

ORDINANCE NO. 2515

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE BUILDING, STORAGE YARD AND CRUSHING OF CONCRETE FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS

WHEREAS, on the 20th day of January 2017, a conditional use application, denominated Conditional Use No. 2083, was filed on behalf of Richard H. Bell III; and

WHEREAS, on the 22nd day of June 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of July 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2083 be approved with conditions; and

WHEREAS, on the 25th day of July 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. 2083 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 Georgetown Hundred, Sussex County, Delaware, and lying on the south side of Lewes-Georgetown Highway (Route 9), approximately 1,731 feet west of Park Avenue, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 5.97 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 uncrushed/pre-crushed concrete currently located on the site shall be removed and the site cleaned up of all existing uncrushed/pre-crushed concrete within 45 days. No other concrete shall be accepted on the site for crushing. Concrete currently existing on the site may be crushed on-site during this 45-day period. Upon the expiration of the 45-day period, all further crushing shall cease. No other wood or metal chipping or grinding shall occur and no other materials, including concrete, wood and metal, shall be accepted at the site for crushing or recycling.**
- B. During the initial 45-day period only, crushing operations shall only occur between the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday. Crushing operations shall be prohibited after the expiration of the initial 45-day period. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonably interfere with events occurring there.**
- C. Applicant shall be permitted to store crushed concrete in a 40' x 100' area which shall be shown on the Final Site Plan. The overall height shall not exceed thirty (30) feet.**
- D. Landscaping or solid fencing shall be installed such that all concrete, stone and/or pool or other equipment storage shall be completely screened from adjacent residential dwellings and public view. The landscaping or solid fencing shall be shown on the Final Site Plan.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. Water shall be available at all times to control dust within the site.**
- G. One lighted sign shall be permitted. It shall not be greater than 32 square feet per side.**
- H. The Applicant shall comply with all roadway and entrance improvements required by DelDOT. The site's entrance shall be approved by DelDOT as a commercial entrance.**
- I. The Applicant shall not advertise or display products within the front yard area except in the form of landscaping beds and planters.**
- J. There shall be no parking within the front yard setback.**
- K. The location of all storage areas, including crushed concrete, stone and pool storage, shall be designated and shown on the Final Site Plan.**

- L. Failure to comply with any condition contained herein shall invalidate the Conditional Use.
- M. 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. 2515 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF AUGUST 2017.

**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 Richard H. Bell, III to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office, storage building, storage yard and crushing of concrete for a contracting business to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.97 acres, more or less (located on the south side of Lewes-Georgetown Highway (Route 9), approximately 1,731 feet west of Park Avenue) (Tax I.D. No. 135-15.00-79.03) (911 Address: 22592 Lewes-Georgetown Highway, Georgetown).
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Richard H. Bell III and Jennifer Bell were present on behalf of the application at the public hearing before the Planning & Zoning Commission and Richard H. Bell III was present at the public hearing before the Sussex County Council; that the current crushing operation is in violation of the Sussex County Zoning Code; that the Applicant has owned the site since 2005; that he rents out the residence located on the site; that Mr. Bell stated that his primary business is Clean Cut Interlock Pavers; that he wants to recycle concrete to use as a base underneath new projects; that the crushing will not be daily; that the crushing has a sprinkler system for dust control and they try to crush when it is raining; that five (5) to ten (10) trucks per day may access the site to dump rubble; that the material mainly comes in from a dump truck; that there was a letter of support from an adjoining neighbor; that the crusher is 275 horsepower; that the crusher is at the back of the property and near a stormwater management pond; that there is no processing of wood; and that a wood chipper makes more noise than a crusher.
- C. Applicant also offered that he will get a water truck to hose down the road as needed; that the hours of operation for dumping are Monday – Friday 7:00 am to 5:00 pm; that the hours of operation for crushing will be Monday – Friday 9:00 am to 4:00 pm; that there is a thirty-two (32) square foot sign on site; that there are no plans to grow; that there is one (1) new employee who was hired to operate the crushing machine; that he has a total of twenty (20) employees; that they are good with all the conditions in the previous Conditional Use; that the crusher is a mobile unit and they would like to take it off-site; that they will register the unit with DNREC; that there will be a 20-foot wide landscape buffer on either side of the property; that the Applicant discussed the location of the site, the entrance to the site, stormwater management, and described where he proposes to place storage piles and where the concrete crushing will take place; that no Traffic Impact Study and no turn lanes were required; that DelDOT has specified the design of the entrance; and that he rents out the residence on the site.
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 4) and Conditions (5A through M), as amended, Council found that:

- 1. There are several Conditional Uses in this area and this site was previously approved for a Conditional Use for an office storage building and storage yard for the Applicant's contracting business that prior Conditional Use expired.**
- 2. The use for an office storage building and storage yard is consistent with other similar uses in this area of Route 9. These uses will not adversely impact neighboring properties, roadway or the community.**
- 3. With the conditions of approval, the uses of a concrete crushing and recycling facility will not adversely affect the neighboring properties, roadway or the community.**
- 4. This use promotes the goals of the Sussex County Comprehensive Plan by enhancing the environmental quality of Sussex County. It is also a use which has a public or semipublic character that is essential and desirable to the general convenience and welfare of Sussex County residents.**
- 5. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to fourteen (14) conditions (A – M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**