

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Applicant/Owner: Tuck Realty

Property: 0 Ocean Blvd, Tax Map 8 Lots 58 & 59

Case: Case #11-2018

Application: **Major Subdivision** by Tuck Realty Corporation for property owned by Robert Goss and located at 0 Ocean Blvd, Tax Map 8 Lots 58 & 59 for a 5-lot subdivision. **Property is in the Single Residence District. Case #11-2018.**

Date of Decision: Tuesday December 10, 2019

Decision: **The Board voted to release \$93,750.00, a portion of the surety with 25% remaining \$31,250.00, as per #4 of the letter of credit issued by Pentucket Bank dated July 26, 2019**

12-13-2019
Date



Patricia Losik, Chairman

TOWN OF RYE, NEW HAMPSHIRE

REQUEST FOR REDUCTION IN LETTER OF CREDIT

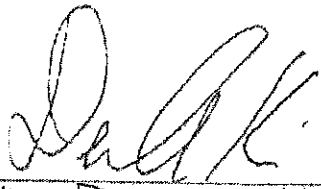
The undersigned hereby requests the Planning Board of the Town of Rye, New Hampshire to reduce the amount of credit issued by: Pentucket Bank, Issuer, to the Town of Rye, New Hampshire on behalf of Applicant/project proposal Developer, under Irrevocable Letter of Credit dated July 26, 2019, 2019 to guarantee completion of the improvements relating to a Site Plan for Goss Grant Ocean Boulevard, Rye, New Hampshire by an amount of One Hundred Two Thousand, Five Hundred Thirty Two Dollars (\$102,532.00), leaving a balance of Twenty-Two Thousand, Four Hundred Sixty Eight Dollars (\$22,468.00). 31,250.

YMK

*93,750
KAR*

Executed this 3rd Day of December, 2019.

Goss Grant Subdivision
Equine Properties, LLC


Witness Debra A. Klide


By: W. Turner Porter Jr.

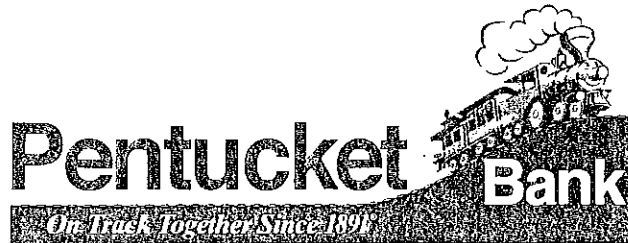
ACTION BY THE PLANNING BOARD

Approved ✓ this 10 day of December, 2019.

Denied _____ this _____ day of _____, 20____.

Limiting Conditions: Per # 4 of the letter of credit
the face amount may be reduced to 31,250.

Release \$93,750 -



July 22, 2019

Rye Planning Board
10 Central Road
Rye, NH 03870

Re: IRREVOCABLE LETTER OF CREDIT #135 REVISED
Goss' Grant Subdivision
Harbor Road
Rye, New Hampshire

Dear Members of the Planning Board:

By this document Pentucket Bank (hereinafter "issuer"), hereby issues an irrevocable letter of credit in the amount of one hundred twenty-five thousand dollars (\$125,000.00) to the Town of Rye, New Hampshire on behalf of Equine Properties, LLC (hereinafter called "developer"). This irrevocable letter of credit is issued to guarantee completion of all improvements required by the Rye Planning Board and the Rye Planning Board Land Development Regulations in conjunction with the construction of the Goss' Grant Subdivision, in accordance with a subdivision plan entitled "Subdivision Plan Goss' Grant, Tax Map 8, Lots 58 & 59, Ocean Boulevard, Rye, NH 03870" dated 11/16/2017 (last revised 07/10/19), by Jones & Beach Engineers, Inc. and recorded in the Rockingham County Registry of Deeds as Plan #D-41540, (the "Subdivision Plan"), and approved by the Rye Planning Board on May 14, 2019. Said approved plan contains twenty-three (23) sheets of engineering drawings.

1. It is understood that the improvements guaranteed by this irrevocable letter of credit include but are not limited to the following:
 - a. Construction of 272 linear feet of new street in accordance with Sheets #16, 17, 18 of said plan.
 - b. Construction of 275 feet of waterline as shown on. Sheet 11 of said plan.
 - c. Construction of all drainage improvements shown on said plan including the improvements on Sheets 7 & 8 of said plan.
 - d. Construction of all landscaping improvements shown on said Sheets L1 to L5 of the approved subdivision plans.
2. If all improvements guaranteed by this letter of credit are not completed by midnight July 31, 2021, and if a certificate indicating satisfactory completion and Planning Board approval of all improvements has not been issued by the Rye Planning Board, then the developer shall be deemed to be in default of the obligations guaranteed by this letter of credit. In such case, this letter of credit shall be automatically considered to have been

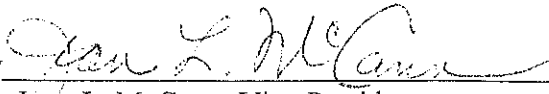
called, and, without further action of the Rye Planning Board or the Town of Rye, Pentucket Bank shall forthwith forward a check in the amount of \$125,000.00 to the Treasurer of the Town of Rye. The funds so forwarded to the Town Treasurer shall be used exclusively for the purpose of completing the improvements which are guaranteed by this letter of credit. Any funds not needed by the Town to complete the improvements guaranteed by this letter of credit shall be returned to Pentucket Bank.

3. The amount of the credit issued by this letter may be reduced as improvements are satisfactorily completed by the developer. Such reductions shall be made only pursuant to submittal of a fully executed Request for Letter of Credit Reduction per Exhibit I. Such requests shall be submitted prior to the next to last Tuesday of the month in order to be acted upon by the Planning Board at its following regular meeting, which is the second Tuesday of each month. A request shall be signed by the developer and shall include the certification of a professional engineer licensed in New Hampshire as to the amount of remaining incomplete work and the estimated cost of completion. The Planning Board shall have the sole discretionary authority to approve or deny or adjust the requested reduction. In no case shall the credit be reduced below an amount of \$31,250.00. If the credit issued by this letter has been reduced and if this letter is called pursuant to Section 2 above, the amount of funds to be forwarded to the Town by the issuer shall be in the amount of the credit balance, as reduced.
4. The face amount of this irrevocable letter of credit shall be automatically reduced to \$31,250.00 upon receipt by Pentucket Bank from the Rye Planning Board of a certificate indicating satisfactory completion and Planning Board approval of all improvements covered by this letter. Thereafter, the amount of credit provided by this letter shall guarantee said improvements against failure to function as designed. In the case of any such failure, the Planning Board may submit drafts against this irrevocable letter of credit, and the issuer shall forthwith forward to the Treasurer of the Town of Rye a check for the amount so drawn. The funds so forwarded shall be used exclusively for correction of said failure(s).
5. Drafts drawn under Section 4 above must be signed by a majority of the members of the Rye Planning Board. The draft shall state that "The Issuer shall not be required to inquire into the validity of any representations." The draft must be accompanied by a statement signed by the Chairman or Vice Chairman of the Rye Planning Board describing the repairs and/or corrective actions that are necessary and stating that they are due to failure of the improvements to function as designed. The statement must indicate that the Developer was given notice and opportunity to correct any failure thirty (30) days prior to the date of such statement. A copy of the statement shall be simultaneously provided to the Developer. Each draft must bear on its face the clause: "Drawn under Irrevocable Letter of Credit No. SWS 135 dated July 22, 2019, Pentucket Bank, One Merrimack Street Haverhill, Massachusetts 01830."
6. This irrevocable letter of credit, as reduced, shall expire three (3) years from the date the Planning Board certifies under § 4 that the improvements were completed and approved.

This irrevocable letter of credit is governed by NH RSA Chapter 382—A, Uniform Commercial Code, as amended.

PENTUCKET BANK

Dated: July 22, 2019

By 
Jean L. McCann, Vice President

I have read this irrevocable letter of credit and agree to its terms.

EQUINE PROPERTIES, LLC

Dated: 7/26/19

By 
W. Turner Porter, Manager