

January 9, 2024

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VIA EMAIL

Town of Moncks Corner
Planning Commission
c/o Justin Westbrook
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Moore & Van Allen PLLC

78 Wentworth Street
Charleston, SC 29401-1428

Mailing Address:
Post Office Box 22828
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Re: American Star Development SC, LLC Application for Annexation and Zoning of 9.99 acres located on US Hwy 52 & Westbury Lane (181-00-01-024)

Dear Members of the Planning Commission and Mr. Westbrook:

I represent American Star Development SC, LLC regarding its application to annex 9.99 acres located on US Highway 52 and Westbury Lane (181-00-01-024) (the “Property”) into the Town of Moncks Corner under Planned Development (PD) zoning. It is my understanding that the Planning Commission considered the application at its meeting on November 28, 2023, and deferred its consideration to obtain additional information. I am writing to provide information responsive to questions regarding the proposed age restriction under the PD to assist in your consideration of the application.

As you know, the PD includes 5.9 acres of the Property to be used for up to 70 single-family attached units, which will be restricted to residents 55 years or older. The purpose of the restriction is to address the growing demand for developments that are devoted to older residents who want to be part of a community of people of similar ages, experiences, and interests. As the current draft of the Town’s proposed comprehensive plan observes, the percentage of households with at least one adult over the age of 60 has grown in the Town over the past decade, which appears to be a regional and statewide trend. Because this trend is likely to continue, the proposed development will expand the housing options for an important segment of the Town’s population.

As I understand it, the Planning Commission had questions about the enforceability of the age restriction and whether it is legal. To be sure, age restricted housing is legal and becoming an increasingly popular community option. The Fair Housing Act exempts “Housing for Older Persons” from its anti-discrimination provisions. In this case, the project will utilize the exemption based on its restriction for persons 55 years of age or older. To qualify for the 55 or older exemption, the community must be governed by a common set of rules, regulations, or restrictions and satisfy the following three criteria: (1) at least 80% of the units must have at least one occupant who is 55 years or older; (2) the community must publish and adhere to policies and procedures that demonstrate the intent to operate as 55 or older housing; and (3) the community must comply with the Department of Housing and Urban Development’s regulatory requirements for age verification of residents.

The second and third criteria to qualify for the exemption also explain how the restrictions are enforced. The HUD regulations require a 55 or older community to “develop procedures for routinely determining the occupancy of each unit,” which must include procedures for regularly updating information supplied by the occupants of the community at least once every two years. 24 CFR § 100.307. The regulations also require occupants to provide reliable documentation to verify their age. *Id.* Depending on whether the units will be leased or sold, the procedures should be contained in lease provisions and/or written rules, regulations, covenants, deed, or other restrictions. § 100.306. The failure to follow these requirements can lead to civil penalties. Thus, the proposed age restrictions are both legal and enforceable.

We appreciate your consideration of this information and hope that you find it helpful. We stand ready to respond to any other questions that you may have.

Sincerely,

A handwritten signature in blue ink that reads "E. Brandon Gaskins". The signature is written in a cursive style and is contained within a thin black rectangular border.

E. Brandon Gaskins