

**ORDINANCE NO. 2398**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEADERY MICROBREWERY FOR THE MANUFACTURING OF HONEY WINE AND TASTING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED AND BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS”**

**WHEREAS, on the 2nd day of December 2014, a conditional use application, denominated Conditional Use No. 2013 was filed on behalf of TBHM, LLC; and**

**WHEREAS, on the 12th day of March 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of April 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2013 be approved with conditions; and**

**WHEREAS, on the 21st day of April 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 V, Section 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2013 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as:**

**All that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred and Broadkill Hundred, Sussex County, Delaware, and lying north of Route 9 (Lewes Georgetown Highway) 600 feet east of Coolspring Road and south of Railroad and being more particularly described as follows:**

**BEGINNING at an iron pipe on the northerly right-of-way of Route 9 (Lewes Georgetown Highway), a corner for these subject lands and lands, now or formerly, of Harlan Gilbert York, Jr.; thence South 83°11'54" West 1,115.88 feet along the northerly right-of-way of Route 9 to a point; thence North 14°53'00" 38.70 feet along lands, reportedly, now or formerly, of Penn Central Railroad to a point; thence North 75°17'00"**

East 1,132.12 feet along said railroad to an iron pipe; thence South 06°47'51" East 194.21 feet along lands, now or formerly, of Harlan Gilbert York, Jr. to the point and place of beginning, and containing 2.99 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. Because this property is divided by Cool Spring Branch, a wetlands delineation must be obtained, with all State and Federal wetlands shown on the Final Site Plan. No wetlands may be disturbed without an appropriate permit.
- B. The use shall be subject to all regulations of the Delaware Alcoholic Beverage Control Commission and Federal Brewery or Winery requirements.
- C. The use shall be subject to all DelDOT requirements for entrance and roadway improvements.
- D. There may be one lighted sign permitted on the property, not to exceed 32 square feet per side.
- E. 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. 2398 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF JUNE 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 TBHM, LLC to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a meadery microbrewery for the manufacturing of honey wine and tasting to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred and Broadkill Hundred, Sussex County, containing 2.99 acres, more or less, land lying north of Route 9 (Lewes Georgetown Highway) 600 feet east of Coolspring Road and South of the Railroad (911 Address: None Available) (Tax Map I.D. #334-4.00-34.00 (Part of) and 235-31.00-15.00).
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service of Route 9 will not change as a result 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 the necessity for off-site drainage improvements is not likely; that on-site drainage improvements will be required; and that no tax ditches are affected.

- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal 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.**
- E. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that John Talkington and Robert Walker were present on behalf of the application and stated that the one of the landowners was also present; that the Exhibit Booklet describes their intent to establish a meadery; that mead is a honey wine, similar to cider; that the process is similar to a winery; that yeast, yeast nutrients, and oxygen will be added to the mixture to start the fermentation process which takes approximately 3 to 4 weeks; that after that process has ended, the mead will be left to clear and age; that the aging process takes 3 to 6 months; that some of the mead will be aged in oak barrels like wine; that the mead is then filtered before packaging into bottles or kegs; that they hope to have approximately 800 cases processed in the first year; that they hope to be the first meadery in Delaware; that the closest meadery is in Baltimore; that they referenced Delaware Code for a microbrewery to show their intent to sell mead manufactured at this location in labeled barrels, bottles or other closed containers to importers licensed for delivery by them to persons inside and outside of Delaware, and to sell mead at this location for consumption on or off the premises; and that the mead sold for off-premises consumption shall be limited to a maximum of 5 cases per day to each retail customer.**
- F. Council further found that the Applicant stated that a tasting area will be provided on the premises; that they plan on selling mead by the glass, growler, keg, pint, or case; that the tasting room would be in the mead hall; that they are hoping to hire 5 to 10 employees; that business hours would be longer during summer months; that manufacturing, including bottling, hours are planned to be Monday through Saturday from 8:00 am to 10:00 pm; that retail hours are planned to be Monday through Saturday from 12:00 Noon to 10:00 pm, and Sundays from 12:00 Noon to 5:00 pm; that they will observe all major State holidays; that all bottling will be done by hand, not machinery; that if the business grows, as anticipated, they may be moving to a larger site at another location; that they plan on selling related merchandise such as t-shirts, sweatshirts, posters, mugs, glasses, signs and other knickknacks; that tours/tastings may operate one time per hour from 1:00 pm to 6:00 pm; and that they anticipate approximately 15 visitors on weekdays and 40 visitors on weekends.**
- G. Council also found that the Applicant stated that septic and water will be on-site; that processing waste will be properly disposed of; that they may have private parties on premises, which will be limited to 25 to 30 people; that they do not anticipate any impact on the community due to the size of the facility; that it is reported that they will create less wastewater than a family of two; that deliveries will be from UPS types of trucks, not 18 wheelers; that they would like to be able to erect signage consistent with a commercial or business use; that they hope to be able to reconstruct buildings on existing foundations; that two building exists, one of which was a Southern States building and the other was a storage building; that they are proposing to provide customer parking on the easterly side of Coolspring Branch, with a pedestrian bridge for access to the site across Coolspring Branch; that a new building could be built on the easterly side of Coolspring Branch; that a church exists across Route 9 from the site; that the Delaware Alcoholic Beverage Control laws have changed and do not require a specific distance from churches; that there are no wetlands issues; and that their concern in remodeling or rebuilding the buildings are the setbacks.**
- H. Based on the Planning and Zoning Commission's Findings (1 through 5) and Conditions (A through E) and the record created before the Sussex County Council, Council found that:**

- 1. This site is appropriate for a small and limited business use. It is an irregular shaped parcel bordered by Route 9, a railroad and a B-1 property. As a result, it is not reasonable to be used as a residential property. However, it is appropriate for a conditional use, with conditions and limitations that can be included with a conditional use approval.**
- 2. The use will be consistent with neighboring and adjacent properties and uses, including a B-1 property to the east. There are also other small conditional use businesses in the vicinity of this property.**
- 3. The use is of an agricultural nature, producing wine from locally produced honey, fruit and spices. As a result, it supports local agriculture.**
- 4. The use will promote the growing culinary and winery tourist industry in Sussex County.**
- 5. This use will be regulated by the Delaware Alcoholic Beverage Control Commission and Title 4 of the Delaware Code regarding production requirements, sales, hours of operation and all other aspects of the mead production and sales.**
- 6. 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 five (5) conditions (A – E) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**