



City of Somerville

# PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

## DECISION

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**PROPERTY ADDRESS:** 256-260 Elm Street  
**CASE NUMBER:** P&Z 21-039  
**OWNER:** AP Davis Square Plaza, LLC  
**OWNER ADDRESS:** 1616 Camden Road, Suite 210, Charlotte, NC 28203  
**APPLICANT:** AP Davis Square Plaza, LLC  
**APPLICANT ADDRESS:** 1616 Camden Road, Suite 210, Charlotte, NC 28203  
**DECISION:** Approved with Conditions

**DATE OF VOTE:** April 6, 2023  
**DECISION ISSUED:** April 20, 2023

This decision summarizes the findings made by the Planning Board (the "Board") regarding the Site Plan Approval submitted for 256-260 Elm Street.

## LEGAL NOTICE

AP Davis Square Plaza, LLC proposes to develop a LEED Platinum four (4) story Lab Building in the Commercial Core 4 (CC4) district, which requires Site Plan Approval.

## RECORD OF PROCEEDINGS

On February 6, 2023 and February 16, 2023, the Planning Board held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, Michael McNeley, Alternate Debbie Howitt Easton, and Alternate Luc Schuster. The Board continued the public hearing at the request of the Applicant.

On March 2, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, Michael McNeley, Alternate Debbie Howitt Easton, and Alternate Luc Schuster. The Applicant provided a brief overview of the project. The Board raised concerns with the inconsistency within the application and requested that the Applicant return to the Board at the next meeting with a revised submission that is consistent with all the required information. Other concerns raised included the location of the loading and trash zone on Herbert Street directly across from a residential area, whether the proposed design of the building would be sufficient for the Lab Building type use, and the lack of definition of the cornice on the brick portion of the building. Chair Michael Capuano requested the Applicant provide information on the transition plan for the small businesses within the Square that will be affected by this project. Vice Chair Aboff and Clerk Geno requested further information on the planting palette. The Board continued the hearing.

On March 16, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, Alternate Debbie Howitt Easton, and Alternate Luc Schuster. The Applicant provided an updated overview of the project with a revised submission based on the comments received from the Board at the previous meeting. The Board responded that a lot of their previous concerns regarding the project were addressed and the presentation that was shared with the Board should be made publicly accessible. Clerk Geno inquired regarding the path forward for the biosafety level proposed and how that would affect the future tenants. Vice Chair Amelia Aboff further addressed the public concerns surrounding the level of lab for the Lab Building and asked Staff whether a condition could be imposed to ensure in the case of a change to the biosafety level, the Applicant will be required to return to the Board for review. Clerk Geno and Vice Chair Amelia Aboff requested another condition be added that would ensure the existing trees would be preserved and protected on Elm Street. The Board continued the hearing.

On April 6, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice-Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, and Michael McNeley. Member Michael McNeley was absent from the hearing on March 16, 2023, but submitted an affidavit confirming review of the evidence, and was able to participate in the decision. The Applicant provided a brief overview of the project. Chair Michael Capuano asked the Applicant regarding the level of engagement with the neighborhood. The Applicant confirmed that their team has worked with the DavisNow group closely and came to an agreement regarding building design and biosafety level prior to appearing before the Board. Vice Chair Aboff asked the Applicant which biosafety level of labs is being proposed. The Applicant responded that the proposal would not exceed above BSL3 or above. Staff reminded the Board that the Somerville Biosafety Committee reviews the biosafety levels of all Lab Buildings and that this falls outside of the purview of this Board. Chair Michael Capuano requested whether any ramifications exist if the Applicant violates their agreement with the DavisNow group regarding the biosafety level proposed. Staff responded that any changes to the biosafety level will require review from the Somerville Biosafety Committee and within the Committee's purview to determine whether alterations to the building or site are necessary, and if amendments are made to the Site Plan Approval, it can trigger a Major Amendment for the Applicant to return before the Board. The Board concluded that a condition should be imposed to ensure that the Applicant return if any changes are made to the biosafety level. After further deliberation, the Board moved to approve with conditions the Site Plan Approval for the proposed Lab Building.

## PLANS & DOCUMENTS

Application plans, documents, and supporting materials submitted and incorporated are identified below.

| Document                                    | Pages | Prepared By                                                                    | Date               | Revision Date |
|---------------------------------------------|-------|--------------------------------------------------------------------------------|--------------------|---------------|
| 256-260 Elm St Narrative                    | 1     | AP Davis Square Plaza, LLC (1616 Camden Road, Suite 210, Charlotte, NC 28203)  | March 9, 2023      | n/a           |
| 256-260 Elm St Building Elevations          | 2     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | June 30, 2022      | March 9, 2023 |
| 256-260 Elm St Building Section             | 1     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | June 30, 2022      | March 9, 2023 |
| 256-260 Elm St Design Review Report         | 2     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |
| 256-260 Elm St Floor Plans                  | 6     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | February 20, 2023  | March 9, 2023 |
| 256-260 Elm St Green Score Documents        | 22    | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |
| 256-260 Elm St Gross Floor Area Calculation | 1     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | February 22, 2023  | March 9, 2023 |
| 256-260 Elm St Lighting Plan                | 3     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | June 30, 2022      | March 9, 2023 |
| 256-260 Elm St MMP                          | 17    | McMahon Associates (120 Water Street, 4 <sup>th</sup> Floor, Boston, MA 02109) | August 1, 2022     | March 9, 2023 |
| 256-260 Elm St Neighborhood Meeting 1       | 47    | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |
| 256-260 Elm St Neighborhood Meeting 2       | 81    | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |
| 256-260 Elm St Plat Plan                    | 3     | Feldman Geospatial (152 Hampden Street, Boston, MA 02119)                      | August 24, 2022    | n/a           |
| 256-260 Elm St Plot Plan                    | 1     | Feldman Geospatial (152 Hampden Street, Boston, MA 02119)                      | November 24, 2021  | n/a           |
| 256-260 Elm St Shadow Studies               | 6     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | September 13, 2021 | March 9, 2023 |
| 256-260 Elm St Signage Plan                 | 8     | Sky Design (55 Ivan Allen Jr. Blvd, Suite 100, Atlanta, GA 30308)              | March 7, 2022      | March 9, 2023 |
| 256-260 Elm St Site Plan                    | 1     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | February 22, 2023  | March 9, 2023 |
| 256-260 Elm St Sustainability Documents     | 32    | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |
| 256-260 Elm St TAP                          | 12    | McMahon Associates (120 Water Street, 4 <sup>th</sup> Floor, Boston, MA 02109) | November 2, 2022   | March 9, 2023 |
| 256-260 Elm St TIS                          | 55    | McMahon Associates (120 Water Street, 4 <sup>th</sup> Floor, Boston, MA 02109) | August 1, 2022     | n/a           |
| 256-260 Elm St Tree Plan                    | 1     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | July 15, 2022      | March 9, 2023 |
| 256-260 Elm St Zoning Compliance Table      | 1     | Perkins & Will (225 Franklin St, Boston, MA 02110)                             | March 9, 2023      | n/a           |

## SITE PLAN APPROVAL FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a Site Plan Approval upon making findings considering, at least, each of the following:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds that this project supports the goals laid out in SomerVision 2040, the City's Comprehensive Master Plan, including the following:

- Promote a dynamic urban streetscape that embraces public transportation, reduces car dependence, and is accessible, inviting, and safe for all pedestrians, bicyclists, and transit riders.
- Invest in the growth of a resilient economic base that is centered around transit, generates a wide variety of job opportunities, creates an active daytime population, supports independent local businesses, and secures fiscal self-sufficiency.
- Create an environment that enables existing small businesses to thrive and produce entrepreneurial opportunities for new ones. Ensure that the regulatory environment supports the innovative business models necessary for businesses to adapt.
- Protect and foster the diversity of our people, culture, and economy.

2. *The intent of the zoning district where the property is located.*

The Board finds that this project meets the intent of the Commercial Core 4 (CC4) zoning district is, in part: "[t]o create, maintain, and enhance areas appropriate for moderately-scaled single and multi-use commercial buildings; neighborhood, community, and region serving uses; and a wide variety of employment opportunities."

The Board finds that this project supports the intent and purpose of the Small Business Overlay District, including the following:

- To create, maintain, and enhance locations appropriate for neighborhood and community-serving businesses.
- To require multiple ground story commercial spaces for real property in underlying mid-rise, high-rise, and commercial districts.

3. *Mitigation proposed to alleviate any impacts attributable to the proposed development.*

The Board finds that as conditioned, the proposal is not anticipated to create any negative impacts that require mitigation.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Chair Michael Capuano moved to approve the Site Plan Approval to develop a LEED Platinum four (4) story Lab Building in the Commercial Core 4 (CC4) district with the conditions included in the staff memo dated March 9, 2023 and March 30, 2023. Vice-Chair Amelia Aboff seconded. The Board voted **5-0** to approve the permit, subject to the following conditions:

### Perpetual

1. This Decision must be recorded with the Middlesex South Registry of Deeds.
2. Utility meters are not permitted on any facade or within the frontage area of the lot.
3. This Decision does not authorize the removal of any public shade trees or private trees, which is subject to the Tree Preservation Ordinance (Chapter 12, Article VI) of the Somerville Code of Ordinances.
4. The property owner is responsible for all of the regular and long-term maintenance, replacement, insurance, and other applicable costs associated with all on-site sidewalk improvements.

### Prior to Building Permit

5. Construction documents must be substantially equivalent to the approved plans and other materials submitted for development review.
6. A digital copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.
7. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.
8. Material specifications from suppliers must be submitted to confirm fenestration glazing is compliant with the VLT and VLR ratings required by the Somerville Zoning Ordinance.
9. An updated outdoor lighting plan and supplier cut sheet specifications of chosen lighting fixtures must be submitted to confirm compliance with Section 10.7 Outdoor Lighting of the Somerville Zoning Ordinance. The site photometric plan must include a keyed site plan identifying the location of all luminaires; total site lumen limit table (calculations from the SZO); lighting fixture schedule indicating the fixture type, description, lamp type, lumens, color temperature, color rendering index, BUG rating, mounting height, and wattage of all luminaires; and notation of any timing devices used to control the hours set for illumination.
10. AP Davis Square Plaza, LLC, or their successor in interest, must submit a Tree Protection Plan with tree protection details to the Tree Warden for review and approval and must meet with the Tree Warden to discuss proper tree protection responsibilities and construction operations plans. The Tree Protection Plan must include strategies to be executed and maintained throughout the duration of the project to ensure the protection of existing public shade trees adjacent to the site.

AP Davis Square Plaza, LLC or their successor must follow the plans as approved by the Tree Warden.

11. To mitigate transportation impacts, AP Davis Square Plaza, LLC shall improve the accessibility and comfort of the existing MBTA bus stop on Elm St @ Chester St by constructing an in-lane bus stop curb extension, providing a shelter, providing real time transit information, and/or other improvements approved by the Director of Mobility, prior to the issuance of Certificate of Occupancy. Final design of any construction elements must be reviewed and approved by the relevant City departments prior to construction by the Streetscape Construction Permit.
12. AP Davis Square Plaza, LLC shall submit a layout of the bicycle room and bicycle rack product specifications to be approved by the Mobility Division prior to applying for a Building Permit.
13. All Stage 2 documentation required by the Office of Sustainability & Environment's LEED Certifiability Requirements.
14. AP Davis Square Plaza, LLC shall submit a Construction Management Plan (CMP) for Engineering and Mobility Division review and comment twenty-one (21) days prior to submission of the Building Permit.

#### Prior to Certificate of Occupancy


15. A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be submitted to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.
16. The frontage area provided for a widened sidewalk along Elm Street must be designed and paved to properly correspond with any sidewalk improvements approved within the public right-of-way.
17. A pedestrian access easement must be provided in perpetuity by a covenant or other deed restriction for the full area of the sidewalk and curb ramps provided within the frontage area of the lot. Final easement language must be approved by the City Solicitor.
18. Prior to the issuance of Certificate of Occupancy AP Davis Square Plaza, LLC shall reconstruct the raised intersection adjacent to the project site at the intersection of Elm St and Chester St, or an acceptable and preferred alternative, that narrows Elm St to a single travel lane and reconstructs all Accessible Curb Ramps (ACRs) on all sides of the intersection. Final design must be reviewed and approved by the relevant departments prior to construction by Engineering's Streetscape Construction Permit.
19. AP Davis Square Plaza, LLC shall complete all construction of the Civic Space Through Block Plaza (P&Z 21-042) prior to applying for a Certificate of Occupancy.
20. AP Davis Square Plaza, LLC shall reconstruct the Elm Street sidewalk curb line to the existing (one-lane operation) fog line for a sidewalk width of approximately 20 feet, inclusive of any parking and/or loading spaces. Final design must be submitted to the Engineering Department for approval prior to construction by Engineering's Streetscape Construction Permit.
21. In order to accommodate future signal timing changes and other off-site transportation improvements in the neighborhood necessary to support the proposed development, AP Davis Square Plaza, LLC will contribute to an Elm

Street Reconstruction Stabilization Fund in cooperation with the Directors of Engineering and Mobility.

22. All Stage 3 documentation required by the Office of Sustainability & Environment's LEED Certifiability Requirements.
23. AP Davis Square Plaza, LLC shall return to this Board for review if any amendments pertaining to biosafety levels are made that trigger an amendment to the Site Plan Approval.

Attest, by the Planning Board:

Michael Capuano, *Chair*  
Amelia Aboff, *Vice-Chair*  
Erin Geno, *Clerk*  
Jahan Habib  
Michael McNeley



Sarah Lewis, Director of Planning, Preservation, & Zoning  
Office of Strategic Planning & Community Development

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

**FOR VARIANCE(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

**FOR SPECIAL PERMIT(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

**FOR SITE PLAN APPROVAL(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_