

**LAND USE LAW CENTER**  
**PACE UNIVERSITY SCHOOL OF LAW**  
WHITE PLAINS  NEW YORK

**STREAMLINING THE LAND DEVELOPMENT APPROVAL PROCESS**  
**IN THE VILLAGE OF OSSINING – FINAL REPORT**

**Table of Contents**

**I. Project Background**

**II. Current Land Development Approval Process**

**A. Overview**

**B. The Relevant Bodies**

- i. Planning Department**
- ii. Building Department**
- iii. Village Engineer**
- iv. Planning Board**
- v. Zoning Board of Appeals**
- vi. Board of Architectural Review**
- vii. Historic Preservation Commission**
- viii. Environmental Advisory Council**
- ix. Village Board of Trustees**

**III. Assessment of Current Land Development Approval Process**

**IV. Recommendations**

- (1) Increase Public Awareness of Land Development Approval Process & Roles of the Building & Planning Departments**
- (2) Phase in an Electronic Submission Requirement for Type I and Unlisted Actions under SEQRA.**
- (3) Increase Staff Capacity for the Building & Planning Departments**
- (4) Increase Efficiency in Architectural Design Guideline Enforcement**
- (5) Exempt Certain Projects from BAR Review**
- (6) Adopt a Local SEQRA Type II List**

**V. Conclusion**

## I. Project Background

In many communities, the land development approval process, standards, and forms, including those relating to building permits, have been developed incrementally over years and need to be examined periodically to make the development process, particularly for applicants who are unable to engage professional support, as streamlined and economical as possible. The Land Use Law Center (Center) at Pace Law School has studied processes, standards, and forms of over a dozen urban communities and created a process for reviewing these matters and making recommendations for improvement.

Hired by the Village of Ossining to evaluate the current land development approval process in the Village, the Center conducted the following activities:

- Initial site visit, including a tour, evaluation, and analysis of the relevant community area.
- Conducted meetings to plan scoping process, identify stakeholders, and develop list of issues to be examined.
- Reviewed the Village's zoning code and other related code provisions; land development approval applications; sample project files; as well as other documentation provided by the Planning and Building Departments.
- Conducted scoping sessions and developed initial assessment report. This included multiple meetings, telephone interviews, and email exchanges with the Village's Planning and Building Departments; the Corporation Counsel; the Village Manager; the Village Board of Trustees; land use boards, including the Zoning Board of Appeals, Planning Board/Board of Architectural Review, Historic Preservation Commission, and Environmental Advisory Council; and stakeholders/applicants and their professional consultants (attorneys, architects, etc.).
- Following-up on the initial assessment, the Center held multiple meetings to discuss feedback and develop further suggestions for streamlining the process.
- The Center also developed case studies based on research conducted by the Center from other communities in the region and other comparable parts of the country.
- After further consultation with Village staff, the Center prepared a strategy memorandum outlining streamlining options and recommendations for the Village to consider.
- To obtain feedback, the Center then presented its initial recommendations to the Village Board of Trustees and stakeholders, and also held follow-up meetings with Village staff.

- Based upon this feedback, the Center developed this final report with strategies and recommendations.
- Following the Village's review of this report and its prioritization of recommendations, the Center will assist the Village in developing an Implementation Plan for selected recommendations.
- Finally, in close coordination with Village staff, the Center will assist the Village in implementing priority strategies. Implementation will be dependent on the number and type of strategies identified and selected.

This final report includes, in Part II below, a description of the current land development approval process in the Village of Ossining, as well as a discussion of the relevant bodies (departments, boards, etc.), including details on their application review rates and timelines. In Part III, this report provides a brief assessment of this current land development approval process, which leads into the recommendations for improvement, provided in Part IV. Part IV lays out eight over-arching recommendations, some with several sub-recommendations. Each recommendation in Part IV includes a "background" section, which provides necessary details such as applicable local and State law, development trends, relevant information on the current Ossining process, political considerations, etc. Next, each recommendation contains a "recommendation & rationale" section, which sets forth the fully detailed recommendation accompanied by rationale based upon how the process currently works in the Village. Finally, each recommendation contains an "associated questions & concerns" section, which highlights important issues that the Village will want to consider when implementing that particular recommendation. Part V completes this report with brief concluding remarks.

## **II. Current Land Development Approval Process**

### **A. Overview**

The land development approval process in the Village of Ossining is conducted by the Village's land use boards with substantive review and administrative support provided by the Planning Department and Building Department. Once a project is approved by the appropriate land use board, the applicant submits a completed building permit application to the Building Department. After completing its review, the Building Department issues a building permit and conducts inspections. If the construction is to code and all conditions are satisfied, the Building Department then issues a Certificate of Occupancy. Despite complaints by some in the community, the Village's current land development approval process is relatively efficient. Below is a description of the departments and boards and their respective roles in the land development approval process.

### **B. The Relevant Bodies**

#### **i. Planning Department**

The Planning Department consists of Village Planner Valerie Monastra and Clerk Beth Flynn. The Planning Department's role is to help the Village find the right balance of development, economic growth, maintaining and improving essential services, protecting the environment, and preserving community character. It serves as staff to the Planning Board, Zoning Boards of Appeals, Architectural Review Board, Historic Preservation Commission, and the Environmental Advisory Council (together, the "land use boards"). Its primary responsibility is to review all new project applications submitted for approval to the Village's various land use approval boards and commissions. In conducting these reviews the Planning Department must determine whether the proposed project satisfies the Village's zoning code, other applicable municipal regulations, and federal and state requirements like the State Environmental Quality Review Act (SEQRA). Additionally, the Planning Department conducts other planning studies and initiatives that help improve the quality of life in the Village, including studies relating to updating the Village's Comprehensive Plan, federal Phase II stormwater management requirements, and the Village's RiverWalk.

The Planning Department reviews the following land development applications, which can be found on the Village's website<sup>1</sup>:

- Board of Architectural Review Application
- Planning Board Application (site plan and subdivision approval)
- Zoning Board of Appeals Application (area and use variance requests)
- Informal Site Plan Review Application
- Historic Preservation Application
- Short Environmental Assessment Form (SEQRA)

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<sup>1</sup> Available at: <http://www.villageofossining.org/Cit-e-Access/FormCenter/?TID=24&TPID=3474>.

- Full Environmental Assessment Form Part 1 (SEQRA)
- Full Environmental Assessment Form Part 2 (SEQRA)
- Coastal Assessment Form (coastal consistency review under the Village's Local Waterfront Revitalization Program)
- Stormwater Permit Application

The deadline for document submission to the Planning Department is one month prior to a scheduled land use board meeting. When a development application is submitted, such as an application for site plan approval, the application is initially reviewed by the Planning Department to make sure that the applicant has submitted all required information, including supporting plans. If all information is provided, then the application is scheduled for a hearing before the appropriate board at the board's next monthly meeting. If information is missing, the Planning Department contacts the applicant and advises that the applicant must provide any information that was omitted within a week or the application will be carried over to the next month's meeting. If the application is one that must be reviewed by the Planning Board, the applicant has the choice to present informally before the board for its feedback despite the missing information. In such a situation, the board does not make a decision and the applicant will be required to formally appear before the board at a later date.

Importantly, Village Planner Valerie Monastra offers pre-application meetings to applicants. While these meetings are not required, the Department encourages applicants to avail themselves of this opportunity so that they have a complete understanding of the municipal and state requirements their projects will be required to satisfy. These meetings are held at the convenience of the applicant unlike other communities that only schedule such meetings once per month. The Planning Department will also involve other departments' personnel in these meeting as needed, such as a code enforcement officer from the Building Department.

Once an application is filed, the Village Planner continues to serve as an applicant's point of contact with the Village throughout the land development approval process. This happens for a number of reasons. First, because all applications to the various land use boards flow through the Planning Department, the Village Planner knows the status of the applications and what issues have arisen during the review process. Second, as discussed below, the Village Planner coordinates all interdepartmental meetings that will help facilitate the application. Third, the Planning Department is located at the Village's Operations Center where the Building Department and Engineer's office are also located. This allows each office to communicate very easily. Fourth, because the Planning Department tends to have less field work than the other departments, the Village Planner is available to accept office visits and respond to applicants' telephone calls and emails.

It is important to note that the Planning Department also reviews certain Building Department applications to ensure that the requirements of the Village's zoning code and land use board approvals are satisfied. These include building permit applications for one and two-family homes, above ground pools, residential additions, and floodplain

development applications, among several other items. Building Department applications for roof alterations or underground tank removal are not reviewed by the Planning Department. To assist this process, Ms. Monastra conducts interdepartmental meetings with the Building Department, the Village Engineer Paul Fraioli, and the Corporation Counsel's Office. She undertakes this role because there is documentation and project conditions that must be coordinated before a building permit can be issued.

All land use board applications are tracked by the Planning Department through the computer program called Muncity. The program simplifies the application and approval process for variances, subdivisions, site plans, and Board of Architectural Review and Historic Preservation Commission reviews. It also allows the Planning Department to track scheduled board meetings, bonds, escrow accounts, and fees, and to document board decisions. Another Muncity module is used by the Building Department and is integrated with the program used by the Planning Department.

In 2013, the Ossining Planning Department reviewed 84 various land use board applications and 168 Building Department applications. For purposes of comparison, the Planning Department in the City of Peekskill reviewed 23 site plan applications, one minor subdivision application and three variance applications in 2013. Peekskill's Planning Department has six fulltime staff and two part-time consultants.

For a list of those activities accomplished by the Ossining Planning Department in 2013, please see Appendix A. For an understanding of the activities that are being conducted by the Planning Department in 2014, please see Appendix B.

## **ii. Building Department**

The Building Department is led by Director of Code Enforcement Alberto Ciraco. In addition to Mr. Ciraco, there are two code enforcement officers and two assistant building inspectors along with four administrative staff members, two of whom are part-time. The Building Department's primary responsibility is to enforce Village ordinances along with all relevant Westchester County and New York State laws that regulate buildings and supporting infrastructure. These laws include but are not limited to the state building code, electric code, fire code, and plumbing code. In addition to conducting project reviews, the Building Department conducts all necessary inspections relating to these laws.

The Building Department reviews numerous applications every year. It is responsible for processing and reviewing all building, electrical, plumbing, tree removal, awning/sign, and demolition permit applications as well as issuing Certificates of Occupancy and reviewing backflow permit applications within the Village on behalf of Westchester County. In 2013, it reviewed 360 Building Permit applications, 280 Plumbing Permit applications, 270 Electrical Permit applications, and 67 Backflow Permit applications, and 16 Sign Permit applications. In total, the department conducted 517 plan reviews in the course of processing the permit applications listed above.

The Building Department's administrative staff handles all paperwork and is responsible for conducting title searches and responding to Freedom of Information Law (FOIL) requests. In 2013, the administrative staff performed 317 title searches and answered approximately 300 FOIL requests.

Once an application is filed for a building or other permit administered by the Building Department, the Department uploads the application to Muncipity. If the application is one that is initially reviewed by the Planning Department, such as a building permit for a single family home, the Village Planner conducts the initial review and then sends the application back to the Building Department to conduct its plan review. If the application is one that is only reviewed by the Building Department, the department initiates review. In either case, the Building Department reviews a permit application for completeness and compliance with Village code requirements as well as with the State Building and Fire Codes. In many cases, the Building Department issues a Revision List to both the property owner and the applicant's representative, such as an architect, detailing the information that must be submitted or modifications to plans that need to be made for the project to be code-compliant. In some cases, the department must issue second and third Revision Lists to project applicants before the department's review is completed and the application receives approval.

In addition to processing and reviewing building permit applications, the Building Department also conducts all inspections relating to complaints, building, plumbing and electrical permits, State Fire Code compliance, Section 8 Housing compliance, and cabaret licenses, refreshment licenses, and overnight parking permit inspections. The Department also prepares documentation of these inspections and then follows up with property owners. During 2013, the Building Department conducted approximately 3,500 separate inspections under its various responsibilities. To facilitate these inspections, the Village purchased tablet computers for the Building Department this past spring. These tablet computers allow the code enforcement officers or building inspectors to enter information into the tablets regarding their site visits, which is then uploaded to Muncipity, saving time preparing follow-up inspection reports. The tablets also allow Building Department personnel to print various inspection reports and other documents and provide them to the property owner at the time of the inspection.

Where an inspection reveals violations, the Building Department must prepare an enforcement case. In this situation, the enforcement case begins with the Department issuing an Order to Remedy Violation via certified mail to the property owner. This notice specifies the code violation and the time to remedy the violation. In 2013, the Building Department issued 375 notices of violation. Where the property owner fails to remedy the violations, the Building Department then files a complaint against the property owner in the Town of Ossining Municipal Court stating the continuing violations that exist and the date upon which the property owner is to appear in the Town Court. Once the enforcement case is placed on the Town Court's docket, the timing of the matter is decided by the Town Court. In 2013, the Building Department issued 84 appearance tickets. For each of these matters, staff of the Building Department must prepare to testify.

A significant issue that the Building Department currently deals with is the need to review and issue Certificates of Occupancy for projects that allegedly received verbal approval by the Building Department prior to Mr. Ciraco's hiring. Often this issue arises when an existing property owner is attempting to sell or refinance his or her property. Where this does occur, the Building Department expedites its application review and inspection, but this results in the delay of other project inspections.

### **iii. Village Engineer**

The Village Engineer is Paul Fraioli, PE. Mr. Fraioli interfaces with the land development process in a few ways. He acts as the Stormwater Officer for the Village of Ossining's stormwater program and works with the Planning Department, which acts as the stormwater program administrator, on the various stormwater components of the Planning Board approval and building permit process. He is also the engineer of record with the Westchester County Department of Health for the Village's sanitary sewer collection system and potable water distribution system. His technical input concerning both systems is required during the development approval process. In addition, the Village Engineer interfaces with the Planning and Building Departments as requested throughout the land use approval and building permit process. Smaller development and stormwater projects are reviewed directly by Mr. Fraioli. Larger development and stormwater projects are reviewed by an engineering consultant funded through an escrow established by the Village of Ossining Planning Board. The consultant engineer is managed by the Village Planner with direct and coordinated input by the Village Engineer. Finally, Mr. Fraioli signs-off on larger projects seeking building permits, especially when new installation, replacement, or rehabilitation of utilities and stormwater infrastructure are part of the proposed development.

### **iv. Planning Board**

The Planning Board consists of seven members and is responsible for reviewing site plan applications, subdivision applications, applications for conditional uses, and soil excavation permit applications. It also reviews site plan applications for special uses, such as the siting of wireless telecommunication facilities, and provides its recommendation to the Village Board of Trustees, which then decides whether or not to approve the special use.

In 2013, the Planning Board reviewed 15 new applications as well as five applications that were submitted before 2013. Of the 20 applications reviewed, the Planning Board approved five in the first month that they were submitted, seven within the first two monthly meetings, and one in the third monthly meeting, for a total of 65% of applications processed within the first three months. Seven applications (35%) required more than three meetings to review. In each case, these seven projects required coordinated review between the Planning Board, Zoning Board of Appeals, and Village Board of Trustees.

**v. Zoning Board of Appeals**

The Zoning Board of Appeals (ZBA) consists of five members and is responsible for hearing appeals of interpretations of the Village's zoning code and for reviewing applications for area and use variances. In 2013, the ZBA heard 27 applications, 24 of which were new applications filed in 2013. The ZBA approved 14 applications the first month they were presented while four applications were approved within two meetings, and one was approved within three meetings, for a total of 71% of applications processed within the first three months. Eight applications (29%) took more than three meetings to review.

**vi. Board of Architectural Review**

The seven members of the Planning Board also serve as members of the Board of Architectural Review (BAR). The BAR's primary responsibility is to review all building permit applications (including those for one- and two-family homes that are not otherwise subject to Planning Board review) for excessive uniformity, dissimilarity, or inappropriateness with the surrounding neighborhood as those terms are defined under the Village's zoning code. Guiding its review are the Architectural Design Guidelines adopted by the Village in 2011.

The Architectural Design Guidelines are a comprehensive document containing architectural design recommendations and best practices for commercial and residential structures within the Village. The Guidelines focus on the Village's Sparta and Downtown historic districts, the residential neighborhoods surrounding these two districts, and the commercial corridors located on Route 9 and Route 133. The Guidelines offer a framework for project planning. They are not intended to frustrate design creativity but rather to provide a context for thoughtful and constructive changes to the buildings, sites, and streetscapes within the Village. The requirements of the Guidelines are mandatory for projects proposed within the Village's historic districts and voluntary for projects outside of those districts.

In 2013, the BAR reviewed 27 new applications, of which six were filed prior to 2013. The BAR approved 10 applications in the first month they were presented and eight within the second month, for a total of 67% of applications processed within the first three months. Nine applications (33%) took more than three meetings to review.

**vii. Historic Preservation Commission**

The Historic Preservation Commission (HPC) consists of seven members appointed by the Village Manager, including but not limited to persons with demonstrated interest or expertise in the field of architecture, planning, or history. The HPC is responsible for granting Certificates of Appropriateness for exterior alterations to locally-designated and national historic landmarks as well as exterior alterations to existing structures and new construction within the Village's two locally-designated Historical and Architectural Design Districts (HADD). The HPC reviews all projects within the two historic districts for conformance to the Architectural Design Guidelines (discussed above briefly). Applicants

for a Certificate of Appropriateness can apply for relief from an HPC denial, but have to meet very strict standards on the basis of hardship. Any appeal from a decision of the HPC must be filed within 30 days to the Zoning Board of Appeals.

The HPC is also tasked with advising the Planning Board/BAR and the Building Inspector in all matters relating to the historical and architectural character of historic landmarks within the Village. The HPC can initiate or hear applications for designation of historic landmarks and historic districts and make recommendations for such designation to the Village Board of Trustees. The HPC surveys Village resources to identify structures and districts of cultural, architectural, and/or historic significance meriting landmark designation. It promotes and presents public education programs to raise public awareness of the value of historic, cultural, and architectural preservation.

The HPC reviewed 10 applications for Certificates of Appropriateness in 2013 of which six were newly filed last year. The HPC approved five applications (50%) in the first month they were presented and one (10%) was approved within two meetings, for a total of 60% of applications processed within the first three months. Four of the applications (40%) required more than three meetings for review. Of these four cases, one took four months for approval and the other three did not receive approval in 2013 due to applicant delays.

#### **viii. Environmental Advisory Council**

The Environmental Advisory Council (EAC) consists of nine regular members, all of whom are appointed by the Board of Trustees. The EAC advises the Board of Trustees on matters affecting the preservation, development, and use of the natural and man-made features and conditions of the Village insofar as beauty, quality, biologic integrity, and other environmental factors are concerned and, in the case of human activities and development, with regard to any major threats posed to environmental quality so as to enhance the long-range value of the environment to the people of the Village. The EAC is also designated as an interested agency for the review of Environmental Impact Statements under State Environmental Quality Review Act (SEQRA) regulations.

The EAC is charged with administering the Village's Local Waterfront Revitalization Program (LWRP) for development west of Route 9 to ensure protection of coastal habitat areas and to guide future development in the waterfront area so that environmental concerns are taken into account. As part of this process the EAC conducts Coastal Consistency reviews of applicable projects. The EAC's review begins with the referral of the Coastal Assessment Form (CAF) from the responsible board. The EAC evaluates the proposed project in light of the LWRP's policy standards and conditions set forth in the Village Code. The EAC then renders its written recommendation to the responsible board within 30 days following CAF referral. The recommendation indicates whether, in the opinion of the EAC, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and elaborates, in writing, the basis for its opinion. As part of its recommendation to the responsible board, the EAC may make any suggestions concerning modification of the proposed action to increase consistency with LWRP policy standards and conditions. The recommendations of the EAC are advisory only.

In 2013, the EAC only conducted one Coastal Consistency review. In 2012, the EAC conducted five such reviews.

**ix. Village Board of Trustees**

The Village Board of Trustees is responsible for reviewing applications for all special use permits for telecommunication facilities. Such special uses are legal uses of land in the applicable zoning district provided certain specific criteria are satisfied under the Village's zoning code. In 2013, the Village Board of Trustees did not review any special use permit applications for telecommunication facilities.

### III. Assessment of Current Land Development Approval Process

Despite the small staffs of the Planning Department and Building Department, the land development approval process in the Village of Ossining is relatively efficient. As established above, most proposed projects are approved within three months of an applicant submitting the applicable land use or building permit application. In fact, of the 84 land development applications reviewed before one of the four land use boards in 2013, 67 percent were approved within three months. Even larger projects, such as the recent AvalonBay development, tend to work their way through the process fairly quickly given the Land Use Law Center's experience in other municipalities. In the case of AvalonBay for example, from the time it submitted its initial Planning Board application to approval, including undertaking the necessary SEQRA review, the process took 22 months.

From the Center's review of documentation, discussions with the Planning Department, Building Department, and land use boards, and conversations with various stakeholders, including developers, it is apparent that most of the concerns about the land development approval process stem from two situations:

- **Applicants that do not timely respond to information requests from the various boards** where further information is necessary to appropriately review the proposed project. For example, after filing an application and having an initial hearing conducted, a board may require additional information from an applicant on the configuration of parking for a proposed project. The applicant then fails to provide the requested information for two months.
- **Applicants that do not follow code requirements** whether purposely or due to prior construction projects where approval was granted by the previous building inspector but never properly documented. For example, from January 2012 through December 31, 2013, 41 percent of all ZBA applications were to correct current violations or legalize existing construction that was never properly documented as discovered by the Building Department.

The following recommendations attempt to address these two concerns. Additionally, a number of recommendations below seek to make further improvements to the Village's already efficient land development approval process.

## IV. Recommendations

### **(1) Increase Public Awareness of Land Development Approval Process & Roles of the Building & Planning Departments.**

#### *a. Background*

One of our findings is that many of the complaints about the land development review and approval process in the Village are based on a lack of information as to how the process works and some of the inherent difficulties involved. Increasing public awareness regarding the process, by itself, should decrease public concern over the process. Another of our findings is that many applicants are financially unable to engage professionals; these applicants need as much information in an accessible form as possible. Finally, because the number of staff in the relevant departments is very limited, as much of the process as possible should be presented in a clear and straightforward fashion to reduce questions from the public and applicants.

#### *b. Recommendation & Rationale*

##### **i. Increase Information on Departmental Websites**

The Building and Planning Departments should consider providing additional information on their respective websites. Currently, the websites contain general information about the role of the departments in the land development approval process, electronic versions of all the relevant permit applications, and responses to a number of frequently asked questions. The following additions to the websites should be made:

- **Monthly Application Reports:** For both the Building and Planning Departments, monthly reports of the applications that their respective departments are handling should be posted to their departmental webpages. For example, the Building Department provides the Village Board of Trustees with a monthly Activity Report documenting the number of complaints, notices of violations, court appearances, and fines assessed along with the number of various permits it has reviewed and issued during the month. This document should be made available on the department's website and will help inform the public as to the work and progress of the department.
- **Direct Links to Meeting Minutes:** Direct links to the Historic Preservation Commission and Environmental Advisory Council meeting minutes. While there are links to each of these boards on the Planning Department's website, meeting minutes for these boards should be accessible from a direct link on each respective board's webpage, thereby eliminating the need for multiple clicks to obtain meeting minutes.

- **Expanded FAQs:** For the Building Department, expand the Frequently Asked Questions (FAQ) section to include information about the process for legalizing prior construction projects that were not properly documented. This issue often arises when a homeowner attempts to sell or refinance a home and is not aware of this situation until raised by a lender during its due diligence. Having an FAQ that clearly explains the process for legalizing past, undocumented construction, and discusses how the Building Department seeks to prioritize these matters, will be useful to many Village residents.
- **Project Document Logs:** For the Planning Department, Project Document Logs, which are prepared for those projects that require review under the State Environmental Quality Review Act (SEQRA), should be made available on the department's webpage. These logs show when applications are filed for a given project, when information requests are made, when those information requests are responded to, and when final approval is received. Providing this information will allow the public to better understand the approval process and document where applicants are failing to respond to information requests.

#### **ii. Televised Planning & Zoning Board Meetings**

The Village should consider televising Planning Board and Zoning Board of Appeals meetings. As part of any effort to educate the public, the Board of Trustees should consider televising Planning Board and Zoning Board of Appeals meetings as it does its own meetings. This will allow residents to observe the workings of these boards and gain a better understanding as to their respective roles and the procedures that are followed during their meetings.

#### **iii. Create Pamphlet of Land Development Approval Process**

The Village should create a pamphlet that provides an overview of the land development approval process. In addition to describing the approval process, the pamphlet would provide flow charts illustrating typical approval processes for such projects as single-family and two-family homes, additions to existing homes, and the construction of decks. One solution to the complexity of the process and the need for greater public understanding of it that many communities have adopted is to create such a pamphlet:

- Woodstock, Connecticut publishes documents such as flow charts and checklists, for the subdivision application process, the building application process, and the special application process. The documents are regularly updated to reflect changes in the local ordinances. The lists indicate which steps are mandatory and which are optional but recommended. Any mandatory provisions also provide the timeframe the steps must be completed in.<sup>2</sup>

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<sup>2</sup> TOWN OF WOODSTOCK, CT., SPECIAL PERMIT FLOW CHART (2012), *available at* <http://woodstockct.gov/documentsforms/category/48-documents.html>; TOWN OF WOODSTOCK, CT., STEPS TO A BUILDING PERMIT (2012), *available at* <http://woodstockct.gov/documentsforms/category/48->

- Brevard County, Florida has “Application Package and Guides” at a one-stop permitting center.<sup>3</sup> The packages include applications for specific project types, a document checklist needed to submit the application, and a listing of the local ordinances to which the project will be subject. Currently, packages exist for Additions and Alterations<sup>4</sup>, Commercial New<sup>5</sup>, Demolition<sup>6</sup>, General Permitting and Installation<sup>7</sup>, Manufactured Buildings<sup>8</sup>, Minor Projects (Fences, Doors, HVAC, Re-Roof, Electric, Generator, Etc.)<sup>9</sup>, pool<sup>10</sup>, and Single-Family Residence<sup>11</sup>.
- The Cities of New Rochelle, New York<sup>12</sup> and Boston, Massachusetts<sup>13</sup> have created plain-language guides to explain their local development processes. These resources contain brief explanations of who the relevant city authorities are and answer frequently asked questions, such as what each board does, how to apply for hearings and appeals, what other agencies will be involved, and what happens when decisions occur.
- Mendocino County, California<sup>14</sup> distributes a document entitled the “Permit Place” to applicants.<sup>15</sup> The Permit Place document contains an overview of the County’s

documents.html?start=20; TOWN OF WOODSTOCK, CT., SUBDIVISION FLOW CHART (2012), *available at* <http://woodstockct.gov/documents/forms/category/48-documents.html?start=20>.

<sup>3</sup> *Downloadable Forms*, BREVARD COUNTY, OREGON, <http://ww3.brevardcounty.us/onestop/home/forms2.cfm> (last visited Mar. 10, 2012).

<sup>4</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: ADDITIONS AND ALTERATIONS, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Add\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Add_003.pdf).

<sup>5</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: COMMERCIAL NEW CONSTRUCTION, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Cnew\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Cnew_003.pdf).

<sup>6</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: DEMOLITION, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Demo\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Demo_003.pdf).

<sup>7</sup> BREVARD CNTY. BLDG. CODE, PERMITTING AND INSTALLATION GUIDE FOR RESIDENTIAL WHOLE HOUSE GENERATORS, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Genr\\_000.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Genr_000.pdf).

<sup>8</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: MANUFACTURED BUILDING, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Mfg\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Mfg_003.pdf) pdf.

<sup>9</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: MINOR PROJECTS (ELECTRIC, HVAC, RE-ROOF, FENCE, ETC.), *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Mnr\\_004.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Mnr_004.pdf).

<sup>10</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: POOLS, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Pool\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-Pool_003.pdf).

<sup>11</sup> BREVARD CNTY. BLDG. CODE, APPLICATION SUBMITTAL GUIDE: NEW CONSTRUCTION - SFR, *available at* [http://ww3.brevardcounty.us/onestop/home/documents/Pkg-SFR\\_003.pdf](http://ww3.brevardcounty.us/onestop/home/documents/Pkg-SFR_003.pdf).

<sup>12</sup> HISTORICAL LANDMARK REVIEW BD., CITY OF NEW ROCHELLE, N.Y., OWNING A HOUSE IN A LOCAL HISTORIC DISTRICT (year of publication not given), *available at* <http://www.newrochelleny.com/DocumentCenter/Home/View/361>.

<sup>13</sup> WILLIAM GOOD, COMM’R, BOSTON INSPECTIONAL SERVS., CITY OF BOSTON, MASS., A GUIDE TO THE CITY OF BOSTON’S ZONING BOARD OF APPEAL PROCESS (2000), *available at* [http://www.cityofboston.gov/isd/building/boa/pdfs/Zoning\\_Booklet.pdf](http://www.cityofboston.gov/isd/building/boa/pdfs/Zoning_Booklet.pdf).

<sup>14</sup> Mendocino County, *Welcome to the Permit Place, Overview of County Permitting*, MENDOCINO COUNTY PLANNING AND BUILDING DEPARTMENT, (September 2008), [http://www.co.mendocino.ca.us/planning/pdf/1-Introduction\\_Binder\\_Edited.pdf](http://www.co.mendocino.ca.us/planning/pdf/1-Introduction_Binder_Edited.pdf).

<sup>15</sup> Mendocino County, *Welcome to the Permit Place, Overview of County Permitting*, MENDOCINO COUNTY PLANNING AND BUILDING DEPARTMENT, (September 2008), [http://www.co.mendocino.ca.us/planning/pdf/1-Introduction\\_Binder\\_Edited.pdf](http://www.co.mendocino.ca.us/planning/pdf/1-Introduction_Binder_Edited.pdf).

permit process and tips for navigating this process.<sup>16</sup> It also provides applicants with a permit checklist to fill out after which agency staff help the applicant identify any required permits.<sup>17</sup> Further, this resource provides a list of all County permits with short descriptions;<sup>18</sup> contact information for each department;<sup>19</sup> a list of regularly scheduled meetings for boards, committees, and commissions with meeting times, addresses, and contact information;<sup>20</sup> a list of other helpful resources;<sup>21</sup> and a short, descriptive guide to project review.<sup>22</sup> Finally, a second Permit Place document includes a table listing which office applicants should go to for various permits and services,<sup>23</sup> expected waiting times for various permits,<sup>24</sup> a list of frequently asked questions,<sup>25</sup> and “how to” instructions for a variety of approvals.<sup>26</sup>

### *c. Associated Questions & Considerations*

In implementing these recommendations, the Village Board should consider how to get the departments the help they will need to create this public information system in a cost-effective manner, recognizing that the staff is already over extended.

Currently, the Village Planner is operating as the clearinghouse for all project approvals. Her input as to how these website changes and printed documents would help answer questions and complement her work in that capacity is critical.

## **(2) Phase in an Electronic Submission Requirement for Type I and Unlisted Actions under SEQRA.**

### *a. Background*

The Village does not presently require applicants to file applications and supporting documents electronically except where a project sponsor is required to prepare an environmental impact statement under the State Environmental Quality Review Act (SEQRA).

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<sup>16</sup> Id. at I-4.

<sup>17</sup> Id. at I-5 to I-7.

<sup>18</sup> Id. at I-8 to I-11.

<sup>19</sup> Id. at I-12.

<sup>20</sup> Id. at I-13.

<sup>21</sup> Id. at I-14 to I-15.

<sup>22</sup> Id. at I-16 to I-17.

<sup>23</sup> Mendocino County, *Planning and Building Services, The Permit Place*, MENDOCINO COUNTY PLANNING AND BUILDING DEPARTMENT, II-4 to II-5 (September 2008), [http://www.co.mendocino.ca.us/planning/pdf/2-Planning\\_Binder\\_Edited.pdf](http://www.co.mendocino.ca.us/planning/pdf/2-Planning_Binder_Edited.pdf).

<sup>24</sup> Id. at II-8 to II-11.

<sup>25</sup> Id. at II-12 to II-15.

<sup>26</sup> Id. at II-17 to II-36.

### ***b. Recommendation & Rationale***

The Board of Trustees should consider requiring electronic submissions of all documentation for projects that are Type I or Unlisted Actions under SEQRA (i.e., those projects requiring the submission of an Environmental Assessment Form). This recommendation expands on the electronic submission requirement that the Village already has in place for those projects requiring the preparation of an environmental impact statement (EIS) under SEQRA. (For example, see the site plan and architectural renderings for Harbor Square that are available on the Planning Department's website.<sup>27</sup>) Electronic submissions will reduce the time that the administrative staff of the Planning and Building Departments must spend scanning and preparing project files. Receiving electronic submissions will also facilitate project information being made available to the public via the Village's website.

In addition, given the recent technology upgrades that have occurred at the Ossining Operations Center meeting room, having site plan and other documents electronically will allow the public to see those documents on the large screen TV mounted on the wall. This will greatly enhance public participation during various land use board meetings

### ***c. Associated Questions & Considerations***

After expanding the requirement for electronic document submission, Planning and Building Department staff should evaluate the use of additional electronic submissions and determine whether it reduces staff time and facilitates land use board and public input. If so, then the requirement for electronic submission should be expanded to most proposed projects.

## **(3) Increase Staff Capacity for the Building & Planning Departments.**

### ***a. Background***

Given the upsurge of interest in development in the Village and the direct relationship between development approvals and increasing the tax base, the Building and Planning Departments should be adequately staffed. This is not the case presently. Without sufficient staff or contracted-for professionals to attend to all relevant land use board meetings, applications may be delayed simply because of lack of communication before, during, and after the meetings. Without sufficient staff to review all applications for permits and approvals, those applications risk being delayed. Without sufficient staff to review and process the many permits that are submitted to the departments, additional economic development opportunities can be delayed or lost and the reputation of the Village as an efficient municipal corporation can suffer in the eyes of the business community and citizenry.

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<sup>27</sup> See, <http://www.villageofossining.org/documents/8162%20S-1.pdf>.

With adequate staff, several problems will be avoided: applicants will not be discouraged and drop out, avoiding a loss in future tax revenue; applicants will be able to move their projects through the process more rapidly, speeding up the time when assessments can be increased on their properties; and the Village will develop a better reputation as efficient and orderly in its treatment of small-scale and larger-scale developers, enhancing its economic development future. It seems cost-effective to review the staffing of the Building and Planning departments, both professional and administrative, and consider increased personnel.

## ***b. Recommendation & Rationale***

### **i. Hire Additional Staff**

As stated in Part II of this Report, the Planning Department consists of the Village Planner, Valerie Monastra and Clerk, Beth Flynn. In the past, the Village has also had an assistant planner. Ms. Monastra serves as the central permit information desk for all land development approval permits. In addition to all Planning Board, BAR, ZBA and Historic Preservation Commission applications, she also reviews a high percentage of all Building Department applications to determine whether those permits require other board reviews. In 2013, she reviewed a total of 168 building permit applications out of 281 filed with the Building Department.

Given the number of applications that require initial review and then preparation for board meetings and the likelihood that the number of applications will increase as the economy and interest in Ossining continues to expand, hiring an assistant planner should be considered. This planner would be able to assist Ms. Monastra in conducting application reviews, freeing up time for her to increase the number of pre-application meetings she conducts with potential applicants and to engage in other important planning related activities. This assistant planner could also attend the Historic Preservation Commission and Environmental Advisory Board meetings. Currently the HPC meetings are staffed by an outside planning consultant.

As described in Part II of this Report, in addition to processing and reviewing building permit, plumbing permit, electrical permit and Certificate of Occupancy applications and managing all enforcement matters, the Building Department also conducts all complaint, building, fire, plumbing, Section 8 Housing, overnight parking, cabaret license, and refreshment license inspections. The Department must also prepare documentation of these inspections and then follow up with property owners. During 2013, the Building Department conducted approximately 3,500 separate inspections under its various responsibilities.

Currently, the Village's Building Department appears understaffed in light of the number of applications it reviews, inspections it conducts and enforcement matters it handles on a monthly basis as well as the likelihood of handling landlord registrations and Certificate of Occupancy reviews. For comparison, the Village of Port Chester handles a similar work load, but maintains a larger staff with eight full-time inspectors or code enforcement

personnel, three part-time inspectors and a number of full-time and part-time administrative staff. (Please see Appendix C illustrating the FY 2014-2015 organizational chart for the Port Chester Building/Code Enforcement Department).

Given the number of permit reviews, inspections, and enforcement matters conducted by the Village's Building Department, hiring of additional staff should be considered. In particular, due to the number of and time it takes to conduct fire inspections (on average between 30 minutes and one hour), hiring a full-time fire inspector should be a priority. Presently, this responsibility is shared by several department personnel. In Port Chester, there are three full-time and one part-time fire inspectors.

## **ii. Use Escrow Accounts to Engage Additional Outside Professionals**

Where hiring additional, full-time staff is not financially feasible, the Village Board of Trustees should consider imposing escrow requirements on applicants that would allow the Village to engage additional outside professionals to assist with specific application reviews. The Village currently imposes escrows on larger projects to ensure adequate project review. It also imposes escrow requirements for Stormwater Pollution Prevention Plan reviews, Floodplain Development Permit reviews, and Special Use Permit reviews, all conducted by the Village Engineer.

In many cases, project delays tend to occur on smaller, routine projects where applicants do not engage professional support. To address this issue, the Village should consider the option of imposing escrows on smaller, routine projects like the construction of a single- or two-family house. The Village Board of Trustees has the authority under sections 91-18 and 91-19 of the Village Code to establish escrow accounts for any project review conducted by the Zoning Board of Appeals and the Planning Board. Additionally, under both the subdivision review and site plan review provisions of the Village Code the Planning Board is authorized to establish escrow accounts for engaging professional review services. Greater use of these escrow provisions could be made to augment existing staff of the Planning Department for smaller projects.

Additionally, the Board of Trustees should consider adopting similar escrow account provisions in the Village Code for HPC<sup>28</sup> and EAC project reviews. Presently, there is no authority to require escrows for project reviews conducted by these two boards. In the case of the HPC, the establishment of an escrow fund could be used to hire an inspector trained in historic preservation to conduct follow-up inspections of projects that have received a Certificate of Appropriateness from the Commission.

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<sup>28</sup> The Village Code includes a provision that authorizes the HPC to request the Village Board of Trustees to retain or employ professional consultants, or other such personnel as may be necessary to perform its functions, subject to budgetary appropriation by the Village Board. See Village of Ossining Code at §270-25(B)(7). However, this provision does not authorize the establishment of an escrow account for the HPC to retain professionals to assist in project review.

### *c. Associated Questions & Considerations*

The Village should consider whether to review the personnel and organization charts for all Village departments related to development, inspections, and permits, with an eye toward integrating functions more cost-effectively.

The Village must balance the cost of imposing an escrow requirement on smaller, routine projects with the total cost of such projects and the hourly rates that an outside consultant would charge for project review and assistance.

## **(4) Increase Efficiency in Architectural Design Guideline Enforcement.**

### *a. Background*

The Village of Ossining is fortunate to have a rich tapestry of design elements throughout the municipality, but particularly in its two designated historic districts. To perpetuate and enhance the aesthetics of its buildings, the Village has done two things to subject new development to review:

- adopt a historic preservation program with associated design guidelines and establish a Historic Preservation Commission (HPC); and
- adopt generally applicable architectural standards and empower the Planning Board, sitting as the Board of Architectural Review (BAR), to review them with respect to all development outside the historic districts.

The purpose for the recommendations in this section is to guard the integrity of the design review process, but to look for certain types of small-scale or routine building changes that may be exempted from separate review so as to expedite the review and approval process without compromising important historic and architectural standards.

One of our findings is that many of the applications for small-scale changes are made by individuals with limited resources and limited access to professional help. These individuals, on average, have a difficult time managing the review and approval process, preparing documentation for discretionary review, and negotiating the meeting schedule of the board or boards involved. Where possible, applicants submitting proposals concerning low-impact and routine changes should be permitted to go directly to the Building Permit application stage and not have to go through a land use approval before either the Board of Architectural Review - or the HPC. Our recommendations in this section regarding some limited exemptions from design review are very general and will need further study to put into place, after consultation with the HPC and Planning Board.

The National Historic Preservation Act of 1966 established the historic preservation program in the United States, which operates as a decentralized partnership between the federal government and the states. The 1980 amendments to the National Historic Preservation Act expanded the partnership to provide for participation by local

governments and authorized a federal-state-local preservation partnership that became known as the Certified Local Government (CLG) program. Federal law directs the Secretary of the Interior to certify qualified local governments through the authority delegated to the National Park Service. Working with the State Historic Preservation Office (SHPO) in New York, the National Park Service specifies several requirements that local governments must meet for qualification.<sup>29</sup>

The primary goal of the CLG program is to encourage municipalities to develop and maintain community preservation efforts in coordination with local land use planning to ensure that historic resources continue to have an active use within the community while retaining their historic and architectural integrity. There are over 60 communities in New York State's CLG Program, ranging from rural villages to large cities, including the Village of Ossining. Participation in the CLG program allows municipalities to partner with state and federal governments throughout the process of identifying and evaluating community resources and protecting historic properties.<sup>30</sup> Several of these have adopted practices that exempt certain property improvements from full scale administrative review where those exemptions will not compromise important historic standards.

The Village of Ossining is a Certified Local Government under state law, having two approved historic districts: Sparta and the Downtown area. Development in these defined districts is subject to review by the HPC, which enforces Architectural Design Guidelines that are mandatory within the confines of these two districts. In addition, the Village Planning Board serves as the Board of Architectural Review (BAR) for the Village and is authorized by Village law to recommend design changes in applications in order to achieve design continuity throughout the Village. These guidelines are very general and advisory in nature, but they do give the Planning Board, serving as the BAR, some authority to review the design of buildings throughout the Village, outside of the two historic districts, to avoid excessive uniformity, dissimilarity, or inappropriateness with surrounding buildings as those terms are defined under the Village's zoning code. The BAR also reviews the design of the alteration or construction of single- and two-family home projects that are not subject to regular Planning Board approval.

## ***b. Recommendation & Rationale***

### **i. Expand Historic Districts Exemptions List**

When a project is located within one of the two historic districts, the applicant must apply for and receive a Certificate of Appropriateness (C of A) from the HPC. One key concern of historic preservation law is to prevent "material" changes in the appearance of historic properties. It is appropriate, with the consent of the HPC, to expand upon the list of "non-material" and "non-visible" activities and to exempt them from the C of A requirement.

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<sup>29</sup> CLG Program, Information and Regulations Regarding the Certification Process, pg.3, <http://nysparks.com/shpo/certified-local-governments/documents/CLGProgramNYS.pdf>.

<sup>30</sup> CLG Program, Introductory Packet and Regulations, pg.1, <http://nysparks.com/shpo/certified-local-governments/documents/CLGIntroductoryPacketRegulations.pdf>.

Currently, the HPC only exempts exterior paint (with the exception of painting masonry) and the installation of child guards on windows from its review. The HPC should consider adding to its list of exterior changes not requiring review, as authorized by section 270-25(F)(2).

- As an example of other additional activities that the HPC could exempt from review and require only administrative review by the Planning Department and/or Building Department, the City of Elmira, New York, (also a CLG) has a provision in its zoning ordinance listing activities that do not require approval by its Historic Review Commission. Below are listed those activities from Elmira's code that are not covered currently by section 270-25(K)(1)<sup>31</sup> of the Village of Ossining Code:
  - Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to closely match existing material and form;
  - Caulking, weather-stripping, glazing and repainting of windows;
  - Repair, replacement or installation of storm windows (exterior, interior, metal or wood) provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window. Color should match trim;
  - Installation of new window jambs or jamb liners;
  - Repair or replacement of awnings when work is done in-kind to closely match existing materials and form;
  - Roof repair or replacement of historic roofing with material which closely matches the existing material and form or better. Cement asbestos shingles may be replaced with asphalt based shingles;
  - Repair, replacement or installation of gutters and downspouts;
  - Installation of insulation where exterior siding or trim is not altered or damaged;
  - Replacement of non-significant flat stock trim in kind or with materials which match in appearance;
  - Repair or replacement of existing roads, driveways, sidewalks, and curbs provided that work is done so that there are only minimal changes in dimension or configuration of these features;
  - Exterior lead paint abatement that includes scraping and repainting of exterior work and masonry surfaces;
  - Repair or replacement of fencing when work is done in-kind to closely match existing material and form; and
  - Repair or replacement of water, gas, storm and sewer lines.<sup>32</sup>

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<sup>31</sup> Village of Ossining §270-25(K)(1) states: "Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within and contributing to an historic district which does not involve a change in design, material, color or outward appearance. Nothing in this section shall be construed to prevent the construction, reconstruction, alteration or demolition or issuance of a building permit of any exterior architectural feature which the Building Inspector shall determine is required by public safety because of dangerous or unsafe conditions."

<sup>32</sup> City of Elmira, NY, Zoning Ordinance, § 440.12.

## ii. Create Pre-Approved Consent List

Another streamlining strategy used in some communities and approved by SHPO is for the HPC to approve, as a group, relatively routine C of A applications for changes that conform to approved standards without the applicants' attendance at a Commission meeting. Examples of such standards are exterior painting that uses the "American Heritage" color palette by Sherwin Williams, or other palettes, windows that are pre-approved as appropriate, and certain shingles conforming to appropriate standards. In other communities, historic preservation boards have created a "consent list," meaning that it has pre-approved certain designs, colors, and repairs and then exempted these applicants from attending a meeting of the board to have these matters approved in their specific case.

- In Charleston, South Carolina, most minor alterations, such as repairs and/or in-kind replacements, signage, painting, awnings, storm windows, mechanical units, walls and fences, landscape elements, rear additions, accessory buildings, and certain demolitions are reviewed by Staff and *do not* require full Board review. Staff may refer any application to the commission and applicants may appeal any staff decision to the commission.<sup>33</sup> A Staff Review Log is kept recording date received, date reviewed, staff review number, property address, description of work proposed, action taken, and staff initials.<sup>34</sup>
- Alexandria, Virginia allows administrative approval of certain permits. The staff may approve signs, minor architectural elements, such as residential accessibility structures; sheds; storm doors; gutters and downspouts; utility meters, vents and HVAC condensers; fences and gates; exterior lighting and shutters; siding and trim; railings; and, antennas, provided they comply with specific criteria and standards outlined and formally adopted by the commission.<sup>35</sup>

## iii. Eliminate Need for Joint Review

Finally, while very limited in number, there are certain instances where the HPC and BAR have joint review of a proposed project. Under Chapter 270 of the Village Code, the BAR must review all site plans<sup>36</sup> and all applications for a building permit.<sup>37</sup> There is no exemption for review of such applications where the proposed project is located within either of the Village's designated historic districts. In 2013, there were only five such projects. Despite this, it is recommended that, in those instances where a project would require both HPC and BAR review, those projects only be reviewed by the HPC. By

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<sup>33</sup> City of Charleston, SC, BAR Policy Statement, May 22, 2002, <http://www.charlestoncity.info/shared/docs/0/combinedpolicystatements.pdf>.

<sup>34</sup> City of Charleston, SC, BAR Staff Review Log, <http://www.charleston-sc.gov/shared/docs/0/staff%20reviews%20week%20of%20february%2020-24%202012.pdf>.

<sup>35</sup> City of Alexandria, VA, Zoning Code §§ 10-213, 10-316.

<sup>36</sup> Village of Ossining, NY Code §270-58(A).

<sup>37</sup> Village of Ossining, NY Code §270-58(B).

eliminating review by both boards, applicants will only have to appear before one board to address the aesthetics and materials associated with their projects.

### ***c. Associated Questions & Considerations***

Whether or not certain routine and compatible matters should be exempted from HPC review or approved generally through consent agendas of the commission should be thoroughly vetted by the HPC.

In addition, the HPC should be asked for its advice generally on how to retain the integrity of its design review function while granting applicants exemption from the time and expense of full commission review at a scheduled meeting.

Again, our findings indicate that it is often these low-impact applications by individuals without professional guidance that get stymied by having to conform to a review process that can delay projects and be costly, thereby discouraging work that will be beneficial to the Village. Where steps in this process can be eliminated for appropriate projects, they should be considered.

## **(5) Exempt Certain Projects from BAR Review.**

### ***a. Background***

Localities can adopt design review laws for the purpose of controlling community appearance. Under such a law, an architectural review board can be created with advisory authority only or with the authority to review, approve, disapprove, or conditionally approve proposed new construction and building improvements before the building inspector is authorized to issue a building permit.

### ***b. Recommendation & Rationale***

As noted above, the Village has authorized the Planning Board to serve as its Board of Architectural Review (BAR) for projects subject to site plan approval and all applications for building permits, whether or not they are subject to site plan approval. Section 270-58 of the village zoning code states as follows:

In all cases where site plan approval is required, as stated in other sections of this chapter, the review by the Board of Architectural Review for similarity, dissimilarity or inappropriateness shall be given concurrently or prior to the Planning Board's review for site plan approval. In all cases where site plan approval is not required by the Planning Board, such as for one- and two-family residences not part of a proposed subdivision, separate application shall be made to the Board of Architectural Review, and approval is required prior to the issuance of a building permit.

The Village's BAR provision contains certain guidelines to direct the BAR in this review process. Currently, the Planning Board serving as the BAR exempts several projects types from review, including construction or rear or side yard decks, in-kind replacements, and additions or deck enclosures in the rear of side yard that are less than 100 square feet.

The Planning Board should review its previous work on design review of single-family and two-family structures and make a recommendation to the Village Board as to whether they should be exempted as well. One option for the Planning Board to consider is asking the Planning and Building Department staffs to review these applications for building permits against the architectural design guidelines and, where appropriate, recommend certain changes to conform to those guidelines. Staff may suggest that changes be made to conform to these guidelines and, where they are made, the applications would not have to be referred to the Planning Board/BAR. Where an applicant refuses to make suggested changes, then such applications can be referred to the Planning Board with the staff's report and the Board can then assume its proper function as the BAR with respect to those applications.

### ***c. Associated Questions & Considerations***

Implied in the power of the BAR to create certain categorical exceptions to its design review, is the power to limit those exceptions to matters that are approved by professionals serving the Village in the development and review process. Since the BAR could make all applications for single- and two-family home permits exempt, it should have the power to exempt those that have cleared staff review. This recommendation should be reviewed by Village Corporation Counsel for conformance with State and local law.

## **(6) Adopt a Local SEQRA Type II List.**

### ***a. Background***

Under SEQRA, Type II actions are exempt from environmental impact review because they "have been determined not to have a significant impact on the environment".<sup>38</sup> A list of Type II actions is contained in the current regulations. State regulations permit localities to add actions to the state-created Type II list as long as they do not qualify as Type I actions or exceed listed Type I thresholds.<sup>39</sup> Type II actions in the State regulations include maintenance or repair involving no substantial changes in an existing building; replacement, rehabilitation or reconstruction of a structure or facility; construction or expansion of a single-family, a two-family or a three-family residence on an approved lot; construction, expansion or placement of minor accessory structures; certain area variances; and official acts of a ministerial nature that involve no exercise of discretion,

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<sup>38</sup> See 6 NYCRR 617.5.

<sup>39</sup> See 6 NYCRR 617.5(b).

including the issuance of building permits and historic preservation permits.<sup>40</sup> SEQRA authorizes municipalities within the State to adopt local Type II lists to supplement the State list.<sup>41</sup>

### ***b. Recommendation & Rationale***

Each land use board, including the Village Board of Trustees, should consider formally adopting a local Type II list that includes certain low-impact actions. As currently practiced, many projects of routine maintenance or repair that involve no substantial change of an existing building are considered Type II actions, relieving a board from having to review an EAF. This practice should be formalized with the adoption of a local Type II list.

New York State Department of Environmental Conservation (DEC) is currently considering adding to its Type II list to formalize what many municipalities already determine are Type II Actions.<sup>42</sup> By doing so, DEC intends to provide applicants with a clear understanding, upfront, that these actions will not be subject to any SEQRA review. Each board should consider formalizing the list of projects that they routinely determine are Type II Actions and should also consider adding the following to actions to that list:

- Minor subdivisions, provided the following criteria are met:
  - as defined by municipal subdivision regulations, or four or fewer lots, whichever is less;
  - must involve ten acres or less;
  - will not require the construction of new roads, water or sewer infrastructure are necessary; and
  - Proposed subdivision may not part of a larger subdivision tract proposed during past 12 months; and
- Construction or expansion of a commercial or residential structure of less than 10,000 square feet, provided the following criteria are met:
  - on a previously disturbed site;
  - must be subject to site plan review;
  - must connect to community water and sewer;
  - will not involve construction of new public roads.

Building structures on previously disturbed lots with existing roads, sewer, and water reduces the number and severity of potential environmental impacts and will serve as an incentive to develop previously disturbed sites in municipal centers. Moreover, such development will have less of an environmental impact than building on “greenfield sites” while reducing sprawl.

Given that the Village of Ossining has limited remaining undeveloped land, most new development will occur either on infill parcels or as redevelopment of existing sites. With

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<sup>40</sup> See 6 NYCRR 617.5 (c).

<sup>41</sup> See 6 NYCRR 617.5(b).

<sup>42</sup> The list of actions DEC is considering for inclusion as Type II Actions is found at Appendix C. Other than those actions listed above, the potential Type II Actions listed in Appendix C are already deemed Type II Actions in the Village of Ossining. Those actions should be included in a formal Type II list, however.

the adoption of the above actions as Type II actions, the Village will reduce application review time for a number of projects that the Village is likely to consider as the economy continues to rebound.

### ***c. Associated Questions & Considerations***

Under DEC's SEQRA regulations, where a municipality chooses to adopt a local Type II list, that list must be adopted by each board, individually. This is required because a Type II listed adopted by one board is not binding upon any other board.<sup>43</sup> The adoption of a Type II list is not a legislative action, so each board could adopt a Type II list through a board resolution.

## **V. Conclusion**

The Land Use Law Center believes the recommendations presented in this Report, if adopted, will improve upon the Village's current efficient land development approval process. We would be happy to discuss these recommendations with each of the Village's land use boards, the Planning and Building Departments, the Village Manager's Office and Corporation Counsel.

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<sup>43</sup> See 6 NYCRR 617.5(b).

**APPENDIX A – Planning Department 2013 Work Plan**

# Planning Department

**Village Planner  
Valerie Monastra**

**Planning Clerk/Office  
Assistant  
Beth Flynn**

Planning Department is a liaison to the following Boards and Committees

**Zoning Board of Appeals**

**Planning Board/BAR**

**Village Board of  
Trustees**

**Historic Preservation  
Commission**

**Environmental Advisory  
Council**

The Department of Planning has many functions. Our role is to help the Village of Ossining with the difficult task of finding the right balance of development, economic growth, maintaining and improving essential services, protecting the environment, and preserving community character. We work closely with other departments in reviewing all new project applications submitted for approval to the Board of Architectural Review, Planning Board, Zoning Board, Historic Preservation Commission, or Environmental Advisory Council. The Department of Planning is also responsible for ensuring that State and Federal requirements are followed during the review process and that the Boards have all of the information they need to be able to make an informed decision. In addition, we work on other planning studies and initiatives that will help improve the quality of life in the Village.

## APPENDIX A – Planning Department 2013 Work Plan

### 2012 Planning Department Accomplishments

1. **Planning Board, Zoning Board, and Board of Architectural Review (VM/BF)**
  - a. Advised and worked on applications (Reviewed and approved 205 new units of residential development)
2. **Environmental Advisory Council (JR/BF)**
  - a. Advised and worked on applications for LWRP consistency
  - b. Helped with joint Village/Town EAC booth at the 2012 Village Fair
3. **Historic Preservation Commission - (JR/BF)**
  - a. Advised and worked on current applications
  - b. Finished work on walking tours of the downtown brochures
  - c. Began work on historic marker program for the Downtown Historic District Walking Tour
  - d. Advised with on-going land marking HPC work
4. **Affordable Housing (VM/BF)**
  - a. Continued with our current work of negotiations and getting units on-line
  - b. Continued with administration of program for the 7 units we have under the program.
  - c. Anticipate additional units to come into the program in 2013.
5. **RiverWalk/Waterfront (VM)**
  - a. Developed trails in Crawbuckie Preserve Area
  - b. Continued to work with County and Mariandale on the Mariandale/Crawbuckie portion and design the RiverWalk.
6. **Economic Development(VM/JR)**
  - a. Continued to help negotiations for the Village owned sites
  - b. Continued work on the Ossining Bicentennial Sculpture Project
  - c. Continued work on vacant property database
7. **GIS (VM/JR)**
  - a. Maintained current inventory of data layers
  - b. Provided maps and other GIS-related information to other Village departments and public as needed
8. **Stormwater Phase II (VM/BF)**
  - a. Continued to maintain and implement the required Stormwater program and Stormwater permits
9. **Grants Received (VM)**
  - a. \$2,000 for Historic Markers Program
  - b. Still waiting on ~\$325,000 worth of grants

## APPENDIX A – Planning Department 2013 Work Plan

### 10. Grant Administration (VM/JR)

- a. CDBG grants 2009-2011 round (Central Ave Streetscape project)
- b. \$375,000 NYS DEC Shoreline Stabilization Grant from 2000 on Harbor Square
- c. \$97,000 ARRA grant for new air handlers in the Community Center
- d. \$1,980 CLG Grant for Brochures of Downtown Walking Tour
- e. \$1,550 CLG HPC Training Grant
- f. \$480,000 for Harbor Square Promenade Park
- g. \$375,000 for Crawbuckie Trail Construction

## APPENDIX A – Planning Department 2013 Work Plan

### 2013 Planning Department Projects Work Plan

11. **Planning Board, Zoning Board, and Board of Architectural Review (VM/BF)**
  - a. Advise and work on applications
12. **Environmental Advisory Council (VM/BF)**
  - a. Advise and work on applications for LWRP consistency
  - b. Help with joint Village/Town EAC booth at the 2012 Village Fair
13. **Historic Preservation Commission - (VM/BF)**
  - a. Advise and work on current applications
  - b. Begin and finish work on historic marker program for the Downtown Historic District Walking Tour
  - c. Finish work on land marking
14. **Affordable Housing (VM/BF)**
  - a. Continue with our current work of negotiations and getting units on-line
  - b. Continue with administration of program for the 7 units we have under the program.
  - c. Anticipate additional units to come into the program in 2013.
15. **RiverWalk/Waterfront (VM)**
  - a. Continue work on increasing trail network
  - b. Continue work with County and Mariandale on the Mariandale/Crawbuckie portion and design the RiverWalk.
16. **Economic Development(VM)**
  - a. Continue to help negotiations for the Village owned sites
  - b. Continue work on the Ossining Bicentennial Sculpture Project
17. **GIS (VM)**
  - c. Maintain current inventory of data layers
  - d. Provide maps and other GIS-related information to other Village departments and public as needed
18. **Stormwater Phase II (VM/BF)**
  - b. Continue to maintain and implement the required Stormwater program and Stormwater permits
19. **Grant Administration (VM)**
  - a. Continue participation in CDBG work and meetings
  - b. \$480,000 for Harbor Square Promenade Park
  - c. \$375,000 for Crawbuckie Trail Construction
  - d. Any additional grants we receive (still waiting on results of grants worth 325,000 dollars in funding)
20. **Grants General (VM)**
  - a. Continue pursuing additional grant opportunities

**APPENDIX B – Planning Department 2014 Work Plan**

# Planning Department

**Village Planner  
Valerie Monastra**

**Planning Clerk/Office  
Assistant  
Beth Flynn**

Planning Department is a liaison to the following Boards and Committees

**Zoning Board of Appeals**

**Planning Board/BAR**

**Village Board of  
Trustees**

**Historic Preservation  
Commission**

**Environmental Advisory  
Council**

The Department of Planning has many functions. Our role is to help the Village of Ossining with the difficult task of finding the right balance of development, economic growth, maintaining and improving essential services, protecting the environment, and preserving community character. We work closely with other departments in reviewing all new project applications submitted for approval to the Board of Architectural Review, Planning Board, Zoning Board, Historic Preservation Commission, or Environmental Advisory Council. The Department of Planning is also responsible for ensuring that State and Federal requirements are followed during the review process and that the Boards have all of the information they need to be able to make an informed decision. In addition, we work on other planning studies and initiatives that will help improve the quality of life in the Village.

## 2013 Planning Department Accomplishments

1. **Planning Board, Zoning Board, and Board of Architectural Review (VM/BF)**
  - a. Advised and worked on 60 applications
2. **Environmental Advisory Council (VM/BF)**
  - a. Advised and worked on applications for 2 LWRP consistency
  - b. Helped with joint Village/Town EAC booth at the 2012 Village Fair
3. **Historic Preservation Commission - (VM/BF)**
  - a. Advised and worked on 7 applications
  - b. Began work on historic marker program for the Downtown Historic District Walking Tour
  - c. Finished locally land marking 6 properties.
4. **Affordable Housing (VM/BF)**
  - a. Continued with our current work of negotiations and getting units on-line
  - b. Continued with administration of program for the 3 units we have under the program.
  - c. Worked on application process for 18 additional units.
5. **RiverWalk/Waterfront (VM)**
  - a. Continued work on increasing trail network
  - b. Continued work with County and Mariandale on the Mariandale/Crawbuckie portion and design the RiverWalk.
6. **Economic Development(VM)**
  - a. Continued to help with negotiations on Village owned sites for 147-155 Main Street and Harbor Square
  - b. Managed the installation, de-installation, and public tours for the Ossining Bicentennial Sculpture Project
  - c. Helped with the management of the Market Square and Post Office redevelopment feasibility study.
7. **GIS (VM)**
  - a. Maintained current inventory of data layers
  - b. Provided maps and other GIS-related information to other Village departments and public as needed
8. **Stormwater Phase II (VM/BF)**
  - a. Continued to maintain and implement the required Stormwater program and Stormwater permits
9. **Legislation**
  - a. Helped provide input and technical review on pending Beekeeping legislation.
10. **Grant Administration (VM)**
  - a. Continued participation in CDBG work and meetings
11. **Grants General (VM)**
  - a. Wrote three grants for a total of 2.8 million dollars in funding.

## **2014 Planning Department Projects Work Plan**

1. **Planning Board, Zoning Board, and Board of Architectural Review (VM/BF)**
  - a. Advise and work on applications
2. **Environmental Advisory Council (VM/BF)**
  - a. Advise and work on applications for LWRP consistency
  - b. Help with joint Village/Town EAC booth at the 2013 Village Fair
3. **Historic Preservation Commission - (VM/BF)**
  - a. Advise and work on current applications
  - b. Finish work on historic marker program for the Downtown Historic District Walking Tour
4. **Affordable Housing (VM/BF)**
  - a. Continue with our current work of negotiations and getting units on-line
  - b. Continue with administration of program for the 7 units we have under the program.
  - c. Anticipate additional units to come into the program in 2013.
5. **RiverWalk/Waterfront (VM)**
  - a. Continue work on increasing trail network
6. **Economic Development(VM)**
  - a. Continue to help negotiations for the Village owned sites including Market Square and the Post Office lots
7. **GIS (VM)**
  - a. Maintain current inventory of data layers
  - b. Provide maps and other GIS-related information to other Village departments and public as needed
8. **Stormwater Phase II (VM/BF)**
  - a. Continue to maintain and implement the required Stormwater program and Stormwater permits
9. **Village of Ossining Water Supply Study**
  - a. Help with review and management of the Village of Ossining future water resources study.
10. **Legislation**
  - a. Continue to help write and research legislation as needed.
11. **Grant Administration (VM)**
  - a. Continue participation in CDBG work and meetings
  - b. \$480,000 for Harbor Square Promenade Park
  - c. \$21,500 for Village of Ossining Dock Construction
  - d. Any additional grants we receive (still waiting on results of grants worth 2.5 million dollars in funding)
12. **Grants General (VM)**
  - a. Continue pursuing additional grant opportunities

# Village of Port Chester, New York

FY 2014-2015 Tentative Annual Budget

