

**PLANNING BOARD
TOWN OF OSSINING, NEW YORK**

**MGM DESIGN & CONSTRUCTION GROUP, LLC
RESOLUTION OF MINOR SUBDIVISION PLAT APPROVAL**

WHEREAS, MGM Design & Construction Group, LLC (the "Applicant" and "Owner") has applied for Minor Subdivision Plat, Wetlands Permit and Tree Removal Permit Approvals to subdivide one (1) existing lot into two (2) lots (the "Project" or "Proposed Action"); and

WHEREAS, the subject property is located on the easterly side of Hawkes Avenue (NYS Route 134) to the north of its intersection with Croton Dam Road and is designated Section 2, Plate 3, Block 4, Lot 26 on the Town of Ossining tax maps (the "Subject Property" or "Site"); and

WHEREAS, the Subject Property is in the R-20 One-Family Residence District and is 93,695 square feet (2.15 acres) in size; and

WHEREAS, existing at the rear of the Subject Property is Dale Brook and a substantial portion of the property is wetland and wetland buffer; and

WHEREAS, relative to the New York State Environmental Quality Review Act (SEQRA), the Planning Board deems the Proposed Action to be an Unlisted Action, has circulated the Board's intent to be Lead Agency, has received no objection thereto from the other Involved Agencies, and has become the Lead Agency; and

WHEREAS, the Applicant submitted a "Stormwater Management Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue," prepared by Site Design Consultants and dated September 20, 2019; a Short Environmental Assessment Form dated June 20, 2019; and the following drawings generally entitled, "Subdivision Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue, Town of Ossining, Westchester Co., New York," prepared by Site Design Consultants and last revised November 22, 2019:

1. "Site Plan."
2. "Area Map."
3. "Existing Conditions."
4. "Erosion and Sediment Control Plan."
5. "Improvement Plan."
6. "Buffer Enhancement Plan;"
7. "Lot 1 Sight Distance Plan."
8. "Lot 2 Sight Distance Plan."
9. "Erosion Details."
10. "Site Details."

11. "Sanitary & Stormwater Details;"
12. "Stormwater Management Details;" and

WHEREAS, the Applicant also submitted a plan entitled, "Landscape Plan, 5 Hawkes Avenue, Town of Ossining, Westchester County, NY" prepared by Tim Miller Associates, Inc. and last revised November 18, 2019; and

WHEREAS, the Planning Board is familiar with the Subject Property and its surroundings, and has reviewed the Project in accordance with the standards for approval contained in the Chapters 105, 176, 183 and 200 of the Ossining Town Code; and

WHEREAS, the Planning Board has received comments and recommendations from the Board's Engineering Consultant, the Town's Planning Consultant, the Town Environmental Advisory Committee, the public and others, and has given due consideration to said comments; and

WHEREAS, the Planning Board referred the subdivision application to the Westchester County Planning Board in accordance with Section 239-I of the General Municipal Law; and

WHEREAS, the Westchester County Planning Board responded to the above mentioned referral with comments in a letter dated June 21, 2018 and the Planning Board has given due consideration to these comments; and

WHEREAS, the Planning Board has reviewed the Project as a "minor subdivision" as defined by the Town's Subdivision Regulations; and

WHEREAS, a public hearing was opened on November 6, 2019 and closed on December 18, 2019 during which period all persons interested were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA), and based upon the review of the Environmental Assessment Form and all of the application materials that have been submitted for this action, the Planning Board hereby adopts a Negative Declaration for the Proposed Action for the following reasons and thereby finds that this Project will have no significant adverse impact on the environment:

1. The Proposed Action will not have a significant adverse environmental impact with respect to the construction on, or physical alteration of, the land surface of any properties. The land surface of the Project area will be conserved as much as reasonably practical during construction of the proposed homes and driveways. The Proposed Action will not involve the excavation or removal of more than 1,000 tons of natural material. The Applicant has provided a detailed erosion and sediment control plan to minimize and control erosion. The Project will not involve construction on land where depth to the water table is less than three feet. The Proposed Action is not located within a Coastal Erosion Hazard area.

2. The Proposed Action will not have a significant adverse environmental impact with respect to any unique or unusual land forms. There are no unique or unusual land forms present in the Project area. The Project area is not adjacent to any geological feature listed as a registered National Natural Landmark.
3. The Proposed Action will not have a significant adverse environmental impact on any wetlands or other surface water bodies. The Proposed Action will not result in the alteration of, or encroachment into any existing wetland, water body, shoreline or beach. The Proposed Action will not create any new water body, and will not result in an increase or decrease of the surface area of any body of water. There will be no dredging in the Project area. The Proposed Action will not include construction of any intake for withdrawal of water from surface water, or the construction of any outfall for discharge of wastewater to surface water.

The Applicant has provided a detailed erosion and sediment control plan to ensure that there is no erosion of the soil, or creation of a source of stormwater discharge that leads to siltation or other degradation of receiving water bodies. The Project does not involve excavation, mining or dredging during construction, and will not create turbidity in any water body, either from upland erosion, runoff or by disturbing bottom sediments. There will be no application of pesticides or herbicides in or around any water body by the Project. The Project will not affect the water quality of any water bodies within or downstream of the Site. The wastewater generated by the Project is within the capacity of existing treatment facilities.

4. The Proposed Action will not have a significant adverse environmental impact with respect to new or additional use of ground water, and will not have a significant adverse environmental impact with respect to the introduction of contaminants to ground water or an aquifer. The Project will not require new water supply wells or septic systems, as the existing public water supply and sewage disposal systems can accommodate the expected needs of the new homes.

Land uses of this type are not associated with the discharge of contaminants into aquifers or other ground water sources. There will be no bulk storage of petroleum or chemicals on-Site. The Project does not include or require wastewater discharged to ground water, and is not located within 100 feet of potable drinking water or irrigation sources.

5. The Proposed Action will not have a significant adverse environmental impact with respect to drainage or the development of lands subject to flooding. The Proposed Action will not result in the alteration of, or encroachment into any existing wetland, water body, shoreline or beach. The Proposed Action will not create any new water body, and will not result in an increase or decrease of the surface area of any body of water. There will be no modification of existing drainage patterns or any change to water flows that will contribute to flooding.

6. The Proposed Action will not have a significant adverse environmental impact on any State regulated air emission source. There is no State-regulated air emission source associated with the Proposed Action. The Project does not require Federal or State air emission permits and will not emit one or more greenhouse gases at or above the following levels:
- a. More than 1,000 tons/year of carbon dioxide (CO₂)
 - b. More than 3.5 tons/year of nitrous oxide (N₂O)
 - c. More than 1,000 tons/year of carbon equivalent of perfluorocarbons (PFCs)
 - d. More than 0.045 tons/year of sulfur hexafluoride (SF₆)
 - e. More than 1,000 tons/year of carbon dioxide equivalent of Hydrochloroflourocarbons (HFCs) emissions
 - f. More than 43 tons/year or more of methane (CH₄)

The Project will not generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants, or reach 50% of any of these thresholds. The Project will not require a State air registration, or produce an emissions rate of total contaminants that exceed 5 lbs. per hour, or include a heat source capable of producing more than 10 million BTUs per hour, or reach 50% of any of these thresholds. Also, the Proposed Action will not result in the combustion or thermal treatment of more than one ton of refuse per hour.

7. The Proposed Action will not have a significant adverse environmental impact with respect to the loss of flora or fauna. The Project will not cause a significant reduction in the population or the loss of any threatened or endangered species, listed by New York State or the Federal government, as there is no such species in the Project area. The Project will not result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the Federal government, as the Project area is not a habitat for such species. The Project will not cause a reduction in the population of any species of special concern or conservation need, as listed by New York State or the Federal government, because there are no such species that use the Site, or are found on, over or near the Site.

The Project area is not registered as a National Natural Landmark. The Project will not result in the removal of, or ground disturbance in, any portion of a designated significant natural community. There are no predominant species that occupy or use the Project area for nesting/breeding, foraging or over-wintering. The Proposed Action does not require the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat.

8. The Proposed Action will not have a significant adverse environmental impact on agricultural resources because the Project Site does not contain agricultural resources, and there are no agricultural uses in the immediate vicinity.

9. The Proposed Action will not have a significant adverse environmental impact on any scenic or aesthetic resources. The Project area does not contain any scenic or aesthetic resources. The Project area is not visible from any officially designated Federal, State or local scenic or aesthetic resource. The Proposed Action will not result in the obstruction, elimination or significant screening of one or more officially designated scenic views, or visible from any publicly accessible vantage points either seasonally or year-round. The Project will not diminish the public enjoyment or appreciation of any aesthetic resource.
10. The Proposed Action will not have a significant adverse environmental impact on any historic or archaeological resources. There are no known historic or archaeological resources in the Project area. The Project area is not wholly or partially within, or substantially contiguous to, any building, archaeological Site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places. In addition, the Project area is not wholly or partially within, or substantially contiguous to, any area designated as sensitive for archaeological Sites on the NY State Historic Preservation Office (SHPO) archaeological Site inventory. The Proposed Action will not occur wholly or partially within, or substantially contiguous to, any known archaeological Site included on the NY SHPO inventory.
11. The Proposed Action will not have a significant adverse environmental impact with respect to the loss of recreational opportunities or with respect to a reduction of an open space resource as designated in any adopted municipal open space plan. The Town of Ossining has not designated the Project area as open space. The Proposed Action will not result in the loss of a current or future recreational resource, eliminate significant open space, or result in loss of an area now used informally by the community as an open space resource.
12. The Proposed Action will not have a significant adverse environmental impact on a Critical Environmental Area (CEA) because there are no Critical Environmental Areas in or adjacent to the Project.
13. The Proposed Action will not have a significant adverse environmental impact on existing transportation systems. The additional traffic generated by the two new homes will not significantly impact the surrounding roadways. The Proposed Action will not result in a drop in the Level of Service of surrounding roadways. The Proposed Action will not degrade existing transit access or existing pedestrian/bicycle accommodations.
14. The Proposed Action will not have a significant adverse environmental impact as a result of an increase in the use of any form of energy. The existing energy infrastructure would continue to serve the Project area and enough surplus exists to meet potential demand. The Proposed Action does not require a new, or an upgrade to any existing substation.
15. The Proposed Action will not have a significant adverse environmental impact as a result of an increase in noise, odors or outdoor lighting. Noise impacts associated with the new homes

will be limited to temporary impacts generated during construction. These impacts will be mitigated by limiting the hours of construction. In addition, there are no significant noise impacts anticipated post-construction. The Proposed Action is not anticipated to generate any noxious odors.

16. The Proposed Action will not have a significant adverse environmental impact on human health from exposure to new or existing sources of contaminants. The Project area is free of any known existing contamination, is not undergoing remediation and there are no new contamination sources or hazardous waste associated with the Proposed Action.
17. The Proposed Action will not have a significant adverse environmental impact as a result of being inconsistent with adopted land use plans. The Project is located in the R-20 One Family Residence District of the Town, and single-family homes are a permitted use in the district. The Proposed Action will not cause the permanent population of the Town to grow by more than 5% as two single-family residences are proposed to be created by the Project. The Proposed Action is supported by existing infrastructure and no secondary development impacts are proposed or expected.
18. The Proposed Action will not have a significant adverse environmental impact upon community services or as a result of being inconsistent with the existing community character. The Proposed Action is consistent with the existing community character. The Proposed Action will not replace or eliminate existing facilities, structures, areas of historic importance to the community, or create significant adverse demand for additional community services (e.g., schools, police and fire), as the capacity of existing community services are expected to be adequate; and

BE IT FURTHER RESOLVED, that the Planning Board hereby grants Minor Subdivision Plat Approval to the Project as expressed on the Subdivision Drawings, subject to compliance with the following conditions and modifications and any other requirements which must be met by law:

1. **Prior to the endorsement of the Subdivision Plat by the Planning Board Chairman, the following conditions shall be fulfilled to the satisfaction of the Planning Board:**
 - a. A Subdivision Plat prepared by a Licensed Land Surveyor (the "Subdivision Plat") shall be prepared by the Applicant and shall be submitted to the Planning Board for review by the Board and its consultants, and for approval by the Board. The Subdivision Plat shall bear all pertinent and appropriate notes and elements from the other subdivision drawings.
 - b. The subdivision drawings and the Subdivision Plat shall be such that they meet the satisfaction of the Planning Board's Engineering Consultant, including but not necessarily limited to the fulfillment of the comments in his memorandum dated

December 18, 2019 and any subsequent memorandum(s), and the Subdivision Plat shall thereafter be endorsed by said Engineer.

- c. The Subdivision Plat shall be endorsed by the Westchester County Department of Health indicating the Department's approval of the water supply and sewage disposal facilities.
- d. The Applicant shall submit a letter from the Village of Ossining which confirms the adequacy of the municipal water system to serve the proposed lot(s).
- e. The Applicant shall submit a statement signed by the Town Receiver of Taxes that indicates that all taxes due on the Subject Property have been paid.
- f. In accordance with Section 277.4 of New York State Town Law, the need for recreation fees and the amount of said fees as required by the Town's Zoning Law have been established based upon the analysis performed by Frederick P. Clark Associates, Inc., the Town's Planning Consultants, in the study entitled Park, Playground and Recreation Analysis dated March 23, 1994.

In accordance with Section 200-51.A(1)(b) of the Zoning Law and Chapter A203, Fees, of the Town Code, the Applicant shall submit to the Town a recreation fee for the one (1) additional home in the amount required by the Ossining Town Code at the time of the signing of the Subdivision Plat by the Planning Board Chairman.

- g. All outstanding application review fees, including consultant review and legal fees shall be paid in full.
- h. The following conditions shall be fulfilled to the satisfaction of the Town Planner:
 - (1) A note stating that, "There shall be no direct driveway access to Lots #1 and #3 from Hawkes Avenue" shall be provided on the Subdivision Plat.
 - (2) The subdivision plans shall state that, "The homes on Lots #1 and #2 shall not be shifted closer to the southerly lot line at the Building Permit phase of this project without additional Planning Board/Architectural Review Board approval."
 - (3) The required Stopping Sight Distance (SSD) for each approach (adjusted by the percent grade for the approach) has not been provided as per the latest American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets." As a result, the Town Planner utilized its previously conducted analysis using the

provided profiles and found that the SSD requirements are met only for the Lot #1 southbound approaching vehicle and for the Lot #2 northbound approaching vehicle.

For the Lot #1 northbound approaching vehicle, the SSD requirement is 287 feet, while the available distance provided now is 288 feet. However, the sight line travels through adjacent properties, not within the roadway right-of-way and is not acceptable. Also, for the Lot #2 southbound approaching vehicle, the SSD requirement is 315 feet, while the available distance provided now is 342 feet. However, the sight line travels through adjacent properties, not within the roadway right-of-way and is not acceptable.

Based on these plans, neither driveway completely meets the required SSD; therefore, the previously requested speed study shall be provided to determine if the 85th percentile speed is less than the 40 miles per hour used in this analysis. If it is less, then the SSD requirements shall be revised for the 85th percentile speed and the sight lines shall be shown on this basis to determine if the required SSD is completely met.

In any event, the Applicant shall resolve these sight distance issues to the satisfaction of the Town Planner, which could conceivably require the modification of the driveway locations or other solutions.

- (4) Each row of conifers on the Landscape Plan shall be comprised of at least two (2) different alternating, acceptable, native evergreen species.
- i. A draft legal conservation easement to be filed with the Subdivision Plat in the Westchester County Clerk's Office (Division of Land Records) shall be submitted for the review and approval of the Town Attorneys.

In accordance with Section 176-9.A(1) of the Town's Subdivision Regulations, the approval of the Subdivision Plat shall expire one hundred eighty (180) days from the date of the adoption of this resolution unless the requirements listed above have been completed to the satisfaction of the Planning Board and the plat has been submitted for signature. The Planning Board may, however, extend the time for periods of ninety (90) days each in which the requirements must be fulfilled and said plat is to be submitted for signature if, in its opinion, the particular circumstances warrant such extension(s).

2. Prior to the issuance of the respective Building Permits for Lots #1 and #2 the Applicant shall:

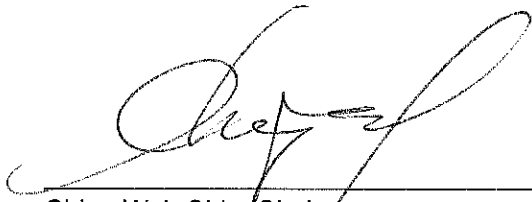
The Applicant shall secure Architectural Approval from the Architectural Review Board for the home on each lot.

3. The following are general conditions which shall be fulfilled as the Project progresses to completion:

- a. The Applicant shall be responsible for the payment of all application review costs, including consultant review and legal fees, incurred by the Planning Board in the review of this matter in accordance with Section 200-51.B of the Zoning Law. Such fees shall be paid by the Applicant within thirty (30) days of the notification by the Planning Board that such fees are due. If such fees are not paid within this thirty (30) day period, and an extension therefor has not been granted by the Planning Board, this Resolution shall be rendered null and void.
- b. In accordance with Section 176-9.A(2) of the Town's Subdivision Regulations, the endorsed subdivision plat and the legal conservation easement mentioned in Condition 1.i above shall be filed in the Westchester County Clerk's Office (Division of Land Records) within sixty-two (62) days of the date of the endorsement of said plat by the Planning Board Chairman.
- c. Subsequent to the filing of the Subdivision Plat in the County Clerk's Office, the Applicant shall submit three (3) copies of the filed plat and filed legal conservation easement to the Town Building and Planning Department.
- d. All construction on this Project shall be in accordance with best management practices.
- e. No portion of this approval by the Planning Board shall take effect until all conditions herein are met.

Resolution Adopted: December 18, 2019

2/19/2020
Date


Ching Wah Chin, Chairman
Town of Ossining Planning Board

cc: Daniel A. Ciarcia, PE
John D. Hamilton
Katherine Zalantis, Esq.
David H. Stolman, AICP, PP

12-18-19

**PLANNING BOARD
TOWN OF OSSINING, NEW YORK**

**MGM DESIGN & CONSTRUCTION GROUP, LLC
RESOLUTION OF WETLANDS PERMIT APPROVAL**

WHEREAS, MGM Design & Construction Group, LLC (the "Applicant" and "Owner") has applied for Minor Subdivision Plat, Wetlands Permit and Tree Removal Permit Approvals to subdivide one (1) existing lot into two (2) lots (the "Project" or "Proposed Action"); and

WHEREAS, the subject property is located on the easterly side of Hawkes Avenue (NYS Route 134) to the north of its intersection with Croton Dam Road and is designated Section 2, Plate 3, Block 4, Lot 26 on the Town of Ossining tax maps (the "Subject Property" or "Site"); and

WHEREAS, the Subject Property is in the R-20 One-Family Residence District and is 93,695 square feet (2.15 acres) in size; and

WHEREAS, existing at the rear of the Subject Property is Dale Brook and a substantial portion of the property is wetland and wetland buffer; and

WHEREAS, relative to the New York State Environmental Quality Review Act (SEQRA), the Planning Board deems the Proposed Action to be an Unlisted Action, has circulated the Board's intent to be Lead Agency, has received no objection thereto from the other Involved Agencies, and has become the Lead Agency; and

WHEREAS, the Applicant submitted a "Stormwater Management Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue," prepared by Site Design Consultants and dated September 20, 2019; a Short Environmental Assessment Form dated June 20, 2019; and the following drawings generally entitled, "Subdivision Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue, Town of Ossining, Westchester Co., New York," prepared by Site Design Consultants and last revised November 22, 2019:

1. "Site Plan."
2. "Area Map."
3. "Existing Conditions."
4. "Erosion and Sediment Control Plan."
5. "Improvement Plan."
6. "Buffer Enhancement Plan" (also known as the "Wetland Mitigation Plan");
7. "Lot 1 Sight Distance Plan."
8. "Lot 2 Sight Distance Plan."
9. "Erosion Details."

10. "Site Details."
11. "Sanitary & Stormwater Details;"
12. "Stormwater Management Details;" and

WHEREAS, the Applicant also submitted a plan entitled, "Landscape Plan, 5 Hawkes Avenue, Town of Ossining, Westchester County, NY" prepared by Tim Miller Associates, Inc. and last revised November 18, 2019; and

WHEREAS, the Planning Board is familiar with the Subject Property and the general vicinity of the Subject Property; and

WHEREAS, the Planning Board has reviewed the Project in accordance with the Town of Ossining development regulations, in particular with the standards for approval contained in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection, of the Code of the Town of Ossining; and

WHEREAS, a public hearing was opened on November 6, 2019 and closed on December 18, 2019 during which period all persons interested were given an opportunity to be heard; and

WHEREAS, in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA), and based upon the review of the Environmental Assessment Form and all of the application materials that have been submitted for this action, the Planning Board issued a Negative Declaration on December 18, 2019 thereby finding that the Proposed Action will have no significant adverse impact upon the environment; and

WHEREAS, the Planning Board has received comments and recommendations from the Board's Engineering Consultant, the Town's Planning Consultant, the Town Environmental Advisory Committee, the public and others, and has given due consideration to said comments.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby makes the following findings as required by Section 105-8.B of the Freshwater Wetlands, Watercourses and Water Body Protection chapter:

1. The proposed regulated activity is consistent with the policy hereof to preserve, protect and conserve wetland functions and the benefits they provide, as set forth in Section 105-1.C of the Wetlands Law, by preventing to the maximum extent practicable the degradation and destruction of wetlands as balanced against private property rights; and
2. The proposed regulated activity is compatible with the public health and welfare; and
3. The proposed regulated activity cannot practicably be relocated on the Site so as to eliminate or reduce the intrusion into the areas regulated by Chapter 105; and

4. All proposed culverts shall meet the guidelines of the New York Department of Environmental Conservation (NYSDEC) for the migration of aquatic wildlife, if applicable; and
5. Any pipes installed to convey a watercourse shown on the USGS maps or classified by the New York State Department of Environmental Conservation as A, B or C will require culverts designed in accordance with the stream crossing guidelines document published by the NYSDEC; and

BE IT FURTHER RESOLVED, that the Project, as shown on the above specified Wetlands Permit drawings, is hereby granted Wetlands Permit Approval subject to the following conditions and modifications and any other requirements which must be met by law:

A. The Building Inspector shall not issue a Building Permit for the Project prior to the following conditions being fulfilled:

1. The Applicant shall comply with the following items subject to the review and approval of the Planning Board:
 - a. The Applicant shall enter into a Landscape Maintenance Agreement with the Town of Ossining that includes but is not limited to the wetland mitigation plantings.
 - b. The Applicant shall submit a five (5) year Wetland and Wetland Buffer Monitoring and Maintenance Plan.
 - c. The Wetland Mitigation Plan specified above shall include a note which states that: "Irrigation shall be provided on a weekly basis for a five (5) year period and ongoing for the duration of the proposed use of the Site as per the five (5) year Wetland and Wetland Buffer Monitoring and Maintenance Plan and the Landscape Maintenance Agreement."
 - d. A note shall be added to the Wetland Mitigation Plan which states that: "The Applicant shall install at the time of planting permanent deer fencing around the wetland mitigation planting. The deer fencing shall be installed so as to allow the passage of amphibians and reptiles."
 - e. A detail of the deer fencing which meets the satisfaction of the Planning Board shall be shown on the Wetland Mitigation Plan.

- f. The Wetland Mitigation Plan shall contain a note which states that: "The Applicant shall remove all invasive plants and garbage/trash which may be located in the on-Site wetlands and wetland buffer areas."
2. The Applicant shall post a performance guarantee in an amount, and with surety and conditions which meet the satisfaction of the Planning Board Attorney sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the performance guarantee shall be consistent with the purposes of Chapter 105 of the Wetlands Law of the Code of the Town of Ossining. The performance guarantee shall remain in effect until the Planning Board or its designated agent certifies in writing that the work has been completed in compliance with the terms of the permit and the performance guarantee is released by the Planning Board, or until a substitute performance guarantee is provided. In the event of a breach of any condition of the Wetlands Permit, the Town may act to obtain and make appropriate use of the proceeds of the performance guarantee.
3. The Applicant shall also post a maintenance guarantee in an amount equal to twenty-five percent (25%) of the performance guarantee, and with surety and conditions which meet the satisfaction of the Planning Board Attorney sufficient to secure compliance with the conditions and limitations set forth in the permit.

When the conditions above has been fulfilled, the Planning Board Chairman will endorse four (4) approved sets of wetlands permit drawings for the Building and Planning Department's, Town Engineering Consultant's, Town Planning Consultant's and Applicant's files, and the endorsement of said drawings by the Planning Board Chairman shall signify that the conditions above have been fulfilled.

B. The following condition shall be fulfilled prior to the issuance of a Certificate of Occupancy for the Project by the Building Inspector:

The Building Inspector shall inform the Planning Board of the Applicant's request for a Certificate of Occupancy and the Board reserves the right to make a field inspection of the Site prior to the issuance of said Certificate of Occupancy, and to require any reasonable modifications to landscaping, lighting or other Site details, provided the modifications are materially consistent with the approved site plan and all other approvals/permits granted by the Board, and any other governmental agency, which modifications shall be a condition of said Certificate of Occupancy.

C. The following are general conditions of this approval:

1. The Applicant shall be responsible for the payment of all known application review costs incurred by the Planning Board in the review of this matter. Such fees shall be paid by

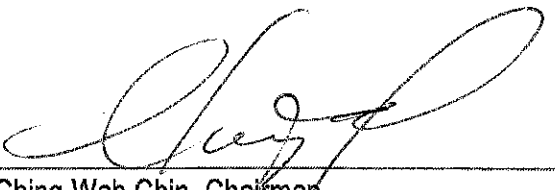
the Applicant within thirty (30) days of the notification by the Planning Board that such fees are due. If such fees are not paid within this thirty (30) day period, and an extension therefor has not been granted by the Planning Board, this resolution shall automatically be rendered null and void.

2. All construction taking place on the Site shall be in accordance with best management practices.
3. In accordance with Section 105-9.B(1) of the Wetlands Law, work conducted under this permit shall be open to inspection at any time, including weekends and holidays, by the Planning Board, the Building Inspector and their designated representative(s).
4. In accordance with Section 105-9.B(3) of the Wetlands Law, the Applicant shall notify the Town Building and Planning Department of the date on which the work is to begin, at least five (5) days in advance of such date.
5. In accordance with Section 105-9.B(4) of the Wetlands Law, this resolution shall be prominently displayed at the Site during the undertaking of the activities authorized by this permit.
6. In accordance with Section 105-9.E(1) of the Wetlands Law, this Wetlands Permit Approval shall expire on completion of the activities proposed under this permit.
7. In accordance with Section 105-9.E(1), this Wetlands Permit Approval shall be valid for a period of one (1) year from the date of the adoption of this resolution.
8. The Planning Board may extend this Wetlands Permit Approval in accordance with the provisions of Section 105-9.E(1) if, in its opinion, such extension(s) is warranted by the particular circumstances involved.
9. In accordance with Section 105-9.E(1) of the Wetlands Law, in the case of a permit where no work on the wetland(s) has been accomplished, extensions shall not exceed two additional periods of ninety (90) days each.
10. In accordance with Section 105-9.E(1) of the Wetlands Law, should the Applicant fail to complete the acts specified in the permit prior to the expiration of the second ninety (90)-day extension, at the discretion of the Planning Board the original permit may become null and void and an application would then need to be made for a new permit.
11. In accordance with Section 105-9.E(2) of the Wetlands Law, in the case of a permit where the work on the wetland(s) is partially completed, the number and length of extensions shall be at the sole discretion of the Planning Board.

12. In accordance with Section 105-9.E(3) of the Wetlands Law, a request for an extension of an original permit shall be made in writing to the Planning Board at least thirty (30) days prior to the expiration date of the original permit and each extension.
13. In accordance with the Wetland and Wetland Buffer Monitoring and Maintenance Plan, for five (5) years from the installation of the wetland mitigation measures, the Applicant shall monitor or shall cause to be monitored acts specified by the permit in order to determine whether the elements of the Mitigation Plan and permit conditions have been met. The Applicant shall submit written reports to the Building Inspector at a frequency to be determined by the Building Inspector addressing the progress of the work under the Wetlands Permit, the Mitigation Plan and the program. The Building Inspector may contract with an expert in the area of wetlands, at the expense of the Applicant, to assess the Applicant's work and monitoring reports.

Resolution Adopted: December 18, 2019

2/19/2020
Date


Ching Wah Chin, Chairman
Town of Ossining Planning Board

cc: Daniel A. Ciarcia, PE
John D. Hamilton
Katherine Zalantis, Esq.
David H. Stolman, AICP, PP

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**PLANNING BOARD
TOWN OF OSSINING, NEW YORK**

**MGM DESIGN & CONSTRUCTION GROUP, LLC
RESOLUTION OF TREE REMOVAL PERMIT APPROVAL**

WHEREAS, MGM Design & Construction Group, LLC (the "Applicant" and "Owner") has applied for Minor Subdivision Plat, Wetlands Permit and Tree Removal Permit Approvals to subdivide one (1) existing lot into two (2) lots (the "Project" or "Proposed Action"); and

WHEREAS, the subject property is located on the easterly side of Hawkes Avenue (NYS Route 134) to the north of its intersection with Croton Dam Road and is designated Section 2, Plate 3, Block 4, Lot 26 on the Town of Ossining tax maps (the "Subject Property" or "Site"); and

WHEREAS, the Subject Property is in the R-20 One-Family Residence District and is 93,695 square feet (2.15 acres) in size; and

WHEREAS, existing at the rear of the Subject Property is Dale Brook and a substantial portion of the property is wetland and wetland buffer; and

WHEREAS, relative to the New York State Environmental Quality Review Act (SEQRA), the Planning Board deems the Proposed Action to be an Unlisted Action, has circulated the Board's intent to be Lead Agency, has received no objection thereto from the other Involved Agencies, and has become the Lead Agency; and

WHEREAS, the Applicant submitted a "Stormwater Management Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue," prepared by Site Design Consultants and dated September 20, 2019; a Short Environmental Assessment Form dated June 20, 2019; and the following drawings generally entitled, "Subdivision Plan Prepared for MGM Design & Construction Group, LLC, 5 Hawkes Avenue, Town of Ossining, Westchester Co., New York," prepared by Site Design Consultants and last revised November 22, 2019:

1. "Site Plan."
2. "Area Map."
3. "Existing Conditions."
4. "Erosion and Sediment Control Plan."
5. "Improvement Plan."
6. "Buffer Enhancement Plan;"
7. "Lot 1 Sight Distance Plan."
8. "Lot 2 Sight Distance Plan."
9. "Erosion Details."

10. "Site Details."
11. "Sanitary & Stormwater Details;"
12. "Stormwater Management Details;" and

WHEREAS, the Applicant also submitted a plan entitled, "Landscape Plan, 5 Hawkes Avenue, Town of Ossining, Westchester County, NY" prepared by Tim Miller Associates, Inc. and last revised November 18, 2019; and

WHEREAS, the Planning Board is familiar with the Subject Property and the general vicinity of the Subject Property; and

WHEREAS, the Planning Board has reviewed the application for Tree Removal Permit Approval in accordance with the Town of Ossining development regulations, in particular with Chapter 183, Tree Protection, of the Code of the Town of Ossining; and

WHEREAS, the Planning Board has received comments and recommendations from the Board's Engineering Consultant, the Town's Planning Consultant, the Town Environmental Advisory Committee, the public and others, and has given due consideration to said comments; and

WHEREAS, a public hearing was opened on November 6, 2019 and closed on December 18, 2019 during which period all persons interested were given an opportunity to be heard; and

WHEREAS, in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA), and based upon the review of the Environmental Assessment Form and all of the application materials that have been submitted for this action, the Planning Board issued a Negative Declaration on December 18, 2019 thereby finding that the Proposed Action will have no significant adverse impact upon the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board taking into account the purpose and findings set forth in Section 183-2 of the Tree Protection Chapter of the Town of Ossining Code, hereby finds that:

1. The proposed tree removal is consistent with the purpose and findings of the Tree Protection Chapter, of the Town of Ossining Code.
2. The proposed tree removal will not have a deleterious effect on the health, safety or general welfare of the residents of the Town of Ossining or its neighboring communities.
3. The physical condition of the tree(s) proposed for removal (species, size and health) have been identified with regard to their relative value of preservation.

4. The disturbance will not negatively affect any ecological systems, or the relationship to the surrounding vegetation and habitat, and will not create potential for erosion or sedimentation.
5. The disturbance or removal of existing vegetation will not negatively affect the historical context or the scenic resources of the surrounding community.
6. The disturbance or removal of existing vegetation due to utility placement will not negatively affect, spoil the symmetry, or otherwise mar the appearance of a tree or trees, other than those proposed to be removed.
7. The proposed tree removal will have adequate safeguards for the protection and preservation of the environment.
8. There are no practicable alternatives to the tree removal; and

BE IT FURTHER RESOLVED, that the Project, as shown on the above mentioned drawings, is hereby granted Tree Removal Permit Approval subject to the following conditions and modifications and any other requirements which must be met by law:

A. The following conditions shall be fulfilled prior to any tree removal taking place on the Site:

The trees on the Site shall be marked to the satisfaction of the Building Inspector so as to clearly indicate which trees shall be preserved vs which trees may be removed. Further, the Applicant shall satisfy the Building Inspector with regard to the protection of the trees which are to be preserved.

B. The following condition shall be fulfilled prior to the issuance of any Temporary Certificate of Occupancy or Certificate of Occupancy for the Project by the Building Inspector:

The Building Inspector shall inform the Planning Board of the Applicant's request for a Temporary Certificate of Occupancy or Certificate of Occupancy and the Board reserves the right to make a field inspection of the Site prior to the issuance of said Temporary Certificate of Occupancy or Certificate of Occupancy, and to require any reasonable modifications to landscaping, lighting or other Site details, provided the modifications are materially consistent with the approved site plan and all other approvals/permits granted by the Board, and any other governmental agency, which modifications shall be a condition of said Temporary Certificate of Occupancy or Certificate of Occupancy.

C. The following are general conditions of this approval:

1. The Applicant shall be responsible for the payment of all as of now known application review costs incurred by the Planning Board in the review of this matter. Such fees shall be paid by the Applicant within thirty (30) days of the notification by the Planning Board that such fees are due. If such fees are not paid within this thirty (30) day period, and an extension therefor has not been granted by the Planning Board, this Resolution shall automatically be rendered null and void.
2. After approval by the Planning Board, the Tree Removal Permit Approval shall be valid for six (6) months from the issuance of the first Building Permit for the Project. The Tree Removal Permit shall expire upon completion of the work specified herein. Permits may be renewed by the Planning Board. The standards for issuance of renewals may, at the discretion of the Planning Board, be the same as for the issuance of the original permit.
3. Tree Removal Permit Approval shall not remove the Applicant's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the securing of any other required permit or approval.

Resolution Adopted: December 18, 2019

Date

2/19/2020


Ching Wah Chin, Chairman
Town of Ossining Planning Board

cc: Daniel A. Ciarcia, PE
John D. Hamilton
Katherine Zalis, Esq.
David H. Stolman, AICP, PP

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