

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

**Date:** October 10, 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

**End of 120-Day Decision Period:** December 17, 2013 (*Staff sent an extension letter September 26, 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:** This project was continued from the September 26, 2013, Board of Adjustment meeting to allow staff and the applicant additional time to review proposed changes to the floor plan of the first floor.

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 89 feet of frontage along Nicollet Mall devoted to retail. The retail tenant(s) will have 5,100 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 applicant is proposing to add a principal entrance at the corner of 5<sup>th</sup> Street South and Nicollet Mall and a new vestibule along Nicollet Mall that would access the proposed retail and office uses. 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 the applicant is seeking a variance to reduce the required gross floor area requirement. The revised floor plan shows 89 feet of retail frontage along Nicollet Mall, which is 6% of the first floor façade fronting on Nicollet Mall; therefore, the applicant has withdrawn the request for the additional variance.

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:**

**VARIANCE:** to the NM Nicollet Mall Overlay standard to reduce the minimum gross floor area street level retail or restaurant from 60% to approximately 20%.

- 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 unique to the parcel of land and have not been created by the applicant. The subject property has historically been used for retail, since

1890 and the applicant is proposing to maintain 20% of the gross floor area of the first floor as retail. The proposed retail uses will have frontage along 5<sup>th</sup> Street South and Nicollet Mall and the space would comprise 60% of the frontage along Nicollet Mall. 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 proposed retail area, 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. After further review of the existing grade change, elevator location and security access, staff has concluded that these unique circumstances contribute to a practical difficulty in complying with the ordinance.

**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 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 a variance to NM Nicollet Mall Overlay standard requiring street level retail or restaurant uses to occupy at least 60% of the gross floor area of the first floor. 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. The applicant has been in discussions with Meet Minneapolis Convention & Visitors Association to locate a Visitor Welcome Center of Minneapolis at this prominent corner of 5<sup>th</sup> Street South and Nicollet Mall. 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. With the proposed floor plan changes, staff finds that this property will continue to be an anchor for retail uses at this intersection along Nicollet Mall.

Staff finds that the proposed use of the property will continue to support the City's goal to maintain a destination Retail District along Nicollet Mall, by providing a continuous retail presence within the Retail District with 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 the variance to reduce the minimum gross floor area devoted to retail would not alter the essential character Nicollet Mall. The previous retail tenant had limited pedestrian access and display windows that did not allow for views in and out of the building. The applicant is proposing to have 89 feet of retail frontage along Nicollet Mall and provide new storefront windows and multiple entrances to the existing structure. 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. With the proposed floor plan changes, staff finds that this property will continue to be an anchor for retail uses at this intersection along Nicollet Mall. Staff finds that the proposed use of the property will continue to support the City's goal to maintain a destination Retail District along Nicollet Mall, by providing a continuous retail presence within the Retail District with 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 **approve** the variance to the NM Nicollet Mall Overlay standards requiring street level retail or restaurant uses from 60% to 20% of the gross floor area of the first floor 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, subject to the following conditions of approval:

1. Approval of the final site plan, floor plans and elevation drawings by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by October 10, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment accept the **withdrawal** of the application for a variance to the NM Nicollet Mall Overlay standards requiring street level retail or restaurant uses to occupy 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