

Open Work Sessions

March 21, 2017

Relocation of Forest Conservation Easement

Relocation of Forest Conservation Easement – Mr. Frank McKenzie, Technical & Environmental Planning-GIS, and Mr. Tyler Walston came before Council. Mr. McKenzie introduced Mr. Walston as their new Environmental Planner. He said he works with the Critical Area Program and Forest Conservation. He said Mr. Walston came to them from Dorchester County, Conservation Service. Mr. McKenzie said Mr. Walston has been here for about a year. He said he has been instrumental in the day-to-day operations of the Forest Program and the Critical Area Program, and has come a long way and they were glad to have him on board. Mr. McKenzie said they have an application to relocate a forest conservation easement on lots in the Nutters Crossing Section 3. He said Council will notice on the map that Section 3 was originally recorded in 2001, and pretty much all of the lots in Section 3 have been developed, except for the lots they see here on the map that are within that easement area. He said Mr. Ruark, the developer of Nutters Crossing, has maintained ownership all of this time, and Mr. McKenzie said he is not sure why these lots were not developed. He said, at this time, Mr. Ruark would like to remove those easements off of that lot and move it on another parcel that he owns, that is a future section of Nutters Crossing that will be developed. He said, essentially, he will be taking about 2.1 acres off these back lots and moving it to an area of existing forest that is located along the Bypass that is on a future section of Nutters Crossing. Mr. Dodd asked if that would be at the end of Dixon Road, to which Mr. McKenzie clarified it will be on the north side of Dixon Road up near the Bypass. Mr. Dodd said he assumes that he wants to build on those lots there. Mr. McKenzie said it was his understanding that Mr. Ruark has some settlements pending, and is ready to move forward with these things as soon as they can finalize his paperwork. Mr. Dodd asked if this is Phase 3, to which Mr. McKenzie responded, yes. Mr. McKenzie said it has been their position over the many years to not allow these easements on lots, for the primary reason that lot owners will end up encroaching it in some fashion. It becomes an enforcement problem. So as a matter of fact, a better policy is to encourage folks to do something offsite or out parcel, or to pay into a fund or mitigation bank. They are trying to avoid these situations in the future, but they do anticipate that some of these will continue to crop up from time to time. People may want to build an addition on their house, and it may encroach an easement, and this is how they deal with it. Mr. Dodd asked, if the relocated acres were not already an easement, to which Mr. McKenzie clarified, no, they were not. Mr. Hall asked does this mitigated acreage that they are doing, has it also been a tradition in the past to do a two to one exchange for usage. Mr. McKenzie responded, they work with a policy with the Council in that if there was a request for an easement or modification on land that was owned by an individual, around their lot, that they could go one to one. He said if they are going offsite to an area that they did not own, then it would be two to one. In this case, they made a determination that

this is all part of the Nutters Crossing Development for multiple sections, so it was determined that one to one would be appropriate in this case. He said if Council feels different, then they can respond to that. Mr. Joe Holloway said he was going to ask the same question because he remembers that coming up before. Mr. Joe Holloway clarified if they went offsite on somebody else's property, that is what you followed before, but if it is the same piece of property, same parcel basically, it can be one to one, to which Mr. McKenzie responded, Mr. Ruark owns all of the lots in question here, as well as the property that is in the future activity. Mr. Joe Holloway said the new easement area is a little larger anyway. Mr. McKenzie said actually, there will be another project he is working on where there is two lots he is creating in Nutters Crossing that did not have an easement on it. He said but because those lots were not grandfathered in the forest conservation, they had to comply with the forest conservation law. In this case, they are adding two-tenths of an acre on this piece of property. Mr. Cannon asked if Mr. McKenzie was looking for a consensus from Council, to which Mr. McKenzie said, yes, he was. He said the next step is a public hearing if they get consensus. Mrs. Hurley said a hearing could be held on April 18th at 10:00 a.m.

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John T. Cannon, President



Larry W. Dodd, Vice President, District 3



Ernest F. Davis, District 1



Marc Kilmer, District 2

John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator