

**Department of Community Planning and Economic Development – Planning Division**

Variance  
BZZ-5536

**Date:** May 3, 2012

**Applicant:** PCNF Nicollet Housing, L.P, 2610 University Avenue West, Suite 100, St. Paul, MN 55114

**Address of Property:** 3700 Nicollet Avenue

**Project Name:** 3700 Nicollet Avenue

**Contact Person and Phone:** Plymouth Church Neighborhood Foundation, Attn: Sarah Larson, 2610 University Avenue West, Suite 100, St. Paul, MN 55114, (651) 789-6260

**Planning Staff and Phone:** Becca Farrar, Senior City Planner, (612) 673-3594

**Date Application Deemed Complete:** April 9, 2012

**End of 60-Day Decision Period:** June 8, 2012

**End of 120-Day Decision Period:** Not applicable for this application.

**Ward:** 8

**Neighborhood Organization:** Kingfield Neighborhood Association

**Existing Zoning:** OR2 (High Density Office Residence) district

**Zoning Plate Number:** 25

**Lot area:** 37,590 square feet or approximately .86 acres

**Legal Description:** Not applicable for this development

**Proposed Use:** Proposed coffee shop/delicatessen with outdoor seating.

**Concurrent Review:**

- Amend a previously approved variance application that allowed for an increase in the size of the neighborhood serving retail sales and services use within the building, in order to remove the condition of approval pertaining to a maximum of 30 seats within the proposed coffee shop/delicatessen.
- Variance to allow more than 30 seats within the coffee shop/delicatessen. The applicant proposes a total of 66 seats, 50 indoor and 16 outdoor.
- Variance of the enclosed building requirement in order to allow outdoor seating in the OR2 (High Density Office Residence) district.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, Specifically Section 525.520(3) “to vary the gross floor area, floor area ratio and seating requirements of a structure or use”, and Section 525.520(26) “to vary the enclosed building requirements of this zoning ordinance”.

**Background:** The subject site is located on the southwest corner of Nicollet Avenue and West 37<sup>th</sup> Street, and is zoned OR2 (High Density Office Residence) district. The applicant, PCNF Nicollet Housing, L.P., received

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City Planning Commission (CPC) approval in September of 2008, (BZZ-4181) to construct a new mixed-use building containing 42-units of supportive housing, supportive service offices and three commercial spaces. The associated approvals included: (1) a conditional use permit for a 42-unit supporting housing facility; (2) variance to increase the number of residents in the facility from the maximum of 32 to 42; (3) variance to reduce the front yard setback along Nicollet Avenue from the established 42 feet to 3.5 feet; (4) variance to reduce the front yard setback along West 37<sup>th</sup> Street from the established 16 feet to 10 feet; (5) variance to reduce the off-street parking requirement from 35 spaces to 26 spaces; (6) variance to increase the size of one neighborhood serving retail sales and services use from the maximum 2,000 square feet to 2,535 square feet; (7) variance to increase the maximum permitted height of the wall signs from 14 feet to 16 feet; (8) site plan review for a 3-story, 42-unit supportive housing development with ground level commercial spaces; (9) a preliminary plat (Pl-231); and (10) a vacation application (Vac-1550) of the boulevard reserve along Nicollet Avenue.

Associated with these approvals were various conditions of approval; specifically, the application for the variance to increase the size of one neighborhood serving retail sales and services use from the maximum of 2,000 square feet to 2,535 square feet had two conditions applied to the approval: (1) the largest neighborhood serving retail sales and services space within the building shall not exceed 2,535 square feet; (2) if the 2,535 square foot space is utilized as a food and beverage use there shall be no more than 30 seats. PCNF Nicollet Housing, L.P., on behalf of Nicollet Square and Butter Bakery Café, has submitted an application to amend this previously approved variance in order to remove the condition of approval (2) pertaining to the maximum of 30 seats for a food and beverage use. In conjunction with this application, the applicant has submitted a variance to allow more than 30 seats within the coffee shop/delicatessen as a total of 66 seats are proposed, 50 indoor and 16 outdoor. The OR district regulations as outlined in Section 547.30(f) of the Zoning Code limit coffee shops/delicatessens to 30 seats; as such a variance is needed. An additional variance is also needed in order to allow the outdoor seating that is proposed (16 seats), as Section 547.190 of the Zoning Code states that all production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building. As a result, a variance of the enclosed building requirement is necessary.

The building is a three-story, mixed-use development that contains ground level commercial spaces and 42 efficiency apartments for young adults who are homeless or aging out of foster care and that have an income level below 30 percent of the area median income. On-site supportive services include assistance finding educational and employment opportunities, classes to increase ones independent living skills and aid finding physical and mental health providers. After one year of operation, Nicollet Square has exceeded its original goals, with 97% of its residents working. A key component of the initial project design and necessary for the ongoing success of the project is to lease the corner commercial space to a business that can provide employment opportunities for those living at Nicollet Square. Butter Bakery Café has outgrown their current space in South Minneapolis at 3544 Grand Avenue and has agreed to partner with PCNF to provide internships to the residents.

Butter Bakery Café serves coffee, pastries, sandwiches and typical deli lunch and breakfast items. The entire site provides 26 off-street parking spaces. Five stalls will be dedicated for Butter Bakery Café's use. A total of 12 bicycle parking stalls are provided for the commercial spaces.

Staff has not received official correspondence from the Kingfield Neighborhood Association prior to the printing of this report. All correspondence received prior to the Board of Adjustment meeting will be forwarded on for consideration.

**VARIANCE** – (1) Amend a previously approved variance application in order to remove the condition of approval pertaining to a maximum of 30 seats within the proposed coffee shop/delicatessen; (2) Variance to

allow more than 30 seats within the coffee shop/delicatessen; (3) Variance of the enclosed building requirement in order to allow outdoor seating in the OR2 (High Density Office Residence) district.

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

**Amend a previously approved variance application in order to remove the condition of approval pertaining to a maximum of 30 seats:** Planning Staff believes that there are practical difficulties that exist in complying with the ordinance in this specific circumstance. As previously noted, the condition of approval was attached to a variance application to increase the size of one neighborhood serving retail sales and services use from the maximum of 2,000 square feet to 2,535 square feet. The standard in the OR2 district that limits coffee shops and delicatessens to 30 seats was put in place to generally mitigate potential impacts on adjacent residential properties. As proposed the applicant intends to include a total of 66 seats, 50 indoor and 16 outdoor. Planning Staff believes that the increased indoor seating should not have adverse impacts on adjacent properties. Regarding the outdoor seating, provided it is located only on the Nicollet Avenue side of the site, impacts on adjacent residential properties would likely be minimal. The proposed hours of operation would be from 7am to 10pm daily, amplified music is prohibited and no alcohol will be served. Planning Staff will further recommend that the outdoor seating hours be limited to 9pm daily.

**To allow more than 30 seats within the coffee shop/delicatessen:** Planning Staff believes that there are practical difficulties that exist in complying with the ordinance in this specific circumstance. The applicant is proposing to increase the capacity to 66 seats; from 30 indoor seats to 50 indoor seats within the coffee shop/delicatessen and to allow 16 outdoor seats. The property is zoned OR2 and is located on Nicollet Avenue which is a designated Community Corridor. The intersection of Nicollet Avenue and West 38<sup>th</sup> Street is a designated Neighborhood Commercial Node. Both of these land use features in *The Minneapolis Plan* call for the continued presence of small scale retail sales and services. Further, the business and the associated employment opportunities for the residents is an important component of the development as a whole and its continued success.

**Enclosed building requirement in order to allow outdoor seating:** Planning Staff believes that there are practical difficulties that exist in complying with the ordinance as all activities associated with the business must meet the enclosed building requirement thus prohibiting outdoor seating without a variance. In this specific circumstance outdoor seating that is limited to 16 seats is reasonable and would result in minimal impacts on adjacent residential properties provided all seating is located along Nicollet Avenue as opposed to 37<sup>th</sup> Street East. The building is setback 6 feet from the property line on Nicollet Avenue. The seating area as proposed is primarily located between the building and the property line and maintains a 6-foot wide sidewalk.

**2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

**Amend a previously approved variance application in order to remove the condition of approval pertaining to a maximum of 30 seats:** The proposal to remove the condition of approval associated with the variance application to increase the size of one neighborhood serving retail sales and services use is reasonable and would be in keeping with the spirit and the intent of the ordinance and comprehensive plan. An increase in the number of indoor seats and the allowance of limited outdoor seating along the Nicollet Avenue frontage should not have adverse impacts on adjacent properties.

**To allow more than 30 seats within the coffee shop/delicatessen:** The proposal to increase the capacity from 30 indoor seats to 50 indoor seats within the coffee shop/delicatessen and to allow 16 additional outdoor seats is reasonable and would be in keeping with the spirit and the intent of the ordinance and comprehensive plan. The property is zoned OR2 and is located along a designated Community Corridor, and adjacent to a designated Neighborhood Commercial Node. Both of these land use features in *The Minneapolis Plan* call for the continued presence of small scale retail sales and services.

**Enclosed building requirement in order to allow outdoor seating:** The proposal to allow limited outdoor seating provided it is only located along the Nicollet Avenue frontage, is reasonable and would be in keeping with the spirit and the intent of the ordinance and comprehensive plan. There is ample separation between the building wall and the property line that allows the proposed outdoor seating primarily on the subject property while maintaining a 6-foot wide sidewalk. Further, Planning Staff recommends that the outdoor seating hours be limited to 9pm daily.

**3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

**Amend a previously approved variance application in order to remove the condition of approval pertaining to a maximum of 30 seats:** The proposal to remove the condition of approval associated with the variance application to increase the size of one neighborhood serving retail sales and service use would not adversely alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity, nor would it be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The increased capacity accommodates the needs of both the tenant and the programming of the overall development.

**To allow more than 30 seats within the coffee shop/delicatessen:** The proposal to increase the capacity from 30 seats to 66 seats (50 indoor and 16 outdoor) for the proposed coffee shop/delicatessen would not adversely alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity, nor would it be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The proposed hours of operation would be from 7am to 10pm daily, amplified music is prohibited and no alcohol will be served. Planning Staff will recommend that the outdoor seating hours be limited to 9pm daily.

**Enclosed building requirement in order to allow outdoor seating:** The proposal to vary the enclosed building requirement and allow 16 outdoor seats would not adversely alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity provided it is managed properly, operational until 9pm and located only along Nicollet Avenue. Further, it would not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance application to amend a previously approved variance application that allowed for an increase in the size of the neighborhood serving retail sales

and services use within the building, by removing the condition of approval pertaining to a maximum of 30 seats within the proposed coffee shop/delicatessen on the property located at 3700 Nicollet Avenue.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance application to allow a total of 66 seats, 50 indoor and 16 outdoor for the proposed coffee shop/delicatessen on the property located at 3700 Nicollet Avenue subject to the following conditions of approval:

1. The maximum capacity shall be 66 seats which includes no more than 50 indoor seats and no more than 16 outdoor seats.
2. All outdoor seating shall be located along Nicollet Avenue.
3. No outdoor seating shall be provided along West 37<sup>th</sup> Street.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance application of the enclosed building requirement in order to allow outdoor seating in the OR2 (High Density Office Residence) district on the property located at 3700 Nicollet Avenue subject to the following conditions of approval:

1. All outdoor seating shall be located along Nicollet Avenue and there shall be no more than 16 outdoor seats. No outdoor seating shall be permitted after 9pm daily.
2. No outdoor seating shall be provided along West 37<sup>th</sup> Street.
3. The coffee shop/delicatessen shall comply with the applicable Specific Development Standards as outlined in Chapter 536.20 of the Zoning Code. Specifically, the premises, all adjacent street, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

**Attachments:**

1. Statement of proposed use and description of the project
2. Findings
3. Correspondence – CM Glidden & Kingfield Neighborhood Assn.
4. Zoning Map
5. Proposed floor plan and seating configuration
6. As built site plan, survey, elevations
7. Photos of the site