

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)  
January 7, 2016  
\*\*\*\*\*  
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. Ronette Adams-Taylor
- Mr. Roy Dale, P.E.
- Mr. Dodd Galbreath
- Ms. Debra Grimes
- Ms. Anna Maddox, P.E.
- Mr. Slade Sevier, P.E. – Vice Chairman
- Mr. Lance Wagner, P.E. – Chairman

**Committee Members Absent:**

None

**I. CALL TO ORDER**

The meeting was called to order at 8:10 a.m. Ms. Debra Grimes was introduced as a new member of the Committee.

**II. APPROVAL OF DECEMBER 3, 2015 MEETING MINUTES & DECISION LETTERS**

Mr. Slade Sevier moved and Ms. Anna Maddox seconded the motion to approve the meeting minutes and decision letters for the December 3, 2015 meeting. Ms. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Dodd Galbreath, Ms. Maddox, Mr. Sevier, and Mr. Lance Wagner voted in favor of the motion. Ms. Debra Grimes abstained from the vote due to the fact that she 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. 201500018**

Blakeford at Green Hills – (Preliminary Stormwater Management Plan)

11 Burton Hills Boulevard

APN 131060A01500CO

Inspector: (Lynda Kelley)

CD-25 (Russ Pulley)



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

**APPLICANT'S REQUEST:** Preliminary Stormwater Management (SWM) Plan Approval is requested. The preliminary plan includes a variance request to allow disturbance of the 75' floodway buffer of Sugartree Creek (50' Zone 1 & 25' Zone 2) for the following:

- 1) Construction of a new building with underground parking (which will replace an existing surface parking lot that currently resides within the 75' buffer), roadway paving, sidewalk replacement, underground utilities, and EPSC measures.
- 2) Continuous mowing and maintenance of the buffer.

**APPELLANT:** Littlejohn Engineering Associates

**REPRESENTATIVE:** Mr. Phillip Piercy

**COMMENTS:**

**SW STAFF:** Staff will defer to the Committee.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** Greenways will defer to Stormwater Staff for this request.

Mr. Phillip Piercy gave an overview of the project and variance requests. Mr. Van Cluck (The Blakeford) was also in attendance. He discussed the existing PUD, the Preliminary FEMA Flood Map (more restrictive) and proposed mitigation.

Mr. Jack Tenzel, President – Burton Hills HOA, asked the applicant about the drain to the existing box culvert. Mr. Piercy stated that a current headwall (that takes water mainly off Burton Hills Dr. and a portion of their site) will be re-routed around the proposed building and back to the lake to discharge in the same location.

Ms. Sharon Anderson, Castlewood Dr., stated that the original zoning included an agreement for one more office building. The original agreement has since changed, and zoning discussions have included the issue of traffic. The zoning has been repeatedly erased and reconstructed, with new versions of what is acceptable. It relates directly to density, which also involves runoff. She stated that neighbors have more invested than a corporation.

Ms. Paula Erickson, President – Foxview Village HOA, stated that original owners (since 1985) were told, at the time of purchase, that Burton Hills had been built to its maximum density. However, the density and zoning keep getting revised. She discussed concerns with high water surface elevations of the pond during rain events. She did not see where more development and density inside the confines of the Burton Hills neighborhood is in any way beneficial to residents. She also discussed traffic issues.

Ms. Monette Rebecca, President – Richland Creek Watershed Alliance (RCWA), provided written comments which she read into the record. Some of the points stated were:

1. Maintaining stream buffers is critical for sustaining freshwater ecosystems. This section of Sugartree Creek still supports aquatic and sub-aquatic life. The proposed expansion will destroy the riparian and aquatic habitat.
2. Neighbors contacted RCWA to state several bird species were observed in this section of Sugartree Creek; species that would not be present if there was no viable aquatic habitat present. They also stated that clear cutting practice at this area is altering water quality and aquatic habitat.

3. Mowing and disturbance (building above and below the stream surface) will eliminate habitat and degrade water quality further. The expansion will also negatively impact the natural underground flow to the creek, diminishing water quality.

Mr. Dodd Galbreath asked neighbors present if the addition of eight rain gardens and a partnership with the Burton Hills HOA to provide additional buffer around the lake (trees and shading) would offset concerns regarding water quality improvements and runoff. Ms. Anderson stated blasting and digging affects the stream and groundwater. Ms. Rebecca stated that habitat (including subterranean) needs to exist also – adding treated stormwater to an in-line pond that already does not support aquatic life will not improve anything.

After discussion and review of the information presented, Mr. Slade Sevier made a motion to deny as submitted, stating that he did not see or hear a hardship that would allow him to vote for more development inside the buffer. He stated that the Committee would be more open to additional units on the site that go along with water quality improvements to the site such as pulling everything out of the buffer and going up higher or lower, etc. Mr. Roy Dale seconded the motion. Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Galbreath, Ms. Debra Grimes, Ms. Anna Maddox, Mr. Sevier, and Mr. Lance Wagner voted in favor of the motion.

**2. 201500022**

Belle Arbor PUD, Phase 2  
3549 Brick Church Pike and 0 Westchester Drive  
Map 50, Parcels 31 & 132, and Map 41, Parcel 147  
Inspector: (Katherine O'Hara)

CD-03 (Brenda Haywood)

**APPLICANT'S REQUEST:** Variance request is to allow the following:

- 1) Disturbance and encroachment of the floodway buffer (50' Zone 1 and 25' Zone 2) of North Fork Ewing Creek Tributary 2 to permit grading and construction of a walking trail, temporary turnaround, and Stormwater Best Management Practices (BMPs).
- 2) Portions of Zone 2 buffer to be within the rear yards of Lots 29-33 and Lot 40.

**APPELLANT:** Mr. Tyler Ring

**REPRESENTATIVE:** Mr. Michael Garrigan

**COMMENTS:**

**SW STAFF:** Regarding the buffer variance request: Staff would prefer a site buffer configuration with all buffers located outside of lots/in open space – with a corresponding or greater area of those buffers (as shown in lots on the plan of record) created in open space either by:

- designating certain other Zone 2 buffers in open space as Zone 1 buffers, and/or
- widening existing Zone 1 and/or Zone 2 buffers in open space

**CODES:** No comment provided.

**PLANNING:** Approved.

**GREENWAYS:** This request involves property located along a Community Plan identified Greenway. Greenways requests that a conservation easement be considered as mitigation.

Mr. Roy Dale recused himself from the case, stating that this agenda item was done by his company.

Mr. Michael Garrigan gave an overview of the project and variance requests. Mr. Scott Davis and Mr. Tom White were also in attendance. Mr. White stated that he wanted to make sure that Councilwoman

Brenda Haywood was aware of their request. He met with her and discussed the plans, during which time she stated that she had no objection, and her principle comment was that water quality should be the key item. He told her that was the key argument before the Committee.

Mr. Garrigan gave a history of the zoning, development/construction of Phase 1, previous design and permitting of Phase 2 (not constructed), amended Master Plan, previously approved Phase 2 plan with 30' Zone 1 and 20' Zone 2 buffers, and the current revised plan with Preliminary FEMA flood mapping (now with identified floodway and 75' floodway buffer).

There was discussion regarding a revised request to modify the 75' floodway buffer and encroachment on the lots shown on the current plan (elimination/abandonment of portions of existing Zone 2 buffer and re-creation of new buffer areas), the proposed mitigation (which includes 66 tree plantings), and the plan for future phases.

There was discussion regarding eliminating Lots 29 and 40 and the proper ratio for modification of the buffer. Mr. Garrigan thought they would be okay with the removal of Lot 29 and reworking Lots 39 and 40. Mr. Slade Sevier moved for approval of the development, Phase 2 as shown, which would include the pond work to the south and Lots 30, 31, 32, 33 & 34 to the extent that the property line does extend into the required buffers. Development of Lot 29 would not be allowed, reason being that the building footprint is too much in the buffer and requires grading all the way into Zone 1. Lot 40 can be allowed provided they rework the lot lines to result in a situation where the building footprint does not fall in either Zone 1 or Zone 2 and no grading is required in Zone 1, meaning the lot can fall in Z2 but no structures/building pad in either zone.

There was additional discussion regarding buffer modifications and mitigation. Mr. Lance Wagner wanted all of the building footprints out of Zone 2. Mr. Sevier stated Lots 30-34 can be built as shown, to which the Secretary asked if this included buffers on the lots. There was further clarification given with Mr. Sevier and Mr. Dodd Galbreath stating no buffer – it would be eliminated/abandoned back to the lot line and when it gets re-platted, they will not show buffer on the lots. Ms. Paula Kee (Secretary) reiterated that the variance request was to allow the buffer on the lots. Mr. Sevier stated that under his motion, all of the buffer shown within lot lines is abandoned. Ms. Theresa Costonis (Metro Legal) stated that in Appendix F (Section F1.1.2), there is a reference to modifications of the buffer, and it states that “Where possible, an area equal to the encroached area or equivalent stormwater management practices shall be established elsewhere on the lot or parcel in a way to maximize, or provide equivalent, stormwater quality enhancement and protection.” Mr. Sevier stated that the only modification to the motion as read into the record was that the area behind Lots 34-36, 39, and 40, between the existing 25' Zone 2 buffer and the lot lines, becomes part of the Zone 2 buffer. Ms. Kee asked for clarification on Lot 40. Mr. Sevier stated that Lot 40 can remain a lot but has to be reconfigured so that none of the building pad falls within the Zone 1 or Zone 2 buffers to the extent any other part of the lot falls into the zone, then the buffer is modified to be at the lot line – no buffer will be on any lot. Mr. Galbreath stated he was fine with it as long as they are getting gain for the loss - making up for the Zone 2 lost with new vegetated gain. Mr. Wagner stated that the biggest gain is that trees are also being planted, and they are getting dedicated Zone 2 buffer in an enforceable way that will have a higher tree density.

Mr. Michael Hunt (Stormwater – NPDES) stated that what Stormwater consistently tries to do on post-development stormwater controls (stormwater control measures or buffers) in single family residential

subdivisions is to have those areas in common space where Stormwater always deals with the homeowners associations because they have the power and authority to oversee and maintain them routinely versus Metro having to go to respective property owners and enforce differing types of regulations. Ms. Kee asked about the specific variance request to allow buffer on lots and the possible need to have a denial of the request for the record. Mr. Sevier stated that it was denied. Ms. Debra Grimes asked if the motion needed to include that they have to plant the trees to which Mr. Wagner replied that it was already included in the plan presented, and Mr. Sevier stated that there is no change to the mitigation/planting plan.

There was additional discussion regarding whether or not the Greenways conservation easement should be required as a condition. Potential hindrances in pursuing an easement in the future, the trail width and narrowness of the riparian buffer, and the greenway trail development process. Mr. Sevier included the conservation easement in his motion. Mr. Galbreath stated that it needed to have minimal impact on this narrow, healthy buffer. The Committee requested that in the future, if Greenways is requesting an easement, they be present at the meeting to defend their request.

Mr. Sevier restated his motion: For Lots 30-34, all buffers will be abandoned/modified to be the lot lines as shown on the Plan of Record. The request for development on Lot 29 has been denied. On Lot 40, the lot can be built, provided it is reworked so that none of the buildable footprint falls within the Zone 2 buffer as shown on the Plan of Record. The Zone 2 buffer is to be modified along the new property line of Lot 40/follow the new proposed lot line of Lot 40. Mr. Sevier stated a condition that the Zone 2 buffer behind Lots 34-36, 39, and 40 will be modified so that the new delineation of the Zone 2 buffer follows the lot line of those lots. Minor infringement into the Zone 2 buffer for the temporary turnaround is approved, as shown on the Plan of Record. As a condition, the Appellant shall coordinate with Metro Greenways and provide a conservation easement.

In summary, Mr. Sevier moved for approval of the development, Phase 2 as shown on the Plan of Record, with the following Conditions #1-7, and standard Conditions #8-9. Ms. Anna Maddox seconded the motion. Ms. Ronette Adams-Taylor, Mr. Galbreath, Ms. Grimes, Ms. Maddox, Mr. Sevier, and Mr. Wagner voted in favor of the motion.

1. For Lots 30-34, all buffers will be modified to be the lot lines as shown on the Plan.
2. The request for development on Lot 29 is denied; reason being that the building footprint is too much in the buffer and requires grading all the way into Zone 1.
3. On Lot 40, the lot can be built, provided it is reworked so that none of the buildable footprint falls within the Zone 1 or Zone 2 buffer and no grading is required in Zone 1, as shown on the Plan. The Zone 2 buffer is to be modified along the new property line of Lot 40/follow the new proposed lot line of Lot 40.
4. The Zone 2 buffer behind Lots 34-36, 39, and 40 will be modified so that the new delineation of the Zone 2 buffer follows the lot line of those lots. The area behind Lots 34-36, 39, and 40, between the existing 25' Zone 2 buffer and the lot lines, shall become part of the Zone 2 buffer.
5. Minor infringement into the Zone 2 buffer for the temporary turnaround is approved, as shown on the Plan.
6. The Appellant shall coordinate with Metro Greenways and provide a conservation easement.
7. There is no change to the Mitigation/Planting Plan.

8. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to MWS Stormwater – NPDES Office, in writing (referencing Variance #201500022), 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.
9. This variance will expire on January 7, 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.

**3. 201500023**

Belle Arbor PUD, Future Phases – (Preliminary Stormwater Management Plan)  
3549 Brick Church Pike and 0 Westchester Drive  
Map 50, Parcels 31 & 132, and Map 41, Parcel 147  
Inspector: (Katherine O’Hara) CD-03 (Brenda Haywood)

**APPLICANT’S REQUEST:** Preliminary Stormwater Management (SWM) Plan Approval is requested. The preliminary plan includes a variance request to allow the following:

- 1) Portions of Zone 1 and Zone 2 buffer to be within the rear yards of residential lots.
- 2) Future non-perpendicular roadway crossing (less than 90 degrees).

**APPELLANT:** Mr. Tyler Ring

**REPRESENTATIVE:** Mr. Michael Garrigan

**COMMENTS:**

**SW STAFF:** Regarding the buffer variance request: Staff would prefer a site buffer configuration with all buffers located outside of lots/in open space – with a corresponding or greater area of those buffers (as shown in lots on the plan of record) created in open space either by:

- designating certain other Zone 2 buffers in open space as Zone 1 buffers, and/or
- widening existing Zone 1 and/or Zone 2 buffers in open space

**CODES:** No comment provided.

**PLANNING:** Approved.

**GREENWAYS:** This request involves property located along a Community Plan identified Greenway. Greenways requests that a conservation easement be considered as mitigation.

Mr. Roy Dale recused himself from the case, stating that this agenda item was done by his company.

Mr. Michael Garrigan gave an overview of the project and variance request. He discussed the proposed buffer modification, the removal of 0.42 acres of buffer and creation of 1.02 acres of buffer, along with 60 tree plantings as mitigation. There was discussion regarding the proposed amount of buffer encroachment onto the lots and the non-perpendicular roadway crossing, which is also below the 1,000 foot threshold for minimum spacing between crossings. Mr. Dodd Galbreath stated that his main concern with the crossing is that they normally do not approve that type of density that far out of the city core. This is a rural watershed becoming a suburban watershed, and the creek crossings do impact water quality/water quantity, flooding, etc., and he could not support the project at this phase.

After discussion and review of the information presented, Mr. Galbreath moved to deny the request. He suggested that if they decide to return, they should come back with a better proposal to avoid the Zone 2 buffer. He also stated that Planning is welcome to attend and talk to the Committee about the bridge

crossing and discuss their position. Mr. Slade Sevier seconded the motion. Mr. Lance Wagner also stated his support of the idea of re-working the plan knowing that Greenways is interested in putting a trail there and would be pinched in a really narrow area. He also suggested keeping structures out of the Zone 2 buffer. Ms. Ronette Adams-Taylor, Mr. Galbreath, Ms. Debra Grimes, Ms. Anna Maddox, Mr. Sevier, and Mr. Wagner voted in favor of the motion.

**4. 201500024**

Watertower (Formerly First Avenue Flats)  
700, 702, & 706 1<sup>st</sup> Avenue North  
Map 82-14, Parcels 30, 29, & 27  
Inspector: (Denice Johns)

CD-19 (Freddie O'Connell)

**APPLICANT'S REQUEST:** Variance request is to allow disturbance of the 75' floodway buffer (50' Zone 1 and 25' Zone 2) of the Cumberland River for the following:

- 1) Construction and encroachment of a multi-story apartment building.
- 2) Construction and encroachment of a boardwalk/overlook.
- 3) Placement of Stormwater Best Management Practices (BMPs).
- 4) Installation and encroachment of stormwater outlet structures.
- 5) Installation of Erosion Prevention and Sediment Control (EPSC) measures.
- 6) Continuous mowing and maintenance of the buffer area.
- 7) Use of modified educational buffer signage.

**APPELLANT:** Mr. Dennis Devine

**REPRESENTATIVE:** Mr. Jeff Conar

**COMMENTS:**

**SW STAFF:** Staff recommends that the green roof drains be routed to the bioretention area.

**CODES:** No comment provided.

**PLANNING:** No comment.

**GREENWAYS:** Greenways will defer to Stormwater staff.

Mr. Jeff Conar gave an overview of the current project and variance requests. Ms. Tracey Ford and Mr. Chris Beaver were also in attendance. Mr. Conar discussed the differences from the previous project (First Avenue Flats) which received Variance #201400019 on January 8, 2015. Low-impact development (LID) principles are being used. They will be providing more water quality treatment than required as mitigation, redirecting water that normally drained to the combined sewer system, treating it, and discharging it to the Cumberland River. He discussed the structure design in regards to the bank (to ensure it would not be de-stabilized) and discussed the cross-sectional view of the building. He stated that the structure was moved further back onto the bedrock as a better design with the building cantilevered over the bank. Mr. Slade Sevier asked where the building was located compared to the last plan. After further review of the plan, it was determined that the balconies will be cantilevered over the preliminary FEMA floodway. Comparison to the previously approved plan showed the building and balconies were to be located outside of the floodway. There was discussion regarding the decreased infiltration in the floodway and buffer due to the overhanging balconies, hardship, and the analysis done for the previous approval. The new building and two-level parking garage design were also discussed, along with proposed floor elevations, potential flood heights, and possible loss of vegetation and sunlight on the slope.

There was discussion regarding the proposed balconies and the Metro ordinance which does not allow new structures in the floodway with minimal exceptions for parking areas, water dependent structures, bridges, etc. The Committee had provided clarification years earlier that the floodway buffer does extend skyward. There was considerable discussion as to whether cantilevered structures can be allowed to overhang the floodway and whether or not the request was approvable by the Committee. Mr. Dodd Galbreath made a motion to defer. Ms. Theresa Costonis (Metro Legal) read the definition of floodway as defined by Section 15.64.010 of the Metro Code as ... that portion of the stream channel and adjacent floodplain required for the passage or conveyance of a one-hundred-year flood discharge.” Ms. Costonis read further elaboration on the floodway definition: “The floodway boundaries are placed to limit encroachment in the floodplain so that a one-hundred-year flood discharge can be conveyed through the floodplain without materially increasing (<one foot) the water surface elevation at any point and without producing hazardous velocities or conditions. This is the area of significant depths and velocities, and due consideration should be given to effect of fill, loss of cross-sectional flow area, and resulting increased water surface elevations. Mr. Roger Lindsey (Stormwater – Development Review) stated that the gage height in the 2010 flood equated to an elevation of 420’, and the base flood elevation in that reach was about 416’. There was further discussion on possible approval subject to interpretation. Mr. Galbreath withdrew his motion; however, he stated that mitigating language should be included to address the fact that the 2010 flood would have reached two feet above the first level of the proposed parking garage. He stated it was a safety concern, and there might need to be some language about an emergency management plan to let people know when the first floor will flood to remove cars and ensure no one is trapped.

Mr. Lance Wagner asked about the changes to water quality to which Mr. Conar provided an overview. Mr. Wagner stated that in this scenario, he was ok with putting BMPs in the buffer. Mr. Galbreath encouraged the use of canopy trees in the bioretention. Mr. Michael Hunt (Stormwater – NPDES) asked how would the runoff be pulled from the combined sewer system and discharged to the river to not cut the bank. Mr. Conar stated they could install baffles to dissipate the water. Mr. Hunt stated it should be something to think about. Mr. Lindsey stated that in the original case, he had cautioned against removal of vegetation from the bank. The previous structural evaluation was to have considered potential for any kind of bank failure due to construction of the structure. The applicant was encouraged to install sufficient flood vents. Ms. Ford confirmed that the garage floor will be able to flood/be inundated and drain by gravity.

After discussion and review of the information presented, Mr. Slade Sevier made a motion to approve as shown provided Metro Legal approves the fact that the canopy overhangs the floodway line. Ms. Debra Grimes seconded the motion. Ms. Costonis (Metro Legal) stated that she was not sure Legal was able to approve it. Mr. Sevier restated his motion as motion to approve as shown, with the following Condition #1 and standard Conditions #2-3, and that this variance does not include a variance to encroach the floodway as defined in Chapter 15.64 of the Metropolitan Code. Ms. Debra Grimes seconded the motion. Ms. Ronette Adams-Taylor, Ms. Grimes, Ms. Anna Maddox, Mr. Sevier, and Mr. Lance Wagner voted in favor of the motion. Mr. Dodd Galbreath and Mr. Roy Dale voted against the motion.

1. The buffer can only be maintained to the extent that it is southwest of the floodway.
2. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to MWS Stormwater – NPDES Office, in writing (referencing Variance #201500024), 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 January 7, 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**

There were no items of business.

**V. ADJOURNMENT**

The meeting was adjourned at 11:06 a.m.

Metropolitan Stormwater Management Committee

Approved:

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

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