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August 13, 2025

Via e-mail: landuse@highlandsnj.gov

Nancy Tran
Land Use Board Secretary
Borough of Highlands
151 Navesink Avenue
Highlands, NJ 07732

Re: 9 Fifth Street/LUB2022-04: Kirsh Kraft, Block 57, Lots 8 and 9
Easement
Land Use Board Resolution 2025-26: Approved May 8, 2025, Memorialized:
June 12, 2025

Dear Ms. Tran:

Thank you for permitting me to present this matter on short notice. First of all, I wish to assure you that the applicant and its professionals have been diligently attempting to perfect this minor subdivision. If the Board grants one last extension, the deeds and easement will be immediately filed. I cannot over emphasize the merits of this subdivision. The existing non-conforming lot will be merged into the larger lot creating two roughly equal rectangular lots. The structure on the non-conforming lot will be demolished and two new houses will be constructed. Importantly, the encroaching structure will be granted an easement and will be removed in the event of damage to it (e.g. from a storm). This project benefits the immediate area and is in accordance with the Highlands Master Plan.

As recognized in the Resolutions, the initial delay was caused by the delicate negotiations involving the easement. The language of the easement was crafted to meet the conditions contained in the approval, but at the same time the language had to be acceptable to the owner of the encroaching building. There were considerable negotiations with the board's attorney and, of course, with counsel for the owner of the encroaching building. I think the easement which provides for the removal of the encroaching structure upon a failure to conform to FEMA standards is fair and equitable and beneficial to Highlands. It was not until December of 2024 when that easement was executed by the parties. That did not entirely resolve the issue as new counsel, Dustin Glass had questions in January 2025.

The Subdivision Deeds were prepared in my office on January 2025. On February 13, 2025 the board approved the first extension of time to file deeds to April 22, 2025. The resolution recited the delay in obtaining agreement to the easement as the basis for the extension. That extension was within 190 days of the approval. Thereafter, John Taikina, the planner who testified before the board worked with the Borough Engineer, Carmela Roberts, to meet technical requirements of the Deeds. A second extension of time was granted to July 21, 2025 specifically reciting the need for metes and bounds descriptions on the subdivision deeds. Inadvertently, the second extension of time has expired. The Deeds were prepared and executed on July 31, 2025.

Extension of the time for the filing of the Subdivision Deeds is governed by N.J.S.A. 40:55D-47, which permits an extension of 190 days after the resolution and up to an additional year thereafter. To receive the extension the applicant must demonstrate that they were diligently pursuing those approvals and that the delays were the result of the need to obtain governmental approvals. In effect the approval of the deeds by Ms. Roberts was a governmental approval. Applicant has fully complied with Ms. Roberts requirements and, in fact, the deed was executed by the parties on July 31, 2025. The failure of the applicant to file the deeds within the time required in the second extension was inadvertent and not the result of lack of diligence.

For the above reasons, we respectfully request an extension of 10 days.

Very truly yours,


HENRY F. WOLFF, III

HFW/rmg

cc: Client
Dustin Glass, Esq.
John Taikina
Carmela Roberts
Walter Hopkin, P.E.



August 10, 2025

Nancy Tran
Land Use Board Secretary
Borough of Highlands Land Use Board
151 Navesink Avenue
Highlands, New Jersey 07732

Re: **Applicant: Kirsh Kraft, LLC**
 Nine Fifth Street
 Block 57, Lots 8 & 9
 Borough of Highlands, Monmouth County, New Jersey
 Request for extension of Minor Subdivision Time to File Deed

Dear Ms. Tran,

Kirsh Kraft, LLC is the applicant for the referenced matter. All Things Planning & Development is managing the resolution compliance process on behalf of the applicant. First and foremost, I want to express my thanks to you, the Board Professionals and Mr. Knox for your cooperation in having the deeds executed on July 31, 2025. I am very disappointed we could not file the deeds that day, and accordingly, the applicant is requesting additional time to be able to revise the deeds to correctly reflect the prior extensions, and this extension, to finally get the deeds filed as soon as the resolution of the Board permits.

As provided for in N.J.S.A. 40:55D-47.f & g, the applicant is requesting an extension to file the requisite deeds with the County Clerk's office. This time frame coincides with the delay and amount of time necessary to revise the necessary deeds and descriptions as provided for in the resolution of approval, Resolution 2024-15, memorialized on August 8, 2024. The applicant spent much of the balance of 2024 after the approval into February of 2025 to obtain the Deed of Easement with the adjoining, encroaching property owner. After the initial extension in February of 2025, Resolution 2025-10 memorialized on March 13, 2025, the applicant spent the rest of the spring of 2025 revising the deeds and exhibits to meet the requirement of the approval and the comments of the Board Engineer, right up to and including the extension date of April 22, 2025. The Board granted a second extension on May 8, memorialized on June 12, 2025.

That extension was memorialized in Resolution 2025-16 on June 12, 2025. The resolution accurately reflected the initial request at 100 days, and subsequent discussions by the Board to limit the extension to 90 days, ending on July 21, 2025, as stated in Resolution Condition #1. Unfortunately, we were all working with the original July 31, 2025 date, and did indeed all execute the subdivision deed on July 31, 2025, and have it signed by the County Planning Board on the same date. I acknowledge the applicant could have filed the subdivision deeds on that date, however as we were reviewing the resolution dates and numbers, we discovered an error in the resolution number reference for the final Resolution 2025-16. The executed subdivision deeds unfortunately reference Resolution 2025-15. (emphasis added).

While it is unfortunate, the correct thing to do is correct the subdivision deeds to accurately reflect the Resolution numbers and dates and re-execute the subdivision deeds. The applicant will have the corrected deeds reviewed in advance of the hearing by your professionals and have the deeds executed by the applicant available for the Board that evening.

The applicant is respectfully requesting the resolution of extension be prepared in advance so the Board may memorialize it on Thursday August 14, 2025, and the deeds may be executed by the Board as soon as convenient. The applicant will take the executed deeds to be signed by the County Planning Board as soon as an appointment is available and file with the County Clerk. To accomplish this the applicant would request the extension to provide for the deeds to be filed on or before August 30, 2025, if the Resolution is memorialized on August 14, 2025. Alternatively, if the Board decides to memorialize the extension the following month on September 11, 2025, the applicant will respectfully request the extension to file the deeds on or before September 30, 2025.

Thank you for your continued gracious cooperation. Please accept my sincere apology for any inconvenience caused to the Board and its schedule.

Very truly yours,

ALL THINGS PLANNING & DEVELOPMENT

John E. Taikina

John E. Taikina, PP, AICP
Managing Member

c. Trevor Kirsh, Applicant
Henry Wolff, Esq
Walter Hopkin, PE, WJH Engineering
Carmela Roberts, PE, CME, CPWM, Roberts Engineering
Dustin Glass, Esq., Semeraro & Fahrney