

ORDINANCE NO. 2415

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NONPROFIT BOARDING HOME FOR FEMALE VETERANS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of May 2015, a Conditional Use application, denominated Conditional Use No. 2022 was filed on behalf of Home of the Brave Foundation, Inc.; and

WHEREAS, on the 30th day of July 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of August 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2022 be approved with conditions; and

WHEREAS, on the 15th day of September 2015, 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. 2022 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 Cedar Creek Hundred, Sussex County, Delaware, and lying northwest of Sharps Road (Road 200), 0.6 mile northeast of Coastal Highway (Route One), and being more particularly described as follows:

BEGINNING at a point on the northwesterly right-of-way of Sharps Road (Road 200), a corner for these subject lands and lands, now or formerly, of MBT Land Holdings, LLC; thence north 49°01'34" west 1,119.79 feet to a point; thence north 40°19'58" east 196.62 feet to a point; thence south 48°51'03" east 1,114.99 feet to a point on the northwesterly right-of-way of Sharps Road; and thence by and along the northwesterly right-of-way of Sharps Road 193.33 feet to the point and place of beginning, said parcel containing 5.0 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 female housing shall be in two separate buildings as identified on the Preliminary Site Plan.**
- B. As proposed by the applicants, the housing will be on a temporary or transitional basis. There shall not be any permanent residency on the site, except as may be necessary for support staff.**
- C. As a result of this approval, the maximum number of residents at the facility shall be 31 veterans including both male and female veterans.**
- D. The use shall comply with all Sussex County parking requirements.**
- E. The site shall comply with all requirements of the Sussex Conservation District.**
- F. The site shall comply with all requirements of the Delaware Department of Transportation (DelDOT).**
- G. 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. 2415 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15TH DAY OF SEPTEMBER 2015.



**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 Home of the Brave Foundation, Inc. for a Conditional Use of land in an AR-1 Agricultural Residential District for a nonprofit boarding home for female veterans to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 5.0 acres, more or less. The property is located northwest of Sharps Road (Road 200) 0.6 mile northeast of Coastal Highway (Route One) (911 Address: 6632 Sharps Road, Milford) Tax Map I.D. 330-12.00-11.01.**

- B. Council found that DelDOT commented that the intended expansion is considered to have no impact on traffic generation; that there is no accident history at this location; that the site distance for the existing entrance is beyond the maximum required; and that DelDOT requires no further review or analysis of this application.**
- C. Council found that the Sussex Conservation District commented that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that only minor on-site drainage improvements will be necessary; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service; and that a Concept Plan is not required.**
- E. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that James A. Fuqua, Jr., Esquire with Fuqua, Yori and Willard, P.A. was present with Jessica Finan at the Council hearing on behalf of the Home of the Brave Foundation, Inc., and that Mr. Fuqua was also present at the Planning & Zoning hearing with several of the Foundation Board members and Michael Cotton of Cotton Engineering, LLC; that they stated that they are proposing a traditional housing facility to provide housing, food, transportation, and employment and counseling assistance; that the current Sharps Road facility currently serves 16 residents; that a few years ago, the Foundation filed a Special Use Exception application for a facility near Milford and received some opposition; that another site was found within the City of Milford and opened as a temporary facility; that the temporary facility is only adequate for such a temporary use; that the application site contains 5.0 acres with adequate frontage; that the existing men's facility is located to the rear of the acres and has 5 residential units to provide housing for 15 veterans; that the facility has an on-site septic and on-site well; that this application proposes two (2) two (2) story dwellings to house 8 female veterans in each dwelling with a 24 hour caregiver; that the dwellings will be built in two (2) phases; that the County Comprehensive Land Use Plan places this site in a Low Density Area where single family residential use is permitted; that the site could be developed with a similar density; that the use meets the purpose of the AR-1 Agricultural Residential District and the purpose of a Conditional Use; that the use is of a public character; that the site is surrounded by agricultural lands; that there should be no negative impact on the neighborhood; that the site has been utilized for 19 years for the housing for male veterans; that the maximum number of residents will be 31 veterans with caregivers/staff; that buses are used for transportation since the residents do not drive; and that an individual will not stay at the facility for more than 6 to 9 months.**
- F. Based on the Planning and Zoning Commission's Findings (1 through 8) and Conditions (A – G), Council found that:**
- 1. The Applicant is proposing a traditional housing facility to provide housing, food, transportation, employment and counseling assistance to female veterans of the United States Armed Forces. The housing will be on a temporary or a transitional basis until the veterans can find more permanent housing.**
 - 2. The use is of a public or semi-public character in that it provides a service to veterans of the United States Armed Forces residing in Kent and Sussex Counties. This is an important service to these veterans.**
 - 3. The application is for a site that has been utilized for approximately 19 years for similar housing purposes. The female veteran housing will be an expansion on the same site, but in two separate housing structures.**

- 4. The site is surrounded by agricultural uses. The use will not adversely affect neighboring properties or the uses that occur on nearby properties.**
- 5. The site will have little or no impact upon traffic or area roadways.**
- 6. The application received support from the Walter L. Fox Post No. 2 of the American Legion and the Executive Director of the Delaware Commission of Veterans Affairs.**
- 7. There was unanimous support in the County Council Chambers for the application and no parties appeared in opposition to it.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to seven (7) conditions (A – G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**