

**CITY OF KINGSTON PLANNING BOARD
RESOLUTION AND DECISION GRANTING
CONDITIONAL FINAL APPROVALS**

**IN THE MATTER OF THE APPLICATION OF KINGSTONIAN DEVELOPMENT
GROUP, LLC FOR THE KINGSTONIAN REDEVELOPMENT PROJECT:
SITE DEVELOPMENT PLAN APPROVAL AND SPECIAL USE PERMIT APPROVAL**

WHEREAS, Kingstonian Development Group, LLC (hereinafter "Applicant") has submitted a complete Application to the City of Kingston Planning Board (hereinafter "Planning Board") for the "Kingstonian Project," consisting of the following:

- a.) 420 Vehicle Parking Garage [290 spaces devoted to public parking].
- b.) 32 Room Boutique Hotel.
- c.) 143 Units of Apartments [14 units devoted to affordable housing].
- d.) 9,000 Square Foot Retail/Restaurant Space.
- e.) Pedestrian Plaza [public use].
- f.) Walking Bridge.
- g.) Related Project Infrastructure and Appurtenances; and,

*420
- 290

130
VARIANCE
FOR PARKING
TO GARAGE*

WHEREAS, the statutory governing authority for the Kingstonian Project is set forth within the City of Kingston Zoning Ordinance, City of Kingston Subdivision Regulations, associated provisions of Sections 20, 27-A, 27-B, 29, 32, 33, 34, and 83 of the General City Law of New York State; and,

WHEREAS, the Kingstonian Project Applicants first appeared upon the project Application before the Planning Board on December 17, 2018 and the Kingstonian project has now undergone the following 53 meetings, including multiple public hearings, to date:

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|-------|--------------------------------------|----------|
| i.) | Planning Board Informational Meeting | 10/15/18 |
| ii.) | Planning Board Meeting | 12/17/18 |
| iii.) | Planning Board Meeting | 01/22/19 |
| iv.) | Planning Board Meeting | 03/18/19 |
| v.) | Special Planning Board Meeting | 04/10/19 |
| vi.) | Special Planning Board Meeting | 06/03/19 |

vii.)	Common Council Meeting	06/04/19
viii.)	Planning Board Meeting	07/15/19
ix.)	Planning Board Public Hearing	08/19/19
x.)	Special Planning Board Meeting	09/11/19
xi.)	Joint Meeting (PB, HAC, HLPC)	09/26/19
xii.)	Tree Commission Meeting	10/08/19
xiii.)	Zoning Board of Appeals	10/10/19
xiv.)	Historic Landmarks	09/05/19
xv.)	Heritage Area	09/28/19
xvi.)	Special Planning Board Meeting	11/06/19
xvii.)	Planning Board Public Hearing	11/18/19
xviii.)	Special Planning Board Meeting	12/09/19
xix.)	Planning Board Meeting	12/16/19
xx.)	Planning Board Meeting	02/18/19
xxi.)	Common Council Public Hearing	01/15/20
xxii.)	Ulster County Planning Board Meeting	02/05/20
xxiii.)	Zoning Board of Appeals Public Hearing	02/13/20
xxiv.)	Common Council Meeting	03/03/20
xxv.)	Zoning Board of Appeals	03/12/20
xxvi.)	Common Council Laws & Rules	04/15/20
xxvii.)	Common Council Meeting	05/05/20
xxviii.)	Planning Board Meeting	05/18/20
xxix.)	Ulster County Industrial Development Agency	06/23/20
xxx.)	Ulster County Industrial Development Agency	07/21/20
xxxi.)	Ulster County Industrial Development Agency	09/09/20
xxxii.)	Ulster County Industrial Development Agency Public Hearing	10/01/20
xxxiii.)	Ulster County Industrial Development Agency	01/20/21
xxxiv.)	Common Council Meeting	03/02/21
xxxv.)	Kingston Local Development Corporation Meeting	08/03/21
xxxvi.)	Common Council Meeting	11/09/21
xxxvii.)	Common Council Public Hearing	12/02/21
xxxviii.)	Common Council Meeting	12/07/21
xxxix.)	Historic Landmarks/Heritage Area Public Hearing	01/10/22
xl.)	Common Council Public Hearing	01/12/22
xli.)	Historic Landmarks/Heritage Area	02/03/22
xlii.)	Common Council Meeting Meeting	02/14/22
xliii.)	Historic Landmarks/Heritage Area Meeting	03/03/22
xliv.)	Kingston Local Development and	04/15/22

	and Corporation Meeting	
xliv.)	Planning Board Meeting	04/18/22
xlvi.)	Planning Board Meeting	05/09/22
xlvii.)	Planning Board Public Hearing	05/17/22
xlviii.)	Ulster County Planning Board Meeting	06/01/22
xlix.)	Planning Board Meeting	07/13/22
l.)	Tree Commission Meeting	08/25/22
li.)	Recreation Commission Meeting	09/08/22
lii.)	Planning Board Meeting	09/19/22
liii.)	Planning Board Meeting	10/17/22;
and,		

WHEREAS, a comprehensive SEQRA coordinated Type I Action review before thirty five (35) involved and interested agencies was conducted by the Planning Board, as Lead Agency, resulting in a December 17, 2019 Negative Declaration of Environmental Significance which was duly circulated pursuant to 6 NYCRR Part 617.12(i); and,

WHEREAS, over the course of a nearly (4) year administrative review process, the following Approvals have been granted to the Kingstonian Project:

- 1.) Rezoning Approval. [City of Kingston Common Council 05/05/20.]
- 2.) Lot Line Revision Approval. [Planning Board 05/18/20 (Filed Map #2020-106).]
- 3.) Payment in Lieu of Taxes Approval. [Ulster County Industrial Development Agency 01/20/21.]
- 4.) City of Kingston Real Property Transfer to the Kingston Local Development Corporation [City of Kingston Common Council 3/02/21.]
- 5.) Partial Roadway Abandonment and Easement Over Schwenk Drive. [City of Kingston Common Council [11/09/22 and 02/10/22.]
- 6.) Preservation Notice of Action Issuance. [City of Kingston Historic Landmarks Preservation Commission 03/09/22.]
- 7.) Interpretation Affirmation. [City of Kingston Zoning Board of Appeals 3/12/20.]; and,

WHEREAS, the 2.72+/- Kingstonian Project is located at 9-17 and 21 North Front Street, and 51 Schwenk Drive [S/B/L #48.80-1-25 and S/B/L #48.80-1-26 and S/B/L #48.80-1-24.12]; and,

WHEREAS, the complete list of project related plans, for the Kingstonian Project, as submitted to the Planning Board, is as follows:

A.) Civil Drawings Sheet Index

- 1.) COVER SHEET
- 2.) EXISTING CONDITIONS
- 3.) DEMOLITION PLAN
- 4.) SITE PLAN - LEVEL 4
- 5.) UTILITY PLAN - OVERALL MAP
- 6.) UTILITY PLAN - NORTH FRONT STREET
- 7.) UTILITY PLAN - SCHWENK DRIVE
- 8.) GRADING PLAN - OVERALL
- 9.) GRADING PLAN - EAST BUILDING
- 10.) EROSION AND SEDIMENT CENTRAL PLAN
- 11.) TBP
- 12.) TBP
- 13.) DETAILS
- 14.) DETAILS
- 15.) DETAILS
- 16.) HERZOG'S SITE EXHIBIT

B.) Landscape Architect Drawings Sheet Index

SHEET NO.	DESCRIPTION
L101	OVERALL PLAN
L102	PLAZA ENLARGEMENT PLAN
L103	AMENITY ENLARGEMENT PLAN
L202	PLAZA GRADING PLAN
L101	HARDSCAPE DETAILS
L102	HARDSCAPE DETAILS
L103	HARDSCAPE DETAILS
L104	HARDSCAPE DETAILS
L151	PRODUCT INFORMATION
L501	LANDSCAPE PLAN
L601	LANDSCAPE SCHEDULE
L602	LANDSCAPE NOTES AND DETAILS

L701	PHOTOMETRIC PLAN
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C.) Architectural Drawings Sheet Index

SHEET NO.	DESCRIPTION
A-1	1 ST FLOOR PLAN
A-2	2 ND FLOOR PLAN
A-3	3 RD FLOOR PLAN
A-4	4 TH FLOOR PLAN
A-5	5 TH FLOOR PLAN
A-6	6 TH FLOOR PLAN
A-7	7 TH FLOOR PLAN
A-8	NORT FRONT STREET ELEVATION
A-9	SCHWENK DRIVE ELEVATION
A-10	PEDESTRIAN PLAZA ELEVATIONS
A-11	BUILDING SECTION DIAGRAMS
A-12	NORTH FRONT STREET RENDERING
A-13	NORTH FRONT STREET RENDERING
A-14	PEDESTRIAN PLAZA RENDERING
A-15	PEDESTRIAN PLAZA RENDERING

; and,

WHEREAS, concurrent administrative review has continued with the City of Kingston Historic Landmarks Preservation Commission and the City of Kingston Heritage Area Commission and the attendant Site Plan/Special Use Permit submissions in both instances by the Applicant, the public and project opponents are all collectively made part of record for consideration herewith; and, are set forth as follows; and,

WHEREAS, the Planning Board held a public hearing on the site plan and the special use permit on May 17, 2022 and said public hearing was held open until May 24, 2022 for written comments. All comments received have been published on the City

of Kingston Web Site, and are available for individual review, or by FOIL Request in the Planning Board Office; and,

WHEREAS, the Planning Board concurs with most of the Ulster County Planning Board June 1, 2022 Recommendation, except the Planning Board does not concur with the "Required Modifications" involving the possible implementation of a sidewalk along the Walgreens Pad, or removing the middle "thru-lane" going towards Schwenk Drive and combining it with a right hand turn lane. [See also, discussion set forth below.]; and,

WHEREAS, the Applicant has submitted a comprehensive address of project related comments and written submittals and the Applicant has also made project refinements to the Kingstonian Project plans which the Planning Board has reviewed, at length; and,

WHEREAS, the Applicant has completely addressed the public oral and written comments and the Applicant has further satisfactorily addressed all site plan and special use permit criteria as set forth within the City of Kingston Zoning Law by way of the SEQRA Negative Declaration, the entire administrative record, the proceedings had before the City of Kingston Historic Landmarks Preservation Commission and in consideration of all submittals to the Planning Board; and,

WHEREAS, owing to the previous extensive litigation and continuing anticipated proceedings instituted by project opponents, the Planning Board has endeavored to, once again, comprehensively address the Kingstonian Project in light of the special use permit objectives and the site plan objectives [See also, December 16 2019 SEQRA Negative Declaration] pursuant to the City of Kingston Zoning Law, as well as in arriving at the resolutions embodied within this Decision; and,

WHEREAS, the members of the Planning Board have read this Resolution and Decision, know the contents thereof and desire to adopt the same, subject to the conditions subsequent as set forth herein.

NOW THEREFORE, BE IT RESOLVED, that pursuant to Sections 27-A and 27-B of the New York State City Law and Chapter 405 of the City of Kingston Code (Zoning Law), the City of Kingston Code and upon the record had herein, the Planning Board hereby adopts and issues this Resolution/Decision upon the vote thereupon and the signature of the Planning Board Chairman

herewith and in accordance with the following additional recitations made a part hereof; and,

BE IT FURTHER RESOLVED, that the December 16, 2019 SEQRA Negative Declaration and all of the Findings contained therein are hereby incorporated by reference within the Findings made part of this Resolution/Decision as if set forth at length herein and the history, methodology and reasoning set forth within said Negative Declaration, as well as all subsequent Planning Board articulations, are expressly relied upon in making all determinations as set forth within this Resolution/Decision; and,

BE IT FURTHER RESOLVED, that all of the legal proceedings filed to date within the Ulster County Supreme Court, the New York State Appellate Division, Third Department, and the New York State Court of Appeals, as introduced of record by the Applicant and/or the project opponents, are hereby incorporated by reference within Findings made part of this Resolution/Decision, as if set forth at length herein, to the extent that the same, as well as the multiple Court Decisions, contain an exhaustive address of issues associated with the legislative/administrative review of the Kingstonian Project to date; and,

BE IT FURTHER RESOLVED, that the Applicant shall follow all recommendations of the City of Kingston Tree Commission as agreed to by the Applicant and as shown upon the Landscaping Plans; and,

BE IT FURTHER RESOLVED, that the Applicant shall pay all Recreation Fees as determined, by the City of Kingston Recreation Commission as part of the Kingstonian Project and in lieu of the dedication of public parkland; and,

BE IT FURTHER RESOLVED, that the Planning Board concurs with the March 9, 2022 Preservation Notice of Action, as issued by the City of Kingston Historic Landmarks Preservation Commission [HLPC] and with the assistance of the City of Kingston Heritage Area Commission [HAC], and upon Planning Board review of the entire analysis of specific review criteria of the Preservation Notice of Action is hereby agreed with, ratified and adopted by the Planning Board. [A copy of the March 9, 2022 Preservation Notice of Action Decision is annexed hereto and made a part hereof as Exhibit "A."]; and,

BE IT FURTHER RESOLVED, that the project refinements as introduced by the Applicant, are acceptable from visual, aesthetic, and historical perspectives and the same are compatible with the Mixed Use Overlay District and the Historic Stockade District. In association with this Finding, the Planning Board emphasizes that the special permit "objectives" and site plan approval "objectives" [City of Kingston Zoning Law Sections 405-30 and 405-32] were all analyzed within the December 16, 2019 SEQRA Negative Declaration and in further consideration thereof, the Planning Board makes the following determinations [See also, Site Plans, landscaping, architectural plans, renderings and visuals].

A) Site Plan Objectives.

(1) The site plan is in conformance with such relevant portions of the Comprehensive Plan of the City as determined during the rezoning process, as approved by the City of Kingston Common Council.

(2) The design of all structures is compatible with that of surrounding structures. Said compatibility has been determined by way of a review of proposed use of materials, scale, mass, height, color, texture and location of the structure or structures on the site, as well as involved/interested agencies and approval/consultation with the NYSOPRHP, HLPC and HAC during the pendency of administrative review.

(3) All proposed traffic access ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and meet other similar safety considerations. Specific reference is further made to the Traffic Report, the Negative Declaration and documentation submitted by the City of Kingston Fire Chief during administrative review.

(4) Adequate off-street parking and loading spaces are provided to prevent the parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to

provide safe accessibility to all required off-street parking lots, loading bays and building services [See Site Plans and parking analysis submitted by Dennis Larios, PE].

(5) All playground, parking and service areas are reasonably screened, at all seasons of the year, from the view of adjacent residential lots and streets the general landscaping of the site is such as to enhance the character of the City and is in character with that generally prevailing in the neighborhood. Particular note is made of the Tree Commission Comments and responses thereto by Planning Staff and the Applicant [See also, Landscaping Plans].

(6) That all existing trees over eight inches in diameter, measured three feet above the base of the trunk, have been retained to the maximum extent possible.

(7) All plazas and other paved areas intended for use by pedestrians have been refined to use decorative pavements and plant materials so as to prevent the creation of expanses of pavement. The Plaza and the Schwenk Drive project refinements incorporate greater pedestrian access and create a sense of space.

(8) All outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets. All lighting is glare shielded, LED, downward directed and dark sky compliant [See also, Lighting Plan].

(9) The drainage system and the internal water and sewer systems are adequate and that all connections to City systems shall be in accordance with City standards. The City of Kingston Water and Sewer Department and the City of Kingston Building and Safety Department have all been consulted as part of the review of the Kingstonian Project. [See Stormwater Report and Water/Waste Water Report].

(10) The site plan and building design accommodate the needs of the handicapped and are in conformance with the state standards for construction concerning the handicapped.

(11) The site plan and building design maximize the conservation of energy [See Greenbuild Study, Energy Conservation Methods and New York State Building/Fire Code compliance documentation].

(12) In reviewing the site plans for the Kingstonian, due consideration has been given to the public health, safety and welfare, the comfort and convenience of the public, the residents or users of the Kingstonian and immediate neighborhood. In this regard, the Planning Board references the December 16, 2019 SEQRA Negative Declaration, the November 11, 2019 "Objectives" Memorandum by Michal A. Moriello, Esq., the administrative record of the Kingstonian Project, the legislative record of the Kingstonian Project and the fact that all Approvals granted to the Kingstonian project have been upheld in all instances at the Ulster County Supreme Court and at the New York State, Third Department, Appellate Division, to date.

B) Special Use Permit Objectives.

(1) All proposed structures, equipment or material is readily accessible for fire and police protection [See Traffic Report, Negative Declaration and documentation submitted by the City of Kingston Fire Chief].

(2) The Kingstonian is of such location, size and character that, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties. The Planning Board further references the Negative Declaration, the rezoning legislative record, the City of Kingston Zoning Board of Appeals Decision, the NYSOPRHP No Adverse Effects

Letter and the HLPC Preservation Notice of Action].

(3) In the case of any use located in or directly adjacent to a residential district, including the Mixed Use Overlay District:

(a) The location and size of the Kingstonian, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets is such that pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or incongruous with said residential district or conflict with the normal traffic of the neighborhood [See also, Traffic Report, the Negative Declaration, Fire Chief submittals, Fair Street Extension closure submittals and the Site Plan Maps.

(b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or diminish the value thereof [See Structural Report and the NYSOPRHP, HLPC, HAC and NYSOPRHP Tree Commission and Planning Board records, determinations and/or Approvals].

(4) In reviewing the Special Use Permit objectives and after the holding of a public hearing, the Planning Board has taken into consideration the public health, safety and welfare in prescribing the appropriate Resolution/Decision conditions in order to safeguard the Special Use Permit objectives.

(5) In further analysis of the Special Use Permit objectives, the Planning Board references the December 16, 2019 SEQRA Negative Declaration, the November 11, 2019 "Objectives" Memorandum by Michael A. Moriello, Esq., the administrative record of the Kingstonian Project, the legislative record of the Kingstonian Project and the fact

that all Approvals granted to the Kingstonian have been upheld in all instances at the Ulster County Supreme Court and at the New York State, Third Department, Appellate Division, to date; and,

BE IT FURTHER RESOLVED, that the Planning Board reiterates that the Kingstonian is consistent with and in harmony with the character of the neighborhood based upon the following:

i.) Extensive address of this issue within the SEQRA Negative Declaration.

ii.) The inclusion of a special use within a zoning law is tantamount to a legislative finding that the use is in harmony with the neighborhood, as continuously determined by the New York State Court of Appeals and indeed, in the matter of the Kingstonian Project at the Supreme Court and Appellate Court levels.

iii.) Mixed Use Overlay District compatibility with the Kingstonian residential, commercial and public uses. The Planning Board finds that the affordable housing, which has been provided for as part of the Kingstonian Project, will assist with the diversification of housing options.

iv.) Additional parking and commercial development options will facilitate a mix of uses which will assist with revitalization of the uptown area of the City of Kingston.

v.) The Kingstonian will be in harmony with the Historic Stockade District and the existing architectural features [See visuals, architectural details, architectural submittals, HLPC Decision, NYSOPRHP No Adverse Effects Letter and the Planning Board record].

vi.) The elimination of a vacant diner, a black topped parking facility portion, and an old warehouse building will substantially improve the aesthetics of the area of the project site; and,

BE IT FURTHER RESOLVED, that in connection with review of the foregoing site plan and special use permit objectives for the second time [See also, the December 16, 2019 Negative Declaration], the Kingstonian Project refinements have operated consistently with the stated objectives in order to enhance the Kingstonian aesthetics, historical consistency and effects upon neighborhood character and,

BE IT FURTHER RESOLVED, that the project refinements are consistent with a comprehensive site plan analysis and that despite project opponents continuing claims regarding traffic, emergency vehicles, the Historic Stockade District, parkland, zoning compliance, and other matters, there has been no submittal of after acquired information which would operate to alter the Negative Declaration, the controlling precedents of Kingstonian Court Decisions, the address of the City of Kingston Zoning Ordinance review requirements and/or the Findings made herein; and,

BE IT FURTHER RESOLVED, that in further consideration of the submitted project opponents claims, the Planning Board makes the following determinations:

i.) Form Based Zoning is not in effect in City of Kingston and the same is inapplicable to the Kingstonian Project.

ii.) The Herzog's Plaza and connectivity thereto is shown upon the site plans and the pedestrian bridge has been determined to be situate in a safe place during the SEQRA review for the Kingstonian. The slight relocation of one pedestrian bridge stanchion assists with connectivity and aesthetic appearance.

iii.) The walkways and connections to the pedestrian bridge are safe and the Planning Board notes that hundreds of pedestrians safely occupy portions of the Herzog premises every day in order to shop, dine and engage in recreational activities.

iv.) The project opponents claims regarding Floor to Area Ratio, Floodplain Variances and parking requirement calculations are inaccurate in light of the detailed submittals by the Applicant, the requirements set forth within the City of Kingston Zoning Law and the Site Plan depictions, calculations and recitals.

v.) As a result of project refinements during the lengthy site plan review process, the City of Kingston Zoning Board of Appeals is not required to rule upon any variances of any nature for the project, as no area variances are required.

vi.) The claims made to the NYSDEC and Empire State Development under NYCRR Parts 428.1 and 428.4 have been rejected

by said agencies and the Planning Board concurs with both agencies conclusion that further review by the NYSOPRHP is not required.

vii.) An easement for the pedestrian bridge over Schwenk Drive has been made of record by way of Resolution and Deed recording by the City of Kingston Common Council; and,

BE IT FURTHER RESOLVED, that the Planning Board has determined to overrule the June 1, 2022 Ulster County Planning Board Recommendation "Required Modifications" in two instances as follows":

i.) There is no safety reason which would be accentuated by installation of a sidewalk along the Walgreens Pad or the removal of the middle "thru-land" going towards Schwenk Drive; and,

ii.) There is no need for a shuttle bus to serve the uptown area for parking which is temporarily not available during construction. In this regard, Ulster County Bus service is provided for this area at the present time and will continue to do so in the future, as such, additional temporary bus service is not necessary.

In reaching the foregoing Findings the Planning Board references the submittals of Dennis Larios, PE and Scott Dutton, RA and their collective testimony at the June 17, 2022 Planning Board Meeting. There is already a walking bridge employed as part of the project and the elimination of a middle thru-lane could actually prove to be difficult to navigate by pedestrians, as documented by the Applicants consultants. In addition, the Herzog's Plaza parking area, other nearby public parking areas, and designated parking eliminate any perceived need for this Required Modification; and,

BE IT FURTHER RESOLVED, that the Planning Board hereby grants a waiver of parking requirements pursuant to Section 405-34(H) of the City of Kingston Zoning Ordinance based upon the documentation submitted by Dennis Larios, PE which analyzed numbers of spaces for the Kingstonian (331) in light of the 427 spaces to be made available upon project completion at the Kingstonian site. In this regard, the Planning Board references the following in making the Waiver determination:

a.) 96 public parking spaces will be available if all 331 spaces are utilized for the Kingstonian under Zoning

Ordinance requirement. Hotel, restaurant and retail public uses will be transient, used at staggered times and total 84 spaces. This will free up additional parking for public use.

- b.) There are 66 additional public spaces available at the North Front Street Lot, adjacent to Front Street Tavern.
- c.) There are approximately 1,650 spaces available at the Kingston Plaza (owned by one of the Kingstonian principals) and only 1,062 spaces are committed to all tenants at the present time (603 spaces in excess of Zoning Ordinance standards presently exists).
- d.) "Overflow Parking" has been identified at the Kingston Plaza (223 spaces on the west end and 176 spaces on the east end). These spaces will be available during the construction period.
- e.) There will be an interconnection elevated walking bridge from the Kingston Plaza to the Kingstonian to facilitate access and assist with additional parking.
- f.) Pedestrian pathways and bike accentuations have also been located on the site plan maps in and around the project.
- g.) The project plans call for a "Staging Area" at the Kingston Plaza, for storage of material and construction equipment during the duration of project construction.
- h.) As the Kingstonian parking garage will be privately owned and operated, the facility will be available for the life of the project in accordance with Section 405-33(H) of the Zoning Ordinance.
- i.) The Planning Board also takes notice of the Applicants position that a parking waiver is not necessary, as 96 additional public spaces are available after all 331 spaces required under the Zoning Ordinance are committed to Kingstonian private use. In this regard, the Planning Board agrees with the Applicant's position. Nevertheless, owing to the project

opponents parking claims, the Planning Board also determines to further buttress the administrative record and grant the waiver of parking requirements as set forth herein; and,

BE IT FURTHER RESOLVED, that owing to the continuous litigation associated with this project by the project opponents, and upon request by the Applicant, the Planning Board hereby determines to extend the time limit on the site plan approval granted herein from four (4) months to two (2) years from the date of this Approval within which the Applicant is to obtain a Building Permit; and,

BE IT FURTHER RESOLVED, that owing to the litigation aforesaid and the expectation that said litigation will be continued, the Planning Board further determines to initially issue the Special Use Permit for Mixed Use Overlay District applicability for one (1) year, as required under Section 405-32 of the City of Kingston Zoning Law. In connection therewith, the Planning Board further determines to pre-emptively waive the one (1) year period for special use permit renewal and said special use permit approval shall run with the land; and,

BE IT FURTHER RESOLVED, that based upon project refinements the Applicant has obviated the need for landscaping, setbacks, and flood zone area variances. A Floodplain Development Permit will be necessary to obtain (Floodplain Zone A) under the Zoning Ordinance, owing to a small portion of the parking garage location. However, as demonstrated by the Applicant, a variance will not be required from the Floodplain Standards set forth within the Zoning Ordinance; and,

BE IT FURTHER RESOLVED, that the Planning Board finds that the Kingstonian Project meets all Mixed Use Overlay District requirements, affordable housing provisions, and C-2/MUOD development standards; and,

BE IT FURTHER RESOLVED, that all Ulster County Supreme Court and Third Department Appellate Division Decisions, rulings and associated factual/substantive analysis involving litigation pertaining to the Kingstonian Project are hereby incorporated within this Resolution/Decision and collectively made a part hereof, as if fully set forth at length herein; and,

BE IT FURTHER RESOLVED, that the Kingstonian Project shall comport with the following conditions subsequent to this Resolution/Decision as follows:

- i.) Payment of any Inspection Fees to the City of Kingston.
- ii.) Filing of this Resolution/Decision in the Offices of the City of Kingston City Clerk.
- iii.) Payment of recreation fees to the City of Kingston.
- iv.) Filing of a performance bond in accordance with Section 405-30(D)(9) of the City of Kingston Zoning Ordinance.
- v.) Obtaining all sewer, water and utility backups in accordance with oversight and associated requisite permits by all associated City of Kingston officials and Departments.
- vi.) Following the Archaeological Monitoring Plan by Joseph E. Diamond, PhD and as reviewed by the New York State Office of Parks, Recreation, and Historic Preservation, the City of Kingston Historic Landmarks Preservation Commission and this Planning Board.
- vii.) Obtaining a Floodplain Development Permit under the City of Kingston Zoning Ordinance from the City of Kingston Building and Safety Department.
- viii.) Compliance with all Site Plans, architectural plans and landscaping plans as approved herewith.
- ix.) Compliance with any Payment in Lieu of Taxes (PILOT) requirements under law.
- x.) Obtaining a Demolition Permit from the City of Kingston Building and Safety Department, with strict adherence to all Demolition Permit Requirements.
- xi.) City of Kingston Engineer/MS4 Officer Stormwater Pollution Preventing Plan Acceptance and Filing of Notice of Intent with the NYSDEC:
- xii.) City of Kingston Water Department
 - a.) Water Tap Permit
 - b.) Backflow Prevention Permit

- xiii.) City of Kingston Department of Public Works
 - a.) Street Excavation Permit
 - b.) Sewer Tap Permit
 - c.) Sidewalk Permit

- xiv.) Ulster County Health Department
 - a.) Pool Permit
 - b.) Restaurant Permit
 - c.) Temporary Resident Permit
 - d. Back Flow Prevention Permit

- xv.) Obtaining of any other authorizations and permits, as required at law, from local, county and/or state agencies, as set forth within the administrative record and including but not necessarily limited to, the following:
 - a.) NYSDEC.
 - b.) Ulster County Health Department.
 - c.) City of Kingston Building and Safety Department.
 - d.) City of Kingston Water Department.
 - e.) City of Kingston Sewer Department.
 - f.) The Ulster County Industrial Development Agency.
 - g.) The City of Kingston Department of Public Works.
 - h.) The City of Kingston.
 - i.) The State of New York and Local Funding Agencies.
 - j.) County of Ulster.
 - k.) All other applicable agencies and/or officials at law.

BE IT FURTHER RESOLVED, that all work shall be in compliance with the approved plans, regulations, laws and ordinances governing the Site Plan and construction on the site. In the event the City Consulting Engineer and Building Inspector agree that, as a result of conditions in the field, changes are necessary to complete the work of the Site Plan and if in the opinion of the City Consulting Engineer and Building Inspector such field changes are minor and do not have any material impact on the overall design of the Site Plan, then the City Consulting Engineer and Building Inspector may, upon the filing of plans which reflect such field changes, allow such changes. In all other circumstances any deviation from or change in the approved plans shall require application to the Planning Board for Site Development Plan Amendment; and,

BE IT FURTHER RESOLVED, that work shall not be commenced on any portion of the Kingstonian Project site without first contacting the City of Kingston Building Inspector and the City Consulting Engineer to ensure that all permits and approvals have been obtained and to establish an inspection schedule; and,

BE IT FURTHER RESOLVED, that the Planning Board hereby imposes the following Planning Board Policies as follows:

- #1&1a - Storm water management plan and SPDES permit
- #2- Removal of trees shall also require incorporation of appropriate trees within a full landscape plan.
- #3, 3a, 3b - Performance bond approved by City Engineer with 10% contingency prior to building permit being issued and not released until final as-built plans are provided. The bond must be in a form that is acceptable to the City of Corporation Counsel), Renewals as may be determined by staff.
- #4 & 4a - lighting levels and corrections if necessary.
- #6- signature on final plans
- #7 & 7a - active approvals and applied conditions
- #8 & 8a- clerk of the works and project directory submitted for the record
- #12 - Dumpster collection during normal business hours
- #13- Contact information updated as changes occur
- #14 - Dig Safely certification,
- #14a -Central Hudson verification of services
- #15- Zoning Analysis for compliance with standards
- #18 - Recreation Fee in lieu of public parkland
- #19 - Compliance with Noise Ordinance.
- #20 - Consulting Fees as may be required.
- #22 - Carbon Monoxide Detectors; and,

BE IT FURTHER RESOLVED, that the Planning Board requires the installation of Knox Box units. In this case it is appropriate to meet with the City of Kingston Fire Department and The City of Kingston Building and Safety Department to determine if more than one is required and determine one or more locations; and,

BE IT FURTHER RESOLVED, that Final Special Use Permit Approval and Final Site Development Plan Approval for the Kingstonian Project are hereby granted by the City of Kingston Planning Board for the Kingstonian Project upon the vote set forth below and the execution of this Resolution/Decision by the Planning Board Chairman herewith; and,

BE IT FURTHER RESOLVED, that the City of Kingston Planning Board Chairman shall sign and date the Final Site Development Plan Maps following the execution and dating of this Resolution/Decision and issuance of the Special Use Permit.

Motion: _____

Second: _____

The Votes of the Planning Board of the City of Kingston being as follows:

	YEA	NAY
Planning Board Chairperson: Platte	_____	_____
Planning Board Member: Polacco	_____	_____
Planning Board Member: Gillis	_____	_____
Planning Board Member: Jacobsen	_____	_____
Planning Board Member: Hamilton	_____	_____

WHEREUPON, the Resolution and Decision was declared adopted by the Planning Board of the City of Kingston this _____ day of _____, 2022.

 WAYNE D. PLATTE, Chairman
 City of Kingston
 Planning Board

CERTIFICATION

This is to certify that the foregoing Resolution/Decision, as made by the City of Kingston Planning Board upon the Application of Kingstonian Development LLC for the Kingstonian Project, was duly filed this __ day of _____, 2022 within the Offices of the City of Kingston Clerk.

ELISA TINTI
City of Kingston Clerk