

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

ORDINANCE NO. 2014-10

An Ordinance concerning

**ZONING MAP AMENDMENT (ZMA) #14-49,
MICHAEL MEISSNER PROPERTY – BLUE DOG SALOON**

FOR the purpose of granting a zoning reclassification and local map amendment under Article XXVII of the Charles County Zoning Ordinance.

WHEREAS, under the provisions of the Land Use Article of the Annotated Code of Maryland, as amended, the County Commissioners of Charles County, Maryland, are empowered to enact and establish zoning regulations; and

WHEREAS, the Planning Commission of Charles County, Maryland, held a public meeting on the proposed Michael Meissner - Blue Dog Saloon Property #14-49 on September 8, 2014; and

WHEREAS, the Planning Commission of Charles County, Maryland at a regularly scheduled meeting on September 8, 2014, recommended that the Michael Meissner - Blue Dog Saloon Property #14-49, to change the zoning designation from Agricultural Conservation Zoning (AC) to Village Commercial Zoning (CV) and be approved by the County Commissioners of Charles County, Maryland; and

WHEREAS, the County Commissioners of Charles County, Maryland held a public hearing on November 18, 2014 at 5:30 p.m. The hearing was properly advertised on November 5, 2014 and November 7, 2014 in the Maryland Independent, a newspaper of general circulation within Charles County, Maryland. In accordance with §297-448 of the Charles County Zoning Ordinance, the Property was posted and an affidavit of posting was received; and

WHEREAS, after review and consideration of the Findings of Facts and Conclusions, incorporated herein as Attachment A, the County Commissioners of Charles County, Maryland, are of the opinion and belief that it is in the best public interest of, and in order to secure the health, safety and general welfare for, the present and future of residents of Charles County, and in order to achieve the purposes set out in the Land Use Article of the Annotated Code of Maryland, to adopt and approve ZMA #14-49.

NOW THEREFORE, BE IT ORDAINED, by the County Commissioners of Charles County, Maryland, that the application to change the zoning for Michael Meissner - Blue Dog Saloon Property, Agricultural Conservation Zoning (AC) to Village Commercial Zoning (CV) be, and is hereby, **ADOPTED** subject to the Findings of Facts and Conclusions as set forth in Attachment A; and

BE IT FURTHER ORDAINED, that if any clause, sentences, article, section, part or parts of this Ordinance shall be held unconstitutional or invalid for any reason whatsoever, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of the Ordinance or any section thereof, the County Commissioners of Charles County, Maryland

ATTACHMENT A
County Commissioners of Charles County, Maryland
ZONING MAP AMENDMENT #14-49, Michael Meissner – Blue Dog Saloon Property

After public hearings on the proposed Zoning Map Amendment, held November 18, 2014, 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 Facts and Conclusions applicable to Michael Meissner – Blue Dog Saloon Property, #14-49 for the granting of a zoning reclassification and local map amendment under Article XXVII of the Charles County Zoning Ordinance.

FINDINGS OF FACTS AND CONCLUSIONS

1. The Petitioner, Michael Meissner – Blue Dog Saloon Property, has requested a Zoning Map Amendment on approximately 1.00, acre of land, more or less, amending the zoning from Agricultural Conservation Zoning (AC) to Village Commercial Zoning (CV) for the subject property.

2. The property is identified as Tax Map 43, Grid 13, Parcel 145, in the 1st Election District of Charles County, Maryland (hereinafter “the Property”). The Property is located just north side of State Road Maryland Route 6 (Port Tobacco Road), leading from La Plata to Nanjemoy, near McConchie.

3. The subject parcel is a 1.00 acre zoned property zoned AC —Agricultural Conservation. The property to the northeast is zoned RC, Rural Conservation. The two adjacent parcels to the west and north are the same Agricultural Conservation zoning as the subject parcel, as stated by the applicant.

4. The applicant has stated that a mistake has occurred due to the result of a Comprehensive Rezoning adopted by the County Commissioners of Charles County due to past Comprehensive Plan updates maintaining a nonconforming commercial use within the AC. Staff finds that these statements are valid and constitute a mistake in the existing zoning classification.

5. The applicant has stated that a mistake has occurred due to a material mistake made by the zoning authority, which was a failure to consider vital evidence like the current use of the site. The applicant states that this property has had a commercial use for over forty-five (45) years but was incorrectly left as AC. Staff finds that these statements are valid and constitute a mistake in the existing zoning classification.

6. The applicant has stated that a mistake has occurred due to the fact that scattered throughout the rural areas of Charles County are commercial uses within the subject community and specifically along the Route 6 Corridor and some are CV. Staff finds that this statement is valid.

7. The applicant has stated that the placement of this property in the AC "created a substantial hardship" for the commercial use of the Property. The Charles County Zoning Ordinance restricts their ability to expand the current nonconforming use, except under very narrow circumstances, especially with the many changes occurring with federal regulations for the current use (including the Americans with Disability Act, parking requirements and stormwater management requirements). Staff finds that this statement is valid and that if the property was rezoned the hardship would no longer exist.

8. The applicant has stated that the placement of the Property in the AC zone fails to take into account that the Property is not best suited for use as an agricultural or residential parcel. Being only one (1) acre in size, an agricultural use of the Property is not practical unless it is combined with a larger surrounding farm land area. Further, being only one acre in size...the Property is not ideally suited for residential habitation and use." Staff finds that this property is fine for agricultural or residential use, but that because of the longstanding existing commercial use, the AC is not the best zoning designation. The small size of the property would also not cause any adverse impacts to the surrounding area if the zoning was changed.

9. The applicant has stated that this site is already developed and is ideal for CV zoning due to its convenience to serve the most concentrated population area of the County as well as the region. They believe these facts show that a mistake was made during the last rezoning component of the Comprehensive Plan process. Staff finds that this statement is valid because the current use is consistent with the CV zone.

CONCLUSIONS

The County Commissioners, in consideration of the above Findings of Fact, hereby determine that the requested change to rezone the subject property meets the criteria from Agricultural Conservation Zoning (AC) to Village Commercial Zoning (CV) as a Zoning Map Amendment.

hereby declare that they would have adopted the remaining parts of the Ordinance or any section thereof, if they had known any such clause, sentence, article, section, part or parties of this Ordinance would be declared unconstitutional or invalid; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on the date of the adoption.

Adopted this 18th day of November, 2014.

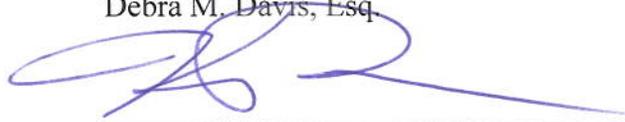
COUNTY COMMISSIONERS OF
CHARLES COUNTY, MARYLAND

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Candice Quinn Kelly, *President*

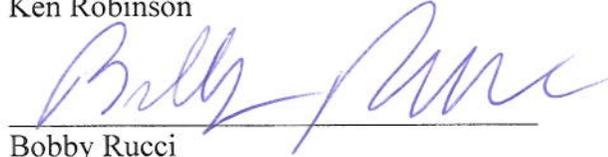
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Reuben B. Collins, II, Esq., *Vice President*



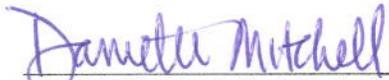
Debra M. Davis, Esq.



Ken Robinson



Bobby Rucci



ATTEST: Danielle Mitchell, Clerk