

**ORDINANCE NO. 2537**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY ON A HALF ACRE OF THE 9.8 ACRES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.98 ACRES, MORE OR LESS**

**WHEREAS, on the 17th day of May 2017, a conditional use application, denominated Conditional Use No. 2104, was filed on behalf of Grace-N-Mercy Ministries, Inc.; 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 on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2104 be denied; and**

**WHEREAS, on the 3rd day of October 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. 2104 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 Northwest Fork Hundred, Sussex County, Delaware, and lying at the southeast corner of Woodyard Road and Sussex Highway (Route 13), and being more particularly described per the attached deed prepared by Brady, Richardson, Beauregard & Chasanov, said parcel containing 9.98 acres, 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.**

**This Ordinance was adopted subject to the following conditions:**

- a. The cemetery shall be limited to a half-acre portion of the entire parcel located at the rear corner of the parcel away from Route 113 and Woodyard Road.**
- b. The use will not encroach on the setback of the soil conservation tax ditch which shall be shown on the Final Site Plan.**
- c. The half-acre portion of the parcel designated for the cemetery shall be surrounded by a fence.**
- d. No lighted signs shall be permitted on the property.**
- e. Any security lighting shall be limited to security lighting that is customary in residential areas and shall be downward screened so that it does not shine on neighboring properties or roadways.**
- f. The Applicant shall comply with all DelDOT requirements regarding entrances to the property.**
- g. The Applicant shall 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.**
- h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2537 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF DECEMBER 2017.**

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**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 Grace-n-Mercy Ministries, Inc. for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a cemetery on a half-acre of the 9.8 acres to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 9.88 acres, more or less (located at the southeast corner of Woodyard Road and Sussex Highway (Route 13) (Tax I.D. No. 530-5.00-40.05) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Brian Tinley was present on behalf of the application at the Planning & Zoning Commission hearing and Joyce L. Mizzelle, Pastor of the Applicant, was present on behalf of the application at the Sussex County Council hearing; that the Applicant owns the property where the cemetery will be located and intends to construct a church on the property; that the**

**cemetery is intended for members of the church; that the cemetery plots would be for sale to the members of the church; that there will be an access road back to the cemetery site which will be located on a half-acre at the rear corner of the parcel away from Route 113 and Woodyard Road and away from adjacent residences; that the church has created a cemetery fund for maintenance purposes; that the cemetery shall be maintained and kept neat in appearance; and that the area will be fenced to help block the view from any neighboring residences.**

- C. Council also found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community; and that the proposed use promotes the health, safety, welfare and general convenience of Sussex County and its residents.**
- D. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to the eight (8) conditions (a – h) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**