

**MINUTES**  
**MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD**  
**30 Schuyler Place, 2<sup>nd</sup> Floor, Morristown, New Jersey**  
**May 7, 2020**  
**Held remotely due to Covid-19**  
**1-201-546-5293**  
**Guest Passcode: 842856#**

The meeting was called to order by Chairman Davis at 7:38 p.m. Members present:

Rick Desiderio  
Gregory Keller  
Harvey Ort  
Jay Thomson

Members with an excused absence:

Aimee Ashley Myers  
Thomas Galfo

Also in attendance:

Peter Nitzsche, Director, RCE  
Amy Mandelbaum, SADC  
Fred Backer  
Stuart Backer  
Derick Backer  
Bob Dillon  
Frank Pinto  
Nicole Voigt, Esq.

Staff in attendance:

Christine Marion  
Joseph Barilla  
Staci Santucci, Esq.  
Katherine Coyle

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The meeting began with the Pledge of Allegiance.

**COMPLIANCE WITH THE OPEN PUBLIC MEETINGS LAW**

Chairman Davis announced that in compliance with the Open Public Meetings Act, adequate notice of the meeting had been provided and filed with the Town of Morristown, the Morris County Clerk, the Clerk of the Board of Chosen Freeholders, the Daily Record and the Star Ledger and posted on the Morris County website.

## **APPROVAL OF MINUTES**

On motion of member Ort, seconded by member Desiderio, the Board members approved the March 5, 2020 Open Session meeting minutes. A roll call vote was taken.

Aye: Desiderio, Ort and Thomson

Nay: None Abstain: Keller and Davis

On motion of member Ort, seconded by member Desiderio, the Board members approved the March 5, 2020 Closed Session meeting minutes. A roll call vote was taken.

Aye: Desiderio, Ort and Thomson

Nay: None Abstain: Keller and Davis

## **NEW BUSINESS**

*Backer Farm, Mendham Township. – proposed new use.*

Nicole Voigt, Esq., attorney for BF Partners, LLC (the Applicant), introduced her clients and informed the Board that her clients wish to establish a farm-based brewery and distillery on the preserved farm premises. Mr. Frank Pinto, the Applicant's consultant, provided details of the proposal.

The new uses will utilize the existing dairy barn, which is currently used for general storage. The interior of the barn will be renovated to establish two separate production areas and two separate tasting rooms. Parking will be provided in the existing graveled areas of the farm. The brewery will obtain and utilize a Limited Brewery License, while the distillery will obtain and utilize a Craft Distillery License.

The Applicant intends to grow at least 51% of the grain for the brewery and at least 51% of the grain for the distillery. The grain will be grown on the home farm as well as on farms operated by the Backers as part of their farm management unit, comprised of approximately 80 tillable acres in the Mendham / Chester area. Ingredients and production records for each batch of beer and spirits will be maintained electronically. This will enable for annual reporting of the ingredients and their weight.

The Backer Family requests that the CADB permit the operation to even if a crop is not successful in the first year. Given the uncertainties with barley growing, and the quality being acceptable for malting, this is a major risk with this proposed operation.

For this reason, the Backer Family requests that the CADB's approval permit the operation to open and use imported grains if the operation proves to be unsuccessful in its first year's grain harvest. Testing from Hartwick College can be provided to prove the quality of the grains at harvest.

Ms. Coyle referred the Board members and the Applicant to copies of a Staff Report, which had been provided to the Board members and the applicant prior to the meeting. She then proceeded to provide staff comments and recommendations.

Ms. Coyle stated that Paragraph 2 of the Deed of Easement states: “The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.”

The SADC has interpreted the Deed of Easement to mean the following with respect to operations such as wineries, breweries and distilleries:

- Processing, packaging, storage and sales are permitted on the preserved farm if the majority of the ingredients are produced on the farm. The SADC interprets that to mean that at least 51% of the products are grown on the farm management unit. The SADC would permit imported ingredients in case of crop failure.
- At least 51% of the annual gross sales of the retail farm market shall be generated from the sales of agricultural output of the farm management unit. The remaining annual gross sales of the retail farm market may be achieved through the sale of related commodities.
- The primary purpose of any function held on a preserved farm shall be related to the sale of the agricultural output. Events where the primary intent is to market and sell the farm’s output are permitted on preserved farmland, but other social gatherings (parties, weddings, life celebrations, catered events, corporate events, etc.) are not permitted.

Ms. Coyle stated that staff was recommending the following approval conditions:

- At least 51% of ingredients (exclusive of water) used by the brewery and distillery shall be grown on the farm management unit.
- The primary purpose of any function held at the brewery and distillery shall be related to the sale of the agricultural product. Functions such as parties, weddings, life celebrations, catered events, corporate events, etc. are not permitted.
- The hours of operation listed in the proposal are not part of this approval.
- For the first five (5) years, the Applicant shall provide (1) production records, including a complete copy of documents submitted to the state under the Limited Brewery License and the Craft Distillery License, (2) FA-1 forms, and (3) annual grain yields.

- The operation must comply with the Limited Brewery License and Craft Distillery License laws and any other applicable federal, state and local laws and regulations.

The Board members asked the Applicant several questions and discussed the proposal.

On motion of member Keller, seconded by member Desiderio, the Board approved the application and directed staff to draft a resolution memorializing the decision for the June 4, 2020 meeting. A roll call vote was taken.

Aye: Desiderio, Keller, Ort and Davis

Nay: None Abstain: None

Recused: Member Thomson recused himself and did not participate in the vote.

At this point, the members of BF Partners, LLC, Ms. Voigt and Mr. Pinto left the meeting.

### **OPEN TO THE PUBLIC**

There were no comments from the public.

### **CLOSED SESSION**

Pursuant to P.L. 1975 Ch. 231, the Open Public Meetings Act, Chairman Davis announced that in compliance with the Open Public Meetings Act, the Morris CADB considered closing the open portion of the meeting in order to discuss matters related to the purchase, lease or acquisition of real property, and litigation in Closed Session. On motion of member Ort, seconded by member Desiderio, the Board voted to conduct a Closed Session. A roll call vote was taken.

Aye: Desiderio, Keller, Ort, Thomson and Davis

Nay: None Abstain: None

### **RETURN TO MEETING**

The meeting reopened to the public at 8:26 p.m.

### **ACTIONS RESULTING FROM CLOSED SESSION**

No actions were taken.

### **REPORT OF DIRECTOR & ATTORNEY**

There was no further report.

### **RIGHT TO FARM**

There were no RTF matters to review.

### **CORRESPONDENCE**

There was no correspondence to review.

**OLD BUSINESS**

There was no old business to review.

**OPEN TO THE PUBLIC**

There were no comments from the public.

**ADJOURNMENT**

There being no further business, on motion of member Ort, seconded by member Keller, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "K. Coyle". The signature is written in a cursive, slightly slanted style.

Katherine Coyle  
Director