

**Minutes  
of the  
Stormwater Management Committee (SWMC)  
February 5, 2015  
\*\*\*\*\*  
8:00 AM  
800 Second Avenue South  
Metro Office Building, 1<sup>st</sup> Floor – Development Services Conference Room**

**STORMWATER MANAGEMENT COMMITTEE**

**(Quorum Required: Four Members)**

**Committee Members Present:**

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

**Committee Members Absent:**

Mr. Dodd Galbreath  
Ms. Anna Maddox, P.E.

**I. CALL TO ORDER**

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

**II. APPROVAL OF JANUARY 8, 2015 MEETING MINUTES & DECISION LETTERS**

Mr. Slade Sevier moved and Mr. Lance Wagner seconded the motion to approve the January 8, 2015 meeting minutes and decision letters. Ms. Elaine Bright, Mr. Roy Dale, Mr. Sevier, Mr. Monte Turner, and Mr. Wagner voted in favor of the motion.

**III. STORMWATER MANAGEMENT COMMITTEE AGENDA**

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

1. 201500002  
3805A and 3805C Woodmont Lane  
(Single Family Residential)  
APN: 116120M00100CO and 116120M90000CO  
Inspector: Phil Saad CD-25 (Sean McGuire)

**APPLICANT'S REQUEST:** Requests are to allow the following:

- 1) Disturbance of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary of Sugartree Creek to remove invasive vegetation and replace with turf grass, for installation of an aluminum fence, and to

mow and maintain a portion of new turf grass, all in Zone 1, and for construction and encroachment of a 557 sq. ft. concrete patio in Zone 2.

2) Use of modified buffer signage.

**APPELLANT:** Katheryn Jalovec and Jeffery Jalovec

**REPRESENTATIVE:** Mr. Kevin Gangaware

**COMMENTS:**

**SW Staff:** If the variance is granted, Staff requests that a condition be included that the Appellant shall coordinate final review and approval of the buffer sign and its verbiage with Stormwater staff and that two signs shall be placed along the edge of the Zone 1 buffer line, equidistant along the length of the property.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

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

Mr. Kevin Gangaware introduced Mr. Joe Hodgson (landscape architect) and Ms. Katheryn Jalovec (current owner of 3805A Woodmont Lane). Mr. Hodgson gave background information on Ms. Jalovec's purchase of the property and subsequent improvements, stated reasons for the variance request, and discussed proposed mitigation. He also stated that the owner did not realize there was a stream buffer. Mr. Gangaware discussed the buffer and variance requests and also presented additional photos of the buffer before placement of the sod.

Mr. Brent Morris (realtor that represented the seller) spoke stating that they were aware of the buffer and had conversations with the owner.

Councilman Sean McGuire (District 25) submitted an emailed letter of support for the proposed variance stating 1) that the owners were unaware of the stream buffer upon purchasing the house and would like to work with Stormwater Management to ensure water quality measures are in place while keeping their family safe, 2) there are no plans for Greenways along this section of the stream, and 3) the proposed mitigation efforts for the changes in the buffer zone seem to meet the spirit of the ordinance.

Ms. Robin Wierum, 3715 Woodmont Lane, submitted an email stating that the neighborhood is particularly vulnerable to issues of flooding and stormwater runoff and the role of the stream buffer is to help mitigate those issues. She stated her support of Metro's requirement for the stream buffer and included a brief history, with photos, of water inundation on or near 3805 A and B Woodmont Lane.

Mr. John and Mrs. Rebecca Bakanowski, 3809 Woodmont Lane, submitted an email stating their opposition to the granting of a variance on the basis that insufficient data has been provided to meet the requirements of the variance request (specifically that it will not increase flood heights). He suggested that an engineering analysis be conducted to determine the environmental impact of the variance.

Mr. Scott Wright, 3611 Woodmont Lane, submitted an email stating his opposition to a retroactive variance.

Mr. Clay Bailey, 3806 Dartmouth Avenue, submitted an email stating his opposition to granting a variance because tampering with the tributary and encroaching on the stream buffer will exacerbate flooding problems (chronic and worsening) in his neighborhood.

Mr. Charles Conte, 4010 Auburn Lane, submitted emails and photographs and also gave a brief visual presentation stating his opposition to the variance request. A summary of points is below:

- 1) There has been past flooding in the area and concern already expressed by neighbors.
- 2) Lack of knowledge of storm buffers is not a viable reason to leave things as they are and grant a variance retroactively.
- 3) The fence and any other items along the bank may get swept away in flood events, blocking stream flow and obstructing culverts.

- 4) Point in writing (per email) that the disturbances were done in the common area and whether or not the applicant (represented as president of the Home Owners' Association) has authority to undertake such projects in common area.

Ms. Monette Rebecca, president of the Richland Creek Watershed Association (RCWA), pointed out that the resource is federally listed as impaired and asked that the SWMC disapprove the variance request, stating the following:

- 1) It will degrade habitat further and adversely affect water quality, over time.
- 2) Both outcomes - granting of a variance or implementing the Alternative presented, are in conflict with the existing Stormwater Buffer Rule.
- 3) Mowing of the buffer would deteriorate the resource by eroding the stream channel, spreading invasives, contributing to poor water quality, causing a shallow channel, and resulting in loss of stream habitat.
- 4) No adequate explanation for hardship was presented.
- 5) Every square foot of built development displaces two to six times more water than what would occur on undeveloped land.
- 6) The public expects Metro codes and Stormwater rules to be enforced because there are widespread consequences to public safety when not heeded.

Ms. Rebecca stated RCWA expects that natural buffer be restored, the fence be removed from Zone 1, and a rain garden be installed away from Zone 1 to mitigate the patio in Zone 2, which would provide adequate fenced area for young children while abiding by the SWMC rule.

Rebecca Dohn gave a brief overview of the Notices of Violation (NOVs). There was discussion regarding the NOVs, the improvements done, the permitting process, possible rain gardens, and mow/no mow areas. The Committee discussed flooding concerns, whether or not existing improvements would cause increased flooding and if the installed fence would be a factor, and possibly addressing the buffer within the deed or through a revised plat. The water quality buffer was shown on the approved plan. There was concern expressed regarding loss of water quality benefit, and the applicant suggested there were possibilities to provide treatment for stormwater runoff from the property. There was additional discussion regarding possibly amending the deed.

Mr. Lance Wagner made a motion to deny the plan as shown, based on the fact that Metro approved something with buffers shown and the current plan does not respect that and if the NOVs had been followed appropriately, we would not be in this scenario. Ms. Elaine Bright seconded the motion. Ms. Bright and Mr. Wagner voted in favor of the motion. Mr. Roy Dale, Mr. Slade Sevier, and Mr. Monte Turner voted against the motion. The motion failed.

Mr. Dale then made a motion to approve the plan as submitted with the following Conditions #1-3 and standard Conditions #4-5. Mr. Sevier seconded the motion. Mr. Dale, Mr. Sevier, and Mr. Turner voted in favor of the motion. Ms. Bright and Mr. Wagner voted against the motion. There was clarification given that no maintenance is allowed outside of the fence, as shown on the Plan of Record.

1. The Appellant shall provide mitigation in the back and mitigation in the front to a level to meet all water quality requirements and be reviewed and approved by Stormwater Staff.
2. The property owners shall work with the HOA (homeowners association) to amend the master deed to clearly identify the buffers on the property and include the maintenance of the water quality mitigation.
3. No buffer signage is required.
4. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to MWS Stormwater – NPDES Office, in writing (referencing Variance #201500002), 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.
5. This variance will expire on February 5, 2016.

2. 201500003  
Fort Nashborough  
170 1<sup>st</sup> Avenue North  
APN: 09306210300  
Inspector: Denice Johns

CD-19 (Erica Gilmore)

**APPLICANT'S REQUEST:** Requests are to allow the following:

- 1) Disturbance of the 75' floodway buffer (50' Zone 1 & 25' Zone 2) of the Cumberland River for significant redevelopment of Fort Nashborough.
- 2) Placement of Stormwater BMPs in the buffer.
- 3) Use of alternative bioretention surface material.
- 4) Continuous mowing and maintenance of the buffer.
- 5) Waiver of required buffer signage.
- 6) Discharge of a portion of the site to bypass directly to the river.

**APPELLANT:** Littlejohn Engineering Associates

**REPRESENTATIVES:** Mr. Phillip Piercy

**COMMENTS:**

**SW Staff:** Stormwater requests that the applicant clarify what portion of the site is being bypassed directly to the river.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** Given the explanation by the applicant that the project only involves work above the retaining walls around the existing fort and not down by the water, along with the submitted layout and grading plans, Metro Greenways Commission is supportive for the Fort Nashborough variance.

Mr. Chris Koster (Metro Parks) gave background information on the fort and an overview of the proposed project.

Mr. Phillip Piercy presented a highlighted plan showing areas that will bypass directly to the river. He discussed the variance requests and mitigation using oversized bioretention (rain garden areas oversized a minimum of 25%).

There was additional discussion regarding the request to waive buffer signage which Mr. Piercy stated would take away from the historic aspects of the fort and is not indicative of what Metro wants to promote as a buffer and might be misleading. Mr. Wagner could still see some benefit to installing signage and maybe an opportunity would be lost to educate students. Mr. Piercy stated the buffer was basically a rip-rapped bank. Mr. Koster stated they were trying to keep signage consistent with interpretation of the fort. There will be signage interpretive to the fort, stating why the fort is there because of the importance of the river. Mr. Wagner suggested they incorporate the river as much as possible.

After discussion and review of the information presented, Mr. Monte Turner made a motion to approve as submitted with the following standard condition. Mr. Lance Wagner seconded the motion. Ms. Elaine Bright, Mr. Roy Dale, Mr. Slade Sevier, Mr. Turner, and Mr. Wagner voted in favor of the motion.

1. This variance will expire on February 5, 2016. However, if a Grading Permit, Stormwater Single Family Permit, or Building Permit is issued within that period, the variance expiration date will run concurrent with that permit expiration date.

The reasons for approval are that they provided proper bioretention, water quality, and more than adequately addressed mitigation on a really difficult, but hugely important site for the city.

#### **IV. ITEMS OF BUSINESS**

There were no business items.

V. **ADJOURNMENT**

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

Metropolitan Stormwater Management Committee

Approved:

By: \_\_\_\_\_  
Secretary

Date: \_\_\_\_\_