



City of Portsmouth  
Planning Department  
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Portsmouth, NH  
(603)610-7216

Memorandum

To: Planning Board

From: Peter Stith, AICP  
Planning Manager

Date: September 19, 2024

Re: Recommendations for the September 19, 2024 Planning Board Meeting

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## I. APPROVAL OF MINUTES

A. Approval of the August 15, 2024 meeting minutes.

### Planning Department Recommendation

1) Board members should determine if the draft minutes include all relevant details for the decision-making process that occurred at the August 15, 2024 meeting and vote to approve meeting minutes with edits if needed.

## II. DETERMINATIONS OF COMPLETENESS

### SITE PLAN REVIEW

A. The request of **Portsmouth Lumber & Hardware (Owner); Ricci Lumber (Applicant)**, for property located at **105 Bartlett Street** requesting Site Plan Review Approval for the demolition of existing sheds and construction of two new storage sheds with associated site improvements. Said property is located on Assessor Map 157 Lot 2 and lies within the Character District 4(CD4-W).

### Planning Department Recommendation

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1) Vote to determine that Item A is complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration.

**III. PUBLIC HEARINGS – OLD BUSINESS**

*The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

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- A.** The request of **Samuel Holman and Kristina Schneider Holman (Owners)**, for property located at **271 Lafayette Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 230 Lot 18 and lies within the Single Residence B (SRB) District. (LU-24-138)

*The applicant has withdrawn the Conditional Use Permit application for a DADU.*

#### IV. PUBLIC HEARINGS – NEW BUSINESS

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that issue should be raised at this point or it will be deemed waived.*

- B.** The request of Matt **Ball** and **Andrea Fershtam (Owners)**, for property located at **252 Wibird Street** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 149 Lot 12 and lies within the General Residence A (GRA) District. (LU-24-137)

Project Update

The applicant has requested to continue the application to the January Planning Board meeting as they work on redesigning the proposed Detached Accessory Dwelling Unit (DADU) based on the feedback received from the Board and abutters at the August meeting.

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Planning Department Recommendation

- 1) *Vote to grant the request to postpone to January 2025 meeting.*

**IV. PUBLIC HEARINGS – NEW BUSINESS**

*The Board’s action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

- A.** The request of **Peter and Amy Lalime (Owners)**, for property located at **1004 Greenland Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 262 Lot 8 and lies within the Single Residence B (SRB) District.

Background

This application is proposing to construct a new two-story garage with Detached Accessory Dwelling Unit (DADU) on the second story. The proposed DADU will comply with the requirements in Section 10.814 for DADUs as well as the dimensional requirements for the structure including setbacks and building coverage with the exception of Section 10.814.434 for building footprint. The proposed footprint of the DADU is over 750 square feet at 777 square feet and a modification would be required to exceed the footprint.



**Planning Department Recommendation**

**Detached Accessory Dwelling Unit Conditional Use Permit**

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as presented.*

*(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as amended.*

2) *Vote to grant the following modification:*

*2.1) Modification from Section 10.814.434 to allow a building footprint of 777 square feet where 750 is the maximum allowed.*

3) *Vote to grant the Conditional Use Permit with the following conditions:*

*3.1) Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.*

*3.2) A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.*

*3.3) The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.*

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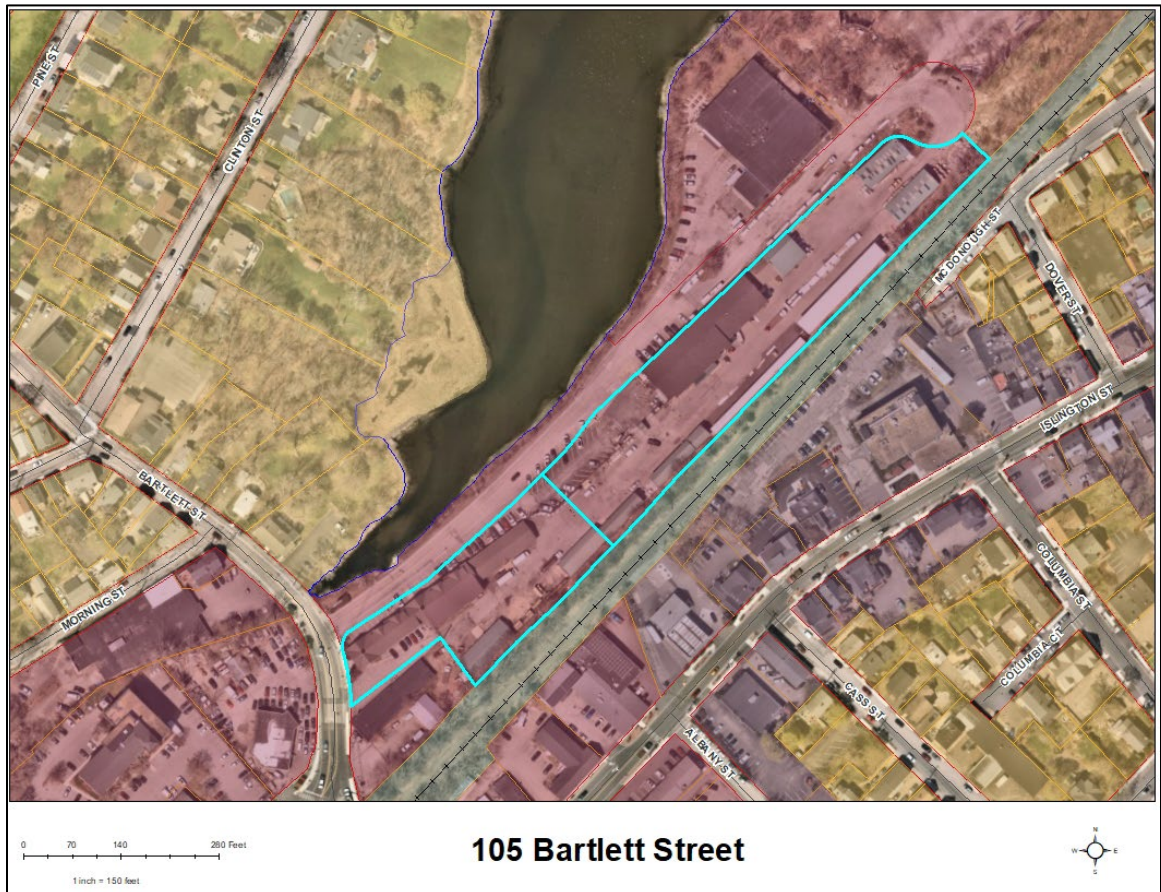
#### IV. PUBLIC HEARINGS – NEW BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

- B. The request of **Portsmouth Lumber & Hardware (Owner); Ricci Lumber (Applicant)**, for property located at **105 Bartlett Street** requesting Site Plan Review Approval for the demolition of existing sheds and construction of two new storage sheds with associated site improvements. Said property is located on Assessor Map 157 Lot 2 and lies within the Character District 4(CD4-W).

#### **Project Background**

This application is for the demolition storage sheds and the addition of two new storage sheds and associated site improvements. The owner has agreed to merge the two lots to create one lot that would prevent one of the proposed sheds from being constructed over a lot line.



**Project Review, Decisions, and Recommendations**

The applicant was before the Technical Advisory Committee. See below for details.

Technical Advisory Committee

The applicant was before the TAC at its regularly scheduled meeting of Tuesday, August 6, 2024 and the Committee voted unanimously to recommend approval with the following condition:

- 1) Applicant will submit new turning movements to DPW prior to Planning Board submission demonstrating that trucks can exit through the rear gate.**

***The turning template was updated to meet the above condition and was reviewed by staff.***

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**Planning Department Recommendation**

**Site Plan Approval**

1) *Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.*

*(Alt.) Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as amended.*

2) *Vote to grant Site Plan approval with the following conditions:*

*Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:*

- 2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) *Lot merger application shall be submitted and approved prior to issuance of a building permit.*
- 2.3) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements*

*within the public rights-of-way and for all on site utilities and public pathways.*

- 2.4) *Owner shall provide an access easement to the City for water valve and meter access and for leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 2.5) *Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

***Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.***

- 2.6) *The Engineer of Record shall submit an Engineer's stamped written report (with photographs, dated inspection reports for critical areas, material certifications, etc) certifying that the stormwater infrastructure was constructed in accordance with the approved plans, the manufacturer's details and specifications, and requirements determined by State and local permits and that installed the system(s) will meet the design performance intent and requirements;*
  - 2.7) *A stormwater inspection report showing the required maintenance has been performed shall be completed annually with copies submitted for review to the City's Stormwater Division of the Public Works Department.*
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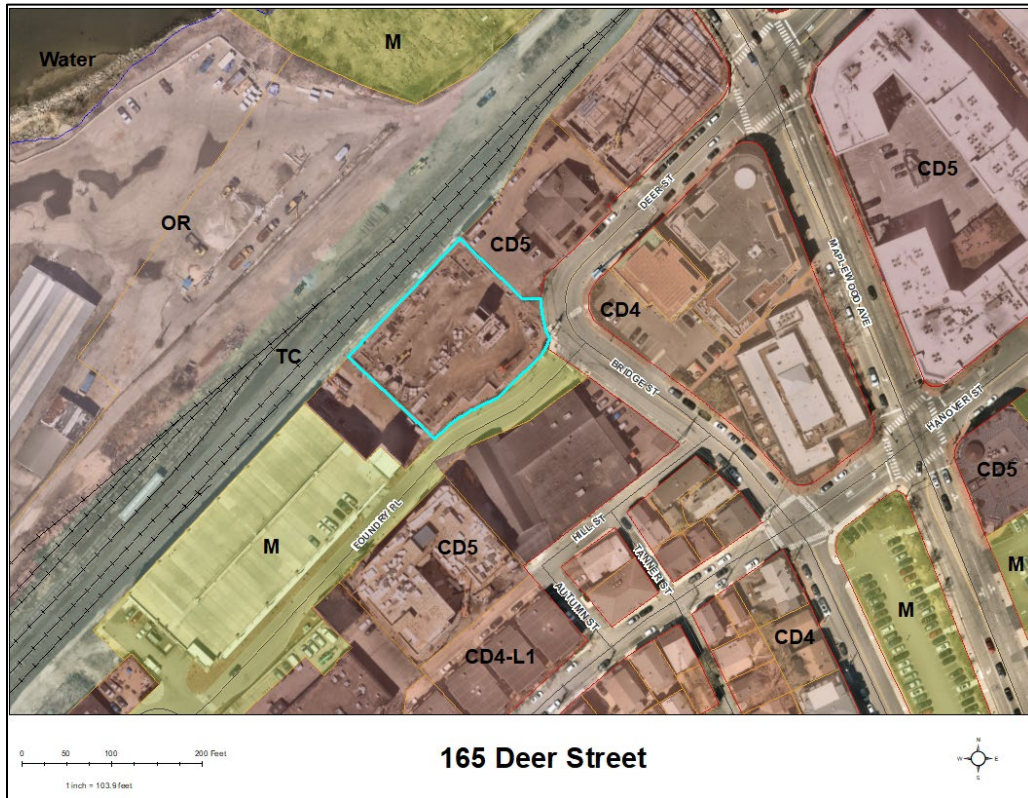
#### IV. PUBLIC HEARINGS – NEW BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

- C. The request of **Deer Street Hospitality (Owner)**, for property located at **165 Deer Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 to allow 78 parking spaces where 83 are required. Said property is located on Assessor Map 125 Lot 17 and lies within the Character District 5 (CD5), and Downtown Overlay Districts.

##### Project Background

The subject property is under construction for a four-story, 116 room hotel. In 2022, the project was revised and received administrative approval to reduce the hotel from 5 stories to 4, reduce the room count from 144 to 116, removed all meeting/conference room space and reduced parking from 75 spaces with 36 lifts to 50 spaces with 5 lifts. At that time, the parking requirement was met for the number of hotel rooms which includes 33 allocated parking spaces in the Foundry Garage. The applicant is planning to remove the remaining 5 lifts, which will result in a parking deficiency of 5 spaces, 78 where 83 are required.



**Project Review, Decisions, and Recommendations**

The applicant was before the Technical Advisory Committee. See below for details.

**Technical Advisory Committee**

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, August 13, 2024 and the Committee reviewed and accepted the parking demand analysis with no additional comments for the Planning Board.

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**Planning Department Recommendation**

**Parking Conditional Use Permit**

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented.*

*(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as amended and read into the record.*

2) *Vote to grant the Conditional Use Permit.*

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**V. CITY COUNCIL REFERRALS [NOTE: ANY REFERRALS REQUIRING PUBLIC HEARING SHOULD BE INCLUDED ABOVE]**

**A. Letter from James R. Knudsen, Estate of Star C. Johnson – Donation of Map 232 Lot 25 on Marjorie Street to the City**

As presented in the attached letter from James Knudsen, the estate of Star C. Johnson wants to donate a parcel off Marjorie Street to the City. The parcel, shown below, is located at the end of Marjorie Street and is currently vacant. The lot is encumbered by wetlands and wetland buffer and is approximately 0.21 acres in size.



**Planning Department Recommendation**

- 1) *Vote to recommend the City Council accept the donation of land from the Estate of Star C. Johnson.*



**B. Request to Release a portion of Longmeadow Lane.**

At their August 5, 2024 meeting, the City Council voted to refer the letter from Derek Durbin, Esq. regarding the release of interest in Map 236, Lot 74 to the Planning Board for a recommendation. See action below:

17. Letter from Derek R. Durbin, Esq., regarding Release of Interest in Map 236, Lot 74 for area of former Longmeadow Lane – Voted to refer to the Planning Board for a recommendation.





The westerly section of Longmeadow Lane has been constructed and leads to Bett's Dream housing development. This portion contains utility infrastructure in the right of way and extends almost the entire length of the paper street, as shown on the maps above. Because of the interest in Longmeadow Lane, staff would not recommend releasing the City's interest in the paper street.

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**Planning Department Recommendation**

- 1) *Vote to recommend the City Council not release the City's interest in Longmeadow Lane.*

**C. Gateway Neighborhood Overlay District (GNOD)**

At their August 19, 2024 meeting, the City Council referred the draft GNOD zoning amendments to the Planning Board for review and a recommendation back for first reading.

Background

The proposed Gateway Neighborhood Overlay District (GNOD) is an innovative overlay district that will allow for higher density housing development by right in targeted areas in Portsmouth. The GNOD incorporates and expands upon the requirements from Article 5B to allow greater flexibility in site design and density. As proposed, developments within the GNOD would allow 80 units per building up to 5 stories with the requirement to provide public realm improvements consistent with Section 10.5B73.20. A development that exceeds 80 units per building or 5 stories would require both public realm improvements and three options for workforce housing that include constructing workforce housing units within the development, payment in-lieu of or a land donation as outlined in the draft ordinance.

The overlay will include parcels along Commerce Way and Portsmouth Boulevard that are predominantly zoned Office Research (OR). The overlay could be expanded elsewhere in the City where appropriate higher density housing is targeted or desired in the future. The proposed boundary of the GNOD is shown on the map below.





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**Planning Department Recommendation**

*1) Vote to schedule a public hearing at the October 17, 2024 Planning Board meeting.*

**VI. OTHER BUSINESS**

**A. 105 Bartlett Street** – requesting a 1-Year extension to the Site Plan Review and Wetland Conditional Use approvals set to expire on October 12, 2024.

Project Background

On February 18, 2021, the Planning Board granted Site Plan approval and a Wetland CUP for the project referenced above. The Planning Board decision was appealed to Superior Court and eventually to Supreme Court. During an appeal of a land use board, the appeal period the original approval is stayed pending the result of the appeal. The final order was issued on October 12, 2023 at which time the one-year time period begins to obtain a building permit. The applicant is working on the post approval conditions but has yet to obtain a building permit and has requested the one-year extension of the approvals.

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**Planning Department Recommendation**

*1) Vote to grant a one-year extension of the Planning Board Approval of the Site Plan and Conditional Use Permit to October 12, 2025.*

**B. 928 South Street** - requesting a second six-month extension for the subdivision set to expire on September 21, 2024.

Project Background

On September 21, 2023, the Planning Board granted Subdivision approval for the property referenced above. The applicant is working on the post approval conditions but has yet to record the subdivision at the Registry and is requesting a second six-month extension.

The Subdivision Ordinance allows for two six-month extensions of the subdivision approval. The Planning Director issued the first six-month extension on March 15, 2024 and the applicant is requesting the second one from the Planning Board.

**E. Approval Expiration and Extension**

1. All stipulations of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within 6 months of the date of approval by the Planning Board.
2. The Planning Director may grant an extension of up to 6 months if he determines that the applicant has been unable to complete a stipulation due to circumstances beyond the applicant's control.

3. The applicant may apply to the Planning Board for an extension of the time for completion, which shall not exceed 18 months from the original date of Planning Board approval of the subdivision.

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**Planning Department Recommendation**

- 2) *Vote to grant a second six-month extension for the Subdivision to March 21, 2025.*

**C. Chairman's Updates and Discussion Items**

**D. Board Discussion of Regulatory Amendments and Other Matters**

Upcoming meeting dates:

September 26, 2024: Planning Board work session at 6 pm in Council Chambers

November 12, 2024: CIP joint work session with City Council

November 18, 2024: CIP joint public hearing with City Council

**VII. ADJOURNMENT**