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2 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

3
4 **2008 Legislative Session**

5 Legislative Day # __

6
7 **BILL NO. 2008-06**

8
9 **Introduced by: William and Pamela Bowling (Everything Amish)**

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11
12 **REZONING OF PARCELS FROM AGRICULTURAL CONSERVATION**
13 **(AC) TO NEIGHBORHOOD COMMERCIAL (CN)**

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17 **Date introduced: 03 / 07 / 2007**

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19 **Public Hearing: 03 / 07 / 2007**

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21 **Commissioners Action: 04 / 23 / 2008**

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23 **Commissioner Votes: WC: Y, EP: Y, RC: Y, SG: Y, GH: Y**

24
25 **Pass/Fail: Passed**

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27 **Effective Date: 05 / 03 / 2008 12:01 a.m.**

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30 **REMARKS: First Commissioner worksession held on April 4, 2007. Requested**
31 **additional information from the Planning Commission regarding recommendation.**

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1 **Rezone the parcels from Agricultural Conservation (AC) to Neighborhood**
2 **Commercial (CN) as shown on attached Zoning Map 36.**
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4 **SECTION 2.** BE IT FURTHER ENACTED, that the change in zoning specified herein
5 is conditioned upon execution of the Zoning Indenture in accordance with the provisions
6 of §145 of the Code of Charles County, Maryland.
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8 **SECTION 3.** BE IT FURTHER ENACTED, that this Act shall take effect TEN (10)
9 calendar days after it becomes law.
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12 _____
13 Wayne Cooper, President
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16 Edith J. Patterson, Vice President
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19 Reuben B. Collins, II
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21 _____
22 Samuel N. Graves, Jr.
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24 _____
25 Gary V. Hodge
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28 _____
29 Denise Ferguson, Clerk

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ATTACHMENT A

**BASE ZONE AMENDMENT ZMA #06-26
CHARLES COUNTY, MARYLAND**

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After a public hearing on the proposed Base Zone Amendment ZMA #06-26 held March 7, 2007, having considered the entire record made at such hearing, including all testimony, documents, and exhibits offered therein by way of oral, written, or referenced material and in light of matters of public record of which official notice has been taken, the County Commissioners of Charles County, Maryland, hereby make the following Findings of Fact and Conclusions of Law applicable to the proposed Base Zone Amendment ZMA #06-26.

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FINDINGS OF FACT

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1. The petitioner, William and Pamela Bowling, of Everything Amish, has requested an amendment to change the AC, Agricultural Conservation zone to CN, Neighborhood Commercial zone for the Subject Property , known as Tax Map 36, Grid 7, Parcels 7 and 156, in the Eight Election District of Charles County, Maryland., and in the area known as Hughesville located off north Leonardtown Road in Hughesville, Maryland.
 2. Parcel 7 is 1.54± acres and Parcel 156 is .47± acres, both currently zoned AC, Agricultural Conservation.
 3. In accordance with Article 66B and Chapter 297 of the Charles County Code (*Charles County Zoning Ordinance*), the Petitioner’s request is based upon an alleged “Mistake in Zoning”.

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4. Petitioner's application, in accordance with §297-448(B) of the *Charles County Zoning Ordinance*, was filed in July of 2006.

5. The Planning Commission held a Public meeting on the application on October 16, 2006.

6. On December 11, 2006, the Planning Commission held a work session and recommended the County Commissioners approve the Zoning Map Amendment. The Planning Commission made a finding of mistake and also found that the character of the neighborhood has also substantially changed.

7. The County Commissioners held a Public Hearing on March 7, 2007 at 5:30 p.m. in the Charles County Commissioner' Hearing Room. The hearing was properly advertised on February 16, 2007 and February 21, 2007 in the *Maryland Independent*, a newspaper of general circulation within Charles County, Maryland.

8. In accordance with §297-448 of the *Charles County Zoning Ordinance*, the Subject Property was posted and an affidavit of posting was received.

9. According to both oral and written testimony, when considering the zoning of the Subject Property during the 1992 Comprehensive Rezoning, the Commissioners should have taken into consideration the following facts:

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1 a. The Property is part of an unique strip of properties which is bordered on
2 both sides by Maryland State Highway right-of-way. The Property
3 fronts on existing Maryland Route 5 and to its rear is an old state
4 Highway right-of-way, known as “Old Maryland Route 5”, the old
5 right- of-way separates the Property from Parcel 201, which is zoned AC.
- 6 b. The Property is located in the middle of this unique strip of properties.
7 Parcel 8, adjacent to the Property, is zoned CN, Neighborhood
8 Commercial. The store known as “Everything Amish” is located on
9 Parcel 8. Parcels 243, approximately 2 acres in size, and 248,
10 approximately .81 acres in size, are adjacent to Parcel 8 and are also
11 zoned CN.
- 12 c. Parcels 3, 4, 5, 6, 70, 71 and 375, located on the other side of the
13 Property are zoned AC. The majority of these parcels are approximately
14 one-half acre in size or less, with the exception of Parcel 3 which is
15 approximately 2.4 acres. The majority of any existing residences appear
16 to have been built in 1947, with the exception of one residence built in
17 1973.
- 18 d. Parcel 9, located across from the Property on the other side of Maryland
19 Route 5, is zoned AC and is owned by the Southern Maryland Electric
20 Cooperative, Inc.

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1 e. Parcel 239, located on the other side of Maryland Route 5 approximately
2 one (1) mile south of the Property, is zoned CN and contains the store
3 known as “Mitchell's Supply.”
- 4 f. The Property is located approximately 1,400 feet northwest from the
5 intersection of Gallant Green Road and Maryland Route 5. The Property
6 is also approximately $\frac{3}{4}$ a mile from the center of the proposed
7 Hughesville Village Center.
- 8 g. Per the 1987 Zoning Maps and the 1988 Charles County Zoning
9 Ordinance, the Property was previously zoned R-3, Rural Agricultural.
10 This designation permitted one family detached dwelling unit. Under
11 this designation, antique shops and commercial greenhouses were
12 permitted by special exception.
- 13 h. In 1992, the County Commissioners engaged in a comprehensive
14 rezoning, wherein the County adopted different zoning designations,
15 which included the elimination of R-1, R-2 and R-3 designations. The
16 Property retained its residential use, but was rezoned AC. At the time of
17 the comprehensive re-zoning, at least one of the parcels had an existing
18 residence.
- 19 i. The Property is small in size and thus, not suitable for agricultural use.
20 While this fact alone is not compelling, the fact that the small lot is
21 isolated by two State Highway right-of-ways makes this fact significant.

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1 j. The Property will not percolate and the extension of public sewer to the
2 Property is not planned.

3 10. In 1992, had the County Commissioners known that the Property would not
4 percolate and based on its unique location and configuration, the
5 Commissioners would not have zoned the Property AC. Instead the
6 Commissioners would have, more appropriately, considered the Property for
7 either CN or CV, Village Commercial, designation.

8 11. Rezoning the Property to CN is consistent with the 2006 Comprehensive Plan.

9 **CONCLUSIONS OF LAW**

10 The County Commissioners, in consideration of the above Findings of Fact,
11 hereby determine that the requested change to rezone the subject property meets the
12 criteria for a change from AC, Agricultural Conservation zone to CN, Neighborhood
13 Commercial zone as a Zoning Map Amendment, based on the conclusion of a mistake
14 in zoning.

15 The Subject Property currently zoned AC should be zoned in accordance with
16 the terms and provisions of Chapter 297 of the *Charles County Code* within the CN
17 Zone as shown on the attached Zoning Map 36.

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19 COUNTY COMMISSIONERS OF
20 CHARLES COUNT, MARYLAND

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23 _____
24 Wayne Cooper, President

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26 _____
Edith J. Patterson, Vice President

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Ruben B. Collins, II

Samuel N. Graves, Jr.

Gary V. Hodge

ATTEST:

Denise Ferguson, Clerk