



City of Kingston Laws and Rules Committee
Meeting Agenda
Wednesday, July 15, 2020
6:30 PM

You can dial in using your phone.
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United States (Toll Free): 1 877 309 2073
- One-touch: tel:+18773092073,,962426741#

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NEW BUSINESS

Zoning Amendment Montrepose Ave.
[20200709122102.pdf](#)

Midtown Linear Park Project
[20200709122628.pdf](#)

Heritage Area Commission Membership
[20200709122830.pdf](#)

Adoption of Kingston Open Space Plan
[20200709123513.pdf](#)

Kingston City Charter
[20200713090118.pdf](#)

1 OLD BUSINESS

- 1.a. Charter Commission
[20200310130147.pdf](#)
- 1.b. Mobil Food Truck Legislation
[20200408094744.pdf](#)
- 1.c. Commercial Vacancy Tax
[20200604103148.pdf](#)

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: City Clerk/Registrar

Item Type: Proposed Resolution

Agenda Section:

Subject:

Zoning Amendment Montrepose Ave.

Suggested Action:

Attachments:

[20200709122102.pdf](#)

CITY OF KINGSTON

L+R

Office of the City Clerk & Registrar of Vital Statistics

cityclerk@kingston-ny.gov

Steven T. Noble, Mayor
Elisa Tinti, City Clerk & Registrar



Deidre Sills, Deputy Clerk
Susan Mesches, Deputy Registrar

June 19, 2020

President Shaut
420 Broadway
Kingston, NY 12401

Dear Commission Members;

The attached application for a Zoning Amendment was received by the City Clerk's office and sent to the Kingston Common Council's Laws & Rules Committee for their review on July 15, 2020.

Please note that you have 30 days to submit your recommendation.

Thank you,


Elisa Tinti
City Clerk

ZONING AMENDMENT APPLICATION

Check one that applies:

- ☒ AMENDMENT OF ZONING MAP (REZONING)
☐ AMENDMENT OF ZONING ORDINANCE TEXT

1. Location and description of property (Street address, size, dimension, ward, tax parcel number):

2-16 Montreposse Street, Kingston NY 12401

.81 of an Acre. 9th Ward. SBL 56.42-4-7

See Exhibit A for lot dimensions

2. Name/Mailing Address/Phone # of Applicant(s):

Andrew Wright, Managing Member/Petitioner

233 Fair St, Kingston NY 12401

845-338-3383

3. Name/Mailing Address/Phone # of Owner(s):

Blue Stone Realty LLC

233 Fair St, Kingston NY 12401

845-338-3383

4. If rezoning, state current and proposed zoning classification:

Current zoning = RRR / Proposed zoning = RT

5. If text amendment, cite specific section(s) of Ordinance affected by request:

N/A

6. Provide detailed reason for request (Attach additional sheets as required): _____

See Zoning Petition documents attached.

7. Attach supporting documents as necessary, i.e.- maps, photographs, financial information, traffic, drainage data, petitions, condition reports, etc...

See Zoning Petition Exhibits attached.

Andrew Wright, Petitioner

PRINT NAME, TITLE

SIGNATURE

6/10/20

DATE

Sonia Lemus-Wright, Representative

PRINT NAME, TITLE

SIGNATURE

6/10/2020

DATE

FOR OFFICE USE ONLY

Date Received: _____	Referrals to HLPC: _____
Application Fee: _____	SEQRA: _____
Intro to KCC: _____	Referral to UCPB: _____
Referral to L&R: _____	Public Notice: _____
Referral to KPB: _____	Public Hearing: _____
FINAL DECISION/DATE/RESOLUTION #:	_____

617.20
Appendix B-
Short Environmental Assessment Form

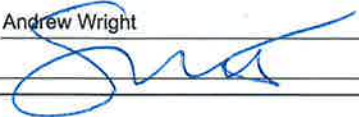
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Park Slope Kingston			
Project Location (describe, and attach a location map): 2-16 Montrepose Street in the city of Kingston. Corner of Montrepose Street and Pierpoint Street. See maps in attached Exhibits.			
Brief Description of Proposed Action: Development of raw land in the City of Kingston consisting of 14-market rate apartment units, community center, community pedestrian park and 23 parking spaces including 2 EV charging stations. To extend and conform the adjacent Rondout District to all of the .81 of an Acre. This parcel is immediately adjacent to the Rondout District designation; changing the designation of this parcel will conform with the immediate surrounding properties to the South and East which belong to the RT district.			
Name of Applicant or Sponsor: Andrew Wright		Telephone: 845-338-3383 E-Mail: wrightarchitects@gmail.com	
Address: 233 Fair St			
City/PO: Kingston		State: NY	Zip Code: 12401
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO ☐	YES ☒
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: City of Kingston Building Department and any other agencies deemed necessary by the lead agency.		NO ☐	YES ☒
3.a. Total acreage of the site of the proposed action?		.81 acres	
b. Total acreage to be physically disturbed?		.81 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. ☒ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ☐ Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☒	☐
b. Consistent with the adopted comprehensive plan?	☐	☒	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	☐	☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	☒	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	☒	☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☒	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☒	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: 20% better than current energy standards required by AHJ _____	NO	YES	
	☐	☒	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	☐	☒	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	☐	☒	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	☒	☐	
b. Is the proposed action located in an archeological sensitive area?	☒	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	☒	☐	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	☒	☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☒ Urban ☐ Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	☒	☐	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	☒	☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES	
a. Will storm water discharges flow to adjacent properties? ☒ NO ☐ YES	☐	☒	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: ☐ NO ☒ YES Storm water will be directed to existing storm water drains. _____			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	☒	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	☒	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	☒	☐
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Andrew Wright</u>		Date: <u>6-10-2020</u>
Signature: 		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing:	☐	☐
a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Name of Lead Agency Date	
Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer	
Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from Responsible Officer)	

PRINT

ZONING PETITION

June 10, 2020

OWNER OF RECORD:

BLUE STONE REALTY LLC
233 Fair Street
Kingston, NY 12401

PETITIONER:

ANDREW WRIGHT
MANAGING MEMBER
845-338-3383
233 Fair Street
Kingston, NY 12401

REPRESENTATIVE:

SONIA LEMUS-WRIGHT
WRIGHT ARCHITECTS PLLC
845-338-3383
233 Fair Street
Kingston, NY 12401

TO:

The Honorable Common Council of the City of Kingston

 **W R I G H T
A R C H I T E C T S**

233 FAIR STREET

KINGSTON NY 12401

845 - 338 - 3383

wrightarchitectspllc.com

ZONING PETITION FOR

Location:

2-16 Montrepose Street, City of Kingston NY 12401,

SBL:

56.42-4-7

Current Zoning Designation:

RRR (One-Family Residence)

Proposed Zoning Designation:

RT (Rondout District)

Size of lot:

.81 of an Acre

Proposed Land Use:

Improved lands located immediately adjacent to the Rondout District and to extend the Rondout District to include this lot.

Description of Land Improvements:

New construction over raw land as infill Development

Project proposed on Land:

14-1,000 sf market rate rental apartment units with parking, indoor community area and community park

Street Boundaries:

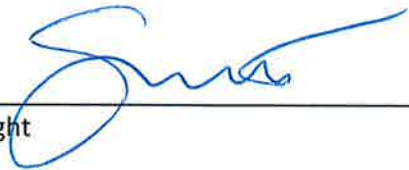
On the South Montrepose Avenue
On the East W Pierpont Street

SUMMARY

1. Petitioner respectfully request to the Honorable Common Council of the City of Kingston the change of Zoning from RRR to RT for subject premises depicted on LIBER 3131 PAGE 0343 land situated in the City of Kingston, County of Ulster, and the State of New York as shown on Exhibit "A" and City of Kingston Tax Map as Section, Block and Lot Number 56.42-4-7 as shown on Exhibit "B".
2. This petition is to extend and conform the adjacent Rondout District to all of the .81 of an Acre. This parcel is immediately adjacent to the Rondout District designation; changing the designation of this parcel will conform with the immediate surrounding properties to the South and East, as shown on Exhibit "C".
3. This lot is abutting zone R2 to the West, RT to the South and East and only one RRR property to the North; it is worth mentioning that the house located in the only RRR property abutting this lot is not visible from this property since there is a steep hill coming down onto this lot.
4. This lot used to be part of the Ulster Academy property SBL 56.42.4-8 which is located in the RT zone and across Montrepose Street from this lot; Ulster Academy was purchased from the petitioner in 2004 and then turned into condos.
5. Immediately to the West in the R2 zone, lot SBL 56.42.4-6 is classified as apartments.
6. Across from Pierpont Street in the RT zone lot SBL 56.42.12-6 is also classified as apartments.

7. The multifamily/apartment concept is not new to the area; furthermore, granting the change from RRR to RT, would allow for the lot to be used to its maximum potential and avoid to let it be underutilized.
8. The petitioner's design for this fourteen-unit development is intended to fit the contextual and historic landscape of the area. It also creates on-site parking to avoid disruption to the neighborhood; parking includes two EV charging stations. The project is designed using sustainable strategies and systems. A pedestrian park and community center have been included in the design to empower and include the local community. A preliminary design is included as Exhibit "D".
9. As a precedent for this request it is worth mentioning RESOLUTION 92 of 2020 ZONING AMENDMENT NO. 114 ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF KTNNGSTON, NEW YORK, AMENDING THE ZONING MAP TO EXTEND THE MIXED-USE OVERLAY DISTRICT TO INCLUDE 51 SCHWENK DRIVE, TAX MAP NO. 48.80-I-24.120

Yours Truly,



Andrew Wright
Petitioner

6/10/20



Sonia Lemus-Wright
Representative

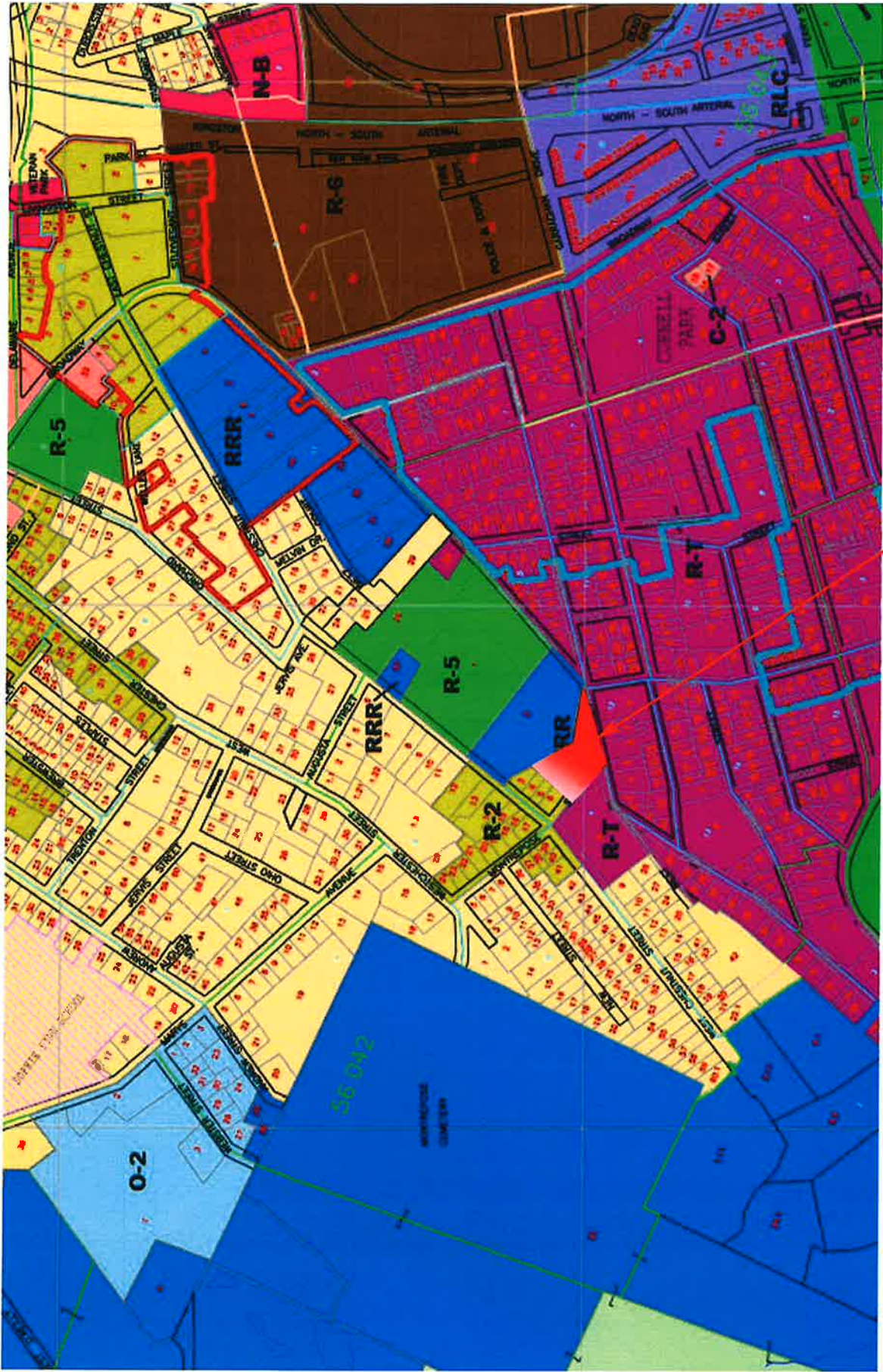
6/10/20

SCHEDULE A

All that tract or parcel of land situate in the City of Kingston, County of Ulster, and the State of New York, bounded and described as follows:

Beginning at a point in the Northerly line of Montrepose Street, said point being the most Southerly corner of lands now or formerly Safer (Liber 1494, p 733); thence along the Southeasterly line of said lands now or formerly Safer (Liber 1494, cp 733) and the Southeasterly lines of lands now or formerly Cristoforo (Liber 2045, cp 083), lands now or formerly Ballou (Liber 2140, cp 038) and lands now or formerly Berthiaume (Liber 2419, cp 025) North 30°14'34" East 168.49 feet to a point; thence along the Southerly lines of lands now or formerly Thompson (Liber 1385, cp 119) the following 4 courses: South 34°42'00" East 74.49 feet to an iron rod found, South 56°24'00" East 76.60 feet to a point, South 66°52'00" East 78.30 feet to an iron rod found and South 86°42'00" East 143.40 feet to a point in the Northerly line of West Pierpont Street; thence along the said Northerly line of West Pierpont Street South 69°55'00" West 220.17 feet to a point; thence on a curve to the right connecting the said Northerly line of West Pierpont Street with the said Northerly line of Montrepose Street, having a radius of 94.42 feet a distance of 80.52 feet to a point in the said Northerly line of Montrepose Street; thence along the said Northerly line of Montrepose Street North 61°13'26" West 138.71 feet to the point or place of beginning. Containing 0.81 of an Acre of land, more or less.

Subject to the existing easements and rights-of-way of record, if any.



Site



WRIGHT
ARCHITECTS
P L L C
222 FAIR STREET
KINGSTON, NY 12401
518 338 3383
www.wrightarchitects.com

Park Slope Kingston
2-18 MONTREPOSE ST, KINGSTON, NY 12401

REVISIONS:
1- HYDRA SUBMITTAL REVISION
2- TO COMMON COUNCIL REVISION

**SITE PLAN
FLOOR PLAN
LAYOUT**

JOB# D-001 JOB DATE 05/21/2020
SOW SHEET NUMBER

A-100.00

DATE OF THIS DRAWING: 05/21/2020

PRELIMINARY SUBMISSION

Exhibit "D"

June 10, 2020

OWNER OF RECORD:

BLUE STONE REALTY LLC
233 Fair Street
Kingston, NY 12401

MANAGING MEMBER:

ANDREW WRIGHT
845-338-3383
233 Fair Street
Kingston, NY 12401

REPRESENTATIVE:

SONIA LEMUS-WRIGHT
WRIGHT ARCHITECTS, PLLC
845-338-3383
233 Fair Street
Kingston, NY 12401

Location:	2-16 Montrepose Street, City of Kingston NY 12401
SBL:	56.42-4-7
Current Zoning designation:	RRR
Proposed Zoning designation:	RT

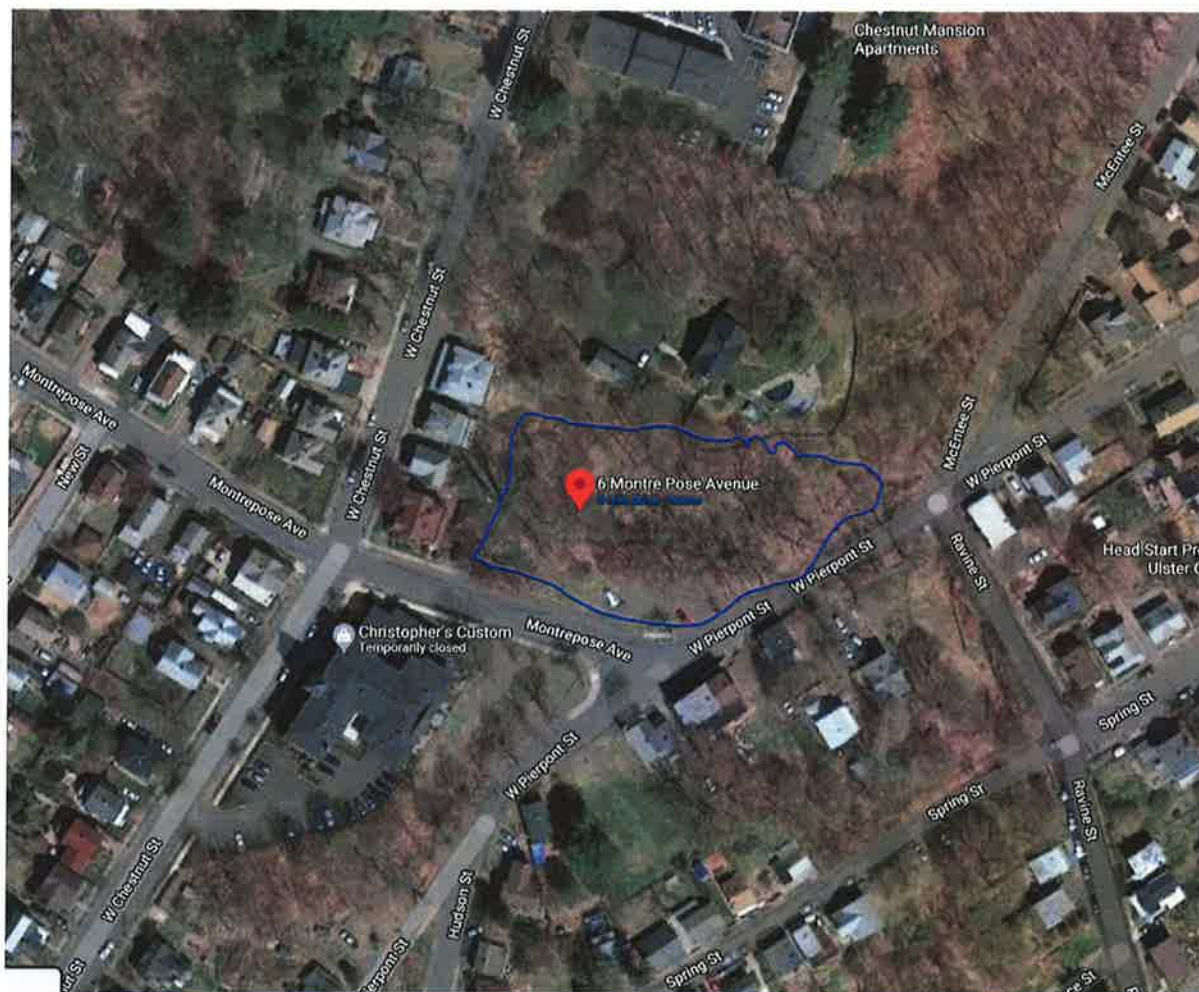
<u>Lot Regulations:</u>	<u>Requirements</u>	<u>Proposed</u>	<u>Approved</u>
Area RRR	12,000 sf	35,284 sf	
Area RT	14 sf		
Width RRR	100'	439.4'	
Width RT	40'		
Depth RRR	125	168.49'	
Depth RT	--		
Area/Dwelling Unit RRR	--	--	
Area/Dwelling Unit RT	2,000 sf	2,520	
Minimum Yard Requirements			
Front Yard RRR	30'		
Front Yard RT	--	1'	

Side Yards RRR	15'	
Side Yards RT	11'	42'
Rear Yards RRR	30'	
Rear Yards RT	11'	32'
Maximum Bldg. Hgt. RRR	35' / 2 1/2	
Maximum Bldg. Hgt. RT	35' / 2 1/2	35' at tallest point
Maximum Lot Coverage RRR	30%	
Maximum Lot Coverage RT	80%	23%
Minimum Usable Open Space RRR	--	
Minimum Usable Open Space RT	400 sf	1,943 sf
Floor Area Ratio RRR	--	
Floor Area Ratio RT	1.0	.46

Park Slope

Kingston (2-6 Montrepose Street, Kingston NY 12401)

Site location



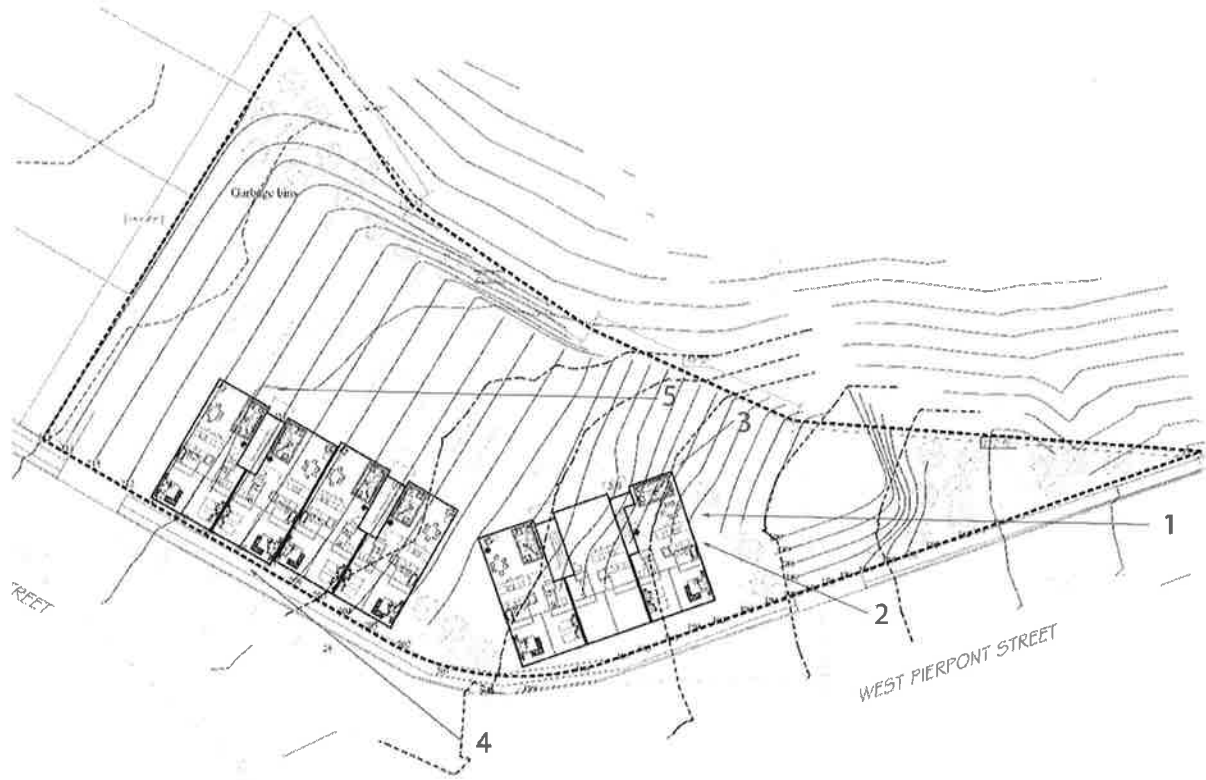
From Uphill



From Downhill



SITE PLAN KEY FOR 3D PRELIMINARY DESIGN VIEWS



View 1 – Down from W Pierpont St



View 2 – From W Pierpont St



View 3 – From Parking with Ulster Academy Lofts in background



View 4 – From downhill Montrepose



View 5 – From downhill parking



Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Mayor

Item Type: Proposed Resolution

Agenda Section:

Subject:

Midtown Linear Park Project

Suggested Action:

Attachments:

[20200709122628.pdf](#)

CITY OF KINGSTON
Office of the Mayor
mayor@kingston-ny.gov

L+R

Steven T. Noble
Mayor



June 17, 2020

Andrea Shaut, Alderman-at-Large
President of the Common Council
City Hall, 420 Broadway
Kingston, NY 12401

Re: Midtown Linear Park

Dear President Shaut:

This is a communication requesting placement on the agenda of the Laws and Rules Committee in July 2020 to discuss a proposed resolution authorizing the Mayor to execute an Easement with Ulster County regarding the Midtown Linear Park Project.

The County has requested the easement in order to design and construct the Midtown Linear Park on crossings of Down Street, Cornell Street, and O'Neil Street and to meet requirements of NYSDOT's federal aid right-of-way acquisition procedures. The project is partially funded by federal aid through the DOT's Transportation Alternatives Program. A copy of the draft of the easement is attached.

It is requested that this be considered at the July Laws and Rules meeting, so that the resolution can be adopted by the City at our August Common Council meeting. Then the County will be able to submit a resolution approving the easement to the Ulster County Legislature during their August session.

Should you have any questions concerning this request, please do not hesitate to contact me.

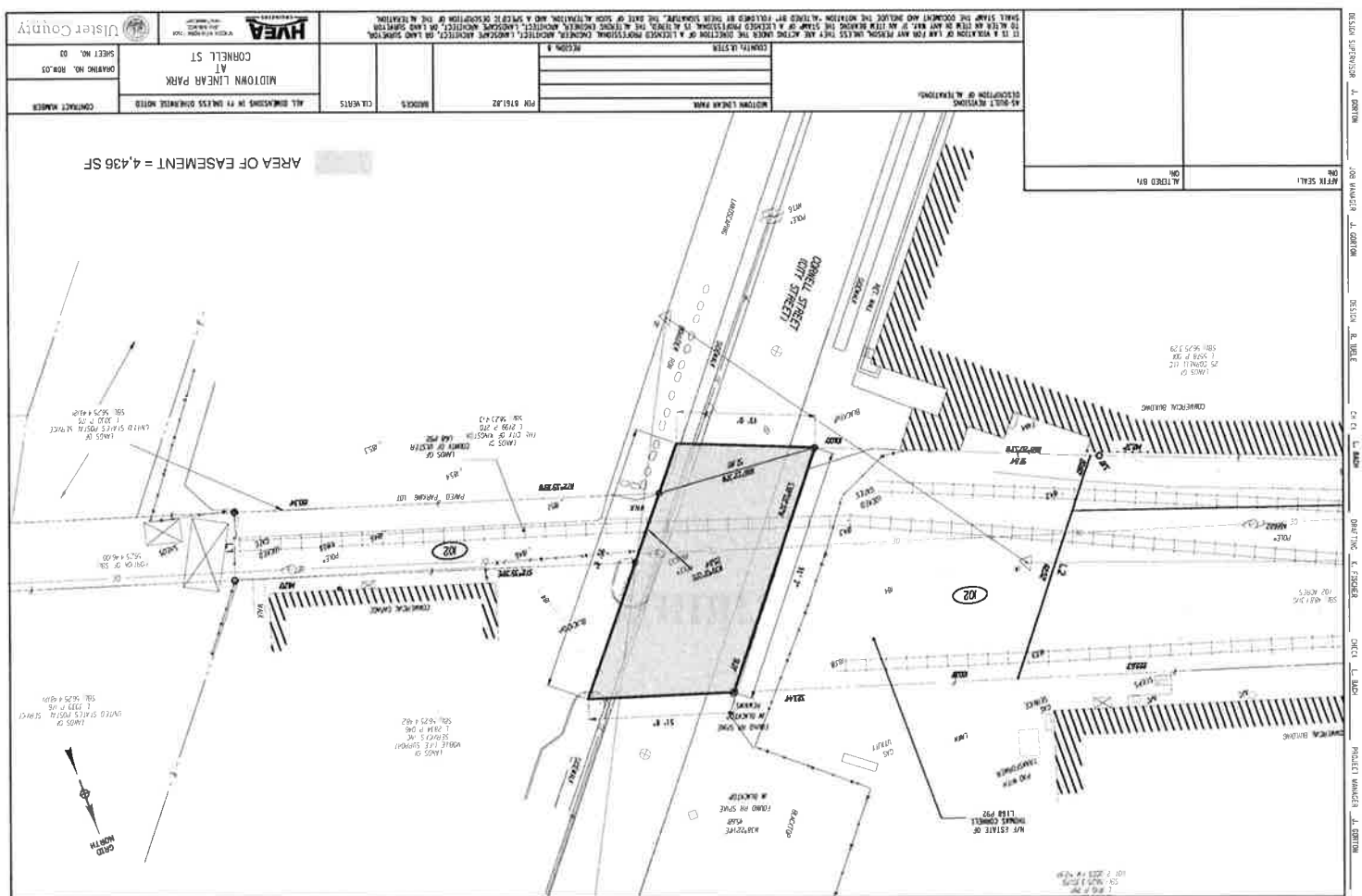
Respectfully Submitted,

Steven T. Noble
Mayor

EXHIBIT A

EXHIBIT B

EXHIBIT C



AGREEMENT AND DEED OF PERMANENT EASEMENT

This AGREEMENT AND DEED OF PERMANENT EASEMENT (the "Agreement") is hereby entered into by and between the City of Kingston, a municipal corporation of the State of New York with its principal offices at 420 Broadway, Kingston, New York 12401 (the "City," and together with its successors and/or assigns, the "Grantor"); and the County of Ulster, a municipal corporation of the State of New York with its principal office at 244 Fair Street, Kingston, New York 12401 (the "County," and together with its successors and/or assigns, the "Grantee").

WITNESSETH

WHEREAS, the City is the owner in fee of 12,593 square feet real property coterminous with Downs Street, Cornell Street, and O'Neil Street within the City (the "Property"); and

WHEREAS, the County desires to construct and maintain a non-motorized shared-use pathway known as the Ulster County Midtown Linear Park- PIN 8761.82 (the "Midtown Linear Park") that will be coterminous with the Property; and

WHEREAS, the County is currently the owner and successor-in-interest of a perpetual and exclusive easement for railroad purposes, dated June 15, 1911, and recorded in the Office of the Ulster County Clerk under Liber 443 of Deeds, Page 58, and acquired by the County by Quitclaim deed, dated July 24, 1979, recorded at the Ulster County Clerk's Office on August 10, 1979 under Liber 1414 and Page 933 (the "Railroad Easement"), which is conterminous with the Property; and

WHEREAS, the County and the City have determined that it is desirable and necessary for the County to enter the Property with workers, materials and equipment to design, construct, operate, maintain, and repair the Midtown Linear Park, including all appurtenances and facilities; and

WHEREAS, in light of the foregoing, the County has determined it to be desirable and necessary to secure, and has requested that the City grant, a permanent easement to the County authorizing it to enter upon the Property in order to design, construct, operate, maintain and repair the Midtown Linear Park (the "Trail Easement") without in any way extinguishing or diminishing the County's rights in connection with the Railroad Easement; and

WHEREAS, the County's construction of the Midtown Linear Park will benefit the residents of the City and, as such, the City intends to convey to the County the requested Trail Easement through this Agreement; and

WHEREAS, by executing this Agreement, the signors on behalf of the City and County represent that proper authority has been vested in them by their respective governing bodies.

NOW, THEREFORE, in consideration of one dollar (\$1.00), receipt of which is hereby acknowledged, and of the promises and of the mutual covenants and agreements set forth herein, and of the undertakings of each party to the other, the Grantor and hereby grants, conveys and releases to Grantee a permanent Trail Easement running with the land allowing the Grantee to design, construct, operate, maintain and repair a non-motorized shared-use pathway, including all

appurtenances and facilities, over the Property, subject to the following terms, conditions, and limitations:

1. The scope of the Property is depicted and set forth on three separate maps prepared by HVEA Engineers, PC entitled "MIDTOWN LINEAR PARK AT DOWNS ST", "MIDTOWN LINEAR PARK AT O'NEIL ST", and "MIDTOWN LINEAR PARK AT CORNELL ST", which are attached as Exhibits A, B, and C to this Agreement, and which are intended to be filed in the Ulster County Clerk's Office immediately prior to the recording of this Agreement.
2. The Grantor shall reserve all rights and obligations to conduct maintenance on Downs Street, Cornell Street, and O'Neil Street, including any utilities and utility lines, whereas the Grantee will receive and maintain the right to conduct any maintenance on the portion of the Midtown Linear Park coterminous with the Property, including all appurtenances and facilities, as deemed necessary by the Grantee.
3. The Grantor shall be responsible for all costs associated with any relocation or reconstruction of, or damage to, the Midtown Linear Park resulting from the failure of the Grantor's infrastructure or from Grantor's activities on the Property.
4. The Trail Easement and the exercise by the Grantee of its rights hereunder shall not extinguish or in any way diminish the Railroad Easement or any rights of the Grantee related thereto.
5. In addition to Grantor and Grantor's employees, any rights, benefits, and permissions granted under the Trail Easement shall inure to the benefit of Grantor's contractors, subcontractors, agents or any other designees of the Grantor.
6. The Grantee may, at its discretion, convey this Trail Easement to a third party for, among other things, the purposes of operating and maintaining the Midtown Linear Park.
7. The Trail Easement shall be non-exclusive, run with the land, and shall be binding upon and inure to the benefit of the Grantor, the Grantee, and their successors and assigns.
8. The Agreement may not be modified, altered, amended, or extinguished except by written instrument signed and executed by both parties hereto and recorded in the Ulster County Clerk's Office.
9. The parties shall mutually and reciprocally indemnify each other and their respective officials, officers, employees, agents, contractors and subcontractors and save each other harmless from any liability, damage, claims, demands, costs or losses to the extent arising directly or indirectly out of their officials', officers', employees', agents', contractors, or subcontractors' respective acts or omissions pursuant to this Trail Easement, provided

however, that: (i) in no event or instance shall Grantee have any liability, under any circumstance, for lawsuits, property damage, or any other injury suffered by trail users, property owners or anyone else as a result of, or in any way related to or caused, directly or indirectly, by Grantor's acts, omissions, obligations and/or responsibilities related to the Trail Easement; and (ii) in no event or instance shall the Grantor have any liability, under any circumstance(s) for lawsuits, property damage, or any other injury suffered by trail users, property owners or anyone else as a result of, or in any way related to or caused, directly or indirectly, by Grantee's acts, omissions, obligations and/or responsibilities related to the Trail Easement.

10. Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that the Grantee will not make any improvements to Downs Street, Cornell Street and O'Neil Street without the express written approval of the Grantor.
11. The provisions of this Agreement are severable and if any court of competent jurisdiction shall render a judgment that any provision hereof is null or void, the effect of said judgment shall be limited to the nullified or voided provision of this Agreement and the remaining provisions shall continue in full force and effect.
12. The Agreement shall not be in full force and effect until fully executed by both the City and County.

IN WITNESS WHEREOF, the parties to this Agreement, acting under the authority of their respective governing bodies, have caused this Agreement to be executed in counterparts, each of which shall constitute an original as of the dates set forth below.

THE CITY OF KINGSTON

Dated: _____

By: _____

On this ____ day of _____, 2020, before me personally came _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

THE COUNTY OF ULSTER

Dated: _____

By: _____

On this ____ day of _____, 2020, before me personally came _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC



Recd
6/25/2020
L+R

KINGSTON CITY COURT

1 GARRAGHAN DRIVE
KINGSTON, NEW YORK 12401

(845) 481-9350
FAX (845) 483-8113

LAWRENCE E. BALL
City Court Judge
PHILIP W. KIRSCHNER
City Court Judge
NICOLE MURPHY
Chief Clerk

June 23, 2020

Mayor Steven Noble
Kingston City Hall
420 Broadway
Kingston, New York 12401

Andrea Shaut
Alderman at Large
420 Broadway
Kingston, New York 12401

Kevin Bryant, Esq.
Corporation Counsel
420 Broadway
Kingston, New York 12401

re: Kingston City Charter

Dear Sirs/Madam:

I have recently heard through local media that the Common Council may soon undertake the revision of the Kingston City Charter. In that regard please find correspondence forwarded by the Court on 6/1/15.

Thank you for your kind attention.

Very truly yours,

LAWRENCE E. BALL
Kingston City Court Judge

LEB/jmc

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Planning

Item Type: Proposed Resolution

Agenda Section:

Subject:

Heritage Area Commission Membership

Suggested Action:

Attachments:

[20200709122830.pdf](#)

★hold to July

CITY OF KINGSTON
Heritage Area Commission
planning@kingston-ny.gov



L+R

Suzanne Cahill, Planning Director
Julie Edelson-Safford, Historic Preservation Administrator

Steven T. Noble, Mayor

May 28, 2020

Andrea Shaut, President
City of Kingston Common Council
City Hall – 420 Broadway
Kingston, New York 12401

RE: Heritage Area Commission – Request Membership Changes

Dear President Shaut:

The Planning Department, as administrator for the Heritage Area Commission (HAC) would like to request that the Common Council consider amending section 22-20 of the City Code relating to the membership of the HAC. Presently, the current section calls for eleven (11) members, appointed by the Mayor. At this time there are only seven (7) appointed members, one who has not attended meetings in quite a while, leaving only six (6) which is the necessary quorum. Unfortunately, this places the Commission in a difficult situation in that if there is not 100% attendance we cannot meet the quorum requirement, hold a meeting and ultimately applicants are held up. In discussion with the Commission members present at the April 29, 2020 meeting, the members present discussed this matter of Commission membership. It was unanimously agreed that the number of members is larger than needed and should be reduced to seven (7), providing for two (2) alternates. It was also noted that while the advisory members could continue as outlined, most do not attend. Recommended language would be as noted below.

§ 22-20 Composition.

Said Commission shall consist of seven (7) members, with two (2) alternates appointed by the Mayor. All lay members of the Commission shall be citizens and actual residents of the City of Kingston.

§ 22-21 Terms of office.

[Amended 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]

The terms of the members off from the Commission shall be three years. For the initial terms, three members will be continued for three years, three members for four years and three members for five years. The Mayor may appoint up to six (6) nonvoting advisory members as warranted, who will serve at the pleasure of the Mayor. In addition to the City Historian will be a non-voting advisory member in perpetuity. as representatives of the City of Kingston Planning Office and/or Planning Board, the City of Kingston Building Department, the Zoning Board of the City of Kingston, the Ulster Performing Arts Center, the Senate House, the Historic Landmarks Preservation Commission, and the Trolley Museum. All members of the Commission shall serve without pay.

CITY OF KINGSTON
Heritage Area Commission
planning@kingston-ny.gov



Suzanne Cahill, Planning Director
Julie Edelson-Safford, Historic Preservation Administrator

Steven T. Noble, Mayor

Your consideration of this change in membership configuration will assist in allowing the HAC to take actions and perform advisory comments as necessary. Thank-you and should there be any questions, please do not hesitate to contact this office.

Sincerely,

Suzanne Cahill
Planning Director

Cc: S. Noble, Mayor
Ald. J. Ventura-Morell
H. Clement, Chairman HAC

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES COMMITTEE REPORT

DEPARTMENT: Planning - Heritage Area Commission DATE: June 2020

Description: Amend City Charter & Code As follows:

§ 22-20 Composition.

Said Commission shall consist of seven (7) members, with two (2) alternates appointed by the Mayor. All lay members of the Commission shall be citizens and actual residents of the City of Kingston.

§ 22-21 Terms of office.

[Amended 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]

The terms of the members of the Commission shall be three years. The Mayor may appoint up to six (6) nonvoting advisory members as warranted, who will serve at the pleasure of the Mayor. In addition to the City Historian will be a non-voting advisory member in perpetuity. All members of the Commission shall serve without pay.

Signature: Erinanne Cahill

Motion by _____

Seconded by _____

Action Required: _____

SEQRA Decision:

Type I Action _____

Type II Action _____

Unlisted Action _____

Negative Declaration of Environmental Significance: _____

Conditioned Negative Declaration: _____

Seek Lead Agency Status: _____

Positive Declaration of Environmental Significance: _____

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Jeffrey Ventura Morell, Chairman		
Patrick O'Reilly Ward 7		
Rennie Scott-Childress, Ward 3		
Don Tallerman, Ward 5		
Rita Worthington, Ward 4		

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Parks and Recreation

Item Type: Proposed Resolution

Agenda Section:

Subject:

Adoption of Kingston Open Space Plan

Suggested Action:

Attachments:

[20200709123513.pdf](#)

L+R

CITY OF KINGSTON
Office of Environmental Education and Sustainability
climatesmart@kingston-ny.gov

Julie L. Noble, Coordinator



Steven T. Noble, Mayor

June 24, 2020

Honorable Andrea Shaut
President/Alderman-at -Large
Kingston Common Council
420 Broadway
Kingston, NY 12401

Re: Adoption of Kingston Open Space Plan

Dear President Shaut,

As you know, the City of Kingston Open Space Plan was recently completed and subsequently progressed through the necessary SEQR process. At the June Laws and Rules Committee meeting, the committee unanimously declared a negative declaration of significance to this plan, which will go on to the full Council in July for a vote. The next step for this process which I am requesting, is the adoption of the Open Space Plan as an element of the Comprehensive Plan.

The Kingston Conservation Advisory Council and my office would like to recommend that the City of Kingston Common Council adopt a resolution that supports and formally recognizes and memorializes the goals and intent of the Kingston Open Space Plan as City of Kingston policy, integrating it into the Kingston 2025 Comprehensive Plan. Council adoption and recognition of the Plan will not result in the blanket acceptance or approval of individual recommendations or initiatives covered in the Plan. Advancing many of the recommendations and initiatives will require further administrative and legislative action. Actions taken on specific recommendations and initiatives will depend on City priorities and the human and financial resources available.

We would like to request for this action to be referred to the Laws and Rules Committee, or other committee as you see fit, for review. I will be happy to be present at the July meeting, if appropriate, to present an overview, summaries and findings.

If there are any questions, please contact me for further information. Thank you for your consideration.

Sincerely,

Julie L. Noble
Sustainability Coordinator

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Common Council

Item Type: Presentation Request

Agenda Section:

Subject:

Kingston City Charter

Suggested Action:

Attachments:

[20200713090118.pdf](#)

KINGSTON CITY COURT

1 GARRAGHAN DRIVE
KINGSTON, NEW YORK 12401



(845) 338-2974
FAX (845) 338-1443

LAWRENCE E. BALL
City Court Judge
PHILIP W. KIRSCHNER
City Court Judge
NICOLE MURPHY
Chief Clerk

June 1, 2015

Mayor Shayne R. Gallo
Kingston City Hall
420 Broadway
Kingston, NY 12401

James L. Noble, Jr.
Alderman at Large
420 Broadway
Kingston, NY 12401

Andrew Zweben, Esq.
Corporation Counsel
420 Broadway
Kingston, NY 12401

re: position of City Marhsal

Gentlemen:

I am writing this letter in connection with the Kingston City Code and this Court's request for action amending or repealing a chapter thereof.

Kingston City Code, Chapter A406 Kingston City Court Act purportedly governs the creation of, powers of, and operation of the Kingston City Court.

By Constitutional Amendment in 1961, the State of New York created the NYS Unified Court System. By that legislation, together with related legislation the State of New York Office of Court Administration assumed administration of the Kingston City Court.

In the opinion of the writer, the State legislation pre-empted entirely the provisions contained within Chapter A406 of the City Code.

For your edification, I will give you several examples of how this state action made the

Kingston City Court Act inapplicable:

1. Chapter A406-2 and A406-3 provide for a City Court Judge having a term of four (4) years and a Special City Court Judge who sits only in the event of illness, absence, disability or disqualification of the City Judge.

Pursuant to Uniform City Court Act § 2104, there are two (2) full time Kingston City Court Judges, each has a term of ten (10) years.

2. Chapter A406-4 indicates that the judicial salaries shall be set by local legislative body (i.e. Kingston Common Council)

Pursuant to Judiciary Law § 221-1 however, the salary of the Judges is set by a quadrennial salary commission and ratified by the New York State legislature

3. Chapter A406-8 sets forth the employees of Kingston City Court together with their duties and powers.

Chapter A406-9 - Compensation of employees of the Court shall be fixed by locale legislative body.

Pursuant to Judiciary Law §211, the state has power with respect to all personnel practices affecting non-judicial personnel including: title structure, job definition, classification, qualifications, appointments, promotion, transfers, leaves of absence, resignations and reinstatements, performance ratings, removal, sick leaves, vacations and time allowances.

Despite these obvious pre-emptions, the City has not repealed the Kingston City Court Act. I can only assume that this is an oversight.

I broach this matter now because the Court has received several communications of late from Court users seeking information regarding the services of the City Marshal. Those callers indicated that they were referred to the Court by an employee or employees of the City of Kingston,

It is the position of this Court that the Judges of the Court have no authority to appoint or terminate any employee of the Court system pursuant to Judiciary Law §211.

At a meeting held on August 8, 2013 which included both Kingston City Court Judges, Mayor Shayne R. Gallo, Sheriff Paul VanBlarcum and Corporation Counsel the matter was discussed. It was my understanding from this meeting that the City of Kingston agreed with this Court's position that we did not have authority to take any action regarding the position of the City Marshall and would be considering action to address Chapter A406 of the Kingston City Code. I recognize that there are matters more pressing than this for city operation, but in the interest of clarity I now formally ask that Chapter A406 of the Kingston City Code be repealed in its entirety.

Mayor Shayne R. Gallo

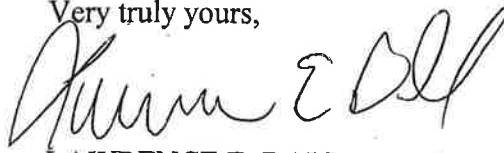
June 1, 2015

Page 3

In the meantime, please be advised that this Court will not exercise any supervision or take any action with respect to the City Marshal or other provisions of Chapter A406 as I am constrained and restricted from said action by the Judiciary Laws of the State of New York. I enclose an opinion of the New York Advisory Committee on Judicial Ethics supporting the Court's position

I suggest that if the City wishes to continue the position of City Marshal that it formulate and enact new legislation accomplishing same. I would note that the position as initially conceived appears to be of an enforcement officer. Positions of that nature are within the ambit of the executive branch of government and are wholly inappropriate for judicial appointment or supervision.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Ball", written in a cursive style.

LAWRENCE E. BALL

Kingston City Court Judge

LEB/pab
enclosure
cc: file

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A JUDGE SHOULD NOT SERVE ON A MAYORAL COMMITTEE THAT WOULD RECRUIT AND RECOMMEND INDIVI...
New York Advisory Committee on Judicial Ethics January 25, 2007 (Approx. 2 pages)

NY Jud. Adv. Op. 06-178 (N.Y.Adv.Comm.Jud.Eth.), 2007 WL 3037759

New York Advisory Committee on Judicial Ethics

A JUDGE SHOULD NOT SERVE ON A MAYORAL COMMITTEE THAT
WOULD RECRUIT AND RECOMMEND INDIVIDUALS FOR
APPOINTMENT AS CITY MARSHALS

Opinion 06-178

January 25, 2007

DIGEST: A judge should not serve on a mayoral committee that would recruit and recommend individuals for appointment as **City Marshals**.

***1 Rules:** 22 NYCRR 100.1; 100.2; 100.4(C)(2)(a); Opinions 06-120; 99-100 (Vol. XVIII); 95-144 (Vol. XIII); 94-37 (Vol. XII); 90-63 (Vol. V); O'Day v. Yeager, 308 N.Y. 580 (1955); CPL § 2.10; NYCCC §§ 1604, 1611, art. 7.

Opinion:

A full-time appellate judge has been asked to serve on a mayor's committee to establish and publish qualifications, recruit and review applicants, and recommend individuals for **appointment as City Marshals**. The judge asks whether it is proper to serve on this mayoral committee.

The **City Marshals** in the instant inquiry hold peace officer status under the definition set forth in section 2.10 of the Criminal Procedure Law, CPL § 2.10(33). Their duties under the New York **City Civil Court Act** include enforcing court orders, including executions against property, car seizures, evictions and wage garnishments, NYCCC art. 7. They are unsalaried, but collect fees from those who use their services. NYCCC § 1611. A **City Marshal** is an independent officer whose powers are created by statute and who exercises a high degree of independent judgment. Cf. O'Day v. Yeager, 308 N.Y. 580 (1955).

The enabling statute requires **City Marshals** to post a bond to protect the municipality from law suits instituted in performing their duties. NYCCC § 1604. The bulk of their duties are inextricably intertwined with the judicial system. They are often involved in litigation and other controversies arising from the performance of their duties, including court actions challenging the actions they take in performance of their duties, and other claims of malfeasance or nonfeasance.

The public's confidence in the integrity and impartiality of the judiciary could be impaired if a **City Marshal** whose conduct is in issue appears before a judge who was involved in the process that led to that **Marshal's** recruitment, selection and **appointment**. 22 NYCRR 100.1; 100.2. In addition, this Committee has previously determined that judges should avoid involvement with controversial public issues. Opinions 95-144 (Vol. XIII); 90-63 (Vol. V).

This Committee previously determined that it would be inappropriate for a full-time judge to serve on a mayor's committee to encourage the legislature to mandate drug testing of students, or on a committee to recommend individuals for **appointment** by the mayor to various judicial vacancies. Opinions 06-120; 94-37 (Vol. XII). This Committee also determined that a judge should not recommend individuals for **appointment** to the municipal charter revision commission, because that commission did not involve the law, the legal system or the administration of justice. 22 NYCRR 100.4(C)(2)(a); Opinion 99-100 (Vol. XVIII).

***2** Therefore, a judge should not serve on a mayor's committee which, among other things, recommends individuals for potential **appointment as City Marshals**.

NY Jud. Adv. Op. 06-178 (N.Y.Adv.Comm.Jud.Eth.), 2007 WL 3037759

SELECTED TOPICS

Officers and Public Employees

Appointment, Qualification, and Tenure
Removal of Disloyal Federal Civil Service
Employee Veterans Preference Act

Secondary Sources

Constitutionality of state veterans'
public employment preference laws

161 A.L.R. 494 (Originally published in 1946)

...The purpose of the present annotation is to consider questions involving the constitutionality of state statutes granting preferences to war veterans with respect to public employment. The annotation s...

Character of service or connection
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...In the reported case (*Dunn v. Commissioner of Civil Service* (Mass.) ante, 998) the court holds that in passing a statute requiring the civil service commission, in making appointments to office and in...

§ 12:136. Preference in appointments;
veterans

3 McQuillin Mun. Corp. § 12:136 (3d ed.)

...Laws often provide with respect to appointment, promotion and retention in public office or public employment that preference be given to electors of the state and city, to those who have long served i...

See More Secondary Sources

Briefs

Brief for the Petitioners.

1951 WL 82207
Brannan v. Elder
Supreme Court of the United States.
March 19, 1951

...Note: Table of Authorities page numbers missing in original document The opinion of the District Court (R. 72) is not reported. The opinion of the Court of Appeals for the District of Columbia (R. 88) ...

Brief for Charles F. Brannan, Secretary
of Agriculture1951 WL 82208
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April 07, 1948

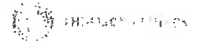
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A JUDGE SHOULD NOT SERVE ON A MAYORAL COMMITTEE THAT WOULD RECRUIT AND RECOMMEND INDIVI...

New York Advisory Committee on Judicial Ethics January 25, 2007 (Approx. 2 pages)

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NY Jud. Adv. Op. 06-178 (N.Y.Adv.Comm.Jud.Eth.), 2007 WL 3037759

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Officers and Public Employees

Appointment, Qualification, and Tenure

Removal of Disloyal Federal Civil Service
Employee Veterans Preference Act**Secondary Sources****Constitutionality of state veterans'
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Section 100.1. A judge shall uphold the integrity and independence of the judiciary

22 NY ADC 100.1 COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK (Approx. 3 pages)

Compilation of Codes, Rules and Regulations of the State of New York Currentness

Title 22. Judiciary

Subtitle A. Judicial Administration.

Chapter I. Standards and Administrative Policies

Subchapter C. Rules of the Chief Administrator of the Courts

Part 100. Judicial Conduct (Refs & Annos)

22 NYCRR 100.1

**Section 100.1. A judge shall uphold the integrity and independence of the
judiciary**

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Part are to be construed and applied to further that objective.

Credits

Sec. filed Aug. 1, 1972; renum. 111.1, new added by renum. and amd. 33.1, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Current with amendments included in the New York State Register, Volume XXXVII, Issue 21, dated May 27, 2015.

22 NYCRR 100.1, 22 NY ADC 100.1

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Section 100.2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities

22 NY ADC 100.2 COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK (Approx. 3 pages)

Compilation of Codes, Rules and Regulations of the State of New York Currentness

Title 22. Judiciary

Subtitle A. Judicial Administration.

Chapter I. Standards and Administrative Policies

Subchapter C. Rules of the Chief Administrator of the Courts

Part 100. Judicial Conduct (Refs & Annos)

22 NYCRR 100.2

**Section 100.2. A judge shall avoid impropriety and the appearance of
impropriety in all of the judge's activities**

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(D) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

Credits

Sec. filed Aug. 1, 1972; renum. 111.2, new added by renum. and amd. 33.2, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Current with amendments included in the New York State Register, Volume XXXVII, Issue 21, dated May 27, 2015.

22 NYCRR 100.2, 22 NY ADC 100.2

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Section 100.4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with j...

22 NY ADC 100.4 COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK (Approx. 8 pages)

Compilation of Codes, Rules and Regulations of the State of New York Currentness

Title 22. Judiciary

Subtitle A. Judicial Administration.

Chapter I. Standards and Administrative Policies

Subchapter C. Rules of the Chief Administrator of the Courts

Part 100. Judicial Conduct (Refs & Annos)

22 NYCRR 100.4

**Section 100.4. A judge shall so conduct the judge's extra-judicial activities
as to minimize the risk of conflict with judicial obligations**

(A) *Extra-judicial activities in general.* A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) detract from the dignity of judicial office; or
- (3) interfere with the proper performance of judicial duties and are not incompatible with judicial office.

(B) *Avocational activities.* A judge may speak, write, lecture, teach and participate in extra-judicial activities subject to the requirements of this Part.

(C) *Governmental, civic, or charitable activities.*

(1) A full-time judge shall not appear at a public hearing before an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting *pro se* in a matter involving the judge or the judge's interests.

(2)

(a) A full-time judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy in matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(b) A judge shall not accept appointment or employment as a peace officer or police officer as those terms are defined in section 1.20 of the Criminal Procedure Law.

(3) A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, cultural, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Part.

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization:

(i) will be engaged in proceedings that ordinarily would come before the judge; or

(ii) if the judge is a full-time judge, will be engaged regularly in adversary proceedings in any court.

(b) A judge as an officer, director, trustee or non-legal advisor, or a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities;

(ii) may not be a speaker or the guest of honor at an organization's fund-raising events, but the judge may attend such events. Nothing in this subparagraph shall prohibit a judge from being a speaker or guest of honor at a court employee organization, bar association or law school function or from accepting at another organization's fund-raising event an unadvertised award ancillary to such event;

(iii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice; and

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, but may be listed as an officer, director or trustee of such an organization. Use of an organization's regular letterhead for fund-raising or membership solicitation does not violate this provision, provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.

(D) *Financial activities.*

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position;

(b) involve the judge with any business, organization or activity that ordinarily will come before the judge; or

(c) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

(2) A judge, subject to the requirements of this Part, may hold and manage investments of the judge and members of the judge's family, including real estate.

(3) A full-time judge shall not serve as an officer, director, manager, general partner, advisor, employee or other active participant of any business entity, except that:

(a) the foregoing restriction shall not be applicable to a judge who assumed judicial office prior to July 1, 1965, and maintained such position or activity continuously since that date; and

(b) a judge, subject to the requirements of this Part, may manage and participate in a business entity engaged solely in investment of the financial resources of the judge or members of the judge's family; and

(c) any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from this paragraph during the period of such interim or temporary appointment.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household not to accept, a gift, bequest, favor or loan from anyone except:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under section 100.3(E) of this Part;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in subdivision (H) of this section.

(E) *Fiduciary activities.*

(1) A full-time judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, designated by an instrument executed after January 1, 1974, except for the estate, trust or person of a member of the judge's family, or, with the approval of the Chief Administrator of the Courts, a person not a member of the judge's family with whom the judge has maintained a longstanding personal relationship of trust and confidence, and then only if such services will not interfere with the proper performance of judicial duties.

(2) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

(3) Any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from paragraphs (1) and (2) of this subdivision during the period of such interim or temporary appointment.

(F) *Service as arbitrator or mediator.* A full-time judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(G) *Practice of law.* A full-time judge shall not practice law. Notwithstanding this prohibition, a judge may act *pro se* and may, without compensation, give legal advice to a member of the judge's family.

(H) *Compensation, reimbursement and reporting.*

(1) Compensation and reimbursement. A full-time judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Part, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(c) No full-time judge shall solicit or receive compensation for extra-judicial activities performed for or on behalf of: (1) New York State, its political subdivisions or any office or agency thereof; (2) school, college or university that is financially supported primarily by New York State or any of its political subdivisions, or any officially recognized body of students thereof, except that a judge may receive the ordinary compensation for a lecture or for teaching a regular course of study at any college or university if the teaching does not conflict with the proper performance of judicial duties; or (3) any private legal aid bureau or society designated to represent indigents in accordance with article 18-B of the County Law.

(2) Public reports. A full-time judge shall report the date, place and nature of any activity for which the judge received compensation in excess of \$150, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law.

(l) *Financial disclosure.* Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this section and in section 100.3(F) of this Part, or as required by Part 40 of the Rules of the Chief Judge (22 NYCRR Part 40), or as otherwise required by law.

Credits

Sec. filed Aug. 1, 1972; amd. filed Nov. 26, 1976; renum. 111.4, new added by renum. and amd. 33.4, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996; amds. filed: Feb. 27, 1996; Feb. 9, 1998 eff. Jan. 23, 1998. Amended (C)(3)(b)(ii).

Current with amendments included in the New York State Register, Volume XXXVII, Issue 21, dated May 27, 2015.

22 NYCRR 100.4, 22 NY ADC 100.4

End of Document

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A.

The New York State Judiciary (officially, the New York State Unified Court System) is a branch of the government of the state of New York as defined by the Constitution of the State of New York, NY Constitution article VI (a), which states, “[T]he unified court system for the state shall [also] include the district, town, city and village courts outside the city of New York, as hereinafter provided.” (Adopted Nov. 7, 1961, eff. Sept. 1, 1962. Amended Nov. 6, 2001, eff. Jan. 1, 2002).

~~NY Constitution article VI, Section 17 further states that the city courts shall have the jurisdiction “prescribed by the [New York State] legislature” and “regulate such courts, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York.”~~

B.

Additionally, the number of the judges of each of city court and the classification and duties of the judges shall be “prescribed by the legislature.” Pursuant to Uniform City Ct Act §2104, there are two (2) full-time Kingston City Court judges, each having a term of ten (10) years.

C.

Pursuant to Judiciary Law § 221-I, Salary of judges of the city courts outside the city of New York, the salary of the judges is set by quadrennial salary commission and ratified by the New York State legislature.

Also

A judge is prevented from appointing a city marshal by the New York Advisory Committee on Judicial Ethics (NY Jud. Adv. Op. 06-178 (N.Y.Adv.Comm.Jud.Eth.), 2007 WL 3037759 “

A JUDGE SHOULD NOT SERVE ON A MAYORAL COMMITTEE THAT WOULD RECRUIT AND RECOMMEND INDIVIDUALS FOR APPOINTMENT AS CITY MARSHALS).

While this question was raised with regard to New York City marshals, the judicial ethics issues remain the same for city judges outside New York City as well (see attached opinion and sections from NYCRR).

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Mayor

Item Type: Proposed Resolution

Agenda Section:

Subject:

Charter Commission

Suggested Action:

Attachments:

[20200310130147.pdf](#)

(L+R)

CITY OF KINGSTON
Office of the Mayor
mayor@kingston-ny.gov

Steven T. Noble
Mayor



February 28th, 2020

Ms. Andrea Shaut
Aldерwoman-at-Large
President of the Common Council
Kingston City Hall
420 Broadway
Kingston, NY 12401

Re: City of Kingston Charter, Charter Commission

Dear President Shaut,

I believe we both share a strong interest in helping to make sure the governmental structure of the City of Kingston is one that is up-to-date and best situated to serve our residents. The City of Kingston Charter, which lays out the duties and functions of government, has not been significantly updated in 20+ years. I am excited to partner with the Common Council to create a Charter Commission that can research and develop suggestions on how we can best update our charter. I would respectfully request that this communication be shared with the appropriate committee, so that we can begin a joint discussion on what a Charter Commission could look like and the process of forming one.

Respectfully Submitted,

Steven T. Noble
Mayor

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Common Council

Item Type: Proposed Resolution

Agenda Section:

Subject:

Mobil Food Truck Legislation

Suggested Action:

Attachments:

[20200408094744.pdf](#)

L+R

Tinti, Elisa

From: Tallerman, Donald
Sent: Friday, February 28, 2020 2:59 PM
To: Tallerman, Donald; Shaut, Andrea; Tinti, Elisa
Subject: Communication

Andrea, Elissa -

I realize that this communication was 2 hours late. I understand if that means it must wait until the following month. However, if it could be included for this month, it would be appreciated.

I promise to not be late with a communication again!

On 2/28/2020 2:53 PM, Tallerman, Donald wrote:

> Hi Andrea -
>
> This communication provides proposed zoning legislation related to
> Mobile Food Trucks in the City of Kingston.
>
> Thank you very much.
>
> Don
>
>
>

--
Don Tallerman
Alderman - Ward 5
917-318-7420

MOBILE FOOD TRUCK/VEHICLE

Form and condition of license.

Every mobile food vehicle vending license shall contain the following conditions:

A.

Each mobile food vehicle vending license shall expire on April 1 of every year.

B.

The license shall not be transferable from person to person without the written approval of the Director of Licenses.

C.

The license is valid for one vehicle only.

D.

There shall be issued to each vendor a suitable decal that shall be permanently and prominently affixed to the vehicle.

MOBILE FOOD VEHICLE ("MFV")

A commercially manufactured, self-contained, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed, prepared or portioned for service, sale or distribution; or one in which beverages are brewed, blended, chilled, bottled, portioned, poured, or prepared for service, sale or distribution.

MOBILE FOOD VEHICLE VENDOR ("MFVV")

The owner of a mobile food vehicle or the owner's agent; hereinafter referred to as "vendor."

General provisions.

A.

It shall be unlawful for any person to operate a mobile food vehicle within the public rights-of-way or on public property within the City of Kingston without first having obtained a valid mobile food vending license as prescribed in this article. Operation of a mobile food vehicle on private property shall continue to be regulated and prohibited in accordance with all applicable provisions of the City Code.

B.

Any mobile food vehicle cannot stay in one place for more than 24 hours.

It shall be unlawful for a mobile food vehicle vendor to park, stand, or operate in a location which is adjacent to or within a one-hundred-foot radius of the nearest edge of any building or section of a building comprising a licensed food establishment, excluding any patio, awning or temporary enclosure attached thereto, the kitchen of which is open for serving food to patrons. This requirement may be waived if the application is submitted together with the written consent of the proprietor of the adjacent licensed food establishment.

All mobile food vehicle vendors must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times, except that a mobile food vehicle that is of such a length that it occupies all or a portion of two vehicle parking spaces may park in said spaces so long as it abides by all other parking restrictions, including any two-hour-maximum durational requirements in force and effect at that time and location.

It shall be unlawful for any mobile food vehicle vendor to operate within 500 feet of the boundary line of any fair, carnival, circus, festival, special event or civic event that is licensed or sanctioned by the City, except when the vendor has obtained a permit to so operate from the City of Kingston.

All signage must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.

All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity that shall be changed as necessary to prevent overflow or the creation of litter or debris.

License required; application.

A.

Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Department of Building Safety. The application for such license shall be on forms provided by the Commissioner of Permit and Inspection Services or his designee, and shall include the following:

Name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation.

(2)

A valid copy of all necessary licenses, permits or certificates required by the County of Ulster, the State of New York or any subsidiary enforcement agencies or departments thereof, including, but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators.

A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify and hold harmless the City and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license. The vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect the vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. The policy shall further provide that it may not be canceled except upon 30 days' written notice served upon the City of Kingston Department of Building Safety.

(5)

All license applicants and applicants for renewals thereof shall present each vehicle to the Kingston Fire Department to determine that the vehicle meets all applicable New York State Fire Codes.

(6)

The initial license shall be subject to approval by the Planning Department of the City of Kingston.

FEE

All vendors shall pay an initial application fee of \$500, which fee shall include the first year's license fee.

B.

All vendors holding a license that has not been revoked or permitted to lapse shall pay an annual renewal fee of \$500.

Suspension and revocation of license; fine schedule.

A.

The owner/operator of any mobile food vehicle licensed by the City of Kingston shall comply with all provisions of federal, state and local laws and ordinances.

B.

The owner/operator of any mobile food vehicle licensed by the City of Kingston shall comply with all notices, orders, decisions and rules and regulations made by the Department Building Safety and the Kingston Police Department.

C.

Any person, firm, corporation or other entity violating the provisions of this article may be liable for penalties as prescribed below and elsewhere in this Code, and may be subject to immediate closure by the Kingston Police Department and/or the Department of Building Safety.

For violations solely of the provisions of this article, the following fine schedule shall apply:

(1)

First offense: fine of \$200 after a finding or plea of guilty.

(2)

Second offense: fine of \$350 after a finding or plea of guilty

(3)

Third offense: license revocation after a finding or plea of guilty

Closure for operation without license.

Any mobile food vehicle operating without the required City of Kingston license shall be immediately closed by order of the Kingston Police Department or the Department of Building Safety. Every day of operation without a license shall constitute a separate violation and shall be punishable by a fine of \$1,500 per violation.

Laws and Rules Committee Agenda Item Report

Meeting Date: July 15, 2020

Submitted by: Dee Sills

Submitting Department: Common Council

Item Type: Proposed Resolution

Agenda Section:

Subject:

Commercial Vacancy Tax

Suggested Action:

Attachments:

[20200604103148.pdf](#)

(LFR)

Tinti, Elisa

From: Shaut, Andrea
Sent: Friday, February 21, 2020 8:23 PM
To: Noble, Steve
Cc: Tinti, Elisa; Tallerman, Donald
Subject: RE: KUBA Letter

Thank you.

Elisa - can you please include this in the agenda packet for March's Laws & Rules meeting?

Respectfully,

Andrea Shaut

Council President, City of Kingston

From: Noble, Steve
Sent: Friday, February 21, 2020 9:43 AM
To: Shaut, Andrea
Cc: Tinti, Elisa; Tallerman, Donald
Subject: KUBA Letter

Dear President Shaut,

Please see the attached letter I recently received from KUBA. I believe that this letter would be helpful in the discussion of Alderman Tallerman's Proposal for a Commercial Vacancy Tax and would ask that you include this letter as part of that discussion. I agree with KUBA that the City must research and attempt to create the appropriate policies to reduce the amount of properties that are being "warehoused" by property owners in our City.

Thank you,

-Steve

Steven T. Noble
Mayor, City of Kingston
420 Broadway
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Kingston Uptown Business Association

PO Box 3602
Kingston, New York 12402
KUBA.uptown@gmail.com



February 10, 2020

Honorable Mayor Steve Noble
City of Kingston
c/o City Hall
420 Broadway
Kingston, NY 12401

Dear Mayor Noble,

The Kingston Uptown Business Association (KUBA) is pleased with the recent development and investment in the Stockade and Uptown business area. Long-underutilized properties are now beginning to reach their full potential. Businesses, shops, and restaurants are again proud to call Uptown home and thrilled to see this progress continue. This tide of investment brings opportunity and growth and - as the old saying goes - a high tide raises all boats.

However, much to our dismay, we have heard from numerous KUBA members and other Uptown residents that there are some properties that are not being utilized at all, standing vacant and unused. There are glaringly visible examples throughout our highly trafficked business district, including properties on Wall and North Front Streets – arguably the heart of the Uptown/Stockade district. Neighboring business owners were initially delighted when underutilized buildings were purchased. However, months and some cases, years have passed with these properties standing visibly derelict in the heart of an otherwise vibrant community.

KUBA would like to encourage the City to look at these underutilized properties to determine if these owners could be encouraged to actively participate and create a renaissance. I would gladly offer KUBA's participation (along with the City's, obviously) in hosting and/or partaking in such activities and discussions.

We realize that this challenge is likely occurring city-wide and this communication is in no way targeted at any specific entity or entities. Our goal is simply to bring this issue to the City's attention as properties seemingly warehoused by investors do nothing to help our neighborhood or the City of Kingston.

We look forward to guidance from your office.

Respectfully,

A handwritten signature in black ink, appearing to read 'Elenie Loizou', with a large, stylized loop at the end.

Elenie Loizou
President
KUBA

cc: Alderman - At - Large
Andrea Shaut

April 15, 2020

Jeffrey Ventura Morell, Chairman
Laws and Rules Committee
Common Council
Kingston City Hall
420 Broadway
Kingston, NY 12401

Re: Vacancy Tax Proposal

Dear Chairman Morell,

This firm represents a business which owns several properties in Uptown Kingston through related entities, including 311 Wall Street, 314 Wall Street, 317 Wall Street, 323 Wall Street, 328 Wall Street, 61 Crown Street and 63 N. Front Street. All of our client's properties are leased or in active lease negotiations. Notwithstanding this fact, our client opposes the proposal for a "vacancy tax" on unoccupied storefronts in limited areas of the City, including Uptown Kingston. The vacancy tax violates the state and federal constitutions and is not within the City's power to adopt.

We are disappointed and surprised that the Laws and Rules Committee ("Committee") is even holding this discussion during the Covid-19 pandemic. Due to the Governor's PAUSE order, retail and restaurant activity has decreased significantly and economists are predicting a national recession. We unfortunately expect that many existing small businesses will not survive and that some that were planning to open will not be able to. Instead of assisting the business community, this proposal penalizes landlords with unconstitutional fines when the City should be finding ways to support the business community.

Aside from the poor timing of the proposal and the City's lack of authority to impose such a tax, the materials for the Committee's discussion do not provide an adequate basis for the vacancy tax. Has a study been done on the historical reasons for vacancies within Uptown Kingston? Is the vacancy rate markedly different than standard commercial vacancy rates in small cities? Is there justification for taxing similarly situated landowners in Uptown Kingston differently within and without the proposed special tax area? Without such studies how can the City be sure that the proposal will legitimately advance the City's interests. A tax on vacant storefronts will not address major hurdles facing the retail industry including the growth of online shopping and high costs to retrofit existing buildings to comply with current building code requirements.

A vacancy tax also ignores the realities of property development and creates a

(845) 516-4323 ph
(845) 516-4528 fax
vpolidoro@rodenhausenchale.com

Tinti, Elisa

From: Scott-Childress, Reynolds
Sent: Wednesday, April 15, 2020 9:09 PM
To: Alderman
Subject: Questions to Consider Regarding Vacancy Tax

Here are some questions to research regarding the proposed vacancy tax:

- Do such laws negatively impact small businesses?
- How do such laws *help* small businesses?
- What are historical reasons for vacancies in Uptown Kingston—and all of Kingston?
- What is comparison of Kingston with vacancy rates in “small cities” in general?
- What is the justification for limiting the law to only a section of Kingston and not the entire City?
- Does a vacancy tax hinder “the realities” of property development?
- Will such a tax lead to abnormal increase of “lower-value” businesses?

Best wishes,
Rennie

Reynolds J. Scott-Childress
Alderman, Ward 3, City of Kingston
(845) 616-3687 mobile