



Certified Action of the City of Raleigh Planning Commission

City of Raleigh
Development Plans Review Center
One Exchange Plaza
Raleigh, NC 27601
(919) 516-2626
www.raleighnc.gov

Case File / Name: SP-48-09 / Contemporary Art Museum

Owner: Contemporary Art Foundation

Designer: Clearscapes, PA

General Location: South side of W. Martin Street between S. Harrington Street and S. West Street

**Planning District
/ CAC:** Central / Central

Nature of Case: This request is to approve the conversion of a 19,831 square foot warehouse building into an Art Museum which also includes a 1,233 square foot addition. The subject property is a .526 acre site, zoned Industrial-2 and Downtown Overlay District. This site requires Planning Commission approval as the proposal includes a "change of use" greater than 10,000 square feet in the Downtown Overlay District.

**Staff update
following 9/8/09
PC Meeting:**

Staff contacted the NC State Historic Preservation Office (SHPO) and the National Park Service (NPS). While SHPO and NPS contacts could not definitively respond without a formal amendment being submitted, the SHPO and NPS staff persons stated that removing the wall would not jeopardize the tax credit. The NPS staff person stated that moving the wall back four feet to accommodate the wider sidewalk would probably not jeopardize the tax credit. The SHPO contact person stated that if a wall was installed their preference would be to have the wall line up with the historic streetwall, but could not confirm that moving the wall four feet would jeopardize the tax credit.

Key Issues: As presented, staff finds that this plan does not conform to Code standards and adopted land use policies as they relate to open space and the provision of 14 foot wide sidewalks intended to promote and support intensification of the Downtown and the planned Downtown Multi-Modal Center located just a portion of a block to the west.

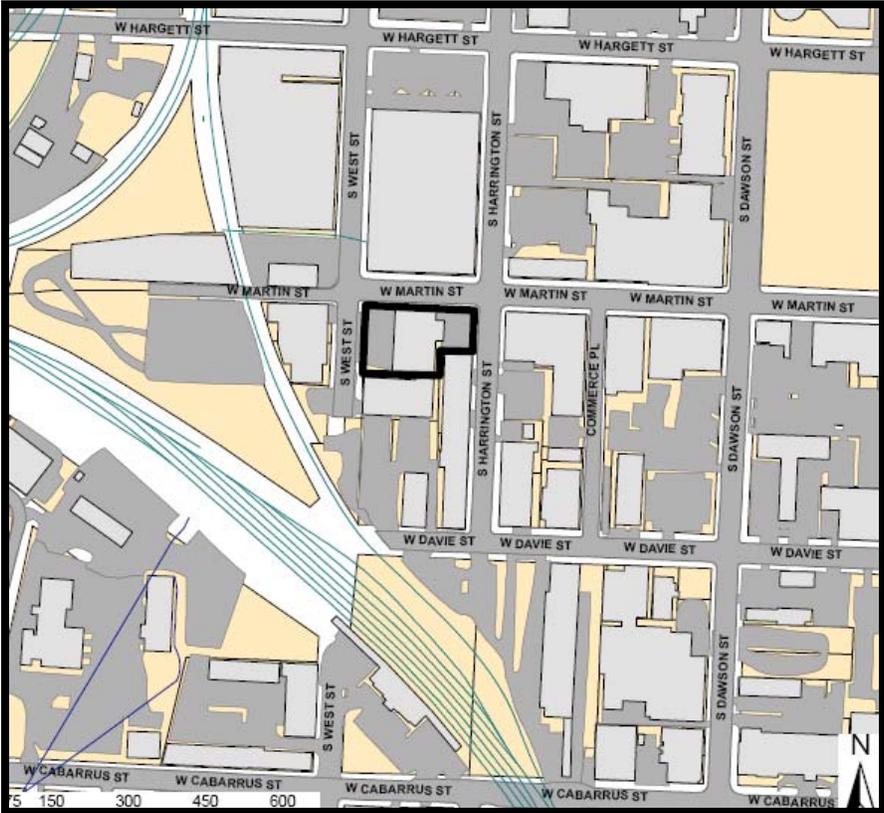
PLANNING COMMISSION STANDARDS OF ALTERNATE OPEN SPACE

While this proposal includes provision of open space which exceeds the overall size requirements, the plan does not meet the location requirements for where open space is to be provided- specifically in regard to providing 14' width sidewalks where practical along West Martin Street. The proposal shows an approximately 10' width sidewalk along 150' of street frontage- 80' of street frontage adjacent the existing building and another 70' of street frontage where new construction is proposed. Staff opposes the reduction in sidewalk width in the area beyond the existing building and has included a condition of approval requiring a new site plan be provided with a 14' width sidewalk in that location. (continued on next page)

The Planning Commission may approve alternate open space standards in accordance with Code Section 10-2051(d)(5) only based on the following standards:

1. When the proposal is in accordance with the Downtown Urban Design Guide and the Interim Framework. In this regard there is no specific policy or guideline that provides for a reduced sidewalk width. In addition, the Downtown Interim Framework designates Martin Street as a priority pedestrian street; thus, where wider sidewalks would be appropriate and required under Code.
2. And, when the 8 site plan approval standards in Code Section 10-2132.2 are met.

Contact: Steve Schuster, AIA



SP-48-09 / Contemporary Art Museum – Location Map

SUBJECT: SP-48-09 / Contemporary Art Museum

CROSS-REFERENCE: N/A

LOCATION: This site is located on the south side of Martin Street, between S. Harrington Street and S. West Street, inside the City Limits.

REQUEST: This request is to approve a conversion of a 19,831 square foot warehouse building into an Art Museum which also includes a 1,233 square foot addition. The subject property is a .526 acre site, zoned Industrial-2 and Downtown Overlay District. This site plan requires Planning Commission approval as the proposal includes a "change of use" greater than 10,000 square feet in the Downtown Overlay District. This proposal includes three alternate requests: one for a reduction in required parking [Code section 10-2051(e)(1)]; one for an alternate means of street protective yard landscaping in regard to tree spacing standards [Code section 10-2082.4]; and one for a reduction in the width of a public sidewalk along Martin Street from 14' to 10' width. Code section 10-2051(d)(5) addresses the last issue with regard to required open space and provision of wider sidewalks. Staff supports the reduction in sidewalk width beside the existing building; however, staff does not support the reduction along the remainder of street frontage where it is practical to provide a 14' width sidewalk. The staff report includes a condition that a revised site plan be provided showing a 14' width sidewalk along the frontage of Martin Street east of the existing building.

OFFICIAL ACTION: Approval with conditions

CONDITIONS OF APPROVAL: As noted on the Staff Report, attached

FINDINGS: The Planning Commission finds that this request, with the conditions of approval below being met, conforms to Chapter 2, Part 10, Sections 10-2047, 10-2051 and 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 7/30/09, owned by the Contemporary Art Foundation, submitted by Clearscapes, PA.

ADDITIONAL NOTES: The City is currently working to complete planning work for a Multi-Modal Transportation Center (MTC) that will combine a single facility, or a tight cluster of the following transportation services: Triangle Regional Rail, Commuter Rail along the North Carolina Railroad Corridor, Southeast High-Speed Rail, conventional Amtrak service, a secondary Capital Area Transit and Triangle Transit bus transfer facility, and a long distance bus terminal. Upon completion, which will likely occur in phases, the MTC will generate considerable peaks of pedestrian activity in its vicinity, including the primary pedestrian links to the downtown core: Hargett and Martin Streets. Current forecasts estimate future activity to include 700,000 annual boardings and alightings from all long-distance trains (including 1,200 - 1,300 daily from the high-speed trains alone); about 2,700 boardings and alightings from regional rail (1.7 million per year); and a daily passenger volume from local bus service of 3,442 per day. Adding in conventional Amtrak, commuter rail, and long-distance bus and the daily volume through the MTC may top 10,000 passengers per day, making it the most

pedestrian-intensive land use in downtown Raleigh. The planned Multi-Modal Transportation Center located approximately 1/2 a block away from the subject property

**VARIANCES /
ALTERNATES:**

In accordance with Code Section 10-2051(d)(5), the applicants are seeking approval of an alternate in the prioritization of open space types in the Downtown Overlay District. Section 10-2051(d) (5) of the Code calls for 5% of the site to be set aside as open space which is to be met first and foremost by providing a minimum of a 14' wide sidewalk, where possible. As the proposal includes the rehabilitation of an existing building, 14' sidewalks are not feasible along the portion of West Martin Street between the curb and the existing building. Staff supports that part of the applicant's alternate open space request for that portion of the sidewalk between the existing building and the curb to remain at 8'10". However, the 70' long sidewalk section east of the existing building along West Martin Street is only proposed to be 10' in width. The applicants are proposing to install a raised planter in this location in front of a proposed sculpture court. There are no existing conditions that preclude the construction of 14' wide sidewalks in this location and the courtyard could be redesigned to accommodate the additional 4' of sidewalk along West Martin Street. Code Section 10-2051(d)(5)a states that "the sidewalk widening shall occur along the entirety of the public street with no permanent obstructions, other than those that may be required by the City Code and structural columns." Staff cannot support an alternate to this open space priority area. In lieu of the 14' wide sidewalks along these portions of West Martin Street, the applicants propose to utilize the 3,137 square foot sculpture court as an alternate which equates to 12.7% of the site, greater than the 5%; however the function is not equal in function to the benefits of wider sidewalks for pedestrians.

To PC: 9/8/09
Case History:

Staff Coordinator: Eric Hodge, AICP

Motion: Mullins
Second: Holt
In Favor: Anderson, Fleming, Gaylord, Harris Edmisten, Holt, Mullins, Smith, Vance
Opposed: Bartholomew, Chambliss, Haq
Excused:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

Signatures: (Planning Dir.) (PC Chair)


date: 9/23/09


date: 9/23/09



Staff Report

**RECOMMENDED
ACTION:** Approval with Conditions

**CONDITIONS OF
APPROVAL:**

Planning Commission Actions:

- (1) That a revised preliminary plan be submitted that provides 14' width sidewalks on all portions of West Martin Street except for the frontage adjacent to the existing building. In accordance with Code Section 10-2051(d)(5), the applicants shall revise the proposed plan to include a 14' wide sidewalk along the section of Martin Street that lies east of the existing building all the way to Harrington Street as there are no pre-existing conditions which preclude its installation;
- (2) That in accordance with 10-2082.4 (Landscaping Alternate Methods of Compliance), the Planning Commission approves an alternate to the spacing requirements of Section 10-2082.5 for the portion of West Martin Street north of the existing building where the installation of a street tree within the 8'10" sidewalk would impede pedestrian movement. The spacing between the street tree located east of the building and the street tree west of the building is approved to be 130' in this location. All other street trees east and west of the building shall be in tree grates in the right of way and consistent with the Urban Form for downtown. Tree size is to be a minimum of 4.5" caliper. City Code minimum tree size is two inches in caliper;
- (3) That, as allowed by Section 10-2051(e)(1), the Planning Commission finds that the number of off-street parking spaces provided on the site plan is in accordance with the general plans for the physical development of the City as embodied in the Raleigh Downtown Urban Design Guidelines and the site plan meets the standards of Section 10-2132.2(d) and grants a reduction of 18 parking spaces;
- (4) That on-site parking is not to be used by employees;

Prior to issuance of building permits in the Inspections Department:

- (5) That construction plans for public improvements shall be approved by the Public Works and Public Utilities Departments;
- (6) That a landscape permit is obtained from the urban forester for landscaping in the public right-of-way;
- (7) That the City Attorney approve a public sidewalk easement deed for any portion of the proposed 14' wide pedestrian ways on private property adjacent to public right of way along Martin, West and Harrington Streets;
- (8) That an encroachment agreement for any landscaping, steps, awnings, underground stormwater detention piping etc. to be located within the public right-of-way is approved by the City Council by separate action. An application for encroachment into the public right of way for any of the

items indicated on the preliminary plan shall be submitted to the City's Encroachment Coordinator in the Inspections Department for review, and that the City Council approves the encroachment request. Following City Council approval of the encroachment, an encroachment agreement, prepared in accordance with Raleigh City Code Sections 12-1001 and 12-1021(a), shall be filed with the Inspections Department, and that the encroachment agreement is to be recorded with the Wake County Register of Deeds. Maintenance of the encroachment shall be the responsibility of the owner;

ZONING:

ZONING DISTRICTS: Industrial-2 and Downtown Overlay District

SETBACKS / HEIGHT:

This plan conforms to all minimum setback standards. Front yard = 8'10", rear yard = 0', front / rear aggregate = 8'10", side yard = 45' and 57', side yard aggregate = 102'. This plan conforms to maximum height standards in this zoning district. The proposed building height is 36'.

PARKING:

Off-street parking does not conform to minimum requirements: 28 spaces required, based on one parking space per 400 square foot of building and a Downtown Overlay Exemption for the first 10,000 square feet. 10 parking spaces are provided. Within the Downtown Overlay District, the Planning Commission can approve site plans providing less parking than otherwise required under the Schedule of Off-Street Parking Standards after making a finding that the number of off-street parking spaces provided on the site plan is in accordance with the general plans for the physical development of the City as embodied in the Raleigh Downtown Urban Design Guidelines and the site plan meets the standards of Section 10-2132.2(d). A total reduction of 18 required off-street parking spaces is being proposed.

APPLICANTS RATIONALE FOR PARKING REDUCTION:

The proposed design has provided 10 surface parking spaces. As an art museum in the central business district, the vast majority of its visitation will occur after business hours in the evening and on week-ends. The spaces provided will be adequate to handle the proposed staffing (three total) and the few visitors arriving by automobile during the business day. It is anticipated that the majority of the Monday thru Friday, 10:00 am to 5:00 pm visitation will be by workers already in downtown, walking to the museum during their lunch hour or on break periods.

The museum is on the CAT bus route and the "R Line" circulator. It is across the street from the proposed downtown station for the Triangle Transit fixed rail system and adjacent to the multi-modal station being studied by the City of Raleigh.

Presently and for the foreseeable future, there is sufficient on street parking options available within the warehouse district for the evening and week-end traffic. The only exception is late night (10:30 pm – 2:30 am) on Friday and Saturday when the nearby nightclubs are open. It is not anticipated that the museum will ever be open during these times.

There are also several private surface parking lots with paid parking within two blocks and two large public parking decks within four blocks, both within easy walking distance of this location.

LANDSCAPING: Street yard landscaping is proposed to be located in grates in the sidewalks along Martin Street, Harrington Street and West Street consistent with the street tree plantings called for in the Downtown Overlay District by the Downtown Master Street Tree Plan. In addition to the trees within the sidewalk two street protective yard trees are located within a planting area approximately 15' from the right-of-way line. The applicant's site plan does include one alternate to the tree spacing requirements of Section 10-2082.5 for the portion of West Martin Street north of the existing building where the installation of a street tree within the 8'10" sidewalk would impede pedestrian movement. The spacing between the street tree located east of the building and the street tree west of the building would be 130'. Code calls for a maximum spacing of 50' and a minimum tree size of 2" caliper. The applicant is providing 4.5" caliper minimum size trees; City Code requirement is two inches caliper. Given the existing conditions, staff supports an alternate street tree spacing in this location along Martin Street.

Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown including shrub screening between the sidewalk and the vehicular surface area and a low perforated metal screening wall incorporated into the egress ramp located at the northwest corner of the building. The proposed use is considered a medium impact use under Section 10-2082.9. Transitional protective yards are not required since the adjacent uses, warehouses, are considered high impact uses.

TREE CONSERVATION: This site is less than two acres in size. As such, no tree conservation areas are required.

DEVELOPMENT INTENSITY: The proposed floor area ratio (FAR) is .85 and the proposed building lot coverage is 48%.

OPEN SPACE: In accordance with Code Section 10-2051(d)(5), the applicants are seeking approval of an alternate in the prioritization of open space types in the Downtown Overlay District. This section of the Code calls for 5% of the site to be set aside as open space which is to be met first and foremost by providing a minimum of a 14' wide sidewalk where possible. As the proposal includes the rehabilitation of an existing building, 14' sidewalks are not feasible along the portion of West Martin Street between the curb and the existing building. Staff supports that part of the applicant's alternate open space request for that portion of the sidewalk between the existing building and the curb to remain at 8'10". However, the portion of the sidewalk along the 70' section east of the existing building along West Martin Street is only proposed to be 10' in width. The applicants are proposing to install a raised planter in this location in front of a proposed sculpture court. There are no existing conditions that preclude the construction of 14' wide sidewalks in this location and the courtyard could be redesigned to accommodate the additional 4' of sidewalk along West Martin Street. Code Section 10-2051(d)(5)a states that "the sidewalk widening shall occur along the entirety of the public street with no permanent obstructions, other than those that may be required by the City Code and structural columns." Given the pedestrian-intensive nature of the planned Multi-Modal Transportation Center located roughly ½ a block away from the subject property. Staff cannot support an alternate to this open space priority area. In lieu of the 14' wide sidewalks along these portions of Martin Street, the applicants propose to utilize the 3,137 square foot sculpture court as an alternate which equates to 12.7% of the site;

however, the function is not equal in function to the benefits of wider sidewalks for pedestrians.

The Planning Commission may approve alternate open space standards in accordance with Code Section 10-2051(d)(5) only when the proposal is in accordance with the Downtown Urban Design Guide and the Interim Framework. In this regard, there is no specific policy or guideline that provides for a reduced sidewalk width. In fact, the Downtown Interim Framework designates Martin Street as a priority pedestrian street; where wider sidewalks would be appropriate and required under Code.

PHASING: There is only one phase in this proposed development.

UNITY OF DEVELOPMENT: Unity of development and sign criteria are not required in this development.

COMPREHENSIVE PLAN:

GREENWAY: There is no greenway on this site.

THOROUGHFARE / COLLECTOR PLAN:

No dedication of right-of-way was required by the Thoroughfare and Collector Street Plan. However, additional construction to West Street is required by the Thoroughfare and Collector Street Plan:

Street	ROW	Construct	Slope Esmt.
West	66' existing	½ 41' B/B	N/A

Construction plans for public improvements along W. Martin Street, S. Harrington Street and S. West Street shall be approved by the Public Works Department prior to issuance of building permits or approval of any plat for recording.

TRANSIT: No transit-oriented features are incorporated into the proposed plan. This site will be heavily served by the Multi-Modal Transportation Center planned nearby, again a reason to support the 14' sidewalks where possible.

URBAN FORM: The site is located in the Central Planning District with specific recommendations made in the Downtown Urban Design Guide, Gateway West Small Area Plan, Livable Streets Plan and Interim Downtown Framework. The Downtown Urban Design Guide, Nash Square district (p28-31) encourages the preservation of buildings and streetscape elements in this area (4.01, 4.13), the screening of surface parking lots (4.16) and ground floor design elements that promote the interrelationship between the building and walkway (4.03). The Gateway West Small Area Plan encourages the preservation of existing structures, the creation of small open spaces, and context sensitive streetscape improvements. The Livable Streets Plan identifies Martin Street as a major pedestrian connection and the Interim Downtown Framework identified Martin Street as a pedestrian priority street, a street on which exposed above ground parking decks and driveways should be discouraged, and as a secondary retail street.

**APPEARANCE
COMMISSION:**

The Appearance Commission has made the following comments on this preliminary plan. Shown below are comments and applicant responses:

<u>Comment</u>	<u>Response</u>
The committee recommends that the historic streetwall and setback of the building along West Martin Street be maintained	Agreed
It should be noted that the proposed addition associated with this plan is set back from the existing building's streetwall and does not mirror the "historic streetwall" referred to here.	

**SUBDIVISION
STANDARDS:**

BLOCK LAYOUT: The proposed street layout conforms to City Code, providing for efficient circulation of traffic within the entire neighborhood area.

PUBLIC UTILITIES: City water and sewer services are available. The developer is responsible for installation of all lines necessary to provide service to this site.

SOLID WASTE: Individual lot service by the City is to be provided as is the case with many businesses in the downtown area that are not equipped with large scale refuse collection facilities of their own.

CIRCULATION: Proposed street and/or driveway improvements shall conform to normal City construction standards. The existing driveway on W. Martin St located ~80' west of Harrington St shall be closed. The existing driveway on S. Harrington St located ~40' south of Martin St shall be closed. All other driveways [existing or proposed] shall be modified to "ramp-type" driveways. The developer shall install curb & gutter as needed along all streets. The parking lot located on the west side of the parcel shall be limited to one-way operation.

PEDESTRIAN: Proposed sidewalk locations conform to City regulations with the exception of portions of Martin Street. The Downtown Overlay District requires 14' wide sidewalks to be located along all three streets bordering the subject property. In accordance with Code Section 10-2051(d)(5), the applicants are seeking approval of an alternate sidewalk width along the majority of Martin Street. As the proposal includes the rehabilitation of an existing building, 14' sidewalks are not feasible along the portion of the Martin Street sidewalk that is between the curb and the existing building. Staff supports that part of the applicant's alternate request for that portion of the sidewalk between the existing building and the curb to remain at 8'10". However, the 70' long sidewalk section east of the existing building along Martin Street is only proposed to be 10' in width. The applicants are proposing to install a raised planter in this location in front of a proposed sculpture court. There are no existing conditions that preclude the construction of 14' wide sidewalks in this location and the courtyard could be redesigned to accommodate the additional 4' of sidewalk along Martin Street. Given the pedestrian-intensive nature of the planned Multi-Modal Transportation Center located roughly 1/2 a block away from the subject property. Staff cannot support an alternate to the 14' sidewalks in this location.

FLOOD HAZARD: There are no flood hazard areas on this site.

**STORMWATER
MANAGEMENT:**

Because a net reduction in impervious surface from pre- to post- construction conditions is proposed, site is exempt from water quantity and quality regulations. No detention is required. No BMP for nitrogen treatment is required. No floodplain or Neuse River Buffer exists on the site.

**WETLANDS
/ RIPARIAN
BUFFERS:**

No wetland areas or Neuse River riparian buffers are required on this site.

**OTHER
REGULATIONS:**

Developer shall meet all City requirements, including underground utility service (§10-3059), flood protection measures (Part 10, Chapter 4), and the soil erosion ordinance (Part 10, Chapter 5), unless specifically varied by this approval.