



City of Somerville

PLANNING BOARD

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

DECISION

PROPERTY ADDRESS: 270 Elm Street
CASE NUMBER: P&Z 21-042
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 270 Elm Street.

LEGAL NOTICE

AP Davis Square Plaza, LLC proposes to modify an existing Through Block Plaza 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. Vice Chair Aboff raised concerns regarding the proposed trees and whether they will thrive in the low light conditions between the two buildings on site. 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. Chair Michael Capuano asked regarding the tenant leasing and whether the outdoor dining spaces in the plaza will be made publicly accessible. The Applicant responded that the outdoor dining spaces will not be reserved for tenants only and will be made publicly accessible. Public Space and Urban Forestry (PSUF) staff confirmed that that a legal agreement with the Applicant and the City is required as a part of the process, along with a maintenance agreement. Vice Chair Amelia Aboff raised concerns with the proposed programming along the ADA pathway, and an accessible route should be clear from any obstruction. Clerk Geno raised concerns with the proposed native plants and that the plant palette should be non-invasive. 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. Vice Chair Amelia Aboff noted the discussion from the previous meeting and requested to Staff that they are drafted as conditions. After further deliberation, the Board moved to approve with conditions the Site Plan Approval for the proposed modifications to the Through Block Plaza.

PLANS & DOCUMENTS

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

Document	Pages	Prepared By	Date	Revision Date
270 Elm St Civic Space Signage Plan	10	Sky Design (55 Ivan Allen Jr. Blvd, Suite 100, Atlanta, GA 30308)	July 1, 2021	March 9, 2023
270 Elm St Civic Space Study	22	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Conceptual Grading & Drainage Plan	2	Perkins & Will (225 Franklin St, Boston, MA 02110)	February 22, 2023	March 9, 2023
270 Elm St Design Review Report	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Illustrated Furnishings Plan	10	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Illustrative Site Plan	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Landscape Plan	20	Perkins & Will (225 Franklin St, Boston, MA 02110)	February 22, 2023	March 9, 2023
270 Elm St Layout Plan	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	February 22, 2023	March 9, 2023
270 Elm St Lighting Plan	3	Perkins & Will (225 Franklin St, Boston, MA 02110)	June 30, 2022	March 9, 2023
270 Elm St Narrative	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a

270 Elm St Neighborhood Meeting 1	47	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Neighborhood Meeting 2	81	Perkins & Will (225 Franklin St, Boston, MA 02110)	March 9, 2023	n/a
270 Elm St Plat Plan	3	Feldman Geospatial (152 Hampden Street, Boston, MA 02119)	August 24, 2022	n/a
270 Elm St Plot Plan	1	Feldman Geospatial (152 Hampden Street, Boston, MA 02119)	November 24, 2021	n/a
270 Elm St Site Plan	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	February 22, 2023	March 9, 2023
270 Elm St Tree Plan	1	Perkins & Will (225 Franklin St, Boston, MA 02110)	July 15, 2022	March 9, 2023
270 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:

- To contribute publicly accessible open space towards the goal of developing 105 acres of open space by 2040.
- To create and program a network of vibrant public open spaces and shared use paths throughout the city that are multi-purpose, promote healthy living, and reflect changing recreational interests and cultural opportunities.
- To create new civic spaces within walking distance of residents' homes with a safe access route.
- To plant a diversity of tree species to ensure Somerville's urban forest is sustainable and resilient to climate change and invasive pest infestations.

The proposed civic space lot ownership will continue to remain privately owned and privately maintained with a public access easement and an operations and maintenance agreement. In order for the civic space to contribute to the City's open space inventory, the space must be dedicated as public space in perpetuity, be clearly identified and readable as open meaningfully and successfully to the public. Civic space signage with the management company's contact information, a statement that the space is open to the public, as well as naming the civic space all contribute to ensuring the same is understood by the community as a public amenity.

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.”

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

The Board finds that this civic space proposal includes a number of amenities in response to community feedback and will contribute to renovating the public spaces of the Davis Square neighborhood into a destination and anchor for new infill development of Somerville. No other mitigation is proposed due to a perceived lack of remaining negative impacts directly attributable to the proposed civic space.

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 proposes to modify an existing Through Block Plaza in the Commercial Core 4 (CC4) district with the conditions included on the staff memo dated January 23, 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. 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.
3. 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.
4. The proposed accessible pathway shall be clear from any obstruction and programming of the Through Block Plaza.

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. The Through Block Plaza must be dedicated to the public by a covenant or other deed restriction.
9. 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.

10. All newly planted tree species must be non-invasive and native species in conformance with the City's Native Species Ordinance. Final tree species selection must be reviewed by the Public Space and Urban Forestry Division.
11. AP Davis Square Plaza, LLC shall provide a right of first refusal to the Somerville Memorialization Committee to name the Through Block Plaza.
12. AP Davis Square Plaza, LLC shall name the Through Block Plaza as specified by the Somerville Memorialization Committee.
13. The Through Block Plaza must be provided with signage conforming to the standards in the Division of Public Space & Urban Forestry Signage Standards and Specifications Handbook and including, at minimum, the name of the park, the management company's contact information, and a statement that the space is open to the public, along with the rules and hours of operation.

Prior to Certificate of Occupancy

14. All Civic Space Through Block Plaza construction must be completed prior to applying for a Certificate of Occupancy for 256-260 Elm Street building application (P&Z 21-039).
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.

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 _____