous concrete pavement width of 20 feet to be sufficient to accommodate the residential house lots proposed to be serviced by the subdivision and the ability of emergency vehicles to access the site.

c) The Board hereby waives the requirements of Section 3.3.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that the grade of the street not exceed 1% within 50 feet of a street intersection and approves instead a maximum grade of 2.6% at the Chestnut Street intersection, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this decision. In the granting of this waiver, the Board considered the site distance found at the intersection of Heather Lane and Chestnut Street, the safety of the intersection to function in accordance with ASHTO roadway safety standards, and the affirmative recommendation of the Town Engineer for this roadway design program.

d) The Board hereby waives the requirements of Section 3.3.3 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require a 20 foot radii at the intersection of Heather Lane and Chestnut Street, and approves instead the existing radii, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this Decision. In the granting of this waiver, the Board considered the Plan and the affirmative recommendation of the Town Engineer for this roadway design program.

e) The Board hereby waives the requirements of Section 3.3.6 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that granite or reinforced concrete curbing be installed around the cul-de-sac and at catch basin inlets and approves instead the use of cape cod berm, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this Decision. In the granting of this waiver, the Board considered the number of homes served by this subdivision, the dead-end nature of the proposed street, and the affirmative recommendation of the Town Engineer for this roadway design program.

f) The Board hereby waives the requirements of Section 3.3.16 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require the construction of a sidewalk in accordance with the "Standard Specifications" of the Town of Needham along both sides of Heather Lane and approves instead no walkways, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this Decision. In the granting of this waiver, the Board considered the number of homes served by this subdivision, the projected traffic volume for Heather Lane and the dead-end nature of the street.

g) The Board hereby waives the requirements of Section 3.6.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that all

streets be constructed in accordance with the standard street cross-section and approves instead the cross-section as shown on the Plan, showing a 20-foot pavement width and no sidewalks. The above-named waiver is subject to the provisions of paragraphs 3 through 13 of this Decision. In the granting of this waiver, the Board considered all matters described in sections 1.a, 1.b, and 1.f above.

2. Petitioner shall cause the Plan to be revised to show the following additional or revised information which modifications shall be subject to review and approval of the Board prior to endorsement of the Plan:

a) The plan shall be revised to show a Conservation Restriction Easement over the 200-foot Riverfront Area located on Lot 4.

3. The waiver of street construction requirements, as fully set forth in Paragraphs 1.a, 1.b, 1.c, 1.d, 1.e, 1.f, and 1.g is expressly conditioned upon and subject to the restriction that neither the owner nor any successor owner or owners of Lot 1, Lot 2, Lot 3, Lot 4, Lot 5 and Lot 6 as shown on the Plan (hereinafter in paragraphs 3 through 12 inclusive referred to individually as a Lot or collectively as the Lots) shall use the Lots for any purpose other than single-family residential use, as shown on the Plan, as approved by the Board and recorded herewith, and there shall be no further division of Lot 1, Lot 2, Lot 3, Lot 5 or Lot 6 as shown thereon without the prior written approval of the Planning Board. As previously noted, Lot 4 is intended to be subdivided into five Residential Compound lots pursuant to the Board's "Definitive Subdivision Decision, Heather Lane Extension 768-768A Chestnut Street, Needham, MA", dated August 11, 2020.

4. Each and every owner or owners of any Lot served by the Private Way shall be jointly and severally responsible and liable through the Heather Lane Homeowners Trust Agreement for the costs of the maintenance, repair and reconstruction of the Private Way (the Private Way) shown on the Plan and designated thereon and all services, the installation of which are required in connection with this approval, or which may be installed at any time, including, without limitation, maintenance, repair and reconstruction of roadways, sewer and drainage facilities and other utilities and related equipment, curbs, monuments, sidewalks, landscaping and street signs, as and whenever necessary, and including all actions of any kind or nature necessary or appropriate in order to maintain the Private Way in a good, safe and passable condition, including snow plowing, providing access from each Lot to a public way, as shown on the Plan, and providing adequate services to each Lot, all in accordance with these conditions. For purposes hereof, owner shall mean the record owner of the Lot or Lots as of the date that the maintenance, repair or reconstruction work, as the case may, be is begun.

5. Each owner of a Lot through the Heather Lane Homeowners Trust Agreement shall perform all maintenance, repairs and reconstruction required for or on the Private Way in compliance with and in conformity with requirements of the Town of Needham and other requirements imposed by law or governmental authority. The within requirement shall be included in all deeds of the Lots.

6. The Trustees under the Heather Lane Homeowners Trust Agreement shall not use or permit use of the Private Way for any purpose other than ingress and egress from the Lots by the residents of the Lots and their guests and invitees, such use to be limited to pedestrian and private-passenger vehicular traffic, and such other vehicular traffic as is necessary from time to time in cases of emergency, delivery of customary and usual household services and equipment or in connection with the maintenance, repair or reconstruction of the Private Way and services installed thereon, or hereunder. No owner or owners of any Lot shall park or cause to be parked any motor vehicle on the Private Way in such a way as to impede or obstruct the passage of pedestrian or vehicular traffic on the Private Way.

7. Any and all maintenance, repair or reconstruction work performed on or to the Private Way or in connection with services installed thereon or hereunder by or at the direction of any owner or owners of any Lot as provided herein shall be carried out so as to ensure that no fill material nor any products or excavation or erosion resulting from or arising in connection with such work shall be discharged into any storm drainage system, and soil and other material or debris shall be removed from the site only to the extent necessary in connection with such work.

8. Neither the owner nor any successor owner or owners of any Lot shall at any time request that the Private Way be laid out or accepted as a public way in the Town of Needham unless such owner or owners at its or their sole expense, perform and complete such work as is necessary to cause the Private Way to comply with all standards and regulations of the Town of Needham, and obtain all permits and approvals required by law in connection therewith. If the Private Way is accepted by the Town of Needham as a public way at any time, then the provisions hereof applicable to ownership and maintenance of the Private Way shall thereupon terminate.

9. Neither the Owner nor any successor owner or owners of any Lot, shall at any time request or petition that any drainage system, sewer pipes or related equipment or any other improvement within the subdivision for which design or improvement requirements have been waived by the Board as provided herein, be accepted or maintained by the Town of Needham.

10. The Town of Needham and its designees shall have the right to enter upon the Private Way for all appropriate purposes for which public ways are used in the Town of Needham.

11. In any sale or transfer by the owner or any successor owner of any of the Lots, the deed or other instrument shall refer to and incorporate conditions 3 through 11 inclusive and condition 13, and a) any conveyance shall include transfer of a fee interest or the perpetual right and easement to use the Private Way in common with others lawfully entitled thereto for all purposes for which public ways in the Town of Needham may now or hereafter be used consistent with the provisions hereof, and the b) subsurface areas, equipment and facilities used and maintained in connection with the provision of water, sewer, drainage and other utility services provided to the conveyed premises. Any deed or other instrument purporting to transfer or convey any interest in any Lot or Lots which does not expressly refer to and incorporate these conditions shall nevertheless be deemed to contain the same and in all events shall be subject thereto.

12. The Petitioner shall deliver to the Board a Restrictive Covenant incorporating conditions 3 through 13 of this Decision in a form suitable for recording in the Registry of Deeds that shall run with the land and shall be enforceable by the Town. Such restriction shall be referenced on the Plan and shall be recorded therewith. Said covenant shall be enforceable in perpetuity or for longest period permitted by law and in any event for 100 years.

13. Lots 1 through 6 inclusive as shown on the Plan shall be accessed solely from Heather Lane with no vehicular access for said lots provided directly to Chestnut Street. Vehicular access to Heather Lane shall be limited to said Lots 1, 2, 3, 4, 5, 6, and to existing Lot A (770 Chestnut Street) and existing Lot 2A (776 Chestnut Street), as presently shown on the Plan.

14. The Petitioner shall grant a Conservation Restriction to the Town of Needham in accordance with G.L. Chapter 40, Section 8C, over the 200-foot Riverfront Area located on Lot 4 as a condition of this approval. The easement shall be granted in perpetuity and exclusively for conservation purposes and shall be subject to review and approval by the Board. The purpose of the easement shall be to assure that the above-described riverfront area will be retained in perpetuity predominately in a natural, scenic and open condition and to prevent any use that would significantly impair or interfere with these conservation values. The protected area

contains wetland areas, including bordering vegetated wetlands, bank and a riverfront area. The protected area borders the Charles River and will protect the water quality of the Charles River and Priority Habitat for Rare Species and Estimated Habitat, as identified by the Natural Heritage Endangered Species Program, including, but not limited to, the UMBER Shadowdragon (*Neurocordulia obsolete*). The Petitioner shall deliver to the Board a copy of the recorded Conservation Restriction prior to the release of Lot 4 for purposes of building or conveyance.

15. Street lighting shall be provided in the subdivision in accordance with the Plan. The light sources shall be on posts at least 10 feet high and shall be controlled by photovoltaic switches. Post lighting shall be supplied as shown on the Plan. The lighting system shall be maintained, and the electricity shall be supplied through the Heather Lane Homeowners Trust Agreement.

16. The island in the center of the Heather Lane cul-de-sac shall be landscaped. A cul-de-sac landscaping plan shall be submitted to the Board and the Department of Public Works for review and approval prior to endorsement of the subdivision Plan. The island landscaping shall be maintained by the record owners of Lots 1 through 6 through the Heather Lane Homeowners Trust Agreement.

17. In any sale or transfer by the record owner of title to Lots 1 through 6, as shown on the Plan, or any successor record owner of title to Lots 1 through 6, as shown on the Plan, the deed or other instrument shall refer to and incorporate condition 15 of this decision. In any sale or transfer by the record owner of title to Lot 4, as shown on the Plan, or any successor record owner of title to Lot 4, as shown on the Plan, the deed or other instrument shall refer to and incorporate condition 14 of this decision. Any deed or other instrument purporting to transfer or convey any interest in Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, and Lot 6 which does not expressly refer to and incorporate these conditions shall, nevertheless, be deemed to contain the same and all events shall be subject thereto.

18. In general, the cutting of trees and removal of vegetation shall be kept to a minimum in the construction and development of the Subdivision. All trees having a caliber of 6 inches as measured three feet off the ground bordering "Heather Lane" and on the site shall be retained and not disturbed or destroyed during construction of the subdivision except for those trees which must be removed for the construction of the proposed way, driveways, utilities, and dwellings and uses accessory thereto.

19. Off-street drainage surety in the amount of \$10,500.00 shall be posted (\$3,500.00 per lot) for Lots 1, 5 and 6. Said surety amount is predicated on the Petitioner's representation that no new construction will occur on Lots 2 and 3 under this subdivision approval. The off-street drainage surety requirement for the Residential Compound lots to be created out of Lot 4 will be stated in the Board's Decision regarding the proposed Heather Lane Extension Subdivision and Residential Compound Plan. Said \$10,500.00 surety shall be posted prior to the release of said Lots 1, 5 and 6 as shown on the Plan for purposes of building or conveyance. As recommended in the memo of the Board of Health dated July 29, 2020, all lots shall be graded to the limits of construction so as to have no standing water and/or otherwise create a public health nuisance. Grading shall not improperly shed or illegally increase drainage onto adjacent properties. All subsequent developers or builders shall be notified of the off-street drainage bond and the specific off-street drainage requirements. If required by the Board of Health, an as-built certified grading plan(s) of all or any of the lots shall be submitted prior to release of the drainage surety.

20. The existing and proposed houses within the six-lot subdivision are each required to have dry wells. The dry wells for each house shall have volumetric capacity sufficient to store 1 inch of roof runoff. Each record owner, whether one or more persons or entities, of title to Lots 1 through 6, as shown on the Plan, shall maintain and keep operational their respective roof

drainage system in accordance with the Plan and the above-noted standard. Prior to the release of Lots 2, 3, and 4, which contain existing structures which are proposed to remain, proof of compliance with this condition shall be provided to the Board for review and approval.

21. Prior to Plan endorsement and in keeping with Phase II NPDES, Town of Needham as filed July 30, 2003, the Petitioner shall submit a letter indicating they are committed to providing a response under the NPDES requirement: Control Measure #1- "Public Education and Outreach" and Control Measure #2, "Public Participation/Involvement" and shall implement said measures prior to the release of the subdivision lots.

22. A Department of Environmental Protection sewer extension permit may be required to service the subdivision and abutting lots. If required, approval of this subdivision is subject to the granting by the Board of Selectmen and the Department of Environmental Protection of a Sewer Extension and Connection Permit.

23. Any and all special permits required by the Massachusetts Water Resources Authority, if applicable, shall be obtained at the expense of the applicant.

24. A special sewer connection permit program fee, if applicable, shall be provided for all lots within the subdivision.

25. Grade adjustment rings are not permitted to adjust gate boxes and/or other castings. The Petitioner shall use appropriately sized castings.

26. All catch basins shall remain functional at all times. Rims shall be set at binder elevation and shall be adjusted to finish course elevation prior to placement of the top course of pavement.

27. If the binder course of pavement is exposed to one winter season, it shall be chipsealed prior to September 1 of the following winter season. If the roadway work is not completed prior to the third winter season, road reconstruction may be required by the Highway Superintendent.

28. During initial construction, no openings to the chipseal shall be made between the months of November 30 and April 1 prior to the placement of the top course of pavement.

29. The construction, operation and maintenance of the subdivision shall be conducted in accordance with the EPA's Memorandum of Understanding signed by the Board of Selectmen.

30. "As-built" construction plans of the sewer, water and drainage utilities shall be submitted to the Department of Public Works and the Board for review and approval prior to release of the respective performance bond amounts.

31. All future sewer tie-ins to properties located outside of this subdivision shall be accomplished in a manner consistent with the "Town of Needham Master Plan of Connection to the MWRA Sewer" dated January 8, 1988, (as revised) and prepared by the Needham Public Works, Sewer Division.

32. Prior to the commencement of any street construction within the subdivision, the location of future street lighting, location of fire alarm circuits and outlets, and the location of underground power to serve these shall be shown on an amended version of the definitive utility plan to be filed with the Board and Public Works Department, if applicable..

33. The provisions of M.G.L., Chapter 131, Section 40 and 40A and the Needham Wetlands Protection By-Law shall be satisfied.

34. All construction staging and parking shall be on-site. No construction parking shall be permitted on Chestnut Street or on any other public street.

35. All areas where utilities are proposed shall be compacted to the satisfaction of the Public Works Department.

36. In the absence of any details or waivers set forth herein, the current Subdivision Regulations and Procedural Rules of the Planning Board shall govern and are hereby made a part of this Decision. All construction details not specifically shown on the approved Plan shall conform to Department of Public Works specifications.

37. The developer is directed to submit the Subdivision Inspection Form during all phases of construction as required, in accordance with Appendix E of the Subdivision Regulations and Procedural Rules of the Planning Board.

38. Notwithstanding the provisions of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, the Petitioner shall have four years from the date of endorsement of the Plan to complete the installation and construction of Heather Lane, and the services provided therein, in accordance with the applicable Subdivision Regulations and Procedural Rules of the Planning Board. Failure to so complete shall automatically rescind approval of the Subdivision Plan.

39. The Petitioner shall enter a written agreement to guarantee completion, once commenced, of the required improvements for all lots in the Subdivision, as shown on the Plan, with such construction and installation to be additionally secured by one of the methods delineated under the provisions of Section 3.5.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board. Such agreement shall be subject to review and approval of the Board prior to endorsement of the Plan.

40. The Petitioner shall deliver to the Board for its approval a duly executed Subdivision Covenant Under Provisions of General Laws Chapter 41, Section 81-U, Declaration of Restrictive Covenants, Heather Lane Homeowners Association Declaration of Trust, Grant of Utility Easement, and Grant of Drainage Easement from 768B Chestnut Street Realty Trust to the Town of Needham, Massachusetts, Heather Lane Homeowners Association Trust, and the Heather Lane Extension Homeowners Association Trust, all as may be required and as shown on the Plan. Such documents shall be subject to review and approval of the Board prior to endorsement of the Plan. The Subdivision Covenant, Declaration of Restrictive Covenants, Heather Lane Homeowners Association Declaration of Trust, Grant of Utility Easement, and Grant of Drainage Easement from 768B Chestnut Street Realty Trust to the Town of Needham, Massachusetts, Heather Lane Homeowners Association Trust, and the Heather Lane Extension Homeowners Association Trust shall be referenced on the Plan and all documents shall be recorded with the Plan.

41. Prior to the release of any lots for building or sale, copies of the recorded instruments described in paragraphs 12 and 40 of this decision and copies of the recorded plan shall be provided to the Planning Director. Prior to the release of Lot 4 a copy of the recorded instrument described in paragraph 14 of this decision shall be provided to the Planning Director.

42. The Petitioner shall present the Plan to the Board for proper endorsement within ninety (90) days of the date this Decision is executed unless such time period is extended, in writing, by the

Board. The Board reserves the right to rescind its approval if said Plan is not presented to the Board for endorsement within the time period herein specified. Further, the Petitioner or his authorized representative shall submit the Plan to the Planning Director fourteen (14) days in advance of its presentation to the Board to allow adequate time to review the revised Plan for compliance with the Conditions of this Decision.

The foregoing has been stated for the purpose of emphasizing their importance and are not intended to be all inclusive or to negate any provision of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board.

Under the provisions of the Town of Needham, Subdivision Regulations and Procedural Rules of the Planning Board and Massachusetts General Laws, Chapter 41, Sections 81-K through 81-GG, inclusive, the Board shall have the power to modify or amend the terms and conditions of this approval after due notice on the application of the owner, lessee or mortgagee of the premises or upon its own motion. All the provisions of the Subdivision Control Law applicable to approval shall, where appropriate, is applicable to such modification or amendment. Such power is hereby reserved. Appeals, if any, shall be made pursuant to Section 81-BB of the Massachusetts General Laws, Chapter 41, and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

The provisions of this Approval and Conditions shall be binding upon every owner or owners of each of the lots, as shown on the Plan, and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with said land in full force and effect for the benefit of and enforceable by the Town of Needham. Reference to this Approval shall be entered upon the Plan and this Approval shall be recorded in the Norfolk Registry of Deeds with the Plan. The Lot Owner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of and/or the correction of violations of the conditions of this permit. Counsel for the Petitioner shall certify to the Town that this approval and all easement and restrictive covenants required hereunder have been recorded and are effective record encumbrances upon the subject property.

