

RESOLUTION
AMENDED FINAL SITE PLAN APPROVAL
WITH BULK VARIANCE RELIEF

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 80, LOT 1.02
Application # 21-10
KEYPORT PROFESSIONAL PLAZA, LLC
25 EAST FRONT STREET

WHEREAS, Keyport Professional Plaza, LLC is the owner of certain property located at 25 East Front Street which is officially designated as Block 80, Lot 1.02 on the official tax map of the Borough of Keyport; and

WHEREAS, as part of Application No. 18-04 and memorialized within a Resolution of Approval dated March 28, 2019, the applicant did previously receive Preliminary and Final Site Plan and parking variance approval to demolish a portion of an existing building at the site and construct a new addition consisting of twenty-four (24) residential apartments with a twenty (20) space parking garage and fifty-four (54) surface level, off-street parking spaces, for a total of seventy-four (74) spaces, whereas eighty-four (84) were required; and

WHEREAS, the applicant now proposes to amend its previous approval so as to include a separate multifamily building that does not incorporate the existing offices on the ground floor as in the previously approved application;

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and has caused notice to be published regarding said application in accordance with N.J.S.A. 40:55D-1 et. seq., this Board gaining jurisdiction thereunder; and

WHEREAS, public hearings on the application were conducted on the within matter during regularly scheduled meetings of the Unified Planning Board held on February 24, 2022, May 26, 2022, July 28, 2022, September 22, 2022 and November 29, 2022 during which all parties interested in the application were given an opportunity to be heard;

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicant and the review of the Borough experts;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the following findings of facts are made:

1. The applicant, Keyport Professional Plaza, LLC, is the owner of certain property located at 25 East Front Street which is officially designated as Block 80, Lot 1.02 on the official tax map of the Borough of Keyport.
2. The subject site consists of approximately 63,369 square feet and is located on the north side of East Front Street between Broad Street and Church Street. It is currently developed with two office buildings. The first building is a one-story building with access and frontage on

RESOLUTION
AMENDED FINAL SITE PLAN APPROVAL
WITH BULK VARIANCE RELIEF

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 80, LOT 1.02
Application # 21-10
KEYPORT PROFESSIONAL PLAZA, LLC
25 EAST FRONT STREET

WHEREAS, Keyport Professional Plaza, LLC is the owner of certain property located at 25 East Front Street which is officially designated as Block 80, Lot 1.02 on the official tax map of the Borough of Keyport; and

WHEREAS, as part of Application No. 18-04 and memorialized within a Resolution of Approval dated March 28, 2019, the applicant did previously receive Preliminary and Final Site Plan and parking variance approval to demolish a portion of an existing building at the site and construct a new addition consisting of twenty-four (24) residential apartments with a twenty (20) space parking garage and fifty-four (54) surface level, off-street parking spaces, for a total of seventy-four (74) spaces, whereas eighty-four (84) were required; and

WHEREAS, the applicant now proposes to amend its previous approval so as to include a separate multifamily building that does not incorporate the existing offices on the ground floor as in the previously approved application;

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and has caused notice to be published regarding said application in accordance with N.J.S.A. 40:55D-1 et. seq., this Board gaining jurisdiction thereunder; and

WHEREAS, public hearings on the application were conducted on the within matter during regularly scheduled meetings of the Unified Planning Board held on February 24, 2022, May 26, 2022, July 28, 2022, September 22, 2022 and November 29, 2022 during which all parties interested in the application were given an opportunity to be heard;

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicant and the review of the Borough experts;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the following findings of facts are made:

1. The applicant, Keyport Professional Plaza, LLC, is the owner of certain property located at 25 East Front Street which is officially designated as Block 80, Lot 1.02 on the official tax map of the Borough of Keyport.
2. The subject site consists of approximately 63,369 square feet and is located on the north side of East Front Street between Broad Street and Church Street. It is currently developed with two office buildings. The first building is a one-story building with access and frontage on

Broad Street. The second building is a three-story building on East Front Street. Both buildings have paved parking lots, with the main lot having access from East Front Street that wraps around the rear of the property and abuts townhouses along First Street.

3. This application seeks to amend previously granted final site plan approval, memorialized in the Board's Resolution dated March 28, 2019 (Application # 18-04), which permitted the applicant to demolish a portion of one of the existing buildings, so as to construct a new addition consisting of twenty-four (24) residential apartments with a twenty (20) space parking garage and fifty-four (54) surface level, off-street parking spaces, for a total of seventy-four (74) spaces, whereas eighty-four (84) were required. **(Exhibit B-3)**
4. As recognized in the 2019 Resolution at Paragraph 14, the property on which the aforementioned First Street townhouses are located (Block 80, Lots 1.02, 1.03, 1.04, 1.05, 1.06, 1.07, 1.08, 1.09, 1.10, 1.11, 1.12, 1.13 and 1.14) used to be part of the applicant's site. The properties were separated when the townhouses were built by virtue of an application granted by the Planning Board to a previous property owner, Woodmont of Keyport, LLC. This approval was memorialized within resolutions adopted on July 24, 2003 and February 26, 2004 respectively. That approval was subsequently amended by way of an application brought by K. Hovnanian at Keyport, LLC and approved by way of a resolution adopted on June 21, 2007. As part of that ultimate approval process, a perpetual access easement granting certain rights to the townhouse development over the applicant's property was recorded with the Monmouth County Clerk's Office on September 6, 2007 in Book OR-8676 at Page 805. The rights contained within the access easement agreement can be summarized as, but were not limited to, the following:
 - (a) A non-exclusive easement for pedestrian and vehicular access and for private and/or municipal waste and recycling pickup for the townhouse lots across the applicant's property
 - (b) An easement for five (5) parking spaces for the townhouses lots upon the applicant's property.
 - (c) A general right to the townhouse lots for using a portion of the applicant's property as a means of egress from the townhouse lots to Front Street
 - (d) An obligation for the owner of the applicant's property to be responsible for snow-plowing the easement property at its cost and expense.

During the course of the 2019 application, and as a condition to that approval, the following additional obligations were undertaken by the applicant pursuant to Condition # 3 of that Resolution of Approval:

- (i) Improve the dumpster and enclosure area

- (ii) Make all sidewalk and curb repairs
- (iii) Limit access for waste management vehicles from East Front Street only
- (iv) Directing all construction and delivery vehicles to access the property only from East Front Street
- (v) Install temporary construction fencing in a way that will not interfere with the driveway/easement between the townhouse units on the applicant's improvements
- (vi) Erect a stop sign at the exit of the garage
- (vii) Add signage directing vehicles to exit in an easterly direction and provide traffic arrows on the pavement
- (viii) Erect a "private parking only" sign identifying six (6) parking spaces for use by townhouse owners only
- (ix) Limit the easement/alley to one-way traffic pattern with all traffic heading east and providing signage to effectuate same
- (x) Increase the number of reserved parking stalls for the townhouse owners from five (5) to six (6).

It is important to recognize these conditions of the 2019 approval since owners of the First Street Town homes did appear at the present hearing to voice their concerns over what the applicant was now proposing.

- 5. The current proposal before the Board is one in which the applicant is seeking amended site plan approval so as to demolish a portion of the existing office buildings and construct an addition to add fifty (50) residential apartments, thirty (30) of which would be 1 bedroom and twelve (12) of which would be 2 bedroom. Ten (10) of the units would meet affordable housing requirements per State/Borough requirements. There would also be an interior courtyard and a twenty-seven (27) space parking garage.
- 6. The application would also include the following:¹
 - (a) One (1), 1,324 square-foot, ground-floor commercial space/storefront located in the southwest corner of the building with direct access to East Front Street.
 - (b) Aluminum awnings added above the glazing along the East Front Street facade;
 - (c) Two (2) 20 sq. ft. facade signs for the proposed retain space located above the two aluminum awnings on the East Front Street building elevation;
 - (d) Additional glazing along East Front Street facade for commercial space;

¹ This application went through numerous revisions during the course of the public hearings, most notably the fact that originally ground floor commercial/storefront space was not included which necessitated use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1). For the sake of efficiency, this Resolution will only deal with the final proposed project.

- (e) Electrical/fire, water and gas rooms located from the ground floor of the southwest corner of the building to the ground floor in the north-central area of the building;
 - (f) Existing, adjacent one-story building updated to match awnings and color scheme of retail space and East Front Street Facade;
 - (g) Parapet height location adjustments on building elevations; and
 - (h) Stucco and brick locations adjustments on building elevations
7. The subject property is located within the Borough's GC (General Commercial) District which permits the proposed uses.
8. The zoning requirements associated with this application are as indicated within the chart below. As demonstrated by the chart, the applicant's proposal only violates the zoning ordinance with respect to "principal building feet" wherein one is not permitted to exceed an elevation of 70.0 feet referenced to Datum NAVD 88, whereas the applicant is proposing a total of 72.24 feet. As such, bulk variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(c) is required in order for the application to be approved.

GC Zone Provision	Required	Existing	Previously Approved (App. # 18-04)	Proposed
Minimum Lot Requirements				
Minimum Lot Area	N/A	63,369 SF	No Change	No Change
Minimum Lot Width	N/A	306.6 Feet	No Change	No Change
Principal Building Setbacks				
Front Setback	N/A	0 feet	No Change	No Change
Side Setback	N/A	0 feet	No Change	No Change
Combined Side Setback	Note 2 below ²	105.45 feet	No Change	70.8 feet
Rear Setback	Note 2 below	51.19 feet	44 feet	43 feet
Maximum Building Height				
Principal Building Height	N/A	2 stories	3 stories	5 stories
Principal Building Feet	Note 3 below ³	< 35 feet	64.33 feet	74 feet (V)
Maximum Percent Lot Coverage				
Principal Building	85 %	24 %	36 %	35 %
Total Buildings	85 %	24 %	36 %	35 %
All Buildings & Impervious Surface	90 %	73 %	82 %	80 %

² Minimum setback from a residential district is 20 feet

³ The peak of the roof and any equipment shall not exceed an elevation of 70.0 feet referenced to Datum NAVD88.

9. With respect to parking requirements, a total of 93 spaces are required by the application pursuant to the applicable Residential Site Improvement Standards (RSIS). This number is derived as follows:

Land Use	Quantity Proposed	RSIS Requirement	# Spaces Required
1 Bedroom Units	38 units	1.8 space per unit	69
2 Bedroom Units	12 units	2 spaces per unit	24
TOTALS			93

10. Notwithstanding the 93 parking spaces required by RSIS, the applicant is entitled to take credits based upon New Jersey's Statewide Municipal Electric Vehicle (EV) statute. Under the provisions of that law, the applicant is required to provide at least 15% of its proposed parking spaces as EV stations. In this case, a total of 14 EV Spaces would be required. The applicant is then able to take a maximum 10% credit for each EV station being supplied against what would otherwise be required by the RSIS standards. In this case, the applicant is proposing all 14 of the required EV Service Equipment spaces. This means the 93 parking spaces which would otherwise be required by RSIS is reduced by 10% leaving a total of 84 parking spaces being required for the site. The calculation for this credit is as follows:

Make-Ready EV Spaces = 15% of the required off-street parking spaces
93 RSIS Spaces x 15% EV Required Spaces = 14 spaces
Maximum EV Credit = 10% of 93 spaces = 9.3 spaces
93 RSIS Spaces - 9 EV space credit = 84 required spaces

11. The applicant is proposing a total of **77 parking spaces** in this application, with twenty-seven (27) spaces being located within a proposed parking garage and the remaining fifty (50) spaces being located outside. These 77 proposed spaces result in the need of a variance of seven (7) parking spaces from what would otherwise be the 84 spaces required by the RSIS standards once the EV credit was taken into consideration. Said variance relief would be subject to the provisions of N.J.S.A. 40:55D-70(c).
12. The applicant has also proposed that four (4) of the non EV parking spaces will be made compliant with the provisions of the Americans With Disabilities Act (ADA), with one of those four being van accessible. Requirements under the ADA has also therefore been satisfied.
13. Finally, the applicant sought relief from that portion of the Borough's Flood Damage Prevention Ordinance which would require all utilities to be located above the Borough's Base Flood Elevation (BFE) requirements. It was noted by the applicant's experts, that this site is already developed with utilities such as sewer, electrical lines and gas lines already in place below the BFE. It would be extremely difficult, if not impossible, to relocate them.

14. Throughout the course of the application, the applicant was represented by its legal counsel, Salvatore Alfieri, Esquire of the law Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices located at 955 State Route 34, Suite 200, Matawan, New Jersey.

15. In support of the application, the following exhibits were marked into evidence by the applicant:

- Exhibit A-1 :** Application Package submitted on June 28, 2021
- Exhibit A-2 :** Site Plan package dated May 28, 2021, revised through June 18, 2021, as prepared by Menlo Engineering (consisting of 12 sheets)
- Exhibit A-3 :** Architectural Plans dated June 14, 2021 as prepared by Perez & Radosti (consisting of 8 sheets)
- Exhibit A-4:** "Stormwater Management Report" dated April 3, 2018, last revised June 18, 2021 as prepared by Menlo Engineering
- Exhibit A-5:** "Stormwater Pump Report" dated May 28, 2021 as prepared by Menlo Engineering
- Exhibit A-6:** "Operational and Maintenance Manual" dated January 8, 2019, last revised June 16, 2021, as prepared by Menlo Engineering
- Exhibit A-7:** "Architectural Renderings" as prepared by Perez & Radosti (consisting of 2 sheets)
- Exhibit A-8:** Traffic Report dated October 26, 2021 as prepared by John H. Rea, P.E. and Scott T. Kennel, Sr. Associate
- Exhibit A-9:** Existing Conditions Exhibit
- Exhibit A-10:** Revised Site Plan Exhibit
- Exhibit A-11:** Overall Plan Aerial Exhibit
- Exhibit A-12:** Alternate Parking Exhibit prepared by Meno Engineering
- Exhibit A-13:** Colorized Architectural Plans dated June 14, 2021 as prepared by Perez & Radosti (consisting of 7 sheets)
- Exhibit A-14 (5-26-22):** Copy of Elevations previously approved by the Board in Application # 18-04
- Exhibit A-14⁴:** Revised Architectural Renderings as prepared by Perez & Radosti (consisting of 2 sheets)
- Exhibit A-15:** Revised Architectural Plans dated September 22, 2022 as prepared by Perez & Radosti (consisting of 7 sheets)
- Exhibit A-16:** Revised Site Plan package dated September 12, 2022 as prepared by Menlo Engineering (consisting of 14 sheets)
- Exhibit A-17:** Revised architectural rendering of front facade as prepared by Perez & Radosti
- Exhibit A-18:** Traffic Report dated September 12, 2022 as prepared by John H. Rea, P.E. and Scott T. Kennel of McDonough & Rea Associates, Inc.
- Exhibit A-19:** Grading & Utility Plan dated April 3, 2018, revised through November 3, 2022 as prepared by Menlo Engineering

⁴ Two sets of exhibits were inadvertently marked as Exhibit A-14. For the sake of clarity, the earlier marking is being noted in this Resolution with the date of its marking on May 26, 2022. The latter A-14 was marked into evidence on September 22, 2022.

- Exhibit A-20:** Architectural Floor Plans, revised through October 17, 2022 as prepared by Perez & Radosti
- Exhibit A-21:** Alternate Architectural Floor Plans, dated November 28, 2022 as prepared by Perez & Radosti
16. The final version of the application submitted would be based upon **Exhibits A-4, A-5, A-6, A-15, A-16, A-17, A-18, A-19 and A-21**. As a condition of approval, each of these plans would be subject to revisions as required by the Board Professionals so as to conform their various review memorandum as indicated within the next paragraph.
17. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits as follows:
- Exhibit B-1:** Review letter of Board Engineer and Planner, T&M Associates, dated August 12, 2021
- Exhibit B-2:** Flood Damage Prevention Ordinance Review letter of Borough Engineer, CME Associates, dated October 20, 2021.
- Exhibit B-3:** Resolution Granting Preliminary and Final Site Plan Approval With Parking Variance Relief adopted by the Planning Board on March 28, 2019 in Application # 18-04.
- Exhibit B-4:** Supplementary Engineering and Planning Review letter of T&M Associates dated September 21, 2022.
- Exhibit B-5:** Final Engineering and Planning Review letter of T&M associates dated November 18, 2022
18. Representatives of the Board's Engineer and Planner, T&M Associates, were present throughout the course of the hearings. All of the professionals were sworn and certified as to the information within the various T&M Associates review letters which were marked into evidence and are incorporated into this Resolution by reference.
19. In support of its application the applicant presented the following witnesses:
- (a) Michael Marinelli, P.E. of Menlo Engineering - the applicant's site engineer
 - (b) Richardo Perez, P.A. of Perez & Radosti - the applicant's architect
 - (c) Scott Kennel of McDonough & Rea - the applicant's traffic expert
 - (d) John Taikina, P.P. - the applicant's planner
20. Each of the applicant's experts testified as to the positives associated with the project. Most notably it was recognized that the application was relatively variance free with the only exceptions being for height and parking. As to the latter variance, it was recognized that the applicant had submitted a fully compliant site plan from a parking perspective wherein eighty-five parking spaces would have been provided (**Exhibit A-20**), however after considering the alternate plan (**Exhibit A-21**) which provided for additional commercial space on the ground floor as envisioned by the zoning ordinance, the Board felt it would be in the best interests of the Borough to grant a parking variance to the applicant.

21. With respect to the height variance of approximately two (2) feet, the applicant's experts argued, and the Board does accept, that such is de minimis as no one would be able to tell the difference from the naked eye from below. Additionally, the extra height was necessitated by the addition of an elevator shaft bulkhead for the residences and by the commercial space added on the ground floor.
22. Finally, the Board accepted the representations of the applicant's experts that relief should be granted from the requirement that the applicant relocate all existing utilities to above BFE levels. Such utilities as sewer, electric and gas lines already exist on the site and it would make no practical sense to force the applicant to relocate them at this point in time.
23. As noted by all of the professionals, including the Board's, the application would transform what is currently a building in much need of renovations into a new mixed use building in the downtown area which was precisely what was envisioned by the Borough's Master Plan and Zoning Ordinance. This would be of extreme benefit to the Borough as a whole.
24. In furtherance of this mixed-use plan, the applicant agreed, as a condition of approval, that conforming outdoor seats would be placed along the front walkway outside of the proposed commercial spaces as shown on **Exhibit A-21**. The exact alignment of this seating would be subject to the review and approval of the Board's Planner and Engineer. This new seating area would bring the property into greater conformance with the Borough's streetscape.
25. It was also agreed, as a condition of approval, that the exact colors for the exterior of the building would be made part of a developer's agreement with the Borough so as to ensure its compatibility with the downtown area.
26. In order to ensure the building was properly maintained, it was agreed, as a condition of approval, that at least one of the apartment units on the site would be reserved for a superintendent. The building's superintendent would be required to live on site.
27. With respect to the site plan itself, the following was agreed to:
 - (a) All EV parking would be located outside of the parking garage between the rear of the building and the spaces which are reserved for the townhouse units under the 2019 approval. The exact location for these spaces would be subject to the review and approval of the Board Engineer and Planner.
 - (b) The applicant will make all revisions and drainage improvements required by the Board Engineer, including trench drains and the installing of a linear drain across the eastern driveway connection with East Front Street if the Board Engineer deems such to be necessary. New easements will be recorded as to any such improvements with the language of same being reviewed and approved by the Board Attorney and the Board Engineer prior to recording the easements with the County Clerk's Office.

- (c) The applicant will perform a full milling and overlay for the entire parking lot so as to ensure it is one seamless lot. No pavement may drain toward the existing town houses along First Street. Said improvements to subject to the review and approval of the Board's Engineer.
 - (d) A site triangle analysis must be provided to the Board Engineer to confirm whether the public parking stalls located along the newly proposed exit of the property are appropriate from a safety perspective.
 - (e) The applicant will work with the neighboring fire department to provide appropriate landscaping between the two properties. Said final landscaping plan being subject to the review and approval of the Board's Planner and Engineer.
 - (f) All wall mounted lights shall shine downward and not on to neighboring properties.
 - (g) The HVAC condensers to be installed at the site will operate at approximately 29 dBA and always remain under the State requirements.
 - (h) The trash room for the building will be able to accommodate six (6) four yard dumpsters. At least two (2) trash picks up for the site will be conducted a week. Garbage to be handled by a private hauler.
28. Additionally, with respect to traffic circulation, the applicant would not allow traffic to exit the site on to Broadway. The Broadway access would remain as an entrance only. This would be a condition of approval.
 29. So as to ensure the site would not be overwhelmed by non resident parking, it was also agreed management would development a parking tag system so as to ensure those vehicles on site belonged on site. Said program to be reviewed and approved by the Board's Planner. Additionally, the spaces located within the garage will be further secured by a requirement that access to same will only be granted by utilization of a fob system.
 30. In order to maintain safety throughout the site the applicant also agreed to grant Title 39 approval to the Borough Police. This would be a condition of approval.
 31. During the course of the application one of the most pressing issues for the Board was the status of an existing, but non-functioning, pump house structure located on Block 80, Lots 1.10 and 1.11. This structure was part of a storm drainage easement recorded with the Monmouth County Clerk's Office on August 24, 2007 in Book OR-8673 at Page 9712. It was undisputed that the proper operation of this structure was the responsibility of the applicant and a specific condition of the 2019 Resolution had been that this structure would be restored to working order. (**Condition # 5 of Exhibit B-3**) It was now the position of the applicant that the existing structure would not be restored, but rather relocated to another location entirely. Such a relocation would be subject to Borough approval and if the Borough were to decline to proceed with such, the applicant would be required to restore the existing

structure to working order. The specifics of this relocation or restoration would be done with the oversight of the Board's Engineer and Planner to ensure proper compliance with all Borough regulations and to ensure the structure will function properly. Additionally, assuming the existing pump structure is abandoned, the site will be remediated and restored to a grassy state.

32. It was also agreed that a newly proposed force main would be realigned so as to run through the parking stalls on the site so that it would not obstruct access to the First Street townhouses during construction. This realignment would be subject to the review and approval of the Board's Engineer.
33. Finally, the applicant agreed to comply with all applicable comments raised within the various review memorandum authored by the Board and Borough Professionals. (**Exhibits B-1, B-2, B-4 and B-5**)
34. The main objections to the proposed application came from owners of the First Street townhouses who were concerned about the proposed project's impact on their properties. The following owners of the town homes spoke with respect to the application:
 - (a) Michael Coughlin - 12 First Street
 - (b) Arthur Femenella - 10 First Street
 - (c) David Dipietro - 22 First Street
 - (d) Julie Wishner - 4 First Street
 - (e) Joanne Clark - 12 First Street
 - (f) Carol Goodhue - 16 First Street
 - (g) John Clough - 8 First Street

Each of these residents acknowledged that the subject building was in need of repair, however they were concerned about a perceived lack of sufficient parking on the site, the number of units being proposed, and how this would impact their quality of life.

35. During the course of the application several concessions were given to the townhouse owners by the applicant in addition to those previously granted by way of Condition # 3 of the 2019 approval (**Exhibit B-3**) in the hope of ameliorating their concerns. Specifically, these new conditions were as follows:
 - (a) With the permission of any property owner located within 200 feet of the project, the applicant will place monitors on those properties as to confirm whether any damage occurs to those properties during the construction phase of the development.
 - (b) The applicant will need to relocate the mailboxes of the current town homes which is currently located on its property. An easement will be given to each of the townhouse owners so as to forever permit them to access their mailboxes in the new location. Said revised location will be subject to the review and approval of the Board Engineer and Planner, dependant on the ultimate approval of the post office.

- (c) Contrary to the requirement of the earlier agreement between the townhouse owners and the applicant found at Condition # 3 (ix) of the 2019 Resolution (**Exhibit B-3**), two way traffic would now be permitted within the parking lot area. The previous condition had limit travel to one-way. The townhouse owners agreed this was a better system than what had previously been requested by them.
36. Beyond the testimony of the townhouse owners, the Board also heard from Kathleen Shaw and Barbara Currie, members of the local business community who wanted to ensure commercial uses were included as part of the proposal.
37. The final resident to speak with respect to the application was Michael Lane of 51 First Street who also expressed his concerns that the site was being over developed and whether it was being properly designed from a flood damage prevention perspective. He marked the following exhibit into evidence
- Exhibit L-1:** A portion of the original Hovanian Resolution for the site.
38. The Board's Engineer, Francis W. Mullan, P.E., C.M.E., and its Planner Kendra Lelie, P.P., A.I.C.P., LLA both testified that in consideration of all the testimony presented and concessions given by the applicant, they believed that the project could be approved from both an engineering and planning perspective.
39. Finally, it was agreed, as a condition of approval, that the applicant would enter into a developer's agreement with the Borough.
40. After considering all the testimony and evidence, and assuming all representations were adhered to, the Board finds that proposed site will function properly as proposed under the site plan once it has been revised to meet the conditions of this Resolution.
41. This application is a completely conforming one, with the exception of a di minimis height exception caused by an elevator bulkhead, a parking deficiency which was a result of the Board's preference for additional commercial space on site (**Exhibit A-21**) although a completely compliant plan had been offered (**Exhibit A-20**) and underground utilities such as an existing sewer system which was not going to be re-located.
42. The Board finds that the application is completely within the spirit of the Borough's Master Plan and the requirements of the GC Zoning District.
43. The Board also finds that the project will lead to bringing new life and vitality to what is currently an underutilized site within the downtown section of the Borough. The Board cannot envision any negatives associated with the project, in fact the denial of this project would create a negative by denying the community the improvements which are being created by it.

44. Absent granting of the requested variance relief, Keyport would lose all of the improvements that would otherwise be gained through this application since the project would not be built. Based upon this fact, the Board finds that the requested variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) since the benefits of granting the variances and approving the entire project far outweigh whatever benefit would be obtained by denying the application.
45. It seems clear to the Board that the benefits of granting this application and approving the proposed preliminary and final site plan is in the best interest of the Borough and such an approval far outweighs any detriments that might occur.
46. Based upon all of the above, the Board finds the applicant has met its burden in establishing that it is entitled to the requested amended preliminary and final site plan approval, with variance relief. As such, the sought after application should be granted in its entirety.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Keyport Professional Plaza, LLC seeking amended preliminary and final site plan approval, with variance relief, for premises located at 25 East Front Street which is officially known as Block 80, Lot 1.02 on the official tax map of the Borough of Keyport be granted subject to the following conditions:

1. Subject to substantial compliance with the exhibits marked into evidence as **Exhibits A-4, A-5, A-6, A-15, A-16, A-17, A-18, A-19 and A-21** except as otherwise modified by this Resolution. Any revisions to the site plan necessary to match these exhibits must be made.
2. Subject to the applicant's compliance with the Engineering and Planning Review letters marked into evidence as **Exhibits B-1, B-2, B-4 and B-5**.
3. Subject to all conditions contained within the 2019 Resolution (**Exhibit B-3**) adopted by the Board unless otherwise modified by this Resolution.
4. Subject to the condition that conforming outdoor seats shall be placed along the front walkway outside of the commercial spaces shown on **Exhibit A-21**. The exact alignment of this seating will be subject to the review and approval of the Board's Engineer and Planner.
5. Subject to the condition that the exact colors for the exterior of the building be made part of a developer's agreement with the Borough so as to ensure its compatibility with the downtown area.
6. Subject to the condition one of the apartment units on the site be reserved for a superintendent. The building's superintendent shall be required to live on site.
7. Subject to the condition all EV parking be located outside of the parking garage between the rear of the building and the spaces which are reserved for the townhouse units under the 2019 approval. The exact location for these spaces shall be subject to the review and approval of the Board Engineer and Planner.

8. Subject to the condition the applicant will make all revisions and drainage improvements required by the Board Engineer, including trench drains and the installing of a linear drain across the eastern driveway connection with East Front Street if the Board Engineer deems such to be necessary. New easements will be recorded as to any such improvements with the language of same being reviewed and approved by the Board Attorney and the Board Engineer prior to recording the easements with the County Clerk's Office.
9. Subject to a full milling and overlay for the entire parking lot so as to ensure it is one seamless lot. No pavement may drain toward the existing town houses along First Street. Said improvements to subject to the review and approval of the Board's Engineer.
10. Subject to a site triangle analysis being provided to the Board Engineer to confirm whether the public parking stalls located along the newly proposed exit of the property are appropriate from a safety perspective.
11. Subject to the applicant working with the neighboring fire department to provide appropriate landscaping between the two properties. Said final landscaping plan being subject to the review and approval of the Board's Planner and Engineer.
12. Subject to all wall mounted lights shining downward and not on neighboring properties.
13. Subject to all HVAC condensers at the site operating at approximately 29 dBA.
14. Subject to the building's trash room being able to accommodate six (6) four yard dumpsters. At least two (2) trash picks up for the site will be conducted a week. Garbage pickup shall be handled by a private hauler.
15. Subject to the site plan reflecting that traffic may not exit the site on to Broadway. The Broadway access shall remain as entrance only.
16. Subject to the property's management developing a parking tag system so as to ensure those vehicles on site belong on site. Additionally, the spaces located within the garage will be further secured by a requirement that access to same will only be granted by utilization of a fob system. Said programs to be reviewed and approved by the Board's Planner.
17. Subject to the applicant granting Title 39 approval to the Borough Police.
18. Subject to the applicant either relocating or restoring the existing pump house structure located on Block 80, Lots 1.10 and 1.11. If the structure is to be relocated it would be subject to Borough approval and if the Borough were to decline to proceed with such, the applicant shall be required to restore the existing structure to working order. The specifics of this relocation or restoration shall be done with the oversight of the Board's Engineer and Planner to ensure proper compliance with all Borough regulations and to ensure the structure will function properly. In either event, the applicant shall retain responsibility for ensuring the continued functioning of the pump system.

19. Subject to the condition that if the pump house structure is relocated, the existing pump structure shall be properly abandoned with the site being remediated and restored to a grassy state. Such remediation/restoration shall be subject to the oversight of the Board's Engineer and Planner.
20. Subject to the newly proposed force main being realigned so as to run through the parking stalls on the site rather than obstruct access to the First Street townhouses during construction. This realignment shall be subject to the review and approval of the Board's Engineer.
21. During the construction phase of the project, the applicant shall place monitors on any property within 200 feet of the proposed project which wishes to be monitored so as to confirm whether any damage has occurred to those properties during the construction.
22. Subject to the applicant providing recorded easements to each of the Front Street Townhouse owners so as to forever permit them to access their mailboxes in the area where those new mailboxes will be located. Said revised location shall be subject to the review and approval of the Board Engineer and Planner, dependant on the ultimate approval of the post office. The language of the easements shall be subject to the review and approval of the Board Attorney and Board Engineer prior to their recording with the County Clerk's Office.
23. Subject to a modification of Condition # 3 (ix) of the 2019 Resolution (**Exhibit B-3**) wherein two way traffic shall now be permitted within the parking lot area of the project.
24. Subject to the applicant entering into a developer's agreement with the Borough.
25. Subject to all laws and ordinances enacted by either the State or the Borough relative to Affordable Housing, including, but certainly not limited to, payment of any required fees. It is assumed for the purpose of this Resolution that the requirement for this application is the designation of 10 units as being affordable units and such shall be supplied, however if more affordable units are required by law, the applicant will comply with same.
26. All representations made under oath on behalf of the applicant, or by its agents, shall be deemed conditions of this approval, and any misrepresentations or actions by the applicant contrary to the representations which were made shall be deemed a violation of this approval.
27. This application is granted only in conjunction with the conditions noted herein and but for the existence of the same, the within application would not be approved.
28. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
29. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
30. This approval shall be deemed void by abandonment if a building permit is not applied for within two years of the date hereof.

31. The action of the Unified Planning Board in approving this application shall not relieve the applicant of responsibility for any damage caused by this project, nor does the Unified Planning Board or its reviewing professionals and agencies accept any responsibility for the structural design of the proposed improvements or for any damage that may be caused by the development.
32. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at their sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

The foregoing was Moved by N. Vecchio, second by D. Pacheco
and on Roll Call, the following vote was recorded:

Affirmative: Chairman Sessa, W. McDermott, D. Pacheco, J. Royster, N. Vecchio, G. Kotzas

Negative:

Abstentions:

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport as copied from the Minutes of its meeting on January 26, 2023.


Denise Nellis, Secretary of the Board