

Community Planning and Economic Development Department – Planning Division
Variances, Major Site Plan Review and a Preliminary Registered Land Survey
BZZ-2145 and RLS-33

Date: February 7, 2005

Applicant: Jeff McDonell with Barbour/LaDouceur Design Group

Address of Property: 81 10th Street South, 87 10th Street South, 1001 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: December 27, 2004

End of 60-Day Decision Period: February 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: 56-story, 360-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 91 feet to 13 feet for the building, to 11 feet for the balconies on floors 10 through 50 and to 0 feet for the 9th floor roof terrace.

Variance: to reduce the east interior side yard setback from the required 91 feet to 15 feet for the building, to 14 feet for the balconies on floors 10 through 50, to 12.5 feet for the architectural fin and to 0 feet for the 9th floor roof terrace.

Major site plan review.

Preliminary Registered Land Survey (RLS-33).

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: The applicant is proposing to construct a 56-story, 360-unit residential development with some retail and office space located at 81 10th Street South, 87 10th Street South and 1001 Nicollet Mall. Currently Let It Be records, Keys Café, Sawatdee restaurant and offices are located on the site. The building would be constructed over four levels of below-ground parking which would be accessed from a ramp constructed on the property that is occupied by the historically designated Handicraft Guild building located at 1000 Marquette Avenue. Although the development site and the Handicraft Guild building would be sharing parking, for purposes of this application they are considered two buildings and two zoning lots as there cannot be a principal residential building and another principal building located on the same zoning lot. Given this, a Registered Land Survey is being done in order to separate the parking level from the Handicraft Guild building. 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. On the second and third floor of the building there would be office space and parking. On the fourth through eighth floors of the building there would be condominiums and parking. On the ninth floor of the building there would be condominiums, the amenities area for the residents and an outdoor swimming pool and on the tenth floor through the top of the building there would be condominiums.

There will be a total of 507 parking spaces constructed as part of this development. The applicant has indicated that each dwelling unit will have one reserved parking space, ten spaces will be reserved for the office uses in the building, 92 spaces will be reserved for the retail spaces within the building and 25 spaces will be reserved for guests of the residential tenants. The remaining 20 parking spaces will be used for other uses, which were not defined as part of this application. The applicant has also indicated that those who park in the below-ground portion of the parking ramp will use the valet service that is being provided. A detailed description of how the valet operations will function was not submitted as part of this application.

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 507 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.

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- The first floor of the building is located at the property line along both Nicollet Mall and 10th 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 eight floors of the building and another set of elevators that access 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 109 feet of frontage), the building has been designed with two setbacks from Nicollet Mall; one 12-foot setback occurring on the fourth floor and an additional 30-foot setback occurring on the ninth 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. Sixty-four percent of the first floor facade that faces Nicollet Mall is windows and or doors and 39.5 percent of the first floor facade that faces 10th Street South is windows and or doors. The Planning Division is recommending that an additional seven square feet of windows be added to the 10th Street South facade in order to bring the development into conformance with this provision.
- **Street level retail:** All buildings shall contain retail uses at the street level. Retail uses shall occupy at least sixty 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.
- Eighty-one percent of the frontage along Nicollet Mall and over 65 percent of the gross floor area of the first floor of the building is retail space. Each retail space has an individual entrance leading into it and there are awnings located over all of the windows associated with the retail spaces.

- **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.
- The signs that are shown on the elevations meet the standards of the Nicollet Mall Overlay. 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 with these requirements.
- **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 are awnings located over all of the windows associated with the retail spaces. In addition, there are canopies and/or awnings located over all of the first floor entrances. The specific materials of the awnings and canopies were not detailed on the elevations.

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 determined by the 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 26,656 square feet. The gross floor area of the proposed building is 596,071 square feet. The resulting FAR is 22.36.

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 six 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 level retail uses, public art, freight loading terminal, mixed-use residential, historic preservation and energy efficiency. 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:**

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- 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**
 - The applicant is proposing to have up to three retail uses located along the Nicollet Mall side of the building. There could be more or less than three retail tenants depending on who goes into the building and how much space they need. These retail uses comprise up to 81 percent of the frontage along Nicollet Mall. One of the retail uses is located on the corner of Nicollet Mall and 10th Street South. Only 18 percent of the frontage along 10th Street South is comprised of retail space. Each of the uses have individual entrances and there are awnings located over all of the windows associated with the retail spaces. Along the Nicollet Mall frontage there is 64 percent windows and along the 10th Street South frontage there is 39.5 percent windows.

A development can qualify for up to two street level retail premiums, or an FAR bonus of 2. Given that less than 60 percent of the 10th Street South frontage is retail and that there is less than 40 percent windows along the 10th Street South frontage, 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 indicated that the estimated cost of the development is 105 millions dollars. The art must be valued at one-fourth of one 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 in the main lobby

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of the building located off of 10th Street South. This space must meet the minimum requirements for an indoor open space, an interior through-block connection or a skyway connection. Given that the main lobby does not meet the criteria for any of these, the Planning Division has determined that this development does not qualify for this floor area ratio premium.

- **Value awarded = 0**

- **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 10th Street South. A vehicle would enter the freight loading facility from 10th 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. 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 360 dwelling units in the building starting on floor four and continuing all the way to the top of the building. Approximately 83 percent of the building will be residential. The remaining 17 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**

- **Historic preservation, subject to the following standards:**
 - The structure shall be a locally designated historic structure or shall be determined to be eligible to be locally designated as a historic structure, as provided in Chapter 34 of the Minneapolis Code of Ordinances, Heritage Preservation Commission.
 - The historic structure, 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 historic structure shall be 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.
 - The historic structure 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 rehabilitate the historically designated Handicraft Guild building located on the adjacent lot located at 1000 Marquette Avenue. Given that this building is located on a separate zoning lot, the Planning Division has determined that this development does not qualify for this floor area ratio premium.

- **Value awarded = 0**

- **Energy Efficiency (at 35%), subject to the following standards:**
 - Submission of a high performance building plan. The applicant shall submit a high performance building plan that includes all information to demonstrate to the satisfaction of the planning director a minimum of thirty-five (35) percent increase in overall building energy efficiency as compared to the Minnesota Energy Code. The demonstration shall include all reports, modeling, and approval processes described in the High Performance Building Policy Guide.
 - Energy-saving strategies that are missing must be brought to design specification or installed within ninety (90) days of the city's verification report or submittal to the city of a third-party commissioning report by a licensed engineer. As an alternative to the above, the developer of a building that is not in compliance with the approved energy efficiency premium can mitigate the deficiency through alternative actions as defined in the High Performance Building Policy Guide.
 - The energy efficiency measures shall be maintained in good working order for the life of the principle structure.

- **COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE**
 - The applicant has indicated that when the design development plans are put together that an energy efficiency plan will be developed. According to the applicant, the energy efficiency plan will show that there will be a 35 percent increase in overall building energy efficiency as compared to the Minnesota Energy Code. The applicant has indicated that green roof technologies, small wind turbines and photo cells will be incorporated into the design of the building to achieve a 35 percent increase in overall building energy efficiency levels. Given that the applicant did not submit an energy efficiency plan to evaluate as part of this application, the

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Planning Division has determined that this development does not qualify for this floor area ratio premium.

- **Value awarded = 0**

In conclusion, the Planning Division finds that this project qualifies for a total floor area ratio premium of 6. 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 15.6.

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 applicant is proposing to construct a ramp on the property leading to the below ground parking levels. The ramp will be located in the U-shaped area located on the south side of the building. Guard rails would be constructed along the sidewalls of the ramp and an exhaust louver and an air-intake chimney would also be constructed on the site. 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 6 and the FAR value from the sending site of 6.47 allows the applicant to construct a building with a total FAR of 22.07. Given that the applicant is proposing to construct a building with a FAR of 22.36, the size of the building must be reduced by .29.

VARIANCE - to reduce the south interior side yard setback from the required 91 feet to 13 feet for the building, to 11 feet for the balconies on floors 10 through 50 and to 0 feet for the 9th floor 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 91 feet to 13 feet for the building, to 11 feet for the balconies on floors 10 through 50 and to 0 feet for the 9th floor 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.

In this development, it is not until the ninth floor where there are residential units with windows facing

the interior side property line. From the ninth floor up, there are 44 floors of residential units with windows facing the interior side property line, so the required setback is 91 feet ($2 \times 43 = 86 + 5 = 91$). The first eight 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 addition, balconies will extend into the setback an additional one foot and the 9th floor roof terrace will extend into the setback an additional 13 feet.

The site is not a full block. The lot has 109 feet of frontage along Nicollet Mall and 212 feet of frontage along 10th 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 19 feet of frontage along Nicollet Mall and 122 feet of frontage along 10th 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 91-foot setback could be a hardship. The building will be setback 15 feet with balconies and the roof terrace extending closer to the interior side 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 interior side property line in it. If the windows were eliminated the building could be built up to the property line as are the first eight 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 15 feet from the interior side 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 91 feet to 15 feet for the building, to 14 feet for the balconies on floors 10 through 50, to 12.5 feet for the architectural fin and to 0 feet for the 9th floor 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 91 feet to 15 feet for the building, to 14 feet for the balconies on floors 10 through 50, to 12.5 feet for the architectural fin and to 0 feet for the 9th floor 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.

In this development, it is not until the ninth floor where there are residential units with windows facing the interior side property line. From the ninth floor up, there are 44 floors of residential units with windows facing the interior side property line, so the required setback is 91 feet ($2 \times 43 = 86 + 5 = 91$). The first eight 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 addition, balconies will extend into the setback an additional one foot, the architectural fin will extend into the setback an additional two-and-a-half feet and the 9th floor roof terrace will extend into the setback an additional 15 feet.

The site is not a full block. The lot has 109 feet of frontage along Nicollet Mall and 212 feet of frontage along 10th 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 19 feet of frontage along Nicollet Mall and 122 feet of frontage along 10th 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 91-foot setback could be a hardship. The building will be setback 15 feet with balconies, the architectural fin and the roof terrace extending closer to the interior side 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 interior side property line in it. If the windows were eliminated the building could be built up to the property line as are the first eight 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 15 feet from the interior side property line with balconies, the architectural fin 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. 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. (See Section B Below for Evaluation.)**

- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FACADE

- The placement of buildings shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- The first floor of buildings shall be located not more than eight (8) feet from the front lot line, except where a greater yard is required by this zoning ordinance or where the building is separated from the front lot line by outdoor open space that conforms to the standards for the urban open space premium in Chapter 549.
- The area between the building and the lot line, and all other areas not occupied by buildings or used for parking and loading purposes, shall include amenities.
- Buildings shall be oriented so that at least one (1) principal entrance faces the public street.
- The main lobby of the building and main elevator access shall be located at street level.
- 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.
- Building facades shall provide architectural detail and shall contain windows at the ground level or first floor.
- 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.
- Principal entrances shall be clearly defined and emphasized through the use of architectural features that express the importance of the entrance. Multiple entrances are encouraged.
- At least thirty (30) percent of the first floor façade that faces a public street, sidewalk or parking lot shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.
- Windows shall be distributed in a more or less even manner.
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

**DEPARTMENT OF COMMUNITY PLANNING & ECONOMIC DEVELOPMENT –
PLANNING DIVISION 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 10th 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 will be three retail spaces and the residential lobby. The residential lobby's principal entrance is located on the 10th Street South side of the building although it can also be accessed from an entrance on Nicollet Mall. The three retail spaces that are located on

the first floor of the building have either an entrance facing Nicollet Mall or 10th Street South. The elevators are located on the first floor of the building. There is one set of elevators that access the offices and the condominiums located on the first eight floors of the building and another set of elevators that access the tower portion 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.

- The building is proposed to be made out of limestone, pre-cast concrete panels, aluminum window systems and is accented with aluminum and glass balconies and stainless steel trim. The percentage of windows required on the Nicollet Mall and 10th Street South sides of the building is 40 percent. According to the submitted drawings, approximately 64 percent of the first floor facade that faces Nicollet Mall and approximately 39.5 percent of the first floor facade that faces 10th Street South is windows and or doors. The Planning Division is recommending that the applicant increase the window area slightly along 10th Street South so that the 40 percent minimum requirement is met.
- In addition to the four levels of parking below the building there is a parking garage located on floors two through eight of the building. The parking garage does not front along Nicollet Mall as there are offices and condominiums located for the first 45 feet of the building back from Nicollet Mall. The building has been designed so as to conceal the parking.

ACCESS AND CIRCULATION

- **Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted and weather protected, and shall be placed in locations that promote security through natural surveillance and visibility.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and with surrounding residential uses. Curb cuts shall be consolidated wherever possible.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.330(b).**
- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **In areas of vehicular access, site plans shall minimize the use of impervious surfaces to the extent possible.**

DEPARTMENT OF COMMUNITY PLANNING & ECONOMIC DEVELOPMENT – PLANNING DIVISION 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.
- The Traffic and Parking Division of the Public Works Department has reviewed the vehicular access and circulation plan, including the valet circulation plan, provided by the applicant. In order to be in compliance with their standards the Travel Demand Management plan needs to be approved and a parking and loading operations plan needs to be developed.
- The applicant has indicated that snow will be removed from the site.

PARKING LOTS AND LOADING AREAS

- **Parking lots and loading areas shall be landscaped, screened and defined as specified in Chapter 530, Article IV.**

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

- The freight loading facility is located on the first floor of the building and is accessed off of 10th Street South. A vehicle would enter the freight loading facility from 10th Street South and would exit the facility through the public alley and out onto Marquette Avenue. The freight loading facility has been designed to be completely screened from the public.

LIGHTING AND GLARE

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**

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

- The applicant did not submit a lighting plan showing foot-candles as part of this application. The Planning Division is recommending that a lighting plan showing foot-candles be submitted as part of the final plans.

SITE CONTEXT

- **Site plans shall minimize the blocking of views of important elements of the city such as parks and greenways, significant buildings and water bodies.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties and to minimize the generation of wind currents at ground level.**

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

- 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 small. Therefore, the blocking of views of prominent buildings from various vantage points should be minimized.
- Although this development will most likely 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 12-foot set back occurring on the fourth floor and an additional 30-foot set back occurring on the ninth floor. Given this, ground level winds should be minimized along Nicollet Mall. However, the building does not set back along 10th 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 recommending that the applicant consider adding a set back to this side of the building to help minimize ground level winds along 10th Street South.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

- **Site plans shall include crime prevention design elements as specified in section 530.370.**

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

- The Police Department has reviewed the plans for the proposed development. In order to be in compliance with the CPTED standards, access to the residential floors of the building need to be controlled and a parking and loading operations plan needs to be developed.

HISTORIC PRESERVATION

- **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 as historic structures.**

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

- The Handicraft Guild building, located on the adjacent lot, is both locally and nationally designated. The applicant is proposing to construct a ramp on the property leading to the below ground parking levels. The ramp will be located in the U-shaped area located on the south side of the building. Guard rails would be constructed along the sidewalls of the ramp and an exhaust louver and an air-intake chimney would also be constructed on the site. 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

ZONING CODE

Once the size of the building has been reduced by .29 FAR and with the approval of the two variances and the site plan review this development will be in conformance with the applicable regulations of the zoning code. See the Nicollet Mall Overlay District and transfer of development rights analysis above.

THE 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 10th 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 10th 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.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

There are no small area plans adopted by the city for this particular location.

ALTERNATIVE COMPLIANCE

The Planning Commission may approve alternatives to any major 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, 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.**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- Alternative compliance is not warranted for this development.

PRELIMINARY AND FINAL REGISTERED LAND SURVEY

Required Findings:

1. The subdivision is in conformance with the land subdivision regulations including the requirements of section 598.100 relating to protection of natural resources, applicable regulations of the Zoning Code, and policies of the Comprehensive Plan.

DESIGN REQUIREMENTS

All surface tracts have frontage on a public street.

The platting of the property does not result in more than one zoning classification on a single lot.

No nonconforming structures or uses result from this registered land survey.

RESIDENTIAL DEVELOPMENT DESIGN

The platting of the property does not result in any changes to the dimensions of the block.

Lot dimensions exceed the minimum dimensions in the zoning code.

ZONING CODE

See Site Plan Review section above and the Nicollet Mall Overlay District and transfer of development rights analysis above.

THE MINNEAPOLIS PLAN

See Site Plan Review section above.

2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

The Planning Division does not believe that this development would be injurious to the use and enjoyment of other property in the area. The proposed development incorporates pedestrian-scaled design elements such as windows, individual entrances and awnings along both Nicollet Mall and 10th Street South. The development includes retail uses at the street level that will encourage pedestrian activity. This development also incorporates the rehabilitation of a locally and nationally historically designated building.

3. All land intended for building sites can be used safely without endangering the residents or uses of the subdivision and the surrounding area by peril from floods, erosion, high water table, severe soil conditions, improper drainage, steep slopes, utility easements, rock formations, or other hazard.

The site is flat and does not present the above hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration

The tracts created by this registered land survey present no foreseeable difficulties for this development. No significant alteration to the land appears necessary.

5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control. The stormwater drainage system shall be separate and independent of any sanitary sewer system. All plans shall be designed in accordance with rules, regulations and standards of the city engineer. Facilities intended to be dedicated to the City shall be located in perpetual, unobstructed easements of a width determined to be adequate and necessary by the city engineer. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.

The Sewer Division of the Public Works Department will review and approve the drainage and sanitary system plans for this development prior to building permits being issued.

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 91 feet to 13 feet for the building, to 11 feet for the balconies on floors 10 through 50 and to 0 feet for the 9th floor roof terrace for the property located at 81 10th Street South, 87 10th Street South and 1001 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 91 feet to 15 feet for the building, to 14 feet for the balconies on floors 10 through 50, to 12.5 feet for the architectural fin and to 0 feet for the 9th floor roof terrace for the property located at 81 10th Street South, 87 10th Street South and 1001 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 10th Street South, 87 10th Street South, 1001 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. Approval of the final sign plan by the Community Planning and Economic Development Department – Planning Division.
3. An additional seven square feet of windows shall be added to the 10th Street South facade in order to bring the development into conformance with the Nicollet Mall Overlay standard that requires that at least 40 percent of the first floor facade that faces 10th Street South is windows and or doors.
4. The maximum FAR of the building shall not exceed 22.07 unless the applicant obtains a variance to exceed this limit or provides additional qualifying F.A.R. premiums.
5. A lighting plan showing foot-candles shall be submitted as part of the final plans.
6. Approval of the final site, landscaping and elevation plans by the Community Planning and Economic Development Department – Planning Division.
7. All site improvements shall be completed by February 7, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
8. If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before exterior building permits are issued.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the preliminary Registered Land Survey:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the preliminary Registered Land Survey for the properties located at 81 10th Street South, 87 10th Street South, 1001 Nicollet Mall and 1000 Marquette Avenue.

Attachments:

Community Planning and Economic Development Department – Planning Division
BZZ-2145

1. Project narrative and overview
2. FAR premium information and Transfer of Development Rights information
3. Variance findings
4. Registered Land Survey
5. Determination of eligibility study for the Let It Be building
6. HPC staff report
7. Evidence of notification to Council Member Goodman's office and the neighborhood organization
8. Zoning Map
9. Survey
10. Valet circulation map
11. Elevation and floor plans
12. Photo and colored rendering of the development from the same perspective
13. Photographs of the site and surrounding area