



HARBOR POINT

Annexation and Subdivision Review Process

The City is currently reviewing an annexation and major subdivision proposal for property located off Park Road, north of the Canary Creek Subdivision. If approved, the subdivision would be known as the Harbor Point subdivision. This memorandum is intended to provide an overview of the present status of the City's review and consideration of the Harbor Point proposal.

The process to annex territory is a complicated one. Not only are there a multitude of factors to consider, but the process also requires a great deal of coordination and cooperation among multiple levels of City government. The infrequency of this process only adds to this complexity.

All of the above however, does not make annexation bad for the City of Lewes. Indeed, where annexation of contiguous lands could benefit the City of Lewes and the health, safety, and welfare of its citizens, the City has an obligation to seriously evaluate such annexation – even if it requires proceeding with a complicated and potentially controversial review.

The City formally began such a review in August 2013 when it initiated the annexation process for the project currently known as Harbor Point. The approximately 108 acres of property proposed for annexation into the City of Lewes is currently zoned AR-1 (Agricultural Residential) under the Sussex County Zoning Code. As a result, if the property were not annexed into the City of Lewes, it could be developed under Sussex County's land development laws without any oversight or direction from the City of Lewes. If the property is developed under Sussex County's land development laws, the resulting subdivision has the potential to be inconsistent with the City's core land development objectives and out of character with the surrounding neighborhoods. The developer had previously indicated the intention to develop the property as a residential subdivision, and has expressed the view that developing the property through Sussex County, rather than developing it through the City's annexation and subdivision process, would likely be less costly and more expeditious.

Given the property's proximity to the current City limits and the all but certain conclusion that government services and access would have to occur through the City of Lewes, it became abundantly clear that the City should take an active role in overseeing the development of this land. As a result, on August 12, 2013, the Mayor and City Council dismissed the easier option of deferring to Sussex County

to consider the proposed development and instead initiated the annexation process, including authorizing the Mayor to appoint an Annexation Committee to evaluate the advantages and disadvantages of annexation.

Consistent with the City Code, the City did not collect an annexation fee for the Harbor Point proposed annexation. Notably, there was also no annexation fee paid when the City previously initiated annexation of the property known as Savannah Place. The City has, however, collected approximately \$18,000 to date pursuant to the City of Lewes Subdivision Code for the Harbor Point major subdivision application, and \$5,000 in review fees.

The Harbor Point (formerly known as Point Farm) Annexation Committee Report was released on November 12, 2013 and is available for public review through the City's website. In that report, the Annexation Committee expressly noted that, "[t]he annexation of this parcel also promotes its connectivity to the City and insures the future owners of the homes built will be included in the future development of the City." The Annexation Committee continued, "[s]hould annexation not occur the location of this parcel will result in it being disconnected from the County who will have the responsibility of managing its development and yet it will be not part of Lewes."

Per the annexation procedure, the Mayor and City Council adopted a Resolution on January 13, 2014 proposing a public hearing on the question of annexing the subject property. However, because the annexation proposal also includes a plan to subdivide the property once annexed, a major subdivision application was submitted that same month for Planning Commission review. The City of Lewes Subdivision Code requires so-called "Preliminary Consent" before the annexation of property may be approved, effectively creating dual tracts of review: one for the major subdivision application and another for the annexation application.

Preliminary Consent is only the first of several required layers of approval for the major subdivision component. Per the City of Lewes Subdivision Code, Preliminary Consent may only be granted after the Planning Commission holds a public hearing on the proposed major subdivision. And the Planning Commission only holds a public hearing "upon receipt" of the initial application and requisite reports. The Planning Commission's substantive review of a major subdivision application does not technically begin until the public hearing.

As noted previously, the Planning Commission received the developer's initial application for the Harbor Point major subdivision on January 6, 2014. That initial application did not include the entire approximately 108 acres evaluated by the Annexation Committee. After consultation with the developer, the major subdivision application was revised to include the entire acreage considered by the Annexation Committee. On April 2, 2014, the Planning Commission confirmed that it had received the initial application and requisite reports. The Planning Commission did not comment on the substance of the Harbor Point application during its April 2nd meeting. Instead, a public hearing has been scheduled for Wednesday, May 28, 2014 to allow the Planning Commission to engage in a substantive review of the application, including considering the developer's formal presentation of its application and asking questions regarding the same, as well as receiving public input and commentary.

Because the Harbor Point project is proposed for annexation, the City's Planning Commission will be able to consider – and the developer will be required to address – the following factors:

- (1) compliance with the Lewes Code, including the City Zoning Code;
- (2) integration of the proposed major subdivision into existing terrain and surrounding landscape;
- (3) minimal use of wetlands and floodplains;
- (4) preservation of natural and historical features;
- (5) preservation of open space and scenic views;
- (6) minimization of tree and soil removal and grade changes, except to ease flood concerns;
- (7) screening of objectionable features from neighboring properties and roadways;
- (8) provision for water supply;
- (9) provision for sewage disposal;
- (10) prevention of pollution of surface water and groundwater;
- (11) minimization of erosion, potential for flooding, and runoff;
- (12) provision for safe vehicular and pedestrian movement within the site and to adjacent ways;
- (13) effect on area property values;
- (14) effect on schools, public buildings, and community facilities;
- (15) effect on area roadways and public transportation;
- (16) compatibility with adjacent area land uses;
- (17) effect on area waterways;
- (18) costs to the City;
- (19) estimated tax revenues;
- (20) recognition of scenic byways and walkability;
- (21) job creation; and
- (22) providing diverse housing options.

Such a review by the City's Planning Commission would not be possible if the property were instead developed as Sussex County property.

The Code requires "Preliminary Consent" before annexation approval. So the Planning Commission's decision concerning Preliminary Consent may be fully explored and determined in a deliberative way, the Mayor and City Council have chosen to delay the annexation public hearing until after the Planning Commission holds its public hearing on the major subdivision application. Consequently, the Mayor and City Council rescheduled the annexation public hearing for June 26, 2014. Restated, the Planning Commission will engage in a substantive review of the major subdivision component on May 28, 2014. Thereafter, the Mayor and City Council is scheduled to take public comment on the annexation component on June 26, 2014.

Procedurally, the next step after this June 26, 2014 public hearing is for the Mayor and City Council to consider whether a Special Election should be held to consider annexing the proposed territory. If the Mayor and City Council find a Special Election to be appropriate and in the best interests of the City, the public will be afforded an opportunity to vote on the question of annexation.

The City's Comprehensive Development Plan recommends large-lot zoning from two to ten acres for the property under consideration, which is inconsistent with the developer's subdivision proposal and proposed zoning classification. Consequently, during the period of time after the Mayor and City Council's June 26, 2014 public hearing and prior to final annexation, if the Mayor and City Council elect to proceed with annexation, an amendment to the City's Comprehensive Development Plan will be pursued. Requesting the Comprehensive Development Plan amendment during this stage of the process will ensure that no amendments to the Plan will become effective prior to the Mayor and City Council's determination to proceed with annexation—and conversely, will avoid the possibility that the Comprehensive Development Plan could be amended prior to a determination by the Mayor and City Council to *not* proceed with annexing the property.

The Harbor Point annexation process has sparked debate over the past several months. As we now enter the public comment portion of the process, there will be greater opportunity for such debate. The City of Lewes is fortunate to have passionate, engaged, and informed citizens. Indeed, honest, good-faith debate promotes good policy. However, misinformation and the resulting angst promote confusion and discord. As we engage in this review together, we ask that everyone be mindful that we are neighbors who collectively want what is best for the City of Lewes.