

IN THE MATTER OF	*	BEFORE THE
<u>SAMUEL AND MICHAELINE YAFFE</u>	*	
AND SPARKS-GLENCOE COMMUNITY	*	BOARD OF APPEALS
PLANNING COUNCIL, PETITIONERS FOR	*	
SPECIAL HEARING ON THE PROPERTY	*	OF
LOCATED AT 2800 MONKTON ROAD	*	
RAYMOND AND SANDRA FRANK,	*	BALTIMORE COUNTY
LEGAL OWNER AND RESPONDENT	*	
INVERNESS BREWING, LLC, RESPONDENT	*	Case No.: 19-541-SPH

* * * * *

**ORDER ON MOTIONS FOR RECONSIDERATION
AND CORRECTED AND RESTATED ORDER**

This matter comes before the Board of Appeals for Baltimore County ("Board") on Motions for Reconsideration filed by counsel for Petitioners and by counsel for Caroline Foster Owens, Richard and Adele Reinhardt and by Deputy People's Counsel, seeking revisions to the August 26, 2022 Order of the Board in this matter. A Response to the Motions for Reconsideration was filed by counsel for Respondents.

A public deliberation was held on October 26, 2022, at which the Board ruled to deny each of the Motions for Reconsideration.

Under the Board Rule 10, any party may file a motion for reconsideration. Under Board Rule 11, the Board may revise an order in the event of fraud, mistake or irregularity. There was no showing of fraud, mistake or irregularity, nor was there any newly discovered evidence or change in law, which may have provided further basis for revising the Board's decision.

The Board held that its Order was supported by competent and complete testimony, and further held that no party raised an appropriate basis for the Board to revise its Order.

The Board also recognized that in two limited instances its Order contained language inconsistent with what the Board intended and will correct that language in the below order to clarify any confusions or ambiguity that may have arisen.

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent
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ORDER

THEREFORE, IT IS THIS 21st day of November, 2022, by the Board of Appeals of
Baltimore County

ORDERED that the Motion for Reconsideration filed by Petitioners Samuel and
Michaeline Yaffee and the Sparks-Glencoe Community Planning Council is **DENIED**; and it is
further

ORDERED that the Motion for Reconsideration filed by Caroline Foster Owens is
DENIED; and it is further

ORDERED that the Motion for Reconsideration filed by Richard J. Reinhardt and Adele
Reinhardt is **DENIED**; and it is further

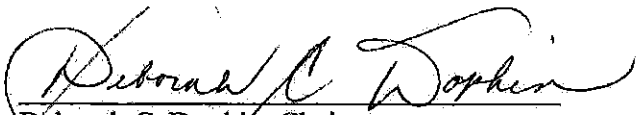
ORDERED that the Motion for Reconsideration filed by Deputy People's Counsel is
DENIED; and it is further

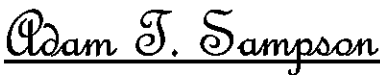
ORDERED that the Order dated August 26, 2022 be corrected by deleting the words
“and Ms. Owens” from the last sentence on page 12; and by amending and restating Condition
No. 3 on page 16 by deleting the word “loud”, such that Condition 3 shall read “Music is
permitted, but amplified music is not permitted.”

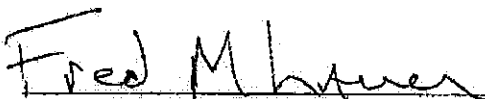
In the matter of: Samuel and Michaeline Yaffe and
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Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Chair


Adam T. Sampson


Fred M. Lauer



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 21, 2022

Christopher D. Mudd, Esquire
Adam M. Rosenblatt, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

Richard J. Reinhardt, Esquire
220 Bosley Avenue
Towson, Maryland 21204

Mark S. Dachille, Esquire
Huddles Jones Sorteberg & Dachille, P.C.
10211 Wincopin Circle, Suite 200
Columbia, Maryland 21044

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: In the Matter of: *Samuel and Michaeline Yaffee and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent*

Case No.: 19-541-SPH

Dear Counsel:

Enclosed please find a copy of the Order on Motions for Reconsideration and Corrected and Restated Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

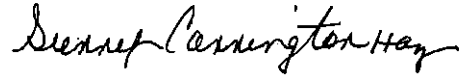
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

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Very truly yours,



Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Raymond and Sandra Frank/Inverness Brewing, LLC
Samuel and Michaeline Yaffe
Sparks-Glencoe Community Planning Council
Caroline Foster Owens
Richard and Adele Reinhardt
Lawrence and Deborah Serra
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

IN THE MATTER OF	*	BEFORE THE
<u>SAMUEL AND MICHAELINE YAFFE</u>	*	BOARD OF APPEALS
AND SPARKS-GLENCOE COMMUNITY	*	OF
PLANNING COUNCIL, PETITIONERS FOR	*	BALTIMORE COUNTY
SPECIAL HEARING ON THE PROPERTY	*	Case No.: 19-541-SPH
LOCATED AT 2800 MONKTON ROAD		
RAYMOND AND SANDRA FRANK,		
LEGAL OWNER AND RESPONDENT		
INVERNESS BREWING, LLC, RESPONDENT		

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on an appeal of a January 21, 2021 Opinion and Order of the Administrative Law Judge and a February 16, 2021 Order on Motion for Reconsideration (collectively, the "2021 Order"), both regarding a Petition for Special Hearing to determine if the Administrative Law Judge Order of August 8, 2017 (the "2017 Order") and the uses approved as a special exception for a Class 8 Farm Brewery known as Inverness Brewery in the R.C. 2 zone had been exceeded.

The Petition was filed by Samuel and Michaeline Yaffe and the Sparks-Glencoe Community Planning Council by their attorney, Michael R. McCann, Esquire. The Respondents/Owners are Raymond and Sandra Frank and Inverness Brewing, LLC, who were the original petitioners and are represented by Christopher D. Mudd, Esquire and Adam M. Rosenblatt, Esquire, of Venable, LLP. Also participating were Caroline Owens, represented by Mark S. Dachille, Esquire, and Richard and Adele Reinhardt, represented by Mr. Reinhardt, who is an attorney. Carole S. Demilio, Deputy People's Counsel for Baltimore County also participated.

The Board conducted a hearing on preliminary motions on June 8, 2021, on which a public deliberation was held and those motions ruled upon on July 27, 2021. Four days of hearings on substantive matters were held on April 26 and 27, 2022 and May 11 and 12, 2022.

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A public deliberation was held on July 12, 2022. All hearings and deliberations were held virtually as provided by the Board's rules.

Issues raised in the Petition for Special Hearing are:

1. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events or gatherings" under the Administrative Law Judge's Opinion and Order dated August 8, 2018?
2. Whether the property owner has held more than eight (8) "temporary promotional events or gatherings associated with the brewery per year" permitted under the Opinion and Order dated August 8, 2018?
3. Whether the use of the subject property otherwise complies with the Opinion and Order of August 8, 2018?
4. Whether good cause exists to modify the restrictions in the Opinion and Order dated August 8, 2018?
5. Whether the use of the subject property is a "Brewery, Class 8" as defined in §101.1 of the Baltimore County Zoning Regulations?
6. Whether the use of the subject property is "agricultural support use" under §1A01.2.C.30 of the BCZR?
7. Whether the use of the subject is a "Brewery, Class 7 or 8" under §1A01.2.C.30 of the BCZR?
8. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events, such as beer tasting or public gatherings associated with the brewery" under [sic] §1A041.2.C.30.j of the BCZR?
9. Whether the use of the subject property otherwise complies with the BCZR?
10. Whether the use of the subject property otherwise complies with applicable policies, laws and regulations?

For the reasons discussed below, the Board of Appeals finds that the subject property operates as a Brewery, Class 8, pursuant to BCZR 1A01.2.C.30.j, and the operation is not in violation of the Opinion and Order dated August 8, 2017 in Case No. 2017-0327-X, subject to the conditions therein. However, the Board found that the Respondents/Owners are in violation of the site plan filed in that case.

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FACTUAL BACKGROUND

Inverness Brewery is located at 2800 Monkton Road on an RC 2 farm property (the “Property”) owned and operated by Raymond and Sandra Frank. The 92.325 ± acre farm is bounded by three roads: Markoe Road, Monkton Road, and J.M. Pearce Road, and is improved by the Frank’s residence as well as by a barn and other agricultural outbuildings. Mr. and Ms. Frank acquired the Property in 2001 and have made substantial improvements since then. Primary access to the Frank’s residence is from Monkton Road, while access to the Brewery is from Markoe Road. There is also a farm road with access to J.M. Pearce Road.

In 2017, the Franks applied for, and were granted, a special exception to operate a brewery, Class 8, including accessory retail and wholesale distribution of beer produced on the premises, and to hold temporary promotional events (sometimes herein referred to as “Events”). At that time, ALJ Beverungen found that while concerns over noise, traffic, odors and a commercial operation in a rural setting were valid, most special exception uses have such adverse impacts, citing *Montgomery County v. Butler*, 417 Md. 271 (2020).

The ALJ granted the special exception subject to several conditions;

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached hereto.
3. Prior to issuance of permits Petitioners must submit for approval by the DOP a schematic plan showing the location of any dumpster used for this facility, which must be screened in accordance with the requirements of the landscape manual.

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4. The brewery shall be permitted to produce, sell and/or distribute no more than 5,000 barrels of malt beverage per year.
5. The hours of operation shall be restricted to Thursday-Sunday from 12 noon to 8:00 p.m., although certain special events (discussed below) may be held Thursday-Sunday from 12 noon to 10:00 p.m.
6. Petitioners may hold no more than eight (8) temporary promotional events or gatherings associated with the brewery per year.
7. After the proposed brewery has been in operation for one year, the restrictions contained herein are subject to modification following a public hearing, upon a showing of good cause.

In December, 2019, the Petition for Special Hearing was filed by Mr. and Ms. Yaffe and the Sparks-Glencoe Community Planning Council. On January 21, 2021, Administrative Law Judge Mayhew issued an Opinion and Order providing an interpretation of the original conditions imposed by ALJ Beverungen. Upon Motion for Reconsideration, ALJ Mayhew issued an Order denying Respondent Frank's motion, denying Petitioner's Cross-Motion, and granting Dr. Owen's Cross-Motion.

Respondents noted a timely appeal to the Board of Appeals of both of ALJ Mayhew's decisions. The Board heard the case *de novo*.

APPLICABLE LAW

Baltimore County Zoning Regulations

§101 Definitions:

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or

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distributing, provided that any such activity shall be secondary to the principal agricultural operations.

BREWERY, CLASS 8 — A brewery located on a minimum of ten acres with a Class 8 (farm brewery) license, which sells and delivers malt beverage manufactured in a facility on the licensed farm with an ingredient from a Maryland agricultural product grown thereon, and produces no more than 15,000 barrels of malt beverage per year.

§1A01.2.A - Use regulations. RC 2

Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.

§1A01.2.C.31. (j) – Uses permitted by Special Exception in the RC 2 zone

Brewery, Class 7 or Class 8; including accessory retail and wholesale distribution of beer produced on the premises. Temporary promotional events, such as beer tasting or public gatherings associated with the brewery, are permitted subject to approval by the Administrative Law Judge or Board of Appeals on appeal.

§1A01.5. - Inconveniences arising from agricultural operations.

Any dwelling, business or use in or near an R.C.2 Zone may be subject to inconveniences or discomforts arising from agricultural operations, including but not limited to noise, odors, fumes, dust, the operations of machinery of any kind during any 24-hour period (including aircraft), the storage and disposal of manure and the application, by spraying or otherwise, of chemical fertilizers, soil amendments, herbicides and pesticides. The County shall not consider an agricultural operation to be a public or private nuisance if the operation complies with these regulations and all federal, state or County health or environmental requirements; except that during the period between 10:00 p.m. and sunrise as defined by the National Weather Service for sunrise on the particular day in the Baltimore area, an agricultural operation may not fire or otherwise discharge an air cannon or similar device that releases a loud shotgun-like blast within 500 feet of an adjacent residential dwelling.

§501.7. - Affirming, modifying or reversing of decisions.

The decision and order of the Board of Zoning Appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the order appealed from and direct the issuance of a permit for such

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modified use as it may deem proper, subject, however, to zoning regulations and restrictions.

§502.1. - Conditions determining granting of special exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones.

§502.2. - Protection of surrounding properties; agreement governing special exception.

In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties.

Also, BCZR § 500.6. - Authority to conduct hearings; BCZR § 500.7. - Petitions for public hearing; notice; and, Ann. Code of Md. Alcoholic Beverages Sections 2-140 and 2-210.

WITNESS TESTIMONY

On the first day of hearings, the Board heard argument on preliminary matters filed by counsel: a Motion to Dismiss and for Summary Judgment, and a Motion to Quash, filed on

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behalf of Inverness, as well as responses thereto. The Board denied the Motions to Dismiss and for Summary Judgment. As to the other matter, the Board reserved judgment until the conclusion of the hearing. The issue of the subpoenas or Motion to Quash was not raised during testimony, therefore the Board finds that the issue is MOOT.

Hearings on the merits commenced on April 26, 2022. As in the hearing before Administrative Law Judge Mayhew, the testimony of Petitioner's witnesses and that of Respondents witnesses were in direct contradiction of one another, particularly with regard to noise and traffic.

After opening statements from counsel, Petitioner's counsel, Mr. McCann called Sandra Frank as his first witness. Ms. Frank testified to the history of the farm since she and her husband acquired it in 2001, and which, in 2002, they subjected to a conservation easement. In 2017, the Franks filed a Petition for Special Exception for a Farm Brewery, Class 8, which was granted by ALJ Beverungen in Case No. 2017-0327-X.

Ms. Frank testified to the operation as envisioned at the 2017 hearing, which she described as a small system and level of production, to be located in a part of the stable area, together with a tasting room. The brewery was not to be rented for private parties, nor did she envision expanding the operation. Upon questioning by Mr. McCann, Ms. Frank testified that a 'walk-in' cold box was added for storage, and that there is also a trailer for food sales, which sales are fully licensed. Both the cold box and the trailer are moveable.

Mr. McCann also asked about access to the brewery. Ms. Frank responded that originally, Monkton Road provided access, but for safety reasons, that entrance was closed and Markoe Road became the main access to the brewery. When asked about parking, she

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indicated that at the original hearing, the paddock area was proposed for overflow parking. She also testified that hops grown on the farm are used to brew the beer produced there.

When questioned about live music being played at the brewery, Ms. Frank acknowledged that there is live music, but not loud music. She indicated that having live music is standard practice at farm breweries in this area. She was also questioned about promotional events held at Inverness, as permitted and as limited by the ALJ's order; and whether or not these exceeded eight (8) occasions a year. She testified that there are no more than eight Events a year.

In response, Ms. Frank indicated that during day-to-day operations, fewer than 150 people visit the site, and attendance is highly dependent on weather. With the advent of COVID, weekend attendance increased because the brewery provided an outdoor, family friendly venue. When questioned by Mr. Rosenblatt, Ms. Frank confirmed that the 2017 order limited the number of barrels to be produced, but did not limit either the number of beer taps or having live music. Ms. Frank also testified that the hours of operation are from noon until 8 p.m. Thursday through Sunday and until 10 pm for Events. She also testified that in response to neighbors' complaints about loud music, Inverness has limited the type of music to small groups, rather than bands, and has added a sound meter to determine decibel readings. Ms. Frank also said that there are no violation notices, despite complaints to, and inspections by, Baltimore County.

Though there was much questioning by counsel and the Board, Ms. Frank did not define a temporary promotional event, though she did attempt to distinguish some of the activities incident to an Event from those of day-to-day operations.

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Mr. Yaffe then testified. He lives at 16109 Markoe Road directly across from the brewery and has resided there for 30 years on a 10.6 acre parcel. He introduced numerous photographs of his property and drone photographs of the Inverness property. His complaints centered on intrusively loud music, causing him to retreat to his basement as the only area of his home that was quiet. Mr. Yaffe has observed heavy traffic, and feels that it overburdens Markoe Road, which is a narrow two-lane country road. He used aerial photographs taken by a drone to illustrate the large number of cars parking on the site in the paddock areas. He maintains that the traffic and noise are not in character with the “pastoral neighborhood”.

Joseph Wiley, a community planner and preservation specialist with the Office of Planning was called to testify. His responsibilities involve inspections of agricultural properties and compliance with easements. In that capacity, he prepares information for the Agricultural Preservation Board and provides staff support to that Board. As such, he is familiar with Inverness Farm and visited the site. He testified that approval of the brewery by the Agricultural Board was based on his recommendation. He acknowledged receiving complaints from neighbors raising zoning issues, and that regulation of zoning issues are not related to the agricultural easement. He also confirmed that in 2021, upon application from the Franks, the Agricultural Preservation Board approved an enlarged parking area at the farm brewery.

The next witness was Renee Hamidi, currently the Executive Director of the Valleys Planning Council. Prior to August, 2021, she was director of the Manor Conservancy for which she was authorized to speak before the Board. Ms. Hamidi testified at length about the advertising and online promotions on social media for activities at the brewery, including some

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involving cover charges or ticket requirements. She prepared a spreadsheet based on her research to support the assertion that there were more than eight 'Events' held at the brewery and that there is no apparent way to distinguish a non-event from an Event.

Caroline Owens, of 16413 J. M. Pearce Road testified next. Her home is located across that road from the farm road serving the Inverness Farm. Ms. Owens testified to the loud music that had previously been an issue, but acknowledged that since the 2021 Order, loud music is no longer a problem.

Ms. Owen's major concern is that J.M. Pearce Road not be used for ingress and egress for the brewery, but be limited to farm use. An associated issue involves a large area that has been cleared and graded, as shown by a drone photograph. Her concern was that this area was being leveled to park cars visiting the brewery or equipment associated with Mr. Frank's business. Her request was that the cleared area be limited to agricultural buildings, storage and farm equipment. At this point, counsel for Inverness, stipulated that these conditions were agreeable. As such, they will be incorporated in the Board's findings and order.

Adele Reinhardt testified at length. She and her husband live at 16209 Markoe Road, opposite the brewery barn and entrance road, which they can see from their property. Over time, Ms. Reinhardt's initial support for the brewery paled as traffic, crowds and noise increased. She attributed the traffic on Markoe Road to the Frank's closing the Monkton Road entrance. Her personal observations were of crowds every weekend, congestion on the road and the occurrence of several accidents, though she did acknowledge the weather dependent nature of these conditions.

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Respondent's first witness was Kevin Atticks of Grow and Fortify, a private consultant supporting vintners and breweries to insure that they comply with state and local permitting. He also provides education about brewing and promotes local beers. Mr. Atticks has represented the Brewers Association of Maryland of which Inverness Farms is a member. Mr. Atticks was involved with the Baltimore County Office of Economic Development and Tourism in advocating, adopting and amending alcoholic beverage laws to permit farm breweries, including recent changes to the state alcoholic beverage statute.

Mr. Atticks testified about operations at farm breweries in the area as typically occurring on a farm with agricultural activities and buildings, brewing beer and storing beer on site, and offering beer products for sale. Ordinarily there is a lot of open space for public gathering, music and on-site parking. Mr. Atticks explained that there is no definition in the law for a special event. He further testified that a farm brewery is considered agriculture and agricultural tourism. In fact, Baltimore County's Visitor's Guide promotes agri-business and tourism and features local farm breweries.

Upon cross-examination, Mr. Atticks testified that the state licensing law no longer addresses promotion events or the need to obtain a permit for these. Upon questioning from Mr. Dachille, Mr. Atticks stated that the current state law has no reference to parking, live music, amplified music or walk-in refrigeration units. In response to Ms. Demilio, he stated that a Class 8 Farm Brewery must be on a farm, but there is no minimum acreage specified.

Respondent's next witness was Michael Lenhart, an expert in traffic and transportation planning who was hired by the Franks in 2021 to conduct a traffic study and look at traffic generated by the brewery. Mr. Lenhart studied the traffic during peak volume hours in both the

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autumn and the spring. He conducted a 'level of service' analysis using critical lane volume method. Mr. Lenhart concluded that levels of service on all the roads serving the brewery functioned at good levels of service, either level A or B. He described the roads as typical rural roads.

Next, Josh Curley, a consultant with Phoenix Noise and Vibration, an acoustical specialist testified as to noise levels emanating from the brewery. Measurements were taken between Friday afternoon and Monday morning at three locations, including at the property line and in the barn. As stated in his report, at the property line, noise levels from the brewery did not exceed standards set forth in COMAR §26.02.03.02. and .03.

Following Mr. Curley's testimony, a number of area residents testified in support of the brewery, noting specifically that neither sound nor traffic posed a problem.

Ryan Frank, Respondents' son who is involved in the farm operation, testified, recalling the condition of the Property when his family acquired it, the improvements they have made, and the farming operation. He identified crops grown on the farm as barley, corn and hops. There are cattle on the farm and bee hives for honey.

Mr. Frank also testified that with the brewery, areas previously occupied by livestock are now where hops are grown. He identified a wide array of equipment used on the farm, which he believes is typical and comparable to that on other farms.

When asked about community outreach in connection with the brewery, Mr. Frank said the family had engaged in outreach with neighbors to identify their concerns, noting that he encountered opposition from the Yaffes and Ms. Owens.

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Mr. Frank also told the Board of changes made at the brewery to address concerns: changing music from bands with drums to solos or small groups; adding sound monitors with an alarm system; having parking attendants; and, providing an on-site storage and planting screening to shield nearby properties.

Mr. Frank also addressed the Markoe Road entrance as being used rather than on Monkton Road, because it is safer for pedestrian, vehicular and truck traffic.

He described Inverness as a family friendly, beautiful venue with permitted and licensed food and beverage sales and live music.

Upon cross-examination, he said he considers an Event an occasion where the brewery is open after 8:00 p.m., where there could be a fee or cover charge; however, to him the number of people, type of music, advance advertising or release of a new beer are not indicators of an Event.

In rebuttal Mr. McCann called neighbors living on Markoe Road and on Old York Road, both of whom raised the issues of persistent noise and traffic. Jillian Temple, of J.M. Pearce Road testified that pre-COVID, Inverness was a quiet operation, but during 2020, became so busy that the music, traffic and headlights leaving the site, all negatively impacted her home.

DISCUSSION

In this case, as in all zoning matters that come before the Board of Appeals, the Zoning Regulations provide the framework within which the Board may act. In adopting the R.C. regulations, the Baltimore County Council made it clear that the agricultural industry is an integral part of the Baltimore County economy and created the RC 2 zone to foster conditions

In the matter of: Samuel and Michaeline Yaffe and
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Case No.: 19-541-SPH

favorable to continued agricultural use. As such, agricultural uses are afforded preferential treatment over other permitted uses. A Class 8 Brewery is a principal use permitted by special exception, and the use includes, expressly, temporary promotional events as the same may be approved by the ALJ.

The Board, like the County Council, also recognizes that farms are income producing commercial businesses. (See BCZR §101, definition of Agriculture, commercial.) Agricultural operations often create noise, traffic and odors. In fact, the §1A01.5 of the zoning regulations addresses the “Inconveniences arising from agricultural operations.” Anyone who chooses to live in close proximity to a farm has been put on constructive, and in some cases, actual, notice of these. In fact, Baltimore County Code § 35-3-303 requires a contract for the sale of real estate in or within 500 feet of the RC 4 zone contain a notice of these inconveniences. The standard real estate contract adopted by the Greater Baltimore Board of Realtors includes that notice as part of a standard addendum attached to every contract. No one living in the RC zones can claim an agricultural operation constitutes a nuisance, if it complies with BCZR §1A01.5. The reality of a working farm belies the romanticized image and idyllic existence we are asked to embrace.

The scope of the Board’s determination in this matter is narrow, and is limited to the interpretation of whether the operation of the brewery violates the use as granted and as limited in Case No. 2017-327-X. As such, the Board’s role was not to retry the grant of the special exception, nor was it to consider issues relating to a conservation easement affecting the property. Despite much testimony attempting to limit parking (apparently based on the easement), the BCZR require *minimum* parking to be provided – rather than a maximum limit

In the matter of: Samuel and Michaeline Yaffe and
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Case No.: 19-541-SPH

on parking. The use of paddock areas to provide additional parking, particularly if managed by attendants, could mitigate traffic queuing on the local roads.

A Special Hearing Petition is effectively a request for declaratory judgment. (BCZR § 500.7, *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).) While the BCZR provides no specific criteria for the granting of a Request for Special Hearing, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing relief requested would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. Ct. Spec. App. (Sept. Term 2016).

Based on all the testimony and evidence presented to the Board, the Board concluded that the operation of Inverness Brewery does not violate the conditions imposed by the 2017 Order. To the extent traffic and noise are incident to that use, the Board concludes, as did the ALJ, that these are “inherent in the operation of a farm brewery...Most, if not all special exception uses have such adverse impacts”, citing *Montgomery County v. Butler*, 417 Md. 271 (210).

The Board also finds that site and building modifications have occurred that are not reflected on the site plan approved in 2017, and to that extent, Inverness is in violation of the approved site plan.

The Board also recognizes that it may impose additional conditions offered during the hearing or suggested by counsel to provide some mitigation to nearby property owners. (See BCZR §502.2.) In the course of the hearing or in post hearing memoranda, most of the conditions we are imposing were suggested or agreed upon by counsel.

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent
Case No.: 19-541-SPH

In this regard, the Board has determined that certain conditions should be added or modified to clarify the 2017 Order. The exhibits referenced below are those identified in and attached to the Post Hearing Memorandum submitted by Respondents' counsel, unless otherwise noted.

ORDER

THEREFORE, IT IS THIS 26th day of August, 2022, by the Board of Appeals of Baltimore County

ORDERED that that the decision of the Administrative Law Judge in Case No. 2017-0327-X dated August 8, 2017 shall be affirmed subject to the following modifications and conditions:

1. Condition No. 4 from the 2017 Order shall be modified, as follows: "The brewery shall be permitted to produce, sell and/or distribute no more than 2,500 barrels of malt beverage per year";
2. A promotional event (Event) is an occasion when the brewery is open until 10:00 o'clock p.m., rather than the otherwise permitted 8:00 o'clock p.m. closing; such Events are limited to no more than eight (8) per year, each lasting up to three (3) consecutive days;
3. Music is permitted, but loud amplified music is not permitted;
4. Retail sales other than beer products shall be limited as accessory;
5. Inverness will install a gate at or near the entrance from J.M. Pearce Road to the farm road on the Property (as those roads appear on Owens Exhibit 23-012) such that no traffic coming to or from or serving the brewery may enter or leave the Property onto J.M. Pearce Road.
6. The cleared area shown on Owens Exhibit 23-004 will not be used for brewery parking, and may only be improved with a pole barn or storage building the use of which will be limited to farm storage and equipment.
7. Inverness shall install a permanent sound meter (to be selected with the assistance of the sound expert who testified at the hearing) on the Property boundary line along Markoe Road at the closest point between that boundary line and the bank barn, in order to

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent

Case No.: 19-541-SPH

monitor the noise level from the brewery operations to avoid exceeding the decibel limits imposed by COMAR Section 26.02.03.03 and shall make sound readings available to the County or neighbors upon request;

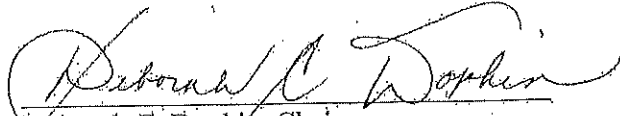
8. Inverness will limit parking for day-to-day operations to the two acre area depicted on Exhibit A, and will limit parking to the four acre area depicted on Exhibit A for promotional events, in lieu of the 5.7 acre area that includes the paved parking area and four paddocks, subject to the potential for Inverness to modify and/or increase these areas by filing a petition for special hearing and holding a public hearing regarding the request to demonstrate the need for such modification/increase, to the satisfaction of the ALJ;
9. Inverness will install fencing and hardwood trees in the location shown on Exhibit B, in order to provide additional screening of the parking area when viewed from Markoe Road;
10. Inverness will install an evergreen tree buffer in the location shown on Exhibit C, in order to screen the potential for headlights shining toward the residents at 16405 JM Pearce Road;
11. Inverness will install an evergreen tree buffer at the location shown on Exhibit D, in order to provide additional screening when viewing the brewery from Markoe Road;
12. Inverness will reconfigure its fencing around the bank barn, in accordance with Exhibit D, in order to keep brewery patrons farther from Markoe Road;
13. Inverness will install an "Inverness Brewery" sign in the location shown on Exhibit E, in order to direct patrons toward the brewery (rather than onto adjacent properties), subject to compliance with applicable law and obtaining all necessary approvals to install the sign;
14. Inverness will reconfigure its access to/from the parking area as shown on Exhibit F, in order to eliminate the use of the farm road north of the parking area, which will direct all traffic in and out of the brewery via the entrance/exit located along Markoe Road nearest to the bank barn, and plant additional screening in this area, per Exhibit F.
15. Within forty-five days of the entry of this order, Inverness will submit a site plan, over the seal of an engineer, surveyor or landscape architect, incorporating the modifications and restricted areas shown on Exhibits A through F, as well as the modifications made since 2017 or to be made pursuant to this order and which plan complies with the zoning checklist promulgated by the zoning office (<https://resources.baltimorecountymd.gov/Documents/Permits/Zoning/zonecklst.pdf>).
16. Inverness shall submit a zoning petition and be subject to a public hearing for any future modifications to the brewery or site plan.

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent

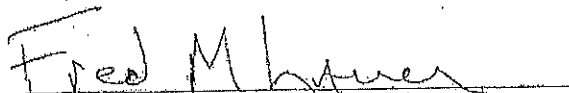
Case No.: 19-541-SPH

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Chair


Adam T. Sampson


Fred M. Lauer



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 26, 2022

Christopher D. Mudd, Esquire
Adam M. Rosenblatt, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

Richard J. Reinhardt, Esquire
220 Bosley Avenue
Towson, Maryland 21204

Mark S. Dachille, Esquire
Huddles Jones Sorteberg & Dachille, P.C.
10211 Wincopin Circle, Suite 200
Columbia, Maryland 21044

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: In the Matter of: *Samuel and Michaeline Yaffee and
Sparks-Glencoe Community Planning Council – Petitioners
Raymond and Sandra Frank – Legal Owner and Respondent
Inverness Brewing, LLC – Respondent*

Case No.: 19-541-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

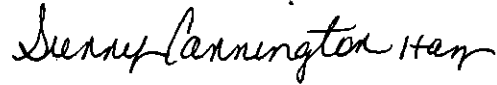
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

In the matter of: Samuel and Michaeline Yaffe and
Sparks-Glencoe Community Planning Council -- Petitioners
Raymond and Sandra Frank -- Legal Owner and Respondent
Inverness Brewing, LLC -- Respondent

2

Case No.: 19-541-SPH

Very truly yours,



Krysundra "Sunny" Cannington
Administrator

KLC/taz

Enclosure

Multiple Original Cover Letters

c: Raymond and Sandra Frank/Inverness Brewing, LLC
Samuel and Michaeline Yaffe
Sparks-Glencoe Community Planning Council
Caroline Foster Owens
Richard and Adele Reinhardt
Lawrence and Deborah Serra
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Debra Wiley

From: Debra Wiley
Sent: Monday, February 22, 2021 1:12 PM
To: 'Mudd, Christopher D.'; 'Michael McCann'
Cc: 'cjjbo@aol.com'; Peoples Counsel; County Council
Subject: Appeal to BOA - Case No. 2019-0541-SPH - 2800 Monkton Road
Attachments: 20210222125659302.pdf

Good Afternoon,

Please find attached correspondence in reference to an appeal to the Board of Appeals.

Thanks and have a great and safe day.

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Monday, February 22, 2021 12:57 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 02.22.2021 12:56:59 (-0500)

Queries to: adminhearingscpr@baltimorecountymd.gov



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

February 22, 2021

(Via Email):

CDMudd@Venable.com
Christopher D. Mudd, Esq.
Adam Rosenblatt, Esq.
Venable, LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

(Via Email):

michael@mmccannlaw.net
Michael R. McCann, Esq.
Michael R. McCann, PA
118 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS** – Petition for Special Hearing
Case No. 2019-0541-SPH
Property: 2800 Monkton Road

Dear Counsel:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 19, 2021. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,



A handwritten signature in black ink that reads "Paul M. Mayhew".

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw
Attachment

c: **See Email Addresses Below**
Caroline Foster Owens (cjbo@aol.com)

APPEAL

Petition for Special Hearing
Case No.: 2019-0541-SPH
2800 Monkton Road
10th Election District, 3rd Council District

Petition for Special Hearing – December 12, 2019

Zoning Description of Property (1 page)

Notice of Zoning Hearing - December 24, 2020

Certification of Publication – *The Daily Record* newspaper - published on January 7, 2020

Certification of Posting by Bruce E. Doak – December 19, 2020 and January 7, 2021

Entry of Appearance by People's Counsel – December 19, 2019

Attendance Report: First Day - (14 sheets) / Second Day – (18 sheets)

Zoning Advisory Committee Comments: (5 sheets)

Petitioner's Exhibits:

- (1) ALJ's Opinion and Order dated August 8, 2017
- (2) BCZR – RC2 Regulations
- (3) BCZR - § 101.1 (definitions)
- (4) Webster's Third New International Dictionary (definitions of "event," "gathering," "temporary," and "promotional")
- (5) Md. Ann. Code, Alcoholic Beverages § 2-210
- (6) General Assembly Floor Reports for SB 579 and HB 1126
- (7) Inverness Calendar of Events
- (8) Inverness Events
- (9) Aerial Photographs (5/18/19, 10/3/19, 10/5/19 and 10/10/19)
- (10) Inverness Private Parties and Other Businesses
- (11) Inverness Videos (4)
- (12) Inverness Manufacturer's License and Off-Site Permit
- (13) Inverness Applications for Special Event Permits
- (14) Spreadsheet of Events
- (15) Correspondence with Zoning Review re: live music entertainment permit
- (16) Correspondence with Liquor Board re: special beer festival license
- (17) Alcohol & tobacco Tax Report Fiscal Year 2019
- (18) Plans accompanying Petition for Special Exception and Letter to Agricultural Land Preservation Board
- (19) My Neighborhood Map
- (20) Aerial Photographs (Inverness and Yaffe Property)
- (21) Aerial Photographs (9/28/19)
- (22) Aerial Photographs (2/20/20)
- (23) Aerial Photographs (6/13/20)
- (24) Photographs of Private Party (10/5/19)

- (25) Advertisement for Car Show (11/2/19)
- (26) Decibel Level (11/2/19)
- (27) Photograph of Delivery Truck
- (28) Email correspondence to Inverness
- (29) Petition for Special Hearing (11/9/17)

Protestants' Exhibits:

- (1) Opinion and Order in Case No. 2017-327-X
- (2) November 5, 2019 Letter
- (3) November 19, 2019 Letter
- (4) Case No. 2019-0541-SPH Order
- (5) October 18, 2020 Letter
- (6) Sign in Sheet
- (7) Kevin M. Atticks CV
- (8) A&B – Case No. 2018-0195-XA Opinions
- (9) Farmacy Article
- (10) Case No. 2016-107-XA Opinion and Order
- (11) Sparks Glencoe Standing
- (12) Support Letters
- (13) Additional Support Letters
- (14) Revised Support Maps
- (15) Events
- (16) Checks
- (17) Tax Returns
- (18) Front of Barn
- (19) Markoe Road Decb Reader
- (20) Date/Time Stamp for Exhibit 19 Video
- (21) Date/Time Stamp for Exhibit 19 Video

Miscellaneous

•
Memorandum of People's Counsel for Baltimore County – November 17, 2020
Petitioners' Post-Hearing Memorandum - Michael McCann, Esq. –
November 30, 2020

Post Hearing Memorandum – Christopher Mudd, Esq. – November 30, 2020
Post Hearing Brief from Caroline Foster Owens – November 30, 2020

•
Memorandum in Reply to Respondent's Memorandum – Michael McCann, Esq. –
December 18, 2020
Reply Memorandum – Christopher Mudd, Esq. – December 18, 2020
Reply Brief from Caroline Foster Owens – December 18, 2020

•
Motion to Dismiss, or in the alternative, for Summary Judgment – Christopher Mudd, Esq. & Adam Rosenblatt, Esq. – January 14, 2020

Response to Motion to Dismiss – Michael McCann, Esq. – January 31, 2020

Cover Letter and Administrative Law Judge's Order on Motion to Dismiss and Response to Motion to Dismiss - – February 5, 2020

•
Motion for Reconsideration – Christopher Mudd, Esq. – January 25, 2021

Response from Caroline Foster Owens to Respondents' Motion for Reconsideration – February 8, 2021

Response to Motion for Reconsideration and Cross-Motion for Reconsideration – Michael R. McCann, Esq. – February 10, 2021

Cover Letter and Administrative Law Judge's Opinion and Order – January 21, 2021

Cover Letter and Administrative Law Judge's Order on Motion for Reconsideration – February 16, 2021

Notice of Appeal & Check #519246 for \$300 - Received on February 19, 2020 –filed by Christopher D. Mudd, Venable LLP

Cashier's Receipt #174869 – \$300 fee for Special Hearing

Carl Richards Jr

From: Carl Richards Jr
Sent: Thursday, May 28, 2020 12:34 PM
To: Amy Hicks Grossi
Cc: Michael Mallinoff
Subject: RE: Inverness Brewery (Farm Craft Food)

When approving an changes in a special exception plan we review for compliance and no conflicts.

From: Amy Hicks Grossi
Sent: Thursday, May 28, 2020 10:55 AM
To: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Kristin King <kking@baltimorecountymd.gov>; Drew Vetter <dvetter@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>
Subject: RE: Inverness Brewery (Farm Craft Food)

In another chapter of the Inverness saga...

The application is now being considered under state regs for a semi-permanent food operator license. This will require plumbing hook ups, etc., and a use and occupancy permit from Zoning. They have several hurdles to cross with Health and EPS regarding documentation and specs on fulfilling their requirements. After a meeting with Milana yesterday going over the new information from the applicant, we agreed that a U&O is required. It will be accessory to the farm brewery/ agricultural use, as defined by the farm brewery statute.

From: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Sent: Wednesday, May 6, 2020 2:49 PM
To: Amy Hicks Grossi <agrossi@baltimorecountymd.gov>; Kristin King <kking@baltimorecountymd.gov>; Drew Vetter <dvetter@baltimorecountymd.gov>
Subject: RE: Inverness Brewery (Farm Craft Food)

Yeah. It rolls once and stays.

From: Amy Hicks Grossi <agrossi@baltimorecountymd.gov>
Sent: Wednesday, May 6, 2020 2:44 PM
To: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Kristin King <kking@baltimorecountymd.gov>; Drew Vetter <dvetter@baltimorecountymd.gov>
Subject: Re: Inverness Brewery (Farm Craft Food)

If for some reason they are found in the future to be going house to house or selling curbside in a public street, they can be fined for not having a huckster license. Having a trailer on the farm that is a properly license food operation does not also require a huckster license.

Sent from my iPhone

On May 6, 2020, at 2:14 PM, Amy Hicks Grossi <agrossi@baltimorecountymd.gov> wrote:

Mike

I have read all the attachments for tomorrow's Inverness mtg and went back to the Code citations and do not agree that the trailer needs a Huckster license, per the most recent comments from a Health. Their food operation license covers the use per the definitions.

Sent from my iPhone

Begin forwarded message:

From: Ann Bostic <abostic@baltimorecountymd.gov>
Date: April 30, 2020 at 4:46:11 PM EDT
To: "invernessbrewing@gmail.com" <invernessbrewing@gmail.com>
Cc: Stephen Kirsch <skirsch@baltimorecountymd.gov>, Jacqueline Reszetar <jreszetar@baltimorecountymd.gov>
Subject: Inverness Brewery (Farm Craft Food)

Mrs. Frank,

Please see attached the plan review letter as promised. You must first respond to each comment and provide additional information for an approval of this new 48' mobile unit. The inspection and approval for use would only be scheduled and done after all requirements are met. Please provide Stephen Kirsch with your updated response.

Regards,

Ann M. Bostic, LEHS
Chief of Environmental Health Services
Baltimore County Department of Health
6401 York Road, 3rd Floor
Baltimore, Maryland 21212
410-887-3663
410-887-3392 (Fax)

abostic@baltimorecountymd.gov

www.baltimorecountymd.gov

[Follow HHS on Facebook!](#)

<image001.png>

Healthy people living, working, and playing in Baltimore County

Confidentiality Statement:

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

<SR0012472 - Inverness Brewing Mobile Unit - 2800 Monkton - Plans Review Letter - 4.30.2020 (002).pdf>

Carl Richards Jr

From: Michael Mallinoff
Sent: Tuesday, April 07, 2020 1:04 PM
To: Kristin King; Amy Hicks Grossi
Cc: Carl Richards Jr; Drew Vetter; Stephen Kirsch; Della Leister
Subject: RE: Inverness Brewing Response Coordination

Amy, Carl and I spoke.

I do hope he does not choose to operate the food truck without the proper approvals. There is an ongoing Appeal and too many eyes on this.

Mike

From: Kristin King <kking@baltimorecountymd.gov>
Sent: Tuesday, April 7, 2020 12:47 PM
To: Amy Hicks Grossi <agrossi@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Drew Vetter <dvetter@baltimorecountymd.gov>; Stephen Kirsch <skirsch@baltimorecountymd.gov>; Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Della Leister <dleister@baltimorecountymd.gov>
Subject: Inverness Brewing Response Coordination

Amy:

Mike and I just chatted about the Inverness Brewing food trailer dilemma. He, Carl and Stephen Kirsch from HHS are most familiar with this issue; it is a layered one that includes zoning questions, potential CE infractions as well as EPS and HHS approvals. It appears from their [website](#) that pizza is being served so I'm curious if this use is permitted from a zoning perspective. In Della's email below she indicates that it is permitted from her side of the house.

Once you have a chance to review the issues at hand, to ensure that the responses received on behalf of the County are consistent, is it possible for you and Mike to coordinate a response? That language can then be provided to HHS to respond to Mr. Frank's letter that is attached as well as to those individuals reaching out to Carl and Mike on behalf of the community and Councilman Kach.

From what I've gathered so far the process for new mobile unit approval:

- Step 1 – Zoning approval (ALJ hearing scheduled for April 16 but will have to be rescheduled)
- Step 2 – Groundwater approval
- Step 3 – Health approval on mobile trailer/food permit

Here are the nuts and bolts of the complaint (from Della/HHS):

- They may use the food trailer that is currently permitted.
- They may not use the new 46 ft. trailer that is not permitted, it has not been approved for use.
- The new trailer does not have tags to be used as a mobile trailer
- Many other concerns such as:

- The unit is a new **48 ft trailer**, which was **purchased without review**, which is a requirement. They have a smoker already in use for brisket, which is not on a **mobile unit**, and is not approved. They have also proposed using a brick pizza oven inside of a wooden structure that does not have a foundation, and it would be placed adjacent to the trailer with an exposed wall in the structure.
- On 3/12/2020, they were sent a letter via email indicating the requirement for Groundwater's approval for the commissary due to the new equipment and trailer, Zoning issues, MDE requirements for cooking equipment, and other installation issues.
- Requested the operator to contact Zoning for approval of the trailer on private agricultural property. On 3/19/2020 Carl Richards, Jr. from Zoning indicated via email, that a food trailer is not listed as permitted unless they are on a public road. Mobile units, whether a truck or trailer, are required to be mobile and not stationary in one place. Food truck licenses and huckster licenses are issued by PAI.
- Mobile units are required to use a licensed food service facility as its commissary for a source of water and disposal of water among other food preparation and storage needs. The brewery is not a licensed food service facility, and it is not permitted to be the source of water and disposal site as desired by the operators.
- Requested plumbing information has not been provided. This includes plumbing installation, water usage demands, and procedures for filling the potable water and disposing waste water.

Today Stephen Kirsch, plans reviewer for this project spoke with Mr. Frank over the phone. It was explained why a new approval from Groundwater is required for the commissary, due to the increased equipment and new trailer. Mr. Frank was instructed to ask Baltimore County Zoning about zoning concerns. Mr. Frank stated he is going to operate the trailer with or without the County's permission. He stated the County needs to get all of "its clowns together in one room and figure it out." Mr. Frank then hung up the phone.

Let me know if you have any questions. If helpful, I can organize a call with all internal parties as well.

Thanks team!



Kristin King

Project Manager, Office of the Deputy County Administrative Officer
Office of Baltimore County Executive John Olszewski, Jr.
Historic Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-1366

Carl Richards Jr

From: Drew Vetter
Sent: Tuesday, April 07, 2020 12:57 PM
To: Kristin King; Amy Hicks Grossi
Cc: Carl Richards Jr; Stephen Kirsch; Michael Mallinoff; Della Leister
Subject: RE: Inverness Brewing Response Coordination

Thanks so much Kristin. I have spoken with the Inverness folks a couple times. Based on the feedback I have received from the departments so far, it appears that he's got some work to do. All I want to do is get him some clear next steps to get into compliance for the sake of being responsive.

Appreciate it.

From: Kristin King <kking@baltimorecountymd.gov>
Sent: Tuesday, April 7, 2020 12:47 PM
To: Amy Hicks Grossi <agrossi@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Drew Vetter <dvetter@baltimorecountymd.gov>; Stephen Kirsch <skirsch@baltimorecountymd.gov>; Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Della Leister <dleister@baltimorecountymd.gov>
Subject: Inverness Brewing Response Coordination

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Mike and I just chatted about the Inverness Brewing food trailer dilemma. He, Carl and Stephen Kirsch from HHS are most familiar with this issue; it is a layered one that includes zoning questions, potential CE infractions as well as EPS and HHS approvals. It appears from their website that pizza is being served so I'm curious if this use is permitted from a zoning perspective. In Della's email below she indicates that it is permitted from her side of the house.

Once you have a chance to review the issues at hand, to ensure that the responses received on behalf of the County are consistent, is it possible for you and Mike to coordinate a response? That language can then be provided to HHS to respond to Mr. Frank's letter that is attached as well as to those individuals reaching out to Carl and Mike on behalf of the community and Councilman Kach.

From what I've gathered so far the process for new mobile unit approval:

Step 1 – Zoning approval (ALJ hearing scheduled for April 16 but will have to be rescheduled)
Step 2 – Groundwater approval
Step 3 – Health approval on mobile trailer/food permit

Here are the nuts and bolts of the complaint (from Della/HHS):

- They may use the food trailer that is currently permitted.
- They may not use the new 46 ft. trailer that is not permitted, it has not been approved for use.
- The new trailer does not have tags to be used as a mobile trailer
- Many other concerns such as:
 - The unit is a new **48 ft trailer**, which was **purchased without review**, which is a requirement. They have a smoker already in use for brisket, which is not on a **mobile unit**, and is not approved. They have also proposed using a brick pizza oven inside of a wooden structure that does not have a foundation, and it would be placed adjacent to the trailer with an exposed wall in the structure.

- On 3/12/2020 they were sent a letter via email indicating the requirement for Groundwater's approval for the commissary due to the new equipment and trailer, Zoning issues, MDE requirements for cooking equipment, and other installation issues.
- Requested the operator to contact Zoning for approval of the trailer on private agricultural property. On 3/19/2020 Carl Richards, Jr. from Zoning indicated via email, that a food trailer is not listed as permitted unless they are on a public road. Mobile units, whether a truck or trailer, are required to be mobile and not stationary in one place. Food truck licenses and huckster licenses are issued by PAI.
- Mobile units are required to use a licensed food service facility as its commissary for a source of water and disposal of water among other food preparation and storage needs. The brewery is not a licensed food service facility, and it is not permitted to be the source of water and disposal site as desired by the operators.
- Requested plumbing information has not been provided. This includes plumbing installation, water usage demands, and procedures for filling the potable water and disposing waste water.

Today Stephen Kirsch, plans reviewer for this project spoke with Mr. Frank over the phone. It was explained why a new approval from Groundwater is required for the commissary, due to the increased equipment and new trailer. Mr. Frank was instructed to ask Baltimore County Zoning about zoning concerns. Mr. Frank stated he is going to operate the trailer with or without the County's permission. He stated the County needs to get all of "its clowns together in one room and figure it out." Mr. Frank then hung up the phone.

Let me know if you have any questions. If helpful, I can organize a call with all internal parties as well.

Thanks team!



Kristin King

Project Manager, Office of the Deputy County Administrative Officer
Office of Baltimore County Executive John Olszewski, Jr.
Historic Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-1366

Carl Richards Jr

From: Carl Richards Jr
Sent: Tuesday, April 07, 2020 12:00 PM
To: Amy Hicks Grossi (agrossi@baltimorecountymd.gov)
Subject: FW: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

From: Carl Richards Jr
Sent: Monday, April 06, 2020 12:35 PM
To: Ryan Fried <rfried@baltimorecountymd.gov>; Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Subject: RE: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Ryan,

We figured out the address 2800 Monkton Road last week with the zoning history: Three zoning hearings: 2017-0327-X For Farm brewery, 2018-0076-SPH- by Frank to allow non-commercial parties on the property. Petition withdrawn 11/9/17. 2019-0541-SPH By protestants Samuel and Michealine Yaffe and the Sparks Glencoe Community Planning Council. Represented by : Mike McCann. Petition was advertised and posted for hearing on Thursday April 16, 2020 @ 10AM room 205 Jefferson Building 105 West Chesapeake Ave. Towson. At this time all hearings are postponed so this will probably be rescheduled; check with ALJ office 410-887-3868.

From: Ryan Fried
Sent: Monday, April 06, 2020 11:29 AM
To: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>; Julie Sanders <jsanders@baltimorecountymd.gov>
Subject: RE: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Hi All,

Just checking in to see if anything has been discovered about what is being proposed.

Ryan Fried
Senior Policy Advisor
Councilman Wade Kach
Baltimore County Council

District 3

From: Ryan Fried
Sent: Tuesday, March 31, 2020 10:56 AM
To: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>; Julie Sanders <jsanders@baltimorecountymd.gov>
Subject: RE: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Hi Mike,

It wouldn't be. The property is not a CZMP issue.

Ryan Fried
Senior Policy Advisor
Councilman Wade Kach
Baltimore County Council
District 3

From: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Sent: Tuesday, March 31, 2020 10:54 AM
To: Ryan Fried <rfried@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>; Julie Sanders <jsanders@baltimorecountymd.gov>
Subject: RE: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Sure. Do you think it may be a CZMP posting? I have copied Pete too just in case.

Mike

From: Ryan Fried <rfried@baltimorecountymd.gov>
Sent: Tuesday, March 31, 2020 10:52 AM
To: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Subject: FW: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Hello Michael,

Would you please have someone from zoning let us know what is being proposed at Inverness Brewing?

Ryan Fried
Senior Policy Advisor
Councilman Wade Kach
Baltimore County Council
District 3

From: Ryan Fried
Sent: Tuesday, March 31, 2020 10:00 AM
To: 'Fran Burns' <fran@boxwoodfarm.com>
Subject: RE: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

Hi Fran,

I'll check in with PAI and find out.

Take care,

Ryan Fried
Senior Policy Advisor
Councilman Wade Kach
Baltimore County Council
District 3

From: Fran Burns <fran@boxwoodfarm.com>
Sent: Monday, March 30, 2020 6:17 PM
To: Ryan Fried <rfried@baltimorecountymd.gov>
Subject: Zoning Notice Inverness Farm Brewery Sandy and Ray Frank

CAUTION: This message from fran@boxwoodfarm.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Ryan,

A zoning notice popped up at my neighbor's farm, Inverness Brewery. They are sneaky. They used to have too many weddings and late night loud music and the neighbors called them on it. So, they now have a brewery. There is a zoning notice that just popped up. I suspect they are trying to do something while everyone is preoccupied with the virus.

How can I find out what it says? It is dangerous to stop there.

Address is 16200 Markoe Rd, Monkton, MD 21111. The notice is posted on the Monkton Rd. side.

Can you help me get info re what it is about?

Stay safe and healthy.

Fran Burns
410 340 7676

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2800 Monkton Road)		
10 th Election District	*	OFFICE OF
3 rd Council District		
Raymond & Sandra Frank	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Samuel & Michaeline Yaffe, Sparks-	*	FOR BALTIMORE COUNTY
Glencoe Community Planning Council		
<i>Petitioners</i>	*	Case No. 2019-0541-SPH

* * * * *

ORDER

I have reviewed the Motion to Dismiss filed on behalf of Raymond and Sandra Frank, and the Response to Motion to Dismiss filed on behalf of Samuel and Michaeline Yaffe and the Sparks-Glencoe Community Planning Council, all of whom were parties to Case No. 2017-0327-X. I am persuaded that a Special Hearing under BCZR § 500.6 and 500.7 is appropriate for the limited purpose, as stated by the Petitioners, “for an *interpretation* of that Order [in Case No. 2017-0327-X] and the regulations on which it is based.” Response at p. 6 (emphasis in original). As emphasized by Petitioners, this hearing will not serve as a means of modifying Judge Beverungen’s Order, but only for the purpose of interpreting it.

THEREFORE, IT IS ORDERED this 5th day of **February, 2020**, by this Administrative Law Judge, that the Motion to Dismiss, or in the Alternative for Summary Judgment, be and hereby is DENIED.

IT IS FURTHER ORDERED that a Special Hearing be scheduled as soon as practicable.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.

Signed _____
 PAUL M. MAYHEW
 Managing Administrative Law Judge
 for Baltimore County

CASE NO. ~~2020~~019-05411-SPH
Oct-27th - 11:00
28th - 10:00CHECKLIST

✓Order

Support/Oppose/
Conditions/
Comments/
No CommentComment
ReceivedDepartment

DEVELOPMENT PLANS REVIEW

(if not received, date e-mail sent _____)

2/11

DEPS

(if not received, date e-mail sent _____)

See comment

FIRE DEPARTMENT

PLANNING

(if not received, date e-mail sent _____)

See comment
ltr.

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: _____

SIGN POSTING (1st)

Date: 10/10/20

by J. Attmeyer

SIGN POSTING (2nd)

Date: 10/20/20

by " "

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any:

See attached prior
Orders



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2800 Monkton Rd Monkton MD 21111 which is presently zoned RCZ

Deed References: 15235/712 10 Digit Tax Account # 10 10 09 5060

Property Owner(s) Printed Name(s) Raymond Frank / Sandra Frank

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

(see attached)

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☐ a **Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

n/a
Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Michael McGinn, Esq.
Name- Type or Print

[Signature]
Signature

118 W. Pennsylvania Ave Towson MD
Mailing Address City State

21204, 410 825-2150, michaelmccann@law.net
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

(see attached)
Name #1 - Type or Print Name #2 - Type or Print

Signature #1 Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Michael McGinn
Name - Type or Print

[Signature]
Signature

118 W. Pennsylvania Ave Towson MD
Mailing Address City State

21204, 410 825 2150, michaelmccann@law.net
Zip Code Telephone # Email Address

CASE NUMBER 2019-0541-SP4 Filing Date 12/12/19 Do Not Schedule Dates: Reviewer JS

ATTACHMENT

Petition for Special Hearing
2800 Monkton Road

Petition for Special Hearing to determine:

1. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events or gatherings" under the Administrative Law Judge's Opinion and Order dated August 8, 2018?
2. Whether the property owner has held more than the eight (8) "temporary promotional events or gatherings associated with the brewery per year" permitted under the Opinion and Order dated August 8, 2018?
3. Whether the use of the subject property otherwise complies with the Opinion and Order dated August 8, 2018?
4. Whether good cause exists to modify the restrictions in the Opinion and Order dated August 8, 2018?
5. Whether the use of the subject property is a "Brewery, Class 8" as defined in section 101.1 of the BCZR?
6. Whether the use of the subject property is an "agricultural support use" under section 1A01.2.C.30 of the BCZR?
7. Whether the use of the subject property is a "Brewery, Class 7 or 8" under section 1A01.2.C.30.j of the BCZR?
8. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events, such as beer tasting or public gathering associated with the brewery" under section 1A01.2.C.30.j of the BCZR?
9. Whether the use of the subject property otherwise complies with the BCZR?
10. Whether the use of the subject property otherwise complies with applicable policies, laws, and regulations?

Petitioners:

Samuel and Michealine Yaffee
16109 Markoe Rd.
Monkton, MD 21111
410 825 2150
michael@mmccannlaw.net

Samuel Yaffee by MM^c
Michealine Yaffee by MM^c

Sparks Glencoe Community Planning Council
P.O. Box 937
Sparks, MD 21152
410 825 2150
michael@mmccannlaw.net

Lynne Jones by MM^c



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2900 Monkton Rd, Monkton MD 21111 which is presently zoned RC2
 Deed References: _____ 10 Digit Tax Account # 1010095060
 Property Owner(s) Printed Name(s) Raymond J Frank / Sandra Frank

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

(see attached)

2. _____ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. _____ a Variance from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print n/a

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Attorney for Petitioner:

Name- Type or Print Michael McGinn, Esq.

Signature _____

Mailing Address 118 W. Pennsylvania Towson MD City _____ State _____

Zip Code 21204 Telephone # 410 825-2150 Email Address michaelmccginn@law.net

CASE NUMBER 2019-0541-SM Filing Date 12/12/19

Petitioners:

Name #1 - Type or Print (see attached) Name #2 - Type or Print _____

Signature #1 _____ Signature #2 _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Representative to be contacted:

Name - Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Do Not Schedule Dates: _____ Reviewer JS

ATTACHMENT

Petition for Special Hearing
2800 Monkton Road

Petition for Special Hearing to determine:

1. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events or gatherings" under the Administrative Law Judge's Opinion and Order dated August 8, 2018?
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3. Whether the use of the subject property otherwise complies with the Opinion and Order dated August 8, 2018?
- ~~4.~~ Whether good cause exists to modify the restrictions in the Opinion and Order dated August 8, 2018?
5. Whether the use of the subject property is a "Brewery, Class 8" as defined in section 101.1 of the BCZR?
6. Whether the use of the subject property is an "agricultural support use" under section 1A01.2.C.30 of the BCZR?
7. Whether the use of the subject property is a "Brewery, Class 7 or 8" under section 1A01.2.C.30.j of the BCZR?
8. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events, such as beer tasting or public gathering associated with the brewery" under section 1A01.2.C.30.j of the BCZR?
9. Whether the use of the subject property otherwise complies with the BCZR?
10. Whether the use of the subject property otherwise complies with applicable policies, laws, and regulations?

Petitioners:

Samuel and Michealine Yaffee
16109 Markoe Rd.
Monkton, MD 21111
410 825 2150
michael@mmccannlaw.net

Samuel Yaffee by MMCC
Michealine Yaffee by MC

Sparks Glencoe Community Planning Council
P.O. Box 937
Sparks, MD 21152
410 825 2150
michael@mmccannlaw.net

Lynae Jones by MMCC

ZONING DESCRIPTION

2800 Monkton Road
Monkton, MD 21111-1717

Beginning for the description of a 92.325 acre tract identified as Parcel 0113 Tax Map 0029, at a point at the centerline intersections of Monkton Road and Markoe Road thence N 45° 34' 23" W 84.71 feet more or less to a Point of Beginning at the southeastern most corner of the subject property thence the following courses:

- 1) N55° 21' 15"W, 925.60', thence to a curve on Monkton Road having a
- 2) Radius of 1325.00' with a chord bearing of N69° 32' 01"W, and a length of 649.14', thence,
- 3) N83° 42' 47"W, 85.24', thence
- 4) N27° 41' 25"E, 790.04', thence
- 5) N35° 48' 49"E, 1659.19, thence
- 6) N61° 22' 58"E, 472.92', thence
- 7) S33° 52' 55" E, 563.55', thence
- 8) S40° 54' 52"E, 196.16, thence
- 9) S42° 31' 03"E, 236.68', thence to a curve fillet on Markoe Road having a
- 10) Radius of 60.00' with a chord bearing of S12° 12' 04"E, and a length of 60.57', thence
- 11) S18° 06' 54"W, 108.15' thence
- 12) S 20° 19' 32"W, 428.93', thence
- 13) S 20 35' 00"W, 882.99', thence
- 14) S 21° 46' 21"W, 444.41', thence
- 15) S 23° 13' 52"W, 573.97', thence to a curve fillet on Monkton Road having a
- 16) Radius of 60.00' with a chord bearing of S73° 56' 19"W, and a length of 92.87', thence back to the point of beginning.

Containing 4,021,677 Square Feet or 92.325 Acres of Land more or less.

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2019-0541-SPH

Property Address: 2800 Markton Rd

Property Description: _____

~~Legal Owners~~ (Petitioners): Samuel's Michaeline Tette / Sparks Glenco
Contract Purchaser/Lessee: _____
Community Planning
Council

PLEASE FORWARD ADVERTISING BILL TO:

Name: Michael McCann

Company/Firm (if applicable): _____

Address: 118 W. Pennsylvania Ave
Towson MD 21204

Telephone Number: 910 825-2150

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 1/23/2020

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-541

INFORMATION:

Property Address: 2800 Monkton Road
Petitioner: Samuel and Michealine Yaffee
Sparks Glencoe Community Planning Council
Zoning: RC 2
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to determine:

1. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events or gatherings" under the administrative law judge's Opinion and Order Dated August 8, 2018;
2. Whether the property owner has held more than the eight (8) "temporary promotional events or gatherings associated with the brewery per year" permitted under the Opinion and Order dated August 8, 2018;
3. Whether the use of the subject property otherwise complies with the Opinion and Order dated August 8, 2018;
4. Whether good cause exists to modify the restrictions in the Opinion and Order dated August 8, 2018;
5. Whether the use of the subject property is a "Brewery, class 8" as defined in section 101.1 of the Baltimore County Zoning Regulations (BCZR);
6. Whether the use of the subject property is an "agricultural support use" under section 1A01.2.C.30 of the BCZR;
7. Whether the use of the subject property is a "brewery, Class 7 or 8" under section 1A01.2.C.30.j of the BCZR;
8. Whether the events/gatherings that have been held at the subject property constitute "temporary promotional events, such as beer tasting or public gathering associated with the brewery" under section 1A01.2.C.30.j of the BCZR;
9. Whether the use of the subject property otherwise complies with the BCZR;
10. Whether the use of the subject property otherwise complies with applicable policies, laws, and regulations.

A site visit was conducted on 1/15/2020. The area is an agriculture priority preservation area, My Lady's Manor National Historic Register District. Monkton Road is also a Baltimore County Master Plan 2020 designated Scenic Road. The property is currently in agricultural use with cattle, horses, grain and hops being produced. The landowner's dwelling and brewery are also located on the property.

The property is subject to a Baltimore County Agricultural Land Preservation Easement. The easement was settled June 6, 2002. The County monitors these easements and in conjunction with the Baltimore County Land Preservation Advisory Board (BCLPAB) makes decisions on requests relating to the easement. The County follows Maryland Agricultural Land Preservation Foundation (MALPF) "Uses Policy" for any approvals given on Baltimore County Agricultural Land Preservation Easements (Baltimore County Code Sec 24-3-108).

The landowner received a recommendation for approval of the "Brewery, Class 8" use on a Baltimore County Agricultural Land Preservation Easement on June 14, 2017 from the BCALPAB. The (BCALPAB) complied with the MALPF "Guidelines for Requested Uses of Land in the MALPF Program (Guidelines)" (May 23, 2017) for arriving at its approval of the request. The BCALPAB found that the request met the Guidelines listed below.

General guidelines:

1. The proposed use (farm brewery in this case) is a farm or farm related use.
2. Does the use or activity "conflict with the overall purpose of the easement to preserve the farm. for agricultural use and as open-space land, and
3. Consider whether the proposed use has an historical relationship to farming.

Specific Use Guidelines: Beer production is considered to be a "Processed (value-added) farm and forest product" in the MALPF Guidelines. The specific requirements for this use to be permitted on an agricultural easement are: Some of the products must come from animals raised or crops grown on site. Alcohol producers must comply with COMAR 03.02.01.

Guidelines for Commercial Events:

1. The event must be farm or forest related.
2. The number, frequency, and scale of any event must be consistent with the scale of the farm, the agricultural operation, and the area's rural character.
3. May not conduct more than 16 events per year without MALPF (County Board) approval.
4. If impacted, any farm or forested area must be maintained or restored to its original condition.
5. No permanent structures may be created to support events.
6. Food for events may be provided through a catering service (including food trucks), with final preparation on-site.
7. Parking is less than or equal to 2 acres.

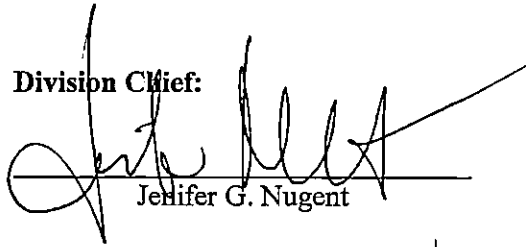
The Department monitors County easements on a three year interval. The last inspection was on November 1, 2018. At that time the property was found to be in compliance with the easement requirements. The special exception limits the events to 8 per calendar year, the land preservation easement limits the number of events to 18 in a calendar year.

In review of this petition, the department has revisited the site and found the conditions the same for when it had no objections to the initial request in zoning case 17-327 (attached). The Department does recommend the landowner provide an annual events schedule with documentation that the proposed events meet the state's guidelines for being farm or forest related.

Date: 1/23/2020
Subject: ZAC # 19-541
Page 2

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Division Chief:



Jennifer G. Nugent

CPG/JGN/LTM/

c: Joseph Wiley
Michael McCann, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

Date: 4-12-20

RE: Case Number: 2019-0541-SPH RECERT

Petitioner/Developer: Frank

Date of Hearing/Closing: 4-16-20

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 2800 Horkton Rd

The signs(s) were posted on RECERT 4-12-20
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

ATTACH PHOTOGRAPH

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

