RESOLUTION CADB 3-14
RECOMMENDING SITE SPECIFIC AGRICULTURE MANAGEMENT PRACTICE
APPROVING BRYVANDER FARM DISTILLERY

WHEREAS, pursuant to the right to Farm Act, N.J.S.A. 4:1C-1 et seq. and the State Agriculture Development Committee regulations, N.J.2:76-2.3 (a), a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "Board") to determine if his or her operation constitutes a generally accepted management practice; and

WHEREAS, Corey and Dorey Bryan, Bryvander Farm, Block 741.04, Lot 15.01 & 24, commonly known as 916 Shunpike Road, and 601 Jonathan Hoffman Road, Lower Township, New Jersey, 57.61 acres appeared before the Board on May 19, 2014 and was certified as a commercial farm by Resolution 2-14; and

WHEREAS, Corey and Dorey Bryan also known as Bryvander Farm and Steven Miller and Caroline Miller, equity owners of Cape May Spirits LLC, now commencing as operators and doing business as Nauti Spirits (NS), made a request in writing to the Board for the development of a site-specific agriculture management practice (hereinafter, "AMP") for the construction of a craft distillery and operation of the craft distillery and all of its related activities; and

WHEREAS initially, the spirit produced will be premium vodka distilled from sweet potatoes. NS also will produce a grain-based specialty gin, and grain-based aged whiskies. Once established, NS will consider seasonal distillation/production of fruit brandies, potentially other distilled spirits, and alcohol-containing products (e.g., alcohol-infused fruit) in accordance with its ABC and TTB licenses/permits. NS will produce these spirits and products largely (more than 51%) from crops and botanicals that NS will grow on its Farm and potentially other NJ farmland that NS may lease to comprise its Farm Management Unit; and

WHEREAS, the primary purpose is the consumption or sale of the agricultural output of the farm itself and any activity related thereto; specifically, food processing by-product land application (N.J.A.C. 2:76-2a.4). The occasional application of stillage (spent grain and sweet potato waste from distillery operations) on farmland; on-farm compost operation (N.J.A.C. 2:76-2a.8), specifically composting of agricultural waste related to operation of a craft distillery; fencing installation for wildlife control (N.J.A.C. 2:76-2a.9); construction, installation, operation or maintenance of solar structures and equipment on commercial farms. (N.J.A.C. 2:76-2A.12); and any final AMP for wind energy generation on preserved farms; and,

WHEREAS, As defined in N.J.A.C. 2:76-2A.13 (b), NS intends to engage in agriculture-Related Educational Activities. These educational activities shall be accessory to, and serve to increase, the direct-market sales of NS's distilled spirits, by enhancing the experience of purchasing the spirits produced from the crops grown on the farm, and for the purpose of attracting customers to the commercial farm. NS's agriculture-related educational activities will include, but may not be limited to: educational trips (with a focus on farm distilling process and production), hands-on farming/distilling activities, educational displays, farm/distillery tours, farm/distillery task experiences including but not limited to bottling/labeling days, spirit tastings, agriculture/distillery-related lectures/seminars for groups including but not limited to distilled spirit plant owners or aspiring owners, farm open house days, and general classes on agricultural/distilling topics. The foregoing activities will be held periodically throughout the year and may occur within the On-Farm Direct Marketing Facilities, outside of the On-Farm Direct Marketing Facilities, or both within and outside of the On-Farm Direct Marketing Facilities; and,

WHEREAS, NS will conduct Ancillary Entertainment-Based Activities, as defined in N.J.A.C. 2:76-2A.13(b). These non-agricultural offerings, commonly used as incidental components of NS's on-farm direct marketing activities, that will be accessory to, and serve to increase, the

direct-market sales of the agricultural and value-added product output of NS's commercial farm. Such activities will be designed to attract customers to NS by enhancing the experience of purchasing NS-produced spirits and other agricultural products. Examples of Ancillary Entertainment-Based Activities that NS will conduct will include, but may not be limited to: background live or recorded music, spirit/wine festivals, free snacks, background art displays, background historical displays and educational presentations/seminars focusing on the history of the area during Prohibition, picnic tables, and outdoor seating areas and fireplace. Such activities may have a fee associated with them, but such fees will be *de minimis* compared to the income generated from the sale of the agricultural output of NS's commercial farm. The foregoing activities will be held periodically throughout the year and may occur within the On-Farm Direct Marketing Facilities, outside of the On-Farm Direct Marketing Facilities, or both within and outside of the On-Farm Direct Marketing Facilities; and,

WHEREAS, Complementary Products, as defined in N.J.A.C. 2:76-2A.13(b), will be offered by NS to facilitate the use or consumption of the distilled spirits produced/distilled on the commercial farm and promotional items that help market the distilled spirits produced at NS's commercial farm. Examples of promotional items include, but may not be limited to, souvenir items such as NS-branded shirts, hats, bags, glassware, flasks, coasters, and related items. Other complementary items that will be offered include, but may not be limited to, barrel stave BBQ smoking chips (from aged NS whiskey or brandy), sauces and baked goods made from combining NS distilled spirits with produce grown by NS or other farmers, and similar items; and,

WHEREAS NS intends to offer Farm-Based Recreational Activities, as defined in N.J.A.C. 2:76-2A.13 (b), that are uniquely suited to occurring on a farm, and outdoor recreation activities compatible with the agricultural use of the farm. These offerings and activities will be related to marketing the agricultural output of NS's commercial farm. Such activities will be accessory to, and serve to increase, the direct-market sales of the agricultural output (distilled spirits and related commodities) of the NS commercial farm by enhancing the experience of purchasing NS's agriculture products for the purpose of attracting customers to the commercial farm. Farm-Based Recreational Activities uniquely suited to occurring on the farm may include, but might not be limited to: corn, sunflower, and other crop mazes; hayrides and wagon rides; agricultural animal display or petting areas; farm tours; pony rides; and tractor pulls. Farm-Based Recreational Activities considered common outdoor recreation activities that will be compatible with the agricultural use of the farm may include, but might not be limited to: hiking; bird watching; sleigh rides; hunting and fishing; and bonfires; and,

WHEREAS, In addition to the value-added distilled spirits and their related products, NS intends to operate a Farm Market, as defined in N.J.A.C. 2:76-2A.13(b), on its commercial farm. This Farm Market will be used for the retail marketing of vegetables, fruits, and flowers grown on NS's or other farms, and related products produced from those items. Sales from all of the foregoing items will contribute to farm income. At least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall produce annually agricultural or horticultural products worth at least $2,500; and,

WHEREAS, NS's primary On-Farm Direct Marketing Facilities will be housed in a 112′ x 66′ barn, which will have a nearby greenhouse and a patio/deck area and gathering space for patrons. Two, and potentially three, 40′ x 60′ warehouses, 30′ x 50′ farm equipment shed, and a 20′ x 20′ farm stand (secondary on-farm direct marketing facility) also will be sited on the property. Combined, the total acreage that all of these permanent facilities will utilize will be approximately two (2) acres, which will have a negligible impact on the use of the Farm for agricultural production purposes; and,

WHEREAS, Nauti Spirits have complied—or specifically commit to comply—with all applicable requirements of AMPs that have been adopted by the SADC, including On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13]; Food Processing By-product Farm Application [N.J.A.C. 2:76-2A.4]; On-Farm Compost Operations [N.J.A.C.

2:76-2A.8]; Fencing Installation for Wildlife Control [N.J.A.C. 2:76-2A.9]; Construction, Installation, Operation or Maintenance of Solar Energy Generation Facilities, Structures and Equipment on Commercial Farms [N.J.A.C. 2:76-2A.12], and any final rule for Wind Energy Generation on Preserved Farms; and,

WHEREAS, Nauti Spirits has provided the Board with a development site plan for the construction of the craft distillery and upon receipt of the development plan, Barbara M. Ernst, Director of the Farmland Preservation program, notified the following public entities:

Mr. Jay Dilworth,	Township of Lower Planning Board Chairman
Mr. Gary Playford,	Township of Lower Construction Official
Mr. Jim Hanson	Township of Lower Zoning Board Chairman
Mr. Bill Galestok	Township of Lower Director of Planning & Zoning
Ms. Leslie Gimeno	County of Cape May Director of Planning
Mr. Dale Foster	County of Cape May County Engineer

For review and comment on the impact of the proposed structure and activity will have on the municipality and county and on the standards established by local ordinance within the scope of their obligation to consider "public health and safety"; and,

WHEREAS, on July 2, 2014, pursuant to N.J.A.C. 2:76-2.3(b), the Board advised in writing the State Agriculture Development Committee and Lower Township of the request and;

WHEREAS, pursuant to N.J.A.C. 2:76-(j) the Board advised in writing and sought input the New Jersey Department of Agriculture, Soil Conservation Committee, and USDA Research Center, Jenny Carleo, Cape May County Rutgers Cooperative Service Agent, Dale Foster, Cape May County Engineer; and

WHEREAS, Nauti Spirits have informally consulted with the SADC, the CADB, Rutgers Cooperative Extension, and the USDA's Natural Resource Conservation Service on the specific AMP's discussed in the Right to Farm application attachment, which is appended to this resolution; and

WHEREAS, on July 15, 2014, members of the CMCADB, and the Cape May County Planning Department conducted a site inspection of Nauti Spirits; and

WHEREAS, Nauti Spirits, pursuant to N.J.A.C. 2:76-2.8 has provided documentation that the request for the SSAMP for the construction of the craft distillery and operation of the craft distillery and all of its related activities, was sent to the municipal clerk, land use board secretary, property owners (on certified list) within 200 feet of commercial farm property; SADC, County Planning Board; and

WHEREAS, On July 28, 2014 at its regular meeting, the Board was presented with findings of the site inspection; and

WHEREAS, on July 28, 2014, the Board agreed to develop a site specific AMP for Nauti Spirits after making the following findings of fact, based on information and documentation provided to the Board by Nauti Spirits and information gathered during the site inspection:

1. The 57.61 acre farm management unite/distillery is located Lower Township, at Block 741.04, Lot 15.01 & 24, commonly known as 916 Shunpike Road, and 601 Jonathan Hoffman Road; and

2. Bryvander Farm now known as Nauti Spirits is a commercial farm which was established on May 19, 2014 by Resolution 2-14 as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1, which currently produces field crops worth $2,500 or more annually and satisfies the eligibility criteria for differential property tax assessment

pursuant to the Farmland Assessment Act of 1964: and

3. Bryvander Farm now known as Nauti Spirits has been in operation since November 20, 1997, and is located in an area in which, as of December 31, 1997, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan; and

NOW, THEREFORE, BE IT RESOLVED that the Cape May County Agriculture Development Board determines that the construction of the craft distillery, subject to all approvals required by all governmental bodies and agencies having jurisdiction over the matter, and operation of the craft distillery and all of its related activities discussed within this application are farm practices and agricultural activities contemplated, encouraged and protected by the Right to Farm Act, and thus eligible for right to farm protection under N.J.S.A. 4:1-C-1 et seq. and N.J.A.C. 2:76-2.3 and 2:76-2.5, are approved as a site specific Agricultural Management practice.

Moreover, Nauti Spirits has complied—or specifically committed to comply—with all applicable requirements of AMPs that have been adopted by the SADC, including On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13]; Food Processing By-product Farm Application [N.J.A.C. 2:76-2A.4]; On-Farm Compost Operations [N.J.A.C. 2:76-2A.8]; Fencing Installation for Wildlife Control [N.J.A.C. 2:76-2A.9]; Construction, Installation, Operation or Maintenance of Solar Energy Generation Facilities, Structures and Equipment on Commercial Farms [N.J.A.C. 2:76-2A.12], and any final rule for Wind Energy Generation on Preserved Farms, and;

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the site-specific AMP to Nauti Spirits, the SADC, Lower Township, and any other individuals or organizations deemed appropriated by the Board within 30 days of the recommendation.

George B. Brewer, Jr.
Chairman

Offered By: James Hand
Seconded By: James Hazlett
Yes: 5
Abstain:
Absent: 2
Adopted: July 28, 2014