

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 23, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 23, 2025, at 12:00 p.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Matt Lloyd	Councilman
Steve C. McCarron	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Hudson.

**Call to
Order**

Mr. Hudson called the meeting to order.

**M 432 25
Approve
Agenda**

Mr. Lawson announced that under 1:30 p.m. Public Hearings, CU2475 filed on behalf of S&J Growers, will not be heard today. The applicant has asked for it to be rescheduled. A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, to approve the Agenda as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Minutes

The minutes from September 16, 2025, were approved by consensus.

**Correspon-
dence**

There was no correspondence.

Public comments were heard.

**Public
Comments**

Ms. Alison White spoke about a targeted time limit pause for applications.

Mr. J. Dean Abbott spoke about development in Sussex County.

**Marijuana
Establishme
nts
Ordinance**

Vince Robertson, Assistant County Attorney, presented an Ordinance related to marijuana establishments for Council's consideration. Mr. Robertson reviewed the changes that were included in the Ordinance.

**Intro of
Ordinance**

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES XIA, XIC, XXV, SECTIONS 115-83.11 115-83.18, 115-83.19A AND 115-194.7 AND "115 ATTACHMENT 4, SUSSEX COUNTY TABLE

IV PERMITTED USES COMMERCIAL” TO AMEND THE REQUIREMENTS FOR RETAIL MARIJUANA STORES IN SUSSEX COUNTY”.

**Adminis-
trator’s
Report**

Mr. Lawson read the following information in his Administrator’s Report:

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Channel Pointe (FKA Bishops Pointe) Phase 2 (Construction Record) effective September 4th, Channel Pointe (FKA Bishops Pointe) Phase 3 (Construction Record) effective September 4th, Mitchell’s Corner (FKA Zwaanendael Farm) – Phase 1A (Construction Record) effective September 8th, Millville By The Sea – Village 4B (Construction Record) effective September 11th, and Osprey Point – Phase 3B (Construction Record) effective September 12th.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, September 30th. The next regularly scheduled Council meeting will be held on Tuesday, October 7th.

[Attachments to the Administrator’s Report are not attached to the minutes.]

**SCLT
Forest on
Broadkill**

Gina Jennings, Finance Director, presented a grant resolution for Sussex County Land Trust Forest on the Broadkill ORPT for Council’s consideration.

Ms. Sara Bluhm, Sussex County Land Trust Executive Director, provided an overview of the project.

**M 433 25
Approve
Resolution
No. R 018
25/Forest on
Broadkill**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to Adopt Resolution No. R 018 25 entitled “TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL’S (DNREC) OUTDOOR RECREATION, PARKS AND TRAILS (ORPT) PROGRAM FOR A GRANT TO HELP FINANCE THE IMPLEMENTATION OF THE FOREST OF THE BROADKILL PRESERVE MASTER PLAN THAT INCLUDES TRAIL-BASED RECREATION AND EDUCATIONAL OPPORTUNITIES AT THE HEADWATERS OF THE BROADKILL RIVER”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Federal Payment **Andrea Wall, Accounting Manager, presented a federal payment in lieu of taxes for Council's consideration.**

M 434 25 **A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, that be it moved that the Sussex County Council approve the accounting department's recommended distribution of the Refuge Revenue Sharing funds as follows: Approve Federal Payment in Lieu of Taxes**
in Milford School District \$7,730.23, Cape Henlopen School District of \$23,767.55, Sussex Tech \$3,742.84, Sussex County \$3,264.29 and Sussex County Libraries \$393.09.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

SC WRF **Hans Medlarz, Project Manager, presented change order IB-009, change CO & PO order IB-005 and purchase order issuance for South Coastal WRF Issuance treatment process upgrade no. 3 – Inland Bays Extension for Council's consideration.**

M 435 25 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum, that be it moved based on the recommendation of the Sussex County Engineering Department that County Council approve a purchase order to M.F. Ronca Purchase Order & Sons in the amount of \$559,500 for replacement of the current grit removal system conveyor.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 436 25 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it moved based on the recommendation of the Sussex County Engineering Department that change order nos. IB-009 and IB-010 for the Inland Bays Approve CO & IB-010 phase 2C expansion project, be approved, in the not to exceed amount of \$841,000 and \$100,000 respectively, for the mechanical rehabilitation of effluent pump station 1 and an increase to the lagoon sludge disposal allowance.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 437 25 **A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, that**
Approve PO **be it moved based on the recommendation of the Sussex County**
Aeration **Engineering Department that County Council approve a purchase order to**
Blower **Riordan Materials Corporation in the amount of \$298,000 for an aeration**
Package **blower package at the Inland Bays Facility, as part of the expansion project.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Old **Under Old Business, Jamie Whitehouse, Planning & Zoning Director**
Business/ **presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT**
CU2503 **A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
 RESIDENTIAL DISTRICT FOR A SOLAR ENERGY FACILITY TO BE
 LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33.69
 ACRES, MORE OR LESS” filed on behalf of Hastings Community Energy
 Initiative, LLC.

M 438 25 **A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to**
Amend **amend the second sentence of Condition 9C to read “The northern and**
Condition **western side of the fencing shall include interwoven screening.” and add a**
9C/CU2503 **new third sentence to read “The southern and eastern sides of the fencing**
 shall be agricultural style not wire fencing to allow habitat and wildlife
 connectivity”.

Motion Adopted: 4 Yeas, 1 Nay

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Nay; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 439 25 **A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to**
Adopt **Adopt Ordinance No. 4016 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 4016/ **RESIDENTIAL DISTRICT FOR A SOLAR ENERGY FACILITY TO BE**
CU2503 **LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**
 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33.69
 ACRES, MORE OR LESS” for the reasons given by Planning & Zoning
 and as amended by this Council as follows:

**M 439 25
Adopt
Ordinance
No. 4016/
CU2503
(continued)**

1. **The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
2. **The solar array will be located on approximately 15.46 acres of a larger 33.69-acre tract.**
3. **The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
4. **The proposed solar array is located on a parcel of land that is surrounded on two sides by land used for agricultural purposes, including poultry houses. Although there are residential properties to the north of this site, the arrays are at least 200 feet from the closest dwelling and the nearby properties will also be protected by the conditions set forth in the Code and in this recommendation. None of the residents along the northern boundary of the site objected to the proposed use.**
5. **The land is designated as being within the “Developing Area” according to Sussex County’s Future Land Use Map. The Developing Area is considered a “Growth Area” and this is an appropriate location for a solar array with a minimal need for infrastructure or other governmental-related services.**
6. **This Application generally complies with Ordinance No. 2920 regarding solar arrays.**
7. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
8. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
9. **This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. **The use shall be for a ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
 - b. **The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. **The entire area of the solar array shall be surrounded by an 8-foot-tall fence to comply with the height requirement of the National Electric Code. The northern and western side of the fencing shall include interwoven screening. The southern and eastern sides of the fencing shall be agricultural style not wire fencing to allow habitat and wildlife connectivity. The fence location and type of screening shall be shown on the Final Site**

**M 439 25
Adopt
Ordinance
No. 4016/
CU2503
(continued)**

Plan. There shall be a landscaped buffer that is at least 50 feet wide along the common boundary with the residential properties along the northern boundary of the site. The landscaped buffer shall be achieved by keeping the existing wooded area and not disturbing these areas. Wherever trees exist within the buffer areas, they shall be preserved, and these non-disturbed forested areas shall be shown on the Final Site Plan. The Final Site Plan shall also include a landscape plan confirming these planting requirements.

- d. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar array and shall provide contact information in case of emergency.**
- f. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan. In addition, a sound barrier shall be installed along the northern side of this equipment to reduce the noise that may travel to nearby neighboring properties.**
- g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
- h. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- i. As proffered by the Applicant, a recorded conservation easement for at least twenty- five years shall be placed on a minimum of 30-acres within the Nanticoke River Watershed. This easement area shall consist of existing wooded acreage or, if the easement acreage is not wooded, the property shall be re-forested by the Applicant with a mixture of native species. The Final Site Plan shall identify and show the property subjected to the conservation easement and the details and terms of the easement.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Nay; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Grant Requests **Mrs. Jennings presented grant requests for Council’s consideration.**

M 440 25
Town of Delmar **of** **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to give \$5,000 (\$5,000 from Mr. Lloyd’s Councilmanic Grant Account) to the Town of Delmar for their Lincoln Ave stormwater replacement project.**

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

M 441 25
DE
Manufacturing
Homeowners
Association **A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, to give \$1,500 (\$1,000 from Mr. Rieley’s Councilmanic Grant Account and \$500 from Mr. Hudson’s Councilmanic Grant Account) to Delaware Manufacturing Homeowners Association for their website redesign.**

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

M 442 25
Laurel Lions Club **A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, to give \$4,000 (\$4,000 from Mr. Lloyd’s Councilmanic Grant Account) to Laurel Lions Club Foundation, Inc. for phase 2 of the Laurel Lions Club recreation complex.**

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea;**
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

Proposed Ordinances
Introductions
Ms. Gruenebaum introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” filed on behalf of Charles Pollard.

Mr. Lloyd introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY,

Proposed Ordinances **CONTAINING 1.75 ACRES, MORE OR LESS” on behalf of Angela Sipple.**

Introduct-ions **Mr. McCarron introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 8.99 ACRES, MORE OR LESS” filed on behalf of Arctec Properties, LLC.**

(continued)

The Proposed Ordinances will be advertised for a Public Hearing.

CM

Comments **There were no Council Member comments.**

M 443 25 **At 12:39 p.m., a Motion was made by Mr. McCarron, seconded by Mr. Go Into Lloyd, to enter into an Executive Session for the purpose of discussing Executive Executive Session matters related to land acquisition and pending & potential litigation.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Executive Session **At 12:42 p.m., an Executive Session was held in the Basement Caucus Room to discuss matters related to land acquisition and pending & potential litigation. The Executive Session concluded at 1:27 p.m.**

M 444 25 **At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Reconvene Gruenebaum to come out of the Executive Session and go back into the Regular Session.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

E/S Action **Mr. Moore stated that the Council may want to reserve the right to go back into Executive Session at the end of the zoning hearings.**

Rules **Mr. Moore read the rules of procedure for zoning matters.**

Public Hearing/ Waterside Road **A Public Hearing was held for the Proposed Assessment Roll for Waterside Road Improvements, Project T25-04. Patrick Brown, Project Engineer reported that the subdivision consists of 80 residential units with private streets and cul-de-sacs owned and maintained by the community**

Improvements **Homeowners Association. The Engineering Department has developed an Assessment Roll in coordination with the Finance Director based on all final project costs including construction and County Administration fee.**

There were no public comments.

The Public Hearing and public record were closed.

M 445 25 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt**
Adopt **Resolution No. R 019 25 entitled “A RESOLUTION ADOPTING THE**
Resolution **UNIFORM ASSESSMENT ROLL FOR THE PURPOSE OF BILLING**
No. R 019 25 **FINAL COSTS OF THE WATERSIDE ROAD IMPROVEMENTS**
Waterside **CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT PROJECT T25-**
Road **04”.**

Improvements **Motion Adopted: 4 Yeas, 1 Absent**

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea

Public **A Public Hearing was held on a Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**
CU2476 **1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MASONRY**
BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND
LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.37 ACRES,
MORE OR LESS” (property is lying on the north side of Hardscrabble
Road [Rt. 20], approximately 1.25 miles southeast of E. Trap Pond Road
[S.C.R. 62]) (911 Address: 18353 Hardscrabble Road, Georgetown) (Tax
Map Parcel: 133-13.00-2.05 [p/o]) filed on behalf of Richard & Brandi
Gentner, Jr.

The Planning & Zoning Commission held a Public Hearing on the application on August 20, 2025. At the meeting of September 3, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 13 recommended conditions of approval as outlined.

The Council found that Mr. James Churchman, Esq., with Brockstedt Mandalas Federico on behalf of the Applicants, Mr. Richard Gentner, Jr., and Mrs. Brandi Genter who were also present. Mr. Churchman stated that the Applicant was requesting a Conditional Use approval for a masonry business; that the application was originally submitted in 2021 or 2023 for site plan review, being unaware of the Conditional Use situation; that the Applicant did speak with someone who recommended they move forward through the Conditional Use application process; that the Gentners have been operating the masonry business, R.F.

**Public
Hearing/
CU2476
(continued)**

Gentner and Son, Inc. since 1992; that over the last several decades their business has grown by employing 28 people; that they moved to the subject site around 2024, after purchasing the property from the previous owner in 2023; that the masonry business is a specialize work, including foundation, stonework, brickwork and general masonry; that there is some machine work, including loading and unloading the trucks; that the operations on the site are from 6:30 a.m. to 6:30 p.m.; that the business has a fleet consisting of about 14 vehicles, which are used for various projects; that there is not any work performed on site beyond workers arriving, loading up the vehicles, and leaving for the job sites; that they generally perform work on the eastern side of Sussex County, however, have performed jobs all over Sussex County; that the use is contained to the storage of masonry equipment, stones and vehicles, and the loading up of trucks and vehicles; that the site may store track loaders, mini excavators, and two full size excavators; that there are currently no buildings on the site; that there is a shipping container and a few pallets, where there is storage out in the open air, located on the site; that the proposed use will provide minimal impact, as it surrounded by trees, with no residential uses nearby; that the legal standard is initially rooted in the Gibson versus Sussex County case; that the case holds that when all of the legally pertinent requirements of the Sussex County Code are fulfilled, the application has a presumption of being satisfied and presume should be granted as a masonry business, which is permitted under Sussex County Code §115-22; that §115-22 states that residential business, commercial or industrial uses, when the purpose of this Chapter are fully met by issuing a Conditional Use permit; that the proposed masonry business is consistent with that Section, as well as, consistent with the purpose of the Article 24, being the Conditional Use section, where a Conditional Use should be issued when the use itself cannot be well adjusted to the environment, and the particular locations, with full protection offered to the surrounding properties by rigid application of the District regulations; that these uses due to their nature and impact require the exercise of planning and judgement, which is the reasoning for the application; that the Applicant has fully complied with the requirements, as explained through the scope of work being performed, and the intended scope of work for the masonry business; that noted within the Staff Memorandum, the masonry business, in the proposed location, could be considered consistent with the surrounding land use, zoning, and the use is subject to the considerations of scale and impact; that the property is zoned AR-1 (Agricultural Residential), and is also surrounded by AR- 1 (Agricultural Residential) lands; that according to the Future Land Use Map, this parcel is designated within the Low Density area, and is surrounded to the north and east sides as within a Low Density area; that the areas located to the south and west sides of the property, are designated as being within a Developing Area; that the scope of work is limited to 6:30 a.m., being the time everyone arrives to the site, and 6:30 p.m., being when everyone returns the work vehicles to the site, and head home; that none of

**Public
Hearing/
CU2476
(continued)**

the adjoining parcels are used for residential use; that currently there have been no complaints made against the application; that there have been no complaints regarding noise issues; that the machine work mostly consists of loading the trucks and the trucks leaving the site; that the Applicant is working with an engineer; that there are three proposed buildings reflected on the Preliminary Site Plan; that following some review, it had been determined that it will more likely be two buildings due to stormwater compliance issues; that the buildings themselves will house the masonry business; that all of the storage that is currently out in the open, will be contained within the proposed buildings in the future; that there will be some administrative work performed in the buildings as well; that the wastewater disposal and water supply will be onsite and will be subject to DNREC approval; that the Soil Septic Evaluation had already been approved; that DelDOT provided a Service Level Evaluation Response, which did not recommend a Traffic Impact Study; that according to DelDOT the proposed traffic impact will be diminutive; that the Preliminary Stormwater Management Plan was submitted and reviewed by the Sussex Conservation District; that there were a few proposed stormwater plans, which will be subject to the comments of the Sussex Conservation District; that the Applicant's engineering team was working with Sussex Conservation District to figure out the best way to address the stormwater concerns; that the Applicant will comply in any way needed; that the front entrance consists of a gravel road; that currently there are no buildings on the site, only a few pallets and one shipping container; that it appears from the record, and the evaluations put forward, that the Applicant's had met their burden, appearing in compliance with the Sussex County Code for their Conditional Use request; that during the Commission hearing, it was requested that the gate be moved back; that the applicant plans to remove the gate; that he proposes that the requirements of this Conditional Use state that the gate will be removed after construction of the first building.

A discussion was held about the need for the gate; that the applicant stated that he plans to have a fenced-in area attached to the new building; that the gate is about 40 feet off the shoulder; that Mr. Whitehouse stated that the intent was for vehicles to be able to exit fully off of the roadway safely.

There were no public comments.

The Public Hearing and public record were closed.

**M 446 25
Amend
Condition F/
CU2476**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to remove Condition F.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;

**Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 447 25
Adopt
Ordinance
No. 4017/
CU2476**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4017 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MASONRY BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.37 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended with the deletion of Condition F by this Council:

- 1. This site is proposed to be used as a centralized location for the Applicant’s Masonry Business, including office space and the indoor and outdoor storage of the business’s equipment. There is a need for this type of use in Sussex County.**
- 2. There will be no retail sales or similar business conducted from the site.**
- 3. The applicant has stated that all work is performed offsite, and that there will not be any dumping or storage of concrete or similar materials on the site.**
- 4. The use does not require any regular deliveries during the day. The only traffic is typically in the morning and afternoon when employees take the equipment to offsite job locations.**
- 5. There are no homes adjacent to this site and DeDOT has stated that the traffic impact will be diminutive. With the conditions and limitations of this approval, this use will not adversely affect neighboring properties, roadways or traffic.**
- 6. The Applicant has stated that his company provides a service to the construction industry in Sussex County. This use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 7. This recommendation is subject to the following conditions:**
 - a. This use shall be limited to the Applicant’s masonry business with equipment storage. No retail sales or other business shall be conducted from the site.**
 - b. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.**
 - c. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
 - d. The hours of operation shall be limited to 6:30 a.m. through 6:30 p.m., Monday through Friday and between 7:00 a.m. and 3:00 p.m. on Saturdays. There shall not be any Sunday hours.**
 - e. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
 - f. The applicant shall comply with all DeDOT requirements,**

**M 447 25
Adopt
Ordinance
No. 4017/
CU2476
(continued)**

- including any entrance or roadway improvements.
- g. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District.**
 - h. All maintenance of vehicles and equipment shall be performed indoors.**
 - i. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
 - j. All concrete forms shall be stored in location that is screened from view from neighboring properties and roadways. These storage areas shall be shown on the Final Site Plan.**
 - k. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CU2479**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 677 TO ALLOW FOR TWO (2) ADDITIONAL LOTS INTO THE RIVERWINDS (F.K.A. OAK ORCHARD WEST) MANUFACTURED HOME PARK TO BE LOCATED ON A 0.37 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 35 ACRES MORE OR LESS" (property is lying on the south side of Devon Drive within the Riverwinds [F.K.A. Oak Orchard West] Manufactured Home Park, located on the south side of Oak Orchard Road [Rt. 5]) (911 Address: N/A) (Tax Map Parcel: 234-29.00-222.03 [p/o]) filed on behalf of The Crossings at Oak Orchard, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on August 20, 2025. At the meeting of September 3, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 4 recommended conditions of approval as outlined.

The Council found that Mr. Blake Carey, Esq., with the Smith Firm, LLC, spoke on behalf of the Applicant, Crossings at Oak Orchard, LLC. Mr. Carey stated that the property is located within the mobile home community, which was converted to a condominium of River Winds,

**Public
Hearing/
CU2479
(continued)**

which was previously known as Oak Orchard West and Driftwood Park; that prior to that, the property as a whole was approved a mobile home park, pursuant to C/U 677 in 1982, with a maximum number of units, not to exceed 112; that it was then converted to a condominium; that in 1996, the specific parcel for the property has been designated Tax Map Parcel No. 234-29.00-222.03; that the Applicant's acquired the property in or around November 2005, when they purchased 101 of the 112 lots within the Oak Orchard West Condominium, and the additional common elements there; that they have since acquired one more lot, such that they now own 102 lots of the 112 lots; that notably the lot, at the heart of the application is .37 acres, and situated along the rear of the property; that the property had sat vacant since the property's inception for the mobile home park; that since the Applicant's acquisition of the property, they have rented their lots, both improved and unimproved within the community, providing affordable housing options to residents of Sussex County; that the Applicant desires to convert the existing lot into two more lots, in order to provide two additional possibilities for residential rentals within River Winds; that since C/U 677 restricted lots, not to exceed 112, the Applicant is respectfully requesting Conditional Use No. 2479 to amend the Conditions of Approval for C/U 677, to permit the two additional lots; that water for the properties are provided by Tidewater; that sewer for the properties are provided by Sussex County; that the intent is to improve each lot to be created with a mobile home, and rent those consistent with over 90% of the other lots within the community; that all pertinent setbacks would be met; that the Applicant is the owner of roughly 90% of the votes within the condominium; that the Applicant is seeking an Ordinance to grant an amendment of C/U 677, to allow the subdivision of the .37 acre parcel of land, zoned as GR (General Residential) into two lots, proposed as Lot 113 and Lot 114; that this would allow the one lot, which has sat vacant, to become two lots, to be rented out; that the proposed Conditional Use is similar in character to the surrounding area, and the properties along Oak Orchard Road; that the community itself, and its surrounding one mile radius, which include mobile home parks, zoned as GR (General Residential), located across Oak Orchard Road to the north, being Driftwood Villages; that located to the west is Oak Meadows; that the parcel located southeast of the site is zoned B-1 (Neighborhood Business); that the proposed use will have no adverse impact on the character of the surrounding area or the property values; that DelDOT determined that a Traffic Impact Study was not necessary, and that the local environment would not be impacted; that the GR zoned parcel is located within the Coastal Area pursuant to the Sussex County Comprehensive Land Use Plan, which is considered a Growth Area, similar to the parcels located to the west, and across Oak Orchard Road from the parcel; that in the Coastal Area, Sussex County encourages appropriate forms of concentrated new development, and a range of housing types, including supporting medium and higher density, where they have sufficient water and sewer, and when located near sufficient commercial

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CU2479
(continued)**

and employment centers, keeping in the character of the area, and along a main road; that the Applicant's proposed use is that of two mobile home lots, in an already existing mobile home community that had been made into a condominium; that the lot currently exists, and sits vacant; that the Applicant desires to subdivide the lot into two lots, in an effort to provide affordable housing and rental opportunities in Sussex County; that within the County Staff Analysis, it concluded that the request could be consistent with the surrounding land uses, zoning and the general environment, given considerations of scale and impact; that the surrounding property within the community are mobile homes; that the request is to create two additional lots within the existing mobile home park; that the proposed Conditional Use will also benefit the health, safety, and welfare of future residents of Sussex County; that the proposed subdivision of the property into two lots will create two more rentable units, therefore providing additional rental opportunities for residents of Sussex County, which the County is in dire need of; that the use will no impact neighboring properties, which are lots improved by mobile homes, which are being rented out and that the application is consistent with the Code requirements for a Conditional Use application.

There were no public comments.

The Public Hearing and public record were closed.

**M 448 25
Adopt
Ordinance
No. 4018/
CU2479**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4018 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 677 TO ALLOW FOR TWO (2) ADDITIONAL LOTS INTO THE RIVERWINDS (F.K.A. OAK ORCHARD WEST) MANUFACTURED HOME PARK TO BE LOCATED ON A 0.37 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 35 ACRES MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. This manufactured home community was originally established in 1982 by Conditional Use #677 that limited the number of lots to 112. This application seeks to add 2 additional lots within a formerly undeveloped area of the community.
2. These 2 lots will be consistent with the other lots throughout the community.
3. This community is located within the Coastal Area according to the current Sussex County Future Land Use Map. This 2-lot expansion of the community is appropriate in this Area according to the Comprehensive Plan and the Future Land Use Map.
4. The community and these 2 new lots are served by central water and

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Adopt
Ordinance
No. 4018/
CU2479
(continued)**

- they are connected to the Sussex County sewer system.
5. There is no evidence that the additional 2 lots will adversely affect nearby properties or area roadways.
 6. No parties appeared in opposition to this application.
 7. This recommendation is subject to the following conditions:
 - a. No more than 2 new lots shall be added to the existing, approved Manufactured Home Park.
 - b. The additional 2 lots shall conform to the current requirements for a manufactured home park as set forth in the Sussex County Zoning Code as to size, setbacks, parking and other dimensional requirements.
 - c. The addressing for these 2 new lots shall be established by the Sussex County Geographical Information Office.
 - d. A Final Site Plan depicting these 2 new lots shall be reviewed and approved by the Sussex County Planning & Zoning Commission. At the same time that a Final Site Plan is submitted for approval, the Applicant shall submit a revised “Master Plan” of the entire Community identifying all lot locations by number and further identifying lots that are owned by the Applicant and those lots owned by third parties.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CU2527**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN INDEPENDENT CARE FACILITY, RESTAURANT AND FITNESS CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.833 ACRES, MORE OR LESS” (property is lying on the west side of Kings Highway [Route 9], approximately 0.17 mile southwest of Clay Road [S.C.R. 269]) (911 Address: 16770 Kings Highway, Lewes) (Tax Map Parcel: 334-6.00-56.00) filed on behalf of LIC Housing, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on August 20, 2025. At the meeting of September 3, 2025, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 13 recommended conditions of approval as outlined.

The Council found that Mr. Jon Horner, Esq. on behalf of the Applicant, LIC Housing, LLC; that also present were Mr. Adam Gelof, and Mrs. Kelly Gelof, with the development team, Mr. Preston Schell with Ocean Atlantic

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CU2527
(continued)**

Companies, and Mr. Zac Crouch with Davis Bowen & Friedel, Inc. Mr. Horner stated that the project is located along Kings Highway in Lewes, Delaware; that the property is about 4.83 acres; that the application requested a Conditional Use for an up to 95 unit independent care facility, with compatible commercial uses, which are currently proposed to be a restaurant and a fitness center; that when evaluating for a Conditional Use, the Council should look for consistency with the County's Comprehensive Plan Future Land Use Plan, its general promotion of the health, safety, and general welfare of Sussex County residents, and its compatibility with surrounding land uses, when served by adequate infrastructure, and when meeting the Code specific site and design guidelines; that the application check all those boxes; that as such, the Applicant would request a recommendation of approval for the Conditional Use; that AR-1 (Agricultural Residential) permitted Conditional Uses are found in Sussex County Code §115-22, which specifically allows nursing in similar care facilities; that in 2018, the Code was updates to codify a specific definition, recognizing that industry was changing, evolving and to create specific sort of stratifications of uses to recognize the current terminology in the industry; that with that definition, one of the definitions that was promulgated, included independent care facility definition, which states a residential development of detached single-family dwellings or multi-family dwelling units restricted to individuals or families in which all residents are older adults; that such development may contain compatible commercial elements; that the Applicant felt the project met the definition; that the application proposes an up to 95 unit age restricted multi-family community; that currently, the building as it sits, is designed in 90 units, which include some three bedroom, but they may reduce those to two bedroom depending on what market demands and studies show; that typically they find in the elderly population, it is a two person home, with a third bedroom not necessarily being in demand; that this would be restricted to older adults, consistent with federal law and the Housing for Older Persons Act (HOPA); that the application does additionally propose the compatible commercial elements, being a public restaurant, which would have a delivery service or system with the residents; that they would have direct access within their units to have the restaurant deliver directly to them; that additionally they propose a fitness center or another compatible use, and they have had conversation around whether that be a physical therapist office, or doctor's office, or another similar amenity to the residence of the facility.

Ms. Kelly Gelof spoke about the Application on behalf of the Gelof family; that the proposed project is more than just an investment property; that this five acres with a small one-bedroom house was purchased by her husband's parents, being Doctor Malvin and Helen Gelof on May 17, 1973, being just over 52 years ago; that her husband, Adam, grew up spending time on this property in Lewes as well as in Rehoboth Beach; that he grew up with his parents, both serving others, giving back to their community,

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(continued)**

their state, and the Country, and having an appreciation for nature, all of which they are trying to implement within the proposed project; that over the years, Adam's parents were approached many times to sell or develop the property; that when Adam's parents passed away, she and her husband took it over; that they also have been approached numerous times about the property; that they have been busy raising their two sons, Jack and Jake, while pursuing their careers as attorneys, and taking care of her mother; that developing the land was not something they had time to dedicate to as they wanted to be proud of whatever they did on the site; that now her sons are adults, and they are a very close family; that they all love the area, and want to make a positive impact; that they, as well as her boys, share a desire to continue the Gelof legacy of giving back to the community; that Jack and Jake started their own Gelof Brothers Foundation that focuses on youth development; that they are excited to be a part of the project, as they will be owners and investors with them on the project; that this is an opportunity for them to touch the lives of the older community members, as well as, the youth of their community; that their family wants the project to be beautiful and comfortable for all that live in the area and visit; that they feel the project will give back to their community, because it offers a missing piece of a continued growing and needed affordable housing; that they have a long standing relationship with Ocean Atlantic Management through many friendships, and those that are a part of Ocean Atlantic; that they felt comfortable talking through some ideas with them, to see what might work well for us; that the concept of an active adult community came up in their discussions; that as they kept discussing it, what the project meant, and what it would look like, it began to feel right within their hearts; that it began to resonate with her, as she considered what difference it would have made to have an option similar to this project when she was taking care of her mother; that in 2013, her mother was 61, and came to live with her; that at that time her mother had COPD or emphysema; that her mother was living in Rhode Island at the time, and did not want to lose her independence; that they quickly found there were no affordable options; that they continued to keep looking, even after she moved in with them; that they found nothing affordable or manageable within the Lewes and Rehoboth Beach area; that her mother felt not only was she losing her independence, but that she was intruding in on their lives as well; that they did not have a private suite for her mother, and it was not an ideal situation, however, they did it for five years; that if they would have had a \$2,000 to \$3,000 per month option for a one or two bedroom, independent living situation, such as what the proposed project would provide, they would have jumped at the opportunity; that in 2013, their only options were very expensive homes, or assisted living, with a shared room; that at the time nothing was available, as all beds were filled; that in order to reserve a bed for the next available, they were required to show a back account of six figures, along with paying \$10,000 to \$12,000 per month for her to live there; that she and her husband are two successful attorneys,

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who made a comfortable living; that they were 43 and 45 at the time, and still the option was not affordable for them; that they had two children who were going to college; that it was a very difficult time, that she felt so many people go through at that age, younger and even currently; that if at that time, they had an option similar to what the proposed project would provide, it would have allowed them to let her mother keep her independence, as she would have been able to live alone; that in the event of an exacerbation, a family member or friend could have cared for her in her own space, or even spent the night; that the proposed site is also in close proximity to Beebe Hospital, that the Cheer Center and church also being close by; that if she had an elevator to go downstairs to conversate with people her own age; that the project may offer a Wellness Coordinator, which would have been another wonderful benefit for her mother; that her mother would have had the opportunity to go to all the free, lovely amenities, located right outside the door of beautiful Lewes; that the location is incredible for people who are 55 and older, that are active, and are able to take advantage of these kinds of activities; that prior to her mother's passing, he father and step-mother moved to Delaware; that the project proposes a great option for them as well; that she and her husband are in the 55 plus community, and are looking at the project through the eyes of what would people their age want, as well as what would their parents want; that her husband drives past the property every day; that Jack and Jake have the Gelof Brothers Camp, which they provide every year at the Cape Henlopen High School, and they felt that their personal experience and desire to leave a Gelof family legacy ties in nicely with the needs of our community currently, and in the future, which would provide more affordable housing options for active adults, that are both already here and those that are moving here.

Mr. Jon Horner stated Ms. Gelof highlighted the crux of what the project is proposed to be; that within the exhibits, they highlighted the gap between a project like Beach Plum Dunes, located down the road, where two-bedroom units are available for \$2,000, to right up the road at the Lodge of Lewis, where two-bedroom, dual occupancy units are \$10,000; that there is nothing in between those in the area; that many seniors reach a point where they can no longer live in the home that they are in, and want more services; that these people are left with a decision, which may not fit their particular needs or budget; that people may be forced into a decision to accept a spot in a facility, which may take a spot from someone who may need that higher level of service more than they do; that the Applicant submitted into the record, an article from Time magazine, which spoke to the issue of the missing middle; that this is sort of a different missing middle; that this missing middle really has not been talked about when we colloquially speak of the missing middle in the workforce context, but particularly in Sussex with the graying and aging population; that this demand will increase; that currently the median population in the City of Lewes is 67.3 years of age; that when the

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(continued)**

Lodge at Lewes was undertaken, a market study was performed to look at the affordability; that given the advanced levels of services at the Lodge, it was only affordable to about 15% of people in the market; that when looking at that same study, and applying it to the proposed rents of the application, it opens an opportunity up to about 50% of the seniors in the market; that it is a dramatic increase of the market; that when one would go to Beach Plum Dunes, there are no senior focused amenities; that it consists of a clubhouse, a pool, and maybe a tot lot or dog park, being a standard amenities package related to the average consumer homeowner or renter in the community; that when visiting the Lodge, or a more advance facility, it is staffed; that there are approximately 130 people on staff at the Lodge at Lewes, which provide full time care; that there is memory care, mental care and meal services on- site; that all of these services are paid for solely by the residents; that the concept with the project is to make those services available, to a lesser degree, by allowing it to be, in some way, subsidized by the public; that an example of this would be the restaurant, which would be open to the general public; that the restaurant will also be located onsite and will offer meal services as part of their lease to the residents; that the residents are not taking on all of the cost; that this service would be performed at market rate, to the outside, and subsidizing it similarly with the other proposed use, which is proposed currently to be a fitness facility; that this service would be open to the public, with the ability for residents to use as a subsidized basis; that the Applicant requested that any condition of the use, should the application be granted, reference the Code as a compatible commercial use, to allow them flexibility; that an example of this would be should a physical therapist want to be on the site; that they would like to have a use that would be complementary and not necessarily be locked in on a fitness center; that the plan is in compliance with the Comprehensive Plan; that the site is located within the Coastal Area, which is a designated Growth Area; that Growth Areas support a range of housing types, including multifamily and senior housing; that specifically, the Comprehensive Plan notes that within the Coastal Area, mixed use development is appropriate, and should be allowed; that commercial and institutional uses can be appropriate to provide for convenience services; that the project also meets and advances several of the objectives and strategies of the County's Comprehensive Plan; that an example of this can be found within Objective 8.2.4, to expand housing opportunities for persons with disabilities and the aging; that Strategy 8.2.4.1 encourages universal design principles in new home construction; that all of the units within the project will be constructed with universal design to allow a degree of accessibility, which is necessary for an aging senior; that the project will meet or exceed the requirements for the minimum amount of 88 units; that Strategy 8.2.4.2 requires continued coordination with Sussex County Advisory Committee on aging and adults with physical disabilities to determine barriers and opportunities for the expansion of housing opportunities for persons with disabilities and the

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aging; that the project is located entirely within Investment Level 2, according to the State Strategies Map; that there is a small back corner of the property which is located within Investment Level 3, however, that area would be untouched by the proposed project; that the project is supported by existing infrastructure, including public sewer, Tidewater and Delmarva Power; that the proposed project is consistent with other uses located within the immediately adjacent area; that these uses include both commercial and higher density uses; that the site is almost entirely surrounded by Investment Level 1 areas; that located immediately next door is a church; that also within the area are the Savannah East Apartments, the Harbor Town Apartments, the Crooked Hammock restaurant & brewery, Beach Bum Dunes, and Hunters Walk; that the project is consistent with the commercial and multi-family uses; that the adjacent church submitted a letter of support for the application; that they had very productive conversations with the church regarding how their services, offerings, construction and development can tie in with what is currently being performed at the church; that the Harbour Lights Cheer Center is located within walking distance of the site, being a facility open to individuals aged 50 and older, who offer programs, classes and services; that while the Land Use Reform Working Group has not produced any final formal recommendations, he believed many had been following the process, where many themes have emerged; that one of the themes had been increased density in areas where density should be located, and to focus growth in those area; that in his opinion, the proposed project will provide housing for needy people, in an area where growth is happening, where improvements are planned, and are already ongoing; that Kings Highway improvements are planned, and the project aligns with many of those goals.

Mr. Crouch, P.E. with Davis, Bowen & Friedel, Inc. spoke upon the application stating that a DelDOT Service Level Evaluation Request was submitted; that DelDOT provided a response on April 15, 2025, stating the project would create a minimum impact, based on the trips that were presented; that on November 15, 2024, DelDOT submitted a letter of amendment to three things they would be required to do; that the site is located within the Area Wide Study fee location; that they will be required to participate in the Kings Highway improvements; that the entrance for the project would be a full entrance, including a left turn lane, and right turn lane into the site; that this would only be temporary until the Kings Highway improvements are completed; that once completed, there will be a median within Kings Highway, which will limit the rights in and out; that DelDOT also requested a connection be placed to the northern property to the site; that DelDOT requested a partial connection be placed, as well as a multi-use path, which will run along the frontage of the property; that the site contains .57 acres +/- of wetlands; that the wetlands had been delineated by ERI (Environmental Resource Insights); that they are providing a 30 foot buffer; that the Stormwater

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CU2527
(continued)**

Management Plan includes a pond, which will be an infiltration pond for the project; that they propose to preserve 27% of woodlands, based on the County's Code of woodlands; that the area is not entirely wooded; that there is vegetation that had grown over the past 13 years; that the trees that will be cleared are undergrowth and small trees; that the mature trees are located near the back of the property are being persevered with a 30 foot buffer; that the site is located within the Wellhead Protection Area; that per County Code, they must comply with §89.6, which is the reasoning for the infiltration pond; that they are required to treat all discharge with infiltration, as well as the placement of stormwater chambers underneath the parking lot to do the same for infiltration; that per the Code for AR-1 Zoning, the requirement is a minimum of 20,000 square feet; that they are proposing 4.833 acres; that the minimum width required is 100 feet; that they are proposing 280 feet of width; that the project will meet the required setbacks for 40 feet from the front, 15 feet from the sides and 20 feet from the rear; that the maximum building height is 42 feet; that the project is required to provide 115 parking spots for the facility, the restaurant and the fitness center; that the project will provide 194 parking spaces; that there is an greater anticipated car ownership among the independent living residents versus typical assisted living residents; that sewer is provided by Sussex County; that water is provided by Tidewater; that electric is provide by Delaware Electric Co-op; that the building will be sprinklered, and fire hydrants will be required for spacing of 800 feet, as well as the fire department connection; that there will be a turnaround area and fire lane provided; that project will be compliant with the Wellhead Protection Area, Sediment and Stormwater regulations; that a small portion of the property is located within the 100 Year Floodplain area, being the area located along the ditch; that this area will not be impacted by any proposed construction; that four EV charging stations will be provided and installed; that all lighting on the site will be downward screened; that there is a letter in the record from the Byways Committee; that they have worked with the Byways before, and they were part of the PLUS process as well; that they will be required to consult with the Byways regarding any signage and/or landscaping along Kings Highway; that they have previously worked with them on the Lodge and Lewes and Dutchman's Harvest projects as well; that there is an option to place a six foot high fence along the perimeter in reference to any type of landscaping or screening, and a fence is proposed along the north and south sides of the property.

Mr. Jon Horner stated that another item that will distinguish the proposed project from Beach Plum Dunes is that the project proposes a wellness concierge, which will be a staff person who can help anyone living in the facility with their healthcare needs; that this service may include helping arrange transportation to appointments or scheduling doctor appointments; that they hope to continue their relationship with Beebe, to help leverage that and help provide those services; that the amenities will be designed and

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(continued)**

installed to support the demographic; that they are still finalizing the design of the amenities; that they had provided proposed Findings of Fact and proposed Conditions of Approval for the record; that they would request the condition provide for compatible commercial use to allow them flexibility; that in order to meet the definition of the nursing and other facilities, they are required to have a maximum of 95 unites, with 55 plus occupancy, as stated under the Housing for Older People’s Act; that the project will be in compliance with all DelDOT improvements; that all central water and sewer required resource buffer, and stormwater best management practices will be followed; that construction will be limited to Monday through Saturday, with no Sundays; that light landscaping and downward shielding lighting will be provided along Kings Highway, and designed in collaboration with the Historic Lewes Byways Commission; that the proposed facility serves a much needed demographic and demand in Sussex County for aging seniors; that as the community ages, there will be a greater need for facilities such as the one proposed; that the project will help alleviate the price gap between the higher end facilities and standard apartments; that the project satisfies the elements for a conditional use, as it is consistent with the County’s Comprehensive Plan’s Future Land Use Map; that the project promotes the health, safety, and general welfare of Sussex County residents; that the project is compatible with the surrounding land uses; that the project is served by adequate infrastructure, and meets the Codes in site specific design requirements; that the site is located within the Coastal Area, being designated as a Growth Area within Sussex County, which promotes a range of housing options and mixed-use and industrial uses, and should the application be approved, they will comply to any and all conditions imposed on the project.

There were no public comments.

Mr. McCarron questioned if it was considered that the applicant would fund an assessment per bedroom per year for the local fire department.

Ms. Gruenebaum questioned if they were looking into any environmentally friendly techniques.

The Public Hearing and public record were closed.

**M 449 25
Adopt
Ordinance
No. 4019/
CU2527**

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to Adopt Ordinance No. 4019 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN INDEPENDENT CARE FACILITY, RESTAURANT AND FITNESS CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.833 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning Commission as follows:

**M 449 25
Adopt
Ordinance
No. 4019/
CU2527
(continued)**

- 1. The proposed Conditional Use meets the purpose of the Sussex County Zoning Code in that it promotes the orderly growth of the County. The project is in the Coastal Area according to the Sussex County Comprehensive Land Use Plan, and the location is appropriate along Kings Highway next to a church and in the vicinity of similar facilities, doctors' offices, and other institutional uses.**
- 2. The development of this site with no more than 95 age-restricted units is consistent with the densities of similar facilities in this area around Lewes.**
- 3. Sewer service will be provided by Sussex County as part of the County-operated sanitary sewer district.**
- 4. The development will be served by central water.**
- 5. The proposed development will not adversely affect neighboring properties or roadways.**
- 6. The Applicants have stated that this project is intended to meet the demand for seniors for a facility that is designed to fill the gap between a high-end apartment complex and a full-service senior care facility. There is a need for this type of senior housing in Sussex County.**
- 7. The proposed restaurant and fitness center will be a shared-use facility available to both the residents of this project and the public. Because these will not be exclusive to the projects' residents, the housing costs will be lower than other similar projects. The public restaurant and fitness center uses are also appropriate along Kings Highway, and they are consistent with other similar uses in the area. In addition, according to the recommendations of approval and based upon statements made during the public hearing, other types of ancillary commercial uses are appropriate instead of a restaurant or fitness center. Examples could include medical or physical therapy facilities.**
- 8. DelDOT has stated that the impact of this project on area roadways will be minor. The Applicant will also be required to comply with all DelDOT entrance and roadway improvement requirements.**
- 9. The proposed use promotes the service of the Goals, Objectives, and Strategies in Chapter 8 of the County Comprehensive Plan regarding "Housing" and the expansion of housing opportunities for Sussex County's aging population.**
- 10. There was no opposition to this Application.**
- 11. This recommendation is subject to the following conditions:**
 - a. There shall be no more than 95 dwelling units constructed on the site. As proffered by the Applicant, these units shall be operated and maintained as housing intended for occupancy by persons 55 years of age or older in compliance with the Federal Fair Housing Act and the Housing for Older Persons Act. In addition to these housing units, the project may also include a restaurant, fitness center, or other similar uses open to the public but**

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(continued)

- compatible with the primary use as an age-restricted residential project. The location and type of these additional uses shall be shown on the Final Site Plan. To the extent that these uses do include a restaurant, the restaurant shall close no later than 10:00 pm and any music or entertainment shall cease by 9:00 pm.
- b. All entrances, intersections, inter-connection, roadway, and multi-modal improvements required by DeIDOT shall be completed by the applicant in accordance with DeIDOT's requirements.**
 - c. The development shall be served as part of the Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.**
 - d. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
 - e. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
 - f. The Resources on the site as defined by the Sussex County Zoning Code shall be protected, and Resource Buffers shall be installed and maintained in accordance with the requirements of the Zoning Code.**
 - g. The Applicant shall submit as part of the Site Plan Review a landscape plan showing all buffers and the proposed tree and shrub landscape design, including the landscaping along Kings Highway.**
 - h. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
 - i. Construction, sitework, grading, and deliveries of construction materials, landscape materials, and fill on, off, or to the property shall only occur Monday through Saturday between the hours of 7:00 a.m. and 6:00 p.m. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and in Spanish shall be prominently displayed at the site entrance during construction.**
 - j. All lighting on the site shall be directed downwards so that it does not shine on neighboring or adjacent properties or roadways.**
 - k. The site plan presented during the public hearing showed a fence between this property and the church next door. An alternative landscaping plan showed a potential shared garden/patio area between the two properties. Under either scenario, there shall be pedestrian interconnectivity between this development and the church next door.**
 - l. This site is located within a wetland protection area. Therefore,**

M 449 25 **the site plan and the development of the site shall comply with the applicable requirements of Chapter 89 of the Sussex County Code.**
Adopt
Ordinance
No. 4019/ **m. The Final Site Plan shall be subject to the review and approval**
CU2527 **of the Planning and Zoning Commission.**
(continued)

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 450 25 **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to allow for**
Allow **the application for CU2475 filed on behalf of S&J Growers be rescheduled,**
CU2475 **and re-noticed at the applicant's expense.**
Rescheduled

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 451 25 **A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to go**
Go Into **into Executive Session for the purpose of discussing matters related to**
Executive **pending & potential litigation and land acquisition.**
Session

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Executive **At 2:56 p.m., an Executive Session was held in the Basement Caucus Room**
Session **to discuss matters related to land acquisition and pending & potential**
litigation. The Executive Session concluded at 3:48 p.m.

M 452 25 **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to come out**
Reconvene **of Executive Session and go back into Regular Session.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

E/S Action **There was no action related to Executive Session matters.**

M 453 25 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to**
Adjourn **adjourn at 3:55 p.m.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

{An audio recording of this meeting is available on the County's website.}