Chair Townsend called the meeting to order at 7:00 p.m. Those members attending included Townsend, Clithero, Campbell, Greever-Rice and John. Also attending were the City Clerk, Sheela Amin, Engineering Manager, Shane Creech, Engineer I, Lee White, and Assistant City Counselor, Susan Crigler.

The minutes from the regular meeting of February 8, 2011 were approved as submitted on a motion made by Mr. Campbell and a second by Ms. John.

The following cases, properly advertised, were considered. All persons testifying were duly sworn by the City Clerk.

Case Number 1802 was a request by David Walker, attorney for the Columbia School District, for a variance to the side yard setback requirement by allowing the construction of a pole frame storage building to encroach into the required side yard on property located at 4303 S. Providence Road.

Chair Townsend noted this case had been withdrawn.

Case Number 1808 was a request by Kerry Bush, attorney for 10th and Elm, LLC and Walnut Brook, LLC, for a variance from compliance with Article V of Chapter 12A – Stormwater Management as it pertains to water quality by allowing the site to meet a level of service of 3 for water quality treatment instead of the required level of service of 4 for water quality treatment on property located at 220 and 260 S. Tenth Street.

Chair Townsend opened the public hearing.

Adam Patchett, 4411 W. Rockhampton Circle, stated he was an attorney with Bush and Patchett, LLC, and that his law firm represented 10th and Elm, LLC and Walnut Brook, LLC, the owners of the subject property at 220 and 260 S. Tenth Street, who were requesting a variance with regard to stormwater quality requirements so the level of service would be reduced to a level service of 3.

Thomas Bellew, an engineer with Trabue, Hansen and Hinshaw, Inc., explained the site was zoned C-2, which encouraged lot line to lot line construction, and the owners designed the site for full build out. As a result, no room was left for water quality treatment. He explained they had worked with the City to come up with the compromise of placing a stormwater quality unit in the City right-of-way, but since the City preferred they stay outside of the street pavement, the owners only had 10.5 feet under the sidewalk to place the unit. He commented that they had looked at four options and described the level of service and the reasons those options would or would not work. The one that would work involved the use of a downstream defender that provided a level of service of 3 and could treat up to eight cubic feet per second. He pointed out they were only required to treat 1.5 cubic feet per second. The proposed option would treat water in terms of water quality, decrease flow velocities and improve water quality. In addition, there were no negative impacts on the streams or to the public health. He explained there was no way to provide a level of service of 4 without shrinking the building footprint and noted the owners had a right of
use permit so they could maintain the unit over its lifetime.

Mr. Campbell asked how often the unit needed to be maintained. He wondered how much it would disrupt the City sidewalks in the area. Mr. Bellew replied it needed to be maintained every 18 months to 2 years and that a pedestrian traffic control plan had already been submitted to allow for this maintenance. They would close the sidewalk at that block for about two hours, so there would be minimal disturbance to the public.

Ms. Greever-Rice asked how the setback of the site would be affected if they had to address stormwater with a different plan. Mr. Bellew replied they would have to shrink the building footprint if they had to do something on-site.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Creech explained staff comments were addressed in the memo and this option was likely the most reasonable short of reducing the building size.

Mr. Clithero asked for clarification as to why staff recommended approval, but denied the variance. Mr. Creech replied he believed the Director felt the stormwater ordinance had been in place for over three years, and as a result, staff needed to grant less variances. He thought the Board of Adjustment would get more of these cases in the future. Mr. Clithero understood a lot of variances had been granted at the staff level in the past. Mr. Creech stated the ordinance was specific on detention, which was not required downtown. The Director could not grant a variance if the quantity or velocity of flow was increased. There was more leeway with water quality.

Chair Townsend understood the apartment complex across the street did not have to meet the stormwater requirements due to the timing of their project. Mr. Creech explained they had an approved plan, prior to the adoption of the ordinance. Ms. John explained they were grandfathered.

Ms. John understood this case only involved water quality. Mr. Creech stated that was correct.

Mr. Campbell believed that although this was not adequate, he was satisfied that there was an attempt to reduce the impact.

Mr. Campbell made a motion to approve the variance as requested. The motion was seconded by Mr. Clithero.

CASE NO. 1808 VOTE RECORDED AS FOLLOWS: VOTING YES: TOWNSEND, CLITHERO, CAMPBELL, GREEVER-RICE. VOTING NO: JOHN. The variance was approved as requested.

Case Number 1809 was a request by Josh Oxenhandler, attorney for Betty Heidman Douglass Properties, LLC (owner) and Tropical Liqueurs Corporation (tenant), for a variance from compliance with Article V of Chapter 12A – Stormwater Management as it pertains to the use of best management practices (BMP’s) by allowing the proposed renovation without requiring the installation of water quality BMP’s on property located at 515 E. Broadway.

Chair Townsend opened the public hearing.
Josh Oxenhandler, an attorney with offices at 220 N. Eighth Street, clarified the memo indicated the subject property was at the northeast corner of Sixth and Broadway, but it was actually the northwest corner, and provided an aerial view of the subject property to the Board, which included Tropical Liqueurs and McNally’s Pub. The southernmost portion of the lot, which included Tropical Liqueurs and was adjacent to Broadway, was involved in the renovation. He described the renovation and explained the lot was one-third of an acre and one hundred percent impermeable. The renovations would not change the permeability of the land. Six parking spaces would be impacted by the addition, leaving nine parking spaces on the lot. He noted a rain garden was required for disturbed land of less than 3,000 square feet, and in order to capture water flow, the rain garden would have to be located in the parking lot and would take out three parking spots along the eastern wall of Tropical Liqueurs, which would impact their ability to rent those spaces during the day. When the application was submitted, they had requested an exemption, but after some research, they believed they had found a filtration system that would allow the capture of sediment. He noted the inlet would be on private property and the property owner would be responsible for maintenance. He also pointed out that the sidewalk in front of Tropical Liqueurs would be rebuilt and street trees pursuant to the City’s Street Tree program would be planted at that time.

Jay Gebhardt, an engineer with A Civil Group, noted they were replacing pavement with pavement. They were not removing any pervious area or paving over pervious area. As a result, they were not making anything worse or better in terms of water quantity and quality. He explained he was on the Storm Water Advisory Commission and they were working to change the ordinance to exempt sites like this from having to do anything in an effort to encourage redevelopment as the stormwater ordinance requirement was a huge burden in comparison to the scope of the project. The rain garden was required to be 20 percent of the area that drained to it or 600 square feet. He did not believe the treatment with a rain garden was linear in that its size was not equivalent to the work it did. In addition, he did not believe rain gardens functioned well when they were that small, which was likely why there was a minimum size per City standards. He was hesitant in constructing the rain garden because it would require the removal of three parking spaces and would not work well. He noted the sidewalk in front of Tropical Liqueurs would be replaced and street trees would be planted and the result would be the removal of a small amount of impervious area. Since the owner asked them to try to propose an alternative, they were suggesting a filter to be placed in an inlet to catch debris. He provided a diagram of the filter for the Board to view. The cost was approximately $600 for installation and about the same annually for maintenance. He thought the Board needed to consider the costs versus the benefits of the renovation as the benefits included the construction of ADA restrooms and the redevelopment of the site. He reiterated that he did not believe rain gardens functioned well and noted clay soil, which the area had, limited infiltration and was the reason they did not work well. He listed some variances provided by staff and the Board in the past that he felt were similar to this situation and asked the Board to grant this variance as well.

Mr. Clithero understood this requirement was a result of trying to make things better. Mr. Gebhardt stated that was correct. Mr. Clithero asked how much water quality would change if the rain garden was installed. Mr. Gebhardt replied his opinion was that it would change very little, if at all.

Mr. Clithero asked where the inlet would be located on the site. Mr. Gebhardt replied it would be located to the north side of the lower patio. Mr. Clithero asked if the water from the street cut
across the parking lot. Mr. Gebhardt replied no. He explained it started at the northeast corner of the parking lot. Mr. Clithero understood the filter in the inlet would pick up any sediment before it came to the lower patio. Mr. Gebhardt replied that was correct. He noted the rain garden would need to be placed at the southeast corner, near the steps, and was problematic. Mr. Clithero understood the rain garden would not only take away the three parking spots, but it would also remove access from other parking spots. Mr. Gebhardt stated it could.

Mr. Campbell asked if the filter being used in Case No. 1808 had been considered for this site. Mr. Gebhardt replied yes, and explained they were more expensive than a rain garden. In addition, he would not be able to get enough water to drain to it to meet the requirement due to the location of where it would need to be installed. He explained this site was smaller so they were not required to meet a level of service requirement. Also, the cost to benefit ratio would be even worse with that type of filter.

Mr. Campbell asked for the distance between this parking lot and the new parking garage. Mr. Gebhardt replied it was about 60-70 feet. Mr. Campbell understood there was adequate parking in the area. Mr. Gebhardt explained it was more about having private parking on the property and the revenue it generated for the business.

Mr. Campbell commented that sometimes action needed to be taken to try to emolliate past actions and wondered if it was possible to understand why they might require such a filter as it would help the downtown area’s drainage. Mr. Gebhardt explained he believed in the philosophy, but did not believe in the high cost associated with getting very little treatment. He commented that the project might not happen if they had to comply with the stormwater ordinance. He stated he did not believe a rain garden was appropriate for the downtown. Mr. Campbell noted all of downtown consisted of small lots, so nothing would ever be done in the downtown, if a rain garden or something similar was not done. Mr. Gebhardt stated that if this was similar to the previous case, they would be asking for street right-of-way to meet the requirements of the stormwater ordinance because it would not fit on the site. His client was being asked to fit it on the site only because they had a parking lot, which did not seem fair.

Ms. Greever-Rice asked for a comparison of the rain garden and the filter being proposed in terms of water quality. Mr. Gebhardt replied the rain garden if designed and built properly would filter petro-chemicals. The filter would remove particulates only. The other rain garden he built in the downtown held water causing the plants to die since the water did not drain fast enough.

Ms. John asked what exactly Mr. Gebhardt was proposing. Mr. Gebhardt replied they would have an inlet on north side of the lower patio and would install the filter in that inlet as a measure for treating water. In addition, they were planting two trees in the sidewalk.

Mr. Campbell commented that it appeared as though the handicapped restrooms were near the stairs and asked for clarification. Mr. Gebhardt replied there would be a ramp that was not shown inside the lower patio.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Creech commented that stormwater had not been proposed as part of the project when it had been submitted. The proposed inlet, which they consider proprietary, had not been given a value rating, so it was difficult for him to say how this compared to a small area BMP. Mr. Gebhardt
stated they would be willing to use one that had been approved. Mr. White stated he did not believe any of these types of filters had been reviewed.

Chair Townsend asked for the level rating needed for a filter of this nature as it would compare to a rain garden. Mr. White replied a rain garden had a value rating of nine, which was very high. The highest proprietary device value rating granted had been at level five, but it included detention. Chair Townsend asked if this was the case regardless of the size of the rain garden. Mr. White replied that was correct. The rating was not based on size, but on the area that drained to it. Mr. Creech explained there were options in the stormwater manual to meet a level of service requirement. Small area BMP’s were set up as another option for smaller disturbances.

Chair Townsend asked if staff and the applicant could come to an agreement on something other than the rain garden, given more time. Mr. White replied he thought there was potential for it.

Chair Townsend stated he was hesitant in ruling on something tonight without knowing the impact. They would have to vote on a variance conditioned upon approval of the City, which would place the burden back on staff. Chair Townsend asked for the time table to start on this renovation project. Mr. Oxenhandler replied they would like to proceed as soon as possible. Mr. White explained the City was willing to compromise, but they had not seen anything from the applicant other than the variance letter.

Mr. Oxenhandler pointed out small area BMP’s did not involve detention, so he was not sure the rating system could be paralleled to that required for a larger area. He thought the variance would need to be conditioned upon approval of staff. Chair Townsend understood and noted he did not believe doing nothing was in the best interest of the City or the applicant. Mr. Oxenhandler stated they wanted to move forward, but would rather have the full support of the Board, so he was agreeable to tabling the request if needed.

Ms. John made a motion to table Case No. 1809 to the April 12, 2011 Board of Adjustment meeting. The motion was seconded by Mr. Clithero.

Mr. Campbell stated he felt strongly that they needed to look carefully at any opportunity to help the water quality in the downtown area. They did not have many options for improvement, but felt, in this situation, they did.

The motion made by Ms. John and seconded by Mr. Clithero to table Case No. 1809 to the April 12, 2011 Board of Adjustment meeting was approved unanimously by voice vote.

There being no further business, the meeting adjourned at 7:46 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk