

ORDINANCE NO. 2661

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WELLNESS CLASSES (INCLUDING YOGA, MASSAGE MEDITATION, ACUPUNCTURE AND LECTURES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.33 ACRES, MORE OR LESS

WHEREAS, on the 11th day of September 2018, a conditional use application, denominated Conditional Use No. 2156, was filed on behalf of Christine and Joseph R. Hudson; and

WHEREAS, on the 9th day of May 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of May 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2156 be approved with conditions; and

WHEREAS, on the 18th day of June 2019, 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. 2156 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 northwest side of Coastal Highway (Route 1), approximately 0.28 mile south of Hudson Road, and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 3.33 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. All of the Applicant's uses shall occur within the existing structures or outdoors.**
- B. As long as the uses occur within the existing structures, no site plan approvals shall be required from the Planning and Zoning Commission. Any change or expansion of the existing structures shall require site plan approval, and possibly, a new public hearing if the changes are substantial.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2661 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF JUNE 2019.

**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 Christine and Joseph R. Hudson for the consideration of a Conditional Use of land in an AR Agricultural Residential District for wellness classes (including yoga, massage, meditation, acupuncture and lectures) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.33 acres, more or less (land lying on the northwest side of Coastal Highway (Route 1), approximately 0.28 mile south of Hudson Road) (Tax I.D. No. 235-16.00-75.00 and 77.00) (911 Address: 14904 Coastal Highway, Milton).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, Christine Hudson, was present on behalf of the application; that she would like to operate a wellness center; that there would be no changes to the site; that the wellness center would only be active during the weekdays and not when church is in session; that there could be less than 12 students and no more than 20 people in a class; that the classes would be held three (3) times a week; that sometimes lectures and meditation would also take place; that the classes usually last 1 to 1¾ hours; that all classes would end by 7:30 p.m.; that there is an existing sign on the building; and that there would be no other employees.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6A and 6B), Council found that:**
 - 1. The property is in an AR-1 District and it has been used for church purposes for many years. Churches are a permitted use in the AR-1 District.**
 - 2. The proposed uses are very consistent with the types of uses that occur within a church. But for the fact that this particular use is operated by someone not affiliated with the church for commercial purposes, it would likely be permitted as a church use.**
 - 3. The proposed uses are very limited in nature and should not have any impact on neighboring properties or roadways.**

- 4. The use is of a public or semi-public character that will provide a beneficial service for residents and visitors of Sussex County.**
- 5. No parties appeared in opposition to this application.**
- 6. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to two (2) conditions (A and B) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**
 - A. All of the Applicant's uses shall occur within the existing structures or outdoors.**
 - B. As long as the uses occur within the existing structures, no site plan approvals shall be required from the Planning and Zoning Commission. Any change or expansion of the existing structures shall require site plan approval, and possibly a new public hearing if the changes are substantial.**