



# City of Columbia, Missouri

## Meeting Minutes

### Board of Adjustment

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Tuesday, October 9, 2018

7:00 PM

Regular Meeting

Council Chambers

Columbia City Hall

701 E. Broadway

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#### I. CALL TO ORDER

MR. WATERS: The October 9, 2018, Board of Adjustment meeting will come to order.

MR. WATERS: Will the liaison please call the roll?

MS. BACON: Yes, Mr. Chair. Mr. Clithero?

MR. CLITHERO: Here.

MS. BACON: Ms. John?

MS. JOHN: Here.

MS. BACON: Ms. Hammen?

MS. HAMMEN: Here.

MS. BACON: Mr. Norgard?

MR. NORGARD: Here.

MS. BACON: Mr. Waters?

MR. WATERS: Here.

**Present:** 5 - Martha John, Janet Hammen, Philip Clithero, Andy Waters and Peter Norgard

#### II. INTRODUCTIONS

#### III. APPROVAL OF AGENDA

MR. WATERS: Is there a motion for approval of the agenda?

MS. JOHN: So, moved.

MR. CLITHERO: Second.

MR. WATERS: Any discussion? All in favor say aye. Opposed say nay.

(Unanimous voice vote for approval.)

MR. WATERS: The motion is approved. Thank you.

**Approval of agenda**

#### IV. APPROVAL OF MINUTES

August 14, 2018 Regular Meeting

MR. WATERS: The August 14th, 2018, minutes were distributed to the members of

the Board. Are there any corrections or additions to the minutes?

MS. HAMMEN: I have a question and perhaps a clarification. On the -- oh, wow -- Case -- the Fay Street -- can't get to that. Rachel, do you know what that is?

MS. BACON: 709 Fay Street.

MS. HAMMEN: Thank you so much. Oh, yeah. And I don't know what the case number is. We talked about we approved the M-N pedestrian. And there was a question that came up about side and rear yard setbacks. And I am unclear from the minutes as to exactly what are the requirements, and on this project, how those requirements pertain to this project. Can you clarify, please?

MS. BACON: And I noticed exactly what you're talking about. There was some sort of mincing of different sections of the Code and they were put together in a way that could be construed as confusing. So, in the M-N zone, whether it's either pedestrian or the regular M-N zone, there is no rear-yard setback. It's a zero setback. The side-yard setbacks are ten regardless of the standard. I think where the confusion lies, and this is good to point out, is that there are, in addition to setback requirements, landscaping requirements. So, they're both in 29-3 of the UDC, but they're in different sections of that Code. So, the setbacks are tied to the zone category, and that would be in 29-3.3. The setback requirements have to do with the screening of adjoining uses. And in this case, there was a ten-foot buffer that is required between this use and then the neighboring use. And so naturally that becomes in essence a setback because you have to have ten feet of landscape buffering. It's not a requirement based on the zone, it's a requirement based upon the landscape requirements between the two adjoining properties.

MS. HAMMEN: And no matter what the adjoining zoning is, that's -- there's always a landscape requirement on M-N pedestrian?

MS. BACON: Well, there's a chart that describes between two adjacent zonings and then also it takes into account the use within the zones as well. And so that's in 29-3.4 of the UDC. You're welcome to look at that and we can bring it up if needed. But that's where the landscape requirement comes from.

MS. HAMMEN: Thank you.

MR. WATERS: Ms. Hammen, would you like to make any motions?

MS. HAMMEN: Well, I move to accept the minutes. Oh. Should we include that or just since it's in the record of this meeting? I don't know.

MR. CALDERA: So, you're -- so because of the discussion and the explanation is in today's meetings, you will approve them in the following minutes from the next meeting, so it's really however you want that information preserved. I don't think personally that we need to amend the previous minutes because it is captured today.

MS. HAMMEN: Okay. I move to accept the minutes unless someone else has something to bring up.

MS. JOHN: I'll second.

MR. WATERS: A motion and a second to approve the minutes. All in favor say aye. Opposed say nay.

(Unanimous voice vote for approval.)

MR. WATERS: Motion carries. Thank you. Now, will the court reporter please swear in the staff.

(Staff sworn.)

**Move to accept the minutes**

## **V. PUBLIC HEARINGS**

### **Case # 1964**

A request by Clark Jones (attorney), on behalf of Horizon Steel Buildings, LLC (owner), to grant a stormwater variance which is not permitted to be granted by the director per Chapter 12A, Article V of the Code of Ordinances of the City of Columbia, to waive on-site stormwater detention and to modify compliance with the stormwater quality requirements of the City's Stormwater Management and Water Quality Manual, on property addressed as 4421, 4431-4433 Ria Street and 1505 McKee Street.

MR. WATERS: Has the notice been properly advertised?

MS. BACON: Yes, it has.

MR. WATERS: Has the property been posted with notice of public hearing?

MS. BACON: Yes, it has.

MR. WATERS: Have the parties in interest been notified?

MS. BACON: Yes, they have.

MR. WATERS: Have there been any inquiries?

MS. BACON: No, there have not.

MR. WATERS: Will the person making the application to the Board please come forward and state your name and address and be sworn in.

### **PUBLIC HEARING OPENED**

MR. JONES: Good evening, ladies and gentlemen. My name is Clark Jones. I am the attorney for Horizon Steel Buildings, LLC.

(Witness sworn.)

MR. JONES: Ladies and gentlemen, I'm here on behalf of Horizon Steel Buildings, LLC. And on behalf of my client, we are seeking an exception from stormwater quantity

and quality control requirements as outlined in Section 12A, Article V, of the City of Columbia Code of Ordinances. Specifically, this pertains to the proposed plat in Renaissance Meadows. It's proposed Plat 3. We have hired an engineer, Keenan Simon, who is here today. He is prepared to report, and at this time, I would like to introduce him to the Board, and he can discuss this in further detail.

MR. SIMON: Keenan Simon, SSE -- Simon Struempff Engineering, 210 Park Avenue, Columbia, Missouri.

(Witness sworn.)

MR. SIMON: I'm going to pull up a PowerPoint for -- I'd like to thank you for your time this evening. I know this stormwater stuff can be pretty confusing. I personally have to re-review it from time to time. I'm going to -- what I'm going to try to do is simplify my request and help the Board understand why it's required. So, the best place to start is probably with the existing conditions of the site. You know, with the existing conditions, we have originally three lots we're subdividing into four generating this new lot 12A, which is outlined in blue. The total development or the total four lots is roughly .84 acres in size, so less than an acre. And as you can see, the street to the south, Ria Street, and the street to the east, McKee Street, have established the existing grades for the lot and there's also existing utilities as well. The existing drainage pattern and development size limits what can be done at the site. Not only that, but detention is not feasible, and I'm going to get to that here in a second. The most practical approach to treat -- the most practical approach to this development is to treat the new development occurring on Lot 12A since the existing development is already established. And this is why detention is not feasible. If you look at this display, the proposed development, which is the four lots, is outlined in blue. North of this is approximately two acres that drains south, goes over the top of the sidewalk and then goes over the back of curb and enters an existing curb inlet. In order to meet the requirements for detention per the City standards, this is approximately the size of the detention basin. It pretty much encompasses all of Lot 12A. As an engineer, when we have a drainage area coming into our site, we don't necessarily have to treat it, but we do have to be able to convey it through our facility and then discharge it to essentially a drainage way or a stormwater infrastructure, if that makes sense. So really what occurs here is because we have so much of a drainage area to the north passing through the site, it makes the size of the basin quite large. So, working towards a proposed solution with staff, essentially, I worked with Phil Teeple. He's dealt with these variances in the past in looking at, I guess, proposed solutions that work within the site constraints. He's a professional engineer at the City of Columbia. He's a senior plan reviewer, and I worked with him to create a solution within the site

constraints of what we have going on out here. The basis of the stormwater approach is to meet the stormwater quality level of service for the new development. And when I say new development, I mean the new impervious area added to Lot 12A, if that makes sense. So, on top of that, we also were going to try to have some sort of detention provided on-site with selecting a BMP that had ponding, such as a bioswale, which is what we intend to use. So, with this approach, we did receive City staff approval of recommendation as the size of the development -- the developed lot and existing conditions created a need for the stormwater variance. One thing that I do want to clarify because the -- the City staff report noted that there were some litigation measures that I needed to identify. With 12A-110(c)(2), it's noted that we need to either -- I'll just read it for you, I guess. "The construction of a stormwater management facility or other drainage improvements on previously developed property, whether public or private, which currently lacks stormwater management facility designed and constructed in accordance with the standards and purposes of this chapter and the City Stormwater Management and Stormwater Quality Manual." So, our intent is to provide a drainage improvement with the site with the extension of the storm sewer. This is going to be a cost that the owner is going to take on to make this -- to improve this -- this drainage issue. Essentially what we'll do is capture that stormwater from before it crosses the sidewalk and overtops the back of curb to enter the -- the storm sewer system. Not only that, but it's also known in the City staff that it's also going to be a safety improvement. This is the proposed solution that we supplied with our original variance submittal. Essentially what you see here would be a bioswale that is hatched. The drainage area from the north and on our site travel through this, which provides stormwater quality. And then we have stubbed out a -- I guess, a pipe or a culvert to accept the stormwater before it goes and crosses the sidewalk. So, what I'm requesting of the Board is approval of these variances, a minimal increase in impervious area from the -- from the 12A development will occur, but it's very minimal. There is no downstream flooding from this minimal increase in runoff. The owner is providing an improvement for stormwater to prevent the stormwater runoff from overtopping the sidewalk and curb before it enters the storm-sewer system. And I would - obviously, that costs money, so there is obviously a monetary contribution to improve the City's storm-sewer system there. Not only that, but this development of providing -- of developing this lot that is essentially vacant now would be an infill development, but the yard is already maintained and mowed and there is infrastructure there to -- to plug in a new home, if that makes sense. So, with that, if there's any questions, I'm here to help you.

MS. JOHN: I have one small just curiosity question.

MR. SIMON: Yes.

MS. JOHN: What is the little bitty building in the middle of that gray area?

MR. SIMON: That is a storage shed.

MS. JOHN: Okay. Okay.

MR. SIMON: A small house, a little house.

MS. JOHN: That would be a very, very small house, so that's --

MR. SIMON: Yeah. They're very popular right now.

MS. JOHN: I'm just trying to figure out how it's a storage shed. Okay. Thanks.

MS. HAMMEN: On your map showing the -- the lot -- keep going -- the one with the -- the drainage one. What's the little black dark half --

MR. SIMON: Yeah. So, per the City standards for a detention basin, you're required to have an emergency spillway. So, what I did for this exercise to size this basin is I essentially laid out everything per the City standards to see how it would fit on the site. There's a setback from existing structures. You have to be 20 feet away. There's a free board requirement where you have to have additional storage within the basin before it, I guess, would use the spillway. So just trying to represent what all that means. This would not be good in real life, you know, but --

MS. HAMMEN: No. Have that as a spillway?

MR. SIMON: Yeah. That would be an emergency spillway, which is a requirement.

MR. NORGARD: I have a question.

MR. SIMON: Yes.

MR. NORGARD: In your proposed solution, what is your assessment that the City stormwater system can handle the additional load?

MR. SIMON: Yeah. So currently right now the existing drainage pattern is essentially slightly channelizing to the east of the existing home and then overtopping the sidewalk and back of curb and entering the system. We're essentially just providing a connection that would, I guess, not allow that storm sewer to cross the sidewalk and back of curb. It would be a culvert that would accept the stormwater at the back of the structure. Does that kind of make sense?

MR. NORGARD: Yeah. So, at this point, A1, is that where the stormwater exits?

MR. SIMON: That's where the stormwater would enter the structure. Correct.

MR. NORGARD: And is that where -- is there, like, a curb drain at that point or --

MR. SIMON: So, the intent there would have essentially six to eight inches of ponding above the soil section that does the stormwater quality measure, and then there would be a perforated pipe underneath that that would tie to the existing structure. And then above that six inches of ponding is where the outlet for that culvert pipe would be.

There would be a bermed-up backside as essentially a backstop for water that's passing through there. And then if there was some sort of crazy flood, it would overtop the top of that berm and then essentially enter the system the way it typically did before, but the pipe would be sized to handle the 100-year storm is the intent of this, of what I have shown here. Yes.

MR. NORGARD: And currently where is the access point for the stormwater on the street?

MR. SIMON: There is a curb inlet that is A1 on that display.

MR. NORGARD: Okay. That's what I was trying to clarify.

MR. SIMON: That is existing.

MR. NORGARD: Sorry. Yeah.

MS. JOHN: So, you're -- you're talking about taking the drainage from the other side and dumping it directly into where that inlet also goes into, yes?

MR. SIMON: I am essentially --

MS. JOHN: I'm trying to figure this drawing out.

MR. SIMON: Okay. So, the stormwater would essentially travel through this drainage way.

MS. JOHN: Right.

MR. SIMON: And then it's going to enter into this pipe.

MS. JOHN: Going into that, yeah.

MR. SIMON: That then goes into the existing structure.

MS. JOHN: That's what I was trying to say.

MR. NORGARD: Yeah. That makes sense.

MR. SIMON: Previously, there was no pipe there, and it would just run down and then go over the top of the sidewalk and then enter the street.

MR. WATERS: So, this culvert and the bioswale would be at the owner's expense?

MR. SIMON: Yeah. And they would also have a BMP -- one of those fancy things we do. Covenant -- they'd have a covenant that would make sure that the owner would, you know, maintain them in the future. Essentially, it's a recorded agreement with the City of Columbia and it has maintenance guidelines, yes.

MR. WATERS: So, my understanding that this contribution constitutes your mitigation is required under the ordinance?

MR. SIMON: Yes. That's -- that's my approach. Correct. That's my intent.

MS. HAMMEN: So, is this proposal the original where the director denied it because of -- as I read 12A-9(1)(b), director could allow alternative if provided.

MR. SIMON: That's that --

MS. HAMMEN: And the director said it's not been provided. So, was this provided, and he did not approve it?

MR. SIMON: He did not have the authority to approve this.

MS. HAMMEN: Right. So --

MR. CALDERA: That's correct. So, under 12A-110, and I believe under 12A-19 -- 09, as well -- 110 is where we're dealing. An individual can seek a variance from the chapter if essentially the director does -- cannot otherwise do it. So -- so he's bringing this under 110 specifically, and that gives him the authority to basically request a variance from the chapter.

MS. HAMMEN: So, could he -- with this, could he have asked the director that is -- am I misreading (9) -- 12A-9?

MR. CALDERA: I believe that Erin, the expert could --

MS. KEYS: Yeah. I was going say in 12A-91 --

MS. HAMMEN: Yes. Yes. Okay. 91.

MS. KEYS: That's what gives the director the authority to grant the variance, and that says that it has to be alternate and equivalent to what is required. So, he's asking for an exemption from the detention requirements, so in that respect, it's not equivalent.

MS. HAMMEN: So even though it's an alternate to possibly 12A-110(c) and the mitigation.

MS. KEYS: Well, that's separate. So since -- since the whole plan is not an alternate, an equivalent plan to everything that's required, both water quality and quantity, the director can't approve the variance. So, he is asking for an exemption from the detention. Now, he is providing a mitigation measure that's not necessarily completely equivalent, but it is mitigation, and that's up to the Board to determine if it's acceptable -- if the mitigation is acceptable.

MS. HAMMEN: So, staff has taken no position on that?

MS. KEYS: Correct. Correct.

MR. WATERS: Staff hasn't necessarily said it's not adequate, it's just that staff doesn't have authority to make that decision --

MS. KEYS: Correct.

MR. WATERS: -- and is asking the Board to weigh in.

MS. KEYS: Correct.

MR. CALDERA: Mr. Chair, may I ask a quick question of the applicant?

MR. WATERS: Of course.

MR. CALDERA: In terms -- you had a slide that established the standards you're seeking under 12A-110. I don't know if that's --



MR. SIMON: I guess you're talking about a site plan?

MR. CALDERA: Oh, no. No. You had the actual language of 12A at 110(c).

MR. SIMON: Okay. Yeah. Yeah.

MR. CALDERA: And again, this is just for clarity sake. The 12A-110(c)(2) that I see online and --

MR. SIMON: You've got to go down further. I know what you're going to -- yeah. You've got to go -- go down, like, two more paragraphs.

MS. HAMMEN: Past (3), then there's a whole another paragraph.

MR. CALDERA: Oh, there we go. Okay. Okay.

MR. SIMON: It's not labeled correctly, I guess.

MR. CALDERA: No. That is -- that is terribly numbered.

MR. SIMON: Yes. It's really very confusing.

MS. HAMMEN: Yes.

MR. CALDERA: There's three different one-two-threes in that same subsection.

MR. SIMON: I just picked one, yeah.

MR. CALDERA: Okay. Okay. Thank you.

MR. SIMON: And I'm sorry. I just did it today, so -- I admit I re-reviewed it today, and I couldn't find it, and I was, like, what? I was, like, Erin is making this up.

MS. KEYS: Yeah.

MR. CALDERA: Apologies, Mr. Chair.

MR. NORGARD: So, I'm fairly new to stormwater, so in this proposed plan, you're -- your BMP related to stormwater quality is the bioswale in this --

MR. SIMON: Yes. That's correct.

MR. NORGARD: Was that -- does it do any retention at all or it just --

MR. SIMON: It has a level of ponding to -- to treat, I guess, the stormwater quality event. Technically, I guess, it has some detention, but it's not much.

MS. JOHN: Mostly it just slows it down?

MR. SIMON: Mostly it treats the stormwater quality event that occurs, so it's not intended for, like, a huge gully washer. It's essentially going to bypass that BMP because it's not intended for --

MR. NORGARD: Will existing utilities be impacted in any way other than the stormwater connection?

MR. SIMON: Well, I mean, there is a storm sewer south on Ria Street that's not going to be in conflict. There's a water main east of the -- or, I guess, north of that existing culvert -- existing box curve inlet or whatever, but we shouldn't have any conflict because our pipe is -- is, like, about four foot deep. Usually those water lines are three

foot, and the gas line is usually shallower, as well, so I don't believe we're going to be in conflict with any sort of utilities.

MR. NORGARD: There's no buried electric or anything?

MR. SIMON: I'd have to look at that. I don't think it would be an issue. It usually -- that's buried about three-foot depth, as well, so --

MR. WATERS: Any other questions from the Board? Thank you.

MR. SIMON: Yeah. Thank you for your time. Appreciate it.

MR. WATERS: Would anyone else like to speak in favor of the application? Would anyone like to speak in opposition to the application? Comments from staff?

MR. CREECH: I'm Shane Creech, I'm the building and site development manager for the City. So, my staff is involved in the plan review and inspection of a variety of things here at the City, one of them being stormwater associated with private developments. So, the mention of Phil Teeple, Phil is a member of my staff. We review the plans, work with the -- work with the consultants, and there's a -- there's a report included in your packet that is put together by Phil. We have the benefit of being able to look at it on its -- on its surface based on what's possible there, what's not possible there, and what the requirements are. We reached the conclusion that we felt it was prudent to recommend approval, but we're just a recommending body in this case. The utility department is actually who is the one that has to grant that variance. And so that's the reason Erin is here to kind of talk from that perspective. Just kind of wanted you to understand what each role is in the process and kind of how we get to this point, so Erin?

MS. KEYS: So like Shane said, I'm the engineering and operations manager for the sewer and stormwater utilities. And it's the stormwater utility, the director of utilities that gets to grant a variance or not. And so, as I described, you know, what he's proposed is not equivalent, an alternate to what's required, and so that's why the director could not grant that variance and came here. Now, I tried to point out in the report, Chapter -- or 110 -- 12A-110 is fairly complex. There's a number of guidelines that the applicant was supposed to address and -- and I went through in the report how it was addressed. And then the next piece was the mitigation piece which I think Keenan has sufficiently addressed tonight. So, if you have any further questions about it, I know it's kind of technical. Stormwater is fairly detailed, so I'm happy to answer any questions about that piece.

MS. HAMMEN: So, you feel that mitigation is addressed by the additional to the storm sewer, the culvert and --

MS. KEYS: As he points out -- let's see. Construction of drainage improvements on previously developed property. I mean, it does meet that statement, what he's proposing.

MS. HAMMEN: And this additional impervious surface was not enough, and it won't impact the other already built?

MS. KEYS: Right. Yeah. It won't impact those other properties because it'll go into the drainage system and then go under the roadway, so it's not like that additional impervious would run off directly on those properties directly adjacent to it, if that's -- was the question.

MS. BACON: For the sake of the record, I don't think that we got Ms. Keys last name into the record.

MS. KEYS: Oh, yes. Sorry.

MR. NORGARD: I have a question. So is -- I guess it's more of a statement. It appears that this is basically -- this -- this case arises from the fact that the applicant has -- is subdividing, which triggers a different set of standards; is that true?

MR. CREECH: Yeah. The -- the ordinance allows redevelopment under an acre --

MR. NORGARD: Right.

MR. CREECH: -- with no stormwater at all. This development, when you subdivide, I think that -- and this is just my -- my point of view, but I think the idea behind that was when you -- when you think about development, you often think of an open green site that we're going to split up and build houses on or build a new commercial building, something like that. But when you redevelop or when you -- when you subdivide, that's typically something that's associated with development, and so that's what kicks in the stormwater requirements. How you look at what they're doing here compared to what I think we -- most of us think of as development is kind of the reason that we're -- we're here tonight.

MR. NORGARD: I guess, actually, there's one other follow-up. Is this -- is this a common occurrence that a developer is re-subdividing a lot that already has structures that are going to remain in order to --

MS. JOHN: I think it's fairly --

MR. CREECH: It's definitely not the most common. We have seen small re-subdivision of land. I've been here, oh, ten and a half years. We've probably seen a handful of them. I think there are areas of town where there might be an opportunity to do something like this. We might see more, but up to this point, most -- most things you would call development have been green -- kind of green field.

MR. WATERS: Any other comments from the Board? Any other comments from the applicant?

MR. JONES: No.

MR. WATERS: I'll close the public hearing.

**PUBLIC HEARING CLOSED**

MR. WATERS: All right. Comments of legal?

MR. CALDERA: All right. Just to make sure that we've got a nice, pretty record, there are a few housekeeping things we need to do. Mr. Chair, I would like to admit certain exhibits into evidence at this time. We submit the staff report to the Board of Adjustment as the City's Exhibit 1.

MR. WATERS: Approved.

MR. CALDERA: Okay. As City's Exhibit 2, we would like to submit the supplemental application correspondence, the locator map, the application and supporting documentation, and the denial letter.

MR. WATERS: Allowed.

MR. CALDERA: As Exhibit 3, we would like to submit the public hearing notice, interested parties' letter and list.

MR. WALTERS: Allowed.

MR. CALDERA: Keenan, did you want your presentation in the record?

MR. SIMON: It's pretty much all in there.

MR. CALDERA: Okay. For Exhibit 4, we would actually like to admit a few ordinances, some not quite relevant to this particular hearing, but it still establishes the authority for you all to preside over this case. So at this time, we seek to admit Ordinance 29-6.1, 29-6.4, Section 12A-91, and Section 12A-110.

MR. WATERS: Allowed.

MR. CALDERA: Thank you. So, with that done, as we've talked about tonight, the governing section that authorizes you all the ability to grant or deny this variance is found under 12A-110. Unlike our typical variance hearings, we have a different set of standards for this particular type of variance request. I know typically I ask if the Board would like for me to read those -- those conditions aloud because you all are basically well versed in them. This time I want to afford you the same option, but I would strongly recommend that we go ahead and read the standards into the record.

MR. WATERS: Please read the standards.

MR. CALDERA: Okay. So under 12A -- a variance request under 12A-110, the Board of Adjustment shall not grant a variance from the requirements of this chapter unless it shall make all of the following findings: Good and sufficient cause based on an unreasonable burden or hardship has been proved, the granting of the variance would not result in any increase in quantity or velocity of flow, degradation of water quality, or negative impacts upon adjoining or downstream properties nor upon the stormwater system, the degree of variance is the minimum necessary to afford relief from the

unreasonable burden or hardship imposed by the requirements of this chapter. The variance may be granted without defeating the public health, safety, and welfare purposes and intent of this chapter. And let me apologize at this point, there is a little bit more. The Board may grant a variance to the stormwater management requirements of Article V only if at least one of the following conditions exists. Alternative requirements for onsite management of stormwater discharges have been established and the stormwater management plan approved by the director, provisions are made to manage stormwater by an existing offsite facility that is adequately sized to provide a level of stormwater control at least equal to that which would be afforded by onsite practices, and there is a legally obligated entity responsible for long-term maintenance of the offsite facility. The Board finds that the meeting -- that meeting the minimal onsite management requirements is not feasible because of physical characteristics of the site. It continues on, and if the Chair would like, I'm happy to continue.

MR. WATERS: Please do.

MR. CALDERA: Okay. The Board may not vary the stormwater management requirements of Article V if the variance would result in any of the following impacts in the downstream waterway: Deterioration of existing culverts, bridges, dams, or other structures; degradation of biological functions or habitat; accelerated stream bank or streambed erosion or siltation; increased threat of flood damage. If a variance granted by the Board will likely result in a lower level of stormwater control, the Board shall impose reasonable mitigation measures including, but not limited to, the following. It's my understanding that Keenan wanted us to look at subsection 2 of this provision, so I'll just jump to that. The construction of a stormwater management facility or other drainage improvements on previously developed property, whether public or private, which currently lack stormwater management facilities designed and constructed in accordance with the standards and purposes of this chapter and the City's Stormwater Management and Water Quality Manual. I know there is a lot of information that is available under 12A-110. This is my first time dealing with this type of variance, so I apologize for not being an expert yet, but I'm happy to answer any questions that the Board may have.

MR. WATERS: Thank you. Any questions for legal? Any other -- Ms. Hammen?

MS. HAMMEN: So, I'm still back -- so in the staff reports, it says the owners have not provided any proposed mitigation numbers at this time. Now, this -- what we saw tonight was proposed after the staff report was written?

MS. KEYS: Actually, upon further review, when Keenan pointed out that piece of that that, you know, other stormwater improvements on previously developed property pointed that out, that -- that that is a valid mitigation measure.

MS. HAMMEN: Okay. All right. Thank you.

MR. WATERS: Any other comments or discussion or motions?

MR. NORGARD: I would just like to say that I -- to me, it seems like we're here basically because of a technicality related to the way subdivisions trigger certain requirements. And I can -- I personally am looking at this case and it appears to me to meet all the requirements. My only concern, I guess, is at some point, are we going to be doing this a lot, you know? Is this going to be -- is this going to create an onslaught at some point in the future.

MS. JOHN: Open Pandora's box?

MR. NORGARD: Right. And I --

MR. CLITHERO: I might be able to shed some light on that.

MR. NORGARD: Okay.

MR. CLITHERO: I've been on this Board for 100 years, I think. Somewhere close to that?

MS. JOHN: It sure seems like it.

MR. CLITHERO: Yeah.

MR. CALDERA: You're on record, remember.

MR. CLITHERO: One other -- one other case in that period of time.

MR. NORGARD: Okay.

MR. CLITHERO: Since the stormwater quality and all that came out, like, years ago.

MR. NORGARD: And so essentially, we wouldn't be here if this weren't a re-subdivision because the director would have had the authority at that point in time to grant the variance out of hand, if I understand correctly.

MR. CLITHERO: Depending on the circumstances.

MS. JOHN: The staff is --

MR. CLITHERO: I just appreciate the fact that they're doing an infill and (indiscernible).

THE COURT REPORTER: I couldn't hear what he just said.

MR. CALDERA: Mr. Clithero, please make sure --

MR. CLITHERO: Sorry.

MR. CALDERA: Can you repeat what you just said there?

MR. CLITHERO: I'm not sure what I just said.

MR. CALDERA: I believe you said it looks like it's infill and I think that's the thing to do.

MR. CLITHERO: There you go.

MR. WATERS: Well, I -- I tend to agree with Mr. Norgard that this seems like a

technicality, and I intend to vote in favor of -- but if anybody would like to make a motion to --

MR. CLITHERO: What do we need to include in that motion?

MR. CALDERA: So, I think you could probably look at the agenda and -- and Rachel, Erin, correct me if I'm wrong. I believe they could probably read the agenda almost verbatim and grant them the required variance to that.

MS. BACON: Correct.

MR. WATERS: Can the Chair make a motion?

MR. CALDERA: Yeah. I believe so.

MS. BACON: Absolutely.

MR. WATERS: I would make a motion that we grant a stormwater variance to waive onsite stormwater detention and modify compliance with the stormwater quality requirements of the City Stormwater Management and Water Quality Manual on property addressed as 4421, 4431-4433 Ria Street and 1505 McKee Street.

MS. BACON: That works.

MR. WATER: Is there a second?

MR. CLITHERO: Second.

MR. WATERS: There is a motion and a second. All in favor say aye.

MR. CALDERA: You need to do a roll call.

MR. CLITHERO: Yeah.

MR. WATERS: Call roll. Oh, okay. Will the liaison please call the roll?

MS. BACON: Yes. Mr. Clithero?

MR. CLITHERO: Yes.

MS. BACON: Ms. John?

MS. JOHN: Yes.

MS. BACON: Ms. Hammen?

MS. HAMMEN: Yes.

MS. BACON: Mr. Norgard?

MR. NORGARD: Yes.

MS. BACON: Mr. Waters.

MR. WATERS: Yes. The motion is approved. Thank you.

**Motion that we grant a stormwater variance to waive onsite stormwater detention and modify compliance with the stormwater quality requirements of the City Stormwater Management and Water Quality Manual on property addressed as 4421, 4431-4433 Ria Street and 1505 McKee Street.**

**Yes:** 5 - John, Hammen, Clithero, Waters and Norgard

**VI. PUBLIC COMMENTS**

MR. WATERS: So, is there anyone from the public here who would like to speak?

**VII. STAFF COMMENTS**

MR. WATERS: Any other -- any other issues the staff or the Board?

MS. BACON: Would you like to close the public hearing.

MR. WATERS: Well, I think I did.

MS. BACON: Okay. You did, sorry. My apologies. The only thing that we have from staff is that you are scheduled to have a work session on October 23rd at 7:00 p.m., and then you tentatively have a meeting scheduled -- a regular meeting at November 13th, 2018, in this room at 7:00 p.m.

MR. CALDERA: Ms. Bacon, do we have any cases at this point?

MS. BACON: It's still tentative.

MR. CALDERA: Okay. Got you.

MR. WATERS: So, Ms. Bacon, what was the date of the work session again?

MS. JOHN: The 23rd.

MR. CLITHERO: The 18th.

MS. BACON: October 23rd at 7:00 p.m.

MR. WATERS: All right. And there may or may not be a November 13th meeting?

MS. BACON: Correct.

MR. WATERS: Okay. So, do we want to stick with the October work session even if there's no meeting in November?

MR. CALDERA: Uh-huh.

MR. WATERS: Okay.

MS. HAMMEN: Yeah. Oh, why not.

MR. WATERS: All right.

MR. CALDERA: So, for purposes of that work session, Ms. Bacon, do we have an agenda for that, or is that something that the Board should provide to you all, what we're going to talk about?

MS. BACON: Can you repeat the question?

MR. CALDERA: So essentially at that work session, what are going to talk about?

MS. BACON: My understanding was that it was a continuance mostly from the previous work session discussing about specific elements of the Code in which the Board might want to take a stance and make recommendation to other bodies involved in the Code as well.

MR. CALDERA: Okay.



**VIII. BOARD COMMENTS**

MR. WATERS: Ms. Hammen?

MS. HAMMEN: Can I ask you a question? Where is our recommendation from last work session? Do you know where in the process --

MS. BACON: I'm not aware, but I can find out and get back to you on that.

MS. HAMMEN: Thank you.

MR. WATERS: So, one other question, and this has to do with the list that the staff is keeping for upcoming issues to discuss. Do we want to add this subdivision issue to that list, or does that kind of go without saying?

MS. JOHN: The subdivision?

MR. WATERS: Right. Is this something that is going to be so infrequent that there's no need to --

MS. JOHN: I think it's probably going to be awfully infrequent.

MR. WATERS: Okay. Fine with me.

MR. CLITHERO: So, what are we going to talk about?

MR. WATERS: We're going to talk about the previous --

MR. CLITHERO: What did we talk about previous?

MS. JOHN: Height.

MR. WATERS: Yeah. There was a height --

MR. CLITHERO: Can I bring somebody? Brian McConnell?

MS. BACON: So, your work sessions are open to the public. They are advertised as a meeting, so you can definitely bring someone to the meeting.

MS. HAMMEN: So, could we meet in a little larger room then?

MS. BACON: We'll work on that.

MR. WATERS: Okay. If the Board doesn't have any further discussion, and we all know when the next meeting is.

**IX. NEXT MEETING DATE - November 13, 2018 @ 7 pm (tentative)****X. ADJOURNMENT**

MR. WATERS: I'll accept a motion to adjourn.

MR. CLITHERO: So, moved.

MS. JOHN: Second.

MR. WATERS: We're adjourned.

(The meeting adjourned at 7:41 p.m.)

**Motion to adjourn**