

JOHN COOPER  
MAYOR



# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF WATER AND SEWERAGE SERVICES  
Development Services  
800 Second Avenue South  
P.O. Box 196300  
Nashville, Tennessee 37219-6300

**Minutes  
of the  
Stormwater Management Committee (SWMC)  
July 2, 2020  
\*\*\*\*\*  
8:15 AM  
Place**

Meeting took place via Teleconference and aired live on Comcast channel 3. A livestream of the meeting was simulcast on Nashville.gov with a remote station set up at the Sonny West Conference Center (700 2nd Avenue South) for anyone who was unable to submit their comments electronically and wished to make comments in that manner. Social distance recommendations were implemented at the remote station.

**STORMWATER MANAGEMENT COMMITTEE  
(Quorum Required: Four Members)**

**Committee Members Present:**

- Mr. Dodd Galbreath –Chair
- Ms. Anna Maddox, P. E. – Vice Chair
- Ms. Carrie Stokes, P. E.
- Mr. Jesus Gomez-Velez, P. E.
- Mr. Roy Dale, P. E.
- Ms. Ronette Adams-Taylor

**Committee Members Absent:**

**I. CALL TO ORDER**

Mr. Dodd Galbreath, (chair) called meeting to order at 8:15 a.m. with roll call of committee members. Mr. Galbreath and Ms. Theresa Costonis (Metro Legal) stated that the first order of business would be a motion to determine that due to Governor Lee’s Executive Order No. 16, being extended by Executive Orders Nos. 34 and 51 that the meeting agenda constitutes essential business of this Board and meeting electronically is necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak. Ms. Anna Maddox moved for approval. Ms. Carrie Stokes seconded and the Board approved without objection.



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

## **II. APPROVAL OF MAY 7, 2020 MEETING MINUTES & DECISION LETTERS**

The actual verbiage of condition #6 of the Stormwater Minutes and Decision Letter on case # 202000001 (River North – Phase 1) which stated, “There shall also be a restrictive covenant or document recorded so that anyone purchasing these parcels is aware of the obligations and responsibilities that are in place per this variance ruling” was questioned by the committee members. The Committee Members request a review of stated case before voting.

A motion was made by Ms. Anna Maddox and seconded by Ms. Ronette Adams-Taylor to defer voting of the Minutes and Decision Letters from May 7, 2020 Stormwater Management Committee Meeting. Mr. Roy Dale, Ms. Carrie Stokes, Mr. Dodd Galbreath, Ms. Maddox, Ms. Adams-Taylor, and Mr. Jesus Gomez-Velez voted in favor of the motion. The motion carried.

## **III. STORMWATER MANAGEMENT COMMITTEE AGENDA**

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

### **1. 202000007**

**The Mansion at Fontanel**  
4225 Whites Creek Pike  
Inspector: (Boots O’Hara)

APN: 04000009300, 04000016300, 04900014000,  
04900020001, & 04900031900  
CD-03 (Jennifer Gamble)

Previous Case Description:

The Mansion at Fontanel was previously approved March 4, 2010 under variance number 201000001 to allow the following: 1) disturbance of the floodway and 75' floodway buffer (50' Zone 1 & 25' Zone 2) of Whites Creek for maintenance of the existing buffer area which shall include periodic mowing of the existing grass areas, and 2) to allow the installation of a gravel access drive to provide access to NES power poles that cross the buffer.

The Mansion at Fontanel – Phase 2 & 2A was previously approved under variance number 201000014 with conditions on August 5, 2010 to allow the following: 1) Disturbance of the 25' Zone 2 buffer of Whites Creek for construction and encroachment of gravel pad. 2) Disturbance of the 30' Zone 1 and 20' Zone 2 buffer of an unnamed tributary to Whites Creek for grading, stone and timber walls, gravel walkways, pedestrian foot bridge crossing and temporary cabana structures. 3) Continuous mowing and maintenance of the buffer on the north side of the unnamed tributary. 4) Waiver of stormwater treatment measures for facilities on the south side of the unnamed tributary.

The Mansion at Fontanel – Phase 2 & 2A was previously approved under variance number 201000014 on rehearing October 7, 2010 from August 5, 2010 case 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).

Fontanel – Southern Living House was previously approved December 5, 2013 under variance number 201300020 to allow the following: 1) placement of approximately 2,366.4 cubic yards of uncompensated fill in the Whites Creek floodplain.

Fontanel – IHG Resort was previously approved December 5, 2013 under variance number 201300022 to allowing the following: For Map 49, Parcel 140: 1) To allow disturbance of the 30' Zone 1 & 20' Zone 2 stream buffer of an unnamed tributary to Whites Creek for widening of an existing road and installation of a water line and force main in the existing road. 2) To allow the spacing of two road crossings <1,000' apart on an unnamed tributary to Whites Creek. 3) To allow disturbance of the floodway and 75' floodway buffer (50' Zone 1 & 25' Zone 2) for installation of a private water line. For Map 49, Parcel 198: 1) To allow disturbance of the floodway and 75' floodway buffer (50' Zone 1 & 25' Zone 2) for installation of a private water line.

### **REQUESTING PRELIMINARY APPROVAL**

New ownership to amend and combine previous active variances and request of new variances

**APPLICANT'S REQUEST:** Is to allow the following:

1. Uncompensated fill
2. Stream & Stream Buffer Disturbance
3. Flood & Floodway Buffer Disturbance
4. Continuous Mowing & Maintenance

**APPELLANT:** BlueRoad Fontanel, LLC

**REPRESENTATIVE:** Clay Wallace (Energy Land & Infrastructure)

**COMMENTS:**

#### **SW STAFF:**

1. Staff would like the applicant to provide a more complete description of the hardship that necessitates the water quality buffer parking and event space requested. The details should include the number and specific types of events, the event durations, the required parking for each type, and the items that will be in the buffer (including any equipment required for delivery and removal).
2. Staff wants the applicant to consider if events could be consolidated to limit the areas of continued buffer maintenance.
3. Staff requests that additional areas be designated as no disturb buffers.

4. Staff requests additional buffer mitigation plan details including exactly where trees and other vegetation will be planted and how all vegetation will be managed. It should include the requested frequency of mowing. Areas that will be allowed to permanently revegetate should also be clearly indicated.

**CODES:** No comment provided.

**PLANNING:** Proposed Variance request is consistent with the SP and the issuance of previous Stormwater variances.

**GREENWAYS:**

1. Staff requests that the boundaries of the existing Greenways Conservation Easement be clearly shown on the applicant's exhibits for the variance request.
2. Staff requests a more detailed description of the need for the amount and extent of proposed event space and parking.
3. Staff requests that the parking and event space be downsized. The amount of area requested for parking conflicts with the conservation intent of the Greenways Conservation Easement held by Metro Parks on this property.
4. The current easement restricts vehicular travel to a designated shared-use segment of trail. Staff requests a detailed plan indicating traffic flow and traffic control measures for the current shared-use portion of the trail and to designate any proposed shared use segment on the new trail.
5. Staff requests that the applicant coordinate with staff to locate and provide a Greenways Conservation Easement on the proposed new trail loop, as well as a new greenways conservation easement that will connect to the existing easement and to the intersection of Whites Creek Pike and Knight Drive.

Mr. Clay Wallace (Energy Land & Infrastructure), Mr. John Haas (Edge Planning, Landscape Architecture & Graphic Design), Mr. Tom Boyd, and Mr. Tim Ferrell spoke on behalf of the request at the location of 4225 Whites Creek Pike.

BlueRoad Fontanel, LLC has acquired the parcels that make up The Mansion at Fontanel SP along with two additional parcels to the south. The previous phases of this development (I-IV) consisted of the existing mansion, a museum/gallery, restaurant, distillery, gift shop, bed and breakfast inn, and outdoor music venue. At this time, most of the facilities are closed to the public. With Phase V Fontanel Properties, LLC is proposing a new approach.

Representatives for past owners had come before the Stormwater Management Committee on several previous occasions to request variances to correct mistakes made by previous contractors and owners. The intention of the new ownership is to amend and combine previous active variances as well as request new variances into a single variance to make it easier for all parties to understand exactly what activities and uses are approved.

Councilmember Jennifer Gamble of District 3 stated she was aware of the history of the previous projects and variances at The Mansion at Fontanel. Councilmember Gamble has had several encounters with the new owners and several community meetings to get community engagement on the project. She stated that in working with the new owner over the past nine months Mr. Tom Boyd has been responsive to the concerns of the community and their needs in making sure the problems that had previously occurred were addressed.

Members of the community stated that meetings were not held on the actual variance request that was being presented at the July 2, 2020 Stormwater Management Meeting where the community issues could be addressed. The community feels, “The new owners and the new project proposed need to adhere to current best practices and do their part to make the community safer from flooding.”

Members of the community sent emails, pictures, videos and called before the meeting date with their concerns of the changes taking place at the location of The Mansion at Fontanel. All emails were read into record by Mr. Logan Bowman with Metro Water Services at the July 2, 2020 Stormwater Management Committee Meeting. Members of the community are asking the variance be **REJECTED** stating generally as per this example email, “Fontanel has requested, to ignore previous and current Stormwater conditions. Not only is it a selfish thing that would negatively impact (re: FLOOD) neighbors up and down stream, it would actually have the most negative impact on FONTANEL.”

Ms. Cindy Harrison with Metro Greenway spoke on behalf of The Mansion at Fontanel. Ms. Harrison concerns are making sure that the Applicant would address comments stated above in “Staff Comments” before final variance application is submitted to the Stormwater Committee for approval.

After discussion during the Executive Session of the Committee on July 2, 2020 and review of the information presented Mr. Roy Dale made a motion to approve preliminary SWM plan, and seconded by Ms. Carrie Stokes. Ms. Stokes, Mr. Dodd Galbreath, Mr. Dale, Mr. Jesus Gomez-Velez, Ms. Ronette Adams-Taylor, and Ms. Anna Maddox voted in favor of the motion. The motion carried.

Variance Request No. 202000007 as set out above and further described in the case record, be and is hereby **GRANTED PRELIMINARY STORMWATER MANAGEMENT (SWM) PLAN APPROVAL** with the following conditions:

1. As a condition of returning to the Stormwater Management Committee with a final variance request submittal, the variance request should be simplified as one unified request.
2. As a condition of returning to the Stormwater Management Committee with a final variance request submittal, the Appellant shall hold a public meeting with the Whites Creek community explaining the changes taking place at The Mansion of Fontanel. The Appellant shall discuss greenway, stormwater, and water quality along with flooding concerns.
3. As a condition of returning to the Stormwater Management Committee with a final variance request submittal, the Appellant must clearly state hardship and any flooding potentials.
4. As a condition of returning to the Stormwater Management Committee with a final variance request submittal, the Appellant shall discuss and address concerns previously stated by Cindy Harrison with Metro Greenways.

5. As a condition of returning to the Stormwater Management Committee with a final variance request submittal The Appellant must provide image of area where Bungalow's will be placed.

**2. 202000008**

**Nolensville Road Development**

412 Harding Place

APN 14703006700

Inspector: (Kenneth Tranter)

CD-26 (Courtney Johnston)

**APPLICANT'S REQUEST:** Is to allow the following:

1. 145 Cubic Yards of Cut Below the 2-year Flood Elevation
2. 354 Cubic Yards of Uncompensated Fill

**APPELLANT:** NKB, LLC

**REPRESENTATIVE:** Barry Quinn (Barge Cauthen & Associates, Inc.)

**COMMENTS:**

**SW STAFF:** Staff requests additional buffer signs to help deter trimming of the buffer for sightlines to the Harding Place billboard on the adjacent parcel.

**CODES:** No comment provided.

**PLANNING:** Site is zoned SCR, defer to Stormwater Variance Committee for review.

**GREENWAYS:** Parks defers to the decision of the Stormwater Management Committee.

Ms. Anna Maddox recused herself from case # 202000008 Nolensville Road Development.

Mr. Barry Quinn & Mr. Jeff Hooper of (Barge Cauthen & Associates) spoke on behalf of the request at the location of 412 Harding Place. Mr. Quinn stated that the shopping center at this location was constructed in the 1960s with the anchor tenant being retailer Kmart. After sitting vacant for almost 3 years, the property was purchased by Habitat for Humanity of Greater Nashville, in July of 2016. In 2017, renovations were completed, including demolition of a 30,000 square foot portion of the building at the south end that was on the parcel currently under consideration. This redevelopment triggered additional investment in the area.

In the past few years, there have been multiple developers that have considered this site for development. However, none of the previously proposed projects have been able to proceed. The project proposed is an excellent opportunity to clean up this corner of a site that was developed over 50 years ago, and that has been largely neglected for the last 15 years.

Mr. Quinn stated two fundamental issues that created an exceptional hardship on the site. The first was outlined in Attachment A showed during the meeting and related to the fact that the entire parcel lies within the Special Flood Hazard Area (SFHA), according to the effective mapping, and the fact that almost one quarter of the parcel already lies below the calculated 2-year flood elevation. There are also several site factors that limit the ability to provide additional compensatory cut.

It was also stated that in order to drain the bioretention area, a new 18” storm sewer will be installed from the headwall just upstream of the Harding Place crossing to the proposed pond outlet structure. A 24” domed grate will be installed on the outlet structure to discharge ponded amounts deeper than 6” above the top of mulch.

After discussion during the Executive Session of the Committee on July 2, 2020 and review of the information presented Mr. Roy Dale made a motion to approve with the following standard Conditions # 1-2. Ms. Ronette Adams-Taylor seconded the motion. Ms. Carrie Stokes, Mr. Dodd Galbreath, Mr. Dale, Mr. Jesus Gomez-Velez, and Ms. Adams-Taylor voted in favor of the motion. The motion carried.

1. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to the MWS Stormwater – NPDES Office, in writing (referencing Variance #202000008), 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 July 2, 2021. 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 review of Stormwater Management Manual – Volume 1, Appendix C was briefly discussed in the Stormwater Management Committee meeting on May 7, 2020 and it was decided that the discussion would resume at the July 2, 2020 Stormwater Management Committee Meeting after the discussion was properly announce for public viewing.

Ms. Rebecca Dohn with Metro Water Services presented highlight of proposed changes and additions for Appendix C of the Stormwater Management Manual – Volume 1. Ms. Dohn stated the information in discussion was re-categorized from Appendix F to Appendix C, all processes and procedures that were adapted are intergraded such as the general meeting protocol, and the posting of public notice have been placed together in one location, which is Appendix C of the Stormwater Management Manual – Volume 1.

After discussion during the Executive Session of the Committee on July 2, 2020 and review of the information presented Ms. Carrie Stokes made a motion to approve the revised appendix of the Stormwater Management Manual – Volume 1 as amended. Mr. Jesus Gomez-Velez seconded the motion. Ms. Ronette Adams-Taylor, Ms. Stokes, Mr. Dodd Galbreath, Mr. Roy Dale, Mr. Gomez-Velez, and Ms. Adams-Taylor voted in favor of the motion. The motion carried.

Mr. Dodd Galbreath stated a concern to Stormwater Management Committee Members and Metro Staff of having a discussion at one of the future Stormwater Management Meetings to get more of a clear guideline or template for mitigation on cases requesting a variance. Mr. Galbreath feels more of a guideline should be given to the applicant.

It was proposed by Mr. Galbreath that Metro Water Staff analyze prior variance cases that involve zone 1 buffer redesigns, prior mitigation and conditional decisions that were made by the committee to include an opportunity of new things to consider.

## **VI. ADJOURNMENT**

The meeting adjourned at 11:47 a.m.

Metropolitan Stormwater Management Committee  
Approved:

By: Peninsula Gilbert  
Secretary

Date: 8/10/2020