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January 18, 2024

**Via Email & Regular Mail**

Katherine Coyle, Director  
Morris County Agriculture Development Board  
P.O. Box 900  
Morristown, New Jersey 07963-0900

**Re: Application of the Backer Farm for SSAMP for the  
Operation of a Brewery on a Preserved Farm**

Dear Ms. Coyle:

As you know, this office serves as Special Counsel to the Township of Mendham. In that regard, by way of letter dated May 24, 2022, we advised the Board of the Township's position on the Backer Farm application. Please accept this as a supplement to that letter.

Since our last correspondence to the Board, the Backers have submitted a revised application. In response to the revised application, the Township has held meetings to receive additional public input on the proposed application. Those additional meetings, as well as additional information submitted via email from Township residents, have led the Township to determine that it is appropriate to revise its earlier submission.

As stated in our earlier submission, when the Backer Farm was preserved, the ~~neighbors as well as the~~ residents of Mendham Township had certain reasonable expectations about what activities could be conducted on the property and in Mendham Township itself. Taxpayer dollars were utilized to preserve the farm to ensure that it would not be developed. Accordingly, it was reasonable to assume that customary farm activities such as operation of farm equipment, the spreading of manure, the sounds of farm animals, etc., could be anticipated by anyone purchasing property next to a farm. However, the legislature, ~~in its infinite wisdom,~~ has determined that permitted activities on farms, both preserved and otherwise, now include commercial activities which could never have been anticipated by the residents of Mendham and especially the neighbors of the Backer farm. Therefore, while the law permits the Backers to

operate a brewery under certain circumstances, extreme care should be taken by the Board to protect the rights of neighbors and the residents of Mendham, and to support Mendham Township in its continuation of supporting Right to Farm and future farmland preservation applications. After listening to our residents for over two years, our review was balanced and our response thoughtfully considers all aspects, including the applicant's ability to have an economically viable business. Any change to one aspect of our integrated and balanced response may result in our changing another area of the response e.g. if music/noise production is not contained to inside the barn itself, then the licensed premises area may need to only include the inside of the barn with no brewery lawn area allowed.

Based upon the foregoing and the information submitted by township residents and their professionals, the Township has modified its position on the following issues:

1. **Stormwater:** At page 4 of the Township's submission, the Township took the position that it opposed any improvements that would trigger stormwater management. The Township modifies this position to state that any project that triggers stormwater management must comply with all stormwater requirements. The Township wishes to emphasize this position.
2. **Noise:** The Township's initial position was that the applicant should be required to comply with the Township's noise ordinance. The Township firmly supplements that recommendation to require that the Applicant be required to contain all music or any noise production equipment inside the barn indoors on the licensed brewing premises. To be clear, no music should be heard outside at any time. Special events that have music outside will require approval from the Township Committee; during these events, no music should be heard by neighbors.
3. **Capacity:** The Township is firm in its position that based upon the limitations of the septic system, as well as the parking area for the Brewery, **no more than seventy-eight people be permitted on the licensed premises at any time, including any event occurring on the licensed brewery premises.**
4. **Traffic:** The Township requests that the Board validate the traffic study in the application to request that the County do a traffic study of the intersections at Roxiticus Road and Route 24, and Ironia Road and Route 24 and provide a history and background for all automobile accidents occurring at these intersections over the past 5 years. The Township would like the applicant's traffic study to indicate where the added levels of traffic associated with food delivery, truck deliveries and take out growler pickups are accounted for in the estimated traffic counts. Additionally, the Township requests the Board require the Backers to provide any additional information they have from their traffic engineer on the Ironia and Roxiticus intersections with Route 24. This was previously requested, and the Backers had agreed to provide it.
5. **Alcoholic Beverage Service / Serving hours:** The Township is revising its earlier submission to request the following hours of operation for the brewery:

Wednesday and Thursday 5:00pm to 8:00pm.



Friday 5:00pm to 8:00pm.  
Saturday 12:00pm to 9:00pm.  
Sunday and Federal holidays 12:00pm to 6:00pm.

The Township is firm in its position that no simultaneous events be permitted when the brewery is open. The Township is equally firm in its position that pervious pavement be utilized for the brewery parking area and that bollards or curb stops be provided for the brewery parking area for safety reasons. Equally important is that brewery parking be limited to the designated brewery parking area. The Township had earlier advised that they did not have an issue with the parking spot depth of eighteen feet, however, for safety reasons it has reconsidered and now requests that the Board require twenty feet deep parking stalls in accordance with the Township ordinance.

**Finally, the Township does not want any parking on public roads.**

6. **Lighting:** The Township, in addition to its earlier recommendations, requests that the site lighting be compliant with the criteria for DarkSky approval from DarkSky International.
7. **Off-street loading:** In addition to its earlier recommendation, the Township requests that all deliveries to the brewery be made when the brewery is closed.
8. **Proposed Soil Disturbance Standards on Preserved Farms**-while not yet adopted, the Township encourages requests the applicant to comply with the new soil protection rules. This request is important given the farm's environmentally sensitive land through which the Raritan River headwaters flow.

All the aforementioned changes have been added to the revised submission on behalf of the Township with the additions underlined for ease of reference.

If the Board has any questions or requires any further information, please do not hesitate to contact me.

Very truly yours,

Michael B. Lavery

MBL/dmw

cc: Mendham Township Mayor and Committee (via email)  
Township Administrator (via email)  
Township Clerk (via email)  
John Mills, Esq. (via email)  
Denis Keenan, P.E. (via email)