

**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BUILDING 69
CRANSTON, RI 02920**

IN THE MATTER OF:

Phantom Farms II LLC,

**Application for a
Manufacturer Farmer Winery License**

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DBR No. 26LQAPP003

DECISION AND ORDER

I. INTRODUCTION

On or about September 2, 2025, Phantom Farms II LLC (“Applicant”) submitted an application (“Application”) to the Department of Business Regulation (“Department”) for a manufacturer farmer winery license with respect to the premises (“Premises”) at 2922 Diamond Hill Road, Cumberland, R.I. 02864. On February 25, 2026, the Director of the Department issued an Order Appointing Hearing Officer appointing the undersigned as hearing officer to conduct the hearing and render a decision in the above captioned matter pursuant to R.I. Gen. Laws § 42-6-8, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Department’s *Rules of Procedure for Administrative Hearing* 230-RICR-100-00-2. Once the Application was considered substantially complete, a hearing on this Application was scheduled for March 18, 2026. In accordance with the general public notice requirements of R.I. Gen. Laws § 3-5-17, an advertisement was published in the *Call and Times* on March 5 and 12, 2026 notifying all interested persons of the scheduled hearing. As documented by copies of the abutters’ letters, the Applicant complied with the abutter notice requirements of R.I. Gen. Laws § 3-5-17 upon sending notice to the abutters, i.e. owners of property

within a 200 foot radius of the Premises.¹ A remote hearing was held as scheduled on March 18, 2026. The Applicant's owner and counsel attended the hearing. Prior to the March 18, 2026 hearing many objections to the Application were received by the Department. Members of the public attended the March 18, 2026 hearing and had objections and questions for the Applicant. The Applicant scheduled a local public meeting with the abutters/public for April 2, 2026. A further Department hearing was held on April 9, 2026 at which time the Applicant's owner and counsel attended along with some neighbors. The record was left open until April 16, 2026 for the submission of any comments. Further comments were received by April 16, 2026.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-6-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

III. ISSUE

Whether the Application should be granted and a manufacturer winery license issued to the Applicant pursuant to R.I. Gen. Laws § 3-5-14.1 and R.I. Gen. Laws § 3-6-1.

IV. MATERIAL FACTS AND TESTIMONY

At the first day of hearing, Jason Macari ("Macari"), the Applicant's owner, represented the Applicant is a farm and is zoned for agriculture so is eligible for a farmer winery license. He represented it is an apple and peach orchard. He represented he currently has an apple cider press on the Premises. He represented he has owned the Applicant for three (3) or four (4) years, but

¹ R.I. Gen. Laws § 3-5-17 requires the notice to the abutters be sent by mail. Copies of the letters sent by first class to the abutters and affidavit of service were provided to the undersigned. The Applicant's counsel represented he obtained the abutters' list using the GIS software with assistance from the Town of Cumberland and also checked the field cards compared to the GIS. It is noted that in public comments received by the undersigned one abutter indicated they had not received the abutters' notice. That abutter did appear at hearing, and after hearing the Applicant's counsel indicated they had not appeared on the GIS listing.

there has been a farm in that location since the 1770's and it has been known as Phantom Farms since the 1950's. He represented he sees Diamond Hill Vineyard as a model in it has a vineyard and winery and produces wines and has an area to serve its products in tents and has public events.

Macari represented its café is in front and is a bakery and serves sandwiches and would also serve the hard cider and wine, and wine would be served anywhere on farm. He represented the current café hours are 6 a.m. to 6 p.m., and they are thinking of having 9:00 p.m. on weekdays and 10:00 p.m. at weekends. He stated there is a thought to have an outside café area to enjoy the product and maybe have seating around the greenhouse. He stated the intent is to manufacture in the cider mill in back and to use a couple of the barns in back. There are 80 parking spaces in front and 30 in back, and he represented they intend to add parking, but he is not sure how many spaces.

Macari currently is licensed as a brewer, but the brewery is at a different location about ten (10) minutes from the farm. He indicated the intent is to manufacture as a cider winery at the Applicant's location. He stated it is not going to be bar but rather casual enjoyment of craft cider or wine. He represented they have tents from time to time for events like wedding, showers, and birthday parties. He represented they have events with liquor being brought on to the premises but would like to serve their own product at events. He stated if they were going to serve other products, they would need to get a local liquor license.

At the first day of hearing, there were many questions and concerns expressed by the public attendees. Many objections were based on what the abutters saw as ongoing issues of parking with current events being held such as the Fall apple picking season. There were also questions about what the Applicant planned to do with the winery license and how it would address parking and traffic. There were general concerns about possible noise, traffic, and hours of operation.

At the second day of hearing, Macari represented he had what he felt was a productive meeting with the neighbors on April 2, 2026. He indicated that his takeaway was their main concern

was parking, and he agreed to study that, and hire someone to control the parking on the two (2) side streets. He indicated he would like to avoid police details and hoped to manage parking inhouse. He indicated there are 80 to 90 parking spaces in front.

Macari indicated that his plan is to serve hard cider and wine in the café which is in the front and is currently open from 6:00 a.m. to 6:00 p.m. He indicated that he agreed with the neighbors that he would not open the café past 8:00 p.m. He also indicated that he would not have consumers wandering around drinking, and the areas to drink would be the café or at an event.

Macari indicated he can produce hard cider and wine in the back building where he currently has a cider press. He indicated that building is small, so he plans to start small and then build a bigger building to produce the cider and wine. He indicated he agreed with the neighbors that any expansion of production would be in front of the farm. He indicated he is looking at expanding the greenhouse which is in front in order to produce more wine and cider. He indicated he does not have concrete plans for his expansion of production, and he will keep the neighbors in the loop. He again indicated the farm currently has apples and peaches which they plan to ferment and plan to bring in grape juice to ferment. He indicated there would be no tasting of the product in back as there is no room in the current cider press building. He indicated that its events like birthdays or weddings or baby showers are mostly for 30 to 50 people with a couple last year up to a 100. He indicated they hoped to serve their products at such events but currently any alcohol served is via a caterer and a caterer's license. He indicated that private events are usually under a tent.

In answer to a neighbor's concern, Macari indicated that pressing is a daytime event, and fermenting is quiet and takes place in tanks inside the cidery. He represented it would not be noisy. He indicated the cidery currently makes cider via pressing but obviously it is not alcoholic. Macari also indicated he understood the neighbors in back are concerned about privacy, and he hoped to address that with more plantings, and he has already put up some fences ((6) feet and stone walls).

A neighbor raised the concerns about hours of operation. The state statute for a farmer winery does not indicate hours of operations which would be left to local ordinances on such hours. Nonetheless, Macari indicated the café would only be open to 8:00 p.m.

It is noted that any possible events where the Applicant's alcoholic product could be served are already limited by any local ordinances about hours and venues, etc.

Additionally, it was noted at hearing by the Applicant as to the statutory limits on the amounts of products that can be sold onsite pursuant to R.I. Gen. Laws § 3-6-1 which limits the sale of products. A farmer winery may sell bottles for off site consumption pursuant to the rules of Class A liquor license (liquor store). For onsite farmer winery consumption, a licensee may only sell up to 15 ounces or up to three (3) glasses of wine when a glass is defined as five (5) ounces.

The only alcohol that a manufacturer winery may sell is its own. If the Applicant wanted to sell any other kind of alcohol at its café, it would need to obtain a local license such as a Class BV liquor license and be subject to those statutory and regulatory licensing requirements.

At the hearing, the undersigned hearing officer reviewed the Application in its entirety in order to determine whether it met the requirements of R.I. Gen. Laws § 3-1-1 *et seq.* and the Department's *Liquor Control Administration Regulations* 230-RICR-30-10-1 ("Liquor Regulation"). The review of the Application confirmed that the following requirements had been satisfied and were in compliance with the relevant statutes and the Liquor Regulation: (1) the Applicant submitted a copy of its Federal Permit authorizing the Applicant's operation pursuant to § 1.4.40 of the Liquor Regulation; (2) the Applicant submitted tax information pursuant to R.I. Gen. Laws § 5-76-1 *et seq.*; and (3) the Applicant submitted satisfactory criminal history record checks pursuant to R.I. Gen. Laws § 3-5-10(b)(1) (requiring that all officers and directors of a corporate beverage license holder be suitable persons, within the discretion of the body issuing the license) and R.I. Gen. Laws § 3-5-10(d) (granting the Department the authority to deny applications of

persons who have criminal records or who have records of repeated violations of R.I. Gen. Laws § 3-5-1 *et seq.*). Additionally, per Department policy, the undersigned determined that the Applicant had submitted appropriate zoning and fire certificate of compliance from the Town of Cumberland with respect to the Premises. See Application.

The Department represented the Application was complete and statutorily and regulatory compliant except for the final Department inspection and payment of the pro-rated licensing fee (per R.I. Gen. Laws § 3-6-1 and § 1.4.45(D) of the Liquor Regulation). The final Department inspection will confirm all statutory and regulatory compliance. The Department indicated that if the approval of the Application was recommended that the approval be subject to the completion of the final inspection and payment of licensing fee.

After the second day of hearing, neighbors submitted further comments. The neighbors expressed concern there were no barriers between the farm and side streets and requested commercial activity related to the license be conducted in front and hours limited to 6:00 p.m. The neighbors noted the front of the property was on Route 114 rather than residential side streets. The neighbors requested conditions be put on the license as the Applicant seemed to have a range of ideas for plans and no concrete plans.

V. DISCUSSION

"The right, power, and jurisdiction to issue manufacturer's and wholesaler's licenses are solely in the [D]epartment." R.I. Gen. Laws § 3-5-14.1. The statutory and regulatory application requirements for a manufacturer's winery license are set forth in R.I. Gen. Laws § 3-6-1 *et seq.*, R.I. Gen. Laws § 3-5-17, and § 1.4.3 and § 1.4.40 of the Liquor Regulation. At the hearing, the undersigned determined that the Applicant had satisfied all but two (2) of the statutory and regulatory application requirements. To the extent Title 3 does not "specif[y] the criteri[a] to be used by the licensing authority in making its decision," the licensing authority is vested with

"considerable discretion" to consider any relevant information in rendering a decision. *Ribiero v. Pastore*, 1983 R.I. Super. LEXIS 218 at 5 (R.I. Super. 1983).

The Department is mindful of the neighbors' concerns; though, some seemed more focused on events that would not be related to the winery license such as traffic during the apple picking season. However, it is also true that the Applicant being able to serve its own alcohol in the café should bring more visitors who need parking. Macari agreed with the neighbors not to open the café past 8:00 p.m. It also appears the Applicant is already holding party events that would not differ if it served its own liquor except for tastings. Macari indicated there is no room for tastings in the back building. Macari represented that he agreed with the neighbors that any expansion from producing cider and wine in the back (the cider mill in the white building) would be in front in a new or expanded building.² He indicated that efforts will be made to manage parking in front. If parking is kept mostly in front that addresses the concern of on street parking on the side roads.

Thompson v. East Greenwich, 512 A.2d 837 (R.I. 1986) found a town may grant a liquor license upon conditions that promote the reasonable control of alcoholic beverages. Thus, it is within the Board's discretion to grant a liquor license application with conditions. E.g. *Megan Kenney v. Providence Board of Licenses*, DBR No.: 14LQ044 (11/20/14). The conditions become part of the liquor license. The same is true for the Department's discretion in granting a statewide liquor license. Since the Applicant and neighbors discussed the Application and reached a kind of agreement over Macari's plans as represented by Macari on the second day of hearing, those agreements should be included as part of the license. Indeed, some of the post hearing comments requested conditions be included in the license. Therefore, the grant of license shall include the following conditions:

² Obviously, any expansion in front would be subject to local ordinances.

1. Any expansion of the production of wine and hard cider from the current cidery (cider press) in back shall be limited to the front of the property.
2. The selling of wine or hard cider in the café shall end at 8:00 p.m.
3. Any tasting in a tasting room shall be limited to the front of the property.
4. The service of wine and hard cider shall be limited to the café and any events held on the Premises (as allowed).

Based on the foregoing, the undersigned finds the Applicant has satisfied almost all conditions for licensure and recommends the Application be granted, and the license issued, subject to the conditions set forth above and subject to the completion of the conditions documented below.


VI. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. The facts contained in Sections I, IV, and V are incorporated herein as findings of fact.
2. Pursuant to R.I. Gen. Laws § 3-5-14.1 and R.I. Gen. Laws § 3-6-1, the Department is authorized to issue a manufacturer winery license.
3. The Applicant has satisfied the statutory and regulatory application requirements for a manufacturer winery license under Title 3 and the Liquor Regulation subject to the conditions below.
4. The notice requirements under R.I. Gen. Laws § 3-5-17 have been satisfied by the Applicant's publication of a notice of application and hearing in the *Call and Times* on March 5 and 12, 2026 notifying all interested persons of the scheduled hearing and by evidence of notice given to the property abutters.
5. A hearing was held in this matter on March 18, 2026 and April 9, 2026 with the latter date being after the Applicant met with the neighbors in regard to its plans.
6. Public comments were received prior to the hearing and by April 16, 2026.

VII. RECOMMENDATION

Based on the foregoing, the undersigned recommends the Application of Phantom Farms II LLC for a manufacturer winery license be granted and a license issued pursuant to R.I. Gen. Laws § 3-5-14.1 and R.I. Gen. Laws § 3-6-1 as conditioned above and subject to the completion of the following conditions: final Department inspection and payment of the licensing fee. Nothing in this Decision and Order should be construed as exempting the Applicant from compliance with all applicable federal, state, and local laws.

Dated: April 27, 2026

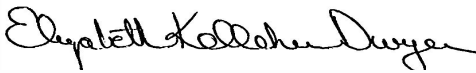

Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

 X ADOPT
 REJECT
 MODIFY

Dated: 4/28/2026


Elizabeth Kelleher Dwyer, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TOR.I. GEN. LAWS§ 42-35-12. PURSUANT TO R.I. GEN. LAWS§ 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON APPROPRIATE TERMS.