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CC Regular Session

7. 6.

Meeting Date: 07/14/2015

By: Chris Anderson, Community
Development

Information

Title:

Review Recent Feedback Concerning Buildable Area on Parcels with Floodplains and Wetlands

Purpose/Background:

The purpose of this case is to review resident feedback regarding the amount of remaining buildable area on certain residential parcels after areas of wetlands and floodplains are subtracted. Staff notes an increase in the number of concerns raised by residents most notably in the Brookfield and Sweetbay Ridge developments, but communitywide as well. This policy issue can also be seen in some high water times when primary structures are in close proximity to floodplains and wetlands.

Potential outcomes of the policy discussion range from taking no further action to amend City Code to making certain amendments to City Code to ensure a minimum amount of buildable area to the benefit of the ultimate home owner. Staff believes that this policy issue has risen beyond just a small number of isolated incidents to at least a level to bring to the attention of the City Council. This policy issue is especially evident in Sweetbay Ridge, and to a slightly lesser extent in Brookfield, where it appears there is a high number of wetland encroachments in rear yards. This issue has also surfaced at time of sale due to proximity to floodplain boundaries and potential wetland impacts during due diligence periods.

Staff acknowledges the previous wetland protection ordinance of the City Code repealed circa 2009 and notes that none of the alternatives noted below include these previous restrictions. Staff is not suggesting that any policy change needs to be made. However, Staff believes it is relevant to bring the topic to the City Council's attention. The intent of the direction of this case would be to simply direct Staff to work with the Environmental Policy Board (EPB) and Planning Commission to brainstorm 1) if policy changes are needed and 2) if so, ideas of potential policy changes.

Notification:

No notification is required at this time as this is for discussion purposes only.

Observations/Alternatives:

The policy issue appears to arise after the initial construction of the home with the expectation of the ultimate resident that future improvements, such as a deck and/or detached accessory building, could be added to a property. The initial, principal structure meets all current and applicable bulk standards. However, the presence of floodplains, wetlands, and/or storm sewer infrastructure can greatly restrict the actual buildable area of a lot for future improvements and rear yards. The builder has met all minimum requirements to obtain a Building Permit. However, the ultimate home owner is not able to utilize the rear yard as expected due to non-developable portions of the lot. The City has a number of examples where the actual lot size is approximately one (1) acre in size, but the developable area is less than a quarter (1/4) acre

in size.

The issues are primarily with the proximity of the rear of the home to the boundary of a wetland or floodplain. The issues are primarily 1) lack of space to construct a rear yard deck; and 2) lack of rear yard area to place fill and manage vegetation without additional restriction (what a typical home owner would traditionally consider a back yard). In certain circumstances, the limits of developable area behind the rear of the home is within a few feet of the back of the home, which does not leave a large amount of area for decks, patios, or the ability to grade and landscape the yard.

Presently, City Code does not specify specify a minimum buildable area or any setback from any of the elements noted above, just gross (total) lot size and minimum lot width in addition to traditional setbacks to property lines. Based on the increasing frequency of requests for encroachments within these elements or easements that encumber these elements, this discussion topic has been created. Also, due to previous policy discussions circa 2008/2009, Staff desires to discuss the matter with City Council before forwarding the discussion topic to EPB and Planning Commission.

As can be seen in the attached examples, sometimes there is little to no room between a proposed home and a wetland, floodplain, or storm sewer pipe (and their associated easement). As part of the Building Permit review process, Staff reviews the Permit for compliance with bulk standards such as setbacks and structure height, but also looks at location of patio/sliding glass door in relation to these features and comments on possible future conflicts. However, without any standard in City Code, Staff cannot withhold approving the permit if it complies with all other bulk standards. There is not a City Code provision that allows Staff to prohibit the utilization of a patio door, even if it is evident that the rear yard will not sustain an improvement. This has proven to be a significant issue with certain lots.

A significant reason for bringing this to the attention of the City Council is to also inform the City Council of the increasing amount of Staff time used to administer these standards and work with Property Owners through the process of approval for these challenging lots and the frustration it is causing amongst multiple property owners. The issue seems to magnify with each subsequent sale as the distance between original builder and current owner expands. Staff does acknowledge that part of the reason for an increase in these requests and complaints is also a result of a declining lot inventory with more challenging and/or less desirable lots remaining.

Goals of Policy Discussion

1. Minimize common conflicts for future property owner after initial construction.
2. Ensure sufficient area for future rear decks, a common improvement.
3. Ensure sufficient area for back yard (as interpreted by average resident).
4. Provide language that is easily interpreted with minimal 'if, then' or contingent scenarios.
5. Do not create new issues by solving current issues.
6. Ensure that any policy amendment is not confused with the City's previous wetland protection ordinance (buffer). In other words, Staff would not suggest including a vegetative buffer requirement, but would support discussions on principal structure setbacks while still allowing for vegetative management up to delineated boundaries.

It is noted that it is unlikely that a single ordinance amendment will eliminate all requests for encroachments to wetlands, floodplains, and easements; however, a simple policy adjustment may significantly reduce the number of special requests to the City. There is still likely to be certain circumstances that are so unique, that the City will need to apply available tools to review, such as encroachment agreements or 'no loss exemptions' (through the LRRWMO).

Alternatives

Option #1. Direct Staff to work with the EPB to consider possible ideas/solutions to this matter and present them to the Planning Commission for consideration. Staff supports this option, as it focuses on answering the question as to whether an issue exists that warrants a policy change. Potential ideas include, but are not limited to minimum buildable area standards and/or primary structure setbacks with open air decks and detached accessory structures exempt.

Option #2. Do not direct Staff to proceed with any ordinance amendment and continue to try and work with builders to site and design a home such that a deck (or other reasonable improvements) can be installed without conflicting with these features. Staff will continue to review Building Permits for compliance with bulk standards as well as where a patio/sliding glass door is located on a structure to try and avoid a future conflict. However, without the standard in City Code, Staff could not prevent or prohibit issuance of a Building Permit for a home even if it has the appearance to have a high potential for future conflict (as shown on the attached examples). The City Council would be acknowledging the cost and timeframe involved in approving encroachments where allowed. This does not solve the concern of lack of back yard when a home is sited close to certain boundaries, especially wetlands.

Funding Source:

This is being handled under normal Staff duties.

Recommendation:

Staff recommends beginning discussion with the Environmental Policy Board (EPB) and Planning Commission to develop possible ideas to protect a homeowner from potential future issues for common and reasonable improvements, especially in the rear yard of a lot. The intent would be to ensure the City has the proper tools during plat/subdivision review to ensure proper buildable area.

Action:

Motion to direct Staff to begin working with the Environmental Policy Board (EPB) and Planning Commission on developing ideas to resolve, or at least reduce, issues some homeowners are encountering as a result of the proximity of the principal structure to a wetland, floodplain, and/or storm sewer pipe.

Attachments

Examples of Sites where Issues have been Encountered

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	07/08/2015 03:54 PM
Chris Anderson (Originator)	Chris Anderson	07/08/2015 04:47 PM
Kurt Ulrich	Kurt Ulrich	07/09/2015 01:31 PM
Form Started By: Chris Anderson		Started On: 07/08/2015 08:42 AM
Final Approval Date: 07/09/2015		