



## **Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division**

**Date:** August 12, 2010

**To:** Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

**Referral to:** Zoning & Planning Committee

**Subject:**

**Name of Appellant:** Mississippi Watershed Management Organization

**Name of Original Applicant:** same

**Property Address:** 2522 Marshall Street NE

**Ward #:** 1

The Mississippi Watershed Management Organization is appealing the decision of the City Planning Commission to deny an appeal of the decision of the Zoning Administrator related to two conditions of approval on an administrative site plan review. The initial administrative site plan review application was for the construction of a new office building at 2522 Marshall Street NE. The two conditions of approval that are subject to the appeal include the following:

- 3) The main portion of the building shall be moved to the east, resulting in a front yard setback no greater than 15 feet, consistent with Section 530.110 of the zoning code. The south portion of the structure shall be moved to the west to achieve a setback that is equal to or greater than the front building wall of the remainder of the structure.
- 4) The entire on-site parking area, including driveways, shall be located behind the front building wall of the structure, in compliance with Section 530.110 of the zoning code.

**Recommendation:** The following action was taken by the Planning Commission on July 19, 2010 (BZZ-4805):

**11. Mississippi Watershed Management Organization Headquarters (BZZ-4805, Ward: 1) 2522 Marshall St NE ([Kimberly Holien](#)).**

**A. Site Plan Review:** The Mississippi Watershed Management Organization has appealed the decision of the Zoning Administrator as it relates to the conditions of approval for an administrative site plan review application for property at 2522 Marshall St NE.

**Action:** The City Planning Commission adopted the findings and **denied** the appeal of the decision of the zoning administrator for property at 2522 Marshall St NE. However, notwithstanding the staff recommendation, the City Planning Commission granted one component of the appeal and **approved** the applicant's request to overturn the following condition (condition #6) from the administrative site plan review application:

1. The proposed cistern shall be relocated on the property so as to not be in front of the building.

Prepared by: Kimberly Holien, City Planner (612-673-2402) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Kimberly Holien, City Planner
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**Community Impact**

- Neighborhood Notification: The Concerned Citizens of Marshall Terrace was notified of the application on May 17, 2010.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On June 24, 2010, staff sent a letter to the applicant extending the decision period for an additional 60 days, to no later than September 23, 2010.

**Supporting Information**

The two conditions of approval that have been appealed both relate to the placement of the building, specifically to allow a building that is setback 36 feet from the front lot line. Planning staff has recommended granting alternative compliance to increase the maximum building setback from 8 feet to 15 feet, as opposed to the 36 feet requested by the applicant. If the building were to be shifted as recommended by staff, a portion of the parking area would be closer to the street than the front building wall.

The appeal statement submitted by the applicant asserts that the planted materials in the front yard are a reasonable alternative to reinforce the street wall. Accordingly to the appeal documents, the area between the building and the street is intended to serve as a gathering space. To support the proposed building placement, the applicant also states that development along Marshall Street NE results in a random development pattern at the street edge. Throughout the appeal documents, the applicant cites the intent to utilize the site as a demonstration area for stormwater best management practices, including how those best practices relate to the City's Sustainability Plan. The appeal statement also makes several references to the Mississippi River Critical Area and City policies that relate to this overlay district. Finally, the statement addresses a potential shared parking

agreement between the MWMO and the adjacent property to the south. The application for this agreement is currently incomplete.

The appellant's complete statement of the actions and reasons for the appeal are attached.

**Department of Community Planning and Economic Development – Planning Division**  
Appeal of the Decision of the Zoning Administrator  
BZZ-4805

**Date:** July 19, 2010

**Applicant:** Mississippi Watershed Management Organization

**Address of Property:** 2522 Marshall Street NE

**Project Name:** Mississippi Watershed Management Organization Headquarters Building

**Contact Person and Phone:** Teresa Sterns, (651) 310-0128

**Planning Staff and Phone:** Kimberly Holien, (612) 673-2402

**Date Application Deemed Complete:** May 26, 2010

**End of 60-Day Decision Period:** July 25, 2010

End of 120-Day Decision Period: On June 24, 2010, staff sent a letter to the applicant extending the decision period for an additional 60 days, to no later than September 23, 2010.

**Ward:** 1      **Neighborhood Organization:** Marshall Terrace

**Existing Zoning:** C2 Neighborhood Corridor Commercial District, SH Shoreland Overlay District, FP Floodplain Overlay District

**Lot Area:** 55,755 square feet

**Zoning Plate Number:** 9

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

**Proposed Use:** Office

**Appeal of the decision of the Zoning Administrator- As it relates to conditions of approval for an administrative site plan review application:**

**530.60. Administrative site plan review.** The zoning administrator shall conduct the administrative review of all applications for administrative site plan review. All findings and decisions of the zoning administrator shall be final, subject to appeal to the city planning commission, as specified in Chapter 525, Administration and Enforcement.

**Background and Analysis:** The Mississippi Watershed Management Organization has

Department of Community Planning and Economic Development – Planning Division  
**BZZ - 4805**

submitted an application to appeal conditions of approval for an administrative site plan review for property at 2522 Marshall Street NE. The existing use of the subject property is an office. The applicant is proposing to demolish the existing building and construct a new building with approximately 11,795 square feet of gross floor area. The new building is divided into two sections connected by an elevated skyway. The main portion of the building is located in the northeast corner of the site and is 9,935 square feet. The second part of the building is 1,860 square feet and contains a large garage space with lab and storage space in the rear. In addition to demolishing the existing building, the project includes the removal of a portion of a large parking area on the west side of the property. The parking area will be replaced with a rainwater garden, native grasses and other vegetation in this area. The portion of the parking lot that is located within the floodplain and within 40 feet of the top of a steep slope will be retained but not used, as no access is provided to this area.

The administrative site plan review was approved on June 11, 2010 with 16 conditions of approval. The applicant is appealing six of the conditions of approval, including the following:

- 3) The main portion of the building shall be moved to the east, resulting in a front yard setback no greater than 15 feet, consistent with Section 530.110 of the zoning code. The south portion of the structure shall be moved to the west to achieve a setback that is equal to or greater than the front building wall of the remainder of the structure.
- 4) The entire on-site parking area, including driveways, shall be located behind the front building wall of the structure, in compliance with Section 530.110 of the zoning code.
- 5) The main entrance shall be relocated to the front of the building, facing Marshall Street NE and be clearly defined, in accordance with Section 530.120 of the zoning code.
- 6) The proposed cistern shall be relocated on the property so as to not be in front of the building.
- 10) The north elevation of the main building portion shall be modified to eliminate blank walls in excess of 50 feet, consistent with Section 530.120 of the zoning code.
- 11) The living wall proposed for the east elevation shall contain evergreen plant materials to provide greenery during winter months.

The applicant has submitted revised, sketch plans indicating compliance with the remaining conditions of approval. These revised plans include a water monitoring use on the east side of the garage space, activating this part of the building. This application was reviewed at CPC Committee of the Whole on July 1, 2010. An addendum was submitted by the applicant after this meeting, indicating that they also intend to comply with conditions #10 and #11. The appellant's complete statement of the action being appealed and reasons for the appeal are attached to the staff report.

**Findings:**

- 1) The first condition appealed, condition #3, relates to the front yard setback. Section 530.110 of the zoning code calls for the placement of buildings to reinforce the street wall by placing the first floor of buildings no more than 8 feet from the front lot line. The proposed site plan shows the main portion of the building at a setback of 36 feet from the front lot line, along Marshall Street. The south portion of the building, which is proposed to primarily consist of garage space, is closer to the front lot line at 4-foot setback. The existing building on the site is setback 7 feet from the front lot line. Staff has recommended that the main portion of the building maintain a setback no greater than 15 feet, with the south portion of the building maintaining a setback that is equal to or greater than the remainder of the building. The setbacks required in this condition would provide active functions near the street.

The applicant is requesting a greater setback in order to locate tree planters with runnels and a cistern between the principal building and Marshall Street. While the landscaping proposed in this area will create an attractive amenity between the building and the public street, staff does not recommend granting alternative compliance for the significant setback proposed from the principal structure to the front lot line. The appeal statement submitted by the applicant states that the condition relating to the building setback would compromise their ability to demonstrate stormwater management practices on site. The site is over an acre in size and therefore large enough to accommodate the stormwater management demonstration elsewhere on the site. The applicant has also cited the *Above the Falls* Plan, specifically the guidance for the property to the north to become park land. Staff believes the required condition will allow the site plan to remain consistent with the *Above the Falls* Plan while respecting the intent of the site plan review standards. A setback of 15 feet will still require alternative compliance, but will reinforce the street wall and create a design that is more characteristic of adjacent properties fronting on Marshall Street, while still allowing for some of the proposed landscaping and stormwater functions.

In the appeal statement submitted, the applicant further asserts that the proposed building location is necessary to accommodate solar access. There is an additional condition of approval requiring the applicant to add windows to the south-facing elevation of the garage and lab area. The applicant has submitted revised sketch plans showing additional windows to meet this condition. The garage portion of the building is attached to the rest of the building via a skyway connection. If the main portion of the building were moved to the east, overlapping with the garage area, the windows in the garage/lab area would still allow for solar access.

- 2) The applicant has also appealed condition #4, which requires the entire on-site parking area, including driveways, to be located behind the front building wall of the structure, in compliance with Section 530.110 of the zoning code. It is anticipated that if the garage portion of the building is moved to the west as required in condition #3, a portion of the parking area may extend further in to the front yard than the front building wall. This condition refers only to the parking area located on the site. The appeal statement submitted by the applicant cites a shared parking agreement between the MWMO and the property to the south, Tony Jaros' River Garden. While the shared parking agreement will limit surface

parking on site, minor modifications can be made to the site to shift the on-site parking area to the west and therefore comply with the condition of approval.

- 3) Condition #5 of the administrative site plan approval requires the main entrance of the building to be relocated to the front of the building, facing Marshall Street NE, in compliance with Section 530.110 of the zoning code. This condition, which has been appealed, also requires the entrance to be clearly defined, as required in Section 530.120 of the zoning code. The proposed site plan has the main entrance to the building oriented to the south, opening on to an interior patio. The appeal statement submitted by the applicant cites the fact that the entrance vestibule occupies a portion of the front building wall. However, the entry door itself faces the south and is not visible from the front yard. The condition regarding the entry door location would not prohibit the south-facing door, but requires an additional door that faces Marshall Street NE. A front-facing principal entrance will facilitate pedestrian access and circulation without requiring a drastic alteration to the building design.
- 4) The applicant has appealed condition #6, which requires the proposed cistern to be relocated on the property so as to not be in front of the building. CPED-Planning Division staff does not find the proposed cistern to be an appropriate amenity between the building and the front lot line. Furthermore, alternative compliance has been requested to allow a front yard setback greater than 8 feet to accommodate stormwater features, including the cistern. Again, the applicant has cited their desire to use the site to demonstrate best management practices in stormwater management and environmental stewardship. Staff believes that it is possible for the cistern to be located elsewhere on this 1.29 acre site without detracting from the Watershed Management Organization's ability to do stormwater management presentations.
- 5) Condition #10, regarding blank walls on the north elevation, has also been appealed by the applicant. Section 530.120 of the zoning code prohibits blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, in excess of 25 feet in length. The north elevation of the main portion of the structure is entirely blank on the first floor with no windows or material changes. This side of the building faces an adjacent industrial use and is setback 12 feet from the property line. This elevation will be visible to traffic traveling south on Marshall Street. The condition of approval on this issue requires the north elevation to be modified to eliminate blank walls in excess of 50 feet. Staff is granting alternative compliance to allow blank walls up to 50 feet in length, in lieu of the 25 foot limitation in the site plan review chapter, due to the fact that this wall faces an interior lot line.

Based on feedback received at the July 1<sup>st</sup> Committee of the Whole meeting, the applicant submitted an addendum indicating that they intend to comply with this condition of approval. Specifically, visual interest will be added to the north elevation in the form of panels painted to look like windows as part of an art project related to the MWMO's educational program offerings. The applicant will also modify this elevation to include a 10 foot thickening of the wall at the center, 6 inches out from the surface of the wall, faced with a contrasting material.

- (6) The final condition that has been appealed is condition #11, requiring evergreen plant materials in the living wall proposed on the east elevation. This condition was required to mitigate the impact of the blank wall proposed on this elevation during winter months.

The addendum submitted by the applicant indicates that the proposed development will comply with this condition. The landscape plan includes Bittersweet vines, which will be planted on the green screen to add winter interest. Furthermore, windows are now proposed on this elevation which eliminates any blank walls in excess of 25 feet.

### **RECOMMENDATIONS**

#### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the appeal of the decision of the zoning administrator:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the appeal of the decision of the zoning administrator for property at 2522 Marshall Street NE.

#### **Attachments:**

- 1) Staff report for administrative site plan review
- 2) PDR report
- 3) Appeal statement
- 4) Supplemental sketch drawings submitted with appeal application
- 5) Statement of proposed use and description of the project
- 6) Zoning map
- 7) Site plan and landscaping plan
- 8) Building elevations
- 9) Floor plans
- 10) Photos of site and surrounding areas

**Excerpt from the  
CITY PLANNING COMMISSION MINUTES  
Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

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**MEMORANDUM**

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DATE: July 22, 2010

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of July 19 2010

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The following actions were taken by the Planning Commission on July 19, 2010. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: Bates, Bourn, Carter, Cohen, Gorecki, Huynh, and Tucker – 7

Not present: President Motzenbecker, Luepke-Pier and Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

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**11. Mississippi Watershed Management Organization Headquarters (BZZ-4805, Ward: 1) 2522 Marshall St NE ([Kimberly Holien](#)).**

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**Action:** The City Planning Commission adopted the findings and **denied** the appeal of the decision of the zoning administrator for property at 2522 Marshall St NE. However, notwithstanding the staff recommendation, the City Planning Commission granted one component of the appeal and **approved** the applicant's request to overturn the following condition (condition #6) from the administrative site plan review application:

- 6) The proposed cistern shall be relocated on the property so as to not be in front of the building.

Staff Holien presented the staff report.

**Commissioner Tucker:** Has anything about the building placement or parking placement or the cistern placement or the front door changed since our discussion at CoW?

**Staff Holien:** It has not changed.

Commissioner Tucker opened the public hearing.

**Doug Snyder (1224 Marshall St NE):** I'm the Executive Director for the Mississippi Watershed Management Organization. We're a joint powers organization, we consist of four cities: Lauderdale, Minneapolis, St. Paul, St. Anthony and our fifth member is the Minneapolis Park and Recreation board. Our vision and mission is to lead, to inspire, to act, educate and create a shared vision for the river and the supporting urban ecosystems. Our role is to research and demonstrate best management practices around water and natural resources and to foster stewardship with actions that promote civic ownership and responsibility. The building and site plan before you today is a physical expression of that vision and mission which is designed to meet the City's Comprehensive Plan, ATF plans, numerous sustainability goals and the supporting building code. While this was reviewed as an office building by staff here, it is very much more. It provides us with a platform to help our watershed community understand water management issues through interpreted experiences, staff training and educational programming. That programming is across K12 as well as for adult and walk in learners. It models, demonstrates and will provide life cycle costing for various stormwater practices. It is an extremely energy efficient building that far exceeds standards and part of that efficiency comes from the placement on the site. We are here to appeal just a portion of the findings of the Zoning Administrator regarding the site plan for the building, parts three through six, as previously stated. We lay out in our appeal ample rationale for alternative compliance regarding the placement of the building and I will not reread those arguments for you but will highlight the rationale that we've included. We believe that this is a regularized pattern and placement of planting materials in the front part of this building, what we're calling the front yard or stormwater treatment in front of the portion of the building, it reinforces the street wall and defines entry in a more meaningful way than just placing a door on the front of the building. There's a clear entrance that's experienced, that's defined by that landscape feature and it's not only for purposes of doing stormwater management, that feature allows a place for the public to come. There are not many places on Marshall Ave where the public can get off the bike, sit down and actually be on the street. Staff talked about a 15 foot setback being sufficient for the stormwater management (tape unclear). There's 15 feet between the road and the building we currently reside in. There's nobody who stands out in front of the Grain Belt Brewery, it's not a pedestrian friendly place, it is merely for getting through a space to get into a building or get past the building. Our building placement is consistent with the west side of Marshall St, the design vernacular that exists there, it's a very random pattern. If you travel from Plymouth north or Broadway north or whatever, you go past any number of facilities that have the pattern. You

can see on the setback that while there are places that are pulled up to the street, it is a very irregular pattern and we are definitely consistent with that pattern as it exists across the length of Marshall St. The building and the landscape here, we disagree with staff about this, is integrated and programmed as a single unit. The monitoring staff will be working in the smaller of the two buildings, that's where their equipment resides. It will be a very active place. The building placement also lives comfortably in the present and looks forward to the future. This building as it is proposed will fit in to the street vernacular of this place, but it also looks at what's in your Comp Plan and Above the Falls plan, which is that those facilities on the north of us will eventually disappear and while we know that's probably not soon, it's what's intended in those planning documents which was what we were required to plan the building for. The building placement makes visible, in a very intentional and up front way, the implementation of the city adopted sustainable design policies around water and energy. We have seen an every stringent framework to manage water quality and quantity and this burden has been placed primarily on local land use authorities. In an effort to meet federal and state law, these are anything from the clean water act, TMDLs, industrial site permits, construction permits and anti-degradation and critical area changes. One of our many roles at the watershed is to try anticipating how these are going to impact or communities. To work with them and do the research and develop the best management practices that are necessary for them to address these issues. We hope that you agree with us that the alternative compliance on the setback for our building is both an appropriate and vital element in our project as it provides an example of those best management practices that reduce impervious surfaces by using shared parking, it uses onsite management of stormwater volumes, not only from our site but two adjacent sites and the street and these demonstrations are needed because there are many places across the city where these kinds of applications are going to have to occur or we don't believe the city will be meeting future requirements for stormwater management. All these are connected to one another, you can't make a decision about one of those things without impacting decisions about the other things. If you ask us to change or move the building, what you're calling the primary part of it, forward and the monitoring building back you will impact our ability to do stormwater management from the street, you'll impact our ability to do energy efficient buildings and the entire interpreted plan that has been developed for the building on the site will have to be changed. The entire treatment train has changed because when you impact that front one, it's all connected to the treatment train for the adjacent properties that runs through the back of the property. We believe it's important to make these water management practices visible to the community. Our urban front yard is designed to be an active educational space as well as being specifically designed in size to collect the volume of water that's there. These are important components to the design of the building and the site required critical consideration by this body that's charged with formulating and enforcing city policy. In fact, the zoning code itself is well written and it gives you the opportunity to balance those competing policy issues, especially where appropriate alternative compliance has been offered and warranted. I asked the design team to implement all the other 16 conditions that were laid out. We also put a front door to meet that requirement. We are proposing a door in lieu of a window. I will say, personally, that doors don't define entry. The entry is that experience of leaving the sidewalk and entering the building and getting to the building. Merely having a door there doesn't get the job done. I think we have a very good entry otherwise.

**Commissioner Tucker:** I understand that you're down to three conditions that you're appealing at this point because you're going to comply with condition number five.

**Doug Snyder:** We see those three as basically nonseparable. If we move the building...

**Commissioner Tucker:** Yes, they all have to do with placement.

**Doug Snyder:** Collectively, the building placement is the issue here. The monitoring department, the interpretive experiences having that cistern right up front that really describe how much water...

**Commissioner Tucker:** I think we understand the importance of the placement to your conception of the building on this site.

**Doug Snyder:** We believe that this, as it's laid out, will help us accomplish our mission which in turn will help the city implement its Comprehensive Plan, the Above the Falls Plan, local water plan and the sustainability as they've been described.

**Commissioner Huynh:** You mentioned competing policies and I guess, just for clarification, which policies were you referencing?

**Doug Snyder:** It doesn't say eight feet is required, it says eight feet is what you're looking for and you should give alternative compliance to meet what you're asking for in terms of a change to that.

**Commissioner Bates:** I'm not an architect and don't have a design background at all. I understand the cistern, the placement of all of those things and in fact I expect that if that whole front area were enclosed in glass and there was a great big huge door in front it would be more engaging of the pedestrians. I get that the front part is part of the building, it's part of the experience. Like you said, you leave the sidewalk and you go and you enter the experience. To be honest, what I still don't see in this is that there is no engagement of the street. It's like you find this place and you get lost in the water management stuff. I don't see how this says "hey, come on in, welcome, this is what it's about, this is our front door." There are ideas that are trying to be captured here in terms of engaging the street, being a commercial corridor that we're debating technical specifics about but I don't think that your design really draws people in. What I'm trying to ask, is how do imagine the front part of the site engaging the public? How do you imagine yourselves addressing that concern of this body?

**Doug Snyder:** We've talked about any number of different possibilities up there including that we want to have tables and pieces out there because it would be a space that staff has actually asked for to go out and have lunch and that kind of thing. It's also designed so that we can capture bike and pedestrian folks from the front but also from the back. We'll have bike racks on backside. We've had conversations with various folks about having art up there in the front but we don't have where they will be located at this point. The reason they're not on there is because we don't have budget to do some of those things until later on.

**Commissioner Tucker:** Did your design team read the site plan standards before going into this project?

**Sarah Nettleton (1716 Knox Ave S) [not on sign-in sheet]:** Yes. We talked with staff several times about the alternative compliance options on some of these items and think we are pleased to agree to 13 of these 16 items but that really is in the best interest of the project and they're good

rules and we'd like to work with you on them. The front entry exhibit that we just showed is an additional suggestion of complying with that regulation.

**Commissioner Tucker:** I think the question keeps coming up and Commissioner Bates just asked it, how does your alternative compliance engage the street, which is what part of the standards try to address.

**Scott Vreeland (2437 33<sup>rd</sup> Ave S) [not on sign-in sheet]:** I'm a Park Board commissioner, I'm also a commission of the Mississippi Watershed Management Organization, I'm on the tree advisory commission and maybe someday I'll work my way up to planning. It has taken me at least nine years go get this building in this room to have this discussion and I've been working on the Above the Falls Plan for probably 11 years. I've been an active member working with this watershed for over nine years and this isn't easy. The Above the Falls Plan is still a question mark of how important that is in terms of city planning. I think this building is the right answer for the right reasons in the right location. I know Marshall Street really well. It weaves in and out, it is not a commercial façade. This is between 13<sup>th</sup> and 14<sup>th</sup>, this is 1414, you're welcomed by a chubby conifer. I think if you go back to our picture, Commissioner Bates asked how it welcomes people in. It will be active, it will be one of the most pedestrian friendly places. Again, this is a gateway to the river. We have turned our backs on the river in this part of the city. This is the key opening up, not only land acquisition, but the kind of water quality improvements that we need to be doing as you were talking about earlier. I get to work with city engineers, we are changing the standards and improving them. Again, Planning is not necessarily up to speed on things like taking care of water from adjacent properties. This is a very important piece of our future. TMDLs could mean the end of any development in the city. We have to pay attention to these issues. [tape ended]...actually look and see the river. This is the building that's there, this is our property and there's a green lot between the bar...you can see the river. If you go back to the elevation of the building, this is a gateway to the river. What more inviting pedestrian, what more inviting thing for bicyclists would be to see that the river is now connected to the street. We have Edgewater Park, we have Gabby's...as you look, the mix of residential, industrial, park land – there is no façade. In fact, this is supposed to be park land in the future. What has been kind of somewhat derided is the use of the garage. The garage is a classroom and laboratory, but this is an active piece of the building and I think that the in and out of this building allows us to do water quality mediation or remediation that we couldn't do otherwise. This stuff is really important. In talking with the city planners, their box is too small in terms of the kinds of uses, the kinds of land use that we need to look at and in this case it isn't alternative compliance so we can make a few extra bucks, this is a public building owned by the public. This is ad valorem taxing authority and to remove the building if you don't like this, it's going to cost tax payer money and I'm willing to fight for this building as it is because it's right, it's the right siding of this. Again, I had to deal with other commissioners who did not want to put the building in Minneapolis. It was very difficult to find a site in Minneapolis where we could do both water quality work and have a functional building. This was a very difficult site to deal with and I'm really excited that this building, like the Ramsey Washington Metro Watershed Building, is a state of the art building of how we can learn about water quality, the idea that we don't want to put the cistern or we want to hide it behind the garage...we don't want to hide these things, we want to show them. This is an educational, interpretive place, it looks like an interpretive place and I think it is incredibly pedestrian friendly and what's the front and what's the back? To me, the front is the river side of all these buildings, we've turned our back on the river. Now here is a building that accommodates folks looking both from the river, folks coming under the Lowry Bridge on the new bike trail, coming through this property, that's why the side entrance is

welcoming for all the people in all the directions that are coming to this building and maybe that's an opportunity that folks haven't planned for before, but the Above the Falls Plan is going to happen and will require that we do interesting and better things.

**Commissioner Cohen:** I just want to be clear on one thing, this building and this property in its entirety is sited in such a way so that as you walk past the building or drive past the building it is possible to see the river, is that true?

**Scott Vreeland:** That is true. The river is down, but you can see the river valley.

**Commissioner Cohen:** You're using a phrase that I've been using for 40 years and that is that all these Midwestern cities are the same, they start on the river and then they turn their backs on the river for 100 years and they discover the greatest asset is the river. That's very important to me, as a commissioner, that we preserve the integrity of the river as being our most important public asset. If that's what you're selling here, I'll buy it. Is that what you're selling here?

**Scott Vreeland:** It is. I am a river advocate and this is a very important piece of the puzzle.

**Commissioner Cohen:** You're saying this building and the way you have sited this building and the adjacent parts of the building and the property itself are to provide a public access and view of this river and to support the integrity of the river.

**Commissioner Tucker:** We discussed this at the Committee of the Whole meeting and the gist of it there was why can you not demonstrate, show off, highlight your stormwater management practices and at the same time deal with Minneapolis' choices in addressing a street in having buildings up to the sidewalk, side entrances close by? That was the big discussion there, why do they have to be different? Why does your building have to be back in order to show all these things?

**Scott Vreeland:** Why do we have to wow-off the river to make it commercially viable? Again, I think if you look at Marshall Street it goes in and out, you have these big open expanses of park land, we have pocket parks. This is an additional pocket park in miniature that folks can hang out in, it's a public space.

**Commissioner Tucker:** My question was why are they mutually exclusive? Why can one not be...have part of your building up at the street and still demonstrate your stormwater management practices?

**Scott Vreeland:** It's a functionality of where the water is coming from so, again, just the amount of water at different locations. Yes, you can dig a big hole, bury a cistern, drain it all into one spot, pump it out.

**Commissioner Tucker:** Are you saying you couldn't gather this water without having this 36 foot space in front of your building?

**Scott Vreeland:** Yes, I am. Again, from city planners, they don't care because it doesn't affect the usual...you can take care of all the water on the property without doing that, but if you're going to expand the amount of water that you're taking care of, you need that additional space and location.

**Commissioner Gorecki:** We talked about this at Committee of the Whole and I don't remember the answer, regarding the cistern, if the cistern is to remain in the front, we were talking about setbacks in regards to what was needed and I think it was concluded that the full 36 feet wasn't needed but there was question whether or not it would work in that 15 foot setback or what additional feet would be needed, can you expound upon that?

**Sarah Nettleton:** Just the cistern itself is eight feet in diameter so that is a practical item and could set in less of a setback. I think the bigger issue is the front yard which is an urban front yard with a gravel surface and it's a green and gravel garden space that is inviting for passersby to come in and sit down. The cistern would be a part of that greater design and it's actually set back behind the trees and I would term it as a utilitarian beauty which is in sync with the industrial nature of that neighborhood so it is only eight feet in its footprint but it's part of the greater whole of that design, of that urban front yard.

**Commissioner Gorecki:** But it would work within the 15 foot setback, it wouldn't not allow the cistern as it's designed for the flow of water and the treatment of water. Nothing would change in the way it systematically works, is that correct?

**Sarah Nettleton:** Systematically it would not work and the other parts of the system, the rentals and the square pattern that you see on the site plan, that would be the issue. Yes, you could have the cistern but the rest of the system would be compromised in terms of the capacity and ability to deal with what is the actual runoff. The cistern itself is sized to carry the runoff from the roof only so that is in proportion to the building and that is a great unknown of most of us and I would think perhaps even perhaps on the commission, how much rainwater really collects. In terms of solving these runoff issues to get that proportion exhibited and known, the cistern is a piece of practical sculpture. This is a resource and opportunity, it's part of this garden, it's a functional part of the front garden. It is a piece of the garden.

**Commissioner Gorecki:** The cistern is only one piece of the water filtration process on site as it was explained a couple weeks ago and that piece starts in the front and moves to the rear of the site. I heard I thought you say it would work and then I heard you say it wouldn't work. I'm trying to understand, does the system work whether there is a 36 foot setback or a 15 foot setback? I'm still confused.

**Sarah Nettleton:** I apologize that you're confused. The 36 foot setback is required to have the whole treatment train work correctly. The cistern is one element of that treatment train, so it is the whole system in the capacity of the roof and the building and the other run off that we are treating on the site. That urban treatment train from hard surface runoff in the front and in the back a more soft surface containment, so it is that whole progression of the treatment train and the 36 feet is critical and the cistern is a part of that. Thank you.

**Scott Vreeland:** It is so important that folks in Minneapolis can visualize water quality issues and we have tons of folks with a rain barrel which does such a tiny amount and they think that they're really connected to water quality issues. Having a visual representation in the front yard of how much land it takes, what kind of actual treatment trains, what they look like, is incredibly important for us changing our nonpoint source formulas and calculations and getting the city to meet its MPDES requirements. This is something that's essential that we do as a city and it's very hard for me to not hear more support for what is a very good idea that will change the fabric of the city. I think we can have trees and plants and...Marshall goes in and out, there is no...

**Commissioner Tucker:** Thank you. Did that answer your question Commissioner Gorecki?

**Commissioner Gorecki:** Yes.

**Commissioner Tucker:** I think by now we've had a pretty fair airing of the issues and we know what it's all about and I think it's time the commission take a look at it unless there is someone else we haven't heard from with some new information.

Commissioner Tucker closed the public hearing.

**Commissioner Tucker:** We have an appeal in front of us and I think we're down to an appeal of three conditions in the Zoning Administrator's ruling and that's to number three, four and six. Number three deals with moving a building to at least 15 feet of the street, number four is no parking in front of the building and number six is to not have a cistern in front of the building. I'm glad that condition five was resolved by the architect. What is your pleasure commissioners? Does someone have a motion?

**Commissioner Bourn:** I'd be happy to move for the approval for the applicant's appeals on items three, four and six (Bates seconded).

**Commissioner Tucker:** It's been moved and seconded to move the appeal on conditions three, four and six.

**Commissioner Bourn:** I think the applicants were very fair in the areas that they did try to work with the site plan review and the amount that aren't coming before us for appeal. I'm convinced that these are pretty necessary for the design and the purpose of this project. Looking at it, one of the questions that was brought before us was the engagement of the street and I very much see the garden in the front as engagement to the street more so than if the building was pushed more forward to meet that setback and then that very active piece was then moved to the back where people on Marshall would not be able to see it. One of the other pieces where I think it is very engaging with the street is looking at the Above the Falls Plan and realizing that the property to the north will hopefully be a park within our lifetime. I would hate to see a building then cut off access to people coming down Marshall and then not having a big open access to a park. As a park commissioner, I think that this is a wonderful asset to be in partnership with as we develop that into park land.

**Commissioner Bates:** I'm very much in support of Commissioner Bourn's position. I don't think that you guys have interpreted correctly the hesitation which the planning commissioners have of this plan, certainly not mine. I think that it says welcoming to you and it's a different aesthetic. It's an aesthetic that I, as a school board person, think that may not be shared with a lot of people in our community. I think it's an aesthetic, if you really want to be as successful as you have articulated it today, I think that you need to consider. Yes, I am in favor and understand what's going on here but I think there's an aesthetic issue here that will be a problem in getting your message across as well as getting the building built.

**Commissioner Huynh:** I would like to make a request that perhaps we can break out the items three, four and six into different motions and discuss them (Bates seconded).

Motion granted 6-0.

**Commissioner Huynh:** Starting with item six, I understand the project. It promotes sustainability and there's no argument as far as the mission and goals. The conflict I have is the project embracing the zoning code and to not set a precedent for sustainable projects and how projects that look at energy can compromise the zoning code. I think that's a message that, for this project, is walking a fine line in terms of compromises and not having both. With that being said, I think this project is great. I think that everything you're doing as far as the educational component is there, however, I think that that component with the zoning code and, for me, not acknowledging it in the design is an issue for me. However, for item number six, that's an item with the proposed cistern that I'm comfortable with just because with the educational component you need that as far as the building. I would support approval of item six with the appeal that the applicant has (Bates seconded).

**Commissioner Tucker:** That one, to me, seems to be pretty straightforward too. Gravity being what it is, you need to start with a cistern up top. That doesn't preclude moving the building in in a more urban friendly way so I also support that. The motion is to grant the appeal on condition number six, the placement of the cistern. Any other discussion? All in favor? Opposed?

The motion carried 6-0.

**Commissioner Gorecki:** I will try to tackle condition number three. In keeping with Commissioner Huynh's and Commissioner Bate's comments, I do think there are some greatly missed opportunities in the overall design. The view of the river doesn't change when the buildings shifts backwards and forwards on a parallel track, in fact, the view doesn't change at all. I was a little struck by that argument. The biggest thing is when I look at what's called the area that the garage or area where work will be performed and that this continues to be called a classroom space where there's going to be an opportunity to learn, I see a garage. I don't see a building that interacts with the street at all. If I was going to do a classroom space I would have treated it more like a classroom space and I think those were comments that we made at Committee of the Whole and I think the commission as a whole was very consistent with their feelings that that was a great opportunity and a lost opportunity. Overall, I'm going to move of the appeal and support staff recommendation for the 15 foot setback (Huynh seconded).

**Commissioner Tucker:** The motion is to actually grant the appeal so we'll vote on that and you'll want to be voting no. Those in favor of granting the appeal on item number three? Opposed?

The motion failed 4-3.

**Commissioner Gorecki:** I move we deny the appeal, follow staff recommendation, for item three (Tucker seconded).

**Commissioner Tucker:** Any further discussion? All those in favor? Opposed?

The motion carried 4-3.

**Commissioner Tucker:** For item four, the motion is to grant the appeal. All in favor? Opposed?

The motion failed 4-2.

**Commissioner Gorecki:** I will move to deny the appeal (Huynh seconded).

**Commissioner Tucker:** All those in favor? Opposed?

The motion carried 4-2.

**Commissioner Tucker:** Jason, do we need to do any other motion? This is an appeal, which I don't think we've handled before. We've dealt with the questions before us but should we reaffirm the Zoning Administrator's decision?

**Staff Wittenberg:** Essentially you've adopted the staff findings for two of the three items and you've articulated the reason for not agreeing with the staff findings on condition number six. Perhaps a statement that makes it clear that those are the only three conditions that are open questions in front of us.

**Commissioner Tucker:** May I have a motion that the commission supports the Zoning Administrator's decision and all conditions except for number six?

**Commissioner Gorecki:** So moved (Carter seconded).

**Commissioner Tucker:** All in favor? Opposed?

The motion carried 4-2.