

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

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July 2, 2021

Jon Wyckoff, Chairman
Portsmouth Historic District Commission
1 Junkins Avenue
Portsmouth, NH 03801

Re: Deer Street Associates, LLC (“DSA”)
Third Request for Extension of 7/11/18 Historic District Commission (“HDC”)
Lot 5, 161 Deer Street
Tax Map 125, Lot 17-3

Dear Chair Wyckoff & Historic District Commission Members:

As you know, Lot 5 is one of a 5-lot overall development plan along Foundry Place in the vicinity of the new Foundry Place Municipal Parking Garage, by Deer Street, Associates (“DSA”) and related entities. Only Lot 5 is in the Historic District.

The history of Lot 5 with respect to the HDC is as follows:

- i) On July 11, 2018, the Historic District Commission (“HDC”) granted a certificate of approval for Lot 5 improvements, expiring July 11, 2019. (**Exhibit 1**)
- ii) On October 15, 2019, pursuant to Portsmouth zoning ordinance section 10.636.71, DSA requested a one-year extension of the certificate of approval (**Exhibit 2**)
- iii) On November 7, 2018, the HDC granted an extension of the certificate of approval to July 11, 2020. (**Exhibit 3**)
- iv) On April 27, 2020, DSA requested a further extension to July 11, 2021(**Exhibit 4**)
- v) On June 10, 2020. The HDC granted the extension to July 11, 2021. (**Exhibit 5**)

DSA now requests an additional extension of one year, to July 11, 2022, as set forth below:

1. DSA's development plans call for the development of undeveloped Lots 3 and 6 on Foundry Place closest to the Foundry Place garage prior to development of Lots presently developed 4 and 5. Those areas were originally used in part for staging areas for construction of the garage, opened in October, 2018. Since that time, further development in the area has progressed, including the in process project by Steve Kelm at the corner of the Maplewood Avenue and Deer Street.

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STEPHEN H. ROBERTS

KEVIN M. BAUM

JACOB J.B. MARVELLEY

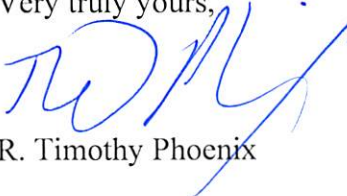
2. Development of lots 3 and 6 has been delayed most recently for a number of months due to the city's delay in executing a parking agreement related to the development and use of lots 3 and 6.
3. Covid 19 negatively affected financing and development of lots 3 and 6, thus, Lot 5 from March, 2020 until approximately May, 2021.
4. DSA is in active negotiations to convey lots 4 and 5 to developers who are ready to start soon and desire to utilize the building design approved by the HDC on July 11, 2020.

The above factors together with the economic climate have to date delayed development of Lots 3 and 6 which in turn has delayed development of Lot 5. Accordingly, Lot 5 will neither possess a building permit, nor be substantially under construction as of the July 11, 2021 Certificate of Approval expiration.

DSA requests an additional extension pursuant to PZ0 section 10.636.72, which provides that HDC Certificate of Approval extensions beyond the first request must be "authorized following a public hearing convened to consider such a request." The Lot 5 building and related improvements have not changed since the issuance of the July 11, 2018, Certificate of Approval. As such, and given the unavoidable and legitimate reasons for the delay in development of Lot 5 to date, it is reasonable to grant an additional extension. Accordingly, DSA requests that this request be scheduled for public hearing at the next possible HDC meeting, following which DSA requests that the HDC grant an additional one (1) year extension to July 11, 2022.

DSA and its team look forward to presenting this request to the HDC at the next available opportunity.

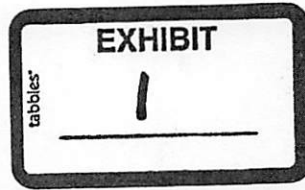
Very truly yours,



R. Timothy Phoenix

RTP/msw
Encl.

cc: Juliet T.H. Walker, Planning Director
Deer Street Associates, LLC
Gregg Mikolaities



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7281

Planning Department
(603) 610-7216

PLANNING DEPARTMENT
HISTORIC DISTRICT COMMISSION
CERTIFICATE OF APPROVAL

Date: July 13, 2018
To: Deer Street Assoc.
PO Box 100
York Harbor, ME 03911
Re: 161 Deer Street, Lot 5

The Historic District Commission considered your proposal at its meeting on July 11, 2018 wherein permission was requested to allow demolition of an existing structure (demolish existing building) and allow a new free standing structure (construct new 5-story mixed use building) as per plans on file in the Planning Department.

After due deliberation, the Commission voted that the request be **approved** with the following stipulation:

1. Half screens shall be used.

Findings of Fact: The proposed application meets the following purposes of the Historic District Ordinance (as applicable):

A. Purpose and Intent:

- Yes No - Preserve the integrity of the District
- Yes No - Maintain the special character of the District
- Yes No - Assessment of the Historical Significance
- Yes No - Complement and enhance the architectural and historic character
- Yes No - Conservation and enhancement of property values
- Yes No - Promote the education, pleasure & welfare of the District to the city residents and visitors.

1 Junkins Avenue
Portsmouth, New Hampshire 03801
Fax (603) 427-1593

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Re: 161 Deer Street, Lot 5
July 13, 2018

The proposed application also meets the following review criteria of the Historic District Ordinance (as applicable):

B. Review Criteria:

- ✓ Yes No - Consistent with special and defining character of surrounding properties
- Yes No - Relation to historic and architectural value of existing structures
- Yes No - Compatibility of design with surrounding properties
- ✓ Yes No - Compatibility of innovative technologies with surrounding properties

PLEASE NOTE THE FOLLOWING:

- **Other Approvals** - Approvals may also be required from other Committees and/or Boards prior to the issuance of a Building Permit.
- **Construction Drawings** - Prior to the issuance of a Building Permit the Building Inspector will review and approve construction drawings/sketohes so work shall not commence until the review process is complete and a Building Permit issued.
- **Design Modifications and Fees** - Please note that any changes or modifications to this approval require review and approval from the HDC prior to implementation. Starting July 1st, 2016, a \$100 fee will be required for any subsequent Administrative Approvals for work not yet completed and a \$500 fee will be assigned for any work completed prior to approval.
- **Site Inspections and Compliance Review** - The City's Land Use Compliance Agent, Vincent Hayes, will be inspecting the work during construction and will be available to assist you in making any other requests or inquires on this matter. If you have any questions please feel free to contact the Principal Planner, Nick Cracknell at nickcracknell@cityofportsmouth.com or Mr. Hayes at vjhayes@cityofportsmouth.com.

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Respectfully submitted,


Vincent Lombardi, Chairman
Historic District Commission

cc: Robert Marsilia, Chief Building Inspector
Rosann Maurice-Lentz, Assessor
Tracy Kozak, JSA Inc.

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October 15, 2018

HAND DELIVERED

Vincent Lombardi, Chair
Portsmouth Historic District Commission
City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Deer Street Associates, LLC ("DSA")
First request for extension of 7/11/18 Historic District Commission ("HDC")
Lot 5, 161 Deer Street
Tax Map 125, Lot 17-3

Dear Mr. Lombardi & Historic District Commission members:

The Historic District Commission granted approval for DSA's Lot 5 improvements on July 11, 2018. A copy of the approval is attached.

The approval expires on July 11, 2019. As you know, Lot 5 is one of a five lot overall development plan along Foundry Place (a/k/a Deer Street) by Deer Street Associates and related entities. Although Lot 5 HDC approval was granted, DSA is still involved with overall project design issues.

Due to the foregoing, Lot 5 will not have a building permit, nor be substantially under construction as of the July 11, 2019 expiration of the HDC approval. Although that is some time away, DSA is seeking extension of all approvals now, knowing that the project will not meet the current deadlines. Accordingly, pursuant to Portsmouth Zoning Ordinance Section 10.636.71, DSA requests a one- year extension of the July 11, 2019 expiration to July 11, 2020.

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OF COUNSEL:
SAMUEL R. REID

Vincent Lombardi, Chair
Portsmouth Planning Board

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October 15, 2018

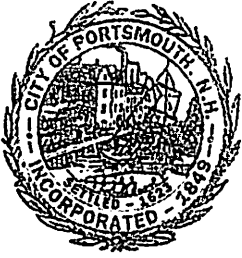
Very truly yours,

A handwritten signature in black ink, appearing to read 'RTP' followed by a stylized flourish.

R. Timothy Phoenix

RTP/msw
Encl.

cc: Juliet T.H. Walker, Planning Director
Deer Street Associates, LLC
Gregg Mikolaities
Tracey Kozak, JSN, Inc.



CITY OF PORTSMOUTH

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PLANNING DEPARTMENT
HISTORIC DISTRICT COMMISSION
CERTIFICATE OF APPROVAL EXTENSION

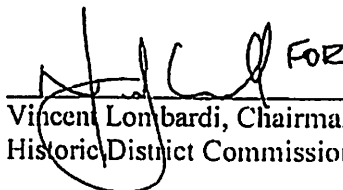
Date: November 13, 2018
To: Deer Street Associates
P.O. Box 100
York Harbor, ME 03911
Re: 161 Deer Street, Lot 5- Request for one
year extension of the Certificate of Approval
granted on July 11, 2018.

The Historic District Commission considered your request at its meeting on November 7, 2018 to allow a one year extension of the Certificate of Approval granted on July 11, 2018 wherein permission was requested to allow demolition of an existing structure (demolish existing building) and allow a new free standing structure (construct new 5-story mixed use building) as per plans on file in the Planning Department.

After due deliberation, the Commission voted that the request be granted. The Certificate of Approval and Conditional Use Permit will now expire on July 11, 2020.

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Respectfully submitted,

 FOR

Vincent Lombardi, Chairman
Historic District Commission

cc: Robert Marsilia, Chief Building Inspector
Rosann Maurice-Lentz, Assessor
Deer Street Associates, Owner
JSA Inc., Applicant
~~Robert Timothy Phoenix, Hoefle, Phoenix, Gornley and Roberts, P.A.~~

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April 27, 2020

Vincent Lombardi, Chair
Portsmouth Historic District Commission
1 Junkins Avenue
Portsmouth, NH 03801

Re: Deer Street Associates, LLC ("DSA")
Second Request for Extension of 7/11/18 Historic District Commission ("HDC")
Lot 5, 161 Deer Street
Tax Map 125, Lot 17-3

Dear Mr. Lombardi & Historic District Commission Members:

As you know, Lot 5 is one of a 5-lot overall development plan along Deer Street and Foundry Place in the vicinity of the new Foundry Place Municipal Parking Garage, by Deer Street, Associates ("DSA") and related entities. Only Lots 4 and 5 are in the Historic District. On July 11, 2018, the Historic District Commission ("HDC") granted a Certificate of Approval for Lot 5 improvements, expiring July 11, 2019. (**Exhibit 1**). On October 15, 2019, pursuant to Portsmouth Zoning Ordinance ("PZO") Section 10.636.71, DSA requested a one (1) year extension of the Certificate of Approval (**Exhibit 2**), granted by the HDC via a Certificate of Approval Extension dated November 13, 2018 (**Exhibit 3**). The extension expires on July 11, 2020.

DSA's development plans call for the development of Lots 3 and 6 on Foundry Place closest to the Foundry Place garage prior to development of Lots 4 and 5. Those areas were originally used in part for staging areas for construction of the garage, opened in October, 2018. Since that time, further development in the area has progressed, including the in process project by Steve Kelm at the corner of the Maplewood Avenue and Deer Street. These factors, together with the economic climate, have to date delayed development of Lots 3 and 6 which in turn has delayed development of Lot 5. Accordingly, Lot 5 will neither possess a building permit, nor be substantially under construction as of the July 11, 2020 Certificate of Approval expiration.

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R. PETER TAYLOR

KEVIN M. BAUM

ERICA A. DUMORE

R. TIMOTHY PHOENIX

JOHN AHLGREN

GREGORY D. ROBBINS

OF COUNSEL:

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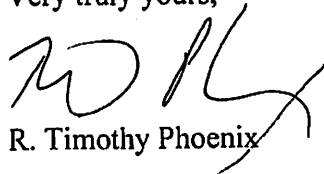
MATTHEW G. STACHOWSKE

SAMUEL HARKINSON

DSA requests an additional extension pursuant to PZ0 section 10.636.72, which provides that “no more than one extension shall be granted unless authorized following a public hearing convened to consider such a request.” The Lot 5 building and related improvements have not changed since the issuance of the July 11, 2018 Certificate of Approval. As such, and given the unavoidable and legitimate reasons for the delay in development of Lot 5 to date, it is reasonable to grant an additional extension. DSA requests that a public hearing be scheduled, followed by the HDC granting an additional one (1) year extension to July 11, 2021.

DSA and its team look forward to presenting this request to the HDC at the next available opportunity.

Very truly yours,

A handwritten signature in black ink, appearing to read 'RTP', is written over the typed name 'R. Timothy Phoenix'.

R. Timothy Phoenix

RTP/msw
Encl.

cc: Juliet T.H. Walker, Planning Director
Deer Street Associates, LLC
Gregg Mikolaities
Tracey Kozak, JSN, Inc.



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801

(603) 610-7216



HISTORIC DISTRICT COMMISSION

June 11, 2020

Deer Street Associates, LLC
157 Deer Street
Portsmouth, NH 03801

RE: 161 Deer Street, Lot 5 (LU-20-101)

Dear Owner:

The Historic District Commission, at its regularly scheduled meeting of **Wednesday June 10, 2020**, considered your request for a second one-year extension of the Certificate of Approval granted by the Historic District Commission on July 11, 2018 and set to expire on July 11, 2019. A one-year extension was granted on November 07, 2018 to extend the Certificate of Approval to July 11, 2020.

As a result of said consideration, the Commission voted to **grant** the second one-year extension request. The Certificate of Approval will now expire on July 11, 2021.

The Commission's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Commission's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Nicholas J. Cracknell, AICP, Principal Planner
for Vincent Lombardi, Chairman of the Historic District Commission

cc:

R. Timothy Phoenix, Hoefle, Phoenix, Gormely & Roberts, P.A.
Ania Rogers, Applicant