

**Revised
Minutes
of the
Stormwater Management Committee (SWMC)**
December 3, 2009

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

STORMWATER MANAGEMENT COMMITTEE:

Mr. Tom Allen, P.E. – Chairman
Mr. Roy Dale, P.E.
Mr. Dodd Galbreath
Mr. Kevin Gangaware, P.E.
Mr. Tracey Kinslow
Mr. Lance Wagner, P.E.,

Committee Members Absent:

Ms. Elaine Bright

I. CALL TO ORDER

The meeting was called to order at 8:17 a.m.

II. STORMWATER MANAGEMENT COMMITTEE AGENDA

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

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.”

1. 200900021 – Floodway and Floodway Buffer Disturbances

Montgomery Bell Academy
4001 Harding Pike
Map 103-16, Parcel Nos. 29, 46, and 47

CD-24 (Jason Holleman)

APPLICANT REQUEST –The request is to allow disturbance of the floodway and 75' floodway buffer (50' Zone 1 and 25' Zone 2) of the Tributary to Richland Creek (King Fisher Creek) for redevelopment of previously disturbed areas of the Montgomery Bell Academy High School Campus. The proposed plan

removes parking lots, building, and tennis courts from the buffer and replaces them with a new entry drive off Wilson Boulevard (w/stream crossing), new water quality facilities, a portion of a future classroom building, and a new soccer field with a parking garage below. Disturbances are as shown on the Plan of Record. The request also includes extension of the implementation period beyond one year for Phase II of the project with Phase II construction to be completed within five (5) years from the variance approval date.

The case was previously deferred on August 6, 2009 to allow MBA and its consultants the opportunity to meet with the neighborhood association and answer their questions regarding the project. The meeting was also to address flooding scenarios, flooding conditions, and flooding issues.

APPELLANT: Barge Cauthen & Associates, Inc.

REPRESENTATIVE: Mr. Dan Barge, III, Mr. John Gore, and Mr. Barry Quinn, Mr. William Hastings, and Mr. Joe Hodgson

COMMENTS:

PROJECT REVIEW STATUS: No grading permit application has been submitted at this time

SW STAFF: The applicant has met with Mr. Roger Lindsey (SW) and Mr. Tom Palko (SW), to discuss the flood study submitted.

NPDES: Previous NPDES Comments (August 6, 2009) - Staff has worked with MBA representatives as they've formulated this overall site mitigation plan, which serves to provide post development water quality treatment on various previously-developed portions of the site. The plan also includes education of MBA students on water quality considerations, buffer restoration and the development of an overall site SWPPP. Implementation of this SWPPP will be a positive for the receiving stream.

CODES: Defer to Stormwater Staff

PLANNING: Defer to Stormwater Staff

GREENWAYS: Defer to Stormwater Staff

COUNCILMAN (Jason Holleman) - Email received (12/02/09): Please share my support for MBA's stormwater variance request during tomorrow's meeting. MBA has done considerable work to resolve community concerns since its last appearance, and I believe that neighbors are generally supportive of the request at this time.

Mr. Dan Barge, III stated that over the past four months, extensive meetings have been held with neighbors on numerous issues regarding the project. He gave an overview of the existing site conditions.

Mr. William Hastings gave an overview of the campus, proposed plan, and need for the variance request.

Mr. John Gore discussed each of the proposed water quality initiatives for the project.

Mr. Joe Hodgson discussed the proposed landscaping/mitigation plan.

Mr. Gordon Chenery discussed the educational aspects of the project and the opportunity to provide on-site learning for students by testing and measuring the effectiveness of the various water quality BMPs.

Mr. Barry Quinn gave an overview of the flood study and review status of the Conditional Letter of Map Revision (CLOMR) request. He discussed the two existing bridges (Wilson Blvd. and Harding Pike) and the proposed bridge crossing at Kingfisher Creek. Flood study results show zero impact (no-rise in flood heights). Metro Stormwater has completed its review and signed the community acknowledgement, and the report is now ready to submit to FEMA.

Recommendations for revisions to the Stormwater Management Plan (SWMP) were discussed, which included providing NPDES contact information with daytime and after-hours numbers, educating the public on the sensitivity of the stream, providing signage identifying the BMPs, and providing pet cleanup stations.

There was additional discussion regarding the CLOMR, approval by FEMA, and when a grading permit could be issued by Stormwater. A determination at the Staff level can be made as to whether a grading permit can be issued for non-CLOMR related work.

Based on the Plan of Record presented, Mr. Tom Allen moved, and Mr. Kevin Gangaware seconded the motion to approve, with conditions, Variance # 200900021. The motion was approved by Mr. Allen, Mr. Roy Dale, Mr. Dodd Galbreath, Mr. Gangaware, Mr. Tracey Kinslow, and Mr. Lance Wagner.

CONDITIONS OF APPROVAL:

1. Continuous mowing and maintenance of the buffer area shall be allowed as a condition of this variance.
2. The Appellant shall have the landscaper who does the plantings certify to NPDES, in writing (referencing Variance #200900021), once landscaping is installed per approved variance plans, and again once plantings have been found to meet the two-year survivability requirement.
3. The Appellant shall incorporate the following into the Stormwater Management Plan (SWMP) as discussed during the meeting: include NPDES contact information with daytime and after-hours numbers, provide signage identifying water quality BMPs to educate the public on sensitivity to the stream, and provide pet cleanup stations. Final review and approval of the SWMP by NPDES shall be required prior to issuance of the grading permit.
4. FEMA approval of the Conditional Letter of Map Revision (CLOMR) request shall be required prior to issuance of the grading permit.
5. A 5-year extension of the implementation period is also granted; therefore this variance will expire on December 3, 2014. However, if a grading 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 that the plan presented to the Stormwater Management Committee does not change.
6. If there are any material changes to Metro, State, or Federal regulations which occur within the 5-year period, applicable to the project, the Appellant shall additionally meet those requirements or return to the Committee.
7. The Appellant is reminded that no construction or disturbance should commence prior to obtaining any applicable Grading Permit from Metro Water Services and any or all applicable Building Permits from Metro Codes.

2. 200900027 – Floodway Buffer Disturbance

Hidden Creek Subdivision – Open Space
3001 Hidden Creek Drive
Map/Parcel No. 173160A00100CO

CD-28 (Sam Coleman)

APPLICANT REQUEST – Request is to allow disturbance of a 200' x 50' portion of the 50' floodway buffer of Mill Creek for recreational use of the subdivision's protected open space. Request includes continuous mowing and maintenance of buffer area, installation of benches, picnic tables, garbage receptacle & future date swing set.

APPELLANT: Hidden Creek Homeowners Association

REPRESENTATIVE: Ms. Joy Benson

COMMENTS:

SW STAFF (K. Moore-Hayes): Conducted site visit with applicant to verify that proposed disturbance is in the floodway buffer only. If approved, recommendation that proposed area be field staked for approval; also placement of "No Disturb" buffer signs along length/perimeter of buffer.

ADDITIONAL STAFF COMMENT (P. Kee): Shock absorbent surfacing material, mulch, sand, etc. would be required underneath the proposed swing set – if variance approved, amount for consideration/approval? Staff defers to the Committee on flood study requirements.

CODES: Defer to Stormwater Staff

PLANNING: Defer to Stormwater Staff

GREENWAYS:

November 30, 2009 - Defer to Stormwater Staff

May 12, 2009 - We support a variance for the mowing as described and reuse of the existing footbridge, including repairs necessary to meet ADA compliance (addition of railings and deck repairs/board replacements where needed).

COUNCILMAN (Sam Coleman) - Email received (11/25/09) stating that he is in support of the request.

Councilman Sam Coleman, District 28, spoke in support of the request.

Based on the Plan of Record presented, Mr. Dodd Galbreath moved, and Mr. Lance Wagner seconded the motion to approve, with conditions, Variance #200900027. The motion was approved by Mr. Tom Allen, Mr. Roy Dale, Mr. Galbreath, Mr. Kevin Gangaware, Mr. Tracey Kinslow, and Mr. Wagner.

CONDITIONS OF APPROVAL:

1. Continuous mowing and maintenance of the 200' x 50' buffer area shall be allowed as a condition of this variance.
2. A maximum placement of 5 cubic yards of uncompensated fill, outside of the floodway, shall be allowed in the play area.
3. The Appellant shall place No Disturb Buffer/educational signs along the perimeter of the area to be mowed and maintained. Proposed signage shall be reviewed and approved by Stormwater – Development Review office prior to placement.
4. Prior to disturbance, the Appellant shall field stake the area (to be mowed) and contact Stormwater – Development Review office for inspection and approval.
5. All non-natural additions to the site shall be secured according to Metro regulations. Any edging that could be floatable shall be anchored.
6. This variance will not expire. The variance is valid only so long that the plan presented to the Stormwater Management Committee does not change.

Mr. Kinslow left the meeting.

3. 200900028 – Stream, Floodway, and Floodway Buffer Disturbances

Piedmont Natural Gas

Various Parcels – Chandler Rd near the Davidson/Wilson Co. Line to the Intersection of Tulip Grove Rd/Raleigh Dr.

Map 76, Parcels 20, 41, 47, & 153

CD-12 (Jim Gotto)

Map 76-1, Parcel 138

APPLICANT REQUEST – Requests are to allow:

- 1) Disturbance of the floodway and 75' floodway buffer of Stoners Creek for installation of a gas line.
- 2) Disturbance of an unnamed tributary to Stoners Creek for a stream crossing/installation of a gas line.
- 3) Disturbance of Unnamed Tributary #3 to Scotts Creek, along with its floodway and 75' floodway buffer, for a stream crossing/installation of a gas line.
- 4) Disturbance of the 75' floodway buffer of Scotts Creek for installation of a gas line.
- 5) Continuous mowing and maintenance of the buffer area.

APPELLANT: Piedmont Natural Gas
REPRESENTATIVE: Mr. Clay Wallace

COMMENTS:

Project Review Status: Grading permit application has been submitted at this time and is under sufficiency review.

SW STAFF (J. Knauf): This project involves installation of an underground natural gas line. No other structures are proposed. The plans do not show any change to the existing ground elevation; therefore, this would have no impact to the floodplain and floodway and a flood study is not necessary.

NPDES: Given the planting and easement limitations of the site/project (as documented to staff via letter), the mitigation on this project will be in the form of revegetating the linear project footprint. Staff did/does encourage the use of native grasses vs traditional turfgrass as possible.

CODES: Defer to Stormwater Staff

PLANNING: Defer to Stormwater Staff

GREENWAYS: Stoner Creek and the adjacent railroad track are both identified as potential future greenway routes. As mitigation, the Greenways Division requests that the applicant grant a perpetual greenway easement at any location where the buffer disturbance occurs. The record should also reflect that the applicant has been informed and shall remain open to negotiations with the Greenways Division at the time any future development conflicts arise.

After discussion during the Executive Session of the Committee, review of the information presented, and relying on the accuracy of Mr. Clay Wallace's representation made on Piedmont's behalf that Piedmont Natural Gas has acquired all necessary legal property rights over each parcel in question, Mr. Lance Wagner moved, and Mr. Tom Allen seconded the motion to approve, with conditions, Variance #200900028. The motion was approved by Mr. Allen, Mr. Roy Dale, Mr. Dodd Galbreath, Mr. Kevin Gangaware, and Mr. Wagner.

CONDITIONS OF APPROVAL:

1. The Committee acknowledges that the Appellant is willing to work with Greenways on a greenway easement at said time in the future.
2. The Appellant shall use native grasses for re-vegetation.
3. Continuous mowing and maintenance of the buffer area shall be allowed as a condition of this variance.
4. This variance will expire on December 3, 2010. However, if a grading 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 that the plan presented to the Stormwater Management Committee does not change.
5. The Appellant is reminded that no construction or disturbance should commence prior to obtaining any applicable Grading Permit from Metro Water Services and any or all applicable Building Permits from Metro Codes.

III. APPROVAL OF NOVEMBER 5, 2009 MEETING MINUTES

Mr. Tom Allen moved, and Mr. Dodd Galbreath seconded the motion to approve the November 5, 2009 meeting minutes. Mr. Allen, Mr. Galbreath, and Mr. Lance Wagner voted in favor of the motion. Mr. Roy Dale and Mr. Kevin Gangaware abstained from the vote due to the fact that they were not members of the Committee at that time and did not attend the meeting. The motion was approved.

IV. APPROVAL OF NOVEMBER 5, 2009 DECISION LETTERS

Mr. Tom Allen moved, and Mr. Dodd Galbreath seconded the motion to approve the November 5, 2009 decision letters. Mr. Allen, Mr. Galbreath, and Mr. Lance Wagner voted in favor of the motion. Mr. Roy Dale and Mr. Kevin Gangaware abstained from the vote due to the fact that they were not members of the Committee at that time and did not attend the meeting. The motion was approved.

V. ITEMS OF BUSINESS

1. The Committee briefly discussed the submittal requirements for cases to appeal the Stormwater User Fee. Along with the two-page SWMC application, the applicant shall provide the justification for waiving the fee as required per the application. In addition to other Metro departments, Metro Legal shall also have the opportunity to review the application and provide staff comments.

2. There was discussion regarding Stormwater long-term maintenance with a final consensus to have the topic placed on the next agenda for discussion.

VI. ADJOURNMENT

Mr. Dodd Galbreath moved and Mr. Tom Allen seconded the motion to adjourn the meeting. Mr. Allen, Mr. Roy Dale, Mr. Galbreath, Mr. Kevin Gangaware, and Mr. Lance Wagner voted in favor of the motion. The motion was approved, and the meeting was adjourned at 10:44 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____