

Tax Map/Block/Parcel
No. 46-14-1184A & 18

Building Permit/Zoning
Certificate No. 95-1191

Case 4027

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Tri-Phasic Amusement Systems, Inc.
438 Logan Drive
Westminster, Maryland 21157

ATTORNEY: Charles M. Preston, Esquire
188 East Main Street
Westminster, Maryland 21158

REQUESTS: Conditional uses to allow a "B-L" district use and a "B-G" district use in the "I-R" Restricted Industrial District, to wit: an amusement arcade and commercial recreation center in a proposed building, 120 feet by 300 feet

LOCATION: 525 Old Westminster Pike in Election District 7

BASES: Article 12, Section 12.2(b); Article 11, Sections 11.1(a), 11.1(c) and 11.6; Article 10, Sections 10.1(k) and 10.7; Article 4, Section 4.26; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: May 24, 1995

On May 24, 1995, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use requests pertaining to establishment of an amusement arcade and commercial recreation center in a proposed building at 525 Old Westminster Pike.

In accordance with the provisions of Article 17, Section 17.6.6 and 17.7 and the Board's longstanding policy of visiting sites prior to public hearing, the Board visited the site May 22, 1995. The purpose of the visit was for the Board to view the site and adjacent properties so that the Board would be reasonably familiar with the properties to assist in the Board's appraisal of testimony and evidence, either pro or con, presented during the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, and in accordance with the state Open Meetings Act, the Board approved the conditional uses, subject to conditions of authorization expressed below.

In accordance with the provisions of Section 17, Section 17.4.10 of the zoning ordinance, the Board extended the time for issuing this decision.

The pertinent findings determining the Board's decision include the following:

FINDINGS OF FACT

As depicted by the concept plan for the proposed Players Family Amusement Center (Center), the facility will share 11.61 acres with 2 indoor sports arenas previously approved by the Board of Zoning Appeals in Cases 3781 and 3916. While the commercial recreation center requested in this case is similar to the conditional uses authorized in the previous cases, the amusement arcade is regulated by different provisions of the zoning ordinance.

As proposed, the Center will be established within the building of 120 feet by 300 feet. A variety of sports and recreational activities, including video games are planned, as described in Applicants' Exhibit 6.

The concept plan portrays the existing and proposed buildings and parking facilities. Based on an estimated occupancy rating of 530 people for the Center, 179 parking spaces will be provided adjacent to the building. These spaces are in addition to the spaces established for the existing buildings.

The existing driveway connection to Old Westminster Pike will provide vehicular access to the parking area for the Center. At the request of the Bureau of Development Review, a driveway connection with the adjoining property to the east has been established for use in the event of emergencies or vehicular traffic congestion. The connection is depicted, but not identified, on the concept plan.

An expert in real estate appraisal testified on behalf of the applicants and indicated that the Center would have less affect on the adjacent residential subdivision than some uses permitted within the "I-R" Restricted Industrial District.

A professional engineer, accepted as an expert in vehicular traffic, also testified on behalf of the applicants. In evaluating a traffic impact analysis, the expert concluded that the additional vehicular traffic resulting from establishment of the Center would not adversely affect the existing roadway system.

As a recommendation to facilitate vehicular traffic leaving the premises, the expert suggested that the connection to Old Westminster Pike be widened to three lanes; one lane for ingress and two lanes for egress--one lane for left turns and one lane for right turns. The Board concurs and requests that the suggestion be considered during review of the site plan in accordance with the provisions of Article 4, Section 4.26 of the zoning ordinance.

Development of the Center is also subject to the provisions of the Carroll County Landscape Manual and Storm Water Management Ordinance, as well as other applicable ordinances and regulations.

REASONING

The provisions of Article 17, Section 17.7 of the zoning ordinance and the decision of the court in the case of *Schultz v. Pritts*, 291 Md. 1, 22 (1981), govern the Board in considering conditional use requests. In light of the provisions and decision, the Board finds that the Center, as proposed and subject to the conditions of authorization imposed below, is a reasonable and appropriate use of the land.

CONCLUSION

Based on the findings of fact and reasoning expressed above, and in order to minimize the likelihood of the adjoining residential development from being unduly affected, the Board hereby authorizes the conditional use, subject to the following conditions of authorization:

1. As noted in Applicants' Exhibit 5:
 - a. No alcoholic beverages will be sold on the premises.
 - b. The Center will, if given permission by Carroll County and National Building Leasing, Inc., install a gate and/or chain at the driveway entrance connecting to the existing parking facilities for the indoor sports arenas, and plant small shrubs to the sides of the gate.
 - c. The Center's hours for operation will be Monday through Thursday - 10:00 a.m. to 11:00 p.m.; Friday and Saturday - 10:00 a.m. to 12:00 a.m.; and, Sunday - 12:00 p.m. to 9:00 p.m. (These hours differ from the operational hours noted in Applicant's Exhibit 4, page 13 and Applicant's Exhibit 6.)
 - d. National Building Leasing, Inc. shall install a wooden stockade fence, at least 8 feet in height, along the common property line of Pine Knoll Development subdivision and the site.
 - e. National Building Leasing, Inc. will not allow any outside activities in conjunction with operation of the Center.

6-29-95
Date

Claude R. Rash
Claude R. Rash, Chairman