

MINUTES OF THE REGULAR MEETING OF AUGUST 20, 2025

The regular meeting of the Sussex County Planning and Zoning Commission was held on Wednesday afternoon, August 20, 2025, in the County Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Madam Chair Wingate presiding. The following members of the Commission were present: Ms. Holly Wingate, Mr. Bruce Mears, Mr. Scott Collins, and Mr. Jeff Allen. Mr. Brian Butler was absent. Also, in attendance were Mr. Jamie Whitehouse – Director of Planning & Zoning, Mr. Vincent Robertson – Assistant County Attorney, Mr. Michael Lowrey – Planner III, and Ms. Ashley Paugh – Recording Secretary.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the Agenda as circulated. Motion carried 4-0.

Motion by Mr. Mears, seconded by Mr. Collins, to approve the Minutes of August 6, 2025, of the Planning and Zoning Commission Meetings as circulated. Motion carried 4-0.

OTHER BUSINESS

Lands of SSA Properties, LLC

Minor Subdivision Plan off a proposed 50-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 50-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.751-acre +/-, proposed Lot 2 will consist of 5.758-acres +/-, proposed Lot 3 will consist of 9.415-acres +/-, proposed Lot 4 will consist of 7.827-acres +/-, and the residual lands will contain 9.927-acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Beaver Dam Road (Rt. 23), approximately 570 feet east of N. Union Church Road (S.C.R. 42). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 130-6.00-59.00 Zoning: AR-1 (Agriculture Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to approve the Minor Subdivision Plan off a proposed 50 ft. easement was a preliminary and final. Motion carried 4-0.

Lands of Glen R. Thompson

Minor Subdivision Plan off a proposed 30-ft easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands with access off a proposed 30-ft wide ingress/egress access easement. Proposed Lot 1 will consist of 0.75-acre +/-, proposed Lot 2 will consist of 0.75-acre +/-, proposed Lot 3 will consist of 1.04-acres +/-,

proposed Lot 4 will consist of 0.78-acre +/-, and the residual lands will contain 0.78-acre +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the south side of Rust Road (S.C.R. 635), approximately 0.36 mile south of Kendale Road (S.C.R. 287). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-6.00-1.00 Zoning: GR (General Residential District). Staff are in receipt of all agency approvals. Therefore, the plans are eligible for both preliminary and final approvals.

Motion by Mr. Mears, seconded by Mr. Collins, and carried unanimously to approve the Minor Subdivision Plan off a proposed 30 ft. easement was a preliminary and final. Motion carried 4-0.

OLD BUSINESS

C/U 2568 Unitarian Universalist Society of Southern Delaware

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.91 ACRES, MORE OR LESS. The property is lying on the south side of Lewes Georgetown Highway (Route 9), approximately 0.53 mile east of Dairy Farm Road (S.C.R. 261). 911 Address: 30486 Lewes Georgetown Highway, Lewes. Tax Map Parcel: 334-5.00-171.00.

The Commission discussed the application, which had been deferred since August 6, 2025.

Mr. Collins moved that the Commission recommend approval of C/U 2568 Unitarian Universalist Society of Southern Delaware to allow an on-premises electronic message center sign based on the record made during the public hearing and for the following reasons:

1. This is an application for a conditional use to install an on-premises electronic message display sign. This type of application is permitted under Section 115-161.1 A. (3) of the Zoning Code, and the sign operation will be governed by the requirements of Section 115-161.1C(1).
2. The sign will be located on the Church's property, and it will be used to display information about the Church and its various activities and events.
3. The sign will be required to comply with all of the sign regulations in the Zoning Code, including brightness and motion.
4. The Church owns this property and others that are adjacent to it. The sign will not adversely affect neighboring properties or area roadways and traffic.
5. The site is located along Route 9, which is designated as a Principal Arterial Highway. This is an appropriate location for a sign such as this.

6. This Recommendation for approval is subject to all state and county agency approvals, including but not limited to the Delaware Department of Transportation.
7. A final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.

Motion by Mr. Collins, seconded by Mr. Mears, and carried unanimously to recommend approval of C/U 2568 Unitarian Universalist Society of Southern Delaware, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Mr. Collins – yea, Mr. Allen – yea, Madam Chair Wingate – yea

C/Z 2024 The Christopher Companies

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 94.7 ACRES, MORE OR LESS. The properties are lying on the north and south side of Jeans Alley, on the south side of the intersection of Jeans Alley and Burton Farm Road (S.C.R. 373), and the west side of Horse Play Way, accessed from the west side of Roxanna Road (Rt. 17), approximately 0.48 mile south of Peppers Corner Road (S.C.R. 365). 911 Address: 34311 Horse Play Way and 33736 & 33737 Jeans Alley, Frankford, DE 19945. Tax Map Parcels: 134-15.00-15.01, 15.02, 17.12, 17.16, 17.17 & 17.18.

The Commission discussed the application, which had been deferred since August 6, 2025.

In relation to C/Z 2024 The Christopher Companies. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Allen, and carried unanimously. Motion carried 4-0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

Mr. Allen recused himself from the public hearing for C/U 2475 S&J Growers and left Council Chambers.

C/U 2475 S&J Growers

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY,

CONTAINING 30 ACRES, MORE OR LESS. The property is lying on the north and south sides of Bald Branch Road (S.C.R. 61) and on the east and west sides of Millsboro Highway (Rt. 30/26). 911 Addresses: 22311, 22327 & 34943 Bald Branch Road and 36597 Millsboro Highway, Frankford. Tax Map Parcel: 333-7.00-23.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the DelDOT Service Level Evaluation Response letter, the Staff Analysis, a letter received from the Sussex County Engineering Department Utility Planning Division, a letter received from the State Division of Watershed Stewardship, and a copy of the 1968 aerial photograph of the property. Mr. Whitehouse stated that one comment and one petition containing 34 signatures in opposition had been received for the Application.

The Commission found that Mr. Steven Adkins, Surveyor, spoke on behalf of the Applicant, Mr. Joel Wharton, who was also in attendance. Mr. Adkins stated he was the land surveyor for the application, that he performed the boundary survey for all four parcels; that the Wharton's own all four corners of the Lowes Crossing Road and Bald Branch Road; that the Applicant is only requesting to use the northeast side, being the location of the existing borrow pit; that to the north there is a tax ditch, with a 80 foot wide tax ditch right of way from the top of bank; that the Applicant has excluded that area, and is requesting to utilize everything south of that tax ditch area; that he had created a Preliminary Site Plan showing parking and the existing entrance; that the Applicant has obtained an approval from DelDOT, which was submitted with the application; that That Mr. Wharton and his brother had purchased the property approximately 15 years ago from the Shorts, at which time the borrow pit was existing; that he went back through the aerial images from 1954, 1968, and current conditions; that in 1954 there appears to be a little dirt hole on the property; that by 1968 the pit was existing; that the Applicant is unsure if the dirt was borrowed to construct roadways, as that was typically performed in the past; that this dates the borrow pit as having existing for over 57 years, and that Mr. Wharton purchased and cleaned up the property.

Mr. Joel Wharton stated that he and his brother purchased the property a few years ago as S&J Growers, standing for Joel and Scott; that upon purchasing the property it was in pretty rough shape; that he purchased an excavator to clear the property; that there were two dwellings and a shed that were dilapidated; that the borrow pit existing, but was not in good shape with overgrown trees; that he cleaned up the area the best he could; that he then had an excavator to come in from the Soil Conservation; that there was beautiful white sand at the bottom of the pit; that he used some of it, and it seemed to hold up well in wet weather; that people began to ask if they could use the sand; that he did not believe he was legally able to sell the sand; that he had no intention of having a daily dirt operation at the site; that he has not spoke with anyone or discussed any agreements for dirt purchasing; that he was only requesting approval to be able to sell the dirt

should he choose to in the future; that the borrow pit has been existing for 60 years, and he wanted permission to utilize it if he wanted; that the last time he sold dirt from the pit was approximately two to three years ago; that the Sussex County's notice sign was placed on the west side of the property, which was not the side proposed for the borrow pit; that he did contact the Planning & Zoning Department to notify the office; the Planning & Zoning office allowed him to move the sign to the more appropriate location on the subject property, where the borrow pit was proposed to be located; that the sign is now located along Millsboro Highway; that if one is heading toward Gumboro the sign is now located on the left hand side, before one would reach Bald Branch Road; that the borrow pit entrance is proposed off Bald Branch Road, and that there is already an existing entrance in that location.

Madam Chair Wingate questioned if Mr. Whitehouse had any further historic information he could provide regarding the property.

Mr. Whitehouse stated that when staff performed the staff analysis, there was no conditional use history of the borrow pit; that staff, on their own findings, found that there was a borrow pit on the site in 1968, which was the critical date for staff, as it was the best aerial photography staff had prior to 1970, when Zoning came into effect; that staff had approached the application like it was a non-conforming use; that the legal non-conformity had not been formally determined by the Sussex County Board of Adjustment; that there was no application submitted to the Sussex County Board of Adjustment; that he was concerned regarding the large gaps of use; that if material was not being sold for a period of more than two years, he questioned if the existing borrow pit would still be considered a legally non-conforming use, considering the large gaps of time; that the current application was an opportunity to tidy up the history; that any legally non-conforming use that ceases for a period of two years or more would lose its non-conformity, and he questioned the Applicant if there had been any sales or removal of material from the borrow pit during the three year period.

Mr. Wharton stated he had sold a few loads, which he had been hauling himself, until someone informed him that he legally could not continue; that he is a farmer; that he had a 10-wheeler truck, and would gladly haul loads of dirt to those who asked him; that following the conversation that his operations were not legal, he then stopped, and began making phone calls to inquire about the legal way to perform the borrow pit operations.

Mr. Collins questioned whether Mr. Wharton had read the public comments or was aware of the public's concern.

Mr. Wharton stated that he was not aware of where to locate the public comments; that he was made aware of a neighbor, located along Bald Branch Road, who was in opposition to the

application, and had been sending around a petition to sign in opposition; that he did take the opportunity to introduce himself, and explain his plans for the use and property; that they had a good conversation; that she expressed her concerns, and he had expressed his reasoning; that he owns every intersection around the property, and there are no surrounding neighbors adjacent to the area proposed for the borrow pit.

Mr. Collins stated that in the public comments, he believed many concerns revolved around the decrease in surrounding property values.

Mr. Wharton stated that the property is located within the AR-1 (Agricultural Residential) Zoning District, where he would be permitted to place chicken houses and animals, and he felt the borrow pit would smell more appealing for the surrounding area and neighbors.

Madam Chair Wingate stated she had noticed repeated public concern regarding traffic, specifically on the shorter road of Bald Branch Road; that the Planning Commission had the authority to impose conditions for the use, and she questioned what Mr. Wharton's intent was for the borrow pit use, such as business hours and operation days throughout the week.

Mr. Wharton stated he would need to dig more dirt to continue operating; that he was told if he granted the Conditional Use approval, he would need to use it, at a minimum, to move small amounts of dirt at a time; that this was sort of how he had envisioned it; that he was unsure of the proposed hours of operations; that he did not want to have his hands tied; that he envisioned the borrow pit being a means of future income for himself or his children; that he would like the ability to sell 10 loads per day, and that 10 loads per day was not his intention, however, forever is a long time.

Mr. Collins stated that a Conditional Use approval would stay with the property, unless the use becomes abandoned.

Mr. Whitehouse stated that a legal non-conforming use would be considered expired should the use cease for two or more years, and a Conditional Use would expire should the use cease for three or more years.

Mr. Collins stated that he believed many of the concerns from adjacent neighbors may be addressed if Mr. Wharton could narrow the scope of the proposed use and the proposed hours of operation.

Mr. Wharton stated he would be agreeable to 10 truckloads per day, to operate between the hours of 8:00 am and 5:00 pm, Monday through Friday; that his neighbor stated she had read that his application proposed 50 loads per day, and that 50 loads per day was not his intention

Madam Chair Wingate stated that the statement made was part of the DelDOT Service Level Evaluation Response, which stated the proposed use may generate up to 50 vehicle trips per day.

Mr. Wharton stated he did not realize that was stated within the DelDOT response; that he felt 10 loads per day would be fine; that he felt 10 loads per day would be safe, and that he may not move 30 loads for the next year.

Mr. Collins questioned whether Mr. Wharton had any experience operating a borrow pit, or if he had consulted with anyone who does, who may be able to address any of the regulatory requirements for borrow pits.

Mr. Wharton stated no and that he did not have any experience operating a borrow pit, nor had he consulted with anyone.

Madam Chair Wingate questioned what type of equipment would be located on the site.

Mr. Wharton stated that currently, he would only have a tractor on the site and would request that the operations be approved for Monday through Saturday, in case of bad weather throughout the week.

Mr. Robertson informed Mr. Wharton that the applicant had the burden of making the record to support the approval by the Planning & Zoning Commission and the Sussex County Council; that he needed to be the one to prove his case as to why the Commission should approve the application; that there are plenty of restrictions on borrow pits through both State agencies, and the Sussex County Code; that there are standard conditions imposed regarding buffers, fencing, slope and multiple others, and generally borrow pit applications are fairly sophisticated, because people understand the nature of what is being requested, and the applicant makes a real clear record supporting the use.

Mr. Wharton stated that he understood Mr. Robertson's concerns; that he was disappointed, as he spoke with many people prior to submitting the application, who stated to him that he should be considered "grandfathered" (also known as legal non-conforming), as the borrow pit has been in existence since 1967; that he had owned the property for 15 years, and his original intent was to clean up around the property.

The Commission found that there was no one present who wished to speak in support, and one person who wished to speak in opposition to the Application.

Ms. Julie Waardenburg spoke in opposition to the Application, stating she resides adjacent to the property, along Bald Branch Road; that the Applicant's 50-foot buffer would place the borrow pit

approximately 266 feet from her back door; that she drives a school bus; that it is difficult pulling onto Millsboro Highway; that she is concerned about the heavy truck equipment; that she had driven dump trucks in her past; that dump trucks do not wait when they are loaded; that the trucks will turn to go down Lynch Road, coming out by Nine Foot Road, which will take the traffic right through her neighborhood; that their roads are tar and chip and will not withstand the dump truck traffic; that many of the neighbors walk the roads; that they will now have to jump out of the way of the dump trucks; that there are children, pets and wildlife in the area; that the proposed use will create excessive noise and dust, which can cause illness; that she was concerned her property value; that she was told by a realtor that her home will be unsellable; that all the research she performed stated that her property value will plummet up to 30%; that she was concerned about contamination to existing wells, and the potential for mosquitos; that she was concerned about sinkhole issues, due to potential water table level changes; that she felt the use would change the character of the neighborhood, and would be detrimental to the public welfare.

Upon there being no further questions, Madam Chair Wingate closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2475 S&J Growers. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 3-0. Mr. Allen abstained.

C/U 2476 Richard & Brandi Gentner, Jr

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. The 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).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conditional Use Site Plan, the Applicant's Survey, Staff Analysis Report, a letter received from the Sussex County Engineering Department Utility Planning Division, the Applicant's Environmental Assessment, and the Applicant's Exhibits. Mr. Whitehouse advised the Commission that no comments were received for the application.

The Commission 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. 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 am to 6:30 pm; 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 am, being the time everyone arrives to the site, and 6:30 pm, being when everyone returns the work vehicles to the site, and head home; that none of 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, and therefore, they respectfully requested the Commission's recommendation of approval or their application.

Mr. Collins questioned whether the on-site storage would be fully enclosed within buildings, and not just open shelters, that a gate was located close to the roadway, and it would not allow vehicles to turn around.

Madam Chair Wingate stated she felt that if employees were coming to the site, and traffic backed up on the road, the gate should be located further in to allow more room for the vehicles to stack up.

Mr. Allen stated that Hardscrabble Road is a busy road; that he suggested there be plenty of room to see both ways before pulling out onto the roadway, and no trees should be obstructing the view of vehicles leaving the site.

Mr. Mears stated that the Site Plan stated 30 employees; that he questioned whether all 30 employees would come to the site, or if some employees would meet at the job sites; that he requested a better list of equipment proposed to be on the site, and questioned if any vehicle maintenance would be performed on the site.

Mr. Gentner stated that not all employees would arrive at the site; that currently, there are administrative staff who go to a different location, located on Rt. 5; that once the proposed buildings are constructed, the administrative staff would be working from the buildings on the site; that this would equal 30 employees on the site in the future; that he only placed the gate to keep people off of the property, and to avoid stealing of his onsite storage; that he placed the gate far enough in to allow for one truck with a trailer attached, as to avoid blocking the street; that the gate does not get locked during the day, and remains open; that he is the first to arrive to the site every morning, generally by 5:45 am; that he currently had two large excavators, one weighing 50,000 lbs. and the other weighing 36,000 lbs.; that he had a straight truck, used to move material; that he had a knuckle boom truck, crew cab pickup trucks with trailers, which haul three to four mini excavators, and four to five track loaders; that most of the time when the equipment is at the site, they are located on trailers; that the larger excavators are rarely located on the site, and they generally get transported from job site to job site, and all vehicle maintenance will be performed within the proposed buildings with proper oil disposal.

Madam Chair Wingate questioned whether any product sales would take place from the site, if there would be any crushing of concrete, if the two proposed buildings would be for the masonry business only, and she questioned what days of the week the business would operate.

Mr. Gentner states there would be no product sales from the site; that there would be no crushing of concrete on the site; that the two proposed buildings would be used for the masonry business only, and he would like to operate Monday through Saturday, with Saturday hours being between 7:00 am to 3:00 pm.

The Commission found that there was no one present who wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Madam Chair Wingate closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2476 Richard & Brandi Gentner, Jr., Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 4-0.

C/U 2479 The Crossings at Oak Orchard, LLC

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. The 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).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the formally approved Manufactured Home Park Site Plan, the Applicant's Preliminary Conditional Use Site Plan for the current application, the DelDOT Service Level Evaluation Response letter, a letter received from the Sussex County Engineering Department's Utility Planning Division, and the Staff Analysis Report. Mr. Whitehouse advised the Commission that no comments were received on behalf of the Application.

The Commission 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, 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, bringing the total number of lots to 114; 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), which houses Middlesex Water Company; 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 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

Mr. Collins requested clarification as to who owned the existing mobile homes, and if there was any plan in place to address the status of the existing homes, as there is a fair number of existing mobile homes in poor shape; that he questioned if two additional mobile homes in poor condition would be placed on the two proposed lots; that he stated Sussex County does have a need for affordable housing options; that the application would provide an option to pursue and he stated that just because it is affordable, it does not mean it should not look livable.

Mr. Carey stated that the Applicant owned most of the existing mobile homes; that the intent is to being in two new mobile homes; that the Applicant owns the majority, but not all of the homes; that some lots are rented out, where people place their mobile home there; that in other situations, the Applicant owns the lot and the mobile home, and there is a push to do as much as they can to work through any trouble areas.

Ms. Wingate stated for the record that Lot 113 is the former recreational area, but due to the Applicant owning the majority of the lots within the community, the recreational area is being taken off the table.

The Commission found that there was no one present who wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2479 The Crossings at Oak Orchard, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins, and carried unanimously. Motion carried 4-0.

C/U 2527 LIC Housing, LLC

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. The 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.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Conditional Use Site Plan, the Environmental Assessment Report, the Staff Analysis Report, the Applicant's Exhibit Booklet, and presentation, the Technical Advisory Committee comments including responses received from the State Division of Watershed Stewardship, the DelDOT Service Level Evaluation Response letter, the PLUS comments, and the Applicant's response letter to the State's PLUS comments. Mr. Whitehouse advised the Commission that two letters of comment were received for the Application and were included in the Commission's Paperless Packet.

The Commission 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 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 evaluation a Conditional Use, the Commission should look for consistency with the County's Comprehensive Plan Future Lands 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 would be the proper outcome; 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 updated 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; 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 17th, 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, 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, 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 converse 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 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 advanced 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 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 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 is 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; 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 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 units, 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.

Mr. Collins thanked Mr. Horner for addressing the comment submitted by the Lewes Historic Byways Commission. Mr. Collins questioned whether the additional commercial uses would be provided on the Final Site Plan.

Mr. Jon Horner stated that they intend to have the use lined up well before they submit for Final Site Plan approval, and they would ask for a condition permitting a commercial use that is compatible with the project.

Mr. Schell stated that hair and nail salons are not their intention for the proposed project, but rather a doctor's office, associated with Beebe, where they perform outpatient services during regularly scheduled hours; that these services is provided in multiple other communities; that the Gelofs love the "Orange Theory"; that it may not be an Orange Theory, but may be a fitness center or a physical therapy center; that it will be a commercial service that adds value to the residents; that by adding a service of value, it will bring up the value of the 90 to 95 units; that it is something that is as expensive, and it is kind of forced on the residents at the Lodge at Historic Lewes; that they are trying to peel it out by offering it to the public, to allow the services to be a more a la carte service to the tenants in the building.

Mr. Allen questioned whether there were any plans to turn the restaurant into a restaurant and bar.

Mr. Schell stated no; that a bar was not their intention; that they should have added more conditions to make that clear, and they are willing to place conditions on hours of operation or whatever else to ensure they are servicing their targeted demographic.

Madam Chair Wingate stated she felt the application was a great idea; that there is a definite need for the proposed service, and she asked Mr. Robertson if there was any way for the Commission to monitor the proposed age group.

Mr. Robertson stated that there is a federal provision that allows it to be done, and he would need to conduct additional research on it.

Mr. Schell stated that at times they refer to the project as an Active Adult Plus project; that the plus means additional services, such as the wellness concierge, and at other times the project is referred to as an Independent Living Light, which is a project that is exactly the same, however, it straddles the nexus between full service, independent living, and active adult living.

Mr. Robertson stated that he believed the way the Commission would do accomplish this, when looking at the proposed conditions, they would need to state that the Applicant has proffered that they will do this that way; that this will allow what was proffered to be incorporated as a condition, but not one that the county has imposed on an Applicant, and it would be a way to memorialize it.

Mr. Horner stated that they would not have any objection to that restriction being an imposed condition.

Madam Chair Wingate stated that she wanted to ensure the project accommodates the people in greatest need; that she requested clarification regarding the 25-foot cross-access interconnectivity required by DelDOT.

Mr. Crouch stated that DelDOT required a cross-access easement to be located with the property located to the north, should it ever be developed, mostly due to the improvements being performed on Kings Highway.

Madam Chair Wingate stated she saw the submitted support from the neighboring church; however, the Applicant is proposing a six-foot privacy fence, which she felt ideally would be an area capable for walking, and would eliminate the need for people to access Kings Highway.

Mr. Schell stated that they may not provide the proposed fence, based on the church's preferences; that courtyard options were provided within the exhibits, with one of the courtyards extending beyond the property; that this courtyard option will only be considered with the church's approval; and this would allow the church to utilize the courtyard for church-based events.

Mr. Robertson questioned if the Applicant had any further information on the timing of the improvements for Kings Highway.

Mr. Crouch stated that he had spoken with many officials regarding the improvements; that DelDOT is currently moving forward; that there is a lot involved in land acquisition for the right of ways, and the improvements are moving along.

The Commission found that there was no one present who wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2527 LIC Housing, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Mr. Allen, and carried unanimously. Motion carried 4-0.

PUBLIC COMMENT

The Commission found that no one was present who wished to provide public comment.

Meeting adjourned at 4:52 p.m.

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internet at www.sussexcountyde.gov.**
