MEGAN BARRY
MAYOR

# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

**DEPARTMENT OF WATER AND SEWERAGE SERVICES**
Stormwater Division – Development Review
800 Second Avenue South
P.O. Box 196300
Nashville, Tennessee 37219-6300

**Minutes**
**of the**
**Stormwater Management Committee (SWMC)**
***May 5, 2016***
*** * * * * * * * * * ***
***8:00 AM***
***800 Second Avenue South***
***Metro Office Building, 1st Floor – Development Services Conference Room***

**STORMWATER MANAGEMENT COMMITTEE**
**(Quorum Required: Four Members)**
**Committee Members Present:**
Ms. Ronette Adams-Taylor
Mr. Roy Dale, P.E.
Mr. Dodd Galbreath
Ms. Debra Grimes
Ms. Anna Maddox, P.E.
Mr. Lance Wagner, P.E. – Chairman

**Committee Members Absent:**
Mr. Slade Sevier, P.E. – Vice Chairman

## I. CALL TO ORDER

The meeting was called to order at 8:07 a.m.

## II. APPROVAL OF APRIL 7, 2016 MEETING MINUTES & DECISION LETTERS

Ms. Debra Grimes moved and Ms. Ronette Adams-Taylor seconded the motion to approve the meeting minutes and decision letters for the April 7, 2016 meeting. Ms. Adams-Taylor, Mr. Dodd Galbreath, Ms. Grimes, Ms. Anna Maddox, and Mr. Lance Wagner voted in favor of the motion. Mr. Roy Dale abstained from the vote due to the fact that he did not attend the meeting.

## III. STORMWATER MANAGEMENT COMMITTEE AGENDA

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

1. **201600009**
   130 Marie Street
   (Single Family Residential)
   APN 07115001800
   Inspector: (Kimberly Hayes) CD-5 (Scott Davis)

**APPLICANT'S REQUEST:** Request is to allow disturbance and encroachment of the 30' stream buffer of an unnamed tributary to the Cumberland River for the following:
1) Construction of a single family residence, along with driveway, sidewalk, porch/patio, and grading.
2) Removal of a portion of existing retaining wall.
3) Placement of Stormwater Best Management Practice (BMP) in the buffer.
4) Continuous mowing and maintenance of the buffer.
**APPELLANT:** Dan & Tina (LE'S) & Steven & Stacy Reigle
**REPRESENTATIVE**: Mr. Masoud Fathi
**COMMENTS**:
**SW STAFF:** Minor Comment - The street name is missing from Sheets C1.0 (Site Grading and Drainage Plan) and C2.0 (EPSC Plan).
**CODES:** No comment provided.
**PLANNING:** Defer to Stormwater Staff.
**GREENWAYS:** Greenways has no comments.

Mr. Masoud Fathi gave an overview of the project and variance request.

Mr. Dodd Galbreath asked about the proposed contours around the building footprint – Masoud stated there would be some fill to raise the proposed building, construct the Stormwater BMPs, and drain the site. There was discussion regarding drainage area, building setbacks, easements, and the mitigation proposed. Mr. Galbreath stated that it is not mitigation. It is providing value to the development but not the buffer. He gave a brief explanation of nature's process of water filtration in a riparian buffer. When a perforated pipe is installed at the bottom of a grade dug to accelerate the site drainage, filtration is being removed that would normally take place at a slower rate. There was also discussion regarding the low topography, the wetness of the site and possible groundwater seepage, and opportunity for additional mitigation.

After discussion during the Executive Session of the Committee on May 5, 2016 and review of the information presented, Mr. Lance Wagner made a motion to approve the plan as presented with the following Condition #1 and standard Conditions #2-3. Mr. Roy Dale seconded the motion. Mr. Dale, Ms. Debra Grimes, Ms. Anna Maddox, and Mr. Wagner voted in favor of the motion. Ms. Ronette Adams-Taylor and Mr. Dodd Galbreath voted against the motion.

1. The Appellant shall provide one additional canopy tree along the rear property line and one additional canopy tree in the front part of the property near the top of the plantings. The revised, landscape mitigation plan shall be re-submitted to Stormwater Staff for review and approval.
2. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to Ms. Kimberly Hayes, MWS – Stormwater Development Review Section, in writing (referencing Variance #201600009), once plantings are installed per approved variance plans and again once plantings have been found to meet a two full growing season requirement. The owner shall maintain a minimum of 75 percent survivability of plantings through two full growing seasons.
3. This variance will expire on May 5, 2017. 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.

## IV. ITEMS OF BUSINESS

1. Ms. Paula Kee (Secretary) read the proposed wetland policy into the record.

Ms. Monette Rebecca, President of the Richland Creek Watershed Alliance (RCWA), spoke in opposition of the proposed policy and provided a copy of her comments. She stated that waiving Metro's regulations and SWMC oversight of wetlands will:

1) Further degrade/impair our streams.
2) Have irreversible consequences to water quality and quantity.
3) Degrade the biological integrity and aquatic richness of our streams.
4) Eliminate public notification about wetland alterations and the opportunity to provide comment. TDEC's general permit requires no public notification.

Ms. Rebecca also expressed concern regarding altering or eliminating the flow and functionality of springs, issues created as a result of filling small wetlands by developers. There are several advantages to protecting wetlands. They serve: a) as flood storage, b) as natural filtration of pollutants, c) as recreational habitats for wildlife and bird watching, and d) cost nothing when left protected but require costly offset mitigation if altered. Filling in the wetland is irreversible. Ms. Rebecca also asked why Staff asked for the policy.

Mr. Michael Hunt, Ms. Rebecca Dohn, and Mr. Josh Hayes, Stormwater – NPDES Staff, gave a brief overview of the rationale for the proposed policy. Mr. Hunt stated that Staff wants a common sense reconciliation of projects that fall under TDEC and local permit requirements. Metro has no primacy in determining the filling in of a wetland (community water). It is a TDEC determination per their regulations; however, in trying to protect the resource, Metro has the water quality buffer. The vast majority of wetlands would not be affected. Currently, TDEC is permitting certain tiny, low-quality wetlands to be filled with no mitigation; however, applicants must still obtain a variance from the SWMC to encroach a buffer when they have primacy entity approval to fill in the wetland.

Mr. Hayes gave an overview of the criteria for classification as a "low-quality" wetland based on TDEC's assessment protocol for rating a wetland. There was additional discussion regarding the National Wetlands Inventory Layer. Ms. Dohn stated that in speaking with TDEC, all wetlands that appear on the layer should be referred to their office. Mr. Lance Wagner asked about the Corps' permitting role, to which Ms. Dohn stated that applicants will still be responsible for obtaining all Corps approvals. Mr. Hayes stated there is a difference in jurisdiction regarding TDEC and the Corps – the Corps requires connection to a navigable waterway. TDEC may claim jurisdiction on a wetland were the Corps does not.

After additional discussion regarding the definition of wetland and the determination of low resource value, Mr. Roy Dale made a motion that the policy be adopted with the addition of the phrase "(as determined by TDEC)" inserted after each of the two phrases "Wetlands of low resource value". The motion was seconded by Ms. Debra Grimes. Mr. Dodd Galbreath then made a motion to amend the policy with the requirement that Stormwater Staff provide an annual update to the Committee, if needed, of how TDEC is doing in these determinations, and if they start becoming less protective than the Committee wants to be, then it can be revisited. Since TDEC has a pretty good history of being cautious in cases that have appeared before the Committee, this is not an unreasonable way to give the regulated community more flexibility to not have to appear before the Committee over things that are fairly cut and

dried. Mr. Dale seconded the motion to amend. The amendment was approved by Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Galbreath, Ms. Grimes, Ms. Anna Maddox, and Mr. Wagner, and the main motion with amendment was approved by the same.

The adopted Wetland Policy and Criteria are as follows:

*Wetland Policy:

1. Wetlands of low resource value < 0.10 acres – No buffer required and no SWMC variance required (w/Stormwater Staff review and approval of the following requirements being met)
2. Wetlands of low resource value = or > 0.10 acres – Buffer required and SWMC variance required for wetland and/or wetland buffer disturbance
3. Stormwater Staff shall provide an annual update to the Committee, if needed, of how TDEC is doing in these determinations, and if they start becoming less protective than the Committee wants to be, then it can be revisited.

*Criteria for Stormwater Staff approval for removal of wetland and wetland buffer (Wetlands of low resource value <0.10 acres):

1) All areas shown as wetlands on the National Wetlands Inventory GIS layer will need to be assessed. This assessment will need to be approved by TDEC. The applicant is responsible for obtaining any necessary Corps approvals.
2) For each identified wetland and buffer to be considered for removal, the applicant will need to provide all state and federal permits, including the TDEC Notice of Coverage (NOC) for the General Aquatic Resource Alteration Permit (ARAP) for Minor Alteration to Wetlands.
3) No state or federal mitigation must be required for wetland removal.
4) Stormwater Staff review and approval must be obtained prior to issuance of any applicable grading permit or single family residential permit, any Stormwater building permit signoff, or any land disturbance if no Metro permit is required.

2. Mr. Tom Palko, Assistant Director – Stormwater Division, gave an overview of the status of the Preliminary FEMA flood maps. The bulk of the preliminary mapping for Davidson County, with a lot of the outlying areas, is complete and being used by Metro. Final effective maps are expected to be available in January 2017, with subsequent panels issued later as any remaining mapping is completed. Mr. Roy Dale expressed concern regarding the following: a) public access to the latest preliminary maps, b) floodways being established on smaller drainage basins, which could result in 150 feet of no-disturb floodway buffer for development projects for which the buffer applies, and c) property owners now paying flood insurance in areas with newly established floodway/floodplain. Mr. Palko stated that owners of properties with newly mapped floodway/floodplain are required to be notified. Mr. Dale hopes that staff will look at varying buffers, especially when floodways become very small or flood elevation depths are less than two feet. Ms. Paula Kee (Secretary) stated that some development sites with newly mapped floodway/floodplain will not have buffers apply because stream determinations verify they are wet weather conveyances and not community waters.

## V. <u>ADJOURNMENT</u>

The meeting was adjourned at 9:45 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____