

Mayor Wood said "I for one am thrilled with the buffer area of 6.03 acres. I cannot recall when on this size piece of property we have gotten more buffer. I appreciate the property owner working with the City to preserve that buffer."

The motion passed unanimously.

4. Steep Slope Variance with Front Setback Variance, 140 Robinwood Ct., Michael Adams/Magnolia Homes of Georgia

Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend stated this request from Magnolia Homes of Georgia, Lot #4 in the Robinwood Estates Subdivision, includes a steep slope variance, and an additional five (5) foot front setback variance from thirty (30) feet to twenty-five (25) feet. A site plan of the subdivision was displayed. There are six lots with four homes currently built. Lot #4 contains the most trees, at this point. Mr. Townsend stated this property previously received variances to the front setback for lots #3, 4, and 6, to reduce from fifty (50) feet to thirty (30) feet. On lots #1, 2, and 5, the subject variances were from fifty (50) feet to thirty-five (35) feet. An aerial photograph was displayed which included contour lines. He noted the contours indicate elevation separation. He explained that the closer the lines are, the steeper the property is as it falls back to the stream on the southern part of the lot. The lot contains a flowing stream with a fifty (50) foot undisturbed buffer and a seventy-five (75) foot impervious setback. Lot #4 contains a steep slope buffer which ranges from five (5) feet to nineteen (19) feet in width, and one-hundred and ten (110) feet in length. Mr. Townsend displayed a proposed site plan showing the impact of a proposed house that would be required by the covenants and restrictions of the property to have at least 4,000 SF of air conditioned / heated space area. Staff recommended approval of the two variances requests for the construction of the single family home.

Council comments:

Councilmember Dippolito asked if when this project was originally platted, was it not platted with the knowledge that the steep slope would make this lot virtually non-buildable. Mr. Townsend replied yes, there was a steep slope analysis when it was platted. Councilmember Dippolito asked for confirmation that the applicant was aware at the time he designed this that he would have difficulty building on this lot. Mr. Townsend replied "The applicant and owner at that time, yes." Councilmember Dippolito stated he understood there is a building square footage minimum that was put in place for the subdivision. He asked if that was something that occurred after it was platted or was that a restriction which was put in place prior to. Mr. Townsend replied "Probably at the same time when creating the covenants and HOA for the association." He confirmed for Councilmember Dippolito that he did not know for certain. Councilmember Dippolito asked if there was any other way to configure this property to avoid staying out of that buffer area. Mr. Townsend replied no. Councilmember Dippolito asked if the city engineer has approved this variance. Mr. Townsend replied yes. Councilmember Dippolito asked why it was approved. Mr. Townsend replied "She actually just looks at the criteria that they can properly construct in this location by using proper engineering and not impact the stream buffer or the undisturbed buffer. The only person that actually approves relief from the steep slopes is Mayor and Council." Councilmember Dippolito stated "But her recommendation is for approval." Mr. Townsend replied "Right, that it can be engineered and built properly and not harm or impact into the stream." Councilmember Dippolito asked if the Environmental department concurred. Mr. Townsend replied "Environmental is not consulted at dealing with steep slopes." Councilmember Dippolito replied "Even though that is an environmental issue. The reason this is in place is to preserve the integrity of the stream, is it not?" Mr. Townsend replied "Which is secured by the City engineer under her review or purview of

steep slopes ordinance.” Councilmember Dippolito said it would be appropriate for the City’s Environmental department to review this to make sure that they are comfortable with whatever mitigation is put in place is appropriate for this.

Councilmember Igleheart commented “Frankly, this totally destroys the entire steep slope ordinance. There is no point in having it if you let this go through. The fact that the engineer doesn’t understand that greatly disturbs me. We had a discussion about steep slopes at one point when we were changing some of the ordinance elements and she basically said we did not need it.” Councilmember Igleheart stated he would like to further discuss this with the city engineer because he questioned how the variance could be recommended.

Councilmember Igleheart clarified that the initial variance to reduce the front setback was a Board of Zoning Appeals (BZA) allowance that never came before Mayor and Council for approval. Mr. Townsend agreed.

Applicant:

Mike Adams, CEO and President of Magnolia Homes of Georgia, stated that in order to meet the minimum square footage required by the covenants on the current configuration of the lot that would determine that the house would end up being a house of 30 foot by 50 foot, taking out for the garage, then it would be a total square footage for the house of only 2600 square feet. The steep slope buffer from the front building line to the back corner of the proposed house on the right side only drops seven (7) feet; on the left side it drops fourteen (14) feet. In order to keep out of the impervious buffer, which from there to the stream is the seventy-five (75) foot, they would construct a sub-wall on the left rear corner of the house for approximately twenty-five (25) feet. This will allow the house with a ten (10) foot basement to sit there. Mr. Adams said with the configuration of the house that is proposed, the house itself will be sitting roughly five (5) feet off of the impervious buffer which would provide enough room to work around it yet maintain the erosion control and avoid any erosion back in towards the stream area.

Council questions:

Councilmember Price stated it was her understanding that the other houses on that street have a similar variance for setback at the front. Mr. Adams replied “Some are set back I believe thirty-five (35) feet. Some are at thirty (30) feet. This currently is at thirty (30) feet. We are requesting five (5) additional feet forward setback in it in order to get the square footage of the house in there.” Mr. Adams stated they had consulted with four different architects trying to find design plans that would fit and make this a buildable lot. Mr. Adams stated “The only way we see to do it and maintain the minimum square footage would be the removal of that variance.” He said once the house is constructed and the walls are there, they would create a small backyard about the depth of the deck on the back which would empty back to the right side of the property, which is only the seven foot drop. This would be an easy step going down to the basement or coming out of the basement. Moving to the right, there would be a fairly level area back to the edge of the lot and then back out.

Councilmember Price inquired if there was another configuration for that size house that would not violate the steep slope ordinance, perhaps flipping the configuration. Mr. Adams replied “No ma’am, because of the shape of the lot. If you are looking where the 30 foot is from the front current building line to the back edge at the beginning of that steep slope buffer, there is only twenty-eight (28) feet. To the far right side, over near lot #3, coming from that corner over fifty (50) feet, that only gives you thirty (30) feet back.” He stated flipping the plan could not be done because the developer, at the time lot#3 was sold, gave a buffer on that side, and they are restricted to placing the driveway on the left side. Due to the

odd shape of the lot and steep slope buffer, there is no way to make the covenants minimum square footage.

Councilmember Price asked if a lesser setback on the front would solve any problems or create another problem. Mr. Adams stated that why they were asking for the five foot front setback. It would allow the house to be set forward and stay further away from the impervious buffer. This would also create enough space from the back of the house to the beginning of the impervious buffer in order to get construction equipment in, work, and stay out of that area.

Councilmember Price asked if the City would incur any liability for allowing something in this instance, should a calamity occur and the house "fell in." City Attorney David Davidson replied no, it would be the liability of the person who built the house if it fell down the slope. Councilmember Price asked if that applied even if the City had an ordinance to prohibit that. Mr. Davidson replied "Our ordinance is to protect the stream. It is not to stop building on a steep slope."

Council comments:

Councilmember Wynn stated Councilmember Dippolito brought up two good observations: 1) when this lot when previously platted, it was stated that this lot was unbuildable; 2) the Environmental department was not brought in to confirm that anything built on this lot if the variance was approved, would not do anymore damage to the stream. Councilmember Wynn stated those two observations were her reasons why she would not be able to vote for approval tonight.

Councilmember Dippolito stated he would prefer this to return to staff for an Environmental department review to see if there is a way to perhaps minimize the impact to the slope and find some sort of mitigation they are comfortable with to assure that the stream will not be negatively impacted.

Councilmember Price asked for the stream to be identified on the site plan. Mr. Adams pointed out the stream on the site plan which was projected on the screen. He stated the stream would be in excess of eighty (80) feet behind the nearest construction to it.

Motion: Councilmember Price moved to **Defer Steep Slope Variance with Front Setback Variance, 140 Robinwood Ct., Michael Adams/Magnolia Homes of Georgia until April 11, 2011**, in order for staff to look at this again and work on the environmental aspects. Councilmember Dippolito seconded. No further discussion. The motion to defer passed 5:1.

Councilmember Orlans, Councilmember Price, Councilmember Wynn, Councilmember Dippolito, and Councilmember Diamond voted in favor. Councilmember Igleheart cast his vote in opposition.