

**ORDINANCE NO. 2882**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS**

**WHEREAS, on the 17<sup>th</sup> day of August 2021, a conditional use application, denominated Conditional Use No. 2310 was filed on behalf of Milton Community Food Pantry, Inc.; and**

**WHEREAS, on the 11<sup>th</sup> day of August 2022, 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. 2310 be approved; and**

**WHEREAS, on the 30<sup>th</sup> day of August 2022, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2310 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 west side of Union Street Ext. (Rt. 5), approximately 0.24 mile south of Reynolds Pond Road (S.C.R. 231) and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, P.A., said parcel containing 0.966 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 use shall be limited to a food pantry where donated food is collected for distribution. The food shall be distributed for offsite consumption only. No soup kitchen-type operations or food service for on-site consumption shall occur on the site.**
- b. No loitering shall be permitted on the site, and there shall be signage on the site confirming that loitering is prohibited.**
- c. As stated by the Applicant, food distributions shall only occur one day per week, and shall only occur between the hours of 9:00 a.m. through 1:00 p.m. This shall not prohibit the use of the building on other days to receive and organize donations for later distribution or for office use.**
- d. The Applicant shall comply with all roadway and entrance improvement requirements established by DeIDOT.**
- e. The Applicant shall not permit parking along Route 5 or stacking of vehicles within the Route 5 Right of Way waiting to access the property. In addition to volunteers directing traffic, there shall be signage placed on the site confirming that no parking or stacking of vehicles shall be permitted along Route 5.**
- f. There shall be parking for at least 6 client vehicles on the site in addition to the driveway area and parking for staff and volunteers. These parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself. There shall also be directional signage installed throughout the site to direct the flow of vehicles to and from the site in an orderly manner.**
- g. Any security lighting shall be designed so that it does not shine on neighboring properties or roadways.**
- h. All dumpsters shall be screened so that they cannot be seen from area properties or roadways.**
- i. All donations shall be stored indoors.**
- j. One lighted sign, not to exceed 2 feet by 3 feet in size, shall be permitted on the building.**
- k. The failure to abide by these conditions of approval may result in the termination of this Conditional Use.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2882 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30<sup>TH</sup> DAY OF AUGUST 2022.**

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**Tracy N. Torbert  
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 Milton Community Food Pantry, Inc. for the consideration of a Conditional Use of land in a GR General Residential District for a food pantry to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.966 acres, more or less (property lying on the west side of Union Street Ext. [Rt. 5], approximately 0.24 mile south of Reynolds Pond Road [S.C.R. 231]) (911 Address: 12898 Union Street Ext.) (Tax Parcel: 235-7.00-18.00).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Timothy Willard, Esquire was present on behalf of the Application, together with Ms. Donna Murawski, President, Mr. Lawrence Bivens, Vice President and Ms. Barbara (Bobbi) Hemmings, Treasurer; that Milton Community Food Pantry, Inc. is the Applicant which owns the property; that the Applicant is a 501(c)(3); that they currently serve about 50 families; that it is all run by volunteers; that there is a need for central storage in the area; that the request is for a food pantry; that they gather all of the food and distribute it once a week to those in need; that a video was presented to Council which stated that the mission began after a minister received a request for help from a mother and her children who had not eaten in over a day; that the minister supplied the mother and children food from her own pantry; and that the next day the church began a food pantry ministry.
- C. Council found that the property is located north of Milton along Union St. Extended within a Coastal Area which calls for a variety of uses; that the property is located within the GR General Residential Zoning District; that there is one house located on the property; that the house will be used for the preparation and storage of the food; that the two sheds in the back will be demolished due to their condition; and that the Applicant is proposing the addition of a pole barn to be used for food storage.
- D. Council also found that the DelDOT Service Level Evaluation (SLE) did not require a Traffic Impact Study (TIS); that an entrance only access is proposed at the northern section of the horseshoe driveway; that an exit only is proposed for the other entrance to the property; that there will be six extra parking spots in addition to the driveway for incoming cars; that the distribution will only be held one day a week from 9:00 a.m. until 1:00 p.m.; that since COVID, the distribution is done in a drive thru model where nobody gets out of their vehicle; that for the day of distribution the volunteers use a walkie talkie system; that as vehicles arrive, the volunteers relay how many people are in the family; that volunteers in the building bring out bags of food, which were already prepackaged for the family size in need; that the volunteers place the food in the vehicle; that the vehicle then leaves with their food; that the driveway can accommodate about 12 vehicles; that on distribution days, there will be volunteers at the entrance and exit of the site to help manage traffic flow; and that on distribution day, there are about 12-15 volunteers present.
- E. Council further found that the Planning and Zoning Commission found that this serves an essential public purpose; that it is limited in nature and would not adversely affect neighboring properties; that it is appropriate for the location; that the conditions that were imposed were limited to just distribution which indicates there will be no loitering; that there will be no parking along Route 5; that lighting shall be inward facing; that the dumpsters will be screened; that all storage will be indoors; that a lighted 2'x3' sign, located on the building is requested; and that the Final Site Plan is subject to the review and approval of the Planning & Zoning Commission.
- F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9), as amended, and Conditions (10a. – l.), Council found that:
  - 1. This use is for a community food bank serving the area around Milton and northeastern Sussex County. It is a 501(c)(3) organization that relies upon in-kind donations of canned and packaged goods and monetary donations.
  - 2. The food pantry began on a small scale in 2014. It grew to the point where it currently provides food to approximately 50 families, with an all-volunteer staff of 10-12 people. There is an established need for this service in this area of Sussex County.

- 3. The food pantry has grown to the point where it needs a centralized building for storage, organization, and distribution. Currently, the food is stored in refrigerators, freezers, and garages in homes owned by volunteers. There is also outdoor storage at a community church. By having one centralized location, the Applicant will be able to operate more efficiently in an appropriate location.**
- 4. This proposed use satisfies the stated purpose for granting a Conditional Use: it has a public or semi-public character, and it is essential and desirable for the general convenience and welfare of Sussex County and its residents.**
- 5. This use will be limited in nature and will not adversely affect the neighboring properties or neighborhood. It will be a food pantry, or food storage and distribution center. No meals will be offered for consumption on-site and it will be prohibited from becoming a soup kitchen or similar operation. There was testimony in the record from the Applicant that the food pantry will only occur on limited days in any given week, and the process is very organized.**
- 6. The use is limited to the existing dwelling and that will be converted to offices and space to organize food donations for distribution and an additional pole building. The property will generally maintain its residential appearance at all times except for days when food distribution occurs. The pole building will also be permitted on the site for additional space to store food awaiting distribution.**
- 7. The location along Route 5, just north of Milton, is an appropriate location for this limited type of use. Route 5 is considered a major collector roadway by DelDOT, which makes it an appropriate location for this use.**
- 8. The property is in the Coastal Area according to the Future Land Use Map within the Sussex County Comprehensive Plan. The Coastal Area permits a variety of uses, including commercial uses that are more intensive than this food pantry.**
- 9. There were numerous letters in support of this operation at this location from the Town of Milton, area churches, the Milton Community Foundation, and other organizations and individuals supporting not only the need for this operation but also the proposed location for it. While there was opposition to the location of the food pantry, the stated concerns will be mitigated by the conditions placed upon this use.**
- 10. The Conditional Use is approved subject to the twelve (12) conditions (a. – l.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**