

**Community Planning and Economic Development Department – Planning Division**  
Variances and Site Plan Review  
BZZ-2633

**Date:** October 17, 2005

**Applicant:** Jeff McDonell with Barbour/LaDouceur Design Group

**Address of Property:** 81 10<sup>th</sup> Street South, 87 10<sup>th</sup> Street South, 1001 Nicollet Mall, 1013 Nicollet Mall and 1000 Marquette Avenue

**Project Name:** The Nicollet

**Contact Person and Phone:** Jeff McDonell, (612) 339-5093

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Date Application Deemed Complete:** September 26, 2005

**End of 60-Day Decision Period:** November 25, 2005

**End of 120-Day Decision Period:** Not applicable

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

**Existing Zoning:** B4-1 and the Nicollet Mall (NM) and Downtown Parking (DP) Overlay Districts

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

**Zoning Plate Number:** 19

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

**Proposed Use:** 356-unit residential development with some retail and office space

**Concurrent Review:**

**Floor area ratio premiums**

**Transfer of development rights**

**Variance:** to reduce the south interior side yard setback from the required 127 (was noticed for 129) feet to a distance measuring between 0 feet and 83 feet for the building, balconies and the roof terrace

**Variance:** to reduce the east interior side yard setback from the required 127 (was noticed for 129) feet to a distance measuring between 0 feet and 16 feet for the building, balconies, the architectural arc and the roof terrace

**Site plan review**

**Applicable zoning code provisions:** Chapter 549, Article II, Floor Area Ratio Premiums; Chapter 525, Article IX, Variances, specifically Section 525.520(1) “to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations” and Chapter 530, Site Plan Review.

**Background:** In July of this year, the City Planning Commission approved two setback variances and site plan review for a 62-story, 341-unit mixed-use development located at 81 10<sup>th</sup> Street South, 87 10<sup>th</sup> Street South, 1001 Nicollet Mall and 1000 Marquette Avenue. Since July, the applicant has made some changes to the building which have increased the overall size of the building. Specifically, the number of dwelling units within the building has increased, the setbacks have changed and the FAR of the building has increased.

The applicant is proposing to construct a 62-story, 356-unit residential development with some retail and office space located on the first through fourth floors of the building. Let It Be records, Keys Café, Sawatdee restaurant, offices and the Church of Scientology of Minnesota occupied the site. Some of these tenants have already vacated the site; the remainder will soon. The building will be constructed over three levels of below-ground parking which will be accessed from within the proposed building. Originally, one level of the below-ground parking was going to extend underneath the historically designated Handicraft Guild building located at 1000 Marquette Avenue, however, this is no longer the case.

On the first floor of the building there would be retail and office space and the residential lobby. There would also be a valet stand and loading area. WCCO, the adjacent property owner to the south will also utilize the loading area. On the second through fourth floors of the building there would be office space and parking. On the fifth through ninth floors of the building there would be condominiums and parking. On the tenth and eleventh floors of the building there would be condominiums and storage and on the twelfth floor of the building there would be an amenities area for the residents and an outdoor swimming pool. On the fourteenth floor through the top of the building there would be condominiums. This building does not contain a thirteenth floor.

There will be a total of 464 parking spaces constructed as part of this development. The applicant has indicated that each dwelling unit will have at least one reserved parking space. Those units located on floors 44 through 51 of the building will each have two reserved parking spaces and those units located on floors 52 through 54 will each have three reserved parking spaces. There are a total of 385 parking spaces reserved for the residential portion of the building. The remainder of the parking spaces will be utilized by the commercial tenants within the building and guests.

Section 541.440, requires that there be one secure bicycle parking space for every 20 automobile parking spaces provided on the site, but in no case should there be less than four spaces and not more than 30 spaces are required. With a total of 464 parking spaces there needs to be at least 25 bicycle parking spaces provided. Because all of the automobile parking spaces are located within the building the bicycle parking spaces also need to be located within the building.

**Nicollet Mall Overlay District:** All properties located along or within 165 feet of Nicollet Mall, between Washington Avenue and Grant Street, are subject to the provisions of the Nicollet Mall Overlay.

- **Building placement:** Buildings shall be located not more than eight feet from Nicollet Mall. In the case of a corner lot, the building wall abutting each street shall be located not more than eight feet from the lot line. Buildings shall be oriented so that at least one principal entrance faces Nicollet Mall. The main lobby of the building and main elevator access shall be located at street level.
  - The first floor of the building is located at the property line along both Nicollet Mall and 10<sup>th</sup> Street South. Along Nicollet Mall there is an entrance that leads to the residential lobby and other entrances that lead directly to the retail spaces. There is one set of elevators that access the offices and the condominiums located on the first twelve floors of the building and another set of elevators that access the remainder of the tower portion of the building. Both sets of elevators are located on the first floor of the building.
- **Building height and scale:** Buildings over ten stories or 140 feet, whichever is less, that comprise more than 200 feet of frontage on Nicollet Mall shall be set back from Nicollet Mall not less than 30 feet. Such setback shall begin no lower than the third story and no higher than the tenth story.
  - Although this building does not have 200 feet of frontage along Nicollet Mall (it has 181 feet of frontage), the building has been designed with two setbacks from Nicollet Mall; one 10-foot setback occurring on the fifth floor and an additional 41-foot setback occurring on the twelfth floor.
- **Building facade:** Building facades shall provide architectural detail and shall contain windows at the ground level or first floor in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility. The exterior materials and appearance of the rear and side walls 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 where visible from a public street or a residence or office residence district. At least 40 percent of the first floor facade that faces the Nicollet Mall or other public street shall be windows or doors.
  - All four sides of the building are compatible with one another in terms of exterior materials and plain face concrete block is not being used as an exterior material on the building. Eighty percent of the first floor facade that faces Nicollet Mall is windows and or doors and 45 percent of the first floor facade that faces 10<sup>th</sup> Street South is windows and or doors.
- **Street level retail:** All buildings shall contain retail uses at the street level. Retail uses shall occupy at least sixty (60) percent of the gross floor area of the first floor and shall extend along at least sixty (60) percent of the first floor facade fronting on Nicollet Mall. Each retail use is encouraged to have at least one separate entrance from Nicollet Mall. Retail uses are encouraged to include awnings and canopies to provide protection to pedestrians and to emphasize individual uses and building entrances.
  - One hundred percent of the frontage along Nicollet Mall is retail space. The retail space on the first floor of the building comprises 61 percent of the gross floor area. The retail space could be divided into two spaces or used as one large space. The building has been designed so if two

retail uses go into the building they would each have their own entrance leading into it. There are awnings located over all of the windows associated with the retail spaces along Nicollet Mall.

- **On-premise signs:** The amount of sign area allowed for signs attached to buildings shall be three and one half square feet of sign area per one foot of primary building wall. The maximum height of signs attached to buildings, except projecting signs, shall be twenty-four feet. The maximum height of projecting signs shall be sixteen feet. The maximum area of projecting signs shall be twelve square feet. Projecting sign materials shall be limited to ornamental metal, carved wood or cloth. Back-lighted signs shall be prohibited. Projecting signs shall be lighted by external illumination only.
- All of the signs that are shown on the elevations meet the standards of the Nicollet Mall Overlay, except for the projecting sign shown on the Nicollet Mall elevation. If the applicant wanted to attach the projecting sign to the building a sign variance would need to be applied for. Once a final sign package has been developed it will need to be reviewed by the Planning Division staff again to make sure that it is in compliance.
- **Awnings and canopies.** Awnings and canopies are encouraged in order to provide protection for pedestrians and to emphasize individual uses and entrances. Back-lighted awnings and canopies shall be prohibited. Awning and canopy materials shall be limited to cotton, acrylic or vinyl coated cotton, copper or bronze coated metal, or clear or lightly tinted glass.
- There would be canopies and/or awnings located over all of the entrances leading into the building. In addition, there would also be canopies and/or awnings located over all of the first floor windows facing Nicollet Mall. The awnings and canopies would be made out of glass, metal or fabric.

**Travel Demand Management Plan:** Public Works requested that a discretionary Travel Demand Management (TDM) plan be done for this project. The applicant has submitted the TDM plan to Public Works for review and comment.

**Floor Area Ratio Premiums:** There are no height limits in the B4-1 zoning district. Heights of buildings are limited by the maximum floor area ratio (FAR). To calculate FAR, one would divide the total square footage of the building (excluding that portion of the building devoted to accessory off-street parking or loading facilities, including aisles, ramps and maneuvering space) by the total square footage of the site. The lot size is 37,243 square feet. The gross floor area of the proposed building is 829,513 square feet. The resulting FAR is 22.27.

In this particular case, the maximum FAR allowed in the B4-1 zoning district is 8. Section 549.110 allows a 20 percent density bonus when all of the required parking is provided within the building, entirely below grade, or in a parking garage of at least two levels. With the density bonus for enclosed parking the base FAR is 9.6 ( $8 \times .2 = 1.6 + 8 = 9.6$ ). In order to construct a building of the size proposed, the applicant has applied for four of the floor area ratio premiums that are allowed in the downtown districts of the zoning code. The premiums that the applicant has applied for include; street

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level retail uses, public art, freight loading terminal and mixed-use residential. FAR premiums are reviewed administratively by staff and are subject to appeal to the planning commission.

The following are the standards that the development needs to meet in order to qualify for the floor area ratio premiums:

- **Street level retail uses, subject to the following standards:**
  - Retail uses shall be limited to Retail Sales and Services uses and Food and Beverages uses included in Table 549-1 Principal Uses in the Downtown Districts.
  - Retail uses shall extend along at least sixty (60) percent of the building wall fronting on any street.
  - Each retail use shall have at least one (1) separate entrance from the sidewalk.
  - Street level uses shall include awnings or canopies to provide protection to pedestrians and to emphasize individual uses and building entrances.
  - At least forty (40) percent of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level, except within the NM Nicollet Mall Overlay District, where such district standards shall apply.
  - The street level retail space shall be maintained in good order for the life of the principal structure.
  
- **COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE**
  - One hundred percent of the frontage along Nicollet Mall is retail space. The retail space could be divided into two spaces or used as one large space. The building has been designed so if two retail uses go into the building they would each have their own entrance leading into it. There are awnings located over all of the windows associated with the retail spaces along Nicollet Mall. The Planning Division has determined that this project qualifies for a floor area ratio premium of one.
  
  - **Value awarded = 1**
  
- **Public art, subject to the following standards:**
  - The art shall be valued at not less than one-fourth (.25) of one (1) percent of the capital cost of the principal structure.
  - The art shall be located where it is highly visible to the public. If the art is located indoors, such space shall meet the minimum requirements for an indoor open space, interior through-block connection or skyway connecting corridor, as specified in this article.
  - The art shall be maintained in good order for the life of the principal structure.
  
- **COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE**
  - The applicant has commissioned artists Seitu Jones and Tacoumba Aiken to create a piece of art that will be incorporated into the development. The applicant has indicated that the estimated cost of the development is 105 million dollars. The art must be valued at one-fourth of one

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percent of the cost of the development or in this case 262,500 dollars. The applicant has also indicated that the art would be placed on both the north and east walls of the building and between the third and eleventh floors. The Planning Division believes that the location of the art piece will be visible to the public but not as visible if it were located at street level. Given this, the Planning Division has determined that this project qualifies for a floor area ratio premium of one.

- **Value awarded = 1**

- **Freight loading terminal, subject to the following standards:**

- All freight loading facilities shall be located entirely below grade or entirely enclosed within the principal structure served.
- The freight loading facilities shall be designed to meet the needs and requirements of all uses on the zoning lot.
- The freight loading facility shall be maintained in good order for the life of the principal structure.

- **COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE**

- The freight loading facility is located on the first floor of the building and is accessed off of 10<sup>th</sup> Street South. A vehicle would enter the freight loading facility from 10<sup>th</sup> Street South and would exit the facility through the public alley and out onto Marquette Avenue. The freight loading facility has been designed to accommodate up to a 45-foot long vehicle and can be utilized by all of the uses within the building. WCCO, the adjacent property owner to the south will also utilize the loading area. The Planning Division has determined that this project qualifies for a floor area ratio premium of two.

- **Value awarded = 2**

- **Mixed-use residential, subject to the following standards:**

- At least ten (10) percent of the gross floor area of the principal structure shall be occupied by dwelling units.
- The dwelling units shall be located above the first floor.
- The dwelling units shall be maintained in good order for the life of the principal structure.

- **COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE**

- The applicant is proposing to construct 356 dwelling units in the building starting on floor 5 and continuing all the way to the top of the building. Approximately 72 percent of the building will be residential. The remaining 28 percent of the building will be retail, office and circulation. The Planning Division has determined that this project qualifies for a floor area ratio premium of three.

- **Value awarded = 3**

In conclusion, the Planning Division finds that this project qualifies for a total floor area ratio premium of 7. This along with the base floor area ratio (9.6) of the district, the applicant could build a building with a floor area ratio of 16.6.

**Transfer of development rights (TDR):** The purpose of transferring development rights from one site to another, as indicated in section 549.260 of the zoning code, is to promote the preservation and rehabilitation of historic resources by allowing the transfer of undeveloped floor area from a zoning lot containing locally designated historic structures, or structures that have been determined to be eligible to be locally designated as historic structures, to other zoning lots. The maximum amount of undeveloped floor area that may be transferred from the sending site shall be the difference between the gross floor area of development on the sending site and the maximum gross floor area permitted by the zoning district regulations. The floor area of the receiving site may be increased by up to thirty (30) percent of the maximum gross floor area permitted by the zoning district regulations, except where the receiving site is adjacent to the sending site, provided all other requirements of this zoning ordinance are met.

The transfer of development rights shall be limited to four such transfers from any sending site. The development potential of the sending site shall be reduced by the amount of undeveloped floor area transferred for the life of the principal structure on the receiving site whose construction is made possible by the transfer.

Following the transfer of development rights, the historic structure on the sending site, if undesignated, shall be subject to the same restrictions that are applicable to locally designated historic structures and the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation. The transfer of development rights shall not result in the destruction of a locally designated historic structure or structure determined to be eligible to be locally designated as historic on the receiving site.

Applications to transfer development rights are reviewed administratively by staff and are subject to appeal to the planning commission. The approval of the transfer of development rights shall be filed by the applicant with the Office of the Hennepin County Recorder or Registrar of Titles in the form of a conservation easement or similar restriction acceptable to the city which shall specify the amount of undeveloped floor area transferred to the receiving site and the reduction in the development rights of the sending site.

No building permit or other approval for the construction or establishment of transferred development rights on the receiving site shall be granted by the city until the historic structure on the sending site has been rehabilitated pursuant to the applicable guidelines of the heritage preservation commission and the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation, if necessary, or until a plan for such rehabilitation has been submitted to and approved by the heritage preservation commission.

Such additional conditions and guarantees as the planning director deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this zoning ordinance and policies of the comprehensive plan.

In this particular case, the sending site is the Handicraft Guild building property which is located immediately adjacent to the receiving site. The sending site is located in the B4-1 zoning district which

has a maximum FAR of 8. The sending site has a lot size of 25,293 square feet. The gross floor area of the building on the sending site is 38,600 square feet. The resulting FAR is 1.53. Given all of this, the FAR that could be transferred to the receiving site is 6.47.

The Minneapolis Heritage Preservation Commission (HPC) reviewed this development at its meeting held on January 25, 2005. The HPC found that the changes being made to the Handicraft Guild building were in compliance with The Secretary of the Interior's Standards for Rehabilitation, that they would not materially impair the integrity of the historic structure and that they are consistent with the applicable design guidelines. As part of the approval of the Certificate of Appropriateness, it was conditioned that all rehabilitation plans, specification and color choices and final drawings and material samples on the Handicraft Guild building be approved by the HPC.

In conclusion, the Planning Division finds that this project qualifies for transfer of development rights. A total floor area ratio of 6.47 may be transferred from the sending site to the receiving site. Overall, the base FAR of 9.6, the FAR premium value of 7 and the FAR value from the sending site of 6.47 allows the applicant to construct a building with a total FAR of up to 23.07. As noted above, the applicant is proposing a total FAR of 22.27.

**VARIANCE** - to reduce the south interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 83 feet for the building, balconies and the roof terrace

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

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**South interior side yard setback:** The applicant is seeking a variance to reduce the south interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 83 feet for the building, balconies and the roof terrace. In the downtown zoning districts, properties are not subject to any setbacks unless a property is adjacent to a property that is zoned residentially or has a residential use on it. However, residential uses are required to provide a setback of five feet plus two additional feet for every floor above the first floor that contains windows facing an interior side or rear property line. The building is 62 stories tall, so the required setback is 127 feet ( $2 \times 61 = 122 + 5 = 127$ ). The first 4 floors of the building are not subject to this setback as they do not contain residential units with windows facing the interior side property line.

In this development, it is not until the fifth floor where there are residential units with windows facing the south interior property line. The building on floors 5 through 11 is setback 15 feet from the south interior property line. The roof terrace on floor 5 extends all the way to the south interior property line and the balconies on floors 7, 9, 10 and 11 extend into the setback an additional 6 feet. The building on floors 12 and up is setback 83 feet from the south interior property line and the balconies on floors 14 and up extend into the setback an additional 6 feet.

The site is not a full block. The lot has 181 feet of frontage along Nicollet Mall and 212 feet of frontage along 10<sup>th</sup> Street South. Given the height of the building the buildable area that would be left after the

setbacks are taken into consideration would be an area with 54 feet of frontage along Nicollet Mall and 85 feet of frontage along 10<sup>th</sup> Street South. If the applicant were constructing a non-residential building on the site there would not be an interior side yard setback requirement. Requiring that the building meet the 127-foot setback could be a hardship. The building will be setback between 15 and 83 feet with balconies and the roof terrace extending closer to the south interior property line. This setback should be adequate to provide light and air for the units.

**2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

**South interior side yard setback:** The size of the lot is a condition that was not created by the applicant. The building has a setback because there are residential units with windows facing the south interior property line in it. If the windows were eliminated the building could be built up to the property line as are the first 4 floors of the building. While the height of the building is responsible for the need for the variance, the proposed height is not inappropriate given its location in the downtown core where no height limitation exists.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

**South interior side yard setback:** The intent of the ordinance is to provide a setback for residential buildings with windows facing an interior side or rear yard where a building could be built along the property line on an adjacent parcel. This is to meet building code requirements for fire protection and to prevent a situation where a building would be built on an adjacent parcel blocking the windows. The building will be setback between 15 and 83 feet from the south interior property line with balconies and the roof terrace extending closer to the interior side property line. This will allow access to light and air for these units and therefore should not circumvent the intent of the ordinance even if a tall building is constructed at the lot line on the adjacent property.

The Planning Division believes that the granting of this variance would not alter the essential character of the area given that the site is located in Downtown where the majority of buildings are built with zero-foot setbacks from their property lines.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

**South interior side yard setback:** Staff believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

**VARIANCE** - to reduce the east interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 16 feet for the building, balconies, the architectural arc and the roof terrace

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

**1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**East interior side yard setback:** The applicant is seeking a variance to reduce the east interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 16 feet for the building, balconies, the architectural arc and the roof terrace. In the downtown zoning districts, properties are not subject to any setbacks unless a property is adjacent to a property that is zoned residentially or has a residential use on it. However, residential uses are required to provide a setback of five feet plus two additional feet for every floor above the first floor that contains windows facing an interior side or rear property line. The building is 62 stories tall, so the required setback is 127 feet ( $2 \times 61 = 122 + 5 = 127$ ). The first 4 floors of the building are not subject to this setback as they do not contain residential units with windows facing the interior side property line.

In this development, it is not until the fifth floor where there are residential units with windows facing the south interior property line. The building on floors 1 through 11 is setback 0 feet from the east interior property line. The windows on this side of the building are recessed between four and nine feet from the outer wall of the building. The building on floors 12 and up is setback 15 feet from the east interior property line. The roof terrace on floor 12 extends all the way to the east interior property line and the architectural fin on floors 12 and up extends into the setback an additional two feet. The balconies on floors 12 and up extend into the setback an additional one foot.

The site is not a full block. The lot has 181 feet of frontage along Nicollet Mall and 212 feet of frontage along 10<sup>th</sup> Street South. Given the height of the building the buildable area that would be left after the setbacks are taken into consideration would be an area with 54 feet of frontage along Nicollet Mall and 85 feet of frontage along 10<sup>th</sup> Street South. If the applicant were constructing a non-residential building on the site there would not be an interior side yard setback requirement. Requiring that the building meet the 127-foot setback could be a hardship. The building will be setback between 0 and 15 feet with balconies, the roof terrace and the architectural arc extending closer to the east interior property line. This setback should be adequate to provide light and air for the units.

**2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

**East interior side yard setback:** The size of the lot is a condition that was not created by the applicant. The building has a setback because there are residential units with windows facing the east interior property line in it. If the windows were eliminated the building could be built up to the property line as are the first 4 floors of the building. While the height of the building is responsible for the need for the

variance, the proposed height is not inappropriate given its location in the downtown core where no height limitation exists.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

**East interior side yard setback:** The intent of the ordinance is to provide a setback for residential buildings with windows facing an interior side or rear yard where a building could be built along the property line on an adjacent parcel. This is to meet building code requirements for fire protection and to prevent a situation where a building would be built on an adjacent parcel blocking the windows. The building will be setback between 0 and 15 from the east interior property line with balconies, the roof terrace and the architectural arc extending closer to the interior side property line. This will allow access to light and air for these units and therefore should not circumvent the intent of the ordinance even if a tall building is constructed at the lot line on the adjacent property.

The Planning Division believes that the granting of this variance would not alter the essential character of the area given that the site is located in Downtown where the majority of buildings are built with zero-foot setbacks from their property lines. In addition, the building immediately to the east of the site is the Handicraft Guild building, which is both locally and nationally designated and theoretically should remain on the site forever.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

**East interior side yard setback:** Staff believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

### **SITE PLAN REVIEW**

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

- 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 Zoning Code**

#### **BUILDING PLACEMENT AND FACADE:**

- **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.**
- **Entrances and windows:**
  - **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.**
- **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.**
- **Minimum window area shall be measured as indicated in section 530.120 of the zoning code.**
- **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. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

**PLANNING DEPARTMENT RESPONSE:**

- The building has been designed to reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation. The building is located at the property lines along both Nicollet Mall and 10<sup>th</sup> Street South. There are also entrances and windows located on these sides of the building. The windows located along the first floor of the building extend from the floor to the ceiling and are distributed in an even manner. The entrances and windows are emphasized by canopies and/or awnings.
- On the first floor of the building there would be retail space and the residential lobby. There would also be a valet stand and loading area. The residential lobby's principal entrance is located on the 10<sup>th</sup> Street South side of the building although it can also be accessed from an entrance on Nicollet Mall. The retail space that is located on the first floor of the building has entrances facing Nicollet Mall. The retail space could be divided into two spaces or used as one large space. The building has been designed so if two retail uses go into the building they would each have their own entrance leading into it. There is one set of elevators that access the offices and the condominiums located on the first twelve floors of the building and another set of elevators that access the remainder of the tower portion of the building. Both sets of elevators are located on the first floor of the building. The applicant has indicated that in order to gain access to the residential portion of the building one would need either an access card or would need to be let in by someone who lives in the building.
- In addition to the three levels of parking below the building there is a parking garage located on floors 2 through 9 of the building. The parking garage does not front along Nicollet Mall as there are retail, offices and condominiums located for the first 90 feet of the building back from Nicollet Mall. The building has been designed so as to conceal the parking.
- The building is proposed to be made out of stone, pre-cast concrete panels, aluminum window systems and is accented with aluminum and glass balconies and stainless steel trim. All four sides of

the building will be compatible with one another.

- There are portions of all four sides of the building that over 25 feet in length and blank. On the south side of the building the first 4 floors of the building are blank, on the east side of the building the first 4 floors of the building are blank and portions of floors 5 through 12 are blank, on the north side of the building portions of floors 1 through 12 are blank and on the west side of the building a portion of the 12<sup>th</sup> floor is blank. The Planning Division is recommending that the commission grant alternative compliance to allow these areas of the building to be blank. The south building wall will be screened from view by the adjacent WCCO building, the lower floors of the east building wall will be screened from view by the adjacent Handicraft Guild building and the upper floors of the east building wall will be covered by a piece of art which two artists have been commissioned to design by the applicant. On the north wall of the building the area that is blank is adjacent to an elevator and internal stairway which is not immediately adjacent to the exterior wall of the building. Although the material remains the same in this area of the building the pre-cast concrete panels will have seam lines in them which provide detail. And the portion of the west building wall that is blank is located on the 12<sup>th</sup> floor of the building and is setback 51 feet from the west property line. This area of the building is adjacent to the one set of elevators that stops on the 14<sup>th</sup> floor of the building.
- The percentage of windows required on the Nicollet Mall and 10<sup>th</sup> Street South sides of the building is 40 percent. According to the submitted drawings, approximately 80 percent of the first floor facade that faces Nicollet Mall and approximately 45 percent of the first floor facade that faces 10<sup>th</sup> Street South is windows and or doors. The percentage of windows required on floors 2 through the top of the building on both the Nicollet Mall and 10<sup>th</sup> Street South sides of the building is 10 percent. Every floor of the building meets this requirement.
- The roof line of the building will be flat. In addition, the architectural arc that runs along the east and west sides of the building extends over the roofline of the building. In downtown, there are a variety of different roof lines.

#### **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.**

#### **PLANNING DEPARTMENT RESPONSE:**

- All of the entrances leading into and out of the building are located at the property line and are directly connected to the public sidewalk.
- There are no transit shelters on or adjacent to the site.
- In addition to the three levels of parking below the building there is a parking garage located on floors 2 through 9 of the building. All of the parking is accessed off of 10<sup>th</sup> Street South.

- There is no maximum impervious surface requirement for this development. The entire site is impervious. The applicant has indicated that a green roof system will be installed on the various roof terraces on the lower half of the building.

**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.

**PLANNING DEPARTMENT RESPONSE:**

- Buildings over 50,000 square feet in the Downtown zoning districts are exempt from the general landscaping and screening requirements. However, the parking and loading landscaping and screening requirements shall apply when applicable. In this case, there are no surface parking areas on the site that would be subject to these standards.

**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.

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **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.**

**PLANNING DEPARTMENT RESPONSE:**

- A lighting plan showing footcandles was not submitted as part of the application materials. The Planning Division is recommending that the applicant submit a lighting plan so staff can verify that the lighting levels comply with the requirements of Chapter 535.
- The development site is located in the B4-1 zoning district. In this zoning district there are no height limitations because this is the area in the city where it is expected that tall buildings will be built. The footprint of the building is relatively small. Therefore, the blocking of views of prominent buildings from various vantage points should be minimized.
- Although this development will cast shadows on surrounding properties, staff believes that the affects will be minimal.
- The building has been designed with two set backs from Nicollet Mall; one 11-foot setback occurring on the fifth floor and an additional 33-foot setback occurring on the twelfth floor. Given this, ground level winds should be minimized along Nicollet Mall. However, the building does not set back along 10<sup>th</sup> Street South. Because the building does not have a set back along this side of the building it will most likely contribute to ground level winds. The Planning Division is encouraging the applicant to consider adding a set back to this side of the building to help minimize ground level winds along 10<sup>th</sup> Street South.
- The Crime Prevention Specialist has reviewed the project in regards to crime prevention design elements. To be in compliance with the CPTED guidelines, proper lighting should be located over all building entrances and exits and all residential floors within the building should be card accessed.
- The Handicraft Guild building, located on the adjacent lot, is both locally and nationally designated. The Minneapolis Heritage Preservation Commission (HPC) reviewed this development at its

meeting held on January 25, 2005. The HPC found that the changes being made to the Handicraft Guild building were in compliance with The Secretary of the Interior’s Standards for Rehabilitation, that they would not materially impair the integrity of the historic structure and that they are consistent with the applicable design guidelines. As part of the approval of the Certificate of Appropriateness, it was conditioned that all rehabilitation plans, specification and color choices and final drawings and material samples be approved by the HPC.

**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:**

- **Use:** The proposed use is permitted in the B4-1 District.
- **Off-Street Parking and Loading:** The zoning code requires 0.9 parking spaces per dwelling unit in the B4-1 District, resulting in a requirement of 320 spaces for a 356-unit building. In addition, the parking requirement for the retail and office space portion of the building is 1 space per 5,000 square feet of floor area in excess of 400,000 square feet. Given that the total floor area of the retail and office portion of the building is less than 50,000 square feet there is no additional parking requirement. The applicant proposes to have 464 parking spaces. The applicant has indicated that each dwelling unit will have at least one reserved parking space. Those units located on floors 44 through 51 of the building will each have two reserved parking spaces and those units located on floors 52 through 54 will each have three reserved parking spaces. There are a total of 385 parking spaces reserved for the residential portion of the building. The remainder of the parking spaces will be utilized by the commercial tenants within the building and guests.
- **Maximum Floor Area:** The maximum FAR in the B4-1 District is 8. The lot in question is 37,243 square feet in area. The applicant proposes 829,513 square feet of gross floor area, an FAR of 22.27. Section 549.110 allows a 20 percent density bonus for enclosed parking. This development qualifies for the density bonus which, when calculated, results in a permitted FAR of 9.6. In addition, the applicant has applied for FAR premiums and Transfer of Development Rights in order to increase the FAR of the development.
- **Building Height:** There are no height limitations in the B4-1 District.
- **Minimum Lot Area:** Residential uses in the B4-1 District require not less than 5,000 square feet of lot area.
- **Yard Requirements:** This development is located in the B4-1 District. For residential uses with windows facing the interior side or rear yard property line the setback is 5+2x, where x equals the number of stories above the first floor. The resulting setback along these two sides of the building is 127 feet. The applicant is proposing to vary these setbacks.
- **Specific Development Standards:** There are no specific development standards for residential uses.

- **Hours of Operation:** Residential uses are not subject to hours of operation. The hours of operation for the retail and office portion of the building are Sunday through Saturday, 6 am to 1 am.
- **Signs:** Signs are subject to Chapter 543 and Chapter 551 of the Zoning Code. The proposed signs meet the requirements of both of these chapters.
- **Refuse storage:** The applicant is proposing to have a dumpster located inside the parking garage.

**MINNEAPOLIS PLAN:**

According to the *Minneapolis Downtown 2010 Plan*, this property is located in the downtown core as found on the concept plan map. More specifically, the site is located within both the secondary office area and the retail area. According to the Principles and Policies outlined in *Downtown 2010 Plan*, the following apply to this proposal:

- Promote street-level design of buildings that contribute to downtown’s vitality and security encouraging individual entrances to street-level building tenants, windows and architectural detailing.
- Encourage street-level retail in the office districts in order to provide services and street-level vitality.
- Promote retail and other interesting uses at street level in order to reinforce the linking function of streets and to create vitality. These uses should be encouraged at the street level throughout downtown and required where the continuity of retail is important.
- Compatible office, hotel, institutional and residential uses should supplement retail above the street and skyways.
- Promote building heights and designs that protect the image and form of the downtown skyline, that provide transition to the edges of downtown and that protect the scale and qualities in areas of distinctive physical or historic character.
- Complete the skyway system in the office and retail cores of downtown.
- Preserve, restore and reuse historic buildings and sites in downtown.

The Planning Division believes that overall this development does meet the above policies of the *Downtown 2010 Plan*. The proposed development incorporates pedestrian-scaled design elements such as windows, individual entrances and awnings along both Nicollet Mall and 10<sup>th</sup> Street South. The development includes retail uses at the street level that will encourage pedestrian activity. The building will be 56 stories tall which will only add to the skyline of Downtown Minneapolis. Although the applicant is not proposing to construct a skyway to any of the adjacent buildings, the building is being designed so if in the future the property owner on the north side of 10<sup>th</sup> Street South would want to connect via a skyway it would be possible. This development also incorporates the rehabilitation of a locally and nationally historically designated building.

**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.**

**PLANNING DEPARTMENT RESPONSE:**

- The Planning Division is recommending that the commission grant alternative compliance to allow the first 4 floors of the south side of the building, the first 4 floors and portions of floors 5 through 12 of the east side of the building, portions of floors 1 through 12 of the north side of the building and a portion of the 12<sup>th</sup> floor of the west side of the building to be blank. The south building wall will be screened from view by the adjacent WCCO building. The east building wall will be partially screened from view by the adjacent Handicraft Guild building and a piece of public art. Although the material remains the same on that portion of the north building wall the pre-cast concrete panels will have seam lines in them which provides detail. And the portion of the west building wall that is blank is located on the 12<sup>th</sup> floor of the building and is setback 51 feet from the west property line.

**RECOMMENDATIONS**

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the south interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 83 feet for the building, balconies and the roof terrace for the property located at 81 10<sup>th</sup> Street South, 87 10<sup>th</sup> Street South, 1001 Nicollet Mall and 1013 Nicollet Mall.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the east interior side yard setback from the required 127 feet to a distance measuring between 0 feet and 16 feet for the building, balconies, the architectural arc and the roof terrace for the property located at 81 10<sup>th</sup> Street South, 87 10<sup>th</sup> Street South, 1001 Nicollet Mall and 1013 Nicollet Mall.

**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 site plan review for the properties located at 81 10<sup>th</sup> Street South, 87 10<sup>th</sup> Street South, 1001 Nicollet Mall, 1013 Nicollet Mall and 1000 Marquette Avenue subject to the following conditions:

1. At least 25 secure bicycle parking spaces shall be provided within the building.
2. A lighting plan showing foot-candles shall be submitted as part of the final plans.
3. Approval of the final sign plan by the Community Planning and Economic Development Department – Planning Division.
4. Approval of the final site, landscaping and elevation plans by the Community Planning and Economic Development Department – Planning Division.
5. All site improvements shall be completed by October 31, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**Attachments:**

1. Project narrative and overview, variance findings, FAR premium information and Transfer of Development Rights information and appendixes
2. Zoning Map
3. Site plan, floor plans and elevations
4. Photographs of the site and surrounding area