The Keyport Unified Planning Board held a Regular Meeting on November 29, 2022, which was called to order by Mark Sessa at 7:00 PM, the Sunshine Law Notice was read followed by the Flag Salute.

ROLL CALL:

Present**:** Councilmember Davidson, N. Vecchio, M. Sessa, J. Oviedo, W. McDermott, D. Pacheco (arrived 7:03PM), J. Royster, G. Kotzas, C. Dickerson

Absent: Mayor Kennedy, H. Aumack

Professionals: Marc Leckstein, Planning Board Attorney, Fran Mullan Board Engineer; Kendra Lelie Board Planner

MOTION TO APPROVE MINUTES: October 27 and November 3, 2022

Motion to approve the October 27th minutes was made by W. McDermott, second by J. Royster with ayes by all present

Motion to approve the November 3rd minutes was made by N. Vecchio, second by J. Oviedo with ayes by all present.

RESOLUTION: KUPB 22-04
OYSTER BAY URBAN RENEWAL INC
SITE PLAN

RESOLUTION: KUPB 22-05
PINE BELT NISSAN, INC
SITE PLAN

Resolutions were carried to the December 3rd meeting.

APPLICATION: KUPB # 21-10
KEYPORT PROFESSIONAL PLAZA, LLC
25 EAST FRONT STREET
BLK 80, LOT 1.02

Mr. Alfieri applicant's attorney explained that the application is no longer a "D" variance since they have added commercial space to the first floor. Mr. Alfieri stated that the applicant did notice the residents as well as the newspaper.

Mr. Alfieri mentioned that the applicant has had many hearings and has addressed all technical and Board comments. They have been working closely with T&M regarding the solutions for the drainage and they would like to finish the application since they year is ending. Mr. Alfieri stated since they have submitted the revised plans, they had additional discussions with T&M. Mr. Alfieri stated that there is a concept plan that they have if the Board is interested in seeing it. The concept plan the applicant believes is better than the one that was formally submitted. The concept plan makes the front elevation more attractive, the first floor would be all-commercial instead of one unit it would be two commercial units. If the Board was interested in seeing it, they would present it and the Board would like them to move forward with it they will with the cavate that they would like to finish this evening.

If the Board likes the concept plan and is inclined to approve it, they would just make it a condition upon the Board professionals signing off on the final design. The design is not final because it came up in the past ten days with the holidays and weekends in between. Mr. Alfieri stated that if the Board is not interested in the concept plan the applicant is prepared to move ahead with the revised plans that were submitted and reviewed by the professionals. T&M submit a report for the plans that were previously submitted but not the plan that concept plan.

Mr. Alfieri stated that the plan that was formally before the Board only has the height variance for the elevator shaft, which is approximately two feet. The parking conforms; they have agreed to fix all the drainage issues, the piping and moving the pump station. Mr. Alfieri deferred to Chairman to see if the Board would like to see the alternate plan if not, they are prepared to go ahead with the plan that was submitted.

Chairman Sessa asked Mr. Mullan if he had a chance to see the alternate plan; yes. Chairman Sessa asked if he thought it was a better than the one submitted to the Board. Mr. Mullan stated he feels that they have improved it in the sense that there is more retail space on the ground floor. They also stepped the bottom floor back and they created a walkway. Mr. Mullan stated that he did feel it is an attractive alternative to the previously submitted plan but stated that they also have no issues with the plan that the Board has seen and reviewed. The new alternative is a slight modification of what the Board has already seen. The exterior of the building does not change except along the sidewalk in the front of the ground floor. None of the apartments change, he feels it is worthy of the Board quick review.

The Board decided it would not do any harm in seeing the concept plan. Mr. Mullan explained that in order to change the ground floor front of the building. The building height physically gets two feet taller and there would be a reduction of parking spaces by eight. The applicant's professionals corrected Mr. Mullan and stated the parking reduction would be seven.

Mr. Mullan stated that they would hear from the architect to the extent the Board wanted to but wanted to let the Board be aware of the two trades the Board would have to consider if you like the alternative plan better. Mr. Alfieri stated that the two feet difference in height would be de minimis. At the last hearing their traffic report stated that it was there professionals experience was they would need one and a half parking spaces per apartment. Mr. Alfieri stated even with the loss of the seven spaces, they would have more than enough parking Mr. Alfieri stated that would be the Board's decision, he reminded the Board that they are prepared to move ahead with what was previously submitted which has the extra spaces and the height being two feet less.

Mr. Leckstein marked in the following exhibits:
Exhibit A19 – grading and utility plan with revision date 11/3/2022
A20 - Architectural floor plans revised 10/17/2022
A21 - Alternate plan dated 11/28/22 consisting of three sheets
B5 – T&M letter dated 11/18/22

Ms. Lelie stated when T&M received the updated plans with the small commercial space based upon her review she had a conversation with the applicant to talk through a way to get commercial over the entire first floor. Ms. Lelie also wanted to add an element that would increase the streetscape of the building. One of the things that was missing from the previous plan was an engagement of the building to the streetscape. There was a lack of pedestrian connection, they had large brick walls and she felt it was not adding any kind of glass or energy to the space. The applicant was very receptive to the concerns of the revised architect plans and that was where the alternate plan came from.

Mr. Perez referred to exhibit A-21, based on the conversations with the Boards professionals they have pushed the building back from the street and they create a public space, which would have handicapped access. The blue and yellow areas would now be above the flood zone. The parking would remain at elevation 14 so they would have to have a ramp to get to that level. They redistributed the trash room which is now located further back creating a second commercial space. The commercial spaces are small one is 1289 and the other is 1578 square feet. Mr. Perez stated that those were the changes in the front. Mr. Alfieri asked about the yellow space; Mr. Perez stated that stays the lobby for the apartments. Mr. Perez described the additional changes in the plans that were before the Board at the meeting.

Mr. Leckstein asked how many spaces are in the concept plan; Mr. Perez stated that there were 27 spaces inside the building. Mr. Alfieri asked how many spaces there was in total; Mr. Marielle stated that there was 77 physical spaces and 9 EV credits, which would be 86 spaces. Mr. Leckstein asked if that included the spaces that are reserved for the townhomes; yes. Mr. Leckstein asked how many spaces were in the plan in Exhibit A-20; Mr. Perez stated that had 35 spaces inside.

Mr. Perez mentioned that the trash room would be larger to accommodate a few more dumpsters for the commercial uses. Mr. Perez stated that the footprint is identical to the plans that the Board has seen with the exception of the staircase.

Mr. Leckstein asked how many parking spaces are required for the alternate plan; Ms. Lelie stated that it was the same number of spaces in the first plan. The number did not change with the commercial use. There was further discussion regarding the parking spaces.

Mr. Perez described the front of the building he stated that revised elevation would be two feet higher for the bulkhead of the elevator is slightly smaller than the previous plan. The height would now be 74 to the bulkhead. Mr. Perez stated that 70 was allowed. Mr. Alfieri asked why did they have to increase it by two feet; because when the increased the finished floor elevation of the retail space to 16 feet, they had low ceiling. They had to raise the ceiling 24 inches so they would have 12-foot ceilings. Mr. Leckstein asked for confirmation of the height of the building. There was further discussion regarding the height of the building and what would be visible.

Mr. Alfieri asked Mr. Perez to explain where the outdoor seating area was located. Mr. Mullan asked to clarify if it was their position that the applicant is proposing or requesting that the use is permitted would allow for outdoor seating; Mr. Alfieri explained that the currently don't have any tenants but if that is what is permitted in the zone than yes. Mr. Mullan stated he wanted to explain to the Board that activity introduced if the application was to move forward and approved it would be the applicant's intention if they get certain tenants that they would include tables and seating in this area. Mr. Alfieri mentioned that they heard from the public that would be an attractive for that section of town. Mr. Leckstein asked if Keyport had any sidewalk ordinances; yes. Mr. Leckstein explained that the applicant would have to apply by the sidewalk ordinance if they needed to. Mr. Leckstein asked if the applicant would agree as a condition of approval that the Board's professionals review the subject of the outdoor seating; yes. Mr. Mullan added that the plans would have to be reviewed and approved by the Borough.

Mr. Perez explained spoke about the right-side elevation changes as well as the rear elevation changes. Mr. Perez explained that the garage would be enclosed instead of what was previously presented. He explained that the only change to the left side of the elevation would be the height.

Mr. Alfieri explained that those were the changes and that was the plan. Mr. Vecchio asked what the columns were going to be; Mr. Perez stated that they would be stucco. Mr. Alfieri stated that all of the technical comments that were in the T&M review reports would be addressed by the applicant.

Chairman Sessa asked if Mr. Mullan had any additional comments to add to the November 18th report since the plans changed from their review. Mr. Mullan stated that the November 18th report captures all of their commentary on the plans. Mr. Mullan stated that they will ask for clarification, but does not feel the change would be add any further commentary addressing the alternative plan that is before the Board. Mr. Mullan asked the applicant to describe to the Board understanding that there are no tenants for the commercial units the adequacy of the space. He asked that the applicant give the length and the width of each location. Mr. Mullan also how they would envision the commercial/retail operation to function with the employees and customer access in and out of the space. Mr. Perez stated they have the stairs or they could roll it in. There was discussion regarding how the supplier would get the product to the commercial units. Mr. Mullan asked about the trash and recyclables; Mr. Perez explained that they would have access to the trash room.

Mr. Mullan asked if the commercial space would be split; Mr. Perez stated that the space is small and that he does not anticipate it would be split. Mr. Perez explained that the larger space is approximately 23 feet deep and 65 to 70 feet in length, the smaller unit is 23 feet deep and approximately 53 feet in length. Mr. Perez added the larger unit would have two toilet rooms; there might be a kitchen and storage space that would take up a third of the area. The smaller unit would have one toilet area and possibly a coffee shop or card store. Mr. Mullan asked if those would be made of partition type walls; yes.

Chairman Sessa asked if the Board wanted the applicant to proceed with the alternate plan.

Councilmember Davidson stated that she does like the new plan but is concerned about the outside character of the building. She explained that this was the first major project in the historic district on East Front Street and given to what they look forward to in the future. Councilmember Davidson added that there might be more redevelopment or revitalization in other areas. Councilmember Davidson questioned regarding the overhanging eve was flat or are they architectural; Mr. Perez stated that they were architectural that are off the building. There was further discussion regarding the architectural overhanging eves that were on the building. Councilmember Davidson mentioned that it states that the color was to be determined; Mr. Perez explained that what was being presented were roughly the colors. It would be a brown reddish brick, beige stucco. They could supply colors to the Board professionals if the application was approved.

Councilmember Davidson questioned if the double hung windows that are flat and square if there would be consideration to add a little more curvature; Mr. Perez replied unfortunately no. He explained that they had to reduce the ceiling level in order to keep the height of the building down. He continued to explain that they are eight-foot ceilings and below each window, they have PTEC units, which raise the bottom of the windows. There was further discussion regarding the architectural details that are around each of the windows. Mr. Leckstein asked Mr. Perez to show exhibit A-17 rendering from the previous plan. Mr. Perez explained that shows the architectural of the building.

Mr. Mullan explained that the ground floor was pushed back approximately six to eight feet; the level above it with the apartments has not changed. Mr. Mullan stated that they would like the colors of the building and façade to be shared with others interested; he does not feel that the engineer and planners should be make the final decision. If there was going to be a developer's agreement the colors could be part of that. After a discussion it was decided that they would need to have a developer's agreement and the issue of color could be part of that agreement. Mr. Leckstein stated that he could make as a condition of approval that the colors be part of the developer's agreement.

Ms. Dickerson asked the number of units; 50 units.

Mr. Pacheco asked about the two foot that would be off the elevator; Mr. Perez explained that it is four foot for the elevator and two foot for the top floor. There was further discussion regarding the set back from the street and what the elevation would be. Mr. Vecchio asked if the bulkhead would be visible from the townhouses; Mr. Perez stated he did not think so because the bulkhead is on the other side of the building.

Mr. Kotzas stated that he feels the setbacks with the sidewalks is a big improvement to the design; the Board agreed.

Councilmember Davidson asked if there was conversation regarding the density of the units; Mr. Leckstein explained that there is no density variance. There was further discussion regarding the number of units that the applicant originally applied for and how many are before the Board currently. There was also discussion regarding the number of affordable units that there would be and if they would be similar to the other apartments.

Motion to open to the public at 7:14PM was made by D. Pacheco, second by Councilmember Davidson with ayes by all present.

Michael Lane, 51 First Street, asked regarding the use variance. Mr. Leckstein stated that there was no use variance; Mr. Lane disagreed with Mr. Leckstein. Mr. Alfieri mentioned that the questions might be better suited for the planner. Mr. Lane continued that the Borough had a set of developer's standards for a mixed use. Mr. Leckstein asked if the question was for the architect, he mentioned that the question sounds like one for the planner. Mr. Lane proceed and stated that his question was what percentage of the ground floor is going to be commercial; Mr. Perez stated he did not know the exact number but estimated it to be approximately 10 percent. Mr. Lane proceed to say that 90 percent of the ground floor with the apartments above it will not be commercial. He asked what the design standard is for mixed use; Mr. Perez stated that he did not know what Mr. Lane was referring to. Mr. Leckstein explained that would be a question for the planner not the architect.

Mr. Lane asked what the number of unrestricted parking spaces per unit is; Mr. Leckstein explained that he did not feel that this would be a question for the architect. Mr. Lane stated that he had questions regarding the site plan. Mr. Alfieri stated that the site plan has not changed.

Motion to close to the public at 7:47PM was made by Councilmember Davidson, second by D. Pacheco with ayes by all present.

Mr. Leckstein asked Mr. Alfieri if his next professional would be the person that would be able to answer Mr. Lane's questions regarding jurisdiction; yes.

Mr. Leckstein suggested to the Chairman if Mr. Lane was going to challenge the jurisdiction, he asked that be discussed because if Mr. Lane is correct than there was no point in moving forward with the application that is before the Board.

John Taikina, Planner stated that Mr. Lane is incorrect.

Mr. Leckstein asked Mr. Lane to come and ask Mr. Taikina his questions regarding jurisdiction. Mr. Leckstein explained that if Mr. Lane is correct and the application is a use variance they would not be able to move forward and the Councilmember would have to stepdown.

Mr. Lane stated that the Borough has a developer's standard for mixed use that requires 100% of the ground floor to be commercial. Mr. Taikina asked Mr. Lane to indicate where it states that in 25-19.5 where it states that 100% of the ground floor must be commercial. Mr. Taikina stated to that he would submit that the applicant does have 100% of the ground floor with the exception of the lobby. There was discussion regarding the delineation of the ground floor. Mr. Taikina stated that Mr. Perez gave his testimony based on the parking area as well as other areas. Mr.

Taikina stated that was not the ground floor and that the parking area is in the basement. Mr. Taikina stated to comply with the Borough's professional request and to implement the Boroughs Master Plan they created a ground floor at elevation 16. Mr. Taikina stated that he believed that Mr. Lane had made the suggestion in a prior meeting. Mr. Taikina stated that on the ground floor the only thing that is not commercial was the lobby he feels that they comply with the 100% commercial on the ground floor. There was further discussion regarding whether this application needed a use variance. Mr. Leckstein confirmed that the Boards professionals have both reviewed the application and did not see a need for a use variance. Ms. Lelie stated that was correct, she read what the ordinance to the Board. Ms. Lelie explained that the ordinance is so that it eliminates the possibility to have a multi-family dwelling only in a commercial district. Ms. Lelie explained what a mixed use would have commercial on the bottom with apartments above; she did not see anything regarding percentages. Ms. Lelie stated that with that information she feels the application before the Board would not need a use variance; Mr. Leckstein agreed.

Mr. Taikina spoke about the change in the application that the Board reviewed was the amount of commercial space. He feels that with additional commercial space the application would not be a C2 variance. Mr. Taikina stated that they could compare the plan that the Board had received which is a compliant plan to the one that would add additional commercial space but it adds to the height as well as reduces the parking spaces. Mr. Taikina spoke about the positive and negative criteria of the application that the Board decided to proceed with which was the concept plan.

Mr. Leckstein asked for the parking requirements. Mr. Taikina stated that the requirements are 93 spaces in total. The applicant is providing 77 parking spaces on the site and with the EV stations that brings it to 86 that would make a deficiency of 7 spaces. Mr. Leckstein asked what number did the traffic expert state; 1.5 spaces per unit. Mr. Leckstein confirmed that would be 75 spaces and the applicant is above with either calculation; yes. Mr. Leckstein asked if Ms. Lelie agreed with that calculation. Ms. Lelie agreed with the C2 testimony with the better alternative plan. She spoke about the Master Plan goals and objectives. There was discussion regarding the RSIS standard for parking for this type of project.

Motion to open to the public at 8:04PM made by N. Vecchio, second by Councilmember Davidson with ayes by all present.

Mike Coughlin, 12 First Street asked Mr. Taikina to please site the standard that was mentioned regarding the RSIS lowering the parking from 1.8 spaces per one-bedroom to 1.5 for an one-bedroom. Mr. Taikina stated that has become the industry; Mr. Coughlin replied that was Mr. Taikina opinion not a standard. Mr. Taikina stated that it was his professional opinion. Mr. Coughlin asked if the standard was 1.8 per RSIS standard; yes, that is why the requirement for the site is 93 and the applicant provided 86 spaces. There was further discussion regarding the required parking.

Nancy Femenella, 10 First Street confirmed that there is 84 parking spaces required and the applicant is providing 77 spaces. Ms. Femenella spoke about the parking situation in the area she also asked where the EV stations are and why are they allowed to minus for them. Mr. Leckstein stated that it is a state law. There was further discussion regarding the state law and the ability to minus the EV stations as part of the parking credit. Ms. Femenella spoke about the trucks that have to deliver to the stores.

Ms. Femenella stated that they have compromised with the original drawings that were presented and that building would have been more acceptable with the parking and circulation. She stated that it is currently hard to get out of their driveway. Further discussion regarding the additional vehicles that would be parking for this application. Ms. Femenella asked how this would work; Mr. Taikina stated the way they could comply is to take the 1500 sq feet of retail and put the parking spaces back. Mr. Taikina continued that the town professionals believed that this represents a better plan and implements the Master Plan.

Mr. Leckstein explained that if the applicant went with the other plan without the two commercial spaces, they are fully compliant because there would be no variances. The Board would have to decide whether they want one commercial space or the two commercial spaces. If they get rid of the second commercial space than everything Ms. Femenella has been speaking about would go away because then the applicant would have enough parking spaces. Mr. Leckstein stated that the Board could not say they do not like the number of units the applicant is proposing.

There was discussion regarding the variance for the height of the building for the elevator shaft.

Michael Lane, 51 First Street, spoke about the difference in parking from the previous application to the one that was being presented. Mr. Lane asked how many spaces with the project have that are non-restricted; Mr. Lane stated that there would be 45 spaces, which is less than one space per apartment. Mr. Taikina stated the applicant is providing parking spaces within state law as required. Further discussion regarding what the state law requires the applicant to have for the parking requirements. Mr. Leckstein explained that the Board could grant variances for the RSIS standards but not for the EV stations, they also could not be penalized for having to have them.

Mr. Leckstein explained that the Board is governed by the Municipal Land Use Law; the Board has to follow the Land Use Law. The Board cannot decide on an application whether the Board likes it or not.

Carol Goodhue, 16 First Street, asked where the EV spots were going to be located. There was discussion regarding where the spaces were located after the discussion the applicant agreed to move the spaces that are inside to be placed behind the town homes so that there is more space. Mr. Leckstein stated that as a condition of approval it would state that there would be no EV stations located inside the building and they would be placed behind the town homes. There was further discussion regarding the location of all the EV stations. All the EV stations will be outside and they will be located immediately adjacent to the six designated spots for the town homes with the remaining spots to be worked out by the professionals in the future.

Ms. Goodhue mentioned that the traffic study was solely looking at the implication of this building and what impact it would have on the traffic. Ms. Goodhue stated that it didn't look at what the traffic would be presently as well as the parking situation or the impact of the townhouses for the 120 units that is under review by the Board. She asked is it valid for a traffic study to not take into consideration the total planning of what is going on in town and if the town can absorb that kind of traffic; Mr. Alfieri responded that they had a traffic expert testify at the last meeting. There is no traffic testimony that they are offering at this meeting. Mr. Alfieri stated that the traffic expert was not present to respond to the question and none of the professionals that are present are traffic experts.

Ms. Goodhue spoke about the determinant that this project would cause to the public and the character of the Borough. Ms. Goodhue mentioned the number of apartments that would be added to the town she feels it would create a determinant. Mr. Alfieri stated that they now don't need a D Variance it is a Planning Board application and the law in New Jersey is that offsite traffic conditions can't be considered by the Planning Board. The only thing that the Planning Board could consider is if the driveway operates safely and efficiently and general circulation. Once you are on the road that would be the Borough's problem. Mr. Leckstein confirmed that what Mr. Alfieri stated is correct.

There was further discussion regarding the prior approval and the application that is currently before the Board for the 50 units as well as the changes made to the application.

Mr. Leonard Sitar, 20 First Street – there was discussion regarding needing a fire exit for the commercial space, Mr. Leckstein stated that the applicant would have to meet any fire code requirement. Mr. Leonard stated that this application is for 50 units that is being proposed and the parking is insufficient, most people have approximately two vehicles per home he feels the impact would be insufficient to handle the number of cars that would have to park. Mr. Sitar stated that his tenant has to park in the garage he explained that there is no outside parking. He is concerned that 50 units would actually equal 100 vehicles.

Michael Coughlin, 12 First Street referred to what Councilwoman Davidson mentioned that this site could be an opportunity to be the anchor of the redevelopment of East Front Street. He spoke about the idea of moving the EV stations that Ms. Goodhue and felt that was a good idea. He stated that the commercial space was incorporated. He asked if the applicant could comply with all the Master Plan with the number of parking spaces without a variance, without a height variance and still make this application a flagship building by reducing the number of residential units. Mr. Taikina replied no. He stated the compliant plan that doesn't have any variances, except for de minis two feet for the elevator; Mr. Coughlin stated that would still require a variance. Mr. Taikina stated to implement that plan they had filed that consisted of one commercial unit. Further discussion regarding the Master Plan supporting the mixed use providing functional, attractive comparable with the surrounding area. Mr. Coughlin stated that the applicant feels that they have achieved that and the residents feel that they are not there yet.

Mr. Coughlin mentioned the past application was for 24 units that was previously approved. His suggestion was since the applicant has gone from 24 to 54 and now down to 50 that the applicant can achieve what everyone is looking for by reducing the number of units that the applicant wants to build. He feels that is a solution and wanted to know why they have not pursued that possibility. Mr. Taikina stated that they proceed with compliance from the ordinance. When the prior approval was granted in 2019 subsequent to that approval there was a change in the ordinance, and the revision stated commercial on the first floor, 50 residential units and 94 parking spaces and to be compliant with the flood elevations. Mr. Taikina stated that the applicant provided a compliant plan that implements the ordinance and Master Plan. There was further discussion regarding the changes that were made from the plan that was submitted to the concept plan. Mr. Alfieri stated that in every application, it could always be smaller, less units, fewer square feet which is always possible but, you look at an ordinance and comply. Mr. Alfieri stated that they feel that they have complied with the ordinance with the application that was submitted and the Board reviewed with the exception of the de minis height variance for the elevator. Further discussion regarding the number of units vs. the number of parking spaces.

Mr. Mullan the eight-space parking deficiency could be eliminated by reducing the number of one-bedroom apartments by five. Mr. Alfieri stated or they could eliminate the second commercial space. There was discussion regarding the two choices that are being given to the Board with either two commercial spaces with streetscape and have a seven parking space deficiency or eliminating one commercial space and having no parking deficiency.

Ms. Goodhue asked what the difference would be financially from renting a one-bedroom or two-bedroom. There was discussion between reducing the number of one-bedroom and making more two-bedroom units.

Michael Lane, 51 First Street, his perception that when you included six town house parking spaces there was a deficiency of five spaces. Mr. Leckstein said what he thought was agreed to be the variances are what they are but the Board knows that the six spaces are not available for parking. Mr. Leckstein stated that was what the agreement was the variance did not change. The Board can take notice that the six spaces are not available, but that doesn't increase the variance.

John Clough, 8 First Street, stated this was the second or third meeting he has been at. He stated that it looks as though they are trying to deal with what is right for the city but they are being held back by what you can or can't do in the ordinance. He spoke about the parking problem; he feels that everyone is also aware of the traffic problem. There was discussion regarding the number of units and what is in the Master Plan, which was submitted to the Board previously. The Board professionals asked for more commercial space, and the applicant complied. Mr. Taikina stated that mortgage rates as well as materials have increased. Further discussion regarding the change adding the second commercial space and what it costs the applicant for making these changes. Mr. Leckstein confirmed that the previously submitted plan is 100 per cent compliant with the exception of the two feet for the elevator shaft. There was discussion regarding the loss of the seven spaces when the applicant added the second commercial space and provided the pedestrian walk way.

Mr. Kotzas added the difference between applications is a deficiency of seven spaces, the question to the Board is do they want seven parking spaces or do they want the walkway and the second commercial space.

There was further discussion regarding the downtown area, parking as well as the changes that were made to the application from the beginning.

Mr. Clough stated that he felt that Mr. Coughlin's comment in reducing the number of units and making this application right for the town.

Motion to close to the public at 9:14PM was made by Councilmember Davidson second by D. Pacheco with ayes by all present.

Mr. Arie Behar, managing property partner. He has been present for all the meetings and listen to the town's vision and concern. He wants to build a beautiful building. They purchased the property 15 years ago as an office building and over the last ten years, they have had a vacant building that they haven't been able to rent. Removing the eyesore that is currently there and build a building that everyone would enjoy.

Motion to open to the public at 9:17PM was made by D. Pacheco, second by Councilmember Davidson with ayes by all present.

Nancy Femenella asked if there was going to be someone living on the property to take care of it because presently it is terrible. Yes, there will be a super there at all times. Mr. Leckstein stated that would be a condition of approval of one of the units would be dedicated to the superintendent.

Motion to close to the public at 9:19PM was made by Councilmember Davidson, second by N. Vecchio with ayes by all present.

Mr. Alfieri asked if the Board wanted to continue this application or do they want to go with the previous plan. Mr. Leckstein explained that if the Board were to turn down this application then the applicant would be able to present the plan that was previously reviewed by the Board.

Mr. Kotzas stated that everyone knows there is a parking problem in Keyport; no matter what development happens at this location would that be a solution to the parking problem. Mr. Kotzas stated that do they pick the plan the Board likes more and let that be built and everyone knows that the parking situation would have to be addressed another way because neither plan would fix the problem.

Mr. Leckstein added that the parking lot for this application is not a public lot. The town homes have their six dedicated spaces but it is not a public lot. Further discussion regarding the building that is previously located on this property.

Councilmember Davidson spoke about the economic development in the downtown and that they will gain two commercial spots, outdoor space on East Front Street. She stated that she likes the plan that was presented.

Motion to open to the public at 9:24PM was made by N. Vecchio, second by J. Royster with ayes by all present.

Kathleen Shaw, 95 Elizabeth Street, feels the application is an awesome metamorphosis and she is thrilled that Master Plan vision that so many people have worked on is are coming to vision. She spoke about the townhome residents regarding the traffic and parking. Ms. Shaw stated that she wants to volunteer to be on the design committee, she stated she has 40 years of experience in downtown revitalization. She stated that she would like to challenge the governing body she stated that the Borough needs a parking and traffic commission, Ms. Shaw stated that she would volunteer to help. Ms. Shaw supported the application. Further discussion regarding the parking and traffic in the downtown area.

Mike Coughlin spoke about the two options that the Board could vote on. Mr. Coughlin stated it would be best for Keyport to go with the additional commercial space in though the town homes would lose more parking spaces. Mr. Coughlin asked Mr. Behar to consider reducing the number of units.

Carol Goodhue stated that she is for development and does appreciate what the building will do for the town. She thanked the applicant for working with the residents. She stated that the only she has is in regards to the traffic and parking. She asked if there was anything, they could do with the re-configuration of the apartments so there is less number of people coming in and out. Ms. Goodhue stated that she didn't have a problem with two-bedroom vs one-bedroom units she feels that you can get a higher rent with a two-bedroom and feels that would be a better solution.

Michael Lane, the plan with the expanded commercial is a better plan than the previous plan. He stated that he would have liked to see the building flipped 180 degrees with the courtyard in the front and the facade to match better with the buildings in the downtown.

Mr. Lane stated that the applicant noticed for a final site plan on the 9/12 site plan does not reflect any of the commercial area and the architectural plan does not align with the site plan. He stated he didn't know how that would be handled. He also mentioned that the site plan has old mailing addresses and stated that the site plan needs to be updated. Mr. Lane stated that the mailing list for the 200 feet was correct.

There was discussion regarding the applicant and the name that is on the plans which was First Property of Keyport. Mr. Behar explained why the name is different. Mr. Alfieri stated that this section of the meeting was for comments that they already had the question portion. There was discussion regarding the question portion of the meeting.

Mr. Lane explained that he spent a lot of time on the application and he would like to share with the Board the errors that the Board needs to be know about.

Chairman Sessa stated that the Board appreciates that. He asked if they could be corrected at the meeting. Mr. Alfieri stated that he could respond to the issues that Mr. Lane has spoken about.

Mr. Alfieri stated regarding the property owner list he wasn't sure when the property owner list was used on the plan but, the notice he sent out was from November 7th list. As part of the resolution compliance if the Board professionals want the most recent list on the plans, it would be easy. Mr. Leckstein explained that the updated list would have to be on the plans.

Mr. Alfieri explained at the introduction of the meeting he mentioned to the Board that the plans have not been fully engineered because it just came up in the last ten days with Thanksgiving in between but, it doesn't change the site plan it just changes the footprint of the exterior. The applicant has agreed that they would meet all the conditions of the Boards reports.

Chairman Sessa asked Mr. Mullan if he was comfortable with this; Mr. Mullan stated that they were comfortable with that approach.

Mr. Lane stated just for the record that this plan was an amendment to the Behar plan; Mr. Alfieri stated that this was a new application. There was further discussion regarding the two plans. Mr. Leckstein stated for clarification that this plan is replacing that plan.

Mr. Lane asked if the issues with the air conditioners and utilities were resolved; Mr. Leckstein reminded Mr. Lane that this was not a question-and-answer part of the meeting. Mr. Leckstein stated he believed that all the answers were accepted by the Boards planner and engineer.

Mr. Leckstein reminded Mr. Lane that the Chairman had stated that at this time of the meeting it was the public opportunity to state how you wish the Board to vote, it is not an opportunity to reopen the hearing to start asking questions of the applicant's witnesses.

Mr. Alfieri stated that the applicant would not be able to get building permits until T&M is satisfied. Mr. Leckstein mentioned that Mr. Lane that he doesn't need to tell the Board every document that needs to be cleaned up, they would all be cleaned up.

Mr. Lane spoke about the run off from the drain on East Front. Mr. Lane handed out his exhibit, which was marked in as Exhibit L1. Mr. Alfieri had no objection to the exhibit but stated he may have questions regarding it. Mr. Leckstein mentioned that the exhibit consisted of three pages; Mr. Lane described the exhibit to the Board.

Mr. Lane stated that the original plan stated that there would be no run off from the parking area and that led to the construction of the storm water pit and storm water pipe drainage system on First Street. When they moved into Hovnanian project, it was documented that they needed to assure that they wouldn't have storm water runoff on East Front because of flooding issues. Mr. Lane stated that they do need the linear drain and he stated that they could get testimony from the town home residents regarding the storm water runoff. Mr. Leckstein asked where does it says that there would be no runoff; Mr. Lane replied he didn't bring that document. Mr. Alfieri stated that the document Mr. Lane handed out stated that the applicant engineer and the Borough's engineer addressed the issue. Mr. Leckstein explained that Mr. Lane made representation that this was a condition that there would be no runoff at all but he didn't present the evidence that the condition existed. Mr. Leckstein read part of the resolution that Mr. Lane was referring to he explained that there was no condition that stated there would be no run off at all. There is further discussion regarding the runoff on the property. Mr. Mullan stated that they would do whatever is required before T&M signs off on the site plan and then they would be eligible for building permits application. Mr. Mullan stated that he could assure the Board that the French drain that Mr. Lane is referring to has been already noted in the required plan revisions to capture any water that would leave the paved parking lot and drain out into the street. Mr. Mullan mentioned that the applicant is going replace the existing sanitary sewer main and the storm water lines that run through the property with a series of inlets that added as well as drainage improvements in the street. Mr. Mullan explained that they are satisfied with the commitment from the applicant to take care of the drainage issue. Mr. Lane stated that information was not in the plans; Mr. Mullan explained that the plans had not been updated with every change that was made. Mr. Mullan continued to state that if the application was approved it would be a condition that the applicant would have to make all the revisions and drainage improvements that are required by T&M.

Mr. Lane stated that as a condition if piles are required that the townhome and residents within 200 feet would go into the homes and inspect the houses and if there was any damage that occurred there would be protected by an insurance policy. Mr. Alfieri stated that on March 7th if piling were needed the applicant agreed that they would be put monitors in place on the town house units if allowed, to make sure that they are not impacted. Mr. Alfieri stated that he would send Mr. Leckstein all of his notes. Mr. Alfieri stated that was something the applicant agreed to. Mr. Lane asked not just the town homes it should be any resident within the 200 feet; Mr. Alfieri stated that Mr. Lane wanted them to put something on his home they would. Mr. Mullan asked if the applicant is committed to offer that to any resident within 200 feet; yes, if they request it.

There was discussion regarding the maintenance of the discharge on Broad Street as well as the pump station.

Motion to close to the public at 9:57PM was made by N. Vecchio, second by J. Royster with ayes by all present.

Mr. Leckstein reminded the Board and public that the Councilmember could not vote on the application because she did not attend for the previous meetings because this application started out as a use variance. He stated that Councilmember Davidson's input was valuable.

Chairman Sessa stated that plan that the applicant presented is the best even though they lose parking spaces. He stated that 25 East Front Street is an eyesore and likes the architecture of the building that was presented.

Ms. Royster agreed with Chairman Sessa and feels it would expand the downtown area.

Mr. Vecchio spoke about the opposition when the town homes were built, he feels that they were a wonderful addition. He understands it won't make everyone happy but feels it is positive for the future of the town.

Ms. Dickerson thanked the planners and everyone that worked on the project; she likes the way the building is going to look with the commercial units.

Motion to approve application was made by N. Vecchio, second by D. Pacheco
Ayes: M. Sessa, W. McDermott, J. Oviedo, D. Pacheco, J. Royster, N. Vecchio, G. Kotzas, C. Dickerson

Abstain: Councilmember Davidson because this application started out as a use variance and was not present from the beginning of the testimonies.

PLANNING BOARD PROFESSIONALS: Mr. Mullan stated that the December agenda is full and that Board has application that are pending already for 2023.

Motion to adjourn at 10:02PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

The next regularly scheduled Planning Board Meeting will be December 3, 2022