

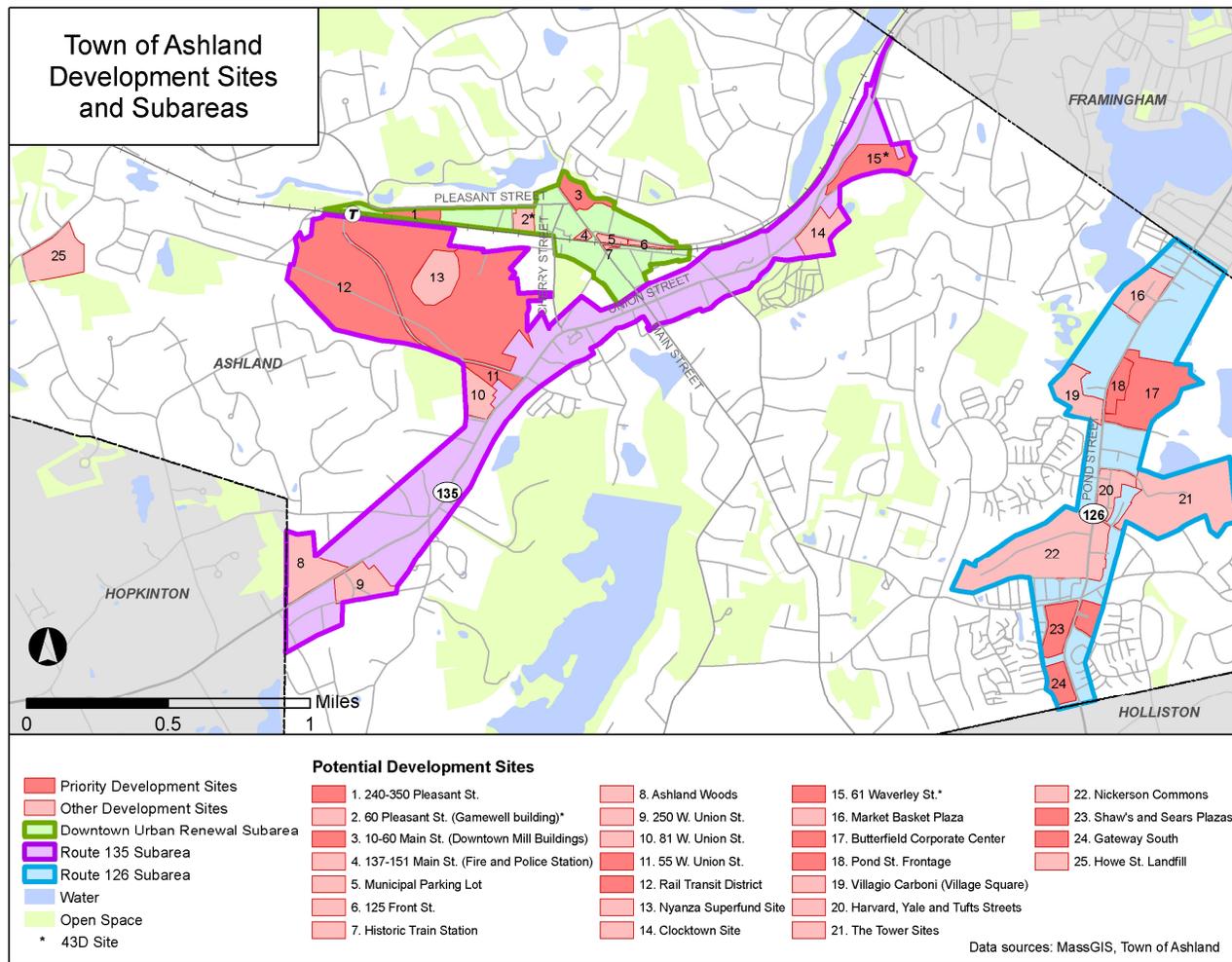


Town of Ashland Development Guide



Town of Ashland, Massachusetts

January 2011



This Development Guide was prepared by the Town of Ashland with assistance from BPG / Bluestone Planning Group and Blatman Bobrowski and Mead, LLC. Funds for this Guide were provided from the Commonwealth's Expedited Permitting Grant (43D Technical Assistance Grant) by the Interagency Permitting Board.

*Map Source: Larry Koff & Associates
Economic Development Study 2010*

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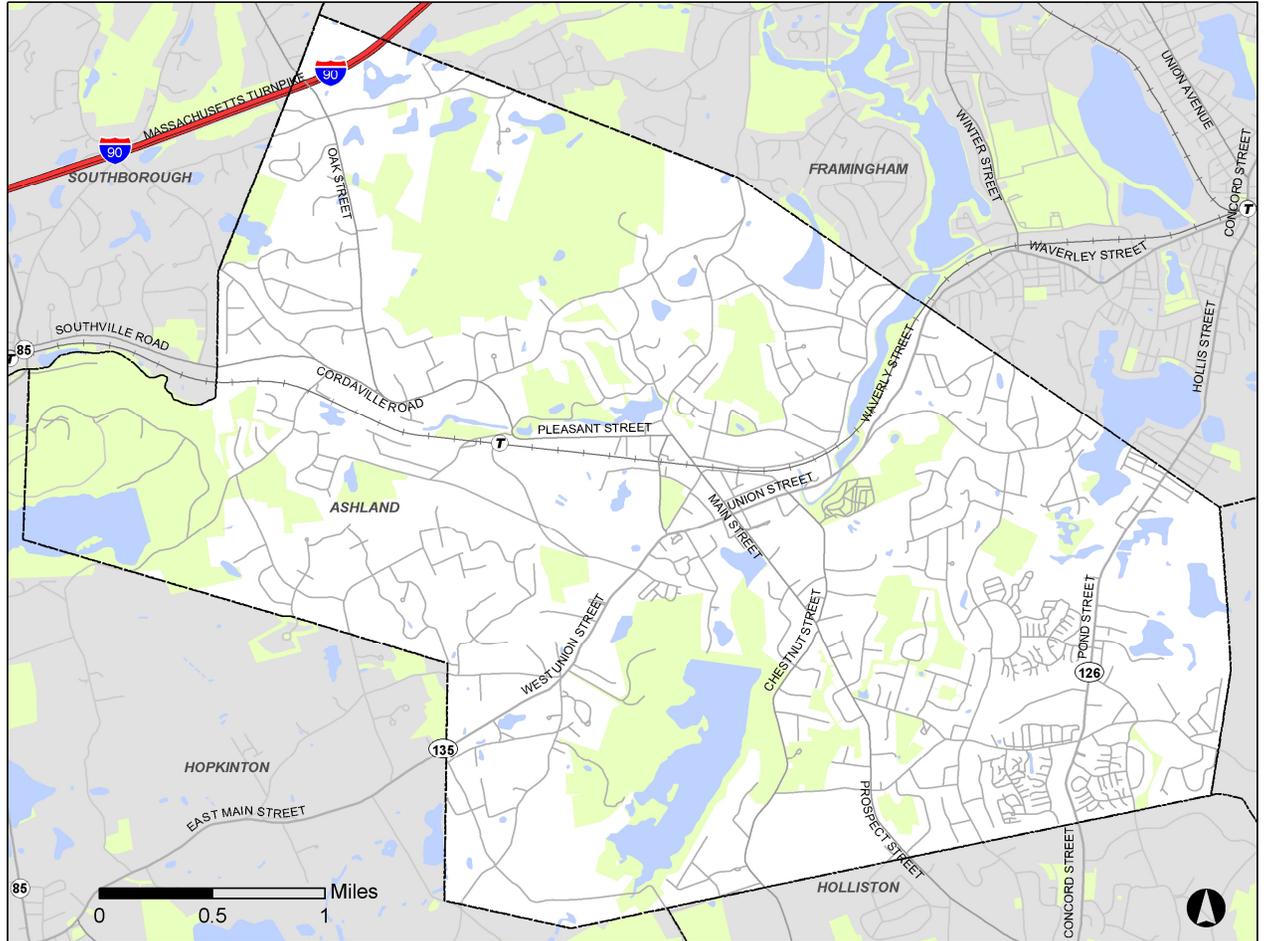
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Note to Reader

For information about Applications, Schedules and Fees, please contact the Planning Office.



Map of Ashland

Chapter 1: Introduction

Welcome to Ashland! The Town of Ashland, incorporated in 1846, today is a small town which combines industry, rural landscapes, and residential charm within easy commuting distance of most of the major metropolitan areas of Massachusetts, including Boston and Worcester. Ashland is well served by the commuter rail system, has a healthy town and civic center, and has a great deal to offer both residents and businesses.

This Development Guide is intended to answer any questions you may have about the process of developing your property, obtaining zoning approvals and other necessary development permits, and ultimately a Building Permit to allow construction.

To encourage new investment and development, Ashland takes pride in offering a clear and well-defined application, review, approval and permitting process for all property owners and developers seeking to do business in our community.

Additionally, as a testament to Ashland's business-friendly environment, Ashland has adopted the Commonwealth's Expedited Permitting Process for designated Priority Development Sites.

This user-friendly Guide is designed to assist property owners and developers to understand the town's review and approval processes, and what is required of them so they can better navigate the applications, reviews and approvals necessary to obtain zoning approvals and subsequently a Building Permit from the Inspector of Buildings.

Important: This Guide is for informational purposes only. It does not represent a legal document and should not be construed as legal advice. Specific questions regarding a site should be directed to the Inspector of Buildings and other individuals in the Department of Community Development & Health.

A. Who Should Read This Guidebook?

This Guide is intended for all property owners and developers looking to build in Ashland. It is designed as a *first look* at the zoning reviews and approvals required to develop projects. The Guidebook explains the step-by-step process for applications, reviews and permits required for most building development in the Town - whether as a by-right zoning approval process or whether undertaken when special reviews and approvals are needed for Variances, Special Permits, or Site Plan Review.

This Guide is also intended to assist owners and developers of specifically designated properties known as *Priority Development Sites*. These properties are subject to an *Expedited Permitting Process* that assures a final determination of various Town approvals within a guaranteed timeframe of 180 days from the time a completed and satisfactory development application is submitted to the Town by a property owner. (See Chapter 8)

B. What's Included in This Guide and What is Not?

What's included in this Guide? The summary of approval processes outlined in this Guide focuses *primarily on zoning and land use approvals*, whose rules and procedures are described in detail in the *Town of Ashland Bylaws*. Board of Health regulations and environmental reviews are also briefly discussed. After using this Guide as an introductory navigation tool, applicable parts of the Zoning Bylaw and other land use and environmental bylaws and codes should be read thoroughly to understand the allowed uses, dimensional rules, and specific requirements within a Zoning District or Special District in which you plan to build.

What's not included? Other town reviews and approvals beyond those required by the Town's Zoning Bylaw are often required as well. Such approvals may include Fire Department Review, compliance with Building Codes, Board of Health and Sanitary Codes and regulations, and Flood Plain District requirements, for example. In some instances,

state and / or federal environmental reviews and approvals may also be needed. This Guide is not intended to address in detail all these other independent reviews that may be needed.

In the case of the Expedited Permitting Process for Designated Priority Development Sites, many of these local approvals are consolidated and explained in Chapter 8.

C. How Can I Get Advice from Town Staff About My Project Early in the Process?

Preliminary Review Advice: Ashland offers both formal and informal advice to developers and land owners about how to obtain approvals upfront. Most projects require approvals and permits. Because interpreting all the requirements of the Zoning bylaw and other required approvals can be complex, the Town offers informal review and advice to developers as to whether their project is compliant with zoning and assists developers in understanding how to navigate the various approval processes that may be required. *Although this informal pre-application review is not mandatory, it is highly recommended.*

Please note that formal interpretations from the Inspector of Buildings with regards to zoning issues may require a request in writing.

The more research you do in the early planning stage of your project, the easier it will be to meet the approval requirements of the Town, and sometimes State and Federal permits and approvals. This increases the likelihood that your project will be accepted and reduces your risk of having to make significant and expensive changes later.

If Site Plan Review *is* required, the town *requires* a formal and mandatory review process. [See Chapter 4.]

If Site Plan Review *is not* required and projects are determined to be 'By-Right', then developers may apply directly for a Building Permit from the Inspector of Buildings. [See Chapter 2.]

Informal Review – Step One: Make Preliminary Contact for Advice from Town Staff

As soon as you know the location, use(s), and approximate size of your project, schedule informal reviews with town staff in the Department of Community Development & Health - which includes Planning, Building, Health, Conservation, and Zoning. They'll show you which permits you may need, approximately how long it will take to get them, and whether any public hearings are required. They'll also advise you if your initial design proposals are likely to be approved, and if not, what changes you may need to make.

When seeking preliminary informal advice, these are the Town departments you should visit:

Building / Planning Office

Your first stop should be these two Departments. They enforce Ashland's Zoning Bylaw, the State Building Code, and issue building, occupancy, and sign permits. In Ashland, the Zoning Bylaw is enforced by the Zoning Enforcement Officer – the Building Inspector.

The Planning Office, working in behalf of the Planning Board, evaluates development proposals and assesses their impacts on the environment, transportation system, and town character. The Planning Office also coordinates staff review and the legal process for new development proposals submitted to the Planning Board under the Zoning Bylaw, the Subdivision Control Bylaw and the Scenic and Public Road Law.

The Planning Board issues Special Permits and approvals for subdivisions, alternative residential development, affordable housing developments, certain projects in groundwater protection zones, certain signs, cluster development, and mixed use proposals.

The Building Office is your contact throughout the development process for Site Plan Reviews, certain licenses, special permits, and Variances, whether from the Planning Board, Zoning Board of Appeal, or Board of Selectmen.

Health Office

The Board of Health enforces state sanitary and environmental codes and local health regulations. Among the many permits and certificates it issues are those for septic systems, hazardous materials, restaurants and food retailers, swimming pools, and groundwater protection zones. From the size and proposed uses of your project, Health Department staff can estimate your project's sanitation needs. They will explain the procedures for obtaining septic system and other permits and approvals. Use the Health Department's available records of soils tests to help determine your site's suitability for septic disposal. This information can save you time and money.

Conservation Commission Office

The Conservation Commission administers the Massachusetts Wetlands Protection Act, including related state and local regulations. The Conservation Commission can advise you if your project falls under their jurisdiction and whether you need to obtain local, state or federal permits. *Do not bypass this step* since conservation impacts and the presence of wetlands on or near your property are not always immediately apparent.

Department of Public Works

Consult with the Department of Public Works regarding roads, curb cuts, and the locations of underground utilities such as water and gas mains. The removal of street trees requires a permit from the Tree Warden.

Obtaining Regulations, Maps and Other Materials

Buy these at Town Hall. You can obtain this information at the following town offices:

Town Clerk: Board of Appeals Regulations and Special Permit Regulations

Conservation Commission: Instructions for filing a Notice of Intent to do work in or around wetlands and waterways.

Board of Health: Bylaws and regulations on septic systems, wells, hazardous materials, and groundwater protection.

Planning Office: Subdivision Regulations, Scenic Road regulations, zoning sections, and maps.

Department of Public Works: Curb-cut regulations and street plans.

Assessor: Plot plans, deeds, street plans, and Town Atlas.

Informal Review – Step Two: Technical Review

When you have prepared designs that are still in their early stages, schedule an informal Technical Review with the appropriate town departments. The amount of detail you need to bring varies according to the permits for which you are applying. Consult the appropriate Town Department to find out their requirements. In general, plans should show a rough layout. You should also have information related to factors influencing feasibility and impact.

D. Development Approval Processes: The Standard Zoning Approval Processes & the Expedited Permitting Process

This Guide describes Ashland's various development review, approval and permitting processes in two broad categories:

The Standard Zoning Approval & Permitting Processes

The standard Zoning Approval & Permitting Processes are described fully in the *Town of Ashland's Zoning Bylaw*. These standard processes include By-Right Development, Special Permits, Site Plan Reviews, and Variances. These Standard Processes are *summarized* in Chapters 2 - 5. Almost all development proposals will be reviewed under one of these standard approval processes.

Expedited Permitting for Priority Development Sites (PDS)

On August 2, 2006, Chapter 43D of the General Laws of Massachusetts was executed. Following municipal acceptance of the Expedited Permitting Process created by Chapter 43D, towns may designate specific sites as *Priority Development Sites (PDS)* in an effort to spur new commercial, industrial and mixed-use development. After sites are officially designated by Town Meeting and subsequently the Commonwealth's Inter-agency Permitting Board as a PDS, owners or developers of such sites are guaranteed an expedited Town review and approval process

ensuring that all permitting decisions, with limited exceptions, are rendered within 180 calendar days after completed and satisfactory applications are submitted.

E. Other Approvals and Permits

In addition to the zoning approvals explained in detail in this Development Guide, you may have to obtain other approvals and permits as well. Many of the most common of these are briefly summarized below. As described earlier, seek advice from Town staff as to what approvals and permits you may need for your project.

Groundwater Protection Overlay District Special Permit
Regulations in one of Ashland's Groundwater Protection Districts, which are superimposed on the basic zoning map, are often more restrictive than and override those of the underlying zoning district. Many uses in these districts are not allowed, while others require a Groundwater Protection District Special Permit from the Planning Board.

Floodplain Overlay District Special Permit
All land below the 100-year flood elevation is subject to flooding during a severe flood. Development in these areas may not be allowed or require a Floodplain District Special Permit from the Planning Board. You may need safeguards that can affect design and costs. [There are new 2010 Floodplain maps which may change the status of selected parcels.]

Wetlands Protection
Work in or within 100 feet of a wetland or 200 feet of a river (defined in the Mass Wetlands Protection Act) is regulated by the Conservation Commission. Many kinds of work are prohibited in these areas; those that are allowed may require an Order of Conditions from the Conservation Commission.

Board of Health Permits
Permits you may need from the Board of Health are for a septic or other onsite wastewater disposal method, onsite water supply, and for storing or handling biological and hazardous materials, reviewed in conjunction with the Fire Department and Building Department.

Signs

The Zoning Bylaw regulates the design, size, location and number of signs you may construct on your property. Commercial signs cannot be installed without a Sign Permit from the Inspector of Buildings. An applicant for a sign permit may appeal an adverse decision by the Building Inspector by submitting a written request for an appeal to the Zoning Board of Appeals as set forth in M.G.L. The Planning Board has limited discretion to issue a Sign Special Permit for larger signs or a greater number of signs.

Subdivision Approval

If your project is a subdivision (that is, if it divides the land into lots, whether residential or commercial, and requires the construction of new streets), you must get a Subdivision Approval from the Planning Board. If you don't have to build a new street, an Approval Not Required (ANR) Plan should be submitted to the Planning Board. [See Chapter 6.]

Work within a Public Way

All work within a public way owned and maintained by the Town, such as the installation of driveways or utility lines, requires a permit from the Department of Public Works (DPW). All water supply and sewer work, both public lines and individual hookups, must conform to the regulations of the DPW.

State and Federal Permits

Depending on your projects and its impacts, you may need to apply for one or more permits from the State or Federal government. The most common include a curb-cut permit from the Massachusetts Department of Transportation Highway Division for work affecting a state highway; a permit from the Army Corps of Engineers for work affecting certain wetlands and waterways; or a certificate of compliance from the Massachusetts Executive Office of Environmental Affairs (EOEA). The Town's staff can help you identify State and Federal requirements for your project and help make contact with the appropriate agency. *However, it is your responsibility to ensure compliance with all State and Federal regulations and approvals.*

Chapter 2: 'By-Right' Zoning Determination Process

A. What is a 'By-Right' Project and What Does That Mean?

A 'By-Right' project is one that, as proposed and designed: 1) fully complies with the uses allowed, dimensional rules, parking requirements, and all other zoning requirements of the Zoning District within which it is located; and 2) does not require any further review and approvals by the Planning Board or Zoning Board of Appeals. [Refer to 'Chapter 3 Special Permit Granting Process', and Chapter 4 'Site Plan Review and Approval Process' in this Guide to determine which projects may require a Special Permit and/or Site Plan Review.]

An approved *use*, which is identified by "Y" in the Table of Principal Uses or in other Special District Tables, may still require further review, such as Site Plan Review.

As discussed above, an applicant should seek advice early from Town staff as to whether your project qualifies as a 'By-Right' project.

If projects are determined to be 'By-Right', without the need for Site Plan Review as defined in Section 9 of the Zoning Chapter 282, developers may then apply directly for a Building Permit from the Inspector of Buildings. [See Chapter 10.] When an application for a Building Permit is submitted, a proposed project is reviewed for zoning compliance by the Inspector of Buildings. If a project qualifies as 'By-Right', a project developer may then apply for and receive a Building Permit from the Inspector of Buildings, as long as the project complies with the Massachusetts Building Code, handicapped access requirements, and any other necessary non-zoning Town or State approvals and permits.

B. How Do I Determine Whether My Project Is 'By-Right' ?

To assist applicants, the Planning Office and the Building Department can provide a Zoning Determination upon request for the proposed project. *However, under the law, it is the sole responsibility of the applicant to ensure that the project is fully compliant with all applicable portions of the Zoning Bylaw and all other State and Town approvals and permits.*

C. Preliminary Town Staff Pre-Application Meeting & Project Review

To help developers answer their questions and advise them of any Town approvals that may be required, the Town offers an informal and voluntary review meeting between Town staff and the project proponent. This informal Town team offers a preliminary review of a project so that a developer does not have to go from one Town office to another to find out about all the reviews and approvals required. The initial consultation can usually clarify whether a project qualifies as 'By-Right' or whether it requires additional approvals – such as Site Plan Review and/or Special Permits. [This informal meeting does not, however, substitute for any required administrative reviews or necessary Board reviews.]

To schedule an appointment for preliminary review a developer or property owner should contact the Planning Office at 508-881-0100, ext. 651.

Chapter 3: Special Permit Granting Process

A. What is a Special Permit?

Some proposed projects are permitted as a property owner's right. These are known as 'By-Right' projects. Others, however, because of the potential impact on the neighborhood or town, require additional review and approval in the form of a Special Permit.

A Special Permit is a permit issued by a Special Permit Granting Authority (SPGA) [designated in the Bylaw as either the Zoning Board of Appeals or the Planning Board], which authorizes the recipient to make use of property in accordance with provisions of the Zoning Bylaw, as well as any additional requirements imposed by the SPGA. Unless specifically designated otherwise in the Zoning Bylaw, the Zoning Board of Appeals shall act as the default Special Permit Granting Authority in Ashland.

The need for a Special Permit, when required by the Zoning Bylaw, signifies that the use, nature, location or size of the project requires detailed review and scrutiny by the appropriate SPGA because of the project's potential impact on the site and/or the larger community.

Before a Special Permit can be issued, the appropriate SPGA must hold a Public Hearing so that citizens, particularly neighbors and abutters, can comment on or express any concerns they may have about your project and whether a permit or approval should be granted.

B. Which Projects Require a Special Permit?

Special Permits are required for a wide variety of uses, conditions, and locations and often for projects located within special zoning districts or Overlay Districts.

Special Permits Granted by the Planning Board

Projects and improvements geographically located either within or allowed under the jurisdiction of the following Zoning Bylaw Articles require a Special Permit issued by the Planning Board:

- Certain Uses Requiring Special Permits: Any use designated by the letters 'PB' in the Zoning Bylaw's 'Table of Principal Use Regulations – Section 3.0 Use Regulations' must receive a Special Permit from the Planning Board.*
- Alternative Residential Developments, including: Cluster Development, Senior Residential Communities, and Assisted Elderly Facilities*
- Certain Projects in Groundwater Protection Overlay District*
- Reduction in Off-Street Parking Requirements (Section 5.1.7)*
- Reduction in Loading Requirements (Section 5.2.8)*
- Certain Signs (e.g electronic message board signs) (Sections 5.3.13.7 & 5.3.14.7, 5.3.21)*
- Reduction in Landscaping Requirements (Section 5.4.7)*
- Certain Land Clearing & Grading Activities / Site Alteration Special Permit (Section 5.8.3)*
- Mixed Use in Highway Commercial District (Section 7.7)*
- Construction within the Floodplain Overlay District (Section 8.1.4)*
- Certain Uses and Activities within the Groundwater Protection Overlay District (Sections 8.2.8 & 8.2.10)*
- Rail Transit District (Section 8.4)*
- Wildwood Mixed Use Special District (Section 8.6.16)*
- Pond Street Overlay District*
- Ashland Downtown District*
- Priority Development Sites (may be in conjunction with Board of Appeals)*

Special Permits Granted by the Zoning Board of Appeals

- Certain Uses Requiring Special Permits:* Any use designated by the letters 'BA' in the Zoning Bylaw's 'Table of Principal Use Regulations – Section 3.0 Use Regulations' must receive a Special Permit from the Zoning Board of Appeals.
- Use Accessory to a scientific research or related production activity (3.2.4)*
- Non-conforming Uses (3.3.2)*
- Non-conforming Structures (3.3.3)*
- Reduction in Off-Street Parking Requirements for Non-Residential Uses in the Village Commerce and Neighborhood Commerce District (Section 5.1.5.1)*
- Signs permit appeal (Section 5.3.18)*
- Adult Establishments (Sections 6.1.2 & 6.1.3)*
- Dwelling Conversion to Accommodate Additional Families (Section 7.1.1)*
- Multifamily Dwellings (section 7.5.1)*
- Accessory Family Dwelling Unit (Sections 7.6.2 & 7.6.6)*
- Wireless Communication Service Overlay District (Section 8.3.4)*
- Affordable Housing Developments [40B]*
- Priority Development Sites (may be in conjunction with Planning Board)*

C. What Are the Criteria For Reviewing Projects Requiring Special Permits?

Special Permits shall be granted upon written determination by the appropriate SPGA that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular circumstances of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the applicable sections of the Zoning Bylaw, the determination shall include general consideration of each of the following:

- Community needs that are served by the proposal;
- Traffic flow and safety, including parking and loading;
- Adequacy of utilities and other public services;
- Neighborhood character and social structure;
- Impacts on the natural environment; and
- Potential fiscal impact, including impact on Town services, tax base, and employment.

Additionally, Special Permits may also be subject to other general or specific provisions set forth in the Zoning Bylaw, and may contain other conditions, safeguards, and limitations of time or use.

In general, Special Permits lapse if substantial use or construction has not begun within 24 months (not including appeals) following the filing of the Special Permit approval with the Town Clerk.

[Note: In 2010, however, Massachusetts law has been revised to allow for automatic Special Permit extensions that lapse during the current economic recession. Please consult Town staff and/or your attorney on this issue.]

***D. The Special Permit Process:
A Step-by-Step Description***

The Special Permit Granting Authorities (ZBA and Planning Board) may each adopt rules and regulations for filing, reviewing, and approving applications for Special Permits. *In general*, the process is as follows:

Step 1: Petitioner Prepares and Files an Application for a Special Permit to the Inspector of Buildings

The petitioner shall prepare and file an Application for a Special Permit to the Inspector of Buildings. Said application will be reviewed by the Inspector of Buildings which will include the determination as to the appropriate SPGA. Once signed by the Inspector of Buildings, said application shall be filed with the Town Clerk.

Step 2: The SPGA Shall Distribute Application to Other Town Departments or Boards

Copies of the Application may be sent by the SPGA to other relevant town departments and/or Boards (e.g. Conservation Commission, Department of Public Works, Planning Board, or Board of Health), for their review and comments. Failure of such Boards to respond within 35 days shall be deemed lack of opposition to such Application.

Step 3: SPGA Shall Hold a Public Hearing on the Application for Special Permit

The SPGA shall hold a Public Hearing on the Application that must be held within 65 days after official filing of an Application with the SPGA. Public Notice of a Public Hearing shall: 1) be advertised once a week for two successive weeks by the SPGA staff in a newspaper of general circulation. The first advertisement shall not be less than 14 days before the day of the scheduled hearing; and 2) be posted in a conspicuous place in Town Hall for at least 14 days before the date of the scheduled hearing. Notice of Public Hearing will also be sent by mail by the SPGA staff /applicant to 'parties of interest', meaning the owner(s) of

land (if different from petitioner), abutters, owners directly opposite the street or way, and abutters to abutters within 300 feet of the property line of the project (including all contiguously owned land).

Step 4: SPGA Issues Decision on Special Permit

The SPGA shall render a decision as to whether a Special Permit is to be granted or denied and then must file it with the Town Clerk within 90 days following the close of the Public Hearing. Failure of the SPGA to take final action within the 90 day period may be deemed a grant of the Special Permit. These time limits may be extended by written agreement between the SPGA and the petitioner.

Notice of such decision shall be mailed by the SPGA staff to the petitioner, and all 'parties of interest', and every person present at the hearing of the decision who requested that notice be sent to him or her. Such Notice of Decision shall specify that any appeals to the relevant court shall be filed with the Town Clerk within 20 days after the date of filing of the decision.

Step 5: Town Clerk Certifies that No Appeal has been Filed and Special Permit Takes Effect

The Town Clerk shall certify, once the 20-day appeal period has lapsed, that either no appeal has been filed or that if an appeal is filed, it has been dismissed or denied by the relevant court. As a result of such certification, the grant of the Special Permit takes effect and is final.

Step 6: Petitioner Files Decision at the District Registry of Deeds

The Town Clerk's certified copy of the decision is then recorded by the petitioner in the District Registry of Deeds and a copy of such recording is required for any building permit applications. If the activity authorized by the Special Permit is not initiated within 24 months (not including appeals) of the date of grant, then the Special Permit shall lapse unless the Inspector of Buildings makes a determination that the failure to complete was for good cause.

Chapter 4: Site Plan Review

A. What is Site Plan & Design Plan Review?

Site Plan Review is a detailed formal review of plans by the Planning Board of certain projects that are deemed, by virtue of either their use or size, to potentially have impact upon: 1) the natural environment; 2) the provision of adequate public services such as transportation, utilities, drainage, and ways; 3) public safety and access for fire and service equipment, 4) the visual character of the Town; and 4) property values.

Design Plan Review is to provide detailed review of uses and structures: 1) having substantial impact upon the character of the Town; 2) to prevent blight; 3) to enhance the natural and aesthetic qualities of the Town; 4) to conserve the value of land and buildings; 5) to protect and preserve the Town's historic and cultural heritage; and 6) to promote design compatible with the present character of the Town.

Site Plan Review and Design Plan Review require plan *submittal* for review by the Planning Board as *advisory* to the Building Inspector or appropriate SPGA prior to the issuance of a Building Permit or a Special Permit. Site Plan *approval*, when required by the Zoning Bylaw, must be obtained prior to the issuance of a Building Permit and may be required prior to the grant of a Special Permit or a Variance when they are also required. Applications for Site Plan approval, Variances, and Special Permits may be filed concurrently.

The Planning Board may either: 1) approve the plan, 2) conditionally approve the plan subject to modifications required in order to meet the defined performance criteria, or 3) deny the plan. The Planning Board can only deny the plan on the basis of specific written findings identifying one or more of the review criteria that were not adequately met and the expected negative impacts thus resulting.

Site Plan approvals lapse after 2 years from the grant thereof if a substantial use has not sooner begun, except for good cause. Such approval may, for good cause be extended by the Board upon written request of the applicant.

B. When is Site Plan Review Required?

Site Plan Review is triggered when either certain uses are proposed or when a specific project exceeds certain *thresholds* defined in the Zoning Bylaw and listed below. Site Plan Review of projects is judged against defined performance criteria or standards also defined in the Zoning Bylaw described below in Section C.

Uses & Thresholds Requiring Site Plan Review

- 1) Commercial and industrial structures in Commercial or Industrial Zoning Districts.
- 2) Enlargement of floor area or change of use of a commercial or industrial structure in the Commercial H, Commercial D, or Industrial Zoning District.
- 3) Change of use in a residential structure in the Commercial H (Highway), Commercial D (Downtown), or Industrial Zoning District.
- 4) Construction, exterior alteration, or change of use of a structure in the Commercial H or D Zoning Districts so as to contain a mixture of residential and non-residential uses.
- 5) Construction of certain structures so as to increase the building footprint by 10% or more, or increase the gross floor area by more than 25%.
- 6) Physical expansion of parking by 10% or more; and changes in use resulting in an increase of parking requirements greater than or equal to 6 spaces.
- 7) All applications for Building Permits including 6 or more parking spaces with certain exceptions.

No Building Permit shall be issued for the construction of any of the above without site plan review approval and design plan approval.

C. What Are the Performance Criteria Categories by Which a Project Is Reviewed?

The following General Criteria for Site Plan Review are described in detail in Section 9.4.6 -“Site Plan Review Criteria” of the Zoning Bylaw:

- Minimize use of wetlands, steep slopes, floodplains or hilltops;
- Minimize construction of scenic views;
- Preserve unique natural or historic features;
- Minimize tree, vegetation and soil removal and grade changes;
- Maximize open space retention;
- Screen objectionable features;
- Consider impacts on town services and infrastructure;
- Utilities shall be underground except in cases of extreme constraints;
- Exposed unsightly uses shall set back or screened to protect neighbors;
- Site Plan shall show measures to reduce and abate noise that will impact surrounding properties;
- Site Plan shall comply with all zoning requirements and environmental performance standards;
- Site Plan shall be consistent with the Comprehensive plan and other applicable specific plans adopted by the Planning Board.

Other more specific criteria are also enumerated in Section 9.4.7 through Section 9.4.11 of the Zoning Bylaw. The headings of these specific criteria are:

- Building Design
- Traffic
- Water
- Landscaping
- Buildings

D. Mandatory Pre-Application Review and the Information An Applicant Must Submit for Site Plan Review

Prior to submitting a formal application for Site Plan Review to the Planning Board, the Town requires a mandatory but informal pre-application review of the proposed project. During this review of the proposed project, town staff will advise the developer on what the proposed project’s issues and concerns may be prior to submitting a formal application. Once any site planning issues have been identified and then addressed, a Site Plan Review application then may be formally submitted.

Application Submission Materials

All site plans shall be prepared by a registered architect, landscape architect or professional engineer, unless this requirement is waived by the Planning Board. Materials for Site Plan Review applications must be submitted in such form and numbers as required by the Planning Board for distribution to the Planning Board, Building Inspector, Selectmen, Town Planner, Town Engineer, Town Manager and other Town Boards, Commissions and Departments for advice and comment. A detailed list of submission materials and a more detailed distribution list are described in Section 9.4.3 “Application”, and 9.4.4 “Site Plan Contents”.

The Planning Board may require with any submission payment sufficient to cover expenses connected with a public information meeting, plan review, on-site monitoring, or the cost of any engineering and planning consultant necessary for review.

The Application should describe and include at a minimum:

- 1) Owner information: current owner of record or prospective buyer with a signed agreement to purchase;
- 2) Property location information;
- 3) List of all adjacent properties;
- 4) The property’s zoning classification and current use;
- 5) The proposed use of the property; and
- 6) A Site Plan.

The Site Plan shall include:

- 1) Lot boundaries, adjacent streets and ways, owners' names and adjacent properties;
- 2) Existing and proposed topography, location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features;
- 3) Existing and proposed structures;
- 4) Location of parking and loading areas, driveways, walkways, access and egress points, curb cuts and firelanes.
- 5) Location and description of septic systems, utilities, and waste disposal methods;
- 6) Proposed landscape features, including description of screening, fencings and plantings;
- 7) Location, dimensions height and characteristics of proposed signs;
- 8) Location and description of outdoor and street lighting, including methods of screening adjacent properties from glare;
- 9) Location and description of proposed open spaces or recreation areas, if provided;
- 10) For commercial or industrial projects, information on the types of businesses;
- 11) Construction timetable; and
- 12) Architectural rendering and / or cross-section of the development.

The Planning Board may waive any information requirements it judges unnecessary to review a particular plan.

E. Site Plan Review Process: A Step-by-Step Description

Step 1: Applicant Shall Prepare a Site Plan Review Application and File the Application with the Planning Board; Board Reviews for Completeness of Application

The Applicant (the current owner of record or prospective buyer with a signed agreement to purchase) shall prepare and then file his/her Site Plan Review Application with the

Planning Board. Incomplete applications shall not be accepted. Following submission of an application, the Planning Board, and/or its agent (Town Planner), shall review the application for completeness within three (3) business days of the submission. If determined to be incomplete, the applicant will be notified by certified mail.

The Planning Board may require payment from the Applicant sufficient to cover any expenses connected with public information meetings, plan review, inspections or on-site monitoring, and consulting services necessary for review.

Step 2: Planning Board Shall Distribute the Application to Relevant Parties of Interest

If deemed complete, the Planning Board shall distribute copies of the Application within five (5) days to the Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Town Planner, Town Engineer, Water & Sewer Commission, Town Manager, Highway Department, Police Department and Fire Department who shall each review the Application and submit their recommendations and comments to the Planning Board.

Step 3: Planning Board Shall Commence Review of the Application and May Choose to Hold a Public Hearing

The Planning Board shall commence its review of the application and may optionally choose to hold a Public Hearing on the Application within 30 days of the receipt of the Application. All abutters of the project shall be notified by mail of the Public Hearing. The Planning Board shall consider the comments of all parties at the Public Hearing and take into account the advice of the various Town Boards, Departments and Commissions.

The Applicant and his/her engineering and other representatives must be present at this Hearing.

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Step 4: Planning Board Shall Make a Decision on the Adequacy of the Site Plan Review Application

The Planning Board, within 45 days of the formal filing of the Application, shall make either 1) a determination of approval, 2) approval with conditions or restrictions filed with the Town Clerk, or 3) denial, stating reasons for such denial and the specific changes required in the site plan in order to receive approval. The Planning Board shall not deny an Application except on the basis of adequacy in meeting one or more of the review criteria or standards. Failure by the Planning Board to issue a decision within 45 days of the Application date shall be deemed to be approval of the plan.

To the maximum extent possible, an Applicant shall be provided an opportunity to supply corrections or additions on development proposal particulars.

Step 5: Enforcement

Upon the Planning Board's determination of approval, a Building Permit may then be sought by the Applicant and issued by the Inspector of Buildings. The Planning Board may recommend the posting of a performance guaranty to assure compliance with the plan and conditions.

If the work or action authorized by Site Plan Approval is not commenced by the applicant within two (2) years of the date of approval, except for good cause, the approval shall lapse. However, the Planning Board, for good cause and upon written request of the Applicant may grant an extension of the approval.

Chapter 5: The Variance Process

A. What is a Variance and When Is It Required?

A Variance is a unique exception or relief from certain terms of the Zoning ByLaw that may be granted by the Zoning Board of Appeals (ZBA), upon petition or appeal by an aggrieved property owner otherwise unable to obtain a permit or enforcement action from any administrative officer under G.L c. 40A, S. 10. Such relief may allow a project to receive approvals although the project does not or cannot strictly conform to the requirements of the Zoning Bylaw and Zoning District within which the project is to be built, and would not, under normal circumstances, be otherwise approved.

For example, Ashland's Zoning Bylaw states that a Variance must be sought for "the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity....." (Section 3.3.4).

In Ashland, the Zoning Board of Appeals is specifically prohibited from granting a 'use' variance.

B. What Criteria or Standards Must an Aggrieved Property Owner Meet to Obtain a Variance?

The ZBA must determine that *all* of the following findings apply in order to grant the petitioner a Variance in accordance with G.L. c. 40A, s. 10:

- ❑ A literal enforcement of the provisions of the Bylaw would cause substantial hardship, financial or otherwise, to the petitioner.
- ❑ The hardship is due to factors such as soil conditions, shape, and/or topography of the land that specifically have an adverse effect on the proposed project, but which do not generally affect the Zoning District in which it is located.

- ❑ Desirable relief may be granted by the ZBA to the petitioner without substantial detriment to the public good and without nullifying or substantially diminishing the intent or purpose of the Bylaw.

- ❑ The extent of the Variance or relief granted shall be no greater than the minimum necessary to provide relief from the hardship.

C. Variance Process: Step-by-Step Description

Step 1: Applicant Prepares and Files a Petition with the ZBA

The petitioner shall prepare and file an Application for a Variance with the Zoning Board of Appeals. [The Application shall be submitted to the Inspector of Buildings first for content review.] Once filed a copy of the Application is then filed with the Town Clerk. The Town Clerk records the date and time of filing.

Step 2: Town Shall Distribute Petition to Appropriate Boards or Town Departments

Copies of the Petition will be sent by the ZBA to other appropriate Town Departments.

Step 3: ZBA Shall Hold A Public Hearing on the Notice of Appeal

The ZBA shall hold a Public Hearing on the Petition that must be held within 65 days after receipt of notice of the Petition by the ZBA.

Public notice of such Public Hearing shall be given once in each of two successive weeks by publication in a newspaper of general circulation, the first publication of which shall not be less than 14 days before the day of the scheduled hearing.

Notice of Public Hearing will also be sent by mail to 'parties of interest', meaning the owner(s) of land (if different from petitioner), abutters, owners directly opposite the street or way, and abutters to abutters within 300 feet of the property line of the project (including all contiguously owned land).

Step 4: ZBA Issues Decision on Variance

The ZBA shall render a decision on a Variance within 100 days after the Petition is officially filed. Failure of the ZBA to act within the 100 day period may be deemed a grant of the Variance. These time limits may be extended by agreement of the Zoning Board of Appeals and the applicant.

Notice of such decision shall be mailed to the petitioner, and all 'parties of interest', and every person present at the hearing of the decision who requested that notice be sent to him or her. Such Notice of Decision shall specify that any appeals to the relevant court shall be filed with the Town Clerk within 20 days after the date of filing of the decision.

Step 5: Town Clerk Certifies that No Appeal has Been Filed and the Variance Takes Effect

The Town Clerk shall certify, once the 20-day appeal period has lapsed, that either no appeal has been filed or that, if an appeal has been filed, it has been dismissed or denied by the relevant court. As a result of such certification, the grant of the Variance takes effect and is final.

Step 6: Petitioner Files Decision at the Middlesex South Registry of Deeds / Building Permit Issued

The Town Clerk's certified copy of the Decision is then recorded by the Petitioner in the Middlesex South Registry of Deeds and a copy of such recording is filed with the Inspector of Buildings.

The Inspector of Buildings may then issue a Building Permit to the Petitioner.

If the rights authorized by the Variance are not exercised by the grantee within one (1) year of the date of grant, they shall lapse, provided, however, that the ZBA in its discretion and upon written application of the grantee may extend the time by no more than six (6) months.

Chapter 6: The Approval Not Required (ANR) Plan Endorsement Process

A. What is an ANR Plan?

ANR (Approval Not Required) Plans show the division of a tract of land into two or more lots that do *not* require approval as a Subdivision under the Commonwealth's Subdivision Control Law.

[For more information on Subdivisions that *are* subject to Planning Board approval, please refer to Ashland's Subdivision Regulations which are intended to locally implement the Commonwealth's Subdivision Control Law (MGL Chapter 41, Sections 81K-81GG).]

Criteria for Determination as an ANR Plan

In order for the division of a tract of land into two or more lots to qualify as an ANR Plan, such lots must have adequate frontage and access on either: (a) a public way or way maintained and used as such; (b) a way previously approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the Town of Ashland. Furthermore, such ways shall adequately provide for the needs of vehicular traffic and the installation of municipal services, and such lots shall have frontages along such way(s) which are dimensionally compliant with Zoning Bylaw requirements. For such ANR lots, Subdivision approval is not required.

B. How Does the ANR Process Work?

Any Applicant wishing to record a Plan of Land at the Registry of Deeds or Land Court that he/she believes is *not* a Subdivision and therefore does *not require approval* under the Subdivision Control Law, may submit an ANR (Approval Not Required) Plan and Application Form A to the Planning Board, through the Planning Office, for endorsement by the Planning Board at a subsequent meeting of the

Board (but within 21 days of the submission of the application). Another copy shall be sent to the Assessors Office. The Applicant shall also file a notice with the Town Clerk stating the date of submission and a copy of the Application.

Contents of the ANR Plan Submission

The submitted Plan shall provide the Planning Board with sufficient information to determine that the applicant is entitled to an "Approval Not Required" endorsement.

Such information should include: a surveyed plan showing: 1) name of record owner with deed reference by book and page, 2) zoning classification, 3) title of plan, 4) north arrow, 5) date of survey, 6) scale, 7) surveyor's signature and stamp, 8) all existing property lines, structures, bounds, brooks, fences, walls, and such which sufficiently identify the land to which the plan relates, 9) names of abutters, 10) names of all streets adjoining the parcel, and 11) assessors' map number and lot numbers.

The Planning Board may ask for additional drawings depicting grades and unusual natural features where the lot has significant environmental concerns or is in the Town's best interest.

Planning Board Review and Endorsement

The Planning Board, at one of its meetings, shall review the ANR Plan application to determine if the plan requires approval under the Subdivision Control Law based on the criteria described above. The review of an ANR Plan by the Planning Board does not require a Public Hearing.

If the Board determines that the plan does *not* require approval, the Planning Board shall endorse on the plan the words, "Approval Under the Subdivision Control Law is Not Required", and the Board shall notify the Applicant and return such plan to the Applicant. The Board shall then immediately notify the Town Clerk of its determination and endorsement. The Applicant may then file the Board's endorsement and ANR Plan at the Registry of Deeds. [Subsequently, when the Applicant seeks to obtain a Building Permit, he/she presents such documentation from the Registry of Deeds to the Inspector of Buildings.]

If the Board determines that said Plan requires Subdivision Control approval, it shall inform the applicant and the Town Clerk and return the Plan. The Applicant may then either submit the Plan for approval as provided under the Subdivision Control Law and Ashland's Subdivision Regulations, or alternatively, the Applicant may appeal the Planning Board's determination.

If the Board fails to act or notify the Town Clerk within 21 days after the application's submission, the Board shall have been deemed to have determined that approval under the Subdivision Control Law is not required. The Board must then endorse the Plan, or, the Town Clerk may issue a certificate to the same effect.

Chapter 7: The Demolition Delay Bylaw Approval Process for Significant Buildings

A. What is the Demolition Delay Approval Process ?

Purpose

The Demolition Delay Bylaw was enacted to protect and preserve significant buildings and to encourage the owners of such buildings to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them, thereby promoting the public welfare and preserving the cultural heritage of the Town.

To achieve these purposes, the Ashland Historical Commission is authorized to advise the Inspector of Buildings with respect to the issuance of Demolition Permits of significant buildings. If the Commission makes a Determination of Architectural or Historical Significance, the demolition of a building may be delayed for up to 6 months unless the Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

B. What Buildings Are Subject to the Demolition Delay Bylaw Process?

No permit shall be immediately issued for the demolition of a building which, in whole or in part, was built before January 1, 1940 other than in conformity with the provisions of this Demolition Delay Bylaw, as well as in conformity with the provisions of other laws and bylaws applicable to the demolition of buildings and the issuance of permits generally.

C. What Information Must An Applicant Submit to Obtain a Demolition Permit?

Every application for a Demolition Permit for a building having been built before January 1, 1940 shall be filed with the Inspector of Buildings and shall contain the following information:

- The address of the building to be demolished;
- The owner's name, address and telephone number;
- A brief description of the type of building and the condition requiring the issuance of the permit;
- The date of the building as established by the Board of Assessors, deed or documentation verifying the year of construction, and
- A brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.

D. The Demolition Delay Process: Step-by-Step Description

Step 1: Applicant Prepares a Demolition Permit Application and Submits It to the Inspector of Buildings

Applicant prepares a Demolition Permit Application containing the information described above and submits it to the Inspector of Buildings.

Step 2: The Inspector of Buildings Forwards a Copy of a Demolition Permit Application to the Commission for Review

Within seven working days from receipt of an application for a demolition permit for a building having been built before January 1, 1940, the Inspector of Buildings shall forward a copy to the Commission. No demolition permit shall be issued during this time.

Step 3: Commission Makes a Determination of Significance

Within 10 working days after receipt of the application for a demolition permit by the Commission, the Commission makes a Determination of Architectural and/or Historical Significance.

Upon determination by the Commission that the building is *not* architecturally and/or historically significant, the Commission shall notify the Inspector of Buildings in writing. Upon receipt of such notification, or after the expiration of 15 working days from the date of submission to the Commission, the Inspector of Buildings may issue the Demolition Permit.

Step 4: For Buildings Determined to be Significant, Demolition Permit is Temporarily Denied and a Public Hearing is Held to Determine Whether Building Should Be Preferentially Preserved.

Upon determination by the Commission that the building is architecturally and/or historically significant, the Inspector of Buildings and the applicant shall be so notified in writing via a Determination of Significance, and the demolition permit shall not be issued.

The Commission shall hold a Public Hearing within 15 working days of the Determination of Significance to determine whether the building should be preferentially preserved. [Public notice of the time and place of the hearing shall be published by the Inspector of Buildings at the expense of the applicant in a newspaper of general circulation in the Town not less than seven days before the date of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven days before the date of said hearing.]

Step 5: If Commission Determines Building Should Not be Preferentially Preserved, Demolition Permit May be Issued

If, after the Public Hearing, the Commission determines that the significant building *should not* be preferentially preserved, the Commission shall notify the Inspector of Buildings, in writing, within five working days of the hearing and the Inspector of Buildings may issue a Demolition Permit upon receipt of the written decision.

Step 6: If Commission Determines Building Should be Preferentially Preserved, Demolition Permit May Not be Issued for Six Months

If, after a public hearing, the Commission determines that the significant building *should* be preferentially preserved, the Commission shall so notify the Inspector of Buildings, in writing, within five working days of the hearing, and no demolition permit may be issued until six months after the date of the determination by the Commission.

[Notwithstanding anything above, the Inspector of Buildings may issue a Demolition Permit for a preferably preserved building at any time after receipt of written advise from the Commission to the effect that either:

- a. the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
- b. the Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

It shall be the responsibility of the owner of record or the owner's designee to assist in the facilitation of the above process by providing information, allowing access to the property and securing the premises, for participating in the investigation of preservation options and for actively cooperating in seeking alternatives with the Commission and any interested parties.

Nothing in the Bylaw shall restrict the Inspector of Buildings from immediately ordering the immediate demolition of any building in the event of imminent danger to the safety of the public.]

Step 7: Enforcement and Remedies

The Commission and/or the Inspector of Buildings are each specifically authorized to institute any and all actions and proceedings as they may deem necessary and appropriate to obtain compliance with the requirements of this Bylaw or to prevent any threatened violation thereof.

No Building Permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this Bylaw for a period of two years after the date of the completion of such demolition.

Chapter 8: Expedited Permitting for Priority Development Sites*

A. What is the Expedited Permitting Process and What Are Priority Development Sites?

Overview

In 2006, the Commonwealth enacted Chapter 43D of the Massachusetts General Laws. Under this new opt-in program, towns may designate certain specific sites intended for commercial, industrial, and/or mixed-use development as 'Priority Development Sites' (PDS) in order to foster economic development within the municipality.

In exchange for such site designation, municipalities are: 1) granted greater access to certain state funding programs for these sites as well as enhanced real estate marketing and promotional efforts, and 2) the owner or developer of a PDS shall be guaranteed, in most instances, expedited and consolidated municipal review and decisions on zoning as well as certain other locally required permits, if applicable, within 180 calendar days of the submission of a complete development application. [Under certain limited circumstances, the 180-calendar day review period may be extended.]

Chapter 43D also requires that certain state environmental (Conservation Commission) or the Massachusetts Historical Commission reviews, if required, be initiated concurrently with the City's 180-day expedited review period.

What is a Priority Development Site?

A Priority Development Site is a privately or publicly-owned parcel or set of parcels:

- Approved by the Ashland Town Meeting and subsequently by the state's Interagency Permitting Board;
- Zoned for commercial, industrial and/or mixed uses; and
- Eligible for the development or redevelopment of a building of at least 50,000 gross square feet.

How does the Expedited Permitting Process Work?

Owners and developers of pre-approved Priority Development Sites may apply for local zoning and other permit approvals for commercial or industrial development within a consolidated 180-calendar day review period that commences after submission of all necessary application materials to the Town are determined by the Planning Board to be 'complete'. Such Town review must commence the day after a notice of completeness is issued. The Town shall provide all necessary permit applications to the applicant. The Town must notify an owner whether his or her application is considered complete within 20 business days of its submission.

[Please note that *prior* to starting this formal application process, the Town *recommends, but does not require* that developers meet with the Town's staff for a preliminary review of the project to go over any issues or questions. A PDS project will be given priority scheduling for staff review.]

At the end of the 180-day review period, the Town's various permitting boards must render their decisions - either issue approvals, denials, or conditionally grant approvals. If a permitting board does not render its decision within the 180-day period, and has not provided notice of an extension of that period (permitted only in limited circumstances), the application is deemed automatically approved. Lack of time cannot be used as a basis of permit denial if the applicant has submitted a complete application. Permits issued under the Expedited Process shall expire five (5) years from the date of issuance. However, this expiration period does not overrule other permit expiration calendars.

If certain approvals or permits are denied or conditionally approved, applicants may appeal these decisions. Applicants must file their appeals within later of: A) 20 days after the last individual permitting decision has been rendered or B) within 20 days after the conclusion of the 180-day period (plus extensions, if granted).

* See Ashland's 'Policy Guide' on Priority Development Sites.

What Permits Are Included in the Expedited Permitting Process?

Local permits issued under the jurisdiction of the Expedited Permitting Process include all zoning Special Permits, Site Plan Review, or Variances issued by either the Planning Board, Board of Selectmen, or the Zoning Board of Appeals.

Other local permit approvals include, if applicable:

- sewer construction and/or connection permits;
- sewage disposal system permits;
- determinations and/or permits for activities in the vicinity of protected wetlands;
- water use, construction, or water connection permits;
- licenses and/or permits related to fire safety;
- street opening permits;
- earth removal permits;
- stormwater management permits;
- sign permits; and
- site alteration permits

Local approvals that are *not* governed by the Expedited Permitting process include:

- Building Permits issued by the Inspector of Buildings;
- ANR Residential Plan Approvals; and
- Subdivision Approvals.

Concurrent State Permitting

It is the intent of the Expedited Permitting Process to encourage local permitting review concurrently with necessary state environmental reviews. Any reviews required under the Massachusetts Environmental Policy Act (MEPA) or the Massachusetts Historical Commission shall conclude within 120 calendar days of a State determination of completeness of required review materials as established by the Executive Office of Energy and Environmental Affairs (EOEEA). These state reviews shall take place concurrently with the local 180-calendar day Expedited Permitting process. The Secretary of EOEEA shall establish timeframes for all required filings by the applicant in order to comply with this schedule. In the event an applicant fails to comply with all relevant timeframes, the clock shall be stopped until the applicant files the required documents.

B. Local Expedited Permitting Process: Step-by-Step Description

Step 1: Determine Necessary Approvals

An Applicant, after a recommended, but not required, informal consultation about his/her development plans with the Town's Planning Office, shall determine all development approvals and information required to gain the necessary permits to develop property for his/her intended use(s). Once all required permits are identified, the Town shall provide the applicant with all the necessary permit application forms. [Please note that simultaneously, the Applicant shall determine if any state reviews may be required and, if so, what information must be gathered and submitted to meet state permit submission requirements.]

Step 2: Prepare Required Information

Applicant shall prepare all necessary architectural, site development, and/or environmental data in sufficient detail and with sufficient information to complete all applications to the Town's satisfaction.

Step 3: Submit Permitting Applications

Applicant shall submit all completed applications to the Planning Office.

Step 4: Town Notification of Completeness

The Town, within 20 business days of receipt of the Application, shall notify the applicant by certified mail if it has determined the application to be complete. If the Town fails to notify the applicant within 20 business days of its determination, then the application shall be deemed complete.

If the application is determined to be complete, the Town's 180-calendar day review process of the application commences the following day. If the application is considered incomplete, the Town shall notify the applicant of any deficiencies in information which must be corrected and then re-submitted in order to be considered complete.

Step 5: Town Conducts 180-Day Review and Renders Decisions

The Town, and all the necessary permitting boards, shall commence their 180-day project review of the proposed development once a submitted application has been determined to be complete. On or before the 180-calendar day review period expires, the Town's various permitting boards must make a determination and then notify the applicant as to whether: 1) a permit, license or approval is granted, 2) a permit, license or approval is denied, or 3) a permit, license or approval is conditionally granted.

If any permit granting board fails to notify the applicant within this 180-day timeframe (or applicable extension) of its decision, the permit application pending before that board is automatically deemed approved.

Step 6: Applicant Files Affidavit Certifying a Grant of Approval if Decisions Are Not Rendered

As described in the previous step, if *any* permit granting board fails to notify the applicant within this 180-day timeframe of its decision, that specific permit application is deemed automatically approved. In such case, within 14 days after the expiration of the review period, the applicant shall file an affidavit with the Town Clerk stating the facts giving rise to the grant approval and stating that notice of the grant has been mailed to all parties to the proceedings.

Step 7: Applicant Corrects Deficiencies and Re-files Application if Permits are Denied

If one or more permits are either denied or only conditionally approved, the applicant may seek to correct the application to meet the permitting board(s) objections, and then resubmit it for another round of reviews.

Step 8: Appeal of Denial

Alternatively, if an applicant believes that a denial or conditional approval is unjustified, the applicant may appeal that denial or conditional approval to the Massachusetts Division of Administrative Law Appeals.

Step 9: Applicant Proceeds with Development Once All Permits and Approvals Are Granted

If all necessary permits, licenses and approvals are granted, the Applicant may proceed with planning and design.

C. Benefits of the Expedited Permitting Process for Priority Development Sites

Designation of a property by the Town as a Priority Development Site (PDS) and the subsequent allowance of an Expediting Permitting Process for the property's owner or developer offer benefits to both the Town and the Owner.

Benefits to the Town & Owners

PDSs are eligible for additional state assistance:

- Priority consideration for Public Works Economic Development (PWED) and Community Development Action Grant (CDAG) funding
- Priority consideration for other quasi-public funding
- Brownfield remediation assistance
- Enhanced online marketing
- Technical assistance from MassDevelopment or the Metropolitan Area Planning Council / MAPC.

Benefits to the Owner or Developer of a Priority Development Site

- Owners are guaranteed that the Town's review and determination of zoning approvals (including Special Permits and Site Plan Review, if required) will be concluded within 180 calendar days from the date of submission of a complete application.
- Owners are also guaranteed that *other* Town reviews related to the use or development of land, buildings or structures, with the exceptions set forth in G.L. c. 43D, will be concluded within this same 180 calendar day period.
- If a Massachusetts Environmental Policy Act (MEPA) review or Massachusetts Historical Commission review is required, these reviews must be conducted concurrently with the 180-day municipal review period, although these state reviews may not be completed within the 180 day period.

Chapter 9: Wetlands Protection and Stormwater Management Permits

As described in Chapter 1, a variety of local environmental reviews, permits, or Order of Conditions may be required in addition to the zoning and land use approvals usually administered by the Department of Community Development and Health, Planning Board, Board of Appeals and Board of Selectmen described in Chapters 2-7. These environmental approvals are often locally administered by either the Conservation Commission or Board of Health.

Depending on your projects and its impacts, you may need to also apply for one or more environmental permits from the State or Federal government. The Town's staff can help you identify State and Federal requirements for your project and help make contact with the appropriate agency. *However, it is your responsibility to ensure compliance with all State and Federal regulations and approvals.*

A. Wetlands & River Protection: Overview

Proposed work or land alteration in or within 100 feet of a wetland or 200 feet of a river (as defined in the Massachusetts Wetlands Protection Act) is regulated, enforced and administered by the Ashland Conservation Commission. Many kinds of work are prohibited in these protected areas; those that are allowed may require an Order of Conditions from the Conservation Commission to proceed with such work.

The Conservation Commission locally administers the requirements of the Commonwealth's Wetland Protection Act (MGL c.131, Section 40) and subsequent state regulations (310 CMR 10.00), as well as Ashland's local wetland protection bylaw (Chapter 280). In Ashland, no work or disturbance shall be permitted within 25 feet of any Bordering Vegetated Wetland or Bank area, unless the applicant provides information and evidence deemed satisfactory by the Commission that the work sufficiently protects or enhances wetland interests.

B: Wetlands Permitting Process: Step-by-Step Description

Step 1: Applicant Shall Informally Meet with Conservation Agent to Ascertain Whether a Proposed Project May Impact Protected Areas

An Applicant shall meet informally with the Conservation Agent in the Department of Community Development and Health to determine if his or her project is under the jurisdiction of the Conservation Commission by reviewing the mapped extent of the project and reviewing maps of protected wetland areas and rivers, including buffer zones. If a project appears to be within the Conservation Commission's jurisdiction, the Applicant will be advised of the next steps to seek permission to proceed with such work.

Step 2: Application Shall Delineate Resource Areas

An Applicant shall hire a professional wetland scientist to delineate the wetland resource areas on the project site, or resources areas on adjacent properties that cast a buffer zone onto the project site. An Abbreviated Notice of Resource Delineation shall be filed with the Conservation Commission. After the Conservation Agent and the Commission review the wetland delineation, an Order of Resource Area Delineation will be issued to the Applicant. This Order sets the resource area boundaries for a period of three years. With an ORAD in hand, the Applicant can begin engineering the project and prepare for the next step, the Notice of Intent.

Step 3: Applicant Shall File a Notice of Intent

An Applicant shall file a Notice of Intent (NOI) with the Conservation Commission for work proposed within 200 feet of a river or 100 feet of bordering vegetated wetlands. The Applicant shall file both under the state Wetlands Protection Act and the Ashland Wetlands Protection Bylaw, along with applicable fees.

The NOI shall be sent at the same time to the Massachusetts Department of Environmental Protection (DEP) Northeast Regional Office. Also at the same time, the Applicant shall give written notification to all abutters within one-hundred feet of the property line of the land where the activity is proposed.

Step 4: The Conservation Commission Shall Hold a Public Hearing

The Conservation Commission shall hold a public hearing on the proposed activity within twenty-one (21) days of the receipt of the NOI to determine if such activity has an adverse impact on protected areas, including buffer zones.

Step 5: The Conservation Commission Shall Issue an Order of Conditions

Within twenty-one (21) days of closing the public hearing, the Conservation Commission shall issue an Order of Conditions (OOC), and all work shall be done in strict accordance with those conditions. The OOC shall be signed by a majority of the Conservation Commission and a copy shall be sent to the Applicant and to the DEP. A ten-day appeal period begins on the day the OOC is issued by the Commission.

No work proposed in any NOI shall be undertaken until the appeal period has lapsed and the final OOC has been recorded in the Middlesex South Registry of Deeds, or if the land affected thereby be registered land, in the registry section of the Land Court for the district wherein the land lies. Proof of such recording must be provided to the Conservation Commission prior to commencing the project.

Step 6: The Applicant Requests a Certificate of Compliance After Work is Completed

Once work is satisfactorily completed, an Applicant must request a Certificate of Compliance from the Conservation Commission with an as-built plan of the project. Within twenty-one (21) days of the receipt of such written request,

the Conservation Commission shall grant such request if the activity complies with the final Order of Conditions. The Certificate of Compliance shall be recorded with the Registry of Deeds.

C. Stormwater Management Permits

Overview

According to Ashland's Stormwater Management Bylaw (Chapter 247) and Regulations (Chapter 343), the permitting of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town and its natural resources. The purpose of this bylaw is to prevent or diminish stormwater impacts by controlling runoff and preventing soil erosion and sedimentation resulting from site construction or development, and eliminating non-stormwater discharges into the Town's municipal storm sewer system.

The Conservation Commission is the permit granting authority for the issuance of a Stormwater Management Permit (SMP). The Commission is also empowered to periodically adopt or amend rules and regulations relating to the enforcement and administration of these bylaws.

Applicability

Ashland's Stormwater Management bylaws and regulations are applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Chapters 247-7 or 343-4. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.

A SMP must be obtained from the Conservation Commission for the following activities:

- A. Any activity subject to Site Plan Review under the Planning Board;
- B. Any activity that will result in the alteration and/or soil disturbance of 10,000 square feet or more, or increase the amount of impervious surfaces to more than 50% of the parcel or lot, whichever is less;
- C. Any redevelopment of a commercial, industrial, institutional, or multifamily residential parcel;
- D. Any activity that will disturb land with a slope of 15% or greater and where the land disturbance is greater than or equal to 5,000 square feet within the sloped area;
- E. Any activity that will alter, fill or degrade a wetland, body of water, floodplain or isolated depression subject to flooding; and
- F. Any residential development or redevelopment of five (5) acres or more pursuant to the Subdivision Control Law.

Applicability Exemptions

The following activities are exempt from the requirements of the Stormwater Management bylaw and regulations [Chapter 247-7 & 343-4]:

- A. Normal maintenance of Town-owned public land, ways and appurtenances, such as, but not limited to, the maintenance of drainage structures or utilities within or associated with public ways;
- B. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act;
- C. Repair or replacement of septic systems when approved by the Board of Health for the protection of public health;
- D. Normal maintenance of existing landscaping, gardens or lawn areas associated with a residential dwelling, provided such maintenance does not include the addition of more than 100 cubic yards of soil material, or alteration of drainage patterns;
- E. The construction of fencing that will not alter existing terrain or drainage patterns;
- F. Construction and associated grading of a way that has been approved by the Planning Board;

G. The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways;

H. The removal of earth products undertaken in connection with an agricultural use if the removal is necessary for or directly related to planting, cultivating or harvesting or the raising or care of animals; or

I. Activity in accordance with the terms of an existing Order of Conditions or determination of applicability issued by the Commission pursuant to the Massachusetts Wetlands Protection Act, or the Ashland Wetlands Protection Bylaw.

D. Stormwater Management Permit Application & Approval Process

The Conservation Commission is responsible for reviewing and approving the Stormwater Permit Application. The Commission has established fees to cover expenses incurred by the Town in reviewing the application and monitoring permit compliance. The fee schedule is included in the stormwater management regulations (343-7.1). The Commission is authorized to charge the applicant fees to cover the cost of hiring a civil engineer or other professional consultant to advise the Commission on any or all aspects of the project. The Commission may also require a cash performance guarantee to ensure compliance with these requirements and for the long-term operation and maintenance of all permanent erosion control and stormwater management measures.

To obtain approval for a project subject to the provisions of the stormwater management bylaw, the applicant shall submit a permit application signed by the property owner of record, a Stormwater Management Plan, and an Operation and Maintenance plan prepared, stamped and signed by a civil engineer registered in Massachusetts, a registered land surveyor, or other person who can satisfactorily demonstrate proficiency in the field of stormwater management. The application shall be submitted to the Commission and also filed with the Town Clerk.

The Commission shall set and hold a Public Hearing within 60 days of the application filing date.

After closing the Hearing, the Commission shall act on each complete application for a permit within 90 days of the date of filing with the Commission and the Town Clerk, unless such application has been withdrawn from consideration or deemed incomplete.

The Commission may take any of the following actions as a result of an application for a stormwater management permit: approval, approval with conditions, or disapproval.

A stormwater management permit may be *approved* if the Commission determines:

- (1) The application is compliant with all applicable federal, state, and local bylaws, regulations and guidelines; and
- (2) Best Management Practices (BMP) will be employed.

A stormwater management permit may be *disapproved* if the Commission determines:

- (1) The requirements of the stormwater management bylaw are not met; or
- (2) Insufficient information was provided; or
- (3) Inadequate response by the applicant to the Commission's request for information; or
- (4) The intent of the application is to circumvent other provisions of the Town's Zoning bylaw and regulations.

A stormwater management permit may be *approved with conditions* if the Commission determines:

- (1) that it should impose reasonable requirements or limitations to minimize impacts, if any, on abutting properties or uses.

Prior to commencement of any land-disturbing activity, the Applicant shall record the permit with the South Middlesex Registry of Deeds or Registry District of the Land Court, and shall submit to the Commission written proof of such recording.

At completion of the project, the owner shall certify that the completed project is in accordance with the approved plans and specifications, and request in writing a notice of

completion and submit as-built record drawings of all stormwater controls, treatment, best management practices and associated grading required for the site. The as-built drawing shall show deviations from the approved plans, if any, and shall be certified by a qualified professional registered in Massachusetts of equal or greater qualifications to the qualified professional submitting the original certified plans approved by the Commission.

Chapter 10: Building Permit Application Process

A. What Is A Building Permit and How Do I Get One?

A Building Permit is documented permission issued by the Town's Inspector of Buildings to the owner or developer of a property to begin construction or alteration of a building project. To obtain a Building Permit, the applicant must complete the online building permit application (available at www.ashlandmass.com) and submit a signed copy of the application along with completed plans and other technical documents so that the Inspector of Buildings can review and verify that the plans and documents are in full compliance with local Zoning and Massachusetts Building Code requirements and that all necessary zoning approvals, Special Permits, Site Plan Review approvals and/or Subdivision approvals, and all other necessary permits have been obtained, as may be applicable.

Prior to submitting completed plans to the Building Department for a final determination of compliance, the applicant shall have previously obtained, if applicable, a Variance, Special Permit and/or Site Plan Approval. If the project can be accomplished on a 'By-Right' basis, then only the approval of the Inspector of Buildings is required to issue a Building Permit.

B. What Do I Have To Submit to Get a Building Permit?

An applicant for a Building Permit must submit plans, drawings, and other documents to the Inspector of Buildings to determine compliance with the provisions of the Zoning Bylaw, the Massachusetts State Building Code, and all other necessary permits.

C. Building Permit Application and Approval Process: Step-by-Step Description

Step 1: Submit Building Permit Application

The developer should submit a Building Permit application form, together with all necessary plans and documents, to the Town's Building Department .

Step 2: Building Department Reviews Application for Compliance and Then Issues Decision on a Building Permit

Upon receipt of the Building Permit application, the Building Department will determine if the application materials are complete. If they are, he/she will review the submission for compliance with the Zoning Bylaw and Building Code and *may* distribute the plans to other various Town departments for further review. The Inspector of Buildings must make a determination of compliance within 30 days of the completed submission and then issue one of the two following determinations:

- 1) If the project is fully compliant and requires no additional approvals, the Inspector of Buildings will issue the applicant a Building Permit; or
- 2) If the project is *not* compliant or requires additional reviews or permits, the Inspector of Buildings will issue a denial indicating that the project requires additional zoning reviews or relief in the form of a Special Permit, Site Plan Review, or Variance.

Step 3: Applicant May Choose to Seek the Required Zoning Relief or Appeal the Denial

If the Building Permit is denied, the Applicant may then choose to seek zoning relief – whether a Special Permit, Site Plan Review, or Variance. The Applicant shall then follow the

review process and obtain the necessary approval(s) for the applicable zoning relief mechanism as described earlier in Chapters 3 - 5 of this Guide.

An applicant may appeal the Inspector of Building's denial of the Building Permit to the ZBA by filing a Notice of Appeal, within 30 days of the date of denial with the Town Clerk, and copies of the Notice, including the date and time of filing certified by the Town Clerk, with both the Building Department and the ZBA.

Step 4: Resubmission of Building Permit Application

Should an Applicant choose to obtain the zoning relief deemed necessary by the Building Department, the Applicant may resubmit his/her Building Permit Application and repeat Steps 1 and 2 above once all approvals have been obtained.

Glossary of Definitions

ANR Lot

ANR (Approval Not Required) Lots are building lots whose frontages directly adjoin and are accessible from either: (a) a public way or way maintained and used as such, (b) a way previously approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the Town of Ashland; and, providing for the needs of vehicular traffic and the installation of municipal services, and whose frontages along such way(s) are dimensionally compliant with the requirements of the Zoning Ordinance.

Board of Health

The Town's Board of Health enforces state and local health and environmental codes. Among the many permits and certificates it issues are those for septic systems, onsite wells, hazardous materials, restaurants and food retailers, swimming pools, and groundwater protection zones.

Building Department

The Inspector of Buildings at the Building Department is assigned the responsibility to interpret, administer and enforce the Zoning Ordinance and Building Code.

Building Permit

A permit granted to a developer or property owner by the Building Department to commence construction or alteration of a building or structure after the Director ascertains that the proposed project conforms to all applicable zoning regulations, has received all required zoning approvals, and conforms to the Building Code.

By-Right

A By-Right project is one that fully complies with the uses allowed, dimensional rules, parking requirements, and all other zoning requirements of the Zoning District within which it is located. Furthermore, to be considered a 'By-Right'

project, it must not additionally require either a Variance, a Special Permit, or trigger a Site Plan Review.

Calendar Day

A calendar day includes every day of the year – including weekdays, weekends, and holidays.

Conservation Commission

The Town's Conservation Commission has two main statutory responsibilities: enforcement of the Massachusetts Wetlands Protection Act as well as local enforcement of Ashland's Wetlands Protection Bylaw and Stormwater Bylaw. The Commission is also a participating agency in the review process of the Massachusetts Environmental Act.

Department of Public Works

The Department of Public Works is responsible for a vast array of Town infrastructure services. Services can include maintaining, managing and protecting Ashland's water supply, rebuilding roads and sidewalks, managing waste water, trash removal, recycling, snow removal, and processing water/sewer & rubbish billing.

Massachusetts Historical Commission (MHC)

The Massachusetts Historical Commission identifies, evaluates, and protects the significant historic and archaeological assets of the Commonwealth.

Overlay Zone

Areas designated by the Town of Ashland in the Zoning Bylaw for the purpose of preserving the resources of the area while simultaneously promoting development there, including, but not limited to Mixed Use, Groundwater Protection, Floodplain and Water Resources Protection.

Planning Office

The Planning Office, working in support of the Planning Board, is primarily charged with coordinating zoning functions.

Planning Board

The agency established by the Town authorized to grant certain Special Permits, including Subdivisions, alternative residential development, affordable housing developments, certain projects in groundwater protection zones, and certain signs. The Planning Board also recommends zoning changes which Town Meeting must then approve.

Priority Development Site / PDS

A Priority Development Site is a privately or publicly-owned parcel or set of parcels that are: 1) designated by Town Meeting, and subsequently by the state's Interagency Permitting Board; 2) zoned for commercial, industrial and/or mixed uses; and 3) eligible for the development or redevelopment of a building of at least 50,000 gross square feet. Once designated as a PDS, the review and approvals of a project on such sites are guaranteed to be undertaken in an expedited manner within a 180 calendar day period that commences after submission of all necessary application materials to the Town.

Site Plan Review

Site Plan Review is a detailed review by the Planning Board of certain projects that are deemed, by virtue of their use or size, to potentially have impact upon either: 1) the natural and built environments; 2) the provision of public services such as transportation, utilities, ways, public safety, and education; and/or 3) the character of the Town. Site Plan Review is triggered when a specific project exceeds certain use or scale *thresholds* defined in the Zoning Bylaw. Site Plan Review of projects are judged against defined performance criteria or standards also defined in the Zoning Bylaw.

Special Permit

A permit issued by the designated Special Permit Granting Authority (SPGA) - either the Zoning Board of Appeals (ZBA), Planning Board, or Board of Selectmen, that authorizes the recipient to make use of property in accordance with provisions of the Zoning Bylaw as well as any additional requirements imposed by the SPGA. The need for a Special Permit signifies that the use, nature, location, or size of the project requires detailed review and scrutiny by the SPGA because of the project's potential impact on the site and/or the larger community.

Special Permit Granting Authority (SPGA)

The SPGA is a generic term for a specific Board empowered to grant Special Permits. In Ashland, certain types of Special Permits are granted either by the Planning Board, Board of Selectmen, or the Zoning Board of Appeals (ZBA). The ZBA is designated the default SPGA unless another Board is specifically designated in the Zoning Bylaw.

Subdivision

The division of a single parcel of land into two (2) or more lots provided those lots do not qualify as Approval Not Required (ANR) Lots, as defined in MGL Chapter 41, Sections 81K-81GG.

Variance

A Variance is a unique exception, departure or relief granted by the Zoning Board of Appeals (ZBA) from certain terms of the Zoning Bylaw, upon petition by a property owner.

Zoning Board of Appeals (ZBA)

A body authorized as the Special Permit Granting Authority (SPGA) to grant certain Special Permits. Also, the body authorized to hear Variance appeals by any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under MGL c. 40A and the Zoning Bylaw.

Zoning Enforcement Officer

In Ashland, the Inspector of Buildings is the designated Zoning Enforcement Officer.

