

**Minutes
of the
Stormwater Management Committee (SWMC)
February 2, 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. Anna Maddox, P.E.
Mr. Lance Wagner, P.E. – Chairman

Committee Members Absent

Ms. Debra Grimes
Mr. Slade Sevier, P.E. – Vice Chairman

I. CALL TO ORDER

The meeting was called to order at 8:25 a.m.

II. APPROVAL OF JANUARY 5, 2017 MEETING MINUTES & DECISION LETTERS

Ms. Ronette Adams-Taylor moved and Mr. Roy Dale seconded the motion to approve the meeting minutes and decision letters for the January 5, 2017 meeting. Ms. Adams-Taylor, Mr. Dale, Mr. Dodd Galbreath, Ms. Anna Maddox, 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. 200700030

2866 Sugartree Road (Show Cause Hearing)

Single Family Residential

APN 11709008100

Inspector: (Kimberly Hayes)

CD-25 (Russ Pulley)

APPLICANT'S REQUEST: Show Cause Hearing: Previously granted Variance #200700030 on April 5, 2007 to allow the following:

- 1) Disturbance of the floodway buffer of Sugartree Creek to construct a single family home with rear covered porch and parking pad/future carport, which will encroach into the buffer as shown on the Plan of Record.
- 2) Allow a finished floor elevation of 516.9' which is one foot above the 100 year base flood elevation of 515.9'.

As of this date, all of the variance conditions have not been met and at least one issue is in violation of the variance condition. The hearing will allow the property owners 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. In response to the Show Cause Hearing, the Appellant submitted a cover letter, an elevation certificate, and revised grading and mitigation plans, requesting the following additional variance requests:

1. Allow the lowest first floor elevation of the existing residence to remain at elevation 516.08' which is 0.18' above the 100-year base flood elevation of 515.9' for Sugartree Creek.
2. Approval of a revised landscape mitigation plan in-lieu of the previously approved landscape plan.
3. Allow the existing asphalt driveway to remain.
4. Allow the construction of stormwater BMPs within the 75' stream buffer.
5. Allow continuous mowing and landscape maintenance within the 75' stream buffer.
6. Modify the stream buffer signage height.

APPELLANTS: Mr. Ryan Henderson & Ms. Erin Brockway

REPRESENTATIVE: Mr. Drew Saulters

COMMENTS:

SW STAFF: Staff has met with Mr. Saulters and Mr. Henderson to discuss their proposed presentation to the Committee. Staff requested that copies of any submittal items be provided for distribution to Committee members, Staff, and the file record, and if possible, be provided prior to the meeting for Staff to review. In response to the Show Cause Hearing and Staff's request for copies, the Appellant has provided both digital and hard copies of a cover letter, proposed grading and mitigation plans, and elevation certificate for the Committee's review and consideration for the additional variance requests stated above under "Applicant's Request."

CODES: No comment provided.

PLANNING (P. NAPIER): Previous comments by J. Swaggart. Original April 5, 2007 Comment: "While Planning Staff does understand the difficulty the stream buffer and 50 foot building setback creates for this lot, we would ask that other floor plans be looked at in order to reduce any needed disturbance."

GREENWAYS: Defer to the comments of Stormwater Management.

Mr. Drew Saulters gave an overview of the history and chronology of the property and the current proposal. Mr. Ryan Henderson, Ms. Erin Brockway, Mr. Brendan Boles, and Mr. Jesse Walker were also in attendance. Mr. Saulters discussed previous ownership of the property, the original project and variance granted, and the previous owners' non-compliance with three of the variance conditions. He submitted a copy of the TN Residential Property Condition Disclosure form and discussed discrepancies. He stated that there are proposed remedies/solutions for issues with the mitigation plantings and impervious driveway. However, an elevation certificate was never submitted and to elevate the existing house to the required elevation would cause problems (built into a hillside) and would be cost prohibitive.

A modified variance to the minimum finished floor elevation was being requested because it already exceeds the federal minimum requirement of FEMA. Mr. Saulters submitted a copy of the FEMA NFIP requirement, and there was additional discussion regarding FEMA requirements. There was also brief discussion regarding events which led to the show cause hearing and the Appellant's desire to become compliant with Metro.

Mr. Boles gave an overview of the variance requests. Mr. Dodd Galbreath asked if Staff was comfortable that dry wells compensate for what the pervious pavement would have done, to which Ms. Kimberly Hayes (MWS – Development Services) stated yes, all of that was discussed in Staff's meeting with the Appellant. The Secretary (Ms. Kee) asked Mr. Walker if the lowest elevation of any electrical, mechanical, and ductwork is one foot above the 100-year elevation (a condition of the previous variance), to which he stated yes, it is at elevation 517.25'.

After discussion during the Executive Session of the Committee on February 2, 2017, and review of the information presented, Mr. Galbreath moved to accept the proposal as submitted with the following Conditions #1-6 and standard Conditions #7-8, based upon Staff's being happy that this is the best possible option given all of the other circumstances that affect it. Ms. Anna Maddox seconded the motion. There was brief discussion regarding the buffer signage content and location and the limits of mowing and maintenance. Mr. Lance Wagner asked Mr. Boles if everything behind the landscape bed is a no-disturb area – are they requesting mowing up to the landscape bed, to which he responded yes, from the home to the landscape bed.

Mr. Mike Lloyd asked two questions: 1) are there any plans on replanting native plants to restore what they are taking away from nature?, and 2) what is the reason for selecting dry wells rather than any other LID device? Ms. Brockway responded that they changed the mitigation plan to provide more native grasses and other plants indigenous to middle TN to have a root system to help prevent soil erosion and control flooding. Mr. Boles stated that dry wells were the best solution due to the treatment volume needed and limited depth. Ms. Ronette Adams-Taylor, Mr. Roy Dale, Mr. Galbreath, Ms. Maddox, and Mr. Wagner voted in favor of the motion.

1. The elevation of the basement shall be 516.08', which is 0.18' above the 100-year base flood elevation (BFE) of 515.9', and the finished floor shall be 526.75'.
2. All electrical switches, outlets, equipment, HVAC units, ductwork, etc., shall be located a minimum of 1.0 foot above the 100-year base flood elevation.
3. The floodway buffer disturbance, which includes encroachment of the rear porch and portions of the house and driveway, was approved as shown on the Plan of Record per the original variance granted April 5, 2007.
4. The revised Landscape Plan presented (stamped July 1, 2016) is approved.
5. The driveway (existing asphalt, per Grading Plan stamped January 30, 2017) is approved with the exception of no carport or garage is to be added.
6. Water from the roof shall be directed downward at splash grade to sheet flow.
7. 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 #200700030), 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.

8. This variance will expire on February 2, 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 variance is valid only so long as the plan presented to the Stormwater Management Committee does not change.

2. 201700001

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: On October 6, 2016, Preliminary Stormwater Management (SWM) Plan Approval was requested for a different development plan for Thorntons and was denied. The applicant has revised the plan, and this submittal is a new request for Preliminary Stormwater Management Plan Approval. This 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 to allow grading, construction of pavement and bioretention area, and placement of underground storage tanks.
- 2) Disturbance and encroachment to fill 0.21 acres of wetland and 0.27 acres of wetland buffer for grading and construction of pavement.
- 3) Disturbance and encroachment of 0.15 acres of the 50' stream buffer (30' Zone 1 & 20' Zone 2) of an unnamed tributary to Long Creek for grading, construction of pavement, and construction of a stream crossing that will be >15 degrees from being perpendicular.

APPELLANT: Kimley-Horn

REPRESENTATIVE: Mr. Zac Dufour

COMMENTS:

SW STAFF: At the pre-application meeting for this case, Stormwater Staff suggested that truck parking be removed from the northern end of the site and returned to the original location on the west side of the site as shown on the first preliminary plan presented during the October 6, 2016 meeting (case #201600030). This would significantly reduce the amount of wetland/wetland buffer disturbance requested. Unless the applicant has an exceptional hardship requiring the truck parking to be located as shown, Staff recommends that it be relocated to the west side of the site, with no additional disturbance required.

CODES: No comment provided.

PLANNING: Denied – Planning does not recommend the approval of the variance to the current stormwater regulations. Given the conversation policy existing on the site and the scope of what is needed for mitigation and remediation, Planning will not support this request.

GREENWAYS: Defer to the comments of Stormwater Management.

Mr. Drew Zazofsky (Thorntons) stated that they took the feedback seriously from the October meeting and were still committed to the site location. Mr. Zac Dufour gave an overview of the changes from the previous project proposal and variance request. Mr. Dufour and Mr. Zazofsky addressed Staff comments.

There was further discussion regarding property access, availability of other site locations and hardship, truck parking, petroleum storage and onsite water resources, wetland quality, mitigation, the existing sewer line/easement and proposed reforestation, and consideration of land use, community and compatibility, and variance considerations of the Committee.

After discussion during the Executive Session of the Committee on February 2, 2017 and review of the information presented, Mr. Roy Dale moved to disapprove the request based upon concerns involving land use compatibility, and the possible availability of other properties. Mr. Dodd Galbreath seconded the motion. Ms. Ronette Adams-Taylor, Mr. Dale, Mr. Galbreath, and Mr. Lance Wagner voted in favor of the motion. Ms. Maddox voted against the motion.

Ms. Ronette Adams-Taylor left the meeting.

3. 201700003

1434 Ardee Avenue
Single Family Residential
APN 07204021000

Inspector: (Kimberly Hayes)

CD-07 (Anthony Davis)

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

- 1) Disturbance and encroachment of the 75' floodway buffer (50' Zone 1 & 25' Zone 2) of Cooper Creek for construction of a new rear addition to an existing single family residence, along with a rear deck, stairs, fences, and AC pad. The 100-year base flood elevation (BFE) = 443.5'.
- 2) Placement of Stormwater Best Management Practice (BMP) in the buffer.
- 3) Continuous mowing and maintenance of the buffer.

APPELLANT: B&C Development, LLC

REPRESENTATIVE: Mr. Adam Crunk

COMMENTS:

SW STAFF: No additional comment. Stormwater Staff will defer to the Committee.

CODES: No comment provided.

PLANNING: Other possible floor plans should be explored to reduce the impact to the floodway buffer. Given the constraint of the current zoning which would not allow for a full second story to be added to the home nor would an addition to the front meet the contextual setback requirements. The rear portion of the property presents the most feasible area to construct an addition to the home. The applicant has provided features on the site plan which should mitigate future flooding.

GREENWAYS: Defer to the comments of Stormwater Management.

Mr. Lance Wagner recused himself stating that he is a founding member of the Friends of Cooper Creek watershed group, is very familiar with the creek and has been there a couple of times, and thought it best to recuse himself from the case.

Mr. Roy Dale moved and Ms. Anna Maddox seconded the motion to elect Mr. Dodd Galbreath as acting Vice-Chairman. Mr. Dale and Ms. Maddox voted in favor of the motion. Mr. Galbreath abstained from the vote.

Mr. Adam Crunk gave an overview of the project and variance request. Mr. Bradley and Mrs. Crystal Dunn (B&C Development, LLC - property owners) were also in attendance.

After discussion during the Executive Session of the Committee on February 2, 2017, and review of the information presented, Ms. Maddox made a motion to approve the plan as is with the following standard Conditions #1-2. Mr. Dale seconded the motion. Mr. Dale and Ms. Maddox voted in favor of the motion. Mr. Galbreath voted against the motion.

1. 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 #201700003), 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.
2. This variance will expire on February 2, 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 variance is valid only so long as the plan presented to the Stormwater Management Committee does not change.

IV. ITEMS OF BUSINESS

The agenda item to discuss and vote on a variance granting authority to MWS – Development Services and Stormwater NPDES Staff to approve buffer disturbance on behalf of the Committee for Metro Public Works construction and/or maintenance projects performed by Metro Public Works was withdrawn and will be placed on a future agenda for discussion.

V. ADJOURNMENT

The meeting was adjourned at 10:43 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____