

**Department of Community Planning and Economic Development**  
Variance  
BZZ 6224

**Date:** September 26, 2013

**Applicant:** Leonard, Street and Deinard

**Address of Property:** 501 Nicollet Mall – Tracts E and F

**Contact Person and Phone:** Eric Galatz, (612) 335-1509

**CPED Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** August 19, 2013

**End of 60-Day Decision Period:** October 18, 2013

**Ward: 7      Neighborhood Organization:** Downtown Minneapolis Neighborhood Association

**Existing Zoning:** B4-2 Downtown Business District

**Existing Overlay District:** NM Nicollet Mall Overlay District and DP Downtown Parking Overlay District

**Zoning Plate Number:** 19

**Proposed Use:** Conversion from a retail use to an office use in an existing building

**Variance:** to the NM Nicollet Mall Overlay standards requiring street level retail or restaurant uses 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

**Zoning code section authorizing the requested variance:** 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”.

**Background:** The subject property is approximately 145.61 feet by 175.34 (25,533 square feet in area) and is located at the southeast corner of 5<sup>th</sup> Street South and Nicollet Mall. This property was originally addressed as 501 Nicollet Avenue, which has historically been one of Minneapolis’ primary retail streets, since the late 19<sup>th</sup> century and this property has historically been retail. The Sanborn Maps show the building was occupied by the Minneapolis Dry Goods Company in 1912. In 1934, the Minneapolis Building and Housing Survey indicated that the original building at this intersection was constructed in 1890 and in 1934 the tenant was the Leader Department Store, located on floors 1-5. In 1944, the Sanborn Maps show the building as The Baker Company Department Store. Building permit records indicate that JC Penney occupied the building from approximately 1955 through 1989. In 1991, a new

building was constructed and Neiman Marcus was the tenant in the building until their departure last year.

In 1968, the blocks between Washington Avenue North and Grant Street along Nicollet Avenue were converted to a pedestrian and transit mall closed to automobile traffic, now known as Nicollet Mall. The subject property is located in the NM Nicollet Mall Overlay District. The NM Overlay District was established in 1999, in conjunction with the adoption of the current zoning code, 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 applicant is proposing to convert the existing retail use to a mixed use building with office and retail uses. The applicant is proposing to provide a 64 foot wide retail tenant space along Nicollet Mall, with 5,000 square feet of gross floor area at the corner of 5<sup>th</sup> Street South and Nicollet Mall. The remainder of the first floor and above floors building would be used for the CenterPoint Energy offices, who will be relocating their employees to this central location. The NM Overlay District includes a standard requiring street level retail or restaurant uses 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. The proposed retail use will occupy approximately 20% of the gross floor area of the first floor and 62 feet of frontage along Nicollet Mall, which is approximately 44% of the first floor façade fronting on Nicollet Mall. Therefore, the applicant is requesting variances of the NM Nicollet Mall Overlay standards.

The Downtown Minneapolis Neighborhood Board met on August 13, 2013, and passed a motion to support the requested variance. A copy of the letter is attached to the staff report. Staff will forward additional comments, if any are received, at the Board of Adjustment meeting.

### **Findings Required by the Minneapolis Zoning Code:**

**VARIANCES:** to the NM Nicollet Mall Overlay standards (1) to reduce the minimum gross floor area street level retail or restaurant from 60% to approximately 20% and (2) to reduce the minimum width for retail or restaurant street frontage from 60% to approximately 44% of the first floor façade fronting on Nicollet Mall.

**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.**

The circumstances upon which the variances are requested are not unique to the parcel of land and have been created by the applicant. The subject property has historically been used for retail, since 1890. The applicant is proposing to devote 20% of the gross floor area of the first floor to retail. The retail tenant would be located at the intersection of 5<sup>th</sup> Street South and Nicollet Mall and the space would comprise approximately 44% of the frontage along Nicollet Mall. An additional 56% of the frontage along Nicollet Mall would be the reception area that is available to customers of CenterPoint Energy's offices. In addition, the applicant is proposing to remove the existing display windows along South 5<sup>th</sup> Street and Nicollet Mall to allow for new windows that will allow views in and out of the first floor of the building, which is encouraged in the NM Overlay District. The

applicant has indicated that CenterPoint Energy will be purchasing the property and there is insufficient area to relocate all of their employees to this property and provide first floor retail or restaurant uses that comply with the NM Overlay standards. The building has approximately 102,000 square feet of gross floor area and a first floor footprint of 25,533 square feet. In order to comply with the NM Overlay standards, approximately 15,320 square feet of the 102,000 square feet of floor area would be required to be devoted to retail or restaurant use(s); this is approximately 15% of the gross floor area of the structure. Staff finds that the applicant does not have practical difficulties in complying with the ordinance, because of circumstances unique to the property.

**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.**

Staff finds that the applicant is not proposing to utilize the property in a reasonable manner consistent with the spirit and intent of the ordinance and the comprehensive plan. The applicant is seeking variances to NM Nicollet Mall Overlay standards requiring street level retail or restaurant uses 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. The purpose of the NM Overlay District is 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. Further, staff has identified the following relevant policy and implementation steps in *The Minneapolis Plan for Sustainable Growth*:

**Policy 4.16 Strengthen Downtown’s position as a regional cultural, entertainment and commercial center that serves Downtown employees, visitors, and residents.**

4.16.1 Maintain a destination Retail District along Nicollet Mall.

4.16.2 Provide a continuous retail presence within the Retail District by requiring active commercial uses on the street level.

4.16.3 Support an Entertainment District in Downtown with primarily entertainment uses at the street level.

4.16.4 Encourage activities and uses in Downtown for people of all ages.

4.16.5 Support development of Downtown Minneapolis as a unique retail, arts, and cultural destination.

4.16.6 Preserve and build upon Downtown’s cultural, entertainment and hospitality amenities, such as the convention center, professional sports venues and the Central Riverfront.

4.16.7 Improve real and perceived safety issues in Downtown.

Although not a City-adopted land use plan, the Downtown 2025 Plan states that Nicollet Mall should establish ‘must-see’ destinations along the route and encourages Nicollet Mall to be extended from the Walker Art Center, through Loring Park, to the Mississippi River and terminating at the Hennepin Avenue Bridge.

The proposed retail tenant space does not meet the required minimum area or provide the minimum street presence as required by the NM Overlay standards. The proposed office tenant will have limited customer services provided on-site and the office users will seldom occupy the building during evenings and weekends. Staff finds that the proposed use of the property will not support the City’s goal to maintain a destination Retail District along Nicollet Mall or provide a continuous

retail presence within the Retail District by requiring active commercial uses on the street level for at least 60% of the first floor front façade facing Nicollet Mall.

**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.**

Granting of these variances would alter the essential character Nicollet Mall. The previous use was 100% occupied by a retail tenant and the proposed office tenant will provide no retail or restaurant uses in the building. The subject property is immediately adjacent to the 5<sup>th</sup> Street South Blue Line LRT stop. The future Green Line LRT will also have a stop at this intersection next year. As previously mentioned, the subject site has historically provided retail uses since 1890. The proposed office tenant will have limited customer interaction on-site and the office users will seldom occupy the building during evenings and weekends. Staff has concerns that the proposed use will not support the City's goal to maintain a destination Retail District along Nicollet Mall or provide a continuous retail presence within the Retail District by requiring active commercial uses on the street level for at least 60% of the first floor front façade facing Nicollet Mall.

If granted, the proposed variance would not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The proposed façade remodel will improve the visibility of the property and allow for additional views in and out of the building.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **deny** the variance to the NM Nicollet Mall Overlay standards requiring street level retail or restaurant uses to occupy at least 60% of the gross floor area of the first floor and at least 60% of the first floor façade fronting on Nicollet Mall for the property located at 501 Nicollet Mall in the B4-2 Downtown Business District, NM Nicollet Mall Overlay District and DP Downtown Parking Overlay District.

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. Letters to Council Member Goodman and Downtown Minneapolis Neighborhood Association
3. Correspondence
4. Zoning map
5. Sanborn Maps
6. 1934 Building and Housing Survey
7. Existing survey
8. Site plan
9. Building elevations
10. Photos and renderings