

**Revised
Minutes
of the
Stormwater Management Committee (SWMC)
July 10, 2014

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

STORMWATER MANAGEMENT COMMITTEE

(Quorum Required: Four Members)

Committee Members Present:

Ms. Elaine Bright – Vice Chairman
Mr. Roy Dale, P.E. – Chairman
Mr. Dodd Galbreath
Ms. Anna Maddox, P.E.
Mr. Slade Sevier, P.E.
Mr. Monte Turner
Mr. Lance Wagner, P.E.

Committee Members Absent:

None

I. CALL TO ORDER

The meeting was called to order at 8:11 a.m.

II. APPROVAL OF JUNE 5, 2014 MEETING MINUTES AND DECISION LETTER

Mr. Dodd Galbreath moved and Mr. Monte Turner seconded the motion to approve the June 5, 2014 meeting minutes and decision letter. Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Ms. Anna Maddox, Mr. Slade Sevier, Mr. Turner, and Mr. Lance Wagner approved the motion.

III. STORMWATER MANAGEMENT COMMITTEE AGENDA

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

1. 201400005 (Request for Rehearing)

Nashville Zoo – Visitor Entrance
3777 Nolensville Pike
APN: 13300000400
Inspector: Denice Johns

CD-26 (Chris Harmon)

APPLICANT'S REQUESTS – REQUEST FOR REHEARING: Previously granted Variance #201400005 on May 1, 2014 with one of the conditions that no portion of the building can touch the Zone 1 buffer. The Appellant is requesting a rehearing to allow a portion of the building to be constructed within the Zone 1 buffer as originally shown on the Plan of Record. Original variance requests were to allow the following:

- 1) Disturbance and encroachment of the 50' stream buffer of Cathy Jo Creek (30' Zone 1 & 20' Zone 2) for construction of a portion of a building and installation of erosion prevention and sediment control (EPSC) measures.
- 2) Continuous maintenance of the buffer.
- 3) Construction of a light maintenance vehicle crossing over the stream <1,000' from an existing stream crossing.
- 4) Elimination of the requirement for installation of stream buffer signs.
- 5) Installation of a water quality Best Management Practice (BMP) in the buffer.
- 6) Elimination of the Stormwater Quantity Detention requirement. The stormwater discharge for this project will flow to an existing lake on the property, and the parking lot expansion (constructed in 2008) reduced the post development peak flow an average of 7 cfs.

APPELLANT: Nashville Zoo

REPRESENTATIVE: Mr. Kevin Gangaware

Mr. Kevin Gangaware gave an overview of the request. He stated that the information from the variance was taken back to the Zoo and to the architect, and one of the Committee's charges was why could they not reconfigure or move the proposed gift shop building. The architect and design team did evaluate it, but due to restrictions all around them – existing exhibits, existing buildings, existing parking, and existing stream, the area is already much smaller than they wanted or needed it to be for the number of visitors they already have and for projected visitors in the next few years. In order to remove the few hundred square feet of building that was not allowed in the Zone 1, the building has to be re-designed. He thought he could just cut off the corner. Because of the site constraints, it is more difficult than he initially expected. The overwhelming reason he would like the Committee to reconsider is the amount of good that the Zoo is doing on a voluntary basis for the stream and the habitat. He stated that Mr. Michael Hunt had already mentioned some of the mitigation projects happening upstream with an expanded wetlands water quality pond treating almost 100 acres offsite - the Grassmere industrial office park area. The Zoo is doing that project on their property. The Zoo is voluntarily spending several hundred thousands of dollars to improve habitat for the water quality and many of the species. Pilot programs have been created for the hellbender and the Nashville crayfish. They would like to explain many of the things that they feel are important for the Committee to know in making its decision.

The hardship for the Zoo is that the stream is existing and was inherited with the property when it moved from Joelton. The stream (and being close to it) is probably one of many issues the Zoo will have again and again. They need to explain, to the Committee and to Staff, all the positive things that the Zoo is doing and in return, sometimes they will have some of these impacts; so how can they balance those.

After discussion and review of the information presented, Mr. Dodd Galbreath made a motion to approve the request for rehearing with two conditions: that the Appellant 1) provide more information about the hardship and 2) provide more information about the mitigating factors that were generally enumerated at the end of the discussion. Mr. Monte Turner seconded the motion. The motion was approved by Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Ms. Anna Maddox, Mr. Slade Sevier, Mr. Turner, and Mr. Lance Wagner.

IV. ITEM OF BUSINESS

Mr. Thomas Boyd (EDGE) gave information on the project and the Notice of Violation (NOV) issued May 9, 2014 to Fontanel Properties, LLC (property owner) for 4225 Whites Creek Pike (APN 04900014000). He stated that the disturbance activities that resulted in the violation were in no way related to the previously granted Variance #201300022. They have not filed a final site plan - the plan that is approved now is a preliminary SP (Specific Plan) so the final site plan still has to be taken to Planning. They have not filed for any building permits, and the design of the IHG Resort is still undergoing revisions. The site disturbance has no relation to the construction of the resort. It was a maintenance issue for access between parcels. He also stated that the timetable is changing - the greenway to be constructed is currently not in Metro Parks' budget. There will be coordination with Parks as to where the greenway and construction access road will be located.

Mr. Marc Oswald (co-owner of Fontanel) spoke regarding the site and the violation. He stated that Fontanel is purposefully, environmentally sensitive and thru the SP, has committed 75% of the property to open green space, has granted Metro easements for the greenway on the parcel subject to the NOV and on an adjacent parcel, and has done stream cleanups and tree plantings. He stated that the new head maintenance person wanted to create access between two of their parcels because they are storing material on the new property. He knew he couldn't cut down trees anywhere near a creek, but didn't know he couldn't cut down brush. Mr. Oswald saw it himself, knew it was an infraction, and told them to stop. Within a day, Stormwater staff was on the site and issued the NOV. He said he was told to not do anything further – they'll have a hearing and be told what to do. He stated that a temporary fence has been installed to prevent crossing and they're ready to remediate in whatever way possible.

There was further discussion regarding the disturbance, the flooding in the area that deposits rock and debris in the location of the disturbance, the need for further educating/training of Fontanel staff, and the existing Stormwater Management Plan and possible modifications needed, and concerns expressed by the Committee that it had made repeated requests that they be more careful because of past repeated mistakes and that there have been numerous miscommunications (by Fontanel) for which the Committee extended its trust and granted after-the-fact variances. Mr. Dodd Galbreath stated that the Committee felt that its leniency was either being abused or poorly integrated into Fontanel's into their management of future avoidance issues. Mr. Oswald agreed that it had been poorly integrated. Mr. Roy Dale stated that there needs to be something that Fontanel staff is educated with that clearly outlines the areas to be avoided. Mr. Oswald stated that he would like to develop a bullet-point rules document for maintenance and senior management to read and acknowledge training on it. Mr. Dale encouraged it. Mr. Galbreath stated that he was satisfied that the disturbance was not part of the original crossing point and was not flagrant & intentional.

Mr. Monte Turner asked the status of the grading permit, to which the representative stated that construction of the resort and construction road are on hold. Ms. Elaine Bright suggested buffer signage in the disturbance area.

Mr. Michael Hunt, Stormwater – NPDES, stated that the stream does show in Metro GIS as being a 100-acre drainage area which generally would be considered a stream. Fontanel needs to work through TDEC and Metro to modify that type of area. Mr. Boyd stated that when they file final site plans and coordinate with Parks on the location of the greenway and construction access road, they will obtain the necessary permits. Mr. Lance Wagner stated that it would be good when they resubmit plans in February to include a copy of what they hand out to employees. There was discussion regarding the NOV not being associated with the hotel and therefore needing to be resolved. Mr. Hunt stated that Fontanel will work with Stormwater staff and TDEC (if required) on a remedy.

V. STORMWATER MANAGEMENT COMMITTEE AGENDA (CONTINUED)

2. 201400009

Harpeth River Greenway Gravel Parking

0 Old Harding Pike

APN: 1560000300

Inspector: Phil Saad

CD-35 (Bo Mitchell)

APPLICANT'S REQUESTS – Variance requests are to allow the following for construction of a 60' x 200' gravel lot to service the existing Harpeth River Greenway:

- 1) Disturbance of the floodway and 75' floodway buffer.
- 2) Waiver of water quality and detention requirements.
- 3) Continuous mowing and maintenance of the buffer.
- 4) Allow previously planted trees to count as mitigation located in the Harpeth River floodway. New buffer trees were installed in mass groups at various locations along the greenway as part of the recently completed portion of the greenway in May 2014.

APPELLANT: Metro Parks Department

REPRESENTATIVE: Mr. Jason Deal

COMMENTS:

SW Staff:

Staff maintains that the proposed gravel parking lot is simply a component of a larger plan for permanent accommodations to provide additional greenway trailhead parking.

Staff requests clarification on what the easement entails, including safeguards that will ensure that the site plan of record and/or variance conditions (i.e. a permanent gravel parking lot) will it remain on the site long-term per the variance, if approved?

Staff recommends that water quality requirements be met. Suggested water quality treatment measures are gravel pave w/grid system (designed per the Pervious Pavement PTP) or a swale with full water quality treatment, or both features. Note: As required, the property owner is required to sign a long-term maintenance agreement.

Staff would caution the applicant that flooded BMPs often require extensive, ongoing maintenance and even in certain circumstances complete replacement.

The applicant requests the use of previously-installed screening landscaping as mitigation. If both gravel pave and the swale (full treatment) are done, staff would consider that additional mitigation.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater staff comments on this request.

Mr. Jason Deal gave an overview of the project and variance requests. He stated that Parks Dept. had gotten a greenway conservation easement for the greenway and later did an amendment to include the subject site for creation of a parking area. He addressed staff concerns by stating that it is a permanent easement and could only be revoked if both parties were to agree to extinguish the easement. With regard to water quality, based on FEMA flood profile maps and the 10-year storm the lot is five feet under water. Projected over a 25-year period and the numerous times the lot would be flooded, the possibility of having to maintain and replace any bioretention swale would be great and a burden. There is also no benefit for the property owner to sign a maintenance agreement. They propose to drain stormwater runoff to an existing grass swale. They also consider previous trees, planted as part of the construction of the greenway to capture golf balls, as a viable asset to use as mitigation for this project.

There was concern expressed about using existing trees (non-natives) as mitigation and the applicant addressing a more stable gravel parking lot. Mr. Dodd Galbreath stated that he would like the applicant to return with a better proposal - a better parking proposal that is more structurally stable with better mitigation approaches. His opinion is that the current proposal is inadequate for the variance they are requesting. Mr. Galbreath made a motion that the applicant return with a better mitigation proposal and more details concerning stable, gravel parking lot plans that would mitigate water quality concerns and show some offsetting benefit for improving the current water quality problems that already exist. Mr. Roy Dale seconded the motion. Mr. Galbreath stated that he would rather see native tree understory, upper story, riparian habitat established than bioretention. Ideally, when installing gravel parking in the floodway, some type of grade-level infrastructure like a gravel paving matting could be installed to keep gravel in place. Mr. Lance Wagner also stated that he wanted the water quality better defined – not so much an issue with detention. BMPs in the floodway are not always the best option (do get washed away), but he would like to see Parks do something more effective and permanent and address water quality better. Mr. Deal stated they could certainly do the cell system that they talked about. Mr. Galbreath asked could they propose that now, to which Mr. Deal stated yes. Mr. Galbreath stated that he didn't care about bioswales, but his main concern is stabilizing – gravel paving will work better than loose gravel. It was discussed if the option of paving the Greenway portion of the lot was available, but Mr. Mark Bradfield (Metro Parks) stated that they would have to verify whether or not it is. Staff was asked if paving the lot would be better. Mr. Michael Hunt (Stormwater – NPDES) stated that in some cases, paving is better than gravel. The applicant stated that there are limitations on money allocated for the project and the easement agreement with the landowner and golf course operator/management. The motion was approved by Ms. Elaine Bright, Mr. Dale, Mr. Galbreath, Ms. Anna Maddox, Mr. Slade Sevier, Mr. Monte Turner, and Mr. Lance Wagner.

3. 201400010

649 River View Drive (Single Family Residential)

APN: 10100002900

Inspector: Kimberly Hayes

CD-35 (Bo Mitchell)

APPLICANT'S REQUESTS – Variance requests are to allow the following for construction of a single family residence:

- 1) Disturbance and encroachment of the floodway and 75' floodway buffer (50' Zone 1 & 25' Zone 2).
- 2) Placement of 73 cubic yards of uncompensated fill (BFE = 406.8').
- 3) Placement of Stormwater Best Management Practices (BMPs) in the buffer.
- 4) Waiver of the requirement to install buffer signs.
- 5) Continuous mowing and maintenance of the buffer.

APPELLANT: Barge Cauthen & Associates/Cyril Stewart LLC

REPRESENTATIVE: Mr. Jeff Hooper and Mr. Cyril Stewart

COMMENTS:

SW Staff: The applicant has incorporated the majority of staff recommendations into the design; however, if the variance is approved:

- 1) The architectural plans show cantilevered portions of the building within the buffer, along with piers outside the building footprint. Staff recommends the final grading plan show all approved cantilevered portions of the building and proposed piers.
- 2) Staff recommends a recorded non-conversion agreement be provided by the property owner.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater staff comments on this request.

Ms. Anna Maddox recused herself from the case stating that she works for the civil engineer on the project.

Mr. Cyril Stewart (architect) and Mr. Jeff Hooper (civil engineer) gave an overview of the project. Mr. Dodd Galbreath asked if the property owner would be amenable to beefing up the buffer mitigation with additional tree plantings, to which Mr. Stewart stated that it is already very wooded and the proposed mitigation consists of two rain gardens. There was additional discussion regarding the building setback and rain gardens versus additional trees as mitigation. Mr. Galbreath stated that the current mitigation plan, given everything that has gone on in Nashville over the last few years, seems inadequate. Mr. Roy Dale asked Ms. Kimberly Hayes, Stormwater – Development Review (single family residential) if the water quality on the plan, outside of the discussion about floodway and floodway buffers, was adequate, to which she responded yes per Staff. Mr. Galbreath asked if adequate for the buffer disturbance; however, Mr. Dale stated he thought based on the requirements for the building and the paving if it was a lot outside of the floodway or outside of the floodplain. Mr. Hooper stated that the actual disturbance of the buffer was just a portion of the house and just that component should be evaluated for a quantitative amount of how much rain garden or trees you plant. He stated that they felt the two rain gardens were adequate. Ms. Hayes stated that Staff had met with the applicant twice and originally they had proposed to disturb several trees in the buffer. Based on the current plan, Staff felt the rain gardens were adequate.

Mr. Slade Sevier made a motion to approve the variance requests with the following Conditions #1-2 and standard Conditions #3-4. Mr. Dodd Galbreath seconded the motion. The motion was approved by Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Mr. Sevier, Mr. Monte Turner, and Mr. Lance Wagner.

1. The Appellant shall show all approved cantilevered portions of the building and proposed piers on the final grading plan.
2. The Property Owner shall provide a recorded non-conversion agreement.
3. This variance will expire on July 10, 2015. 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.
4. 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.

4. 201400011

MetroCenter Multi-Family Apartments
45 Vantage Way
APN: 08104022100
Inspector: Denice Johns

CD-02 (Frank Harrison)

APPLICANT'S REQUESTS – Variance request is to allow fill of wetlands and stream, including their respective 25' wetland and 30' Zone 1 stream buffers. Approximately 0.968 acres of wetland and 205 linear feet of stream will be permanently filled as part of this project to construct a multi-family apartment complex within Metro Center of Nashville.

APPELLANT: The Residential Group, LLC

REPRESENTATIVE: Ms. Jennifer Speich

COMMENTS:

SW Staff:

- 1) Staff recommends that the wetland, stream, and associated buffers be left intact. If the variance is approved, then equal to or greater offset mitigation should be provided.
- 2) Based on Staff's recent attempts to work with banking entities, Staff has found it difficult to identify acceptable/eligible projects within Metro that satisfy banking entity criteria.
- 3) Note: The applicant will meet all applicable floodplain elevation requirements (residential at least 4' above the BFE and non-residential at least 1' above the BFE).

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater staff comments on this request.

Mr. Lance Wagner recused himself from the case stating that Barge is a former employer of his.

Ms. Jennifer Speich introduced others associated with the project who were in attendance: Mr. Kurt Alexander (The Residential Group, Developer), Mr. Rhett Baggett (BWSC), Mr. Bill Lockwood (BWSC), Mr. Rusty (Earl) Dunn (Property Owner), Mr. Gilbert Smith, and Mr. Grant Browning.

Mr. Alexander gave an overview of the project. Ms. Speich gave an overview of the existing site conditions and restrictions: the wetlands, a stream, two gas lines, two force mains, a sanitary sewer line, and a large bluff. Mr. Baggett discussed his delineations, his work with the Corps of Engineers and TDEC, and the mitigation at a 2:1 ratio in the TN Stream Mitigation Program (TSMP) and the TN In-Lieu Fee Program for Wetlands. He provided handouts of current site photos, letters from Mr. Joey Woodard discussing completed local mitigation projects, and feedback from the Corps and the State, and discussed the advantages of larger-scale mitigation projects over smaller, local ones. He stated that in his opinion, the wetlands were not high quality or even moderate but currently a mowed field, and filling the wetlands would not jeopardize water quality. Only TDEC is requiring mitigation.

Mr. Michael Hunt stated that one thing they hear from different groups in the community is that they want to see mitigation done in Metro and concern about banking done outside of Metro. He stated that it has been extremely difficult to work with the TSMP to get mitigation projects set up and on the ground, typically big projects are desired with one or two property owners which is difficult in Metro or property is owned by government entities that cannot give the exact conservation language or assurances that they need. Concern was expressed that mitigation for this project should be done in Metro. There was additional discussion regarding the wetlands determination.

Councilman Frank Harrison, District 2, submitted a letter which was read into the record, stating his support for the project.

Mr. Roy Dale made a motion that the variance request be approved based upon the fact that the wetlands are the most important thing, they were not previously mapped, and the Appellant had done a good job delineating what Metro probably would not have recognized, to a certain extent, with the condition that they find an acceptable replacement for mitigation on a site in Davidson County and work with Staff in order to find a suitable location.

Ms. Elaine Bright seconded the motion. Prior to the vote, Mr. Hunt stated that the Appellant is working with TDEC and the Corps on their banking (Mr. Baggett stated that both are in-lieu fees.), so his question was did they envision any issues getting the state to sign off on what the Committee was proposing? Mr. Baggett stated no – the Corps is done, and TDEC does not anticipate any public comment. Ms. Rachelle Gallimore-Scruggs, Metro Legal, re-stated the question – a change in the mitigation would not impact the permit? Mr. Baggett stated that if something site-specific has to be done, it will impact it, and they could ask for it to go back on public notice.

The question was asked – how do you identify sites in Davidson County? Mr. Dunn commented that a letter from Mr. Joey Woodard (Director of the TSMP) states they have two large projects in Davidson Co. ready to be completed this next year with banking credits for sale.

Ms. Kee (Secretary) asked for clarification – they have their submitted mitigation; does the Committee want something additional? Mr. Dale stated that they need to replace the wetland in some other location in Davidson Co. The Appellant stated that 2:1 is currently proposed. Mr. Hunt said Staff would prefer that they work with the state and the Corps to determine a location in Davidson Co. Mr. Baggett asked if they could show that they have sites in Davidson Co. is that acceptable. Mr. Hunt stated that he has been told there are a lot of monies that were put into the fund from Davidson Co. to go back into the area, but they are having a difficult time finding projects. He was not aware of the two projects cited. Earmarking funds for Davidson Co. is no guarantee of how many years before the projects are completed. He stated that Staff has no control over the process. The Appellant stated that they would put the mitigation together and present it to Staff for their approval/signoff. Mr. Hunt stated that would be acceptable.

Mr. Steve Mishu asked the Committee if Staff would be waiting for approval of the mitigation before approval of the grading plan. There was discussion regarding the construction schedule, Stormwater permit signoffs (grading or use and occupancy), and the applicant provide Staff evidence that the in-lieu fees have been paid. Mr. Slade Sevier made a motion to amend to remove the condition, stating that it has been shown that the wetland and stream are questionable and in light of that it would be reasonable to consider no mitigation at all, and the property owner is willing to pay 2:1, which is acceptable and reasonable. Ms. Anna Maddox seconded the motion. Mr. Sevier, Ms. Maddox, and Mr. Monte Turner voted in favor of the motion to amend, and Ms. Bright, Mr. Dale, and Mr. Galbreath voted against. The motion to amend failed. Mr. Galbreath made a motion to amend that the condition be revised to state that the applicant find an acceptable replacement for mitigation on a site in Davidson Co. and provide Staff evidence of payment of the in-lieu fees, and that no approvals by Stormwater Staff be delayed by the schedule of mitigation executed by in-lieu fees or mitigation bank programs or any other mitigation proposal that Staff approves. Mr. Dale seconded the motion. The amendment was approved by Ms. Bright, Mr. Dale, Mr. Galbreath, Ms. Maddox, Mr. Sevier, and Mr. Turner. The main motion with amendment was approved by the same.

In summary, the variance was approved with the following Condition #1 and standard Conditions #2-3:

1. The Appellant shall find an acceptable replacement for mitigation on a site in Davidson Co. and provide Staff evidence of payment of the in-lieu fees. No approvals by Stormwater Staff shall be delayed by the schedule of mitigation executed by in-lieu fees or mitigation bank programs or any other mitigation proposal that Staff approves.
2. This variance will expire on July 10, 2015. 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.
3. 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.

5. 201400012

Capitol View (Preliminary SWM Plan)

11 Parcels bounded by Charlotte Ave., Nelson Merry St., Jo Johnston Ave., and 10th Ave. North
Map 92-4, Parcel 390, Map 93-1, Parcels 33-34, 46, 72, 91-92, and Map 93-5, Parcels 198- 201

Inspector: Denice Johns

CD-19 (Erica Gilmore)

APPLICANT'S REQUESTS – Preliminary Stormwater Management (SWM) Plan approval is requested. The preliminary plan includes a variance request to allow placement of approximately 16,000 cubic yards of uncompensated fill in the Cumberland River floodplain (BFE = 416.0') to construct a residential/retail/office development.

APPELLANT: Barge, Waggoner, Sumner & Cannon, Inc.

REPRESENTATIVE: Ms. Jennifer Speich (originally represented by Mr. Jay Fulmer)

COMMENTS:

SW Staff:

- 1) The proposed public “festival” street with pervious pavers, green roof, and dedication of one acre for an urban park (all discussed during the pre-application meeting) are positive features for improved water quality and green space.
- 2) As long as the computed rise is within the tolerance of the modeling, staff has no additional comments.

*Note: Mr. Fulmer did send the Secretary a response to SW Staff comments stating that there was no mention of a green roof, and one of the staff actually discouraged pervious pavers in this application. He further stated that Public Works won't allow them.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

Mr. Lance Wagner recused himself from the case stating that Barge is a former employer of his.

Mr. Matthew Wiltshire, Director, Mayor's Office of Economic & Community Development, submitted a letter which was read into the record, stating his support for the project.

Council Lady Erica Gilmore, District 19, was in attendance and stated that it is a wonderful project for the area. She had also submitted a letter which was entered into the record.

Along with Ms. Jennifer Speich, Mr. Jeff Haynes (Developer), Mr. Jay Fulmer (BWSC), Mr. Bill Lockwood (BWSC), and Mr. Carl Chambers (AECOM) were also in attendance. Mr. Haynes gave an overview of the project. Ms. Jennifer Speich gave an overview of the site (bisected by the Kerrigan sewer) and the variance request.

After discussion and review of the information presented, Mr. Roy Dale made a motion to approve the preliminary stormwater management (SWM) plan as presented. Mr. Monte Turner seconded the motion. The motion was approved by Ms. Elaine Bright, Mr. Dale, Mr. Dodd Galbreath, Ms. Anna Maddox, Mr. Slade Sevier, and Mr. Turner.

6. 201400014

Nashville Ballpark Development

17 Parcels bounded by Jackson St., 4th Ave. North, Jefferson St., and 5th Ave. North
Map 82-13, Parcels 266, 269, 273-281, 283-285, 288-289, and 367

Inspector: Denice Johns

CD-19 (Erica Gilmore)

APPLICANT'S REQUESTS – Variance request is to allow placement of 1,100 cubic yards of uncompensated fill in the Cumberland River 100-year floodplain (BFE = 415.9') for construction of a ballpark development.

APPELLANT: Barge Cauthen & Associates

REPRESENTATIVE: Mr. John Gore

COMMENTS:

SW Staff: If the variance is approved, Staff recommends that the applicant continue to pursue a suitable site for compensating cut.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

Ms. Anna Maddox recused herself from the case stating that she works for the civil engineer on the project.

Council Lady Erica Gilmore, District 19, thanked the Committee for all of their hard work and stated that this is a wonderful project.

Mr. John Gore gave an overview of the project and variance request. Ms. Michelle Barbero (Gobell Hayes Partners) was also in attendance. Mr. Gore stated that except for the pocket of floodplain identified, the rest of the site is out of the floodplain. There is no other area onsite to cut. There was additional discussion of staff wanting the appellant, if the variance gets approved, to continue working with General Services to try to find a suitable alternate site for compensating cut. Mr. Monte Turner made a motion to approve the variance request with the following standard Condition #1. Mr. Dodd Galbreath seconded the motion. The motion was approved by Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Mr. Slade Sevier, Mr. Turner, and Mr. Lance Wagner.

1. This variance will expire on July 10, 2015. 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.

7. 201400015

Church Street Townhomes (Preliminary SWM Plan)

12 Parcels bounded by Church St. East, Cloverland Dr., & Valley View Rd.

Map 171, Parcels 41-42, 71-72, 100, 105, and 114 and Map 171-02, Parcels 2, 3, 4, 5, and 6

Inspector: Denice Johns

CD-04 (Brady Banks)

APPLICANT'S REQUESTS – Preliminary Stormwater Management (SWM) Plan approval is requested. The preliminary plan includes variance requests to allow the following:

For Map 171-02, Parcels 5-6 and Map 171, Parcels 41-42, and 114: 1) Disturbance and encroachment of the 75' floodway buffer (50' Zone 1 & 25' Zone 2) of Sevenmile Creek for construction of residential structures, roadway, and associated grading, 2) Roadway crossing > 15 degrees from perpendicular (Parcel 5 only), 3) Uncompensated fill in the floodplain (Parcels 5, 6, & 42 - 473.9 cubic yards across the entire development), 4) Continuous mowing and maintenance of the buffer (Parcels 5, 6, & 42), and 5) Placement of Stormwater BMP in the floodway (Parcel 5).

For Map 171, Parcel 105: 1) Disturbance and encroachment of the floodway buffer, 2) Uncompensated fill in the floodplain (473.9 cubic yards across the entire development), and 3) Continuous mowing and maintenance of the buffer.

For Map 171, Parcel 71: No variance requests for this parcel.

For Map 171-02, Parcels 2-4: 1) Disturbance and encroachment of the floodway buffer, 2) Roadway crossing > 15 degrees from perpendicular (Parcel 4 only), 3) Uncompensated fill in the floodplain (Parcels 3-4 - 473.9 cubic yards across the entire development), 4) Continuous mowing and maintenance of the buffer (Parcels 2-3), and 5) Placement of Stormwater BMP in the floodway (Parcel 4).

For Map 171, Parcel 100: 1) Disturbance and encroachment of the floodway buffer, and 2) Continuous mowing and maintenance of the buffer.

For Map 171, Parcel 72: 1) Disturbance and encroachment of the floodway buffer, and 2) Continuous mowing and maintenance of the buffer.

APPELLANT: Littlejohn

REPRESENTATIVES: Mr. Andrew Wolthers and Mr. Tom White

COMMENTS:

SW Staff:

- 1) Staff does not support in-line detention and has concerns that significant, large-scale BMP maintenance issues could occur in the future, based on other in-line detention cases.
- 2) Staff recommends that the buffers be maintained and that water quality treatment be done outside of the channel.
- 3) Staff questions the inability to provide an alternative site plan based on the applicant's statement of significant loss of density and site functionality with all alternative site configurations to the point of the site being unsuitable for development.
- 4) There is a lack of adequate mitigation.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater staff comments on this request.

Mr. Roy Dale recused himself from the case stating that he had been involved with the site in the past.

Mr. Tom White, attorney representing the applicant, and Mr. Chris Fleming (BDY Environmental) were present. Mr. White stated that the first four items for variance considerations (Section F1.1.2 of the SWMM) were not issues, and their opinion is that the floodway should not be on the properties and the watercourse is a wet weather conveyance per the State. He stated that their request is two-fold: 1) The floodway can stay in place; however, allow a buffer encroachment to allow the site to be built out, and 2) allow the in-line detention. He stated that it was not an appropriate floodway designation, and commented that he felt this was a regulatory taking. The issue should be resolved with the Committee and not in the form of an issue about a regulatory taking.

Mr. Andrew Wolthers gave an overview of the project and the variance requests. He stated that the channel is not a stream as defined by TDEC or Metro but a wet weather conveyance. Mr. Fleming discussed their assessment of the drainage channel and whether or not there is Nashville crayfish habitat. There were no crayfish found. The State concurred that it is a wet weather conveyance; however, there is FEMA-mapped floodway and floodplain. He discussed both designations, the buffer requirement for FEMA-mapped streams, the lack of property damage during the May 2010 flood, and the stream topography. He summarized their variance requests as: 1) to allow the channel buffer to go to 30' from top of bank and 2) to allow placement of a wet pond system for a water quality feature at the outflow. He stated that an alternative plan was not prepared because it would be radically different from the Plan of Record; however, an alternative would be three separate pond systems with higher maintenance requirements than a wet pond. He presented a plan, with a pond system and the channel shown as a wet weather conveyance (with no 30' buffer), to the Committee for discussion. There was additional discussion on whether the applicant could return with a revised plan incorporating some of the alternatives discussed. Mr. Tom Palko (Assistant Director – Stormwater Division) briefly discussed the FEMA modeling (previous local study and current 2013 preliminary study). There was discussion regarding the applicant's opportunity during the normal 90-day appeal period for the preliminary maps to make their case for new study limits and whether or not there is floodway and floodplain. He encouraged them to do so but the process could take up to a year. There was more discussion on the FEMA mapping process.

An email from Mr. William Hansard (5655 Valley View Road), stating opposition to the development and variance requests, was read into the record.

There was further discussion regarding Staff's comment of not supporting in-line detention. Mr. Michael Hunt (Stormwater – NPDES) stated that generally what they see is a deposition of sediment over time. It becomes a maintenance issue and contributes to degraded water quality and a risk to the entity and to the future HOA. There was discussion regarding the use of different water quality measures and maintenance issues. Mr. Dodd Galbreath made a motion to defer. There was additional discussion regarding the variance requests and Plan of Record. Ms. Rachele Gallimore-Scruggs clarified that the Committee does not have the authority to re-designate what is or is not the floodway and any decision made has to be on acceptance of that designation.

Mr. Charles Blackwood, 5650 Cloverland Drive, spoke against the development and variance requests.

Mr. Wolthers addressed items in Mr. Hansard's letter:

- a. The Appellant is attempting to meet the directives of Planning regarding development density and what is in the community plan for the density for this type of property - build a bridge between multi-family and single family.
- b. Flood study – that is acknowledged and came from the preliminary meeting w/SW staff. The limit of the study is probably what is in dispute.
- c. Flooding limits – the only registered complaint on the whole basin during the 2010 event probably related to a crossing point being undersized. The nearest property that experienced flooding is way downstream of this site.
- d. Flooding concerns for the proposed project: they would be looking at the floodplain limits and set finished floor elevations above those limits.
- e. Downstream neighbors – they would not want to propose anything on a final plan that would cause any flooding. They are asking for a two-part approval: 1) assign a new buffer that's more consistent with what's out there and 2) allow the applicant to return with a final development plan with the mitigation in place and final calculations showing post-development outflow conditions.

Ms. Kee (Secretary) asked for clarification on the requests that Mr. Wolthers stated – if it was for the floodway plus 30' or a stream buffer 30' from top of bank. Mr. Wolthers stated that it would be consistent with a wet weather conveyance buffer, 30' from top of bank. Mr. Galbreath stated his reasoning for proposing a deferral: 1) there is a better due process way of handling this, 2) it came late, 3) there are community concerns, 4) there are other ways it could be developed profitably with better design. Mr. Galbreath moved for deferral for the applicant to return with a better proposal. Mr. Lance Wagner seconded the motion. Mr. Wagner restated that the floodplain (floodway) cannot be removed, and the project could be re-designed to get more houses out of the buffer. He would like them to work with Staff on ways to remove the floodway, as drawn, either by working with FEMA or doing a new flood study. There was additional discussion regarding the Plan of Record and the requests presented. Mr. Galbreath voted in favor of the motion. Ms. Elaine Bright, Ms. Anna Maddox, Mr. Slade Sevier, Mr. Monte Turner, and Mr. Wagner voted against. The motion failed.

Mr. Sevier made a motion to approve the first variance request (disturbance of the floodway buffer) conditioned upon no disturbance or improvements within 30' from top of bank or floodway, and to deny all other variance requests (in-line detention/wet pond BMP in the buffer, roadway crossings >15 degrees perpendicular, uncompensated fill, and continuous mowing and maintenance of the buffer). Mr. Turner seconded the motion. Mr. Sevier provided clarification stating that the Appellant can encroach within the buffer provided the Appellant does not encroach within 30' of top of bank or the floodway, whichever is greater. Ms. Bright, Ms. Maddox, Mr. Sevier, and Mr. Turner voted in favor of the motion. Mr. Dodd Galbreath and Mr. Lance Wagner voted against the motion.

Mr. Dodd Galbreath left the meeting.

VI. OTHER ITEMS OF BUSINESS

1. Ms. Elaine Bright and other members stated that they would like to have someone from the TN Stream Mitigation Program attend a meeting and discuss how the program works. They also want to discuss if there are other potential avenues for mitigation.
2. Mr. Sevier stated that he also wants to discuss the wording of the approval letters and conditions.

V. ADJOURNMENT

The meeting was adjourned at 12:36 p.m.

Stormwater Management Committee
July 10, 2014
Page 12

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____

Attachments:

- 1) Letter – Councilman Frank Harrison, District 2
- 2) Letter – Mr. Matthew Wiltshire, Director, Mayor’s Office of Economic & Community Development
- 3) Letter – Council Lady Erica Gilmore, District 19
- 4) Email – Mr. William Hansard

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



One Public Square, Suite 204
P.O. Box 196300
Nashville, Tennessee 37219

Home: (615) 228-7693
Office: (615) 291-6702
Email: frank.harrison@nashville.gov

FRANK HARRISON
Councilman, District 2

July 7, 2014

Ms. Paula Kee
Metro Water Services – Stormwater Division
Metro Office Building
800 Second Avenue South
Nashville, TN 37219-6300

Dear Ms. Kee:

I take this opportunity to express my support of the MetroCenter Apartment Project on Vantage Way being constructed by the Residential Group LLC from Atlanta, Georgia.

This is a very important project and will bring much needed new development into the MetroCenter area of District 2. The design of these apartments will fit well with the surrounding office buildings in this beautiful area, and will help continue the revitalization of this well-established office park. The proximity to the downtown area will provide an affordable option for persons working not only within MetroCenter but throughout the Central Business District. I believe the apartment development is a positive step in creating a sustainable live-work environment in MetroCenter and the surrounding community.

As the Metro Councilman for District 2, I am strongly committed to the provision of affordable housing, programs and services that will enhance the lives of residents whom I have the privilege of representing. I am hopeful that this project based on its present design will receive positive consideration. I am confident the Residential Group LLC is willing to work with the Metropolitan Government however they can.

Sincerely,

A handwritten signature in cursive script that reads "Frank Harrison".

Frank Harrison
Councilman, District 2

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

KARL F. DEAN
MAYOR



MAYOR'S OFFICE OF ECONOMIC
AND COMMUNITY DEVELOPMENT
METROPOLITAN COURTHOUSE, SUITE 102
NASHVILLE, TENNESSEE 37201
PHONE: (615) 862-4700

July 1, 2014

Stormwater Board
ATTN: Paula Kee
Metro Water Services
800 Second Avenue South
Nashville, Tennessee 37210

**RE: CAPITOL VIEW (MULTIPLE PARCELS BOUNDED BY CHARLOTTE AVENUE,
NELSON MERRY STREET, JO JOHNSTON AVENUE, AND 10TH AVENUE NORTH)
STORMWATER APPEAL
#201400012
19 COUNCIL DISTRICT**

Stormwater Board:

It is the intent of this letter to inform the Stormwater Variance Committee of my support for the subject variance. This development should be a great project for the future of Nashville and the redevelopment of a blighted area.

I stand behind the Stormwater staff's technical review and provide my overwhelming support for this variance to allow this development to proceed.

Sincerely,

A handwritten signature in blue ink that reads "Matthew A. Wiltshire".

Matthew A. Wiltshire
Director
Mayor's Office of Economic
and Community Development

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



One Public Square, Suite 204
P.O. Box 196300
Nashville, Tennessee 37219
Office: 615 291-6719

1022 10th Avenue, North
Nashville, Tennessee 37208
Home: 615 248-8852
Email: erica.gilmore@nashville.gov

ERICA GILMORE
Council Lady, District 19

July 7, 2014

Stormwater Board
ATTN: Paula Kee
Metro Water Services
800 Second Avenue South
Nashville, Tennessee 37210

**RE: CAPITOL VIEW (MULTIPLE PARCELS BOUNDED BY CHARLOTTE AVENUE,
NELSON MERRY STREET, JO JOHNSTON AVENUE, AND 10TH AVENUE NORTH)
STORMWATER APPEAL
#201400012
19 COUNCIL DISTRICT**

Stormwater Board:

It is the intent of this letter to inform the Stormwater Variance Committee of my support for the subject variance. This development should be a great project for the future of Nashville and this blighted area in the 19th Council District.

I stand behind the Stormwater staff's technical review and provide my overwhelming support for this variance to allow this development to proceed.

Thank you.

A handwritten signature in black ink, appearing to read "Erica Gilmore".

Erica S. Gilmore
Council Lady, District 19

Kee, Paula (WS)

From: William Hansard <hansard@comcast.net>
Sent: Wednesday, July 09, 2014 4:46 PM
To: Kee, Paula (WS)
Cc: Mr. Bobby Bowling; Vanda Hansard; Blackwood, Friday (MNPD - Retiree); Kenneth and Donna Ford; Bobby Sluss; Mark Cohen; Ed Warner; Chad and Laura Beth High; Chad High; Franca and Bill Farrar; Al and Laura Watts; Joel Estis; Brenda Martin and Paul Reifer; Charles and Shirley Shrader; Charles and Becky Wallace; Charles Fentress; Peter Preisler; Ed Streams; Michael O'Brien; Steve Diggs; Deborah Wells; John Sherlock
Subject: SWMC Meeting for July 10 — Item #201400015 Church Street Townhouses
Attachments: 201400015_app.pdf; 201400015_plans.pdf; Agenda_071014.pdf; Detailed List_071014.pdf

Dear Paula,

I cannot attend the SWMC meeting tomorrow but please accept this email as my input. Please read/record this correspondence into the public record.

I live at 5655 Valley View Road and the proposed Church Street Townhouse project by Land's End abuts the rear of my house and property. I am familiar with the Littlejohn Engineering proposal for the property and ask that the SWMC deny Land's End's requests for variances from municipal swormwater policies.

The Littlejohn Church Street Townhomes Preliminary Stormwater Management Site Plan and the 51 page Application to Appear before the SWMC, submitted by Littlejohn on this project; and the letter to the SWMC from Littlejohn dated June 4, 2014 (see attachments), form the basis of the concerns presented below.

1. The developer's engineer has submitted a Buffer Variance Request to 1) encroach into the floodway zone and 2) to construct a BMP (wet pond). Littlejohn offered a Statement of Hardship (pg 1 of Littlejohn letter of 6.4.14) to justify the variance, as follows: *"Construction of the proposed site would not be possible without buffer encroachment due to the density required to make development feasible."*

The basis for the variance request is untrue and is based on circular reasoning. The density currently being proposed by this developer relates to his profits, not the economic feasibility of developing the property. The property is currently zoned RL40 (one single family dwelling per 40,000 sq ft). The developer initially proposed 300 units to include apartments, townhouses and commercial development. In a residential neighborhood. Community resistance forced the developer to reduce the density to 119 townhouses (the current plan). Community resistance to this proposal is very strong. The developer would have to rezone the property to achieve the density it wants. Stormwater buffer encroachment is not something the SWMC should justify based on a developer's profit margin or it's false claims the property density is essential to its development.

The Annandale development directly across Church Street has a density of 1 or 2 houses per acre and it sold out quickly. Annandale is currently selling Phase II lots very rapidly. There is a high demand for RL40 property right across the street from the proposed Church Street Townhouse project. I request that the Committee deny the buffer zone encroachment because the reason offered, *"...the density required to make development feasible."*, is not true and should not be a consideration for a technical stormwater variance anyway.

2. Littlejohn proposes to install a "wet pond" right behind my back yard. During the 2010 floods, I walked over the Church Street property, including the area directly behind my house. Much of it was underwater. My garden in my back yard was under water, which was hard to believe because it is right next to the Bowling waterfall. Metro Nashville has done a good job delineating the floodline for the creek that Land's End wants to develop, but not the extent of flooding on the property itself. Church Street flooded during this event. The *street* was under water. And Church street is upgradient of the project area.

The proposed "wet pond" will do nothing to mitigate flooding during a 100 yr storm, or probably even a 10 yr storm.

3. Littlejohn states in its letter that no alternative site plan is possible: *Alternative Site Plan: "An alternative site plan to avoid floodway buffer encroachment & construction of a wet pond in the floodway is not possible. All alternative site configurations considered resulted in a significant loss of density and of site functionality, to the point of the site being deemed unsuitable for development."*

Littlejohn should consider alternative site configurations and less density. The property is zoned RL40. Such development would likely not require the encroachment and variances the developer is seeking.

My interpretation of the engineer's comments is that SWMC stormwater policies and regulations *preclude* development of the site at it's planned density of 7 units/acre.

4.

Littlejohn offers a *Statement of Proposed Mitigation*: *"The proposed wet pond will alleviate flood impacts on downstream properties and provide habitat for local species. Additional water quality improvement measures may be installed along the edge of the existing channel upstream of the proposed wet pond based on final grading & drainage considerations."*

The proposed "wet pond" will do nothing to mitigate flooding during a 100 yr storm, or probably even a 10 yr storm.

I am certain Littlejohn understands that the endangered Nashville Crayfish lives in the watershed (and possibly on the property) and that the Department of the Interior has a recovery plan for the endangered species. I do not see how this development can do anything other than aggravate the survival prospects for the Nashville Crayfish.

Littlejohn states on page 2 of its letter, *"... we understand that a new flood study will be required to demonstrate the impact of these proposed activities."*

How can Littlejohn propose a mitigation measure without first having the "new flood study" data? I believe a new flood study, especially in light of what we learned from the 2010 floods, will materially alter current understanding of the extent and intensity of flooding in this area.

To summarize:

- Littlejohn is requesting variances to encroach into a floodway zone buffer and to alter the floodplain on the basis of the proposed density of development (the developer's profit potential). I respectfully request that you deny the encroachment request, as it is based on a false premise. The property is zoned RL40 and should be properly developed as such. It is unlikely, due to community disapproval, that the developer will be able to force a rezoning of the property.

- Littlejohn admits that a new flood study is needed in order to understand the flooding dynamics of the property. I request that you inform Littlejohn that the SWMC will consider variance requests once the new flood study is completed and not until then.
- Littlejohn's proposal shows townhouses located in areas that flooded during the 2010 storm event. This should never be permitted.
- There is a very large impervious area and about 80 acres across Church Street that drains into the stream. Future development of this 80 acres should be factored into this plan. Likely, future development will convey tremendous stormwater volumes into this floodway/floodplain.
- I believe that a number of the townhouses Littlejohn shows in their preliminary stormwater management site plan would be flooded in another 2010 event, and that there would be flooding of some townhouses in lesser storms. It is hard to imagine the volume of water that comes down that creek during heavy rainfall. You cannot cross it in a car. The car would be swept away. This stormwater channel would represent a very real safety hazard to children living in the townhouse development planned by Land's End, and represents significant liability to everyone involved in this development.

Ms. Kee and SWMC members, this preliminary stormwater application is premature and **I respectfully request that you deny the variances** until the development is more properly defined and the unanswered stormwater runoff and flooding questions are answered. A new flood study would seem to be a minimum requirement for going forward with this proposed project.

I appreciate you and the SWMC taking the time to consider my comments.

Respectfully submitted,

Will

William Hansard
5655 Valley View Road
Brentwood, TN 37027
615.370.0907 • cell 330.4545
hansard@comcast.net