

**ORDINANCE NO. 2317**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PAINTBALL FACILITY AND OTHER SPORTS RELATED ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 12.9 ACRES, MORE OR LESS (Tax Map I.D. 1-33-8.00-1.00).**

**WHEREAS, on the 6th day of May 2013, a conditional use application, denominated Conditional Use No. 1966 was filed on behalf of Steven T. James, dba Precision Paintball; and**

**WHEREAS, on the 11th day of July 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of July 2013, said Planning and Zoning Commission recommended that Conditional Use No. 1966 be approved with conditions; and**

**WHEREAS, on the 6th day of August 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1966 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying north of Asketum Branch Road (Road 422) 1.0 mile west of Bryan's Store Road (Road 435) and being more particularly described in Deed Book 2814, Page 192 in the office of the Recorder of Deeds in and for Sussex County, said parcel containing 12.9 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**This Ordinance was adopted subject to the following conditions:**

1. The use shall be limited to paintball and other sports related activities. As stated by the Applicant, the other activities shall include soccer, lacrosse, or other sports or games that can occur within the confines of the paintball playing fields and the netting.
2. As stated by the Applicant, the facility shall only be open on Fridays, Saturdays, Sundays and legal holidays.
3. One unlighted sign shall be permitted, not to exceed 32 square feet in size per side.
4. As stated by the Applicant, the use will only occur on the front portion of the property. As a result, the area of the conditional use shall run from the frontage of the property along Route 442 to a parallel line 1,200 feet north of Route 442. Said line starts at an iron pipe set that same distance from Route 442 along the westerly boundary of the subject property. The Final Site Plan shall show the location of this line and the area of Conditional Use No. 1966.
5. The Final Site Plan shall be subject to the review and approval of the County Planning and Zoning Commission.

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2317 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 6TH DAY OF AUGUST 2013.**

  
ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL

**The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:**

1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paintball facility and other sports related activities, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 12.9 acres, more or less, lying north of Asketum Branch Road (Road 422) 1.0 mile west of Bryan's Store Road (Road 435) (Tax Map I.D. 133-8.00-1.00).
2. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #5; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.

- 3. Stephen and Jessica James were present on behalf of Precision Paintball. Mr. James stated that Precision Paintball is a Limited Liability Corporation; that their mission is to provide a top notch paintball experience for friends, family, church groups, and company gatherings; that paintball is a safe, non-contact sport for ages 10 and up; that players may use their own equipment, or use rental equipment, all of which is regulated in terms of velocity and rate of fire; that all paintball games will be supervised with referees, without exception; that the parcel of land has been seeded with tall fescue grass, allowing the dormant portion of the property to be raised and cut for hay without disturbance; and that their primary days of operation will be Saturday and Sunday, at which point they intend to serve both reserved private parties and walk-on individuals, but would like to operate on Fridays and legal holidays as well.**
- 4. The playing surface is comprised of completely mobile inflatable bunkers; this configuration allows them to remove and store the bunkers when not in use; the field enclosure consists of netting on a cable suspension system, which allows the nets to be lowered to ground level when not in use; due to the playing surfaces collapsible nature, the facility will allow native wildlife to maintain their way of life when not in use; they do not intend to utilize permanent restrooms, which eliminates the need for a septic/sewer system; they are planning to use porta-toilets; the current playing field configuration limits the number of players to 30 persons per day; normally there are seven (7) players per session; this will fill a void in the County for this type of activity; there are no employees; referees are typically volunteers; and they do not currently plan any expansions, but would like the option to add a second playing field.**
- 5. The use as a paintball facility will occur on a very limited basis and will not have an adverse effect on neighboring properties, roadways, or the community.**
- 6. When not in use, the operation's netting is lowered to the ground and the obstacles are removed which will give the property the appearance of an open field when not in use; the use will occur on only a small part of a 12.9 acre site; the playing field is set back approximately 300 feet from the front property line; and there are no dwellings in close proximity to the site.**
- 7. There are currently no paintball facilities in Sussex County and this will serve a need for such a facility in Sussex County for County residents who participate in the sport.**

- 8. There were no parties present in support of or in opposition to this application.**
- 9. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to 5 (five) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**