

**Minutes  
of the  
Stormwater Management Committee (SWMC)  
October 6, 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

**Committee Members Absent**

Mr. Lance Wagner, P.E. – Chairman

**I. CALL TO ORDER**

The meeting was called to order at 8:17 a.m.

**II. APPROVAL OF SEPTEMBER 1, 2016 MEETING MINUTES & DECISION LETTERS**

Mr. Roy Dale moved and Ms. Anna Maddox seconded the motion to approve the meeting minutes and decision letters for the September 1, 2016 meeting. Mr. Dale, Ms. Maddox, and Mr. Slade Sevier voted in favor of the motion. Ms. Ronette Adams-Taylor and Mr. Dodd Galbreath abstained from the vote because they did not attend the meeting.

*Ms. Debra Grimes arrived at the meeting.*

**III. STORMWATER MANAGEMENT COMMITTEE AGENDA**

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

**1. 201500017 (SHOW CAUSE HEARING)**

1502A, 1502B, and 1502C Kirkwood Ave. (formerly 1502 Kirkwood Ave., M118-1, P89)

(Single Family Residential)

Map 117040Z, Parcels 00200CO, 00100CO, and 90000CO

Inspector: (Kimberly Hayes)

CD-18 (Burkley Allen)

**APPELLANT:** Mr. David Tudor

Variance #201500017 was previously granted on November 5, 2015 to allow the following:

- 1) Disturbance and encroachment of the 50' stream buffer of an unnamed tributary to West Fork Browns Creek for construction of a duplex and installation of mitigation plantings.
- 2) Placement of Stormwater BMP in the buffer.
- 3) Continuous mowing and maintenance of the south side of the buffer.
- 4) Use of modified buffer signage.

**COMMENTS:**

**SW STAFF:** On August 12, 2016, Ms. Kimberly Hayes (MWS) conducted a final site inspection to verify that construction had been completed per the approved Building Permit Plans for Single Family Infill (CARN 201556213 and 201556214) and Variance Plan of Record for Variance #201500017, granted by the Stormwater Management Committee (SWMC) on November 5, 2015, and that all variance conditions had been met. At that time, based on Ms. Hayes observations (noted in an email to Mr. Tudor on August 15, 2016) and also review of the site photos by Ms. Kee (MWS - SWMC Secretary), construction had not been completed per the approved Building Permit Plan and Variance Plan of Record and several items were determined to be in violation of the variance conditions. Below is a summary of items of non-compliance at that time:

- 1) The site is not fully stabilized with vegetation
- 2) Rain barrels were not installed on the rear roof drains
- 3) The front downspouts were to be piped to the rain garden; the roof drains for each unit were noted as connected/tied in by corrugated pipe, but above grade (not subsurface)
- 4) Stream buffer signs were not provided at the top of bank
- 5) There is increased impervious area in the rear:
  - \* the landing and steps are wider, larger than the approved plan
  - \* the HVAC area is greater than what was approved on the plan
- 6) The driveway and front porch area were not constructed per plan, and there is an additional increase in impervious area over what was proposed and approved.

This Show Cause Hearing is to allow the Property Owner the opportunity to discuss and answer questions concerning the construction activity resulting in the non-compliance issues and provide an explanation as to why more severe enforcement action should not be pursued or why the variance should not be revoked.

**CODES:** No comments requested.

**PLANNING:** No comments requested.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Council Lady Burkley Allen submitted a letter to the Committee asking the members to hold the Appellant to the original conditions of their variance. The owner should at least have to replace all the unauthorized paving except the AC pad with (pervious) concrete or pavers and expand the rain garden to make up the difference. If bigger stormwater infrastructure cannot be installed in our old streets, then we must keep the infill projects from having a cumulative negative impact.

Mr. Tudor provided handouts of an impervious areas survey and enlarged area of the rain garden with computations (stated as his as-built survey), and site photos. He stated that non-compliance Issues #1-4 have been addressed per his photos. Sod and grass with hay have been installed/planted. Rain barrels are not hooked up because he has tubular gutters instead of rectangular, and the rain barrels only have a rectangular diverter. Custom tubular diverters are being made and will be installed on 10/7/16, with

photos to be sent to Staff after installation. All downspouts are connected and subsurface. Stream buffer signs are at the top of bank on both sides.

Mr. Tudor stated that the rain garden was actually built larger, 441 sq. ft. instead of 260 sq. ft. More concrete was poured for the front driveways. More HVAC units were required for each 3-story house, one per floor, and more concrete pad was required by Codes.

There was discussion regarding the increased impervious area (rear and driveway), the rain garden, and mitigation. He stated that mitigation trees on the sides of the house have been planted.

After discussion during the Executive Session of the Committee on October 6, 2016, and review of the information presented, Mr. Dodd Galbreath made a motion to defer the case to allow the Appellant to ask his engineer to come up with a way to either remove the existing imperviousness to meet the original variance requirements #5 and #6 (stated in the Notice to Appear to Show Cause Letter dated August 24, 2016) or find an equal mitigation proposal that would achieve the same result as the original variance criteria that have not yet been addressed and return to the Committee. Mr. Roy Dale seconded the motion. The deferral would be for 30 days.

*2. Case # 201600026 was withdrawn from the agenda at the request of the applicant.*

**3. 201600027**

Lot 7 – Colonial Cottages (Warfield Dr.)

(Single Family Residential)

1920, 1922, & 1922B Warfield Drive

Map 131-022L, Parcels 00100CO, 00200CO, and 90000CO

Inspector: (Kimberly Hayes)

CD-25 (Russ Pulley)

**APPLICANT'S REQUEST:** Variance #201600016 was previously granted on July 7, 2016. The applicant is now requesting a completely new variance to allow the following:

1) Disturbance and encroachment of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary to Sugartree Creek for construction of first level concrete patios and second level decks off the rear of two single family residential structures, and grading within the last 20' of the Zone 1 buffer as shown on the Plan of Record.

2) Disturbance of the Zone 1 buffer for installation of a wooden privacy fence.

3) Placement of Stormwater Best Management Practices (BMPs) in the buffer.

4) Installation of mitigation plantings at the rear of the existing lawn.

5) Installation of modified buffer signage.

6) Maintenance of the exterior 20' of the 30' Zone 1 buffer. The applicant is proposing to leave the first 10' (from top of bank) completely undisturbed. The next 10' will contain the rain gardens and mitigation area, and the applicant requests the ability to keep it maintained and weeded as needed. The final 10' is proposed to be lawn and maintained in keeping with a typical lawn area.

**APPELLANT:** Dean Design Group

**REPRESENTATIVE:** Mr. Charley Dean

**COMMENTS:**

**SW STAFF:** Staff comments are as follows:

- 1) Staff believes the applicant will modify his variance request based on Committee approval of variances for Lots 11-9 last month. If so, Staff requests that the applicant specifically state the entire revised variance request.

- 2) If the applicant requests to not be required to install rain gardens and the Committee grants the request, Staff requests that the Committee specifically state that water quality is waived for the site and state why water quality is being waived.
- 3) If the variance is approved, Staff requests that a condition be added that the original pervious paver turnarounds in the front drives (approved in the previous variance) remain, the drives be graded in a manner that water does not run towards the pervious paver portion, and the pervious paver detail be added to the Grading Plan.
- 4) If the variance is approved, Staff requests that a condition be added that for each 10' section of the 30' Zone 1 buffer, the applicant add notes to state the specific, approved mowing and maintenance requirements; for example, mow or no-mow, limited maintenance, remain undisturbed, etc.
- 5) If the variance is approved, Staff requests that a condition be added that the Appellant coordinate with Staff on review and approval of the required water quality buffer signage and location(s).
- 6) Per construction site photos for nearby structures on 1906 and 1908 Warfield (Lot 11), there are no access stairways to and from the proposed 8'x20' concrete patio and 8'x20' 2<sup>nd</sup> story deck. Staff requests that the applicant specify whether or not final construction will be per approved variance Plan of Record. If not, Staff requests that the Grading and Mitigation Plans be revised to remove the stairways (reduce the buffer impact). Note: It is unknown if this will impact all Lots 11-6 of Colonial Cottages.
- 7) During a site inspection of 1906 and 1908 Warfield by Stormwater Staff on 9/14/16, Staff notified the applicant that the first 20' of buffer area (from top of bank) had been compromised/disturbed. The applicant was notified to re-establish the 10' No Disturb area and the 10' landscape mitigation area (to be maintained). If any of the same areas of Lot 7 have been disturbed, Staff requests a condition be added that restoration of those areas also be required and that the 10' No Disturb buffer be flagged to deter further encroachment.
- 8) The drainage easement width for the pipe between Lots 7 and 8 should be 15' and not 10' as shown on the Grading Plan. Portions of the concrete driveway will encroach into this easement. If the variance is approved, Staff requests that a condition be added that the Grading Plan be revised to show the 15' easement width.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Mr. Roy Dale recused himself from the case.

Mr. Charley Dean gave a brief overview of the project, the changes from the previous variance approval, and the current variance request. Mr. Corey Short was also in attendance.

Ms. Monette Rebecca, Richland Creek Watershed Alliance (RCWA), spoke in opposition to the request, stating that water quality buffers are disappearing, and the applicant is requesting more encroachment. Mowing along the creek is killing aquatic resources, creating algae blooms and nutrient pollution, slowing waters, and diverting flows.

The Committee discussed the previous waiver of water quality for other lots (Colonial Cottages), stormwater runoff/drainage on the lots, and differences between the previously-approved and proposed variance request.

After discussion during the Executive Session of the Committee on October 6, 2016, and review of the information presented, Mr. Slade Sevier moved for approval with the following Conditions #1-6 and

standard Condition #7, consistent with the exact same conditions and variances allowed on the previous Lot 10. Ms. Anna Maddox seconded the motion. Ms. Ronette Adams-Taylor, Ms. Debra Grimes, Ms. Maddox, and Mr. Sevier voted in favor of the motion. Mr. Dodd Galbreath voted against the motion. Mr. Roy Dale abstained from the vote.

1. The Appellant shall revise the Grading Plan to include the original pervious pavers in the front drives, and the drives need to be graded in a manner that water does run towards the pervious paver portion.
2. The bioretention areas in the back/rear shall be omitted. The requirement for treatment is waived.
3. The Appellant shall revise the Mitigation Plan to include the correct parcel addresses and APN numbers and the following SWMC 2-Year Survivability standard condition: “The Appellant shall have the landscaper who installs the required mitigation plantings to certify to Ms. Kimberly Hayes, MWS – Development Services, in writing (referencing Variance #201600027), 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.”
4. For each 10’ section of the 30’ Zone 1 buffer, the Appellant shall add notes to state the specific, approved mowing and maintenance requirements; for example, mow or no-mow, limited maintenance, remain undisturbed, etc.
5. The Appellant shall revise the Grading Plan to show: a) the correct parcel addresses and APN numbers, b) the 15’ drainage easement for the pipe section, and c) the correct number and locations of all HVAC pads.
6. The Appellant shall coordinate with Staff on review and approval of the required water quality buffer signage and location(s).
7. This variance will expire on October 6, 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.

The reason for approval was the hardship of the lot, with the mitigation being consistent with other development in the area. The reasons for the variance on waiver of water quality were based on hardships of the lot and natural water quality being provided by the design.

There was discussion regarding the rear stairs shown on the grading plans for the lots (Colonial Cottages), to which the Committee stated that the stairs are not a material part of the plan.

There was additional discussion regarding previous buffer disturbance on Lot 11 for installation of a sewer line. Mr. Short was asked if there had been any buffer disturbance on Lot 7, to which he stated no.

**4. 201600028**

Lot 6 – Colonial Cottages (Warfield Dr.)

(Single Family Residential)

1924, 1926, & 1926B Warfield Drive

Map 131-022K, Parcels 00100CO, 00200CO, and 90000CO

Inspector: (Kimberly Hayes)

CD-25 (Russ Pulley)

**APPLICANT'S REQUEST:** Variance #201600017 was previously granted on July 7, 2016. The applicant is now requesting a completely new variance to allow the following:

- 1) Disturbance and encroachment of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary to Sugartree Creek for construction of first level concrete patios and second level decks off the rear of two single family residential structures, and grading within the last 20' of the Zone 1 buffer as shown on the Plan of Record.
- 2) Disturbance of the Zone 1 buffer for installation of a wooden privacy fence.
- 3) Placement of Stormwater Best Management Practices (BMPs) in the buffer.
- 4) Installation of mitigation plantings at the rear of the existing lawn.
- 5) Installation of modified buffer signage.
- 6) Maintenance of the exterior 20' of the 30' Zone 1 buffer. The applicant is proposing to leave the first 10' (from top of bank) completely undisturbed. The next 10' will contain the rain gardens and mitigation area, and the applicant requests the ability to keep it maintained and weeded as needed. The final 10' is proposed to be lawn and maintained in keeping with a typical lawn area.

**APPELLANT:** Dean Design Group

**REPRESENTATIVE:** Mr. Charley Dean

**COMMENTS:**

**SW STAFF:** Staff comments are as follows:

- 1) Staff believes the applicant will modify his variance request based on Committee approval of variances for Lots 11-9 last month. If so, Staff requests that the applicant specifically state the entire revised variance request.
- 2) If the applicant requests to not be required to install rain gardens and the Committee grants the request, Staff requests that the Committee specifically state that water quality is waived for the site and state why water quality is being waived.
- 3) If the variance is approved, Staff requests that a condition be added that the original pervious paver turnarounds in the front drives (approved in the previous variance) remain, the drives be graded in a manner that water does run towards the pervious paver portion, and the pervious paver detail be added to the Grading Plan.
- 4) If the variance is approved, Staff requests that a condition be added that for each 10' section of the 30' Zone 1 buffer, the applicant add notes to state the specific, approved mowing and maintenance requirements; for example, mow or no-mow, limited maintenance, remain undisturbed, etc.
- 5) If the variance is approved, Staff requests that a condition be added that the Appellant coordinate with Staff on review and approval of the required water quality buffer signage and location(s).
- 6) Per construction site photos for nearby structures on 1906 and 1908 Warfield (Lot 11), there are no access stairways to and from the proposed 8'x20' concrete patio and 8'x20' 2<sup>nd</sup> story deck. Staff requests that the applicant specify whether or not final construction will be per approved variance Plan of Record. If not, Staff requests that the Grading and Mitigation Plans be revised to remove the stairways (reduce the buffer impact). Note: It is unknown if this will impact all Lots 11-6 of Colonial Cottages.
- 7) During a site inspection of 1906 and 1908 Warfield by Stormwater Staff on 9/14/16, Staff notified the applicant that the first 20' of buffer area (from top of bank) had been compromised/disturbed. The applicant was notified to re-establish the 10' No Disturb area and the 10' landscape mitigation area (to be maintained). If any of the same areas of Lot 6 have been disturbed, Staff requests a condition be added that restoration of those areas also be required and that the 10' No Disturb buffer be flagged to deter further encroachment.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Mr. Charley Dean gave a brief overview of the project and variance request. Mr. Corey Short was also in attendance.

After discussion during the Executive Session of the Committee on October 6, 2016, and review of the information presented, Mr. Slade Sevier moved for approval with the following Conditions #1-6 and standard Condition #7, consistent with the exact same conditions and variances allowed on the previous Lot 10. Mr. Roy Dale seconded the motion. Ms. Ronette Adams-Taylor, Mr. Dale, Ms. Debra Grimes, Ms. Anna Maddox, and Mr. Sevier voted in favor of the motion. Mr. Dodd Galbreath voted against the motion.

1. The Appellant shall revise the Grading Plan to include the original pervious pavers in the front drives, and the drives need to be graded in a manner that water does run towards the pervious paver portion.
2. The bioretention areas in the back/rear shall be omitted. The requirement for treatment is waived.
3. The Appellant shall revise the Mitigation Plan to include the correct parcel addresses and APN numbers and the following SWMC 2-Year Survivability standard condition: "The Appellant shall have the landscaper who installs the required mitigation plantings to certify to Ms. Kimberly Hayes, MWS – Development Services, in writing (referencing Variance #201600028), 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."
4. For each 10' section of the 30' Zone 1 buffer, the Appellant shall add notes to state the specific, approved mowing and maintenance requirements; for example, mow or no-mow, limited maintenance, remain undisturbed, etc.
5. The Appellant shall revise the Grading Plan to show: a) the correct parcel addresses and APN numbers and b) the correct number and locations of all HVAC pads.
6. The Appellant shall coordinate with Staff on review and approval of the required water quality buffer signage and location(s).
7. This variance will expire on October 6, 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.

The reason for approval was the hardship of the lot, with the mitigation being consistent with other development in the area. The reasons for the variance on waiver of water quality were based on hardships of the lot and natural water quality being provided by the design.

**5. 201600029**

1901 Kimbark Drive  
(Single Family Residential)  
APN: 13103003100

Inspector: (Kimberly Hayes)

CD-25 (Russ Pulley)

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

- 1) Disturbance and encroachment of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary to Sugartree Creek to allow the construction of a single family home, driveway, sidewalk, deck/patio, HVAC pad, and privacy fence installation.

2) Continuous mowing and maintenance of the 50' stream buffer (30' Zone 1 & 20' Zone 2).  
**APPELLANT:** Energy Land & Infrastructure and Cadence Construction

**REPRESENTATIVE:** Mr. Clay Wallace

**COMMENTS:**

**SW STAFF:** Staff comments are as follows:

1) Given the amount of impervious area within the buffer, Staff suggests that the applicant use pervious pavers for the driveway or provide an explanation as to why it is not possible.

2) It appears that some plants identified on the Mitigation Plan are not native species. If the variance is approved, Staff requests that a condition be added that the applicant coordinate with Stormwater Staff on final review and approval of the Mitigation Plan.

3) The applicant has requested continuous mowing and maintenance of the buffer. Given the proximity to the creek, Staff requests that a condition be added requiring the establishment of a Do Not Disturb (No-Mow/No-Maintenance) area with width and buffer signage placement requirements established by the Committee and final plans revised accordingly.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Mr. Clay Wallace gave an overview of the project and variance request. He stated that the owner would be agreeable to a five foot minimal width of no mow/no maintenance width next to the creek. He was asked if a stream determination was done, to which he replied they accepted it as a blue-line stream.

The Committee expressed concern regarding the significant amount of proposed impervious area and impervious area within the buffer, and several members made suggestions on items to evaluate in reducing the buffer impacts.

After discussion during the Executive Session of the Committee on October 6, 2016, and review of the information presented, Mr. Dodd Galbreath made a motion, and Mr. Slade Sevier seconded the motion to defer the case until the November meeting. The motion was approved by Mr. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Galbreath, Ms. Debra Grimes, Ms. Anna Maddox, and Mr. Sevier. Possible things to consider are: 1) remove the notch on the west side of the structure, 2) reduce the driveway or consider wheel strips, 3) relocate the HVAC away from the east side, 4) consider a 3-story structure to reduce the footprint and remove some of the disturbance from the Zone 1 buffer, and 5) shift the structure closer to the (west) property line (away from the creek), to accomplish being out of the Zone 1 buffer.

**6. 201000014**

The Mansion at Fontanel Phase 2 & 2A

4225 Whites Creek Pike

APN: 04900014000

Grading Permit: SWGR 200900150

Inspector: (Katherine O'Hara)

CD-03 (Brenda Haywood)

**APPLICANT'S REQUEST:** REHEARING: Previous Variance #201000014 was granted on 8/5/10. This rehearing is being held in response to a Letter of Non-Compliance (dated 5/9/16) sent to Fontanel regarding issues with the site related to the subject variance. One outstanding issue remains that must be addressed, and in response, the Applicant is requesting to allow the following revisions to the previously granted variance:



- 1) Disturbance and encroachment of the 75' floodway buffer (50' Zone 1 & 25' Zone 2) of Whites Creek for removal of a portion of existing, unpermitted gravel parking area and construction to replace the remaining gravel with pervious concrete and concrete curb (to remain).
- 2) Disturbance and encroachment of the Whites Creek floodway to provide compensating cut (587 cubic yards) for 533 cubic yards of unpermitted, uncompensated fill (gravel area) in the 100 year floodplain (BFE = 485.8').
- 3) Placement of existing Stormwater Best Management Practices (BMPs infiltration trench and swale), to remain in the buffer (unpermitted location).

**APPELLANT:** EDGE and Fontanel Properties, LLC

**REPRESENTATIVE:** Mr. John Haas

**COMMENTS:**

**SW STAFF:** Below is a summary of Previous History with the Stormwater Management Committee:

- 1) Variance #201000001 – granted on 3/4/10 for floodway and floodway buffer disturbance to allow mowing and maintenance of the buffer for event parking and installation of a gravel access drive for NES power pole access.
- 2) Variance #201000014 – granted on 8/5/10 for floodway buffer disturbance for construction and encroachment of the gravel pad at the backstage area, stream buffer disturbance for grading, stone and timber walls, gravel walkways, pedestrian foot bridge crossing, temporary cabana structures, and mowing and maintenance of the north side of the stream buffer. This variance was requested in response to a Notice of Violation (NOV) issued on 5/27/10. Additional hearing held on 10/7/10 that required the applicant to modify the current Stormwater Management Plan after a second NOV was issued on 8/26/10.
- 3) Variance #201300020 – granted on 12/5/13 for 2,366 cubic yards of uncompensated fill in the floodplain associated for the Fontanel Southern Living House which was not built per approved grading plan.
- 4) Variance #201300022 – granted on 12/5/13 for floodway, floodway buffer, and stream buffer disturbances for widening of an existing road and installation of water lines and 2 stream crossings <1,000', associated with the originally proposed Fontanel IHG Resort.

\*Regarding the subject variance request, Staff comments are as follows:

- 1) While there may be appropriate uses of pervious concrete, for this specific site Staff suggests the use of asphalt pavement (requested in a 3/14/16 email to Staff) rather than pervious concrete and that additional mitigation be provided, to be specified by the Committee in a variance condition. Also, if the variance is approved, Staff requests that a condition be added that the asphalt parking be routed to the infiltration trench.
- 2) If the variance is approved, Staff requests that a condition be added that the No-Rise Certification be reviewed and approved by Staff.
- 3) If the variance is approved, Staff requests that a spill response kit be visibly placed in the backstage area, training be provided on its use, and the current Stormwater Management (SWM) Plan be amended to include these requirements.

**CODES:** No comment provided.

**PLANNING:** No exceptions taken.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Several public comments (submitted by email) were read into the record:

- 1) Ms. Laura Bigbee-Fott, 6921 Old Hickory Blvd, stated opposition to the variance request.
- 2) Ms. Gladies Herron, 605 Cherry Grove Pt, stated opposition to the variance request.

- 3) Ms. Vicki Cooper, 3679 Knight Dr., stated opposition to the variance request.
- 4) Ms. Helen Tarleton, 7135 Old Hickory Blvd, stated opposition to the variance request.
- 5) Ms. Lanie Marsh, 3891 Knight Dr., stated opposition to the variance request.
- 6) Mr. Zach Dier, 681 Brick Church Ln., stated opposition to the variance request.
- 7) Ms. Lisa Procter, 4129 Dry Fork Rd., stated opposition to the variance request.
- 8) Ms. Heather Scheiderer Drexler, xxx, stated opposition to the variance request.
- 9) Mr. David Kearns, 4041 Knight Rd., stated opposition to the variance request.
- 10) Ms. Billie Jean Osborne, 4704 Whites Creek Pk, stated opposition to the variance request.
- 11) Mr. George Ewing, 4601 Whites Creek Pk, stated opposition to the variance request.
- 12) Ms. Elise Hudson, 4601 Whites Creek Pk., stated opposition to the variance request.

Ms. Angela Williams, 7203 Old Hickory Blvd, was in attendance and stated her concern with potentially increased flows, that new rural subdivision regulations have been passed and it is a T2 rural residential area and not commercial, and that any disturbance of the floodplain upstream or downstream will have a huge influence in the area.

Mr. George Ewing, 4601 Whites Creek Pk, stated that he did not believe the qualifications for a hardship had been met and requested enforcement of adherence rather than a variance.

Mr. Clay Wallace and Mr. John Haas gave an overview of the activities that resulted in non-compliance issues, the current status of the site, and the proposed variance request. They have worked to limit and reduce the impact and propose an aggressive mitigation. They are in agreement with Staff's comments (going to asphalt, no-rise certification, and a spill response kit).

There was discussion regarding interaction and communication with the community, the SP, and past experience with the site and variances before the Committee. Mr. Dodd Galbreath stated that the mitigation plan is well done with the right species of trees and the right configuration to stabilize the creek; however, he could not tell if it will offset what is proposed. Mr. Wallace stated that their proposal reduces the amount of impervious area over what is there now. There was further discussion regarding the parking area, the infiltration trench, and the proposed mitigation.

After discussion during the Executive Session of the Committee on October 6, 2016, and review of the information presented, Mr. Slade Sevier made a motion to approve with the following Conditions #1-4 and standard Conditions #5-6. Mr. Roy Dale seconded the motion. Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Dodd Galbreath, Ms. Debra Grimes, Ms. Anna Maddox, and Mr. Sevier voted in favor of the motion.

1. All of the parking area, both existing and proposed, needs to be pulled out of Zone 1.
2. To the extent the existing infiltration trench is in Zone 1, it can stay, but an engineer needs to provide a record to expand the existing infiltration trench (into Zone 2) or provide a new infiltration trench that properly accommodates all the impervious area that was created back when this was done, consistent with the new impervious area. It needs to handle pre-runoff versus post-runoff, and the pre-runoff should be the pre-runoff before the development. The post runoff should be based on the proposed plan with no improvements in Zone 1.
3. Asphalt pavement (with curbing) shall be used for the parking surface, instead of pervious concrete, and the asphalt parking shall be routed to the infiltration trench.

4. The Appellant shall visibly place a spill response kit in the backstage area, provide training on its use, and amend the current Stormwater Management (SWM) Plan to include these requirements.
5. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to MWS Stormwater – NPDES Office, in writing (referencing Variance #201000014), 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.
6. This variance will expire on October 6, 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.

The Appellant is reminded that the variance approval includes the submitted mitigation.

The reason for approval was based on what was previously approved. The development happened based on an approved variance that the Committee had no control over, and the Committee had to look at how they get it back to what was actually approved. They are also providing cut in the floodplain to make up for the uncompensated fill.

Mr. Galbreath stressed to the Appellant that the Committee really needs them to do this like they are proposing.

**7. 201600030**

Thorntons – Whites Creek Pike (Preliminary Stormwater Management Plan)  
7330, 7340, 7350, 7360, and 7368 Whites Creek Pike  
Map 15, Parcels 46-50  
Inspector: (Katherine O’Hara) CD-01 (Nick Leonardo)

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

- 1) Disturbance and encroachment of an unnamed tributary to Long Creek and its 30’ stream buffer for stream realignment and piping and a portion for pavement.
- 2) Disturbance and encroachment to fill 0.38 acres of wetland and 0.39 acres of wetland buffer for grading, pavement, underground detention, and installation of a truck scale.
- 3) Disturbance and encroachment of the 50’ stream buffer (30’ Zone 1 & 20’ Zone 2) of an unnamed tributary to Long Creek for a stream crossing.
- 4) Construction of a stream crossing >15 degrees from being perpendicular.
- 5) Construction of multiple stream crossings <1,000’ apart.
- 6) Placement of a Stormwater Best Management Practices (BMPs) in the buffer.

**APPELLANT:** Kimley-Horn

**REPRESENTATIVE:** Mr. Zac Dufour

**COMMENTS:**

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

**CODES:** No comment provided.

**PLANNING:** This property is not zoned for commercial development. ORDINANCE NO. BL2016-394.

**GREENWAYS:** Greenways defers to Metro Storm Water comments.

Mr. Drew Zazofsky (Thorntons) stated that along with the Preliminary SWM Plan approval being requested, they are pursuing SP zoning and will be getting feedback from the neighborhood and Staff.

Mr. Zac Dufour gave an overview of the project, variance requests and mitigation. Mr. Chris Fleming (BDY) was also in attendance. Mr. Dufour stated that they would work with the Corps and TDEC and probably pay into a wetland mitigation bank. A hydrologic determination (HD) has been done and a TDEC jurisdictional determination provided that concurs with the wetland delineation and classifies it as a low quality wetland. They are still working with the Corps. Mr. Fleming provided further information on the hydrologic determination, state and federal permitting requirements, and mitigation requirements.

Councilman Nick Leonardo spoke stating that the project was disapproved by the Planning Commission. They were asking for a major plan amendment and change to CL. He advised them that he could not support the bill unless they went and obtained an SP. He wants to ensure that any environmental concerns are mitigated or kept to a minimum.

Mr. George Ewing, 4601 Whites Creek Pike, stated that the project has been contentious in the community. He does not agree with the siting or the proposal.

There was discussion regarding points of access and proposed water quality treatment. The applicant was asked if higher and drier sites were considered to which he responded they could provide that analysis with the formal variance application since it is more a function of their real state department. Mr. Dufour did state that it is a prime location near the interchange. Concern was expressed regarding the amount of buffer disturbance proposed.

After discussion during the Executive Session of the Committee on October 6, 2016 and review of the information presented, Mr. Slade Sevier moved to deny the request as submitted. Mr. Dodd Galbreath seconded the motion. The motion was approved by Ms. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Galbreath, Ms. Debra Grimes, Ms. Anna Maddox, and Mr. Sevier.

The reasons for denial were that: 1) the hardship of the property does not appear to justify the development, 2) the amount of disturbance does not justify the development, and 3) there are higher and drier sites for gasoline and diesel to be stored. Mr. Slade Sevier stated his specific concerns with the two crossings and the need to decrease the square footage of buffer disturbance.

*Ms. Debra Grimes, Ms. Ronette Adams-Taylor, and Mr. Dodd Galbreath left the meeting.*

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

There was discussion with Staff and remaining Committee members regarding variance requirements for individual Metro Public Works projects and developments that are including items that are required by Public Works. Examples given were standard sidewalks that are next to streams, cross-drains that need to be re-aligned or replaced that may not be within 15 degrees of being perpendicular to the stream, and existing sidewalks next to streams that have to institute a 6' grass strip + 8' sidewalk + 1' additional behind it, along with increased fill down to the stream to accommodate a 15' width.

It was stated that there is no blanket SWMC variance for Public Works that allows buffer disturbance for their projects. There was brief discussion regarding requirements by other departments, jurisdiction, state permit requirements, right-of-way sight issues, potential water/sewer issues, potential review and approval by Staff for these types of issues, and potentially requesting a variance through another department.

There was consensus that a blanket variance request for straight Public Works-only projects could be brought before the Committee as a general request (with no specific project required). Private development projects would still be required to go before the Committee. Staff will develop a draft document to present to the Committee for discussion.

**V. ADJOURNMENT**

The meeting was adjourned at 12:33 p.m.

Metropolitan Stormwater Management Committee

Approved:

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

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