

**Minutes  
of the  
Stormwater Management Committee (SWMC)  
January 5, 2017  
\*\*\*\*\*  
8:15 AM  
700 Second Avenue South  
Howard Office Building, Sonny West Conference Center**

**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  
Mr. Slade Sevier, P.E. – Vice Chairman  
Mr. Lance Wagner, P.E. – Chairman

**Committee Members Absent**

Ms. Anna Maddox, P.E.

**I. CALL TO ORDER**

The meeting was called to order at 8:20 a.m.

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

Mr. Dodd Galbreath moved and Ms. Debra Grimes seconded the motion to approve the meeting minutes and decision letters for the December 1, 2016 meeting. Ms. Ronette Adams-Taylor, Mr. Roy Dale, Ms. Grimes, Mr. Galbreath, Mr. Slade Sevier, and Mr. Lance 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. **201600036**  
2655 Miami Avenue (Single Family Residential)  
APN 05209015100
2. **201600037**  
2659 Miami Avenue (Single Family Residential)  
APN 05209015300

**3. 201600038**

2661 Miami Avenue (Single Family Residential)

APN 05209015400

Inspector: (Kimberly Hayes)

CD-15 (Jeff Syracuse)

**APPLICANT'S REQUEST:** All three cases were previously deferred on December 1, 2016 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). The request (as previously presented for all three cases) 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 Mr. Smith, Parcel 152, 2657 Miami Ave. (GIS)
- 3) The buffer regulations became effective September 1999. Mr. Smith purchased the lots on March 19, 2004.
- 4) Stormwater Staff has evaluated the purchase or swap of Mr. Smith's property, and based on the asking price (\$98,000/vacant lot, \$269,000/lot developed), it has been determined that there is no opportunity to purchase or swap the lots. The pre-2010 flood Property Assessor value was \$70,200/lot. The current Property Assessor value is \$1,500/lot.

**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 (on 11/30/16) 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.

Mr. Walter Davidson gave a brief overview of the project. Mr. Gil Smith (property owner) was also in attendance. Mr. Davidson stated that the lots are entirely within the floodway or 50' Zone 1 buffer and without a variance of the buffer requirements, there is no way to develop on the lots. The houses are

outside the floodway (except for the cantilever, well above the 100-year flood), and there are patches of high ground where the houses are above the 100-yr flood under natural conditions. They are willing to work with Greenways on granting the easement and doing a stone trail.

Mr. Lance Wagner asked Stormwater Staff about the inability to purchase the lots and if there had been any further discussion, to which Mr. Roger Lindsey, MWS – Stormwater, responded. He stated there are as many as 50 empty lots along this reach of Pennington Bend and Miami Avenue that are influenced by the floodway and have potential for new development. Metro bought 25 of them post-2010 flood, consistent with the defined protocol for purchase of lots, to help those with houses in the floodway that were more than 50% damaged, one of which was owned by Mr. Smith and in the middle of his three lots that are the subject of the variance request. Metro is in the process of purchasing 30 houses in the Gibson Creek area that were substantially damaged during the flood in 2013 and would love to take the lots off the table from a development perspective; however, there is simply no money to do that and also given the stated worth. Mr. Lindsey gave a brief summary of the 2010 flood, historical flood events, available historical flood data, and previous gage heights and flood levels.

Mr. Dodd Galbreath stated that his reason for making the motion (for deferral) in the previous meeting was that anyone that comes to the Committee with an investment expectation needs to have that expectation prudently assessed and every effort made to try to address that concern in the bounds of the regulations for which the Committee is considering variances. Metro has a policy of buying properties that are developed. Most of the property is in the Zone 1 buffer, and a significant portion of the property is influenced by the floodway. If a variance is granted allowing the property to be developed, it will become taxpayer liability when there is a flood. There is a frequency of high-level floods in the area.

Ms. Ronette Adams-Taylor asked what will Metro do with the property previously owned by the Appellant, to which Mr. Lindsey stated that it was purchased with FEMA money and deeded to Metro Water Services and can never be developed. It will be mowed/maintained by Metro Parks. Mr. Roy Dale asked about purchase of a house if it had been constructed outside of the floodway, at 4' above the floodplain elevation, and had received <50% damaged - would it have met Metro's criteria for purchase for the 2010 flood. Mr. Lindsey stated that for 2010 there were some houses along the reach that were purchased in lots – rather than every fourth house, for example. Mr. Dale stated that he was not sure he agreed the houses would be a tax liability if out of the floodway. There was further brief discussion regarding mowing/maintenance of the Metro-owned lot.

Mr. Galbreath asked the rest of the members if it was true that they rarely grant variances in the Zone 1, to which there was a consensus. He stated that was one issue, along with his concern that a line on a piece of paper is a guarantee that in a constantly dynamic hydrologic cycle, the taxpayers will not be burdened with having to buy out whoever buys these developed properties. It is also significant that unfortunately the property owner purchased this property after the buffer code was in place.

Mr. Wagner stated that his concern is always life, health, and safety on these measures. He remembered some efforts to pull people from houses and some life, health, and safety issues during the 2010 flood. He believed that Miami Avenue dead ends to the east of these sites and was mostly cut off during the 2010 flood. He was concerned if they are creating a life, health, and safety issue by the lots being developed with residential houses. Mr. Dale stated that there are houses on the opposite side of Miami Avenue that are outside of the floodway and floodway buffer that are at pretty much the same elevation, and so by right they can build those houses. They would have the same life or safety issues, and there

would really be no difference. Mr. Smith stated he was down there the night before it crested and the morning it did crest and walked up Miami. There was dead, still water with no current, and you could easily walk right at the crest - there was no real danger and hardly any flow. Mr. Wagner was asked if he had any problems getting in and out of Miami Avenue, to which Mr. Smith stated no – they would not let him go in because the police were at Pennington Bend, so they went in River Glen to where the water came up in a boat, but mostly walked. Mr. Wagner asked if vehicles could drive down Miami, to which Mr. Smith stated that he could not drive – where it crested was midway up his legs at the deepest part.

After discussion during the Executive Session of the Committee on January 5, 2017 and review of the information presented, Mr. Slade Sevier made a motion to approve. Mr. Roy Dale seconded the motion. Mr. Dodd Galbreath stated that the difference between these properties and the properties on the other side of the road is that there will be three more families to rescue during a flood. Mr. Sevier stated that the reasons for his motion were: 1) although the Committee normally does not grant any variances in Zone 1, there is no way to develop this property without a variance which is Zone 1, what they proposed, 2) it is at least in accordance with FEMA regulations in development in the floodplain, which the Committee approves all the time, and 3) with regard to the issues of life, health, and safety, the property is not much different than the ones across the street and lots of other developments the Committee approves all the time. To be consistent with what the Committee does and does not allow for variances, he approved all three. Mr. Sevier and Mr. Dale voted in favor of the motion. Ms. Ronette Adams-Taylor, Mr. Dodd Galbreath, Ms. Debra Grimes, and Mr. Lance Wagner voted against the motion. The motion failed.

**4. 201600039**

Great Circle Apartments (Preliminary Stormwater Management Plan)  
APNs 07011000100 & 07015004000  
521 and 545 Great Circle Road  
Inspector: (Denice Johns) CD-02 (DeCosta Hastings)

**APPLICANT'S REQUEST:** Preliminary Stormwater Management Plan approval is requested. The preliminary plan includes a variance request to allow the following:

1. Buffer disturbance to eliminate a 0.14 acre wetland and its associated wetland buffer that TDEC labeled as low quality.
2. Placement of Stormwater Best Management Practices (BMP), bioretention area, in the Zone 2 stream buffer.
3. Continuous maintenance of the portion of the Zone 2 buffer included in the bioretention area.
4. Buffer disturbance for installation of trees in the pond buffer as part of mitigation. Disturbance will be limited to installation of the trees with existing vegetation to remain.

**APPELLANT:** Littlejohn Engineering

**REPRESENTATIVE:** Mr. Phillip Piercy

**COMMENTS:**

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

- 1) On the grading plan, the actual 10' Zone 1 and 15' Zone 2 pond buffers need to be delineated and labeled, along with the separate 5' additional width proposed as mitigation. The actual 25' Zone 1 wetland buffer also needs to be delineated and labeled, along with the separate 5' additional width proposed as mitigation. Note that the entire 30' buffer width is to remain undisturbed for both the pond and wetland.

- 2) Please verify that the proposed plantings around the relocated wet weather conveyance are for mitigation and not required to meet urban forester requirements.
- 3) Include the buffer disturbance and encroachment of the headwalls in the variance request.
- 4) The bioretention outfalls should bypass the 50% water quality unit.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater Staff.

**GREENWAYS:** No comment provided.

Mr. Phillip Piercy gave an overview of the site, project, and Preliminary SWM Plan approval request. Mr. Noah Randall (Pollack Shores Development) was also in attendance. Mr. Piercy stated that they met with Mr. Mike Lee (TDEC) onsite, and Mr. Lee agreed with their determination on the water features. At least three months ago they requested that the Corps visit the site but still have not gotten them to do so. They will have it done prior to returning to the Committee with a final submittal. Mr. Piercy stated that since their preliminary plan submittal, they discovered a typo in the survey of the line from the road, and water can no longer be collected and discharged to the larger wetland but will need to be routed to the north and discharged to the pond.

In response to Staff comments, he stated that water collected from the rain gardens along the front of the site along Great Circle would be brought back to the wetland instead of running through the water quality unit. As mitigation, he would work to have the plantings along the wet weather conveyance not included in the tree density units and will revise the buffers to show the additional five feet being provided above the Metro Zone 1 and Zone 2. They will need to add the disturbance of the headwall discharging to the pond in the variance request when they return.

Mr. Piercy stated that they tried to limit the parking – they are right over the parking requirements and used some compact spaces to reduce the amount of pavement. LID requirements will be met, and they will look for opportunities to go above and beyond it for the final design.

Mr. Piercy stated that the wetland had been classified as low quality by TDEC. Mr. Lance Wagner asked if written confirmation or correspondence from TDEC was included in the application, to which Mr. Piercy stated that he could get it. Mr. Wagner stated that he should have it when they return with the final submittal, along with correspondence from the Corps. Mr. Roy Dale asked Mr. Piercy what is the state's requirement for eliminating and offsetting the low quality wetland, to which Mr. Piercy stated nothing, except a general permit. Mr. Dodd Galbreath stated that: 1) a low quality wetland does not have to have water to be a high quality wetland, and 2) biological richness of the wetland is based upon a lot of factors which is mostly plant-based, and the plant-based material is what provides most of the water quality benefit. It will be really critical that TDEC articulates in detail what low quality versus high quality means. The Committee relies on TDEC's determinations and good evidentiary material. Mr. Piercy stated that this site, as part of Metro Center, was completely excavated in the past and filled to depths (according to their geotechnical) of over 20 feet, and all of the features are man-made, not natural. Mr. Galbreath stated it was another critical evidentiary piece of material to see in writing when they return. Re-growth that is natural does not necessarily mean high quality.

After discussion during the Executive Session of the Committee on January 5, 2017 and review of the information presented, Ms. Debra Grimes made a motion to approve the preliminary plan based on the evidence they provided, along with the letter from TDEC, correspondence from the Corps, other documentation requested regarding the landfill, and all the other evidentiary material requested to be

provided for the record upon returning to the Committee with the final submittal, and including the recommendations of Staff. Mr. Dale seconded the motion. The motion was approved by Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Galbreath, Ms. Grimes, Mr. Slade Sevier, and Mr. Wagner.

**5. 201500024**

Watertower

APNs 08214003000, 08214002900, & 08214002700

700, 702, and 706 1<sup>st</sup> Avenue North

Inspector: (Denice Johns)

CD-19 (Freddie O'Connell)

**APPLICANT'S REQUEST:** Extension of the previous Variance #201500024, granted January 7, 2016, is requested. The variance request is to allow the following:

1. Disturbance of the 75' floodway buffer (50' Zone 1 and 25' Zone 2) of the Cumberland River for the following:

- a) Construction and encroachment of a multi-story apartment building.
- b) Construction and encroachment of a boardwalk/overlook.
- c) Installation and encroachment of stormwater outlet structures.
- d) Installation of erosion prevention and sediment control (EPSC) measures.

2. Allow portions of elevated structures to cantilever over into the floodway.

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

4. Continuous mowing and maintenance of the buffer area.

5. Use of modified educational buffer signage.

**APPELLANT:** Mr. Dennis Devine

**REPRESENTATIVE:** Mr. Michael Black

**COMMENTS:**

**SW STAFF:** No additional Stormwater Staff comments.

**CODES:** No comment provided.

**PLANNING:** Defer to Stormwater for review.

**GREENWAYS:** No comment provided for this variance request. For the previously granted variance, Greenways' comment was to defer to Stormwater Staff. The Site Layout (Sheet C1.00) shows a 10' Pedestrian/Greenway Easement.

Mr. Michael Black (Lose & Assoc.) gave an overview of the project and the variance request. Mr. Dennis Devine (property owner/developer), Mr. George Dean (Tune, Entrekin, & White), and Mr. Ryan Woodson (Lose & Assoc.) were also in attendance. Mr. Black stated that nothing had changed with respect to the plans and what was previously submitted. Mr. Devine tended to some other real estate matters in 2016 (those have been addressed), financing is now secured for the project, and they are ready to move forward. Proposed mitigation will be a green roof and perimeter landscaping, and bioretention around the sides to comply with the new LID requirements. Mr. Devine briefly discussed his delay in moving the project forward. He stated that the project will be a 7-story, all-concrete luxury condominium overlooking the water.

Mr. Dean briefly discussed the previous geotechnical report that was provided when the case was previously heard to address the Committee's concerns at that time and verify stability of construction. Mr. Roy Dale asked for an explanation of how long a variance is valid, to which Ms. Paula Kee (Secretary) stated that the variance is valid for one year and that a grading permit or building permit must be obtained within that period in order for the variance to run concurrently with it. Otherwise, it expires.

Mr. Dean stated that they were choosing to not get into the implications of the vested rights statute today, but this is the same application as last time, and hopefully the Committee would be inclined to grant it again. Mr. Devine stated that they are ready to go – there will not be any delays.

There was further review and discussion of the circumstances surrounding the approval of the previous variance (decision letter). In response to the legal question in the previous decision letter, Ms. Theresa Costonis (Metro Legal) stated that Legal is not concerned that this is inconsistent with the definition in the Stormwater code (Section 15.64). The definition of floodway refers to "...that portion of the stream channel and adjacent floodplain required for the passage or conveyance of a one-hundred-year flood discharge". Since this structure would be cantilevered over and above the area where the passage or flow of water would go through, it is Legal's belief that when the Metro Ordinance was passed amending Section 15.64.170 to provide prohibition on construction of new structures in the floodway, that it would not include something cantilevered over the floodway as this proposes.

Mr. Dale stated his concerns. Although it meets the legal requirements as far as floodway, the floodway is just talking about conveyance of water but does not necessarily talk about what is conveying on top of the water. One concern he had was whether a barge or boat (for example) that is flowing down the river during a 100-year event, hit the building. Although he does not believe in precedent, he does believe in consistency and did not see much difference from a previous case. Mr. Lance Wagner stated that the difference he sees in the two projects is that this project has clear access for life, health, and safety. In a flood event, city services could serve this site easier. Mr. Dodd Galbreath stated that he tends to look for compatibility with other land uses and suitability of the site and was also concerned with floating barges or other floating material that could exceed the cantilevered difference of elevation between the top of the peak of the floodway water and the bottom of the lowest balcony. He was more concerned with losing greenspace downtown and losing buffer, not just a horizontal surface but a vertical surface that can grow tall trees, that can create clean air, sequester pollution, add beauty downtown, and enhance the property value of everybody else.

Ms. Rebecca Dohn (MWS – Stormwater NPDES) stated that upon further examination of the 2010 flood imagery, it does not appear that emergency vehicles could gain access to the parcels because First Avenue dips below the railroad and the area was blocked by water. To address Mr. Galbreath's previous comment, Mr. Lance asked Mr. Black how they would be preserving vegetation on the slope. Mr. Black stated that with cantilevering, they are not proposing to touch the slope. Mr. Wagner asked if vegetation from the front (face) of the building towards the river would be undisturbed, to which Mr. Black confirmed. Mr. Devine stated that they will stipulate that they will leave the trees in their natural state. Mr. Galbreath stated that he appreciated them integrating LEED design even though it is not required.

After review and discussion of the information presented, Ms. Debra Grimes made a motion to approve the variance extension 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. Ronette Adams-Taylor seconded the motion. Ms. Adams-Taylor, Ms. Grimes, Mr. Slade Sevier, and Mr. Lance Wagner voted in favor of the motion. Mr. Galbreath and Mr. 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 5, 2018. 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 based on consistency from the last year's – that it was just an extension versus any change.

**6. 201600040**

StarPointe – Phase 1 (Blue Beacon) (Preliminary Stormwater Management Plan)  
APNs 18300000900 & 18300003600  
13105 and 0 Old Hickory Boulevard (also known as 601 and 611 Muci Drive)  
Inspector: (Shawn Herman) CD-33 (Sam Coleman)

**APPLICANT'S REQUEST:** The project was first granted Variance #2007-018 on February 15, 2007 for a proposed hotel/retail development which involved a request for disturbance and encroachment of the buffer with a retaining wall, removal of an access drive, vehicular/pedestrian crossings, and sidewalk construction. Under the previous ownership, only portions of the project were completed under Grading Permit SWGR #200700628, including a driveway with culvert, pedestrian bridge, retaining walls, building pads, and rough grading (w/shot rock) for the parking facilities. Mitigation was included which also provided remediation for a previous Notice of Violation issued for buffer disturbance, and a portion of the mitigation plantings were installed. Both the grading permit and variance expired.

On June 4, 2015, Variance #201500008 was granted for completion of the project and approved a request for disturbance and encroachment of the buffer for construction of parking spaces and utilities, placement of Stormwater Best Management Practices (BMPs), continuous mowing and maintenance, and to allow existing buffer disturbances to remain and be approved. Grading Plans were not approved, no grading permit was issued, and the variance expired.

A new truck wash facility is now being proposed for this site, and Preliminary Stormwater Management Plan approval is requested. The preliminary plan includes a new variance request to allow the following:

- 1) Disturbance of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary to West Branch Hurricane Creek for construction of a new stream crossing, removal of two existing crossings, removal of retaining wall on the south side of the stream, construction of a portion of driveway in the buffer, pipe and storm structures with outlet protection (rip-rap), and public sidewalk.
- 2) Allow existing buffer disturbances to remain and be approved (two crossings, storage containers, and portions of walls to be removed).
- 3) Continuous mowing and maintenance of the buffer area.

**APPELLANT:** Rose Management, LLC

**REPRESENTATIVE:** Mr. Jim Lukens

**COMMENTS:**

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

- 1) There appears to be opportunity to extend the mitigation plantings in the area of the existing roadway crossing. The crossing is to be removed; however, no plantings are proposed in that area.



- 2) Show the proposed grading where the retaining wall is to be removed.
- 3) The proposed mitigation plan addresses required mitigation that was to have been provided as remediation for the 2007 Notice of Violation (NOV). If Preliminary SWM Plan approval is not granted, the property owner will still need to resolve the required 2007 NOV mitigation with NPDES Staff.

**CODES:** No comment provided.

**PLANNING:** This is within a PUD overlay which requires the proposed structure (semi-truck wash) to undergo a revision to the preliminary PUD plan and possibly an amendment to the PUD, our staff is still discussing the nature of the use at this time 12-19-16. A revision to a PUD must be approved by the Planning Commission, an Amendment must have recommendation from the Planning Commission and be approved by Metro Council.

Once the final site plan is approved, and the approved plans match the plans approved by stormwater, planning will sign off on the grading permit.

**GREENWAYS:** No comment provided. For the previously-granted variance for the hotel/retail development, Greenways' comment was to defer to Stormwater staff comments for the request.

Mr. Jim Lukens gave an overview of the project, previous history, the current Preliminary SWM Plan approval request and proposed mitigation. Mr. Josh Henrick (Greenspace Design) and Mr. Dana Morse (Blue Beacon) were also in attendance. Mr. Lukens stated that the existing PUD is approved on the southwest corner at Muci Dr. and Old Hickory Blvd. for a proposed office and retail building with a parking garage (Phase 4). The building is no longer proposed so the entire corner to the south of the stream will no longer be developed.

The stormwater quality concept is for bioretention to be placed in the green median to the northwest and a second bioretention area to handle the southwestern portion of the property to be placed outside of the buffer to the south of the entry drive. There is a chance that when the plan is finalized, the bioretention (to the south) might have to be enlarged and get into the Zone 2 buffer. He asked the Committee if that would be okay if needed. For this case, Mr. Henrick prepared a mitigation plan to factor in the original 2007 Notice of Violation and to supplement the areas. The mitigation plan has since been adjusted for presentation next week to the Planning Commission for the revised PUD and is showing new trees where the existing bridge is being removed.

Mr. Lance Wagner asked if the retaining wall on the south side will be removed and the retaining wall on the north side will remain in place, to which Mr. Lukens stated yes. Mr. Lukens also stated that the sidewalk required by Metro extends into the buffer and is also included in the request. Mr. Dodd Galbreath asked where the wastewater from the truck washing goes, to which Mr. Morse gave a brief overview of the truck washing process, how the wash water would be handled, how cleaning agents are stored. Mr. Wagner inquired about the drip water from the washed trucks and if there is any detergent in it, to which Mr. Morris stated that they do not have detergents in it – they rinse with reverse osmosis water to get remove all of the soap.

Mr. Galbreath stated why he supported the motion previously. For this project, he stated that he likes that they are removing features (bridges) that were originally going to stay, the new bridge seems to be narrower than the old bridge, they have lots of mitigation, the wastewater will be managed, and runoff from the paved surfaces will be handled by the bioretention. Mr. Wagner asked about the ingress/egress of the trucks but Mr. Morse stated that it would be regulated traffic.

Mr. Michael Hunt (MWS, Stormwater – NPDES), asked Mr. Morse if ruptured saddle tanks were part of their consideration, is the Blue Beacon staff trained, and are spill response kits onsite. Mr. Morse stated that spill response kits are onsite (for a ruptured fuel tank or an issue in the containment area), and if not noticed right away, some material could potentially spill into the bioretention. Mr. Hunt stated that if they have a spill response plan and can use the spill kit with trained staff to address locally, that will likely address it. Normally the rate of release would likely just be a drip from a point puncture. There was further brief discussion regarding the final plan potentially requiring additional bioretention placed in the Zone 2 buffer. Mr. Galbreath stated that there was plenty of room in the Phase 4 area for mitigation (additional tree plantings), although it would not be a 1:1 ratio of compensation. Mr. Steve Mishu stated that the applicant should go forward to the Planning Commission with the plan presented. He also asked about water reclamation to which Mr. Morse stated that they do reclaim about 30% on average. Mr. Galbreath asked whether any pre-treatment is done, to which Mr. Morse stated that they do have the settling chamber.

After review and discussion, Mr. Roy Dale made a motion to approve the Preliminary SWM Plan as submitted with Staff comments. The Committee recommended that: 1) the Appellant work with Staff to address the spill issues (containment kits, etc., whatever is necessary based upon the things discussed from a safety perspective), 2) if any additional bioretention is needed near the left side of the entrance, a little encroachment into the Zone 2 would be ok but definitely stay out of the Zone 1 as much as possible, and 3) use as much area as possible for mitigation of planting trees. Ms. Debra Grimes seconded the motion. The motion was approved by Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Dodd Galbreath, Ms. Grimes, Mr. Slade Sevier, and Mr. Lance Wagner. Reasons for the preliminary approval were that it is a better plan than before, it eliminates a use, it eliminates a building, it creates more vegetation, bridges and walls are being removed and replaced with vegetation, and it will be very monitored and controlled as a truck wash. Even if there is a spill issue, it is believed that it could be caught and responded to very quickly.

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

The Committee was asked to provide feedback on the meeting location and procedural aspects. The applicant, as a minimum, will need to submit 11" x 17" copies of the plans for each Committee member and Staff, along with a PDF of the submittal (with clearly visible highlighted buffer disturbance areas, etc.) for viewing on the auditorium screen and monitors. Mr. Dodd Galbreath made a motion to continue the meetings in the SWCC and go-live. Mr. Lance Wagner seconded the motion, stating that the meeting will provide better transparency. The motion was approved by Ms. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Galbreath, Ms. Debra Grimes, Mr. Slade Sevier and Mr. Wagner.

There was further discussion with Ms. Theresa Costonis (Metro Legal) regarding the standard for hardship (referenced in Appendix F, Section 1.1.2.4b of the Stormwater Management Management Manual) and usually defined by case law. The standard generally seen, and for the consideration of variances, is that financial or economic hardship is not a hardship, but some unusual configuration (physical aspects or characteristics) of the property. A property owner knowing about the buffer requirements prior to or after the property was purchased would not necessarily be relevant to the hardship determination. There was further discussion regarding any applicant's right to appeal the Committee's decision and the importance of the Committee to state the rationale for its decision based on the evidence of record.

**V. ADJOURNMENT**

The meeting was adjourned at 10:46 a.m.

Metropolitan Stormwater Management Committee

Approved:

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

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