

ORDINANCE NO. 2487

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CRAFT DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS

WHEREAS, on the 10th day of August 2016, a conditional use application, denominated Conditional Use No. 2065 was filed on behalf of Keith Properties, Inc.; and

WHEREAS, on the 9th day of February 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of February 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2065 be approved with conditions; and

WHEREAS, on the 14th day of March 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 X, Subsection 115-71, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2065 located within the B-1 Neighborhood Business District portion of the property 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 Baltimore Hundred, Sussex County, Delaware, and lying at the southwest corner of Lighthouse Road (Route 54) and Fenwick Shoals Boulevard and being more particularly described in Plot Book 200, Page 36, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.22 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 a craft distillery as regulated by the Delaware Alcoholic Beverage Control Commission.**
- B. Signage shall be in accordance with the sign regulations that exist for the underlying B-1 District.**
- C. All State and Federal regulatory requirements shall be met.**
- D. The Applicant shall comply with all requirements of the Sussex County Engineering Department regarding any discharged wastewater in a County Sewer System.**
- E. Council should confirm with the Applicant whether this Conditional Use is intended to replace Conditional Use No. 1873 and Ordinance No. 2184. If so, part of Council's approval of this Conditional Use should be the cancellation of the prior one.**
- F. 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. 2487 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF MARCH 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 Keith Properties, Inc. for a Conditional Use of land in a MR Medium Density Residential District and a B-1 Neighborhood Business District for a craft distillery to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.22 acres, more or less (lying at the southwest corner of Lighthouse Road (Route 54) and Fenwick Shoals Blvd.) (Tax I.D. No. 533-19.00-753.00) (911 Address: 38016 Fenwick Shoals Blvd., Selbyville).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Richard Keith was present on behalf of Keith Properties, Inc. and that he stated that this is an existing winery; that the Applicant will be adding distillery equipment; that the existing buildings will be used; that the sign will be changed; that there will be no change to the existing use; that a blind factory and two restaurants are located in the building and will remain; that the proposed distillery will replace the existing winery; that the same delivery trucks will be used to load and unload material; that the same number of six employees will exist at the proposed distillery as they did at the existing winery; that the same method of shipping product out will be used; that there will be some onsite sales; that there will be an increased amount of wholesale shipping out of the proposed distillery; that the Applicant is still going through the ABCC process and a Conditional Use approval was the first step; that the proposed distillery is a small operation; and that the proposed distillery is specialized, not a major distilling business.**

- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6A through 6F), Council found that:**
- 1. This application is for property that is zoned B-1 and there are currently commercial uses and buildings on the property. In addition, the site is approved with a prior Conditional Use for a winery/store under CU #1873 and Ordinance # 2184. Under these circumstances, a distillery is appropriate for this site.**
 - 2. The use as a craft distillery is also approved and regulated by the Delaware Alcoholic Beverage Control Commission, and there are limitations on the volume of distilled spirits manufactured on the premises.**
 - 3. The use will be entirely within the space formerly occupied by the winery and it will use much of the equipment previously associated with the winery. As a result, there will not be any material change from the use that currently exists on the property.**
 - 4. The Applicant has stated that the use will not generate a significant amount of truck deliveries to or from the site. There will not be any more deliveries than would occur for a permitted use under the B-1 zoning of the site.**
 - 5. This use will not have an adverse impact on neighboring properties, roadways, or surrounding properties.**
 - 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to six (6) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**