

JOHN COOPER
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF WATER AND SEWERAGE SERVICES

Development Services
800 Second Avenue South
P.O. Box 196300
Nashville, Tennessee 37219-6300

**Minutes
of the
Stormwater Management Committee (SWMC)
September 3, 2020

8:15 AM**

Meeting took place via Teleconference and aired live on Comcast Channel 3. A livestream of the meeting was simulcast on Nashville.gov with a remote station set up at the Sonny West Conference Center (700 2nd Avenue South) for anyone who was unable to submit their comments electronically and wished to make comments in that manner. Social distance recommendations were implemented at the remote station.

STORMWATER MANAGEMENT COMMITTEE

(Quorum Required: Four Members)

Committee Members Present:

Mr. Dodd Galbreath –Chair
Ms. Anna Maddox, P. E. – Vice Chair
Mr. Roy Dale, P. E.
Ms. Ronette Adams-Taylor
Ms. Carrie Stokes, P. E.

Committee Members Absent:

I. CALL TO ORDER

Mr. Dodd Galbreath, (Chair) called meeting to order at 8:15 a.m. with roll call of committee members. Mr. Galbreath and Ms. Theresa Costonis (Metro Legal) stated that the first order of business would be a motion to determine that due to Governor Lee’s Executive Order No. 16, being extended by Executive Orders Nos. 34 and 51 that the meeting agenda constitutes essential business of this Board and meeting electronically is necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak. Ms. Anna Maddox moved for approval. Ms. Ronette Adams-Taylor seconded and the Board approved without objection.



If you need assistance or an accommodation, please contact Metro Water Services,
at 615-862-4862, 1600 Second Avenue North, Nashville, Tennessee 37208.

II. APPROVAL OF AUGUST 6, 2020 MEETING MINUTES & DECISION LETTERS

A motion was made by Ms. Anna Maddox and seconded by Mr. Roy Dale on approval of August 6, 2020 decision letters & minutes with the correction to page 2, third paragraph of the minutes removing the sentence that states, “The committee members are amending the motion that was adopted.” Mr. Dale, Mr. Dodd Galbreath, Ms. Maddox, and Ms. Adams-Taylor voted in favor of the motion. The motion carried.

Ms. Carrie Stokes abstained from voting on the minutes and decision letters.

IV. STORMWATER MANAGEMENT COMMITTEE AGENDA

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

1. 202000001 River North – Phase 1

520 Cowan Street

Inspector: (Denice Johns)

APN 082060A00200CO & 08210000500

CD-05 (Sean Parker)

APPLICANT'S REQUESTS – Previously granted Variance #202000001 on May 7, 2020 with the request for: Temporary uncompensated fill in the floodplain until such time that each lot becomes developed within seven-year period. (Postpone the compensating cut that is required to offset the fill). The Stormwater Management Committee Members request a rehearing to revisit prior motion approving variance.

APPELLANT: Monroe Infrastructure, LLC

REPRESENTATIVE: Civil Site Design Group, PLLC (Kevin Gangaware)

COMMENTS:

SW STAFF: No additional comments

CODES: No additional comments

PLANNING: No additional comments

GREENWAYS: No additional comments

Ms. Theresa Costonis (Metro Legal) spoke to the committee members on drafting of the amendment to decision letter that was approved May 7, 2020 as per her understanding after speaking with members of the stormwater staff. Ms. Costonis stated, “The one additional condition that the real covenants to be recorded against the various parcels included in the development will be subject to the approval of staff.”

A copy of the amended letter was sent both to the committee members and to the appellant’s legal for review. This amendment is the committee members amending their prior adopted motion. An email was sent from Councilmember Sean Parker (Council District 5) which detailed a different list of conditions. Councilmember Parker asked the committees for a deferral of the amendment to the River North decision letter until the conditions are agreed upon by all parties.

Mr. Kevin Gangaware (Civil Site Design Group) and Ms. Erica Garrison (Legal Counsel) spoke on behalf of the request at the location of 520 Cowan Street and the amendment to the decision letter. Mr. Gangaware stated that after review of the conditions that were stated in the decision letter on May 7, 2020, there is a list of the conditions his client would like to see placed on the variance-similar to what was proposed but with a few modifications.

Mr. Gangaware stated that the stabilization study was referenced in the Stormwater Management Meeting, but it was clearly indicated that this work could not be done at this time since the cost to complete that work was not included in the Phase 1 funds for road construction. Metro is aware that the linear park and bank stabilization will be provided in a separate project when funds become available. Consequently, the language was deleted and modified in the list of conditions sent to metro staff and committee members. Also, the variance did not propose mitigation planting so Condition 1 of the conditions was deleted.

Mr. Gangaware and his client are requesting these conditions be used and if not possible requested the Committee to consider a deferral to give time to agree upon the exact language, however he felt this was a fair representation of the factors and motion that was made.

After discussion during the Executive Session of the Committee on September 3, 2020 and review of the information presented Mr. Roy Dale made a motion to defer and was seconded by Ms. Carrie Stokes. Ms. Ronette Adams-Taylor, Ms. Stokes, Ms. Anna Maddox, Mr. Dale, and Mr. Dodd Galbreath voted in favor of the motion. The motion carried.

NOW THEREFORE, it is the decision of the Committee that the request in Variance Request No. 202000011 as set out above and further described in the case record, be and is hereby **DEFERRED.**"

2. 202000011 6970 Nolensville Pike
6970 Nolensville Pike
Inspector: (Shawn Herman)

APN 18600001300
CD-31 (John Rutherford)

APPLICANT'S REQUEST: Is to allow the following:

1. Stream Alteration and Realignment
2. Zone 1 Buffer Disturbance
3. Zone 1 Buffer Reduction

APPELLANT: SE Nashville Burkitt, LLC

REPRESENTATIVE: Anthony Grow (Grow Environmental Solutions)

COMMENTS:

SW STAFF:

- 1) Pre-application meeting occurred June 29, 2020, in which Metro Water staff consistently suggested that a stream relocation would not be supported.

2) The existing Zone 1 “No Disturb” buffer is approximately 20,000 square feet. The applicant is proposing 21,300 square feet of Zone 1 “No Disturb” buffer. However, approximately 9,000 square feet is outside of the 30’ Zone 1 Perimeter and therefore appears to be incorrectly included within the proposed Zone 1 buffer.

3) The applicant is suggesting that the stream relocation is due to the required Metro Public Works roadway improvements. However, Metro Water staff does not agree with this claim. The proposed roadway improvements can be made without a stream relocation / buffer disturbance variance. It appears that the stream relocation / buffer disturbance variance is being requested due to the size of the proposed development.

CODES: No comment provided.

PLANNING: Approved

GREENWAYS: No comment provided.

Mr. Anthony Grow (Grow Environmental Solutions), Joe Johnston (Gresham Smith), and Craig Cole (GBT Reality) spoke on behalf of the request at the location of 6970 Nolensville Pike. Mr. Cole stated that, the small size and unique trapezoidal shape of the property, being located between and constricted by three adjacent public right-of-ways, and also bisected by an intermittent, low-quality stream (conveyance), presents an undue hardship in developing the site.

Mr. Cole stated that during the pre-application meeting with Metro Water Staff, he thought the stream relocation would be supported with certain conditions per example of using an open bottom culvert.

Mr. Cole also stated, that the stream is intermittent (dry most of the time) and of low quality. The existing stream buffer consists mostly of invasive plant species and is highly impacted by its location adjacent to Burkitt Road. The site is adjacent to a major intersection (Burkitt Road and Nolensville Road) and is constricted by Old Burkitt Road to the north and northwest. Impact to the existing stream is unavoidable due to the small size of the site and road constrictions. The variance approval will re-locate the stream and improve its functionality to add value to the area.

Emails were read into record by Mr. Logan Bowman (Metro Water Staff) from members of the community, Mill Creek Watershed Association (MCWA) and Councilmember John Rutherford (District 31). The emails were requesting a deferral of case # 202000011 and their opposition. Community members stated, that while they are awaiting additional analysis by community volunteers that are more expert in these matters, it does appear that meetings of the applicant, MWS staff, elected officials, community groups, and citizens need to occur before a definitive recommendation reflecting all available information can be made by the committee.

MCWA stated that they find it difficult to believe that the Appellant was not aware of the small size of the lot, the presence of and location of the stream on the property as well as the fact that this stream is a conveyance of an Exceptional Tennessee Waterway, the Mill Creek. MCWA went further to state that it suggested to them that the owners and developers began the venture with the understanding that they would indeed ask for the variances necessary to alter this stream to accommodate their structure. The MCWA strongly objects to this type of approach to development in their watershed.

After discussion during the Executive Session of the Committee on August 6, 2020 and review of the information presented Mr. Roy Dale made a motion to defer for 60 days, Ms. Carrie Stokes seconded the motion. Mr. Dodd Galbreath, Ms. Anna Maddox, Ms. Stokes, Ms. Ronette Adams-Taylor, and Mr. Dale voted in favor of the motion. The motion carried.

NOW THEREFORE, it is the decision of the Committee that the request in Variance Request No. 202000011 as set out above and further described in the case record, be and is hereby **DEFERRED.**”

3. 202000012 234 Orlando Ave.
234 Orlando Avenue
Inspector: (Kimberly Hayes)

Single Family Residential
APN 09114020300
CD-24 (Kathleen Murphy)

APPLICANT’S REQUEST: Is to allow the following:

1. Disturbance of buffer for footprint of house
2. Disturbance of buffer for driveway and green infrastructure control practice

APPELLANT: CIARA Properties

REPRESENTATIVE: Michael Garrigan (Dale & Associates)

COMMENTS:

SW STAFF: No comment

CODES: No comment provided.

PLANNING: Site is zoned R6 defer to Stormwater for review.

GREENWAYS: No comment provided.

Mr. Roy Dale recused himself from the case.

Mr. Michael Garrigan (Dale & Associates) spoke on behalf of the request at the location of 234 Orlando Avenue. Mr. Garrigan stated that the site is encumbered by the stream buffer. The buffers cover approximately 96% of the total site, not leaving a reasonable building pad nor parking area for the development. Therefore, there is not an adequate portion of land to develop.

Emails were read into record by Mr. Logan Bowman (Metro Water Staff) from members of the community and White Bridge Neighborhood Association (WBNA) who were in opposition of variance case # 202000012. Members of the community stated that approving the variance at the location of 234 Orlando Avenue would set precedence, encouraging others to ask for the same and destroying a very healthy riparian habitat in the area. The community believes that developing the “flood property” will encourage others to do the same, and drainage and flood issues will worsen and creep onto other properties nearby and downstream from the area.

WBNA stated that, the proposed house footprint and drive would be in the buffer of the location of 234 Orlando Avenue, making the property unsuitable for the proposed development. WBNA also stated that they are interested in preventing tax dollars from being spent to buy out homeowners when approval has been given for their homes to be built in areas likely to flood and they are also interested in maintaining the water quality of Richland Creek, the receiving stream for this property.

Councilmember Kathleen Murphy (District 24) spoke on behalf of herself and the neighborhood, and stated that she has lived at her home for thirteen years and in that timeframe, she has watched the additional building in the area and its effects on the erosion and changes to the creek bank. Councilmember Murphy stated that during heavy rains, water will cascade from other angles onto the property of 234 Orlando Avenue. The stream buffers have increased over the years, and she believes that as development expands the buffers will also increase on the West End Avenue side. The hardships for this location are very well known and it would be a problem in developing.

Councilmember Murphy also made note of Bill 2018-1157- an ordinance amending Chapter 15.64 of the Metropolitan Code of Laws to establish and preserve a fifty-foot floodway buffer along the Cumberland River.

At Large - Councilmember Burkley Allen spoke as an impartial Councilmember on the variance at the location of 234 Orlando Avenue. Councilmember Allen stated she has attended meetings with the members of WBNA and understand their reasons for not being supportive of the project.

Councilmember Allen stated that buffer zones are there for a reason - to protect the city, the homeowners, and the future homeowners. Councilmember Allen stated that she has stood on both sides; when as a councilmember she has okayed purchasing property with taxpayers' money of locations that were in the floodplain and with homeowners who innocently brought a home to discover the next summer during the first rain their basement is filling up with water and their electric panel and air condition will have to be replaced because the meditation did not serve in those circumstances.

Councilmember Allen states she cannot be in support of this project.

After discussion during the Executive Session of the Committee on August 6, 2020 and review of the information presented Ms. Carrie Stokes made a motion to deny, Ms. Anna Maddox seconded the motion. Mr. Dodd Galbreath, Ms. Maddox, Ms. Stokes, and Ms. Ronette Adams-Taylor voted in favor of the motion. The motion carried.

NOW THEREFORE, it is the decision of the Committee that the request in Variance Request No. 202000012 as set out above and further described in the case record, be and is hereby **DENIED.**"

4. 202000013 1432 Ardee Avenue
1432 Ardee Avenue
Inspector: (Kimberly Hayes)

Single Family Residential
APN 07204020900
CD-07 (Emily Benedict)

APPLICANT'S REQUEST: Is to allow the following:

1. Stream buffer disturbance for house
2. To mow and maintain buffer

APPELLANT: Samuel & Kelly Register

REPRESENTATIVE: Jay Fulmer (Fulmer Lucas Engineering, LLC)

COMMENTS:

SW STAFF: 1) The applicant should vary the mitigation trees so that no species comprises more than 20% of the total, and 2) The no mow area should be identified and the buffer signs should be placed along the edge.

CODES: No comment provided.

PLANNING: Site is zoned RS7.5, defer to Stormwater for review.

GREENWAYS: No comment provided.

Mr. Sam Register (owner) and Mr. Jay Fulmer (Fulmer Lucas Engineering) spoke on behalf of the request at the location of 1432 Ardee Avenue. The current home at 1432 Ardee Avenue, Nashville TN, 37206, was purchased with the intent to redevelop based on the current state of its structure limiting the options for addition or renovation, as well as it is effectively occupying the useable extents of the site that do not impede on the floodway buffer zone or 45' average setback from Ardee Avenue.

Mr. Register stated that his intent was to try and go above the required mitigation to stay out of the buffer zone. If any addition and/or renovation were to take place, the existing structure would require substantial modification to be more structurally sound. There would also be a significant amount of work to mitigate foundation water infiltration due to the originally constructed means of drainage being insufficient.

An email sent from "Friends of Cooper Creek" was read into record by Mr. Logan Bowman (Metro Water Staff) in support of the variance request at the location of 1432 Ardee Avenue.

Councilmember Emily Benedict (District 7) stated she had not spoken with the appellant however; they were in process of submitting an expansion plan to the UZO that would include the property in request of the variance and all Ardee Avenue. Councilmember is wanting to make sure that the plans will include a sidewalk and if it would change the footprint of the setback causing any changes to the zone 2 buffer in the back.

After discussion during the Executive Session of the Committee on August 6, 2020 and review of the information presented Ms. Ann Maddox made a motion to defer, Ms. Ronette Adams-Taylor seconded the motion. Mr. Dodd Galbreath, Ms. Maddox, Ms. Carrie Stokes, Mr. Roy Dale and Ms. Adams-Taylor voted in favor of the motion. The motion carried.

NOW THEREFORE, it is the decision of the Committee that the request in Variance Request No. 202000013 as set out above and further described in the case record, be and is hereby **DEFERRED.**"

V. ITEMS OF BUSINESS

Items were presented to the committee members by Mr. Steve Mishu (Metro Water Services) that did not require a public notice:

- 1) Stormwater Committee Panel is down another member and Metro Water Staff is working to get a replacement.
- 2) Because of the success in preparing and operating all documents electronically for the Stormwater Management Meeting during the time of the Executive Orders, the department would like to continue this method for future meetings after the order expires. Members were advised that metro is looking into the purchase of tablets or Chromebook for the members usage during the meetings.
- 3) Notice was given to the committee member's that the November 5th agenda maybe a large agenda. Members agreed that they would be willing to split the agenda allowing meetings on two days or continue the meeting on its scheduled day until completed. Members are asking for an advance notice to which manner the meeting will be handled.

Motion was made by Mr. Dodd Galbreath and second by Mr. Roy Dale on a request for metro staff to examine ways in which residential lot buyers can receive a prompt as early in the buying process as possible to examine the GIS resources available to help in informing them on any flood way or regulatory buffer implications. Ms. Carrie Stokes, Mr. Galbreath, Mr. Dale, and Ms. Anna Maddox voted in favor of the motion. The motion carried.

Ms. Ronette Adams-Taylor abstained from voting due to her absence of the meeting at the time of the voting.

VI. ADJOURNMENT

The meeting adjourned at 12:05 p.m.

Metropolitan Stormwater Management Committee
Approved:

By: Peninsula Gilbert
Secretary

Date: 10/01/2020