

Review of Buildable Area Concerns for Policy Development

Background

In recent years, the City has received feedback from certain property owners concerned about buildable area on their parcels after factoring out areas encumbered with wetlands, floodplains, and storm sewer infrastructure. Oftentimes, this concern is raised when the homeowner submits a Building Permit for common homeowner improvements, such as a deck and/or an accessory building, and it is discovered that the proposed improvement would encroach into an easement and/or possibly into a wetland or designated floodplain. In these instances, the only way for the property owner to proceed with the proposed improvement(s) is by entering into an Encroachment Agreement with the City, and, in certain instances, receiving approval by the Lower Rum River Water Management Organization (LRRWMO).

The initial construction of the principal structure (home) on the property met all applicable bulk standards, including setbacks. However, setbacks only apply to the property boundaries. Thus, for some lots that contain floodplain, wetland, and/or storm sewer infrastructure, the actual buildable area can be significantly restricted and may limit a future homeowner's ability to make future improvements or establish a 'useable' backyard. Since the principal structure met all applicable bulk standards, the City could not legally prohibit or withhold the issuance of a Building Permit, even if it was evident that future conflicts, such as installation of a deck or potential placement of fill to create additional 'useable' rear yard area, would arise (even when it was within several feet of the rear wall of a home).

Objective

The City Council has directed Staff to work with the EPB and the Planning Commission to develop ideas that may resolve, or at least reduce, the number of instances in which some homeowners may encounter as a result of the proximity of the principal structure to a wetland, floodplain, and/or storm sewer pipe. It is acknowledged that this process would hopefully address this issue for any lots created in the future and will not necessarily resolve an issue with an existing lot of record.

Potential Options/Outcomes

Minimum Buildable Area Requirement

City Code does have minimum standards for lot size: 10,800 sq. ft. in the R-1 MUSA district and 2.5 acres in the R-1 Rural Developing district. However, there is no minimum buildable area requirement. There are a number of examples in the MUSA district in which there are $\frac{3}{4}$ to 1 acre lots with less than 10,800 sq. ft. of buildable area due to wetlands, storm sewer infrastructure, and/or floodplain. However, since lot shape can vary greatly, this may not be the best tool to minimize future conflicts.

Principal Structure Setback

Presently, there is no required setback from a wetland, storm sewer pipe, or floodplain. Wetlands and storm sewer infrastructure are encumbered by drainage and utility easements, and no structure is permitted within an easement; however, without a specified minimum separation, a home could be constructed up to the easement boundary. A principal structure setback, if implemented, would at least ensure a certain distance from a wetland/floodplain/storm sewer pipe, which could accommodate a future improvement such as a deck or detached accessory building. Additionally, this would also ensure a more reasonable, 'usable' rear yard, which may help reduce instances of fill being placed in restricted areas.

Miscellaneous

This section is included to indicate that there may also be other potential solutions that merit consideration as part of this policy discussion.