

ORDINANCE NO. 2600

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.60 ACRES, MORE OR LESS

WHEREAS, on the 21st day of December 2017, a conditional use application, denominated Conditional Use No. 2127, was filed on behalf of Wine Worx, LLC; and

WHEREAS, on the 10th day of May 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of May 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2127 be approved with conditions; and

WHEREAS, on the 5th day of June 2018, 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 VI, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2127 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 on the west side of Blackwater Road, approximately 1,007 feet north of Burbage Road, and being more particularly described per the attached deed prepared by Scott and Shuman, P.A., said parcel containing 25.60 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. Events shall be strictly limited to the front portion of the parcel commencing at Blackwater Road (County Road 384) and running approximately 1228.94 feet. No events shall be permitted in the back portion of the parcel.**
- B. Concert type events for which there is charged admission shall be limited to Fridays, Saturdays and Sundays and shall end no later than 10:30 p.m. on Fridays and Saturdays and 6:00 p.m. on Sundays.**
- C. Food and beverage service and music or similar entertainment is permitted in conjunction with permissible agritourism activities and in compliance with the Sussex County Code.**
- D. Other events such as weddings, showers, parties, and benefits may be conducted on the premises and shall end no later than 9:00 p.m. except on Fridays and Saturdays when they must end by 10:30 p.m., and Sundays when they must end by 6:00 p.m.**
- E. Certain agritourism activities such as “barn parties and farm festivals” as set forth in 9 Del. C. §306(a) are permitted.**
- F. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
- G. Applicant shall be required to obtain a Fire Marshal rating for the building in which the events are held. Applicant shall comply with the Fire Marshal’s determination of the maximum number of persons allowed on the premises at any given time, but, in no event shall there be more than 200 people at any event.**
- H. Parking shall be in compliance with the Sussex County Code. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- I. All entrance locations shall be subject to the review and approval of DelDOT.**
- J. 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. 2600 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF SEPTEMBER 2018.

**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 Wine Worx, LLC for the consideration of the Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25.60 acres, more or less (lying on the west side of Blackwater Road, approximately 1,007 feet north of Burbage Road) (Tax I.D. No. 134-11.00-53.00) (911 Address: 32512 Blackwater Road, Frankford).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Adrian Mobilia was present on behalf of the application; that his Conditional Use request is to shore up the differences between what the State of Delaware farm winery license permits, i.e. activities, and what is permitted / not permitted on an AR-1 zoned property; that Mr. Mobilia stated he is requesting a Conditional Use for an event venue at a farm winery in order to continue planned activities; that they have been doing other things in addition to wine tastings to keep the customers' interest such as live entertainment, wedding and bridal showers, craft nights, family events, weddings, food trucks, etc. at the request of customers; that some events are indoors and some are outdoors; and that he was notified by the Planning and Zoning Department that some of the activities are not permitted on AR-1 property and that he filed a Conditional Use application.
- C. Council also found that they have an oversized septic system to accommodate weddings; that they have 54 dedicated parking spaces with additional overflow; that they plan to hold events for 20-150 people; that the internal limit is 200 people for outdoor events; that they are legally permitted to be open until 1:00 am; however, their internal policy is to close at 11:00 pm and cut off events by 10:30 pm; that they normally close by 6:00 pm or 7:00 pm; that they have three (3) full time employees and ten (10) part-time employees; that they have paid over \$7,300 in excise tax and \$2,200 to date to local charities; that they would like to continue what they are doing; and that live outdoor entertainment does use amplified sound on the patio.
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and revised Conditions (A through I), Council found that:
 1. The site is 26 acre parcel of land owned by the Applicant. It has County approval for a winery, and this is an extension of that agricultural use.
 2. The Applicant intends to hold events that are connected with the primary use as a winery, such as live entertainment, craft nights, weddings, birthday parties and similar events.
 3. The site will have 54 dedicated parking spaces, plus plenty of room for overflow parking.
 4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
 5. The Applicant testified that the existing customers have been asking to use the winery for these activities. This use will serve that need in Sussex County.
 6. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.
 7. No parties appeared in opposition to this application.
 8. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to ten (10) conditions (A - J), as amended by Council, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.