

**Minutes
of the
Stormwater Management Committee (SWMC)
December 1, 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. 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.

II. APPROVAL OF NOVEMBER 3, 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 November 3, 2016 meeting. Ms. Adams-Taylor, Mr. Roy Dale, Ms. Grimes, Mr. Dodd Galbreath, Mr. Slade Sevier, and Mr. Lance Wagner voted in favor of the motion. Ms. Anna Maddox abstained from the vote because she did not attend the meeting.

III. ITEMS OF BUSINESS

Mr. Josh Hayes gave a presentation on the FY16 Metro Nashville/Davidson County Annual MS4 Report. He discussed examples of how stormwater pollution was eliminated during the fiscal year such as repair of a collapsed private sanitary sewer line, remediation of a liquid asphalt/oil/diesel fuel spill, repair of improperly maintained erosion prevention and sediment control (EPSC) measures, and repair of an illicit cross connection. A summary of MS4 program highlights was also presented with statistics including the following:

1. 17,307 miles of urban streets swept with 4,283 tons of debris collected.
2. 166,684 cubic yards of material removed from stormwater infrastructure (ditches, culverts, etc., and 144,999 pounds of sediment/debris removed from inlets/catch basins.
3. 1,450 Stormwater plans approved with 95 incorporating Low Impact Design techniques.
4. 254 Grading Permits issued. 6,684 construction site-related and 1,362 single family residence construction site-related inspections performed.
5. 100 water quality (illicit discharge), 40 spill response, and 6 private sewer overflow investigations initiated, 11 notifications to failed septic systems, and 498 outfall field screenings performed.
6. 102 total notices of violations and notices of noncompliance issued, with a total of \$35,390 issued in administrative penalties.
7. 384 various water quality samples collected and 19.4 miles of streams visually assessed for habitat conditions.
8. 496 water/Stormwater education programs/activities to Davidson County schools, with 11,487 students/433 adults reached in water educational programs. 937 targeted educational messages sent to neighborhoods with issues of brush, leaves, debris dumping, and other Stormwater pollution issues.
9. Approximately 948 rain barrels distributes through the MWS one-time discount program partnership with rainwater solutions.

The FY16 Annual MS4 Report can be accessed in its entirety at the link below:
<http://www.nashville.gov/Water-Services/Community-Education/Reports/NPDES.aspx>

IV. STORMWATER MANAGEMENT COMMITTEE AGENDA

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

1. 201600035

817 Footpath Terrace (Single Family Residential)
APN 15602019700

Inspector: (Kimberly Hayes) CD-35 (Dave Rosenberg)

APPLICANT'S REQUEST: Request is to allow construction of a 576 sq. ft. wet-floodproofed detached garage in the Harpeth River 100-year floodplain with a first floor elevation 4.4' below the base flood elevation (BFE) of 565.1'.

APPELLANT: Mr. Nicholaus Korando

REPRESENTATIVE: Mr. Nicholaus Korando

COMMENTS:

SW STAFF: Given that the proposed FFE of the detached garage will be 4.4' below the BFE, Staff requests that the Committee evaluate whether or not a Non-Conversion Agreement should be included as a variance condition.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: The Greenways Division defers to Water Services comments.

Mr. Nicholaus Korando gave an overview of the project and variance request. There was brief discussion regarding the proposed building construction and the proposed mitigation (two cisterns).

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

1. The Property Owner shall provide a recorded Non-Conversion Agreement.
2. This variance will expire on December 1, 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 variance is valid only so long as the plan presented to the Stormwater Management Committee does not change.

NOTE: The following three cases involving variance requests for three separate parcels (all near or adjacent to each other with the same property owner, variance request, and Staff comments) were considered together in the deliberation and final decision of the Committee.

2. **201600036**
2655 Miami Avenue (Single Family Residential)
APN 05209015100

3. **201600037**
2659 Miami Avenue (Single Family Residential)
APN 05209015300

4. **201600038**
2655 Miami Avenue (Single Family Residential)
APN 05209015400

Inspector: (Kimberly Hayes)

CD-15 (Jeff Syracuse)

APPLICANT'S REQUEST: Request is to allow the following:

- 1) Disturbance of the 50' Zone 1 of the 75' floodway buffer of the Cumberland River for construction of a single family residence, including a porch, steps, and deck on the ends of the house.
- 2) Disturbance of the floodway of the Cumberland River to construct cantilevered portions of the house over the floodway maintaining minimum low chord of the structure approximately 6' above the 100-year flood elevation (BFE=421.1'). The cantilevered portions will include 2 balconies and 1 living space area.
- 3) Modified buffer signage (with alternate wording as approved) and placement as shown on the record plan (each property line at existing tree line).
- 4) Continuous mowing of the buffer to the edge of the existing tree line as shown on the record plan.

APPELLANT: Precision Homes, Inc. (Mr. Gil Smith)

REPRESENTATIVE: Mr. Walter Davidson

COMMENTS:

SW STAFF: Staff comments are as follows:

1. This area of Miami Ave. was substantially inundated during the May 2010 flood. (GIS)
2. Post May 2010 flood, Metro purchased 11 properties adjacent to and within this same area (1/3 mile), including an unfinished single family residence previously owned by the Appellant, Parcel 152, 2657 Miami Ave. (GIS)
3. Question: Regarding the Landscape Mitigation Plan, did the applicant consider locating mitigation plantings near the existing tree line versus near the proposed residence?

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS (Cindy Harrison): Revised Comment: Shain Dennison and I visited the 3 residential sites on Miami Ave yesterday and met with the engineer and developer. We agreed to not object to their variance requests on the condition that they grant a Greenways Conservation easement and show it on their drawings, install permanent signs that indicate that a greenway will be constructed in the future and that they will install a crusher run trail at the time the units are constructed which Metro will later pave to meet our greenway standards for design.

Original Comment: The Greenways Division is opposed to the granting of a variance permitting disturbance of the 75' buffer. It conflicts with the conservation mission of the greenways system to protect the land along water corridors. The Greenways Division also requests a Greenway Conservation Easement if this property is developed.

In the GIS presentation, Staff showed the locations of the three subject parcels and also the locations of Metro-purchased properties (post-May 2010 flood) within the vicinity.

Mr. Walter Davidson gave an overview of the sites, projects, and variance requests. Mr. Gil Smith (property owner) was also in attendance. Mr. Davidson stated that the hardship of the property was that Mr. Smith bought the properties in 2004 prior to the establishment of the bufferyard regulations, and the lot is 100% within the floodway or floodway buffer. If a variance is not granted, there is no use of the property. He stated that they did meet with Greenways and the property owner is very willing to accommodate Greenways and give them whatever easement they need. He stated that Greenways indicated an approximately 12' wide trail just outside of the existing tree line. The owner is also willing to put in the stone base for the trail as the houses are built. A variance was obtained from the Board of Zoning Appeals to reduce the front setbacks to 10'. HVAC units will be on a small deck under the main deck and be a foot above the 100-year flood, along with the water heaters. Flood vents will be provided in accordance with FEMA requirements. The property owner is more than willing to sign a non-conversion agreement and have it recorded with the building permit. Mr. Davidson stated that moving the landscaping along the rear of the house to the tree line (per Stormwater Staff comment) would interfere a bit with the trail, but they are willing to move it back to the greenway trail and install signs stating a future public greenway trail.

Staff clarified that the buffers went into effect in 1999, prior to Mr. Smith's purchase of the properties in 2004. The Committee reviewed the map locations of the flood buyout properties. Mr. Dodd Galbreath asked what is Metro's policy for buying vacant lots, to which Mr. Tom Palko (Assistant Director – Stormwater Division) gave a brief overview of Metro's policy for purchasing properties after the May 2010 flood. Mr. Galbreath expressed concern that if they approve variances for all three properties, based on 100-year floodplain criteria, they would be creating liability to the taxpayer for purchasing these properties if they flood again at a higher level that we already have experience with. Mr. Smith stated that he would be willing to build as high as they would want. There was brief discussion regarding what was believed to have been the 700-year flood elevation for the May 2010 flood and also the Corps' technique for modeling the floodway.

Ms. Theresa Costonis (Metro Legal) also clarified the position about cantilevering over the floodway which was significant because of the change to Title 15 passed following the 2010 flood, stating that no new structures shall be constructed within the floodway. In a previous case involving balconies cantilevering over the floodway, they were looking at the definition of floodway as defined in Chapter

15.64 as “...that portion of the stream channel and adjacent floodplain required for the passage or conveyance of a one-hundred-year flood discharge”. The phrasing “passage or conveyance” was focused on before, and Legal had stated that it probably was okay. She did ask the Director of Law, and he agreed with that reading, and in fact had been in the position of the Director of the Council Office at the time that legislation had passed.

Mr. Galbreath asked if Metro owned any properties across the street, to which Mr. Palko stated no and that Metro focused on structures in the floodway, and the floodway does not cross the street. Mr. Galbreath stated that there is a precedent by this administration and previous administrations to swap Metro-owned properties (that Metro has a policy interest in to use for a policy purpose) to allow owners to recoup their investment and get better outcomes. He thought it was an option for these properties that is not on the table. He stated that they could defer and recommend someone look at it. It would allow time for a better option to come up that is more in economic favor of the current client’s interest. There is a lot being wedged into the parcels that is economically not in the best interest of the property owner, and it is in the best interest of Greenway users, Metro, and FEMA to evaluate options. There is not an optimal amount of building square footage, architectural design, and is not an easy sell. He proposed to defer and ask Metro SW Staff to investigate creative options that could give the property owner an equal or better economic return (property swap for example, that Metro has done in the past). There was further discussion on any potential since it would have to be voluntary for the property owner and there would have to be properties available, a willingness to acquire the properties, an even value/benefit to Metro, etc. There is a legally mapped buffer, and there are public benefits to the buffer. Mr. Galbreath made a motion to defer to allow Stormwater Staff to work with the property owner and pursue/evaluate viable options (such as a land swap or purchase of the properties, for example). There was further brief discussion regarding hardship and previous Metro purchase of properties. Any land swap would require Metro Council approval. Ms. Debra Grimes seconded the motion. Since there is not a trend in development on the river side of the street it is worth waiting 30 days.

There was further discussion with Staff on investigating any potential for buyout of the properties. Mr. Wagner asked Mr. Smith if there was a buyout option, would he prefer a buyout option over developing the properties, to which Mr. Smith stated he would do that, but he would hate to cost the taxpayers money when there are others built at about the same level on the street and on Pennington Bend. Personally, he would as soon build a house but would take the buyout - but it seemed as if it was not an option. Ms. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Galbreath, Ms. Grimes, Ms. Anna Maddox, and Mr. Lance Wagner voted in favor of the motion. Mr. Slade Sevier voted against the motion. Mr. Wagner stated that as a matter of record, the vote was for all three of the Miami Avenue cases, #201600036, 201600037, and #201600038.

V. ITEMS OF BUSINESS (Continued)

In order to provide further transparency to the public, the Committee discussed moving future meetings to the Howard Office Building (HOB), Sonny West Conference Center (SWCC), and having them televised and recorded on the Metro Nashville Network. Mr. Chris Singleton and Mr. Michael Kilbane (ITS) were in attendance to answer general questions regarding the process. As a trial run before the Committee makes a final decision, Ms. Debra Grimes made a motion to move the January 5th meeting to the HOB SWCC and have it recorded but not televised. Mr. Dodd Galbreath seconded the motion which was approved unanimously.

The Committee also briefly discussed the current meeting time. The members stated that it will be more convenient to start the meetings fifteen minutes later, due to traffic concerns and also to assist Staff and the applicants. Mr. Slade Sevier made a motion to move the meeting time from 8:00 a.m. to 8:15 a.m. Ms. Anna Maddox seconded the motion which was approved unanimously.

VI. ADJOURNMENT

The meeting was adjourned at 10:07 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____