

IN RE: PETITION FOR SPECIAL EXCEPTION *
N/S Dogwood Road, 610' W
centerline of Ridge Road *
2nd Election District *
2nd Councilmanic District *
(7720 Dogwood Road) *

Dogwood Resources, LLC *
Legal Owner and *
Action Paintball, Inc., Contract Purchaser *
Petitioners *

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 00-562-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Dogwood Resources, LLC and the lessee of the site, Action Paintball, Inc. The special exception request is filed for property located at the intersection of Dogwood Road and Ridge Road, in the Granite area of Baltimore County. The subject property is zoned RC 3. The Petitioner is requesting a special exception to allow a paintball shooting range with parking spaces and/or other community buildings, or other uses of a recreational nature, pursuant to Section 1A02.2.b.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) and for a use permit for a paintball shooting range pursuant to Section 500.4 of the B.C.Z.R.

Appearing at the hearing on behalf of the special exception request were Vince Moskunas, professional engineer who prepared the site plan of the property, Greg Maliszewski, the proposed operator of the paintball facility and C. William Clark, attorney at law, representing the Petitioner. Appearing as interested citizens in the matter, on behalf of the Greater Patapsco Community Association, were Bob Hocutt and Rosalyn Roddy. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 108.94 acres of land, more or less, zoned RC 3. The subject property is located on the north side of Dogwood Road just west of its intersection with Ridge Road. The subject property is a very large unimproved parcel of land. The Petitioner is interested in opening a paintball operation

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on the property. They have submitted into evidence as Petitioner's Exhibit No. 1 a site plan of the property showing the area within which the Petitioner proposes to operate this facility. The site plan depicts a 300 ft. buffer around the perimeter of the property, which buffer is established to prevent noise, as well as paintballs from traveling onto adjacent properties. Furthermore, the Petitioner has identified stream buffers and wetlands on the property which will be protected from any disturbance. The Petitioner proposes access to the site from Dogwood Road by way of a small driveway which leads back to a proposed office trailer and an accessory parking lot.

There are several paintball facilities currently operating in and around the Baltimore area. The Petitioner presently operates a facility in Baltimore City on O'Donnell Street. The Petitioner's brother operates a paintball facility in the Bowleys Quarters area of Baltimore County, one which this Deputy Zoning Commissioner is familiar. The Petitioner proposes to provide to his customers several paintball playing fields within the area shown on the site plan submitted. Customers have the option to rent paintball guns (or bring their own) and to purchase paintball ammunition. The Petitioner supplies all necessary safety gear. Potential players pay an entry fee to come to this facility and engage in mock warfare paintball games on the various playing fields provided by the Petitioner. Mr. Maliszewski, who has been involved in this business for some years, sees an opportunity in this area, given that there are no other paintball facilities in this area of Baltimore County. Therefore, he has secured a lease for the subject property in order to operate his business.

As stated previously, representatives of the Greater Patapsco Community Association attended the hearing. Mr. Maliszewski met regularly with Ms. Roddy and Mr. Hocutt to explain his business and operation. He also invited Mr. Hocutt to personally visit the paintball facility in Bowleys Quarters. Mr. Hocutt testified that he did in fact visit the facility in Bowleys Quarter and actually shot a paintball gun. After extensive discussions with the Petitioner, the representatives of the Greater Patapsco Community Association indicated that they would remain neutral in the Petitioner's special

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exception request and would not oppose the facility. In order for the Petitioner to begin his operation, this special exception request is necessary.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at this particular location would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted.

Pursuant to the advertising, posting of the property, and public hearing on this petition held, and for the reasons given above, the relief request in the special exception shall be granted.

THEREFORE, IT IS ORDERED this 30th day of August, 2000, by this Deputy Zoning Commissioner, that the Petitioner's Special Exception Request to allow a paintball shooting range with parking spaces and/or other community buildings, or other uses of a recreational nature, pursuant to Section 1A02.2.b.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) and a use permit for a paintball shooting range pursuant to Section 500.4 of the B.C.Z.R, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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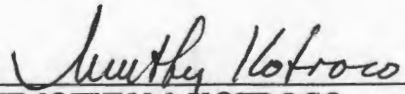
1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at his time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner must use paintball ammunition which is biodegradable and contains no toxins and is water based. It shall be of such substance so as not to do any environmental damage to the subject property.
3. The Petitioner shall not be permitted to sell any paintball guns or equipment from the subject property other than paintball ammunition, which is to be utilized by the customers who patronize this facility.
4. The Petitioner shall only be permitted to operate this facility during daylight hours on Saturday and Sunday and legal holidays. The Petitioner shall not operate during the week.
5. The Petitioner shall maintain the 300 ft. buffer around the perimeter of the 108 acre property so as to provide an appropriate barrier to reduce noise and the possibility of paintballs traveling onto adjacent properties.
6. The Petitioner shall respect and protect all wetlands and stream buffers on the subject property.
7. The Petitioner shall not allow or cause vehicles to be parked or stacked onto Dogwood Road when customers are coming to this facility. The Petitioner shall provide adequate parking on the site to accommodate any and all patrons who utilize this facility.
8. There shall be no alcohol consumed on or about the premises.
9. The Petitioner shall be required to regularly police the surrounding community to insure that no evidence of paintballs are being shot onto any street signs, trees or other structures in the surrounding community.

IT IS FURTHER ORDERED that the special exception granted herein shall be for the personal use of Mr. Greg Maliszewski, operating as Action Paintball, Inc. and shall not be transferable to any future owner or lessee of the subject site. In the event a new operator should attempt to take over the Petitioner's business, then a new special exception shall be necessary, wherein the character and credibility of a potential transferee can be scrutinized.

IT IS FURTHER ORDERED that in the event problems occur with the operation of this paintball facility, then the representatives of the Greater Patapsco Community Association shall be permitted to

request a special hearing before this Deputy Zoning Commissioner to determine whether any additional modifications should be made to this Order or the special exception rescinded.

IT IS FURTHER ORDERED that any party has the right to file an appeal within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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