

**Minutes
of the
Stormwater Management Committee (SWMC)
March 1, 2012

8:00 AM
1600 Second Avenue North
Metro Water Services Administration Building, 2nd Floor Conference Room**

STORMWATER MANAGEMENT COMMITTEE

Committee Members Present:

Mr. Roy Dale, P.E. – Chairman
Ms. Elaine Bright – Vice Chairman
Mr. Dodd Galbreath – Alternate
Mr. Kevin Gangaware, P.E.
Mr. Monte Turner
Mr. Lance Wagner, P.E. – Alternate

Committee Members Absent:

Mr. Slade Sevier, P.E.

I. CALL TO ORDER

The meeting was called to order at 8:13 a.m.

II. STORMWATER MANAGEMENT COMMITTEE AGENDA

Opening Statement to All Applicants: “If you are not satisfied with a decision made by the Stormwater Management Committee, you may appeal the decision by filing for a writ of certiorari with the Davidson County Chancery or Circuit Court. Your appeal must be filed within sixty (60) days of the date of the Committee’s decision. You are advised to seek the independent advice of legal counsel to ensure that your appeal is filed in a timely manner and that all procedural requirements have been satisfied.”

Comments were solicited from the Planning and Codes Departments for the following Agenda items.

1. **20120005**
PRELIMINARY SWM PLAN
Dollar General
541 and 551 Stewarts Ferry Pike
APN 09600005900 and 09600006000

CD-14 (Bruce Stanley)

APPLICANT’S REQUEST – Preliminary SWM Plan. Requests are to allow disturbance and encroachment of the floodway and 75' (50' Zone 1 and 25' Zone 2) floodway buffer of McCrory Creek to construct asphalt pavement, stormwater infrastructure, Best Management Practices (BMPs), grading tie slopes, and a portion of the proposed building as shown on the Plan of Record. The request is also to allow continuous mowing and maintenance of a portion of the Zone 1 Buffer.

APPELLANT: Mr. Monte Turner (Turner & Associates Realty Inc.)

REPRESENTATIVE: Mr. Michael Garrigan

COMMENTS

NPDES: No specific comment. Plan does attempt to offset stormwater impacts of buffer disturbance.

CODES: No comment provided.

PLANNING: The zoning for this site is currently under review by the Planning Department for the March 8, 2012, Planning Commission meeting. At this time Planning has not formalized the recommendation; therefore, Planning cannot recommend approval at this time. The department's recommendation will not be formalized until Friday, March 2, 2012.

GREENWAYS: (Initial comments): "The applicant's cover letter acknowledges Greenway mitigation previously agreed to but the plans do not clearly indicate this mitigation. Greenways would like further clarification on the plans as to exactly what the mitigation is to consist of."

(Updated comments, 2/29/12): revised items of agreement between the Appellant and Greenways:

1. A land donation of approximately 2.6 acres (of the 4.6 acres total) that would consist of all undisturbed land outside of the development footprint. This area will be platted as a separate lot and donated to Metro for further Parks use.
2. Permanent signage of the rear 11 stalls (to be constructed using a permeable pavement) stating they are available as public trailhead parking. An agreement will be worked out for either the Appellant or to allow Greenways to sign the back 11 spaces as trailhead access. The spaces are pervious now.
3. Show dedicated public access greenway on the plans and not be tied to later phases... needs to be front end and provided before development starts. The Appellant stated that all open space/conservation land (~2.6 acres) will be recorded with the plans. If this is a condition on the variance, it will be attached to the SP plans through SW.

Mr. Roy Dale recused himself from the case and abstained from the vote, stating that his company worked on the project. He also stated that Ms. Elaine Bright, as Vice-Chairman, would take over the position as Chairperson in the case.

Mr. Monte Turner recused himself from the case and abstained from the vote, stating that he was the applicant.

Mr. Michael Garrigan gave an overview of the request, stating that the plan was supported by the community and the Councilman, and a recommendation of approval is expected from the Planning Commission.

Mr. Lance Wagner made a motion to approve the preliminary stormwater management (SWM) plan as shown, with the following conditions:

1. The Appellant continue to work with Greenways. Incorporate the Greenways comments and make sure a sidewalk to the park is incorporated. Coordinate with Greenways on the final plan for new plantings.
2. Approval of the plan is contingent upon approval by the Planning Commission.

The motion was seconded by Mr. Kevin Gangaware. The motion was approved by Ms. Elaine Bright, Mr. Dodd Galbreath, Mr. Gangaware, and Mr. Wagner. The reasons for approval were that: 1) what is currently approved is more of an infringement upon the buffer, 2) it is already disturbed land, and 3) it will be a better buffering system for the creek than what is there now or what potentially could be there.

2. **201200006**
SINGLE FAMILY RESIDENTIAL
9200 and 9378 South Harpeth Road
APN 15300000800 and 15300000900

CD-35 (Bo Mitchell)

APPLICANT'S REQUEST – Requests are: 1) to allow disturbance and encroachment of the floodway and 75' (50' Zone 1 and 25' Zone 2) floodway buffer of South Harpeth River to construct a new driveway and bridge crossing the South Harpeth River to the residence and 2) to allow the existing low water crossing access to remain, which creates a spacing of less than 1,000 feet between the two crossings.

APPELLANT: Mr. George E. Mudter, Jr., Trustee

REPRESENTATIVE: Ms. Anna Roberts, Mr. Rob Whitson, and Mr. Stephen Brown

COMMENTS

NPDES: No issues.

DEVELOPMENT REVIEW SECTION: No issues based on a preliminary review of the plan. There was no review of the flood study.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater Staff comments for this request.

HARPETH RIVER WATERSHED ASSOCIATION (HRWA): Comments received by emailed letter to the Secretary from Mr. Michael Cain, Director of Watershed Assessment and Restoration. A copy is attached.

Mr. Stephen Brown, Ms. Anna Roberts, and Mr. Rob Whitson gave an overview of the variance request.

The Committee discussed the location of the proposed bridge piers, comments submitted by HRWA, removal of the existing bridge (with the existing low water crossing to remain), proposed plantings and erosion protection, reforestation/restoration along the west bank provided with previous variance #201100006, and additional reforestation upstream and downstream of the property.

Ms. Dorie Bolze, Executive Director of HRWA, gave a brief overview of the Harpeth River and stability issues associated with low bridge crossings along the river. She voiced concern about the steep cut for the new bridge and potential erosion and water quality problems with the design and proposed adding cross vanes upstream of the new bridge to direct water through the center of the channel and to avoid bank erosion. She recommended referencing the restoration included with the previous variance if another variance is granted. She also suggested that the existing bridge structure should be removed from bank to bank, down to the streambed.

There was further discussion on bank stabilization/erosion control – native vegetation versus hard armor (rip-rap), the use of cross vanes, and the two purposes for the cut and fill: 1) to elevate the bridge one foot above the base flood elevation (BFE) and 2) to not impact flood heights. It was stated that the hydraulic model should verify that the computed velocities will not be erosive.

After discussion during the Executive Session of the Committee and review of the information presented, Mr. Kevin Gangaware made a motion to approve the variance request based upon the Plan of Record as presented, with the following Conditions #1-3. The motion was seconded by Ms. Elaine Bright. Mr. Lance Wagner made a motion to amend to include Conditions #4-6. The motion was seconded by Ms. Bright. The amendment was approved by Ms. Bright, Mr. Roy Dale, Mr. Gangaware, Mr. Monte Turner, and Mr. Wagner. Mr. Dodd Galbreath abstained from the vote. The main motion with amendment was approved by the same. In summary, the variance request is approved with the following Conditions #1-6 and standard Conditions #7-9.

1. The owner shall remove the existing crossing down to the surface of the streambed.
2. It is noted that the west bank is to be planted under the previously approved variance (Variance #201100006).
3. The analysis and calculations for the bridge crossing shall provide for reasonable velocities at the higher storms and no-rise at the upper property line. Any change in slopes shall be coordinated and approved by Staff.
4. Upon review of the grading plan, Staff shall evaluate scour protection around the bridge piers.
5. The Appellant shall extend the mitigation (west side) to the edge of the property line.
6. Where the bridge is removed, the Appellant shall amend the plantings with plantings specialized for bank stabilization in that area.
7. The Appellant shall have the landscaper who does the plantings certify to MWS – NPDES office, in writing (referencing Variance #201200006), once landscaping is installed per approved variance plans, and again once plantings have been found to meet the two-year survivability requirement.
8. This variance will expire on March 1, 2013. However, if a Grading Permit, Stormwater Single Family Permit, or Building Permit is issued within that period, the variance expiration date will run concurrent with that permit expiration date. The variance is valid only so long as the plan presented to the Stormwater Management Committee does not change.
9. The Appellant is reminded that no construction or disturbance should commence prior to obtaining any applicable Grading Permit or Stormwater Single Family Permit from Metro Water Services and any or all applicable Building Permits from Metro Codes.

Reasons for approval were: 1) the plan is consistent with the previously approved preliminary Stormwater Management (SWM) Plan, 2) the Appellant is improving the situation of the crossing, 3) the Appellant is acknowledging the Harpeth River Watershed Association's concerns, and 4) the Appellant is eliminating the existing bridge downstream.

III. APPROVAL OF FEBRUARY 2, 2012 MEETING MINUTES

Mr. Kevin Gangaware moved, and Mr. Monte Turner seconded the motion to approve the February 2, 2012 meeting minutes with the amendment that the beginning of business item #5 be changed to "After the January SWMC meeting, Mr. Dodd Galbreath (Alternate member) submitted an email (to the Committee Secretary) requesting legal clarification as to whether alternate members should make motions or vote. The request was forwarded to Ms. Jenny Howard, Metro Legal. Ms. Howard was unable to attend the February meeting; however, Ms. Theresa Costonis, Metro Legal, attended and expressed concerns..." The motion was approved by Ms. Elaine Bright, Mr. Roy Dale, Mr. Dodd Galbreath, Mr. Gangaware, Mr. Turner, and Mr. Lance Wagner.

Mr. Galbreath stated for the record that the Committee has an interest in not exceeding its authority and did not want to provide a technicality for anyone, who had been affected by Committee motions or votes that had been made that resulted in a majority opinion for or against a particular case, and give them a reason to want to appeal the case based on that technicality.

IV. APPROVAL OF FEBRUARY 2, 2012 DECISION LETTERS

Ms. Elaine Bright moved, and Mr. Kevin Gangaware seconded the motion to approve the February 2, 2012 decision letters. The motion was approved by Ms. Bright, Mr. Roy Dale, Mr. Dodd Galbreath, Mr. Gangaware, Mr. Monte Turner, and Mr. Lance Wagner.

V. ITEMS OF BUSINESS

1. Prior to the meeting, Ms. Paula Kee, Secretary, provided Committee members a copy of a proposed ordinance to amend Chapter 15.64 of the Metro Code pertaining to the creation, organization, and voting regulations of the SWMC. Mr. Lance Wagner (alternate member) commented that there was no language included that converts alternate members to regular full members. During the meeting, there was discussion with Ms. Jenny Howard, Metro Legal, who stated that clarification could be added in the proposed ordinance. Mr. Roy Dale moved and Ms. Elaine Bright seconded the motion that the SWMC endorses a change in the status of the membership as reflected in the proposed ordinance drafted by Legal with the recommendation that clarification be added that all current members remain and alternate members are converted into full voting members. Ms. Bright, Mr. Dale, Mr. Kevin Gangaware, Mr. Monte Turner, and Mr. Wagner voted in favor of the motion. Mr. Dodd Galbreath abstained from the vote. The reason for the endorsement was that the Committee is comprised of members from all types of professions with all types of valuable information, and all members need to be enjoined in the process and not restricted by the ability to make motions and vote. An update on the status of the proposed ordinance will be provided at the next meeting.

2. An update was provided on the status of Staff's review of grading permit exemptions and blanket variances for public utility projects. Since the majority of applicable projects are water and sewer projects, Stormwater is drafting a letter to MWS – Engineering to outline the proposed process for consistency review of their project plans. Items to be evaluated in the review process include a) reasonable routing of utility lines with minimal disturbance, b) easement widths, c) the amount of disturbed area, d) a post project letter of completion, e) a proposed plan of mitigation, etc., which will lead to either a conditional Stormwater approval or a determination that a variance is required from the SWMC. Future letters would be sent to Public Works and other public utilities to inform them of the same process.

3. Ms. Kee provided a brief update on a meeting with Stephan Kivett, Urban Forester. Mr. Kivett stated that tree removal permits are required for removal of trees greater than 6 inches in diameter; however, properties zoned as single family residential or agricultural are exempt. He does not review public utility projects unless there is an associated grading permit.

4. Mr. Gangaware asked for a future update from Stormwater on the status of the process of approval of proprietary water quality units for 80% Total Suspended Solids (TSS).

5. The Committee briefly discussed a) wetland banking and stream mitigation programs, b) concerns expressed by the environmental community regarding the programs, payments into them, and overall management, and c) the effectiveness of banking/mitigation programs when managed properly.

VI. ADJOURNMENT

The meeting was adjourned at 10:28 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____



**HARPETH RIVER
WATERSHED ASSOCIATION**

To: Metropolitan Storm Water Management Committee
Stormwater Division
800 2nd Ave South
Nashville, TN 37210

Re: Variance Request 201200006

Metro Stormwater Management Committee,

Harpeth River Watershed Association (HRWA) has reviewed the plans for a new bridge crossing of the South Harpeth River at 9200 South Harpeth Road in Nashville and has reviewed staff recommendations to the permit applicant on the previous plan submittal. We have also had an engineer that specializes in river channel and riparian restoration look at the plans and advise us.

The existing bridge will continue to create a condition of slack water upstream and scour downstream that will worsen over time. Removal of the low water bridge should allow natural riffle structure to begin forming upstream, but the over widening downstream caused by the bridge needs to be addressed. There is also a condition of little to no trees along the west bank of the river between the proposed and existing bridges. This area should reforested.

The cut and fill for the new bridge does not create a natural transition during high flow events and would lead to bank erosion. One possible solution to this would be to install cross vanes upstream of the proposed bridge that would direct water through the center of the channel, thus avoiding the bank erosion issue. This is generally a simple and cost effective measure when done properly.

HRWA agrees with the staff recommendation that the low water bridge should be removed as it is obviously creating a condition of degradation of the channel and on the banks of the river and that the applicant should not create a condition of eddying and erosion at the new bridge location caused by the cut and fill. The Committee should require the applicant to develop a **restoration plan** that would encompass erosion at the new bridge, removal of the existing bridge, restoration of the river channel and banks up and downstream of the existing bridge and reforest the banks between the two areas on the west bank.

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