

**ORDINANCE NO. 2023-007**

**AN ORDINANCE REZONING APPROXIMATELY 5 ACRES  
LOCATED ON 31-W SOUTH FROM B-5 (INTERSTATE INTERCHANGE  
BUSINESS DISTRICT) TO B-4 (HIGHWAY BUSINESS DISTRICT) BY  
SHIVAM INVESTMENTS, LLC**

WHEREAS, Shivam Investments, LLC filed a petition to rezone approximately 5 acres located on 31-W South in Franklin, Simpson County, Kentucky currently zoned B-5 (Interstate Interchange Business District) to B-4 (Highway Business District); and

WHEREAS, Shivam Investments, LLC desires to rezone the aforementioned property to make the property more productive for the community, and this change is appropriate and consistent with the use of this property and surrounding properties; and

WHEREAS, a public hearing was held on January 3, 2023, after due public notice, in the manner provided by law; and

WHEREAS, the Planning & Zoning Commission recommended the granting of said zone change as it is in agreement with the community's comprehensive plan;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Franklin, Kentucky as follows:

The approximately 5 acres located on the 31-W South in Franklin, Simpson County, Kentucky, as more particularly described in Exhibit A attached hereto, is granted a zone change from B-5 (Interstate Interchange Business District) to B-4 (Highway Business District).

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

January 23, 2023

FIRST READING

February 13, 2023

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on February 13, 2023, on motion made by Commissioner Powell and seconded by Commissioner Stewart, the foregoing ordinance was adopted, after full discussion, by the following vote:

Yes LARRY DIXON, MAYOR

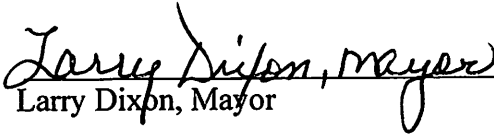
Yes JAMIE POWELL

Yes DALE MCCREARY


Yes WENDELL STEWART

Yes HERBERT WILLIAMS

APPROVED BY:

  
Larry Dixon, Mayor

ATTEST:

  
Cathy Dillard, City Clerk

## EXHIBIT A

### PROPERTY DESCRIPTION APPENDIX

The following-described property located on the east side of 31-W South in south Franklin, Simpson County, Kentucky, to-wit:

Beginning at an iron pin found #3290 in the easterly right-of-way of U.S. Route 31-W, the southwesterly corner of the subject owner William Wayne Powell as appears in Deed Book 222, Page 685, in the line of Jagdish Investment Group, Inc. (DB 206 Pg 109); thence along the easterly right-of-way of U.S. Route 31-W the following three (3) calls: (1) N 05° 52' 17" W 50.31 feet; (2) N 05° 47' 19" W 114.38 feet, (3) N 07° 56' 01" W 85.31 feet; thence leaving said road on new lines the following three (3) calls: (1) N 74° 09' 16" E 200.00 feet to an iron pin set, (2) N 63° 54' 54" E 826.72 feet to an iron pin set, (3) S 26° 05' 06" E 200.00 feet to an iron pin set in the line of the Lee Roy Graham and Katherine Graham Revocable Trust (DB 240 Pg 91); thence along the line of the subject owner with Lee Roy Graham, Vickram Patel, and Jagdish Investment Group, Inc. S 63° 54' 54" W 1107.17 feet to the point of beginning, containing 5.00 acres, more or less, and subject to all legal conditions and easements of record, according to June, 2005, survey by Gary Lee Dunning, Kentucky Registered Land Surveyor #3290. Basis of bearing for this description is the found monuments of the subject deed.

Being the same property conveyed to Shivam Investments, LLC, by 31-W Realty, LLC, a Tennessee limited liability company, by deed dated March 25, 2015, of record in Deed Book 314, Page 104, Office of the Simpson County Clerk.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND APPROVAL AND  
RECOMMENDATION OF ZONE CHANGE BY FRANKLIN-SIMPSON COUNTY  
PLANNING & ZONING COMMISSION**

This matter came before the Franklin-Simpson County Planning & Zoning Commission on January 3, 2023, on the petition of Shivam Investments, LLC, a Kentucky limited liability company, requesting a zone change of approximately five (5) acres located along Nashville Road in Franklin, Simpson County, Kentucky from B-5 (Interstate Interchange Business District) to B-4 Highway (Business District), said property further described as follows:

The following-described property located on the east side of 31-W South in south Franklin, Simpson County, Kentucky, to-wit:

Beginning at an iron pin found #3290 in the easterly right-of-way of U.S. Route 31-W, the southwesterly corner of the subject owner William Wayne Powell as appears in Deed Book 222, Page 685, in the line of Jagdish Investment Group, Inc. (DB 206 Pg 109); thence along the easterly right-of-way of U.S. Route 31-W the following three (3) calls: (1) N 05° 52' 17" W 50.31 feet; (2) N 05° 47' 19" W 114.38 feet, (3) N 07° 56' 01" W 85.31 feet; thence leaving said road on new lines the following three (3) calls: (1) N 74° 09' 16" E 200.00 feet to an iron pin set, (2) N 63° 54' 54" E 826.72 feet to an iron pin set, (3) S 26° 05' 06" E 200.00 feet to an iron pin set in the line of the Lee Roy Graham and Katherine Graham Revocable Trust (DB 240 Pg 91); thence along the line of the subject owner with Lee Roy Graham, Vickram Patel, and Jagdish Investment Group, Inc. S 63° 54' 54" W 1107.17 feet to the point of beginning, containing 5.00 acres, more or less, and subject to all legal conditions and easements of record, according to June, 2005, survey by Gary Lee Dunning, Kentucky Registered Land Surveyor #3290. Basis of bearing for this description is the found monuments of the subject deed.

Being the same property conveyed to Shivam Investments, LLC, by 31-W Realty, LLC, a Tennessee limited liability company, by deed dated March 25, 2015, of record in Deed Book 314, Page 104, Office of the Simpson County Clerk.

The above-described property is incorporated in and made a part of the following TIF District which was established by City Ordinance No. 2021-012 and County Ordinance No. 110.8:

The following paragraph describes a tract of land in Simpson County, Kentucky on U.S. Highway 31 W and Peden Mill Road near Interstate 65, Kentucky Exit

2; , a portion of the same property as conveyed to SAV Investments, LLC in deeds of record as recorded in Deed Book 267 Page 670, Deed Book 294 Page 765, & Deed Book 332 Page 90 and includes the property as conveyed to Shivam Investments, LLC in Deed Book 314 Page 104 of the public deed records of the Simpson County Clerk's office, said premises being more particularly described as follows:

Beginning at an iron pin found in the southerly right of way of Peden Mill Road (50 ft. R/W), at the northwesterly corner of the SAV Investments property as recorded in Deed Book 332 Page 90 and shown in Minor Subdivision plat of record as Tract 2 as recorded in Minor Plat Book 1 Page 71, also a corner to the William Wayne Powell property as described in Deed Book 222 Page 685; thence along the meanders of the southerly right of way of Peden Mill Road the following two calls; along the arc of a curve to the left, having a field radius of 1462.39 feet, a chord bearing of North 79 degrees 37 minutes 10 seconds East a chord distance of 226.83 feet (arc length= 227.06') to a found iron pin #1859 at a point of tangent; thence North 76 degrees 15 minutes 53 seconds East a distance of 48.48 feet to an iron pin found #1859 in the westerly right of way of the CSX Railroad property as shown in Minor Plat Book 1 Page 71; thence along the westerly right of way of said Railroad as shown on the referenced Minor Plat, South 25 degrees 55 minutes 40 seconds East a distance of 913.27 feet to an iron pin found #1859; thence North 61 degrees 44 minutes 41 seconds East a distance of 20.30 feet to a found rebar (no cap), passing an iron pin found on line #1859 at feet; thence continuing along said railroad property as shown in Minor Plat Book 1 Page 72 the following two calls; South 25 degrees 55 minutes 36 seconds East a distance of 402.38 feet to an found iron pin #1859; thence South 25 degrees 49 minutes 20 seconds East a distance of 115.08 feet to an iron pin found #1859 in the westerly right of way of Interstate Highway 65 (controlled access); thence along the westerly right of way of Interstate Highway 65, and the southwestly line of the SAV Investments property as described in Deed Book 267 Page 670 South 33 degrees 52 minutes 19 seconds West a distance of 604.78 feet to an iron pin set at the location of a found bent iron pin (cap illegible) on the northerly side of a 1.12 acre parcel as described in Deed Book 267 Page 670; thence along the northerly line of said 1.12 acre parcel which has also been described as a 50 foot easement, South 73 degrees 28 minutes 46 seconds West a distance of 583.70 feet to an iron pin set; thence South 74 degrees 05 minutes 43 seconds West a distance of 412.96 feet to an iron pin set in the easterly line of a 50 foot wide easement road as described in Deed Book 206 Page 109; thence along the easterly line of said easement road (unimproved as of sate of survey), North 12 degrees 25 minutes 41 seconds West a distance of 635.97 feet to an iron pin set at the location of a found bent rebar #2142 in the line of Shivam Investments, LLC as recorded in Deed Book 314 Page 104; thence crossing the westerly terminus of said 50 foot easement road, South 63 degrees 20 minutes 40 seconds West a distance of 52.29 feet to a found iron pin #2142 (bent) at a corner with Ambarish Parekh as appears in Deed Book 300 Page 282; thence along the line of said Parekh property and the line of Jagdish Investments (Deed Book 314 Page 104), South 62 degrees 45 minutes 40 seconds West a distance of 505.33 feet to an iron pin found #3290 near the westerly base of a retaining wall in the

easterly right of way of U.S. Highway 31W as shown on 1948 highway plans, a corner with Shivam Investments (Deed Book 314 Page 104); thence along the easterly right of way of U.S. 31W as defined by said old plans, the following three calls; North 06 degrees 59 minutes 29 seconds West a distance of 50.31 feet; thence North 06 degrees 54 minutes 31 seconds West a distance of 114.38 feet; thence North 09 degrees 03 minutes 10 seconds West a distance of 85.31 feet to an iron pin found #3290 at a corner of the SAV Investments property as shown in Deed Book 294 Page 765; thence leaving said highway along the line of the Shivam Investments, LLC property with SAV Investments, North 73 degrees 02 minutes 04 seconds East a distance of 200.00 feet to an iron pin found #3290 in a gravel area (slightly disturbed); thence on new lines to the SAV Investments, LLC with what is a separate 3.40 acre parcel with buildings, the following three calls; North 62 degrees 47 minutes 42 seconds East a distance of 43.20 feet to a spike set in a gravel area; thence North 41 degrees 53 minutes 50 seconds East a distance of 442.55 feet to an iron pin set; thence North 24 degrees 16 minutes 20 seconds West a distance of 131.87 feet to an iron pin set in the line of William Wayne Powell (Deed Book 222 Page 685); thence along the monumented lines of the SAV Investments, LLC property with William Wayne Powell the following two calls; North 64 degrees 18 minutes 04 seconds East a distance of 913.87 feet to an iron pin found #3290 in the line of SAV Investments, LLC property as recorded in Deed Book 332 Page 90; thence along the line of SAV Investments and the William Wayne Powell property, generally with an older established fence, North 27 degrees 54 minutes 45 seconds West a distance of 529.67 feet to the point of beginning. Surveyed parcel contains 42.48 acres more or less and is a lot line removal plat tract to be recorded, subject to all legal conditions and easements of record. This description is based on an actual field survey performed by Gary Lee Dunning, Kentucky Registered Land Surveyor #3290 in May of 2021. Basis of bearing for this description is grid North, Kentucky South Zone, Lambert projection. Unless stated otherwise, all iron pins set this survey are 5/8" x 18" rebar with plastic identification cap stamped "Dunning #3290".

It was reported to the Commission that Shivam Investments, LLC desired to rezone said property consistent with the Comprehensive Plan. The Petitioners were represented by Hon. Timothy J. Crocker and Hon. Amanda L. East. The Commission heard statements of counsel and the testimony of Brian Shirley of Arnold Consulting Engineering Services, Inc., Mayor Larry Dixon of the City of Franklin, Simpson County Tourism Commission Director Amy Ellis, and Joey Uhls of Kenneth Simpson Construction. After considering the testimony, conceptual development plan, and statements of counsel, the following Findings of Fact and Conclusions of Law were adopted by the Franklin-Simpson County Planning & Zoning Commission:

1. The map amendment sought is in agreement with the community's Comprehensive Plan because the Comprehensive Plan identifies Nashville Road and the area around the I-65 interchange as an area where significant future growth will be located. The Comprehensive Plan states that there should be a sustained effort to maintain and grow the economic vitality around those areas. The Comprehensive Plan identifies this area as a gateway corridor for the community and contemplates that it should be designed and developed in a manner that promotes a positive introduction to Franklin. The Comprehensive Plan identifies the service sector as the second largest segment of the Simpson County community. The continued growth of the service sector will address and minimize retail sales leakage from the community. The Comprehensive Plan sets forth that mixed-use/residential development should be encouraged as land and energy-efficient development.

2. The original zoning classification given to the property was inappropriate or improper because this area is identified in the Comprehensive Plan as an area of significant future growth and is identified as a gateway to the community. U.S. 31-W is one of the main highways in Simpson County. Amending the original zoning classification from B-5 (Interstate Interchange Business District) to B-4 (Highway Business District) will be consistent and bring it into conformity with the Comprehensive Plan. The current zoning is also improper because there is an industry preference for smaller commercial lots that are not permitted under the current B-5 (Interstate Interchange Business District) zoning. Further, the B-5 (Interstate Interchange Business District) zoning classification does not permit multi-family land use developments.

3. There have been major changes of an economic, physical, or social nature within the area which were not anticipated in the community's Comprehensive Plan and which have substantially altered the basic character of such area. Recent changes in this area include, without

limitation, the expansion of Kentucky Downs, the continued development around Exit 2, the expansion of Highway 31-W, the construction of Exit 2 Liquors, the establishment of professional offices and restaurants along Highway 31-W, the opening of the Holiday Inn Express, the recommended rezoning of the Yokley property for a commercial center and residential area, and the approved rezone of the Hall property. There have been social and economic changes including, but not limited to, the expansion of Franklin-Simpson population and an increased demand for commercial property along the southerly corridor of Nashville Road. Commercial development is needed to address retail leakage to the surrounding communities.

4. The applicants have complied with all procedural prerequisites including the proper filing of the request for a zone change, and payment of all necessary expenses.

Based upon the foregoing specific Findings of Fact and Conclusions of Law, the Commission recommends to the City of Franklin, that the zone change for the property described herein from B-5 (Interstate Interchange Business District) to B-4 (Highway Business District) for 5 acres be granted.

Approved and recommended for zoning change, this the 3<sup>rd</sup> day of January, 2023.

  
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CHAIRWOMAN