

ORDINANCE NO. 2339

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MICRO-DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.06 ACRES, MORE OR LESS (Tax Map I.D. 532-1.00-6.00)

WHEREAS, on the 20th day of June 2013, a conditional use application, denominated Conditional Use No. 1968 was filed on behalf of Ray Baker; and

WHEREAS, on the 12th day of September 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of September 2013, said Planning and Zoning Commission recommended that Conditional Use No. 1968 be approved with conditions; and

WHEREAS, on the 26th day of September 2013, 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. 1968 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 Little Creek Hundred, Sussex County, Delaware, and lying at the intersection northwest of Road 506 (Shockley Road) and northeast of Road 505 (Rider Road) and 730 feet south of Route 24 (Sharptown Road) and being more particularly described as the residual lands of the minor subdivision of lands of Claudia T. Bennett as recorded in Plot Book 113 Page 313 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 4.06 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 processed wastewater must be collected and treated off-site by a third party.**
- B. That all operations shall be contained within existing structures on the site.**
- C. No on-site sales shall be permitted.**
- D. No taverns or public tastings shall be permitted from the site.**
- E. As stated by the applicant, there shall not be any employees in the micro-distillery other than the applicant and his family.**
- F. Delivery of materials to and from the site shall occur between the hours of 8:00 a.m. and 4:30 p.m.**
- 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. 2339 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF FEBRUARY 2014.


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:

- 1. This is an application for a Conditional Use of land in an AR-1 Agricultural Residential District for a micro-distillery, to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.06 acres, more or less, lying at the intersection northwest of Road 506 (Shockley Road) and northeast of Road 505 (Rider Road) and 730 feet south of Route 24 (Sharptown Road).**
- 2. DelDOT commented that a Traffic Impact Study is not recommended, and that the existing Level of Service A for Rider Road (Road 505) and Shockley Road (Road 506) will not change as a result of this application.**

3. **The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area # 4; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
4. **The Applicant, Ray Baker, was present and stated that his mission is to capitalize on newly enacted Delaware Laws aimed at the micro-distillery market; that recently, it was enacted to allow micro-distilleries which have a ceiling of 750,000 gallons; that the capacity he is proposing is nowhere near that; that Plant #1 will house all aspects of the five (5) year business model, i.e. manufacturing, finishing, barrel aging, packaging, and shipping; and that while the new laws allow for the public to visit the facility for tastings, the manufacturing facility does not accommodate taking advantage of this option for public tastings.**
5. **Plant #1 is expected to take two (2) years; no new road construction is required for entrances; increased UPS deliveries are expected to increase by about two (2) per week; ingredient deliveries will be by standard passenger trucks; for waste management, waste streams of grains will be sold as livestock supplements directly to local livestock farmers; there is no intent to press fruits and there will be no fruit pulp waste, which will reduce the waste generation and disposal costs; processed cooling water will be collected in a dedicated closed loop recirculating system; processed waste water will be collected and treated off-site by a third party that has not yet been identified; his proposal will utilize four (4) 26-gallon stills; the product lines he is looking to do are whiskey, bourbon, and straight bourbon; the business is not currently operational; no new structures are planned; and no expanded wastewater facilities are needed.**
6. **Based on the Planning and Zoning Commission's record incorporated herein, Federal and State laws require that the buildings be secured; each building will have double locked doors; once approval is granted, all entrances and access to buildings will be camera monitored; the Applicant does not object to fencing the buildings utilized for the distilling and storage; the Applicant has no plans for any**

employees in Plant #1; delivery and pickup hours will be limited to Monday through Friday from 8:00 a.m. to 4:30 p.m.; there is on-site water available; the Applicant does not feel that signage is needed; once the State ABC approves the use, the Applicant can apply for Federal permits; the site is approximately eight (8) minutes from the closest fire station; the Applicant will be bottling on the premises; bottles will be prepared to orders; it is not the intent to be storing bottled products; and barrels will be stored for two (2) years from the processing of bourbon.

7. The Applicant lives on this property and desires to start a small distillery in the existing outbuildings on the site; the use is consistent with the underlying AR-1 Agricultural Zoning; the use will incorporate locally grown agricultural products, including grains and fruits; the Applicant has stated that this is the initial phase of his distillery project; there will be no retail sales from this site or public access to the site; and, if the operation requires significant expansion, the Applicant has stated that he will move to a different site.
8. The use will not have an adverse effect on neighboring properties, public facilities, or roadways.
9. The application is being made under newly enacted Delaware Legislation permitting micro-distilleries whereby micro-distilleries will be reviewed, approved and regulated by the Office of the Delaware Alcoholic Beverage Control Commissioner.
10. No parties appeared in opposition to the application and, other than the Applicant, no parties appeared in support of the application.
11. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to seven (7) conditions (A through G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.