



IN THE MATTER OF an application submitted by 120 Kingston LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 22-10 to allow a commercial use (Use Group 6 use) on portions of the cellar and ground floor, and the sign regulations of Section 22-30 to allow accessory commercial signs for an existing 3-story building, on property located at 120 Kingston Avenue (Block 1222, Lot 40), in an R6 District, within the Crown Heights North Historic District, Borough of Brooklyn, Community District 8.

This application was filed by 120 Kingston LLC on September 9, 2016 for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 22-10 to allow commercial use (Use Group 6) on portions of the cellar and ground floor, and the sign regulations of Section 22-30 to allow accessory commercial signs for an existing three-story building on property located at 120 Kingston Avenue (Block 1222, Lot 40) in the Crown Heights North Historic District, Brooklyn Community District 8.

BACKGROUND

The development site is located at 120 Kingston Avenue (Block 1222, Lot 40) in an R6 zoning district, within the Crown Heights North Historic District and Brooklyn Community District 8. It is on the corner of the block formed by Bergen Street and Kingston Avenue, with 94 feet of frontage on Bergen Street, 18.5 feet of frontage on Kingston Avenue, and a total lot area of 1,739 square feet. The existing building located at the development site is a three-story building with a cellar, built in 1900-1902, with 6,048 square feet of gross floor area and an existing legal-noncomplying zoning floor area of 4,532 square feet, for a floor area ratio (FAR) of 2.6.

The project site is located within the Crown Heights North Historic District. The Landmarks Preservation Commission (LPC) approved the designation of the Crown Heights North Historic District (LP-02204) on April 24, 2007. The district is located in the northwestern portion of the Crown Heights neighborhood and is roughly bounded by Atlantic Avenue and Eastern Parkway

on the north and south, and by Bedford and Albany Avenues on the west and east. The existing building is a Renaissance Revival style flats building designed by Axel Hedman, built c. 1900-1902, with a Streamline style storefront added in the mid-twentieth century. The building's style, scale, materials, and details are among the features that contribute to the architectural and historic character of the Crown Heights North Historic District.

The Kingston Lounge was a renowned jazz club that opened at the site in 1944 and occupied the ground floor and cellar of the existing building. The cellar has 1,516 square feet of floor area, while the ground floor has 1,496 square feet of floor area. The second and third floors each have 1,518 square feet of floor area, and were formerly occupied by two residential dwelling units per floor. During the 1980s the club, as well as the apartments above, began to fall into disrepair. The building has been vacant since 2001 and is currently in a dilapidated condition.

The surrounding area is generally characterized by residential multi-family and walk-up townhomes, with some community facilities and commercial retail establishments, and mapped with R6 and R6/C1-3 zoning districts. Many ground floor commercial establishments line this section of Kingston Avenue, including eating and drinking establishments, retail stores, laundromats, a dry cleaner, a nail salon, a beauty parlor, and commercial offices. At the intersection of Kingston Avenue and Bergen Street, three corners, aside from the southwest corner where the development site is located, are mapped with a C1-3 commercial overlay and have commercial uses on the ground floors.

R6 districts permit residential and community facility uses. New development can be built according to either height factor regulations, which produce small multi-family buildings on small zoning lots and tall buildings that are set back from the street on larger lots, or the optional Quality Housing regulations, which produce high lot coverage buildings within prescribed height limits. Under the height factor regulations, the maximum FAR in an R6 district ranges from 0.78 to 2.43. Under the Quality Housing regulations, the maximum FAR on a narrow street is 2.2 and the maximum FAR on a wide street outside the Manhattan core is 3.0.

C1-3 commercial overlay districts allow local retail uses, including neighborhood grocery stores, restaurants and beauty parlors. When mapped over R6 through R10 districts, the maximum commercial FAR is 2.0. Within C1-3 zoning districts, accessory commercial signage is permitted. The applicable signage regulations permit a maximum total surface area of all signs of 150 square feet. Non-illuminated signs are permitted with a total surface area (in square feet) of three times the street frontage of the zoning lot (in feet), but in no event more than 150 square feet for interior or through lots or 150 square feet on each frontage for corner lots. Illuminated non-flashing signs are permitted with a total surface area (in square feet) not exceeding three times the street frontage of the zoning lot (in feet), but in no event shall the total surface area exceed 50 square feet for interior or through lots or 50 square feet on each frontage for corner lots. No permitted sign shall project across a street line more than 18 inches for double- or multi-faceted signs or 12 inches for all other signs, and no permitted sign shall extend more than 25 feet above curb level.

The applicant proposes to restore a Use Group 6 commercial use on the ground floor and in the cellar of the existing building at the project site, and to restore accessory commercial signage on the exterior. The applicant proposes interior alterations to restore the use of the ground floor (1,496 square feet) and cellar (1,516 square feet) as The Kingston Lounge, a Use Group 6 commercial use. Separate from the subject application, the applicant intends to restore residential apartments on the second and third floors, with two dwelling units per floor. The applicant also seeks to preserve the historically significant features of the building, while undertaking a restoration and implementing a continuing maintenance program to ensure the building is properly maintained in a sound condition.

In total the proposed development would consist of the following zoning floor areas: 1,496 square feet of commercial space (3,012 gross square feet including the cellar), and 3,035 square feet of residential space, for a total of 4,532 square feet of zoning floor area. The accessory commercial signage to be restored consists of a total of 130 square feet of illuminated non-flashing signage, including 28 square feet of illuminated non-flashing signage on Kingston Avenue and 102 square feet of illuminated non-flashing signage on Bergen Street. The accessory commercial signage to be restored would project 12 inches past the street line and would be 14 feet above the base plane.

On April 21, 2016, LPC approved the necessary exterior façade work for the Proposed Development and has issued a Certificate of Appropriateness as well as a Certificate of No Effect for the proposed restorative work.

To facilitate the proposed development, the applicant requests the grant of a City Planning Commission special permit pursuant to ZR 74-711 to modify the use regulations of Section 22-10 and sign regulations of Section 22-30 of the Zoning Resolution.

ENVIRONMENTAL REVIEW

This application (C 170086 ZSK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 16DCP183K. The lead agency is the City Planning Commission.

After a study of the potential impacts of the proposed action in the Environmental Assessment Statement (EAS) issued on April 21, 2017, a Negative Declaration was issued on April 24, 2017.

To avoid the potential for significant adverse noise impacts, the Special Permit site plan for the proposal notes that sound attenuation will be provided between the proposed commercial space and residential floors, with a floor assembly to achieve Sound Transmission Class (STC) 60 or better. New exterior walls at the first floor of the building will be provided, with sound attenuation that will achieve STC 60 or better at walls and STC 50 or better at glazing. Consequently, no significant adverse noise impacts are expected to result from the proposed action.

UNIFORM LAND USE REVIEW

This application (C 170086 ZSK) was certified as complete by the Department of City Planning on April 24, 2017, and was duly referred to Brooklyn Community Board 8 and the Brooklyn

Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 8 held a public hearing on this application on May 4, 2017, and on May 11, 2017, by a vote of 32 in favor, one against and with four abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

The application was considered by the Borough President, who issued a recommendation approving the application on June 15, 2017.

City Planning Commission Public Hearing

On June 7, 2017 (Calendar No. 2), the City Planning Commission scheduled June 21, 2017, for a public hearing on this application (C 170086 ZSK). The hearing was duly held on June 21, 2017 (Calendar No. 28). Two people spoke in favor of the application.

The applicant's land use counsel described the proposal to reestablish the Kingston Lounge in the building on the project site. He pointed out that a commercial overlay covers the three corners surrounding the project site, but does not cover the southwest corner where the proposed project site is located. The project architect stated that the proposed exterior restoration would make a visual contribution to the historic district as well as bring a culturally significant use back to the neighborhood. There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 170086 ZSK) is appropriate.

The special permit to modify the use regulations of Section 22-10 and sign regulations of Section 22-30 of the Zoning Resolution would allow the establishment of a Use Group 6 commercial use

as well as accessory signage at an existing building at 120 Kingston Avenue to facilitate the reestablishment of the Kingston Lounge, a jazz club that formerly occupied the ground floor and cellar of the existing building.

The Commission believes that the modification of use regulations to allow Use Group 6 use in the building would not adversely affect any conforming uses within the building, as the entire building has been vacant for over a decade. The Commission also notes that historically the building was occupied by commercial uses at the ground floor and cellar with residential units above on the second and third floors.

The Commission believes that such use modification would have minimal adverse effects on the conforming uses in the surrounding area. Kingston Avenue is characterized by ground floor commercial uses, including restaurants, retail stores, and salons. The Commission therefore believes that the Use Group 6 commercial use in the ground floor and cellar and residential use is analogous to the uses occupying the ground floors of the surrounding buildings along Kingston Avenue, and that the proposed mixed-use project is consistent with the prevailing land use pattern found in the surrounding area.

The Commission believes that the modification of sign regulations to allow accessory commercial signs is appropriate. Accessory commercial signs are permitted in the C1-3 commercial district surrounding the project site. The proposed restoration of existing signage as illuminated non-flashing signage would contribute to the renovation of the historic Streamline style storefront building exterior.

The Commission is in receipt of a report dated April 21, 2016 (LPC-181149, MOU 18-4923) from the LPC stating that it has reviewed the proposal and that a program has been established for continuing maintenance that would result in the preservation of the subject building, and that the required restoration work under the continuing maintenance program contributes to a preservation purpose. The continuing maintenance program is contained within a restrictive declaration entered into in connection with this application. The Commission believes that the renovation and

improvement of this building, to be facilitated by this special permit, would enhance the architectural and historic built fabric of the Crown Heights North Historic District.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 (Landmark preservation in all districts) of the Zoning Resolution:

- (1) [This finding is not applicable; no bulk modification is being requested]
- (2) Such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 120 Kingston LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 22-10 to allow a commercial use (Use Group 6 use) on portions of the cellar and ground floor, and the sign regulations of Section 22-30 to allow accessory commercial signs for an existing 3-story building, on property located at 120 Kingston Avenue (Block 1222, Lot 40), in an R6 District, within the Crown Heights North Historic District, Borough of Brooklyn, Community District 8 as follows:

1. The property that is the subject of this application (C 170086 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Charles Diehl Architect LLC, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
DCP-01	Zoning Analysis	3-17-17
DCP-02	Zoning Lot Site Plan	3-17-17
DCP-03	Ground Floor Plan	4-20-17
DCP-04	Cellar Floor Plan	3-17-17
DCP-07	Sections	4-20-17
DCP-08	Elevations & Signage Schedule	3-17-17

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
6. Development pursuant to this resolution shall be allowed only after the restrictive declaration dated June 12, 2017, executed by 120 Kingston Avenue LLC, the terms of

which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, Kings County¹.

7. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions as stated above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted or of the attached restrictive declaration.
8. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 170086 ZSK), duly adopted by the City Planning Commission on July 26, 2017 (Calendar No. 16), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

¹ The original report stated that the restrictive declaration should be recorded and filed in the Office of the Register of the City of New York, New York County; this has been corrected to state that the restrictive declaration should be recorded and filed in the Office of the Register of the City of New York, Kings County.

KENNETH J. KNUCKLES, *Esq., Vice-Chairman*
RAYANN BESSER, IRWIN G. CANTOR, *P.E.*, ALFRED C. CERULLO, III,
MICHELLE DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, *Commissioners*