

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

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November 13, 2020

HAND DELIVERED AND EMAIL

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

Re: Deer Street Associates (“DSA”)
Third request for Certificate of Approval extension from 2/14/21 to 2/14/22
Lot 4, 163 Deer St.
Tax Map 125, Lot 17-2

Dear Mr. Lombardi and Historic District Commission (“HDC”) members;

The HDC granted a Certificate of Approval with respect to DSA's Lot 4 building at 163 Deer St. on 2/14/18, expiring 2/14/19. A copy of the original Certificate is attached (**EXHIBIT 1**). By letter dated October 15, 2018, (**EXHIBIT 2**), DSA requested a one-year extension pursuant to Portsmouth Zoning Ordinance (“PZO”) section 10.636.71. The HDC granted the extension request, extending the Certificate of Approval to 2/14/20. (**EXHIBIT 3**). By letter dated 10/18/19 DSA requested a second one-year extension to 02/14/21, (**EXHIBIT 4**) approval by the HDC on 11/06/19 (**EXHIBIT 5**)

To date, the intended building and lot development for lot 4 has not changed. DSA has experienced continued scheduling delays for several reasons. It became apparent during the construction of the Foundry Place street and the new City parking garage opened in October 2018, that construction on Lot 4 (as with Lots 3 and 6, both outside the Historic District), could not reasonably occur simultaneously with the City projects. Meanwhile, construction costs have significantly increased while DSA and its affiliates pursue efforts to coordinate and construct buildings on each of lots 3, 4, 5 and 6. The owner and its architects have gone through a substantial value engineering process in order to reduce the cost of construction and to improve the economic viability of the multiple lot project, including Lot 4. In March 2020 COVID-19 and its effects significantly delayed the Lot 3 and 6 projects, which must be completed prior to Lot 4.

DANIEL C. HOEFLE	R. PETER TAYLOR	KEVIN M. BAUM	ERICA A. DUMORE
R. TIMOTHY PHOENIX	JOHN AHLGREN	GREGORY D. ROBBINS	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	MONICA F. KIESER	SAMUEL R. REID
STEPHEN H. ROBERTS	MATTHEW G. STACHOWSKA	SAMUEL HARKINSON	

DSA continues to proceed with its intent to develop Lot 4 as approved; however, development will not proceed prior to the present 2/14/20 HDC Certificate of Approval expiration date. Accordingly, DSA requests an additional one-year extension to 2/14/22.

We understand that an additional one-year extension will require HDC consideration at a public hearing pursuant to PZO section 10.636.72. We believe that the extension is necessary and reasonable, so should be granted, since there is to our knowledge no material change to the intended design of the proposed building and other features proposed for Lot 4. Accordingly, the 2/16/18 HDC Certificate of Approval (**EXHIBIT 1**) Findings of Fact all that “the proposed application meets the following purposes of the Historic District Ordinance (as applicable)” still apply:

A. Purpose and Intent-

Yes- Preserve the integrity of the District

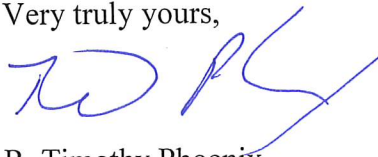
Yes-Maintain the special character of the district

B. Review Criteria

Yes-Consistent with special and defining character of the surrounding properties

We are prepared to submit any additional materials required by the planning staff and/or the HDC; however, from our perspective nothing has changed with respect to the 2/14/18 HDC Certificate of Approval.

Very truly yours,



R. Timothy Phoenix

RTP/msw
Encl.

cc: Nickolas Cracknell, 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: February 16, 2018
To: Deer Street Associates
P.O. Box 100
York Harbor, ME 03911
Re: 163 Deer Street

The Historic District Commission considered your proposal at its meeting of February 14, 2018 wherein permission was requested to allow demolition of an existing structure (demolish existing building) and allow a new free standing structure (construct new mixed use building) as per plans on file in the Planning Department.

After due deliberation, the Commission voted that the request be **approved** as presented with the following stipulations:

- 1) The burnt almond brick shall be used.
- 2) Kolbie or Pella windows 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

Page 2
Re: 163 Deer Street
February 16, 2018

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

B. Review Criteria:

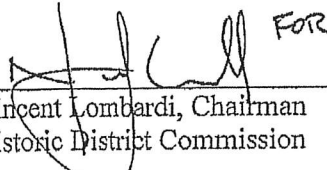
- Yes No - Consistent with special and defining character of surrounding properties
- Yes No - Relation to historic and architectural value of existing structures
- Yes No - Compatibility of design with surrounding properties
- Yes No - Compatibility of innovative technologies with surrounding properties

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/sketches 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 njcracknell@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,

 FOR

Vincent Lombardi, Chairman
Historic District Commission

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

HOEFLE, PHOENIX, GORMLEY & ROBERTS, P.A.

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October 15, 2018

HAND DELIVERED

David Rheume, Chair
Portsmouth Zoning Board of Adjustment
City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Deer Street Associates, LLC (“DSA”)
First Request for extension of 4/18/17 Zoning Board of Adjustment (“ZBA”) Approval
Lot 4, 163 Deer Street
Tax Map 125, Lot 17-2

Dear Mr. Rheume & Zoning Board members:

The Zoning Board granted certain zoning relief with respect to DSA’s Lot 4 on 4/18/17, expiring 4/18/19. A copy of the approval is attached. Building/Lot 4 is one of a five lot overall development along Foundry Place (aka Deer Street) by Deer Street Associates and its affiliates.

Although Lot 4 zoning relief was granted, as was HDC approval, DSA remains involved with overall design issues, project coordination and other Boards and Commissions with respect to the remaining lots. Accordingly, this project will not be substantially begun, nor will a building permit issue by the current expiration of 4/18/19. Although that is some time away, DSA is seeking extensions of all approvals now, knowing that the project will not meet present deadlines. Accordingly, and pursuant to Portsmouth Zoning Ordinance Section 10.236, Deer Street Associates requests a one-year extension of all variances to 4/18/20.

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SAMUEL HARKINSON
sharkinson@hpgrlaw.com

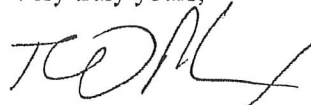
OF COUNSEL:
SAMUEL R. REID

David Rheaume, Chair
Portsmouth Planning Board

Page 2 of 2

October 15, 2018

Very truly yours,

A handwritten signature in black ink, appearing to read 'RTP', written over a horizontal line.

R. Timothy Phoenix

RTP/msw
Encl.

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

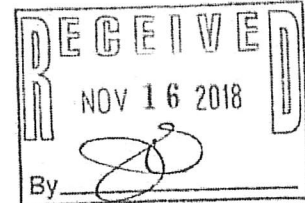


CITY OF PORTSMOUTH

Community Development Department
(603) 610-7281

Planning Department
(603) 610-7216

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

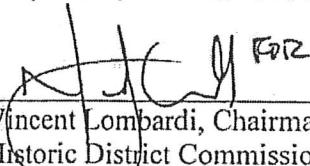
Re: 163 Deer Street, Lot 4- Request for one
year extension of the Certificate of Approval
granted on February 14, 2018.

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 February 14, 2018 wherein permission was requested to allow demolition of an existing structure (demolish existing building) and allow a new free standing structure (construct new 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 February 14, 2020.

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
Deer Street Associates, Owner
JSA Inc., Applicant
~~R. Timothy Phoenix, Hoeffle, Phoenix, Gormley, and Roberts, P.A.~~

HOEFLE, PHOENIX, GORMLEY & ROBERTS, P.A.

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October 18, 2019

HAND DELIVERED AND EMAIL

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

Re: Deer Street Associates (“DSA”)
Second request for Certificate of Approval extension from 2/14/20 to 2/14/21
Lot 4, 163 Deer St.
Tax Map 125, Lot 17-2

Dear Mr. Lombardi and Historic District Commission (“HDC”) members;

The HDC granted a Certificate of Approval with respect to DSA's Lot 4 building at 163 Deer St. on 2/14/18, expiring 2/14/19. A copy of the original Certificate is attached (**EXHIBIT 1**). By letter dated October 15, 2018, (**EXHIBIT 2**), DSA requested a one-year extension pursuant to Portsmouth Zoning Ordinance (“PZO”) section 10.636.71. The HDC granted the extension request, extending the Certificate of Approval to 2/14/20. (**EXHIBIT 3**).

To date, the intended building and lot development for lot 4 has not changed. DSA has experienced continued scheduling delays for several reasons. It became apparent during the construction of the Foundry Place street and the new City parking garage that construction on Lot 4 (as with Lots 3 and 6, both outside the Historic District), could not reasonably occur simultaneously with the City projects. Meanwhile, construction costs have significantly increased while DSA and its affiliates pursue efforts to coordinate and construct buildings on each of lots 3, 4, 5 and 6. The owner and its architects have gone through a substantial value engineering process in order to reduce the cost of construction and to improve the economic viability of the multiple lot project, including Lot 4. DSA continues to proceed with its intent to develop Lot 4 as approved; however, development will not proceed prior to the present 2/14/20 HDC Certificate of Approval expiration date. Accordingly, DSA requests an additional one-year extension to 2/14/21.

DANIEL C. HOEFLE

R. PETER TAYLOR

KEVIN M. BAUM

OF COUNSEL:

R. TIMOTHY PHOENIX

JOHN AHLGREN

SAMUEL HARKINSON

SAMUEL R. REID

LAWRENCE B. GORMLEY

KIMBERLY J.H. MEMMESHEIMER

MONICA F. KIESER

STEPHEN H. ROBERTS

MATTHEW G. STACHOWSKE

GREGORY D. ROBBINS

We understand that an additional one-year extension will require HDC consideration at a public hearing pursuant to PZO section 10.636.72. We believe that the extension is necessary and reasonable, so should be granted, since there is to our knowledge no material change to the intended design of the proposed building and other features proposed for Lot 4. Accordingly, the 2/16/18 HDC Certificate of Approval (**EXHIBIT 1**) Findings of Fact all that “the proposed application meets the following purposes of the Historic District Ordinance (as applicable)” still apply:

A. Purpose and Intent-

Yes- Preserve the integrity of the District

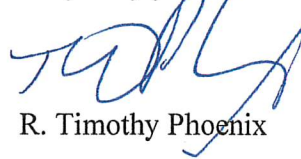
Yes-Maintain the special character of the district

B. Review Criteria

Yes-Consistent with special and defining character of the surrounding properties

We are prepared to submit any additional materials required by the planning staff and/or the HDC; however, from our perspective nothing has changed with respect to the 2/14/18 HDC Certificate of Approval.

Very truly yours,



R. Timothy Phoenix

RTP/msw
Encl.

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



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PLANNING DEPARTMENT
HISTORIC DISTRICT COMMISSION
CERTIFICATE OF APPROVAL EXTENSION



Date: November 18, 2019

To: Deer Street Associates
157 Deer Street
Portsmouth, NH 03801

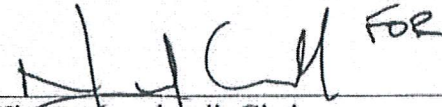
Re: 163 Deer Street, Lot 4- Second request for
one year extension of the Certificate of
Approval granted on February 14, 2018.

The Historic District Commission considered your request at its meeting on November 06, 2019, wherein a second 1-year extension of a Certificate of Approval granted by the Historic District Commission on February 14, 2019 and originally granted on February 14, 2018 is requested to allow demolition of an existing structure (demolish existing building) and allow a new freestanding structure (construct new 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 will now expire on **February 14, 2021**.

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
Deer Street Associates, Owner
R. Timothy Phoenix, Hoefle, Phoenix, Gormley, and Roberts, P.A.