

Annexation Regulation Review Ad-Hoc Committee
March 28, 2019

MINUTES

A meeting of the **Annexation Regulation Review Ad-Hoc Committee** was held on **March 28, 2019 in Council Chambers in City Hall**, after proper notification, with the following members present: Chairperson, Deputy Mayor Fred Beaufait; Councilperson Dennis Reardon, Robert Kennedy, Jim Berrigan and Bob Patterson. Ex-officio members present were: City Manager Ann Marie Townshend, City Planner Tom West and Recording Secretary Alice Erickson.

1. **Call to Order & Opening Remarks:** *Chairperson Beaufait* called the meeting to order at **10:00am**.
2. **Approval of minutes of previous meetings if available.** No minutes were available for approval.
3. **Continue discussion and consideration on the depth of the buffers (wetlands, adjacent to State roads, setbacks at rear property lines and restrictions of fences and berms)**

Chairperson Beaufait suggested consideration of a change from 50-feet to be a 30-foot buffer between new and existing developments, as follows:

~~Dwellings located within 50 feet of residences within~~ **A proposed development adjacent to** an existing residential development shall provide a minimum 30-foot buffer meeting on of the following standards and maintained by a designated entity:

Mr. West stated he feels the new wording is cleaner. *Mr. Beaufait* questioned if there was no existing adjacent development, would they still need to provide a buffer. *Mr. West* stated that is up for discussion. There is another buffer if it is adjacent to agriculture but if it is just vacant land, it is something to consider.

Mr. Reardon like the new wording and eliminates any confusion as relating to what might be existing on the other side of the property line.

Mr. Kennedy stated he is in favor of a 30-foot buffer.

Mr. Beaufait opened the meeting to public comment.

Tim Ritzert, Harborview Road. Mr. Ritzert stated he has given this some additional thought. He is questioning the definition of buffer, and feels it needs more clarification. Using the Brittingham parcel as an example, the driveway that services current residents is now a part of the Brittingham parcel. Considering the width of that driveway, it is a minimum of 10-feet wide up to 20-feet in some places. Could that driveway count towards the buffer per this description? He suggested the definition is not specific enough. They need to clearly state that a buffer can not serve another function, such as a driveway or roadway.

Mr. West stated the plan shows the driveway right of way extends into the Brittingham property slightly, not the driveway itself, and the buffer. The planning commission still needs to look at this. On any development, there needs to be a determination on what is or is not permitted within the buffer. They need to be more specific about it.

Mr. Beaufait clarified the next items state what is acceptable.

Ms. Townshend question the appropriateness of discussing a pending application. *Mr. Ritzert* agreed, stating he is using this as an example.

Mr. Beaufait stated he understand what Mr. Ritzert is saying. He feels this is being addressed within the three standards. He requested Mr. West provide a suggestion as to how to clarify this issue. Do we need to clarify the buffer to be clear open space and cannot include a road or driveway?

Mr. West stated he will look into it and return to the committee with a suggestion. Perhaps a definition would be more appropriate. They need to consider any other consequences. *Mr. Beaufait* agreed they don't want to get tied down to one specific example.

Sumner Crosby, Missouri Avenue, stated they need to coordinate with the Historic Lewes Byway Committee regarding design guidelines for the New Road Master Plan. There should be overlap and they need to understand where this committee is coming from.

Mr. Beaufait stated *Mr. Reardon* is the ex-officio and *Ms. Townshend* attends their meetings. They have talked about the corridor and it is not being discussed at this time.

Mr. West explained the planning commission addresses the corridor management plans through the subdivision review process no matter where they are located. There is already a connection, but he will make sure there is a linkage in the subdivision process.

Mr. Beaufait read the three standards into the record, as follows:

- a) A planting strip within the required 30-foot buffer consisting of a mix of canopy trees, understory trees and shrubs to provide a functional screen between the developments, or,
- b) A landscaped rolling berm a least four feet in height within the required 30-foot buffer, or
- c) A solid fence or wall, a minimum of 6-feet in height and designed with durable materials, texture and colors compatible with adjacent residential developments within the 30-foot buffer.

There was discussion about requiring landscaping in addition to a fence. *Mr. Beaufait* stated the code allows for a fence up to six foot in height to separate properties. They could include landscaping on both sides. *Mr. Patterson and Mr. Berrigan* agreed if there was landscaping with trees and shrubs, they would agree to allowing fencing. *Mr. Kennedy* agreed.

Mr. West stated this is a technique used to describe how a buffer is put into place, but there are other sections in the code that address landscaping. They need to consider them in context. The city's ordinance on landscaping talks about trees and shrubs but doesn't get too prescriptive but offers the option for the parks & recreation commission to review a subdivision plan. At that point they would discuss types of landscaping and maintenance. They need to consider how this will fit into the code and the process for review. He has heard the argument that just a fence is too barren, and landscaping is needed to soften it. Describing types of vegetation in the zoning ordinance is challenging because there is not flexibility. If something is required, then that condition must be met. It is better in the subdivision ordinance. If is good to state, there has to be a buffer and include some parameters but realize there are other process that need to be taken into consideration that can be more adaptable. It is appropriate to state "with landscaping" because it make it clear it can't be just a fence or wall, there has to be some landscaping.

ACTION: *The committee agreed to include the phrase "with landscaping on both sides" to item c.*

Sumner Crosby stated the planning commission has an opportunity to provide comments and suggestions. Whatever is laid out in this ordinance, will become the minimum expected in each case. Developers have no incentive to go beyond the minimum and they must assume this. He feels there needs to be some density and/or height suggestions about what vegetation to use.

Mr. Beaufait stated they will be adding the statement with landscaping on both sides of the fence.

Mr. Rizert questioned why they have included the word "wall" in item 3. He has a problem with word "solid" in front of "fence". He questioned what the intension is and why they are including the term wall. He questioned when that would that be appropriate?

Mr. Beaufait stated a concrete or block wall could be built. It is possible. *Mr. Patterson* stated he doesn't see the difference between a wall and a fence.

Ms. Townshend stated typically when talking about buffering and using a fence, the intent is to have a solid fence for privacy, but it doesn't have to be a solid fence.

Mr. Rizert stated if they are trying to maintain the value of neighborhoods in the community, it they use a solid fence, they are inhibiting the movement between developments and the city has been encouraging interconnectivity. He is concerned they are creating a "compound", a walled off community. Is this their intent?

Mr. West stated that is not the intent. There are other sections that use the same wording. We don't want to have compounds but there could be places that it would be appropriate, and they don't want to prohibit the use of a wall.

Mr. Beaufait reviewed the amended diagram.

4. Discussion on Cluster Options:

Mr. Beaufait stated there has been a suggestion to eliminate options 1 & 2 cluster options. The county allows them, and he feels it would be a serious mistake to eliminate them. Purpose of these options is to provide more open space in a development. Option 1 requires 30% open space and Option 2 requires 50%. The time is coming when people will not want a large lot to maintain.

Ms. Townshend stated in listening to the many comments from public, they have heard a lot of concerns about flooding, about protecting natural features, wetlands, wooded areas, and habitat. The elimination of cluster would eliminate the opportunity to do that. There are things that can be done to adjust the cluster, such as reducing the density bonus. But if they are trying to minimize flooding, minimize impervious cover and protect natural resources, the cluster option is the tool that allows them to do that. It would be a big mistake to eliminate the cluster options. By putting all the development on a portion of the site, they are reducing the amount of roads and reducing the amount of impervious coverage. She doesn't want to throw the baby out with the bathwater.

Mr. West stated from planning point of view; all comp plans talk about maintain community character. There are a number of thoughts on how to do that. One thought is to not allow development. Plan A is usually to purchase land. That is a great technique, but it requires a lot of resources. If development is allowed, they need to look at other techniques that will allow some development but limit the impacts. Cluster is a good technique, and often requires a lot of refining. In communities that have used it for many years, they are often using it as a by right approach because they have seen that it saves view sheds and natural resources. We are just starting to look at clustering in Lewes and it may need fine tuning. He agrees they shouldn't throw the baby out with the bath water because in communities that have used it, it can be very affective. Plan A is always good, but clustering is a very affective plan B. We need to think about moving forward. It is not really about allowing more density, but it is more about open space. It is the same density just on smaller lots in a smaller area.

Ms. Townshend stated that by removing the wetlands from the formula as discussed, it addresses the issue of potentially higher density. They can only use the developable lands to determine the allowable units.

Mr. Kennedy agreed they should not remove the cluster option. There are benefits and not all property owners want to maintain large properties.

Mr. Crosby agreed with the comments made by the city manager and city planner. He is in favor of maintaining the cluster options. It is a balancing act of the varies goals of clustering. It come down to the arrangement of the open space. This is the primary challenge of crafting a cluster ordinance that will work. They need to account for how the open space is arranged. Is it in large contiguous parcel that allows for dense pocket village type arrangement or is it than just adding density and having open spaces throughout the development? If this is not addressed, then they will probably not get what is meant by clustering.

ACTION: *The committee agreed to keep both cluster options.*

Mr. Beaufait questioned if they wanted to reduce, expand or eliminate the 30% bonus in cluster option 2. The committee came up with the 30% bonus because the county allows 4 units per acre, which is almost a 100% increase, with an additional fee. The committee came up with a 30% bonus.

Mr. West reviewed what had been considered. If they are looking at decreasing the bonus, what would be the incentive to use cluster option 2? *Mr. Patterson* questioned if they should do away with option 2? *Mr. West* explained currently subdivisions require 10% open space. Cluster option 1 requires 30% open place. If they want to maintain community character, 50% open space would be a better option, but it needs to be valuable open space. Option 1 is an option with the county, but from a planning perspective, 30% open space looks more like conventional development than clustering.

Ms. Townshend questioned if we allow stormwater management areas in the open space. *Mr. West* explained it is not in the annexation zone, but the in other areas of the city it is not excluded.

Ms. Townshend stated if the 30% exclude the stormwater management areas, then 30% is probably appropriate because there is probably another 10-15% being used for stormwater. Part of the problem is if the stormwater is allowed in the open space, you are not really gaining any more real open space. The question is, if there is a density bonus, what should it be. The other thing is if the development is going to include townhouses or duplexes, there needs to be a requirement of mixed residential so that it is not just one housing type. This way there are more options to reflect the community's character.

There was discussion about maintaining the 30% open space if stormwater management areas are not included in the open space.

Mr. Beaufait questioned if they want to consider imposing a fee on the 30% density bonus. *Mr. Patterson* questioned the reasons for it. *Mr. Reardon* didn't see the purpose of it. *Mr. Berrigan* agreed.

Doug Spelman stated if the goal of the city is to be competitive with the county, then why not charge a fee. It would be a chance to bring in some revenue.

Sumner Crosby agreed with not charging a fee. They are better off requiring more open space. Clustering is about protecting open space and they need to keep that in mind. We need to value open space conservation instead of just collecting a fee.

Mr. West stated imposing a fee, or an impact fee, is often to be used to acquire open space. They would need to indicate what the fee would be used for. Many communities don't have a lot of open space and they need to provide open space for recreation not just for open space. Lewes has a good park system, recreation areas and schools. What we have less of is open space.

5. Schedule next meeting: The next meeting was scheduled on **April 15th at 10am**

6. Closing Comments: None

7. Adjournment: The meeting adjourned at **11:13am**.

Minutes submitted by

Alice Erickson
Recording Secretary