

IN THE MATTER OF : BEFORE THE
OAKDALE FARMS, LLC : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
: HEARING EXAMINER
: Request for Reconsideration in Board of
Appeals Case No. BA Case No. 14-017C

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ORDER

On October 9, 2014, the Howard County Boards of Appeals Hearing Examiner conducted a hearing to consider Petitioner's September 16, 2014 Motion for Reconsideration of the Hearing Examiner Decision and Order in Board of Appeals Case No. 14-017C, approving Petitioner's farm winery conditional use petition on September 9, 2014, subject in part to Condition No. 5, which states: "All Special Events shall be private gatherings by invitation only. No Special Event shall be open to the public (no public Special Events)." The motion requests that Condition No. 5 be deleted from the Order.

Discussion

At oral argument, Petitioner counsel Joan Becker argued for the deletion because the petition did not propose to limit Special Events to private events by invitation only, because Mr. Mariani did testify to such events being so limited and because he did not discuss any such limitation at the pre-submission meeting. In Petitioner's view, Condition No. 5 severely restricts the types of activities allowed as Special Events under Zoning Regulations Section 131.0.N.58.j.(2) and is not supported by the evidence or the applicable regulations. All references to any type of Special Event, including conferences, weddings, bar mitzvahs and reunions, were therefore representative, not limiting.

Mr. Mariani testified that the Petitioner intends to hold certain types of public Special Events, including political fundraisers or customer appreciation gatherings, which may involve ticket sales.

Mr. Joseph Rutter, a party to the initial proceeding, testified against the deletion of the condition on the ground that it is inextricably tied to traffic safety concerns, as borne out by the imposition of Condition No. 12 (discussed below).

The Hearing Examiner explained the condition was predicated on her interpretation of the phrase "Special Event" as applied to Mr. Mariani's testimony about the types of activities proposed as Special Events. Concerning the interpretation of "Special Event," the Hearing Examiner reasoned on pages 14-15 of the Decision and Order that the County Council did not intend to limit the types of activities permitted as Special Events and so declined to define or otherwise limit the potential activities associated with a "Special Event," excepting the regulatory limitations on the number of such events and the number of attendees. "*Special Event*" activities proposed in a Farm Winery—Class 2 Conditional Use petition are to be evaluated on a case-by-case basis . . ." (emphasis added.) Mr. Mariani having testified to being concerned about posting public notice of Special Events, *which are private events that might attract unwanted attention* (as set forth in Decision and Order Finding No. 10, page 7), the Hearing Examiner concluded the Special Events proposed were private events such as conferences, weddings, bar mitzvahs and reunions, which are traditionally invitation only. These events being private gatherings, the Decision and Order also included Condition No. 12, which in pertinent part requires the property owner to prepare a one-page notice stating guests and attendees should exercise caution when leaving/arriving owing to the popularity of Ed Warfield Road and area roads with cyclists, with the notice to be distributed to guests and attendees by the Special Event host.

The Hearing Examiner further explained she also intended Condition No. 5 to bar such activities as rock concerts, "grape stomps" or farmers markets, public gatherings that are frequently held at some

area wineries. Mr. Mariani therefore agreed to a revision of Condition No. 5 that would expressly bar rock concerts.

Upon consideration of the Motion before the Hearing Examiner, and the evidence of record, it is this **23rd Day of October 2014** by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That Condition No. 5 of the September 9, 2014 Decision and Order in Board of Appeals Case No. 14-017C, granting Oakdale Farms, LLC farm winery conditional use petition is hereby **MODIFIED** as follows:

5. Rock concerts and similar types of live music events that are the primary purpose of a Special Event are prohibited.

HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER



Michele L. LeFaivre

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.