

ORDINANCE NO. 2522

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.7774 ACRE, MORE OR LESS

WHEREAS, on the 13th day of March 2017, a conditional use application, denominated Conditional Use No. 2094, was filed on behalf of Robert Downs; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2094 be approved; and

WHEREAS, on the 26th day of September 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2094 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Round Pole Bridge Road, approximately 1.23 miles northeast of Cave Neck Road, and being more particularly described per the attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 0.7774 acre, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2522 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Robert Downs for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a cemetery to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.7774 acre, more or less (located on the south side of Round Pole Bridge Road, approximately 1.23 miles northeast of Cave Neck Road) (Tax I.D. No. 235-21.00-163.01 (portion of) (911 Address: 15584 Walkabout Lane, Milton)**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Harold Dukes, Esquire, with Tunnell & Raysor, P.A., and Mr. Robert Downs were present on behalf of the application; that it was the request of Mr. Downs's father to create the family cemetery; that the cemetery would be located near the house; that there is already a fence around the area for the cemetery; that it would be for family only; that there are no plans to develop the area; that his family would like to be buried on the site; that they will not sell any plots; and that they have talked to the Cemetery Board about setting up a maintenance account.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6), Council found that:**
 - 1. The Applicant is seeking to establish a family cemetery within a larger tract of land owned by the Applicant. It will not be operated as a business and no cemetery plots will be sold.**
 - 2. This request is consistent with family cemeteries that have been in existence for centuries all over Sussex County.**
 - 3. This application will not adversely affect neighboring properties or roadways in any way.**
 - 4. The Applicant will need to comply with all requirements of other state agencies when establishing and maintaining the cemetery. The Applicant shall establish a method for permanently maintaining the cemetery grounds.**
 - 5. No parties appeared in opposition to the request.**
 - 6. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.**

