

ORDINANCE NO. 2382

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A DISTILLERY WITH TOURS/TASTING/RETAIL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,523 SQUARE FEET, MORE OR LESS

WHEREAS, on the 26th day of August 2014, a conditional use application, denominated Conditional Use No. 2002 was filed on behalf of Beach Bum Distilling, c/o I3A; and

WHEREAS, on the 20th day of November 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of December 2014, said Planning and Zoning Commission recommended that Conditional Use No. 2002 be approved with conditions; and

WHEREAS, on the 9th day of December 2014, 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. 2002 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

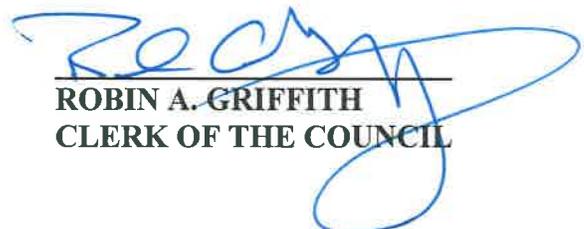
ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying at the southeast corner of Nassau Road (Route 14) and New Road (Road 266) and being more particularly described in Deed Book 4073, Page 262, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 24,523 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 use shall be limited to a distillery with tours, tasting and retail sales to be located within the existing building on the site.**
- B. The proposed use shall comply with all parking requirements associated with it. The parking required by Sussex County Code shall be clearly depicted on the Final Site Plan.**
- C. The Final Site Plan shall clearly show the location for all shipping deliveries associated with the use. The location shall be placed so that it does not interfere with neighboring roadways or parking for this use or other uses on the property.**
- D. As stated by the Applicant's representative, there shall be no on-premises sales of alcoholic beverages, but tastings will be permitted. All sales shall be for off-premises consumption only.**
- E. Only alcoholic beverages distilled on the site can be sold at the site.**
- F. The use shall comply with all requirements of the State and County for distillery operations, including requirements of the Sussex County Engineering Department regarding wastewater collection, conveyance and disposal associated with the process.**
- 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. 2381 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF DECEMBER 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:

- A. This is the Application of Beach Bum Distilling, c/o I3A to consider the Conditional Use of land in a C-1 General Commercial District for a distillery with tours/tasting/retail to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 24,523 square feet, more or less,**

land lying at the southeast corner of Nassau Road (Route 14) and New Road (Road 266) (911 Address: 32191 Nassau Road, Lewes) (Tax Map I.D. #334-5.00-74.01).

- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “B” of New 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 site 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 6.74 EDUs; noting that the actual EDU assessment is not known; that Ordinance 38 construction is not required; that the parcel is served with one 6-inch lateral located along the parcel’s frontage on Nassau Road, and that 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 shall be required; that a Concept Plan is not required; that Best Management Practices or Industrial Permit is required; that in order to determine whether Best Management Practices or Industrial Permit is required, the Applicant shall complete an Industrial Waste Program Survey and Questionnaire and submit to the Director of Utility Permits; that the Applicant shall submit said Survey and Questionnaire prior to requesting a building permit; that the Applicant will be advised of the appropriate application fee due after permit type is determined; 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 Dominick Schiavoni was present on behalf of Beach Bum Distilling (BBD), as an Associate of I3A Engineering Consultants, and stated that BBD will operate as a Delaware craft distillery, manufacturing a hand crafted product on premises; that the manufacturing process includes fermentation, distillation, barrel aging, and bottling; that fermentation and distillation will be done in small 50 gallon batches; that the distilled product will be hand bottled in batches of 30 gallons or smaller; and that the

distillery's products will be offered for sale exclusively in the retail space where tastings and limited tours will be available to the public.

- E. Council found that the planned receiving hours are 8:00 a.m. to 4:00 p.m.; that small package deliveries are expected to increase by 2 or 3 per week from providers such as UPS and FedEx in their standard residential delivery vehicles; that pallet sized deliveries are expected to increase by 2 per month by common carrier with lift gate service; that their planned operating hours for the retail space are Monday through Thursday from Noon to 6:00 p.m., Friday from Noon to 7:00 p.m., Saturday from 11:00 a.m. to 7:00 p.m., and Sunday from 1:00 p.m. to 6:00 p.m.; that operating hours could be reduced seasonally; that there are no plans to extend hours; that there are 15 regular parking spaces, one handicap parking space, and four short term parking (15 minute) spaces; that they anticipate that the number of visitors to the distillery will be from 10 to 15 per day on Monday through Friday and 20 to 40 per day on Saturday and Sunday; and that, due to the size of the retail area, they anticipate that a maximum of 25 persons could be reasonably accommodated during any private function or event.
- F. Council also found that the distillery is expected to create two full-time manufacturing jobs and two part-time retail jobs; that they received a Federal Distilled Spirits Plant permit on October 7, 2014; that they are in the process of creating a fire protection plan to submit for approval by the State Fire Marshal which will dictate how the operations are laid out and isolated within their space; that once the Conditional Use for the distillery is approved then they can proceed to apply for a Delaware Craft Distillery license from the Delaware Alcoholic Beverage Control Commission; that they have secured a three-year lease for the facility; that access to the facility is in the front of the building; that they will only be selling their products as made and processed on the premises; that they are only utilizing the first floor of the building; and that they have a similar distillery in the Town of Smyrna.
- G. Based on the Planning and Zoning Commission's Findings (1 through 4) and Proposed Conditions (A through G), Council found that:
1. The location of the site is zoned C-1 General Commercial. The C-1 Zoning District is appropriate for this type of use and the Conditional Use.

- 2. The Conditional Use will be on a small scale as proposed by the Applicant and will be housed within an existing building on the site.**
- 3. The Conditional Use will not adversely impact neighboring or adjacent properties or uses, and several letters were received by the County supporting the proposal. There was also testimony that the use as a small distillery would enhance the other uses that currently exist at this corner of New Road and Nassau Road.**
- 4. No parties appeared in opposition to the proposed Conditional Use.**
- 5. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use was approved subject to seven (7) conditions (A – G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**