

ORDINANCE NO. 2417

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL LANDSCAPING MATERIALS, STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.68 ACRES, MORE OR LESS

WHEREAS, on the 5th day of June 2015, a conditional use application, denominated Conditional Use No. 2024 was filed on behalf of Stockley Materials, LLC; 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. 2024 be approved with conditions; and

WHEREAS, on the 15th day of August 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. 2024 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southeast of Lewes – Georgetown Highway (Route 9) 0.3 miles southwest of Coastal Highway (Route One) and being more particularly described as follows:

BEGINNING at a point on the southeasterly right-of-way of Lewes – Georgetown Highway (Route 9), a corner for these lands and lands, now or formerly, of Renate Helena Coursey; thence South 24°28'47" East 221.10 feet to a point; thence North 65°31'13.25" East 3.75 feet to a point; thence South 35°33'10" East 100.00 feet to a point; thence South 52°46'15" West 235.00 feet to a point; thence North 24°28'47" West 371.00 feet to a point on the southeasterly right-of-way of Lewes – Georgetown Highway; and thence North 65°31'13" East 206.25 feet along the southeasterly right-of-way of Lewes – Georgetown Highway to the point and place of beginning, said parcel containing 1.68 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 landscaping material storage and sales.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign not to exceed 32 square feet per side shall be permitted.**
- D. The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturdays. No receiving of materials before 8:00 a.m. shall be permitted.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. All materials shall be stored in bins on a concrete or hot mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties, or adversely affect groundwater on the site.**
- I. The site shall be fenced and gated. The gate at the entrance shall be off-set from U.S. Route 9 to allow vehicles to still pull off of the U.S. Route 9 right-of-way if the gate is closed.**
- J. Landscaping shall be required along the easterly and southerly property lines subject to the approval of the Planning and Zoning Commission.**
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2417 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 Stockley Materials, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for commercial landscaping materials, storage and sales to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.68 acres, more or less. The property is located southeast of Lewes-Georgetown Highway (Route 9) 0.3 mile southwest of Coastal Highway (Route One) (911 Address: None Available) Tax Map I.D. 334-5.00-192.00, 193.00, 194.00.**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “E” of U.S. Route 9 Lewes-Georgetown Highway will not change as a result of this application.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it will not be necessary for any off-site drainage improvements; that it may be possible that onsite 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 property is located in the West Rehoboth Expansion Area; that wastewater capacity is available if the proposed use does not exceed 1.0 Equivalent Dwelling Unit (EDU) of sewer assessment per parcel; that if the proposed use is expected to exceed 1.0 EDU per parcel, additional information should be provided and a capacity review completed prior to approval; that each parcel has been provided with a 6-inch sanitary sewer lateral located along each parcel’s road frontage; that conformity to the West Rehoboth Expansion Area Planning Study will be required; that prior to moving or demolishing an existing home or commencement of site work on Parcel 192 and 193, a proper disconnection of sewer service must be completed by a Sussex County licensed plumber; that proper disconnection includes issuance of a disconnection permit and inspection by County personnel; 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 Kenneth Adams, Manager for Stockley Materials, LLC, was present with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP, Mark Davidson of Pennoni Associates, Inc., and Robert Stickels, Vice President of Marketing for Stockley Materials, LLC, and they stated that the site includes three properties containing 1.68 acres, more or less; that the zoning is AR-1 Agricultural Residential; that the area across Route 9 to the north is zoned C-1 General Commercial; that a Delmarva Power substation exists to the west of the property; that the current location of the use exists to the west in The Vineyards project and it is their intent to relocate to this site; that public sewer is available through the County; that private water exists on the site; that various commercial uses exist across Route 9; that a 10-foot wide dirt lane separates the substation from this**

property; that they are proposing an entrance on the westerly side of the frontage; that storage bins for mulch, stones, etc. will be placed along the perimeter; and that the existing home on the premises may be used for a temporary office for the business.

F. Council further found that the Applicant stated that two employees are normally on the site during business hours; that they anticipate a maximum of three employees when busy; that they will be providing sales and display of pavers, patio displays, etc. on the site; that stormwater management facilities are proposed along the rear of the property; that the property will be fenced and gated; that a 32 square foot sign is intended; that they have been in business for 9 years near Stockley on U.S. Route 113 and at their current location on Route 9 for 3 years; that their customer base is landscapers and landowners; that they are proposing to move from their current location since they currently lease, and since the business is expanding and needs additional space; that a minimum amount of security lighting is needed since the site will be fenced; that the County pump station next to their current site is being expanded and has impacted the business on the current site; that normal business hours are from 7:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturdays; that the business has been successful; that the owner of the 10-foot lane is unknown; that their proposed fencing will not impede the lane; that the speed limit along Route 9 is reduced at this location; that this location should be safer than the existing location; that no grinding will be performed at this facility; that they may sell Christmas trees and firewood in the off-season; and that the gate will be off-set allowing vehicles to get off of Route 9 to open the gate.

G. Based on the Planning and Zoning Commission's Findings (1 through 7) and Conditions (A – K, as amended by Council), Council found that:

- 1. The property is located along U.S. Route 9, which is classified by the Delaware Department of Transportation as a major collector road. The site is opposite an existing C-1 General Commercial District and is next to a Delmarva Power Substation. The area in general is a mixed use area that includes existing residential and commercial uses.**
- 2. This application represents the relocation of an existing business from across U.S. Route 9 to the proposed location. As a result, it will not generate any increase in traffic on U.S. Route 9.**
- 3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscape material storage and sales facility is consistent with the underlying agricultural zoning.**
- 4. Public sewer is available to the site from Sussex County.**
- 5. The use will not adversely affect the nature of the area or neighboring properties.**
- 6. The intended use of the property as a material storage and landscaping sales facility is of a public or semi-public character that will benefit the residents and visitors of Sussex County.**
- 7. 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 eleven (11) conditions (A – K), as amended by the Sussex County Council, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**