

**Annexation Regulation Review Ad-Hoc Committee**  
**February 4, 2019**  
**MINUTES**

A meeting of the **Annexation Regulation Review Ad-Hoc Committee** was held on **February 4, 2019 in Council Chambers in City Hall** with the following members present: Chairperson, Deputy Mayor Fred Beaufait; Councilperson Dennis Reardon, Robert Kennedy, Jim Berrigan and Bob Patterson. Committee member James Prettyman was absent.

Ex-officio members present were: City Manager Ann Marie Townshend, City Planner Tom West, Building Official Henry Baynum, BPW Assistant Manager Austin Calaman and Recording Secretary Alice Erickson.

1. **Call to order:** *Chairperson Fred Beaufait* called the meeting to order at **10:00am**.
2. **Introduction of new committee members:** *Deputy Mayor Beaufait* introduced new committee members Jim Berrigan and Bob Patterson. *Councilperson Reardon* stated they have not been appointed by city council yet, but there is a quorum of the committee present and no action will be taken today. They will be appointed at council's February meeting.
3. **Review of AX Zones and the work of the committee in their development.**

*Deputy Mayor Beaufait* stated today's meeting will not be about the Brittingham property. They are here to review the city's annexation zones to determine what modifications would be appropriate. It will not be an overall rewrite of these zones or the development of any new zones.

Because there were two new committee members, *Mr. Beaufait* reviewed the process the Annexation Regulation Review Ad-Hoc Committee went through and the two annexation zones. The city's comprehensive plan lists annexation as a priority to be better able to control development around the city limits. The main force in creating these annexation districts was to provide a transition zone between the city and the county. The committee met for 18 months for a total of 26 meetings. All topics were on the table for discussion and public comments were allowed. The city manager and the city planner provided valuable information and support.

They were made aware the county was looking at making a change to their zoning code, but they did not know any of the details, so they decided to move forward based on the city's comp plan. The intent was not to copy the county but to be competitive and try to coordinate with them.

An early issue they discussed was the development of a policy on density. It was determined to go with the county with 2 lots per acre. There was discussion about excluding wetlands in the calculation or not. The county was not excluding wetlands at that time and it was decided to mirror the county.

The county also allowed for cluster development and with the payment of a fee by the developer they could have 4 units per acre. The committee decided they wanted to allow a higher density area and it was determined to create two options for cluster development. Option 1 allowed for smaller lots than conventional with more open space but did not allow for greater density. Option 2 allowed for even smaller lots but required greater open space of 50%. There was discussion about allowing a greater density in Cluster Option 2. They decided the county's model would be too much density and after discussion it was agreed to allow 30% more above the conventional 2 lots per acre. Option 2 allows for smaller lots with more open space and 30% higher density from conventional.

Then they had to decide what would be permitted in each of these options by right or by conditional use. In developing the tables one of the issues they addressed was townhouses. The county allows for townhouse as a conditional use. They knew the county had permitted townhouses in the areas under consideration for annexation, so it was their decision to allow them as a permitted use.

There were other considerations in wetland buffers, setbacks, and building height. The county allows 42 feet building height and the city allows 30.5 feet outside the flood plain. They compromised on a 38-foot limit, recognizing any developer would have the option to stay in the county. They were trying to be competitive having these zones as a transition from the county to the city.

They then submitted a recommendation to Mayor and City Council who forwarded it to the Planning Commission to review. LPC reviewed it and forwarded a recommendation to city council for approval. Council held a public hearing on the new annexation zones and then it was approved by unanimous decision. Throughout the entire process the public was given the opportunity to make comments.

*Mr. Beaufait* stated annexation is a priority in Lewes' Comprehensive Plan and city council is serious about being able to compete with the county for annexation and development. The annexation regulation review committee had many discussions and debates in trying to consider all aspects of the topic. He feels they came up with a very good ordinance.

*City Planner Tom West* clarified there are two heights in the annexation zones, depending on the floodplain. The height requirement is 36-feet or 38-feet if in the floodplain. The two annexation zones are residential and mixed-use. The mixed use is mostly along Kings Highway and Savannah Road, which could have commercial aspects along with residential development.

*Mr. Beaufait* stated there is also a residential planned community aspect to the mixed-use zone. This would allow a mixture of business along with residential development.

*Mr. Beaufait* distributed information to the committee and reviewed as follows:

- Comparison of Sussex County AR-1 District vs City of Lewes AX RES & AX MIX Districts
- Table of Dimensional Regulation for the Annexation Zones AX-RES and AX MIX
- Use Table 197 Attachment 1:1, 1:2 and 1:3
- Table showing impact of exclusion of wetland on density within the AX zones
- Copy from Lewes Code 197-43.1 Annexation Residential Zone (AX-RES), 197-43.2 Annexation Mix Zone (AX-MIX), Article IV Use Regulations 197-44 Permitted uses and structures, 197-96 Required Findings

*Mr. Beaufait* stated under the county's new regulation, they would allow 107 townhouses on the Brittingham property. Under the city's cluster option 2 there could be 70 townhouses.

*Councilperson Reardon* reviewed the purpose statements for the Annexation Residential and the Annexation Mixed Zone from the City Zoning Ordinance.

*Mr. West* stated the county is looking at changes that would affect the AR-1 zone and the C-4 district, which would affect the City's Annex Mixed district. This is a unique situation where the city is having to deal with zones that are outside the city largely due to development activity. This is a reaction to things that have happened in the past that have put the city at a disadvantage. These are not a copy of the county zones but more a transition based on the comprehensive plan.

*Mr. Beaufait* stated as the county has made changes to its density formula, it is appropriate for the city to review their policy. While they are looking at adjusting these zones, it is also appropriate to look at fine tuning in other areas. This will not be a rewrite of these districts, just fine tuning. They will consider different ideas but may find some are not appropriate in what they are trying to achieve. Written comments can be forwarded to the chairpersons.

City Manager Ann Marie Townshend explained this all extends from the comprehensive plan. They spent a lot of time developing the zones, as well as other incentives. It is appropriate that a new zoning district would need to be fine-tuned as it is being applied.

*Chairperson Beaufait* opened the meeting to public comments and or questions.

**John Hurlock, 33645 Canary Creek Drive**, stated his concern is about including or excluding the wetland buffers with the density calculation. *Mr. Beaufait* stated the density formula is one of the issues for this committee to consider. What will be included or excluded will be a part of the discussion.

**Maryanne Ennis, 50 Harborview Drive**, stated her question is about consistency. Looking at the State Code on annexation and the city's meeting minutes, there has been discussion about consistency with surrounding areas. Is this something they will discuss. *Mr. Beaufait* stated consistency is a very broad concept. They are always trying to be consistent, but context is important. He is sure it will come up during discussion.

Ms. Ennis stated in looking at the body of work that has been done by this committee, a lot of work has been completed and it is appreciated. They are to be commended.

Mr. West stated one of the things they are trying to be consistent with is wetlands, how they are defined and calculated. They don't want to have a completely different method than the areas surrounding the city.

Mr. Beaufait stated the county's current density formula excludes mean high tide from the gross which could be less than the total wetlands. This committee will take an open-minded look at the issue.

**Sumner Crosby, 10 Missouri Avenue**, stated if they are interested in incentivizing property owners to annex into the city, one of the incentives is a tax break. He questioned the concept of land flipping where someone purchases a tract, goes through the annexation process but does not develop the property. They then sell the property to a developer. Who gets the benefit of the tax break? He cautioned council to not incentivize land flipping. It drives the price of real estate up and doesn't serve anyone very well. He requests they consider the full impact to the city.

Mr. Reardon explained the tax deferment would go to the original purchaser. Once the property is sold, taxes would have to be paid.

Ms. Townshend stated the purpose was to try to encourage owners of undeveloped land to annex into the city so that at some point in the future when they want to develop, it is already in the city.

**Doug Spellman, Samantha Drive**, stated in regard to consistency of development as it moves up New Road, he didn't see anything in prior meeting minutes that there was consideration given to required setbacks if they had come in under the county's AR-1. If granted the density, not only would they have paid a significant fee, but the county would require a 75-foot setback. Mr. Spellman stated setbacks are the most concerning issue to the residents.

Mr. West stated this is one of the things they will be looking at. It is his understanding that the 75-foot setback comes in with a conditional use, not for single family homes. There are buffers for wetland, adjacent residential properties and for agriculture, but there is not one for state named roads.

Ms. Townshend agreed, this is one of the things they will need to consider but they need to make sure they are comparing apples to apples. They have reached out to the county to clarify where the buffer is measured from and to and it is measured from the right of way line to the structure.

Mr. Beaufait stated this is something they will be looking at.

4. **Agenda items for next meeting:** Mr. Beaufait stated they will try to identify all the issues that need to be addressed and will be starting with density.
5. **Dates for next meeting:** February 11 and February 25.
6. **Closing comments:** Mr. Beaufait thanked everyone for their patience. They are looking forward to getting to work at the next meeting.
7. **Adjournment:** There being no further discussion, the meeting adjourned at **10:52am**

Minutes submitted by

Alice Erickson  
Recording Secretary