Town of Stow
PLANNING BOARD
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September 6, 2007

Legal Notice

The Stow Planning Board will hold a public hearing on October 2, 2007, at 7:30 PM, in the Stow Town Building, on proposed amendments to the Stow Zoning Bylaw by:

Amending the following Sections:

- Section 3.1 (Recreation-Conservation District Uses)
- Section 3.10 (Table of Principal Uses)
- Section 8.1 (Accessory Apartments)
- Section 8.3 (Cross-Country Ski Uses in the Residential District)
- Section 8.4 (Golf Course Uses in the Residential District)
- Section 9.3 (Site Plan Approval)

A copy of the proposed amendments may be inspected at the Office of the Town Clerk or the Office of the Planning Board.

Stow Planning Board
Ernest E. Dodd, Chairman

2X The Stow Independent, September 12, 2007 and September 19, 2007

SECTION 3

USE REGULATIONS

3.1 Recreation-Conservation District Uses

This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, swamp land, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare.

3.1.1 Uses ~~permitted~~ allowed, provided that no BUILDINGs are located within one hundred (100) feet of a district boundary line:

3.1.1.1 Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose;

3.1.1.2 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur;

3.1.1.3 Orchards, nurseries, forests and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries;

3.1.1.4 Non-commercial recreation, including cross country ski areas, and municipal, county or state parks and boat landings, but not an amusement park; and

3.1.1.5 Display and sale or offering for sale, of farm produce from uses ~~permitted~~ allowed in paragraphs ~~b. and c~~ 3.1.1.2 and 3.1.1.3 above, and products normally sold therewith, provided that:

1. At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is from farm produce;
2. No stand for such sale is located within twenty-five (25) feet of the street sideline; and
3. Provision is made for off-street parking in accordance with the Parking Section of this Bylaw.

3.1.1.6 ACCESSORY BUILDINGs and USES.

3.1.1.7 Uses or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, provided that such use or structure complies with the dimensional requirements of the Bylaw and is not primarily used as a residential dwelling.

3.1.1.8 Uses or structures for a PUBLIC SERVICE CORPORATION may be exempted in particular respects from requirements of the Bylaw if, upon petition of the corporation, the department of telecommunications and energy shall, after notice given pursuant to section eleven of M.G.L. Section 40A and public hearing held by the Planning Board? Board of Selectmen?, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

3.1.2 Uses permitted subject to special permit, granted by the Planning Board, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in the parking section of this Bylaw:

3.1.2.1 Restaurants, provided that their use is in connection with a permitted use, and provided that no such BUILDING be located within one hundred (100) feet of a district boundary line;

3.1.2.2 Country Clubs or other MEMBERSHIP CLUBs;

3.1.2.3 Commercial picnic areas and swimming areas;

3.1.2.4 Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp BUILDING or site for each 3500 square feet of grass area;

3.1.2.5 Recreation, including golf courses, ski areas and tows, MARINAs and commercial boat landings, but not an amusement park.

3.1.2.6 Commercial motorized recreational vehicles are prohibited.

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
General Uses									
Agriculture	Y (4)	N	Y	Y	Y	Y	Y	Y	NR
Conservation	Y	Y (5)	Y	Y	Y	Y	Y	Y	NR
Recreation	SPA (4)	N	N	SPP	N	SPP	SPA	SPP	(3)
Residential Uses									
Single Family DWELLING	Y (4) (11)	N	Y SPP(11)	N	N	N	N	N	(3)
~~Single Family DWELLING with~~ ACCESSORY APARTMENT	~~SPP (4) (7) (11)~~ Y	N	~~SPP (7) (11)~~ Y	N	N	N	N	N	(3)
Duplex DWELLINGs	SPP (4) (11)	N	N	N	N	N	N	N	(3)
Multi-Family DWELLING	SPP(4) (11)	N	N	N	N	N	N	N	(3)
Conversion to 2-Family DWELLING	SPA (4)	N	N	N	N	N	N	N	(3)
Combined Residence/ Home Occupation	Y (4)	N	Y	N	N	N	N	N	NR
Bed & Breakfast Home	Y (4)	SPA (1)	N	N	SPP (3)	N	N	N	R
Bed & Breakfast Home or Establishment	SPA (1) (4)	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Boarding House or Rooming House	Y (4)	N	Y	N	N	N	N	N	R
Playgrounds	SPA (4)	N	N	N	N	N	N	N	(3)
Conservation Areas, Farming and Horticul-ture, Orchards, Nurseries, Forests, Tree Farms, Sale of Farm Produce	Y (4)	N	Y	Y	Y	Y	Y	Y	R
Storage of Farm Vehicles	Y (4)	N	N	N	N	N	N	N	NR
ACCESSORY BUILDINGs & Uses	Y (4)	Y	Y	SPP	SPP	Y	SPA	SPP	(3)
Hammerhead LOTs	SPP (4)	N	N	N	N	N	N	N	(3)

SECTION 8

SPECIAL REGULATIONS

8.1 ACCESSORY APARTMENTs

8.1.1 Purpose - As provided herein, one additional DWELLING UNIT may be allowed as an ACCESSORY APARTMENT in a single-family DWELLING or ACCESSORY BUILDING located on a LOT with a single-family DWELLING for the purpose of providing small additional DWELLING UNITs without adding to the number of BUILDINGs in the Town or substantially altering the appearance of BUILDINGs, the neighborhood or the Town; increasing the range of housing accommodations; encouraging a greater diversity of population; and encouraging a more efficient and economic use of existing housing stock by enabling owners of single-family DWELLINGS larger than required for their present needs to share space and the burdens of homeownership while maintaining the single-family appearance and character of BUILDINGs, the neighborhood and the Town.

8.1.2 ACCESSORY APARTMENTs Allowed by Right - The BUILDING INSPECTOR may grant a building permit for one ACCESSORY APARTMENT provided that:

~~8.1.2.1 The single-family DWELLING or ACCESSORY BUILDING was in existence on or before May 6, 1991, or~~

8.1.2.2 The ACCESSORY APARTMENT is attached to or within a single-family DWELLING or ACCESSORY BUILDING ~~constructed after May 6, 1991~~; and

8.1.2.3 provided that all of the following requirements are met:

1. The ACCESSORY APARTMENT shall be a use secondary and incidental to the single-family DWELLING and shall contain no more than 700 square feet of GROSS FLOOR AREA, not including garage space..
2. No more than one ACCESSORY APARTMENT shall exist on the LOT.
3. Either the single-family DWELLING or the ACCESSORY APARTMENT shall be occupied by the owner of the LOT. For the purposes of this section, the "owner" shall be one or more individuals who holds legal or beneficial title to said LOT and for whom the DWELLING is the primary residence for voting and tax purposes.
4. Both the single-family DWELLING and the ACCESSORY APARTMENT shall satisfy the requirements of 310 CMR 15.00 (Sanitary Code - Title 5) and Stow Board of Health regulations.
5. ~~The LOT on which the single family DWELLING or ACCESSORY BUILDING is located shall contain no less than 1.5 acres.~~
6. *this subsection language deleted October 24, 2005*
7. Any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT.
8. Any modification to the existing entrances on the front facade of the single-family DWELLING shall result in the appearance of a single main entrance.
9. A minimum of two (2) off-street parking spaces shall be provided for each DWELLING UNIT. There shall be adequate provision for ingress and egress from all parking spaces.
10. There shall be no more than one (1) driveway per LOT.
11. The ACCESSORY APARTMENT shall not occupy more than 50% of an ACCESSORY BUILDING.

~~8.1.3 ACCESSORY APARTMENTs Allowed by Special Permit – A special permit for an ACCESSORY APARTMENT may be granted by the Planning Board provided that:~~

~~8.1.3.1 All of the conditions and requirements of Section 8.1.2 are met, with the exception of Sections 8.1.2.3.5 and 8.1.2.3.10.~~

~~8.1.3.2 All conditions and requirements for approval of a special permit are satisfied.~~

8.3 Cross-Country Ski Uses in the Residential District subject to a Special Permit by the Planning Board:

Commercial cross-country ski courses on at least twenty-five (25) acres of land with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of store for the rental and sale of ski related items only, administrative office, and snack bar but not a restaurant), with a total GROSS FLOOR AREA not to exceed one thousand (1,000) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to cross-country ski related uses exceed twenty-five hundred (2,500) square feet; and a single family caretaker's residence, provided that:

8.3.1 no snow-making equipment shall be used;

8.3.2 the operation of the course, including ACCESSORY USES, trail grooming and maintenance equipment, shall be limited to the hours between 7:00 A.M. and one-half (1/2) hour after sunset;

8.3.3 new BUILDINGs, including improvements to existing BUILDINGs for ski related activities and new parking areas shall be screened year round from the adjacent property by evergreens and other vegetative growth of mixed variety;

8.3.4 no trail or new BUILDING including improvements to existing BUILDINGs for ski related activities and new parking area is within fifty (50) feet of any property line.

8.3.5 No ~~so-called snowmobiles~~ motorized vehicles shall be permitted except for emergency or maintenance purposes.

8.4 Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board:

8.4.1 Commercial 18-hole golf courses of at least fifty-five hundred (5,500) linear yards and at least seventy-five (75) acres with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of pro shop for sale of golf related items only, administrative office, and snack bar~~, but not a~~ /restaurant), with a total GROSS FLOOR AREA not to exceed twenty-five hundred (2,500) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to golf related uses exceed three thousand (3,000) square feet; and a single family caretaker's residence, provided that:

8.4.1.1 no fairway, new BUILDING including improvements to existing BUILDINGs for golf related activities, and new parking area is within fifty (50) feet of any property line;

8.4.1.2 new BUILDINGs and improvements on existing BUILDINGs for golf related activities and new parking areas shall be screened year round from adjacent property by evergreens and other vegetative growth of mixed variety;

8.4.1.3 the operation of the course, including ACCESSORY USES, shall be limited to the hours between one-half (1/2) hour before sunrise and one-half (1/2) hour after sunset;

8.4.1.4 at least forty percent (40%) of the residential zoned area of the parcel(s) devoted to the golf course and ACCESSORY USES shall be placed under a conservation restriction to the Stow Conservation Commission and approved by the Stow Board of Selectmen. Such restriction shall be for a period of time not less than thirty (30) years in duration and be evidenced by a deed in proper form and duly recorded with the Middlesex County Registry of Deeds or Land Court. Ten percent (10%) of the total residential zoned area shall be placed under a permanent conservation restriction as allowed by the provisions of Mass. General Laws Chapter 184, Sections 31 and 32. Neither the 30% area placed under conservation restriction nor the 10% area placed under a permanent conservation restriction shall contain a greater percentage of wetlands, as defined in Mass. General Laws Chapter 131, Section 40 and the Town of Stow Wetlands Protection Bylaw, than the percentage of wetlands found in the overall tract of land on which the golf course is to be located.

8.4.1.5 The Planning Board may require as a condition a public access pedestrian right of way of at least ten (10) feet in width provided to and along any natural watercourse or wetland in or running through the parcel or to any other portion of the parcel as deemed acceptable by the Planning Board.

8.4.1.6 <u>A permit shall be obtained from the Board of Health for application of pesticides/herbicides on the golf course site.</u> A state licensed person shall be responsible for applying pesticides/herbicides on the golf course site. Results from an approved laboratory of surface and GROUND WATER samples shall be periodically provided to the Conservation Commission and the Board of Health, the location and frequency of testing to be determined by the Planning Board <u>Board of Health</u>.

9.3 Site Plan Approval

9.3.1 Site Plan Approval Granting Authority - Certain uses are designated in the Table of Principal Uses as requiring site plan approval. The Board of Appeals, Planning Board or the Board of Selectmen may grant site plan approval in accordance with the standards set forth in this Bylaw. Wherever a specific designation is not made, the Planning Board shall be deemed the Site Plan Approval Granting Authority.

9.3.2 Rules and Regulations and Fees - Each board designated as a Site Plan Approval Granting Authority in the Table of Principal Uses, or otherwise so designated in the Bylaw, shall promulgate, adopt and, from time to time, amend rules and regulations, not inconsistent with the provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall prescribe as a minimum:

9.3.2.1 the size, form, contents, style and number of copies of plans, applications and specifications;

9.3.2.2 the town boards or agencies from which the Site Plan Approval Granting Authority may require reports; and

9.3.2.3 fees sufficient to cover reasonable costs incurred by the Town in the review and administration of site plan approval.

9.3.3 Projects Requiring Site Plan Approval - Site plan approval and a building permit shall be required for any of the following uses, as set forth below or in the Table of Principal Uses:

9.3.3.1 The construction or exterior alteration of a business or commercial STRUCTURE or parking area/LOT;

9.3.3.2 The construction or exterior alteration of an industrial STRUCTURE or parking area/LOT;

9.3.3.3 Notwithstanding that any particular use is an allowed use, site plan approval is also required for the following:

~~1. single family DWELLING with ACCESSORY APARTMENT;~~

2. BED AND BREAKFAST HOME;
3. BOARDING HOUSE or ROOMING HOUSE;
4. permanent BUILDING or STRUCTURE for the sale of farm produce;
5. in the Business District, uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA; and
6. in the Commercial and Industrial Districts, uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA;

9.3.3.4 Change from one permitted use to another permitted use of an existing STRUCTURE or LOT;

9.3.3.5 Change in or establishment of an area for vehicle parking, loading, storage or vehicular access; and

9.3.3.6 Any other use specified in the Table of Principal Uses which indicates a special permit or site plan approval is required.

9.3.4 The Site Plan Approval Granting Authority may waive any or all requirements of site plan approval process for external enlargements or alterations of less than 10% or five hundred (500) square feet, whichever is less, of the existing FLOOR AREA if the Site Plan Approval Granting Authority finds that the requirements of this Bylaw have been met.

9.3.5 Purpose - The purpose of site plan approval is to ensure that new construction, alterations of existing STRUCTURES and parking areas/LOT, and changes in use are designed in a manner which complies with the provisions of the Bylaw as to demonstrate protection of visual and environmental qualities and property values of the Town, and assurances of adequate drainage of surface water and safe vehicular and pedestrian access, and all other requirements of the Bylaw.

9.3.6 Application - Any person who seeks to obtain site plan approval shall file a written application, signed by the applicant and the current property owner, with the Site Plan Approval Granting Authority, and forthwith file a copy with the office of the Town Clerk. The applicant shall submit said application, including the date and time of filing, certified by the Town Clerk, to the appropriate office of the Site Plan Approval Granting Authority, accompanied by the required number of copies of the site plan in accordance with the rules and regulations.

9.3.7 Reports from Town Boards or Agencies - The Site Plan Approval Granting Authority shall transmit forthwith one copy each to the Planning Board, Zoning Board of Appeals, BUILDING INSPECTOR, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the Site Plan Approval Granting Authority for their written reports. Failure of any such board or agency to make a recommendation within thirty-five (35) days of receipt of said application shall be deemed lack of opposition by said board or agency. However, additional comments from any such board or agency may be received prior to the close of the public hearing.

9.3.8 Public Hearing and Decision - The Site Plan Approval Granting Authority shall hold a public hearing no later than sixty-five (65) days after the filing of an application. If the site plan approval is sought in conjunction with a special permit, one hearing and decision shall suffice for both site plan approval and special permit. The decision of the Site Plan Approval Granting Authority shall be made within ninety (90) days following the date of the public hearing. The Site Plan Approval Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to gather additional information in order to make an informed decision. Such continuance shall not automatically extend the required time limits set forth herein. The required time limits for a public hearing and/or decision may be extended by written agreement between the applicant and the Site Plan Approval Granting Authority. A copy of such agreement shall be filed in the office of the Town Clerk. Failure by the Site Plan Approval Granting Authority to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the site plan approval.

9.3.9 Time Limitation on Site Plan Approval - Site plan approval shall lapse if construction has not commenced, except for good cause, within a period of time to be specified by the Site Plan Approval Granting Authority, not to exceed two (2) years from the date of grant thereof.

9.3.10 A reasonable extension of said time, but not more than two (2) additional years, may be granted by the Site Plan Approval Granting Authority where good cause is shown. Any request for such extension of time shall be submitted to the Site Plan Approval Granting Authority and a copy to the Stow Town Clerk at least thirty (30) days prior to the date when the site plan approval is due to lapse. Failure to submit such a request

as prescribed herein shall entitle the Site Plan Approval Granting Authority to deny the requested time extension.

9.3.11 Site Plan Design Criteria - The purpose of the following site plan design criteria is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety, and to the suitability of a proposed use on a site. Before the granting of any site plan approval, the Site Plan Approval Granting Authority shall determine compliance with the following:

9.3.11.1 The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow in accordance with, but not limited to, the following:

1. Site development shall minimize impacts on wetlands, steep SLOPES, flood plains, hilltops;
2. Site development, including building sites and STRUCTURES proposed thereon, should not obstruct scenic views from publicly accessible locations;
3. Sites shall be developed so as to preserve unique natural or historical features;
4. Site development shall minimize deforestation, vegetation and soil removal and shall avoid grade changes;
5. Development of the site shall be in accordance with OPEN SPACE provisions of the Bylaw; and
6. Screening of objectionable features, including, but not limited to, exposed storage areas, storage tanks, machinery, service areas, truck loading areas, and utility BUILDINGs and STRUCTURES, from abutting properties and roadways shall be year-round and provided in the site development plan;

9.3.11.2 The DEVELOPABLE SITE AREA shall be clearly identified on the plan and shall meet the requirements of the definition in Section 1.3;

9.3.11.3 Architectural style should be in harmony with the prevailing character and scale of BUILDINGs in the neighborhood and the town through the use of similar building materials, screening, roof and wall lines and other architectural features. Variation in detail, form and siting should be used to provide visual interest and avoid monotony. Proposed site development shall provide adequate light, air circulation and separation between BUILDINGs;

9.3.11.4 The development shall be served with adequate water supply and waste disposal systems. For STRUCTURES to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a registered professional engineer and approval by the Board of Health;

9.3.11.5 The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Unless waived by the Site Plan Approval Granting Authority, a traffic study plan shall be prepared by a registered professional engineer and shall prescribe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site;

9.3.11.6 The site plan shall show adequate proven measures to prevent pollution of surface or GROUND WATER, to prevent erosion and sedimentation, and to prevent significant changes in GROUND WATER levels, increased runoff and potential for

flooding. Drainage shall be designed so that the rate and volume of runoff from the site shall not be increased, and abutting properties and ways, the neighborhood and community amenities will not be adversely impacted;

9.3.11.7 The development shall not excessively burden town services and infrastructures. To that end, the development shall place no more than the minimum demands on town services and infrastructures as may be reasonably taken care of on site or by alternate means. If the foregoing is not reasonably feasible, the site plan approval shall include provisions to assure that adequate provision for any significant increase in demands on town services and infrastructures which result from the development are provided or secured by the applicant;

9.3.11.8 Electric, telephone, natural gas, cable television and other such utilities and services shall be underground unless otherwise authorized by the Site Plan Approval Granting Authority;

9.3.11.9 The site plan shall comply with all zoning requirements for parking, loading, lighting, dimensions, environmental performance standards, and all other provisions of this Bylaw; and

9.3.11.10 Before approval of a site plan, the Site Plan Approval Granting Authority may request the applicant make modifications in the proposed design to ensure that the above criteria are met.

9.3.12 Findings by the Site Plan Approval Granting Authority - The Site Plan Approval Granting Authority, in order to grant site plan approval, shall find the proposed use of the site consistent with the uses permitted in the district in which the site is located and shall give due consideration to the reports received under Section 9.3.7. Prior to the granting of any site plan approval, the Site Plan Approval Granting Authority shall find that the site plan:

9.3.12.1 Protects the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment;

9.3.12.2 Provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;

9.3.12.3 Provides an adequate, convenient and safe arrangement of parking and LOADING SPACES in relation to the proposed uses of the site;

9.3.12.4 Provides adequate and safe methods of disposal of REFUSE or other wastes resulting from the uses permitted on the site;

9.3.12.5 Will not derogate from the purpose of this Bylaw; and

9.3.12.6 Complies with all applicable requirements of this Bylaw.

9.3.13 Final Action by the Site Plan Approval Granting Authority - Final action in connection with site plan approval shall consist of either:

9.3.13.1 a determination that the proposed project as set forth in the application constitutes a suitable development and is in compliance with the criteria set forth in this Bylaw, and the approval thereof; or

9.3.13.2 a written denial of the application stating the reasons for such denial.

9.3.14 As-Built Plan - At the time the BUILDINGs contained within the development site are ready for occupancy and prior to the issuance of an Occupancy Permit by the

BUILDING INSPECTOR, the applicant shall have prepared and certified by a registered professional engineer or land surveyor an "As-Built Plan" drawn with dark lines on a medium acceptable for recording with the Middlesex County Registry of Deeds or Land Court showing the following:

9.3.14.1 property boundary lines;

9.3.14.2 location of all BUILDINGs and other STRUCTURES, including utility sheds, storage areas and storage tanks;

9.3.14.3 actual widths, lengths and bearings of all boundary lines of STREETS, driveways, parking lots/areas, drainage structures and easements;

9.3.14.4 grades of streets, driveways, parking lots/areas, drainage structures, pipes and easements; and

9.3.14.5 locations of all pipes and utilities.

Said "As-Built Plan" shall be accepted by the Site Plan Approval Granting Authority prior to the issuance of any Occupancy Permit.