

**ORDINANCE NO. 2451**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A MICROBREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5,000 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 28th day of October 2015, a conditional use application, denominated Conditional Use No. 2042 was filed on behalf of Beachfire Brewing Company, LLC; and**

**WHEREAS, on the 28th day of January 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of February 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2042 be approved with conditions; and**

**WHEREAS, on the 3rd day of May 2016, 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2042 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 at the southeast corner of Central Avenue and Johnston Street and being more particularly described as lot 45 Block 4 of the “George E. Shockley’s” Development, said parcel containing 5,000 square feet, 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 Applicant must comply with all State and Federal requirements for the brewery and tasting room operations.**
- b. There shall not be any outside storage of materials associated with the brewing operation. Any waste or spent materials from the brewing operation shall be stored inside the building until hauled away by appropriate means.**
- c. Any dumpster associated with the use shall be screened from view of neighboring properties and roadways.**
- d. The use shall comply with all parking requirements that are contained in the Sussex County Zoning Ordinance.**
- 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. 2451 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JUNE 2016.**

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**ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL**

**The Council found that the Conditional Use is appropriate legislative action based on the following Findings of Fact:**

- A. This is the application of Beachfire Brewing Company, LLC for a Conditional Use of land in a C-1 General Commercial District for a microbrewery to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5,000 square feet, more or less. The property is located at the southeast corner of Central Avenue and Johnston Street (911 Address: 19841 Central Avenue, Rehoboth Beach) (Tax Map I.D. 334-13.20-24.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service of Road 273 (Hebron Road) will not change as a result of this application.**
- C. 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 based upon the assumption that the total equivalent dwelling unit (EDU) sewer assessment does not exceed 4.0 EDUs; that the actual EDU assessment for the proposed use as a brewery is not known; that Ordinance 38 construction will not be required; that the parcel is served with a 6-inch lateral located along the parcel frontage on Johnston Street and the Applicant's Engineer/Architect shall determine whether sufficient capacity is provided or the installation of an 8-inch lateral shall be required; that installation of a larger lateral shall be performed at the Applicant's expense; that conformity to the North Coastal Planning Study will be required; that a Concept Plan is not required; that Best Management Practices or Industrial Permit is required; that in order to determine whether a Best Management Practices or Industrial Permit is required, the Applicant shall complete an Industrial Waste Program Survey and Questionnaire; and that the Applicant shall anticipate providing a sampling port and flow meter as part of the distillery process plumbing.**

- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Harold Dukes, Esquire of Tunnell & Raysor, P.A. was present on behalf of Beachfire Brewing Company, LLC with Harry Metcalfe at the Planning and Zoning Commission and Council hearings and that Patrick Staggs of Beachfire Brewing Company, LLC was present at the Planning and Zoning Commission hearing; that the site is zoned C-1 General Commercial; that they will lease the property on a yearly basis with automatic renewals from year to year; that the site is already improved by a pole building containing 1,500 square feet with a bathroom; that their primary intent is to establish a research developmental facility for testing and tasting of distilled flavors of craft beers; that a restaurant could have been built on the site without a public hearing; and that they are proposing a small tasting room containing approximately 390 square feet of public space with seating for 20 clients/customers and not a restaurant or bar.**
- E. Council also found that the facility will be a full service micro-brewery as brewed onsite and that brewing will be performed daily/year round; that they propose a 3 ½ barrel system for this site; that they anticipate processing 37 barrels of craft beer per month, which is only 11% of a typical brewpub licensed application; that spent grains from the processing/distilling operation will be shipped or picked up by a local farmer; that flow meters have already been installed; that they will have two (2) brewers and one (1) maintenance employee on site; that the site is just off of the bike trail and that they hope to attract some of the cyclists coming off of the trail; that bike racks will be installed; that deliveries will be at a minimum; that there will be limited distribution from this location since it is intended to be a testing facility; and that once they get their product line established, they hope to create a production facility at a larger site more centralized in the County.**
- F. Council also found that there are several storage and warehouse facilities in the immediate area; that they anticipate a minimal amount of traffic; that they are not aware of any proposed residential units being planned in the general area; that entry access will be from Central Avenue; that the parking lot is already paved; that the only outside improvements will be the propane tanks; that the Applicant has received agency approvals, are in compliance with Federal and State laws, and will obtain a liquor license; that signage will only be on the building; that the outside appearance of the building will appear to be a warehouse; that noise is minimal, an internal pump noise that should not be heard outside of the building; that there are no outside speakers; and that they will be using a steam-boiler with no odors discharged outside.**
- G. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7a through 7e), Council found that:**
- 1. This is an application for a micro-brewery in a C-1 General Commercial District.**
  - 2. In the C-1 General Commercial District, taverns, restaurants with alcoholic beverage services, bars and other commercial uses are permitted by right. This Conditional Use, except for the fact that the Applicant is manufacturing the beer on the premises as a primary use, is similar to permitted uses under the C-1 General Commercial regulations.**
  - 3. The Conditional Use is limited by the size of the property, the building already situated upon it and parking requirements. These factors limit the size and scope of the use and the Applicants have stated that they have no intention of expanding the use.**
  - 4. Aside from the brewing operations, the tasting area will be very small, with very few seats; this is a smaller public space for the consumption of alcohol than would be permitted within a restaurant under the property's C-1 General Commercial zoning.**

- 5. The brewing operations will not have an adverse effect on the neighboring properties or the community. The Applicants have stated that all the brewery operations will occur within the building and there are not any sounds or smells that will come from the building during these operations.**
- 6. The tasting area of the micro-brewery will not adversely affect neighboring properties, roadways or the community; it is small in scope and no different than other uses permitted under the C-1 General Commercial zoning.**
- 7. Based on 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.**