

<b>IN RE: PETITION FOR SPECIAL EXCEPTION</b>	*	BEFORE THE
<b>(1955 E. Joppa Road)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF
5 <sup>th</sup> Council District		
Shopping Center Associates	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2015-0213-X</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 1955 E. Joppa Road. The Petition was filed on behalf of the legal owner of the subject property, Shopping Center Associates. The Special Exception petition seeks relief pursuant to §230.3 of the Baltimore County Zoning Regulations (B.C.Z.R) for a community building for recreational activities in combination with an arcade not to exceed 24 amusement devices. A two-page site plan was marked and accepted into evidence as Petitioner’s Exhibit Nos. 1A & 1B.

Appearing in support of the request was Brian Donley, a principal of the entity owner. David H. Karceski, Esquire represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 29.36 acres and is zoned BL-CCC. The property is the site of a large strip shopping center, situated at the intersection of Perring Parkway and Joppa Road. Petitioner and its lessee propose to operate a miniature golf and laser tag facility (known as “Monster Golf”) in a vacant retail space at the center. Baltimore County considers this use to constitute a “community building,” for which a special exception is required in the BL zone.

### Special Exception Law in Maryland

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Here, professional engineer Joseph Uciferro testified (via proffer) that the Petitioner satisfied the standards set forth at B.C.Z.R. §502.1. Mr. Uciferro noted the prior tenant in the space operated a bar and night club that had a capacity for over 700 patrons. The Monster Golf franchise would have a maximum of 200 patrons at any one time, and Mr. Uciferro opined the proposed use was much less intense and would have a smaller impact upon the community than the prior nightclub operation. I concur, and will grant the petition.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 15<sup>th</sup> day of May, 2015, that the Petition for Special Exception for a community building for recreational activities in combination with an arcade not to exceed 24 amusement devices, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.
2. The special exception area shall be limited to the 10,538 S.F. area shown on the site plan, marked and admitted as Petitioner's Exhibit 1A.

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

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County