



Certified Action of the City of Raleigh Planning Commission

City of Raleigh
Development Plans Review Center
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

Case File / Name: SP-48-12 / The L Building Mixed Use Development

General Location: The southwest corner of the intersection of McDowell Street and W. Davie Street

Owner: Concord-Empire Davie Street, LLC
Designer: Kimley-Horn and Associates, Inc.

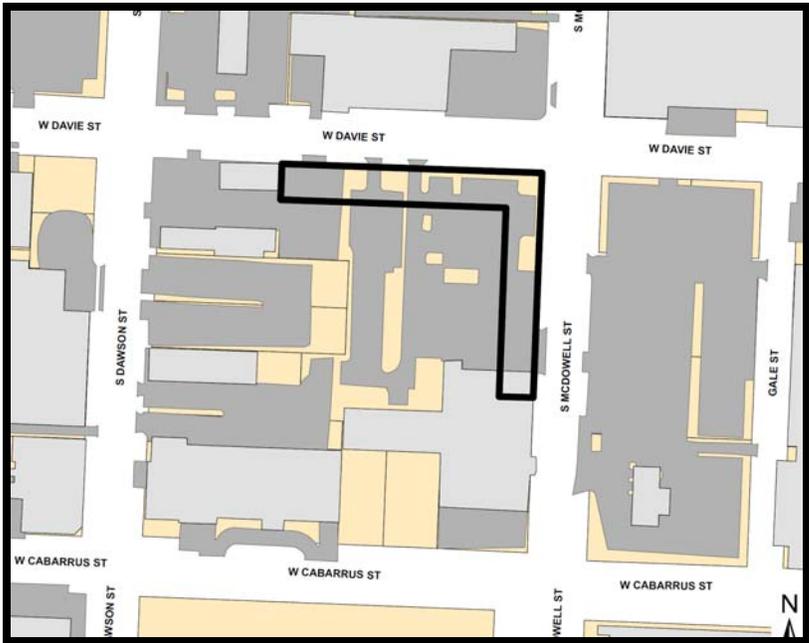
CAC: Central

Nature of Case: A mixed use project comprised of 8,035 SF of office space, 9,575 SF of retail space and 93 residential dwelling units on a .45 acre site zoned Business Zone, Industrial-2 and Downtown Overlay District. This site borders the existing 9 level Wake County Parking Deck that was intended to be screened by development on this property. This requires preliminary approval for the following reasons:

- (A) It is for a building over 10,000 square feet in the Downtown Overlay District;
- (B) It is for a development in excess of 40 units per acre in the Downtown Overlay District (requested density of 207 dwelling units per acre);
- (C) It is a residential project in an industrial zoning district;
- (D) It contains sidewalks less than 14 feet in width

Key Issues: This project does not provide the required open space or the 14' wide sidewalks called for by the Downtown Overlay District. The applicants are seeking approval of an alternate open-space arrangement for the open space requirement.

Contact: Richard Brown, PLA – Kimley-Horn and Associates, Inc.



SUBJECT: SP-48-12 / The L Building Mixed Use Development

CROSS-REFERENCE: SP-97-06 Wake County Parking Deck and Mixed Use Development

LOCATION: This site is located on the southwest corner of the intersection of McDowell Street and W. Davie Street, inside the City Limits.

REQUEST: This request is to approve a 105,000 square foot mixed-use building comprised of 8,035 SF of office space, 9,575 of retail space and 93 residential dwelling units on a .45 acre site zoned Business Zone, Industrial-2 and Downtown Overlay District. This site borders the existing 9 level Wake County Parking Deck that was intended to be screened by development on the subject property. The proposed development will wrap the northern and eastern sides of the parking deck and screen it from view on those sides of the building. All required parking for this development is being provided within the existing adjacent Wake County Parking Deck. As this is a site plan for a new structure in excess of 10,000 SF within the Downtown Overlay District, the development is in excess of 40 units per acre in the Downtown Overlay District and it is for a residential development in an industrial zoning district, Planning Commission approval is required.

OFFICIAL ACTION: Approval with conditions

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

FINDINGS: The Planning Commission finds that with the following conditions of approval this request conforms to Chapter 2, Part 10, Sections 10-2043, 10-2047, 10-2051, 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 6/27/13, owned by Concord-Empire Davie Street, LLC, submitted by Kimley-Horn and Associates, Inc.

ADDITIONAL NOTES: There are no additional notes for this plan.

VARIANCES / ALTERNATES: This project does not provide the 14' wide sidewalks required by the Downtown Overlay District. The applicants are seeking approval of an alternate open-space arrangement for this requirement.

On July 16, 2013 the City Council approved variances from the right-of-way dedication and construction requirements of:

- (A) McDowell Street which is classified as a Principal Arterial which required a 130' right of way. The existing right of way is 66' and is built to a 42' +/- back to back cross-section.
- (B) Davie Street which is classified as a Minor Thoroughfare which required an 80' right of way. The existing right of way is 66' and is built to a +/- 42' back to back cross section.

To PC: 7/23/13

Case History: xxxxx

Staff Coordinator: Eric S. Hodge, AICP

Motion: Fluhrer

Second: Terando

In Favor: Braun, Butler, Fleming, Fluhrer, Lyle, Mattox, Schuster, Sterling Lewis, Swink and Terando

Opposed: xxxxx

Excused: xxxxx

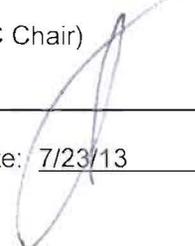
This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

Signatures: (Planning Dir.)



date: 7/23/13

(PC Chair)



date: 7/23/13



Staff Report

**RECOMMENDED
ACTION:** Approval with Conditions

**CONDITIONS OF
APPROVAL:** Planning Commission Actions:

- (1) That the Planning Commission finds that this site plan meets the standards for approval of a residential development in an Industrial-2 and Business Zone District located in the Downtown Overlay District in accordance with Code Section 10-2051, providing sufficient open space, parking, minimum net lot area, and minimum yard setbacks;.
- (2) That the Planning Commission finds that this site plan meets the standards for approval of a residential development exceeding 40 dwelling units per acre density located in the Downtown Overlay District in accordance with code Section 10-2051(d)(1)c by (A) being located in the central downtown area, Tier I subsection ii (B) providing parking in a deck which meets the Code standards, Tier II subsection 3 (C) containing adequate amounts of service or retail facilities (at least 50 SF per unit), Tier II;
- (3) That the Planning Commission finds that the alternate method of open space proposed regarding maintaining sidewalks less than 14' in width is approved, as existing foundations preclude the installation of 14' wide sidewalks, and that a transit shelter is constructed by developer along Davie Street along with a minimum of 4 u-shaped bike racks, as offered by the applicant to support the request for reduced open space;
- (4) That allowed by City Code Section 10-2051(d)(5), the Planning Commission finds that the alternate method of open space proposed, a 700 SF rooftop deck with dimensions of 16'x43.75' is approved as an alternate to the required 20'x20' dimensions;

Administrative Actions:

Prior to issuance of building permits:

- (5) That an encroachment agreement for any plantings, transit shelter, bike racks, planters, awnings or stormwater drainage systems that carry private drainage to be located within the public right-of-way is approved by the City Council and/or NCDOT (if applicable) by separate action. An application for encroachment into the public right of way for the landscaping located within the right of way as indicated on the preliminary plan, shall be submitted to the City's Encroachment Coordinator in the Public Works Department for review, and that the City Council approve 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 Public Works Department, and 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;

- (6) That a landscape permit is obtained from the urban forester in the Parks and Recreation Department for landscaping in the public right-of-way;
- (7) That the proposed transit shelter placement and design is approved by the Public Works department. The applicant is offering to pay for the construction of the shelter;
- (8) That a minimum of 4 U-shaped bike racks are provided in the vicinity of the proposed transit shelter;
- (9) That the City Attorney approve a public sidewalk easement deed for any portion of the proposed pedestrian ways on private property adjacent to public right-of-way on surrounding streets including McDowell and Davie;
- (10) That in accordance with Code section 10-2081, the applicant shall submit with the application for a building permit a description of all off-site parcels used to meet off-street parking requirements, together with either a certificate of ownership of these parcels or an attested copy of the leasing agreement or recorded cross parking easement. All off-site parking areas shall conform to the City Code. The applicant shall also agree in writing that he, or his successors or assigns, shall provide the required off-street parking on these parcels or their equivalent, so long as the principal use shall continue, and shall agree that the principal use shall be discontinued, should the required off-street parking no longer be provided on these off-site parcels or their equivalent;

ZONING:

ZONING DISTRICTS: Business Zone, Industrial-2 and Downtown Overlay District

SETBACKS / HEIGHT: This plan conforms to all minimum setback standards. Davie St. = 0', McDowell St. = 1', rear/side yards = 0'. Proposed height of the building is 78'.

PARKING: Off-street parking conforms to minimum requirements: 77 spaces required, based on 1 parking space per dwelling unit (with the first 16 units exempted by the Downtown Overlay District), and the exemptions for up to 30,000 SF of retail and other non-residential uses. 97 spaces are provided within the adjacent parking deck.

The parking deck is located on a separate parcel from the proposed mixed-use development. The applicant shall submit with the application for a building permit a description of all off-site parcels used to meet off-street parking requirements, together with either a certificate of ownership of these parcels or an attested copy of the lease agreement or recorded cross parking easement. All off-site parking areas shall conform to the City Code. The applicant shall also agree in writing that he, or his successors or assigns, shall provide the required off-street parking on these parcels or their equivalent, so long as the principal use shall continue, and shall agree that the principal use shall be discontinued, should the required off-street parking no longer be provided on these off-site parcels or their equivalent.

LANDSCAPING: Street yard landscaping in conformity with the streetscape plans for downtown is shown. Vehicular surface area landscaping is not required as all of the parking for the project is within an existing parking deck. Transitional protective yards are not required given the adjacent uses.

TREE CONSERVATION: No tree conservation areas are required because the site will be comprised of two individual parcels, each less than 2 acres and there are no stands of trees on the site located within 50' of a Thoroughfare meet the requisite standards of code section 10-2082.14.

DEVELOPMENT DENSITY: With 93 dwelling units proposed on a .45 acre site, the proposed density of the project equates to 207 units per acre. The applicants are allowed increases in residential densities in excess of 40 units per acre through the Downtown Overlay District and compliance with the tiered standards for additional density. For each Tier 1 and Tier 2 standard specified in the Downtown Overlay District that the Planning Commission finds the plan compliant with, an increase in density of 60 units per acre is allowed. The project's proposed density is 207 dwelling units per acre. In order to achieve this density, the project would have to meet at least two of the tiered density standards. The applicants purport that the plan meets one Tier 1 standard and two Tier 2 standard. These standards are listed below:

1. **Location:** (Tier 1 Standard granting an additional 60 units per acre)
The proposed development is located within the central downtown area as described in Section 10-2051(d)(1)c.1.(ii).
The subject property is within the central downtown area as described in Section 10-2051(d)(1)c.1.(ii).
2. **Parking Deck:** (Tier 2 Standard granting an additional 60 units per acre)
At least 80% of the off-street parking spaces provided are contained in a multilevel parking structure that is visually integrated into the principle building and designed to be compatible with other buildings on the site by using compatible building materials and architectural designs, as reflected in scale, color, texture, fenestration, width, height, roof lines, and other similar architectural gauges. No more than 75' total of the ground level of the sides of the building or parking deck (measured 20' deep from the façade of the building) located on the sides of the lot fronting a public street shall be devoted to parking driveways and/or loading areas.
All proposed parking is within a parking deck that is visually integrated into the proposed building and meets the design constraints of this standard.
3. **Service and Retail Facility:** (Tier 2 Standard granting an additional 60 units per acre). The development contains on-site a minimum of 50 square feet per unit of service and retail facilities to serve the residents.
With 93 dwelling units proposed, 4,650 square feet of retail and/or service facilities are required. The proposal includes 9,575 square feet of retail and/or service facilities within the project.

OPEN SPACE: The Downtown Overlay District calls for a minimum of 5% of the total land area of the development be set aside as open space. "Open Space" shall include greenways and any common outdoor landscaped and recreation spaces; outdoor decks, roof gardens and other similar outdoor community space accessible to and available for use by all residents of the development. Based on the property's acreage, the base minimum amount of open space required for the tract is 976 square feet. The code calls for this requirement to first be met by

providing 14' wide sidewalks along the site's public street frontage. The code then requires 1/2 of the open space to be provided in one continuous part with a minimum length and width dimension of 20'. The applicants plan contains 644 square feet of sidewalk area outside of the right-of-way but only provides sidewalk widths in the 10'-12.8' range. The plan includes a 700' roof top open space area to meet the "1/2 requirement" but it doesn't meet the requisite 20' width standard of the Downtown Overlay District. Code Section 10-2051(d)(5) allows the Planning Commission to reduce these open space requirements as part of a site plan approved by the Planning Commission in accordance with 10-2132.2(c) after a finding that such reduction in open space is in accordance with the general plans for the physical development of the city as embodied in the Raleigh Comprehensive Plan and the site plan meets the standards of 10-2132.2(d). The applicants are offering to pay for a transit shelter and its installation to support the alternate open space/sidewalk reductions requested with this proposal.

DEVELOPMENT INTENSITY:

Proposed floor area ratio (FAR) is 5.3. Proposed lot coverage is 95.6%. There are no FAR and building lot coverage regulations applicable to the zoning districts found on the site.

PHASING:

This development actually completes the development as originally intended with SP-97-06 Wake County Parking Deck & Mixed Use Development, although the mix of uses has changed from only retail and office to now add a residential component.

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:

On July 16th, the City Council granted a variance from the right-of-way requirements set forth in Section 3.1 of the Streets, Sidewalks and Driveway Handbook and reviewed in accordance with the standards set forth in City Code Section 10-3004, Variances and Alternate Designs.

The applicants received a variance from the right-of-way dedication and construction requirements for both of the following streets:

McDowell Street which is classified as a Principal Arterial which required a 130' right of way. The existing right is way is 66' and is built to a 42' +/- back to back cross-section.

Davie Street which is classified as a Minor Thoroughfare which required an 80' right of way. The existing right of way is 66' and is built to a +/- 42' back to back cross section.

TRANSIT:

The following transit-oriented feature is incorporated into the proposed plan: A free-standing or integrated transit shelter is shown along Davie Street at a location to be determined at the time of building permit application. This site is served by the existing transit system. The applicants are offering to pay for the

shelter and its installation to support the alternate open space/sidewalk reductions requested with this proposal.

**COMPREHENSIVE
PLAN:**

This site is located in the Central Citizen Advisory Council, and is designated as Central Business District on the future land use map. The Central Business District category is intended to enhance Downtown Raleigh as a vibrant mixed use urban center Staff has reviewed the following Comprehensive Plan policies:

- Policy LU 5.1—Reinforcing the Urban Pattern
- Policy T 5.2—Incorporating Bicycle and Pedestrian Improvements
- Policy T 5.10—Building Orientation
- Policy UD 1.2—Architectural Features
- Policy UD 1.3—Creating Attractive Facades
- Policy UD 1.4—Maintaining Facade Lines
- Policy UD 2.1—Building Orientation
- Policy UD 2.2—Multi-modal Design
- Policy UD 2.3—Activating the Street
- Policy UD 2.6—Parking Location and Design
- Policy UD 2.7—Public Open Space
- Policy UD 3.8—Screening of Unsightly Uses
- Policy UD 6.1—Encouraging Pedestrian-Oriented Uses
- Policy DT 3.2 Ground Floor Uses on Secondary Retail Streets (McDowell Street)
- Policy DT 7.2—Maintaining Consistent Setbacks
- Policy DT 7.3—Streetwalls
- Policy DT 7.4—Building Entries
- Policy DT 7.5—Ground Level Design
- Policy DT 7.6—Minimizing Service Entrance Visibility
- Policy DT 7.19—Downtown Design Guideline Consistency

**HISTORIC /
DISTRICTS:**

This site is not located in or adjacent to a designated Historic District.

**APPEARANCE
COMMISSION:**

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

Comment	Response
<ul style="list-style-type: none"> • Incorporate a pedestrian coverage element or canopy along both street frontages. 	<p>A canopy element that would encroach across the property line was considered. An alternative method to a projecting canopy is utilized. Each building entry is protected from the elements by a recessed niche. Recessed entries are a typical design feature utilized on many buildings downtown.</p>
<ul style="list-style-type: none"> • Consider using a more durable material in place of cementitious paneling at ground level. 	<p>The service doors will receive a door surround built of a durable material to protect against service damage. See revised elevations.</p>
<ul style="list-style-type: none"> • Blank wall areas (adjacent to service entries on Davie St 	<p>The door surround treatments mentioned in comment #2 above</p>

elevation) should incorporate more architectural articulation.

will be designed to provide architectural articulation along the service entry area. See revised elevations.

- Further distinguish the residential building entrance.

The residential entry storefront will be surrounded with a "portal" frame to distinguish it from the retail storefront entries. See revised elevations.

- Articulate the McDowell Street elevation similar to the Davie Street elevation in order to break up the uniformity of the façade.

While we respect the Commissions input, the McDowell Street elevation is intentionally different from the Davie Street elevation. The massing responds to different program in each wing and to different urban contexts on each street.

The McDowell Street façade responds to the tower elements at either end, the parking deck stair tower on the south and the tower-like end elevation of the Davie Street wing. The towers punctuate the ends of the McDowell façade like "bookends" in the composition. The brick façade is separated from the towers by wide, deep notches in the façade which further accentuates the verticality of the tower elements. The scale and massing of the façade also responds to the nature of the vehicular traffic flow on McDowell Street, while the Davie Street massing reflects the more pedestrian nature of that street, with its significantly lower volume of vehicular traffic. As a result of building program as well as street environment the two elevations are purposefully and distinctly different from one another

SUBDIVISION STANDARDS:

BLOCK LAYOUT: The proposed street layout conforms to City Code, providing for efficient circulation of traffic within the entire neighborhood area. The maximum block length in this development meets the 1500-foot standard as noted in the Streets, Sidewalks and Driveway Access Handbook. No dead end street in this development exceeds 800 feet in length.

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 to be provided by private contractor.

CIRCULATION: Proposed street improvements shall conform to normal City construction standards.

PEDESTRIAN: Existing sidewalks do not conform to City regulations. A 14' sidewalk is required along both McDowell and Davie Streets. The applicants are seeking approval of an alternate open-space arrangement in lieu of this requirement because of existing foundations that were put in place with SP-97-06 and the shallow depth of the site would make retail difficult if the floor-plate was further reduced. The proposed sidewalk along McDowell Street is a minimum of 12.83' and the proposed sidewalk along Davie Street is a minimum of 10'.

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

STORMWATER MANAGEMENT: This site is subject to stormwater management. Compliance with stormwater nitrogen reduction and stormwater runoff control are required for this site per City code Part 10, Chapter 9. An existing shared sand filter on the adjacent Wake County Parking Deck site (lot 1), as approved under SP-97-06, is utilized to comply with water quality requirements of both this lot 2 and lot 1. Attenuation for water quantity is not required as the site plan meets the exemption as noted in 10-9023 (b) (1) of the Raleigh City Code.

The owner has established that there is no increase in impervious surfaces under this SP-48-12 over what was approved under SP-97-06. SP-97-06 showed compliance for both lots 1 and 2 through the use of an underground sand filter on lot 1. The proposed means of compliance is unchanged. A maintenance covenant is not required per section 10-9027 (b).

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.