

**Department of Community Planning and Economic Development – Planning Division**  
Variances and Site Plan Review  
BZZ-5703  
Vacation File # 1607

**Date:** August 27, 2012

**Applicant:** GDSX, LLC, c/o Opus Development Corporation, Attn: David Menke, 10350 Bren Road West, Minnetonka, MN 55343, (952) 656-4565

**Address of Property:** 401 Nicollet Mall and 47 4<sup>th</sup> Street South

**Project Name:** 401 Nicollet Mall

**Contact Person and Phone:** Faegre Baker Daniels LLP, Attn: Carol Lansing, 2200 Wells Fargo Center, 90 South 7<sup>th</sup> Street, Minneapolis, MN 55402-3901, (612) 766-7005

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

**Date Application Deemed Complete:** July 23, 2012

**End of 60-Day Decision Period:** September 21, 2012

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

**Ward:** 7      **Neighborhood Organization:** Downtown Minneapolis Neighborhood Association (DMNA)

**Existing Zoning:** B4-2 (Downtown Business) District, NM (Nicollet Mall) Overlay District and DP (Downtown Parking) Overlay District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 19

**Lot area:** 35,553square feet or approximately .82 acres

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

**Proposed Use:** New 9-floor, 161-foot tall, 221,000 square foot office building.

**Concurrent Review:**

- Variance of the Nicollet Mall (NM) Overlay Standard pertaining to building placement as portions of the building are proposed to be located more than 8 feet from Nicollet Mall and 4<sup>th</sup> Street South;
- Variance of the Nicollet Mall (NM) Overlay Standard pertaining to the street level retail requirement, where retail uses are required to occupy at least 60% of the gross floor area of the first floor and must extend along at least 60% of the first floor façade fronting on Nicollet Mall;
- Site Plan Review for a 9-floor, 161-foot tall, 222,879 square foot office building located on Nicollet Mall. The property is located in the B4-2 (Downtown Business) District, DP (Downtown Parking) Overlay District and NM (Nicollet Mall) Overlay District;

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

- Vacation application to vacate multiple alley easements in the block bounded by Nicollet Mall, 4<sup>th</sup> Street South, 5<sup>th</sup> Street South, and Marquette Avenue.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, specifically section 525.520 (20) “To vary the standards of any overlay district, other than the SH Shoreland Overlay District or the FP Floodplain Overlay District”; Chapter 530 Site Plan Review; and Chapter 598, Land Subdivision Regulations.

**Background:** Opus Development Corporation, on behalf of Xcel Energy, has submitted land use applications to construct a new 9-floor, 161-foot tall, 222,879 square foot office building with 30 enclosed ground level parking stalls located on Nicollet Mall. The office building would replace an existing above-grade parking ramp located at the southeast intersection of Nicollet Mall and 4<sup>th</sup> Street South on the properties located at 401 Nicollet Mall and 47 4<sup>th</sup> Street South. The proposal requires variances of the NM (Nicollet Mall) Overlay District standards pertaining to building placement as portions of the building are proposed to be located more than 8 feet from Nicollet Mall and 4<sup>th</sup> Street South; and pertaining to the street level retail requirement where retail uses are required to occupy at least 60% of the gross floor area of the first floor and must extend along at least 60% of the first floor façade fronting on Nicollet Mall. Site plan review is also required. A concurrent vacation application was also submitted in order to vacate multiple alley easements within the block as well.

The proposed building would be LEED Silver certified and clad with a cast stone exterior, glass curtain walls and various architectural details. The streetscape along Nicollet Mall has been designed in conjunction with the approved design of the Nicollet Mall Residences to be located on the parcel to the south so that it is consistent and continuous with the redevelopment of both parcels. The building would create an “urban campus” for Xcel Energy in conjunction with the existing Xcel Headquarters building located across the street at 414 Nicollet Mall. The development would be highly transit-oriented due to the site’s proximity to transit and other alternative modes of transportation. Nicollet Mall, Marquette Avenue and 2<sup>nd</sup> Street South are primary bus route corridors. The Nicollet Mall LRT station is located on 5<sup>th</sup> Street between Nicollet Mall and Marquette Avenue. Nicollet Mall is also a pedestrian thoroughfare with vehicle access limited to buses and taxis. Bicycle facilities (e.g. Nice Ride) and routes are also located in the immediate area. The building would provide public street level access to a new skyway linking the proposed building to Nicollet Mall Residences when constructed. A future connection is also anticipated across Nicollet Mall to link the new building with the Xcel Energy headquarters building.

Correspondence from the neighborhood group, the Downtown Minneapolis Neighborhood Association, was received and is attached to this report. No other neighborhood letters/emails were received prior to the printing of this report. Any correspondence received after the printing of this report shall be forwarded on to the Planning Commission for consideration.

**VARIANCE:** (1) Variance of the Nicollet Mall (NM) Overlay Standard pertaining to building placement as portions of the building are proposed to be located more than 8 feet from Nicollet Mall and 4<sup>th</sup> Street South; and (2) Variance of the Nicollet Mall (NM) Overlay Standard pertaining to the street level retail requirement, where retail uses are required to occupy at least 60% of the gross floor area of the first floor and must extend along at least 60% of the first floor façade fronting on Nicollet Mall.

**Findings as required by the Minneapolis Zoning Code:**

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.**

**Building placement:** The site has frontage on two public streets, both Nicollet Mall and 4<sup>th</sup> Street South. The Nicollet Mall LRT station is located on the block along 5<sup>th</sup> Street between Nicollet Mall and Marquette

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

Avenue. Nicollet Mall is also a main pedestrian thoroughfare with high volumes of pedestrian activity. The applicant is proposing to set the building back more than 8 feet from Nicollet Mall and 4<sup>th</sup> Street South in order to ensure that there is adequate room for pedestrian circulation and amenities. These circumstances have not been created by the applicant, are unique to the property, and are not based on economic considerations. The proposed setback is consistent with the recently approved Nicollet Mall Residences project located on the southerly portion of the block and establishes a uniform width for pedestrian travel and streetscape improvements. The majority of the building façade is setback 9 to 14 feet from the property lines which is in line with the vision to expand the width of the public realm along Nicollet Mall and along 4<sup>th</sup> Street South.

**Street level retail uses requirement:** Practical difficulties exist in complying with the ordinance because of circumstances unique to the property that have not been created by the applicant. For the purposes of this ordinance, “retail uses” are limited to those uses categorized as Retail Sales and Services uses and Food and Beverages uses contained in Table 549-1 Principal Uses in the Downtown Districts. The project site is located across the street from Xcel Energy’s existing headquarters and is uniquely situated to accommodate an expansion for Xcel’s office needs as part of an “urban campus”. A high level of security is required for management offices of regulated industries and programming a mixed-use, multi-tenant building establishes a challenging security environment. Due to security concerns, the project would provide Xcel Energy with a single-occupant facility enabling secure control of the premises.

- 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.**

**Building placement:** The NM Overlay District is established to preserve and encourage the pedestrian character of the Nicollet Mall area and to promote street level activity by creating a pleasant and unique pedestrian environment. The standard pertaining to the placement of buildings is intended to reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation. Policies of the comprehensive plan also support the intent of this ordinance. To improve the public realm, proposed ground level pedestrian amenities between the building and the lot lines adjacent to the streets include wider sidewalks, landscaping, decorative paving and lighting. Allowing the first floor of the building to be setback as needed from Nicollet Mall and 4<sup>th</sup> Street South to ensure efficient pedestrian circulation is a reasonable request. With the amenities proposed, the building setback is consistent with the spirit and intent of the ordinance and the comprehensive plan.

**Street level retail uses requirement:** The NM Overlay District is established to preserve and encourage the pedestrian character of the Nicollet Mall area and to promote street level activity by creating a pleasant and unique pedestrian environment. Nicollet Mall is a retail district and primarily a pedestrian street with vehicle access limited to buses and taxis. Requiring 60 percent of the gross floor area of the ground level of buildings fronting Nicollet Mall to be retail is intended to ensure that the character of this retail district is maintained. The comprehensive plan includes policies that support a strong retail presence along Nicollet Mall as well as those that support safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way. Development of a singular office only building on the site would allow Xcel Energy to expand their headquarters downtown which is a reasonable use of the property. Although the project does not include retail uses, the proposal would be in keeping with the spirit and the intent of the ordinance and comprehensive plan as the ground level of the building would incorporate a transparent façade and would provide active uses.

- 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.**

**Building placement:** Not granting the variance would result in increased pedestrian congestion on the sidewalks adjacent to the site. In order to improve the public realm, proposed ground level pedestrian amenities between the building and the lot lines adjacent to the streets include wider sidewalks, landscaping, decorative paving and lighting. An abundant amount of windows would be provided within the building at street level as well as in the floors above. Granting of the variance would not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

**Street level retail uses requirement:** Nicollet Mall is a primary pedestrian corridor and a retail district. Granting the variance is expected to have little effect on the surrounding area due to the fact that the building would provide active uses at the ground level of the building. A lobby, conference rooms and break-out/gathering spaces for employees would be accommodated within the ground level of the building. Granting the proposed variance would also not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

## **SITE PLAN REVIEW**

### **Findings as Required by the Minneapolis Zoning Code for the Site Plan Review:**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

### **Section A: Conformance with Chapter 530 of the Zoning Code**

#### **BUILDING PLACEMENT AND DESIGN:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

- **Entrances, windows, and active functions:**
  - **Residential uses:**

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.
  - **Nonresidential uses:**

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.
    - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
    - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
    - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
    - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
    - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.

Minimum window area shall be measured as indicated in section 530.120 of the zoning code.
  - **Ground floor active functions:**

Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.
  - **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages:** The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

The development is not subject to any required yards; however, the building would not be located within 8 feet of the property line along Nicollet Mall or 4<sup>th</sup> Street South. A variance of the NM Overlay District standards is required; see the findings as noted above. Alternative compliance is necessary for building placement along both frontages. Planning Staff would recommend that the Planning Commission grant alternative compliance along both street frontages as policies call for the widening of Nicollet Mall to allow for better pedestrian circulation. The principal entrance to the new office building would be located directly off of the public sidewalk along Nicollet Mall. The design of the site maximizes natural surveillance and visibility, and facilitates pedestrian access and circulation. The area between the building and the public streets would have tree plantings and planters.

The west elevation of the building located along Nicollet Mall incorporates windows that exceed the 40% NM

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

Overlay District window requirement as approximately 78% are provided according to the submitted elevations. The windows on this elevation are evenly distributed and vertical in proportion.

The north elevation of the building facing 4<sup>th</sup> Street South incorporates windows that exceed the 40% NM Overlay District standards as approximately 56% are provided according to the submitted elevations. The windows on this elevation are evenly distributed and vertical in proportion.

Windows between 2 and 10 feet are required in order to provide natural surveillance and visibility by having active uses located along public streets. The proposal is meeting the intent of this requirement by integrating active uses along the public street. The proposed development exceeds the 10% window requirement on each floor above the first floor that faces the public street and public sidewalk.

There is a blank ground-level, uninterrupted wall greater than 25 feet in length along the south elevation of the building that would not include windows, entries, recesses or projections, or other architectural elements on the lower levels of the west and east elevations of the building. Alternative compliance is necessary. Planning Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to break up the blank wall in this location.

The development complies with the active functions provision as noted above.

The exterior materials would be compatible on all sides of the proposed building as the materials would include cast stone, glass curtain walls and various architectural details. Future changes in exterior materials may require review before the City Planning Commission. The proposed building form and flat roof would be considered compatible with other buildings in the area.

No parking garage is proposed as part of the development. An enclosed ground-level parking area provides a total of 30 off-street parking spaces on site.

### **ACCESS AND CIRCULATION:**

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

The principal entrance to the building would be located off of the public sidewalk directly abutting Nicolet Mall.

There are no transit shelters within the development, however the site is located on the same block as the Nicollet Mall LRT stop along the Hiawatha Line and within close proximity to Nicollet Mall and Marquette Avenue which are primary bus route and pedestrian corridors.

The proposed development has been designed to minimize conflicts with pedestrian traffic. Currently, there are no surrounding residential uses. The number of curb cuts to the site has been minimized to the extent practical as there is one curb cut off of 4<sup>th</sup> Street South to the enclosed ground-level parking.

A portion of the public alley located on the block would be vacated as part of this development.

All parking would be enclosed in the ground-level of the building. The amount of impervious surface proposed on site is not excessive as the building covers the majority of the subject site.

## **LANDSCAPING AND SCREENING:**

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
  - Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year.
- Screening shall be satisfied by one or a combination of the following:
  - A decorative fence.
  - A masonry wall.
  - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
- All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

Any building containing 50,000 square feet or more of gross floor area located in the downtown districts is exempt from the general landscaping and screening requirements. The parking and loading landscaping and screening requirements apply; however, all on-site parking would be enclosed in this specific circumstance.

## **ADDITIONAL STANDARDS:**

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
  - Natural surveillance and visibility
  - Lighting levels
  - Territorial reinforcement and space delineation
  - Natural access control
- To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic

**structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

All parking for the proposed project is being provided within the ground-level of the building. As proposed the site would be accessed off of 4<sup>th</sup> Street South. A loading and service area would be located at the rear of the building with access off of the public alley which is proposed to be vacated as part of this proposal. Cross-access easements would be dedicated in order to ensure access to the loading areas located at the rear of the building. The water drainage on site has been designed so as not to drain onto any adjacent lots. The applicant is incorporating on-site retention and filtration.

The proposed building would not significantly shadow public spaces nor would the proposed structure result in significant impacts to wind and air in relation to the surrounding area.

The site appears to incorporate the applicable CPTED principles. The active uses proposed within the ground level of the building provide natural surveillance, there are windows on all sides of the building that allow people to observe adjacent public spaces and the entrances are connected to the public sidewalk. The site is further designed with landscaping, and architectural features to delineate space and control access. Planning Staff has no additional comments or concerns at this time regarding site safety. A detailed lighting plan will be required with the final plan submission.

There are no historic structures or structures eligible for designation on the subject site.

**Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council**

**ZONING CODE:** The site is zoned B4-2 and is located in the NM and DP Overlay Districts. Office uses are permitted in the B4-2 district.

**Parking and Loading:**

*Minimum automobile parking requirement:* There is no minimum parking requirement in the downtown districts for office uses. A total of 30 ground-level enclosed parking spaces are proposed on-site for the development.

*Maximum automobile parking requirement:* The maximum parking requirement for office uses in the downtown districts is 1 space per 1,000 square feet of gross floor area. Based on the proposed gross floor area of 222,879 square feet, the maximum parking requirement would be 223 spaces. As previously noted, the applicant proposes to include 30 spaces within the ground-level of the building which is below the maximum allowed.

*Bicycle parking requirement:* For proposed office uses in the downtown districts, the minimum requirement is not less than one secure bicycle parking space for every 20 automobile spaces provided, but not fewer than four. A total of 30 automobile parking spaces are provided and a total of 24 secure, long-term bicycle parking spaces are proposed which meets the requirement. Because the site is in close proximity to multiple modes of transportation, the applicant is encouraged to provide additional bicycle parking, short-term or long-term, for employees, as well as shower facilities and clothing storage areas.

*Loading:* Two large loading spaces (12 feet by 50 feet) are required based on the proposed gross square footage of the building. The proposed on-site loading area would accommodate two large loading spaces at the rear of the building. Cross access easements would be dedicated to ensure access to these loading areas.

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

**Maximum Floor Area:** The maximum FAR allowed in the B4-2 district is 16. The area of the lot is 35,553 square feet. The building, not including parking, would have a total of 222,879 square feet, which is an FAR of approximately 6.3.

**Minimum Lot Area and Lot Width:** Not applicable for this development.

**Dwelling Units per Acre:** Not applicable for this development.

**Building Height:** There is no height limitation in the B4-2 district. The tallest part of the proposed building would be 161-feet tall or 11 stories (9-floors) as defined by the zoning code.

**Yard Requirements:** Not applicable for this development.

**B4 General District Regulations:** In the B4 district, the ground floor of accessory parking garages must have commercial, residential, office, or hotel uses located between the parking garage and any public sidewalk except where the frontage is needed to provide vehicular and pedestrian access to the facility. The ground floor accessory parking area would be separated from the public sidewalk by areas devoted to the principal uses of the development.

**NM Nicollet Mall Overlay District Standards:** The following standards apply to this development:

- Drive through facilities, automobile services uses, transportation uses and sexually oriented uses as regulated by Chapter 549, Downtown Districts are prohibited in the NM overlay district. These uses are not proposed.
- The first floor of buildings must be located not more than eight feet from Nicollet Mall, except where a greater yard is required by the zoning ordinance or where the building is separated from Nicollet Mall by outdoor open space that conforms to the standards for the urban open space premium, established in Chapter 549, Downtown Districts. In the case of a corner lot, the building wall abutting each street must be located not more than eight feet from the lot line, except where a greater yard is required by the zoning ordinance or where the building is separated from the lot line by outdoor open space that conforms to the standards for the urban open space premium. The first floor of the building would be located more than eight feet from the lot line adjacent to Nicollet Mall and 4<sup>th</sup> Street South. See the variance findings noted above.
- The area between the building and a lot line adjacent to a street, and all other areas not occupied by buildings or used for parking and loading purposes, must include amenities such as landscaping, tables and seating. Amenities, including landscaping, and more room for pedestrian circulation, would be provided between the building and the lot lines.
- Buildings must be oriented so that at least one principal entrance faces Nicollet Mall. The principal entrance would face Nicollet Mall.
- The main lobby of the building and main elevator access must be located at street level. The main lobby and elevator access would be located at street level.
- On-site accessory parking facilities must be located to the rear or interior side of the site, within the principal building served, or entirely below grade. All on-site parking would be enclosed.
- Building facades must provide architectural detail to create visual interest and the exterior materials and appearance of the rear and side walls must be similar to and compatible with the front of the building. All sides of the building would contain architectural details and would be similar and compatible.
- The use of plain face concrete block as an exterior material is prohibited where visible from a public street or a residence or office residence district. Plain face concrete block would not be used as an exterior material.

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

- At least 40 percent of the first floor facade that faces Nicollet Mall or other public street must be windows or doors of clear or lightly tinted glass, including display windows. Windows must be distributed in a more or less even manner. Display windows must be illuminated until at least 1:00 a.m. The required minimum window area is measured between the height of two feet and ten feet above the finished level of the first floor. The majority of the first floor facades facing Nicollet Mall and 4<sup>th</sup> Street South, measured between two and ten feet, would be windows or doors with clear or lightly tinted glass.
- All buildings must contain retail uses at the street level subject to the following standards:
  - (1) Retail uses must include Retail Sales and Services uses and Food and Beverages uses contained in Table 549-1 Principal Uses in the Downtown Districts.
  - (2) Retail uses must occupy at least 60 percent of the gross floor area of the first floor and must extend along at least 60 percent of the first floor facade fronting on Nicollet Mall.
  - (3) Each retail use is encouraged to have at least one separate entrance from Nicollet Mall.
  - (4) Retail uses are encouraged to include awnings and canopies to provide protection to pedestrians and to emphasize individual uses and building entrances.

The proposed development would not comply with the above standards as the building would be a singular office use with no retail space. See the variance findings noted above.

- On-premise signs are subject to the regulations of Chapter 543, On-Premise Signs, and the following:
  - (1) The amount of sign area allowed for signs attached to buildings is 3.5 square feet of sign area per one foot of primary building wall.
  - (2) The maximum height of signs attached to buildings, except projecting signs, is limited to 28 feet. The provisions of Chapter 543, On-Premise Signs, for increasing the height of wall signs by conditional use permit do not apply.
  - (3) The maximum height of projecting signs is limited to 28 feet. The maximum area of projecting signs is 12 square feet. Projecting sign materials are limited to ornamental metal, carved wood or cloth.
  - (4) Backlit signs are prohibited. Projecting signs must be lighted by external illumination only.

No signage is proposed at this time. All signs must also conform to the requirements of Chapter 543, On-Premise Signs. Any new signage will require Zoning Office review, approval, and permits.

- Awnings and canopies are encouraged in order to provide protection for pedestrians and to emphasize individual uses and entrances, and are subject to the following:
  - (1) Backlit awnings and canopies are prohibited.
  - (2) Awning and canopy materials must be limited to cotton, acrylic or vinyl coated cotton, copper or bronze coated metal, or clear or lightly tinted glass.

No awnings or canopies are proposed.

**DP Downtown Parking Overlay District Standards:** The DP overlay district regulates surface parking lots. All parking would be enclosed.

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

**Signs:** No signage is proposed at this time. All signs must conform to the requirements of Chapter 543, On-Premise Signs and section 551.950. Any new signage will require Zoning Office review, approval, and permits.

**Refuse Screening:** Refuse storage containers would be stored in the building. Plans shall be modified to remove the outdoor trash container from the service area.

**Lighting:** A photometric plan was not submitted as part of the application. All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapter 535. Planning Staff shall review the details of the fixtures in the final review prior to permit issuance.

**MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH:**

In *The Minneapolis Plan for Sustainable Growth*, the future land use designation of this site is commercial. The site is adjacent to Nicollet Mall, which is designated as a commercial corridor and a major retail center. It is also within the Downtown Growth Center and the Nicollet Mall Transit Station Area (TSA). Specific to the Downtown Growth Center, the plan states: “As the physical and economic center of the city, Downtown is a logical place for a concentration of employment, housing, and other complementary uses. The land use pattern strengthens the concentrated office core with surrounding entertainment, cultural, and residential development. High intensity uses are encouraged to make the best use of the premium location and to strengthen the city’s core.” The following policies and implementation steps of *The Minneapolis Plan for Sustainable Growth* apply to this proposal:

Land Use Policy 1.1 states: “Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.” This policy includes the following applicable implementation step: (1.5.1) “Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.”

Land Use Policy 1.2 states: “Ensure appropriate transitions between uses with different size, scale, and intensity.” This policy includes the following applicable implementation step: (1.2.1) “Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.”

Land Use Policy 1.3 states: “Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit. This policy includes the following applicable implementation steps: (1.3.1) “Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings”; and (1.3.2) “Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.”

Land Use Policy 1.10 states: “Support development along Commercial Corridors that enhances the street’s character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.” This policy includes the following applicable implementation steps: (1.10.1) “Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low impact light industrial – where compatible with the existing and desired character”; (1.10.2) “Encourage commercial development, including active uses on the ground floor, where Commercial Corridors intersect with other designated corridors.”

Land Use Policy 1.13 states: “Support high density development near transit stations in ways that encourage transit use and contribute to interesting and vibrant places.” This policy includes the following applicable

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

implementation steps: (1.13.4) “Encourage architectural design, building massing and site plans to create or improve public and semi-public spaces near the station”; (1.13.6) “Encourage investment and place making around transit stations through infrastructure changes and the planning and installation of streetscape, public art, and other public amenities.”

Land Use Policy 1.15 states: “Support development of Growth Centers as locations for concentration of jobs and housing and supporting services.” This policy includes the following applicable implementation step: (1.15.2) “Support the intensification of jobs in Growth Centers through employment generating development.”

Land Use Policy 1.16 states: “Support a limited number of Major Retail Centers, while promoting their compatibility with the surrounding area and their accessibility to transit, bicycle and foot traffic.”

Transportation Policy 2.10 states: “Support the development of a multi-modal Downtown transportation system that encourages an increasingly dense and vibrant regional center.” This policy includes the following applicable implementation step: (2.10.4) “Improve the pedestrian environment Downtown to ensure it is a safe, enjoyable, and accessible place to walk. Encourage strategies such as wider sidewalks for pedestrian movement, trees, landscaping, street furniture, improved transit facilities, additional bicycle facilities, and on-street parking and other curbside uses.”

Urban Design Policy 10.1 states: “Promote building designs and heights that enhance and complement the image and form of the Downtown skyline, provide transition to the edges of Downtown and protect the scale and quality in areas of distinctive physical or historical character.” This policy includes the following applicable implementation steps: (10.1.1) “Concentrate the tallest buildings in the Downtown core”; (10.1.3) “Building placement should allow light and air into the site and surrounding properties”;

Urban Design Policy 10.2 states: “Integrate pedestrian scale design features into Downtown site and building designs and infrastructure improvements.” This policy includes the following applicable implementation steps: (10.2.1) “The ground floor of buildings should be occupied by active uses with direct connections to the sidewalk”; (10.2.2) “The street level of buildings should have windows to allow for clear views into and out of the building”; (10.2.3) Ensure that buildings incorporate design elements that eliminate long stretches of blank, inactive building walls such as windows, green walls, architectural details, and murals”; (10.2.8) “Coordinate site designs and public right-of-way improvements to provide adequate sidewalk space for pedestrian movement, street trees, landscaping, street furniture, sidewalk cafes and other elements of active pedestrian areas.”

Urban Design Policy 10.17 states: “Provide sufficient lighting to reflect community character, provide a comfortable environment in a northern city and promote environmentally friendly lighting systems.” This policy includes the following applicable implementation steps: (10.17.5) “Integrate exterior building lighting design to attune with building designs and landscaping”; (10.17.6) “Provide sufficient lighting for better way-finding and safe circulation within and around a development”; (10.17.7) “ Encourage additional pedestrian-scale, exterior lighting in growth centers, activity centers, commercial nodes, pedestrian overlay districts and transit station areas.”

Urban Design Policy 10.19 states: “Landscaping is encouraged in order to complement the scale of the site and its surroundings, enhance the built environment, create and define public and private spaces, buffer and screen, incorporate crime prevention principles, and provide shade, aesthetic appeal, and environmental benefits.”

The property is also located within the boundaries of the *Downtown East / North Loop Master Plan* that was adopted by the City Council in 2003. A primary goal of the plan is to establish transit-oriented mixed use development downtown. The recommended land use for the site is high density mixed use (office/commercial) with at-grade retail. The plan states that high-intensity residential uses are also appropriately located in the

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

Downtown Core, which includes the subject site. “[S]ites close to the Nicollet Mall Station afford an exceptional opportunity to create a high-density, mixed use district where new residential development complements new and existing development at the heart of the Downtown Core.” The proposed development would be consistent with the guidelines adopted as part of this plan.

**ALTERNATIVE COMPLIANCE:**

The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

Alternative compliance is requested by the applicant to meet the following standards:

Building placement within 8 feet of lot lines adjacent to streets: The development is not subject to any required yards; however, the building would not be located within 8 feet of the property line along Nicollet Mall or 4<sup>th</sup> Street South. A variance of the NM Overlay District standards is required; see the findings as noted above. Alternative compliance is necessary for building placement along both frontages. Planning Staff would recommend that the Planning Commission grant alternative compliance along both street frontages as policies call for the widening of Nicollet Mall to allow for better pedestrian circulation. The principal entrance to the new office building would be located directly off of the public sidewalk along Nicollet Mall.

Blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length: There is a blank ground-level, uninterrupted wall greater than 25 feet in length along the south elevation of the building that would not include windows, entries, recesses or projections, or other architectural elements on the lower levels of the west and east elevations of the building. Alternative compliance is necessary. Planning Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to break up the blank wall in this location.

**VACATION (Vacation 1607)** – of a portion of the public alley easements in the block bounded by Nicollet Mall, 4<sup>th</sup> Street South, 5<sup>th</sup> Street South, and Marquette Avenue.

**Development Plan:** The site plan for the development is attached.

**Responses from Utilities and Affected Property Owners:** Minneapolis Public Works has reviewed the vacation petition and recommends approval of the request. Qwest has requested that an easement be reserved. Planning Staff will recommend that at this time an easement be dedicated over the entire described areas.

**Findings:** The CPED Planning Division finds that the area proposed for vacation is not needed for any public purpose, and it is not part of a public transportation corridor, and that it can be vacated.

**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 City Planning Commission adopt the above findings and **approve** the variance of the NM (Nicollet Mall) Overlay District standard pertaining to building placement as portions of the building are proposed to be located more than 8 feet from Nicollet Mall and 4<sup>th</sup> Street South on the properties located at 401 Nicollet Mall and 47 4<sup>th</sup> Street South.

**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 City Planning Commission adopt the above findings and **approve** the variance of the NM (Nicollet Mall) Overlay District standard pertaining to the street level retail requirement, where retail uses are required to occupy at least 60% of the gross floor area of the first floor and must extend along at least 60% of the first floor façade fronting on Nicollet Mall on the properties located at 401 Nicollet Mall and 47 4<sup>th</sup> Street South.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review to allow a new 9-floor, 161-foot tall, 222,879 square foot office building located on Nicollet Mall. The property is located in the B4-2 (Downtown Business) District, DP (Downtown Parking) Overlay District and NM (Nicollet Mall) Overlay District on the properties located at 401 Nicollet Mall and 47 4<sup>th</sup> Street South subject to the following conditions:

1. All site improvements shall be completed by August 27, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
2. Planning Staff review and approval of the final site, elevation, landscaping and lighting plans before building permits may be issued.
3. The incorporation of windows, entries, recesses, projections or other architectural elements along the south elevation of the proposed building to break up the blank uninterrupted walls that exceed 25 feet in width per Section 530.120 of the Zoning Code.
4. The applicant is encouraged to provide additional short-term and/or long-term bicycle parking for employees, as well as shower facilities and clothing storage areas.
5. The applicant shall work with Planning Staff to accommodate opportunities for outdoor seating as part of the streetscape design in conjunction with the Downtown Improvement District (DID) and the Downtown Council.

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

The Department of Community Planning and Economic Development– Planning Division recommends that the City Planning Commission and the City Council accept the above findings and **approve** the vacation application of multiple public alley easements in the block bounded by Nicollet Mall, 4<sup>th</sup> Street South, 5<sup>th</sup> Street South, and

Department of Community Planning and Economic Development – Planning Division  
BZZ-5703 and Vacation #1607

Marquette Avenue for the properties located at 401 Nicollet Mall and 47 4<sup>th</sup> Street South subject to the provision of easements dedicated to Qwest over the entire described areas to be vacated.

**Attachments:**

1. Statement of use / description of the project
2. Findings –Variances
3. Correspondence – Ward 7 and DMNA
4. Zoning map
5. Plans – Site, landscape, elevations, floor plans, shadow studies
6. Photos
7. PDR Report