

ORDINANCE NO. 2020 - 016

**AN ORDINANCE REZONING 4.00 ACRES (CONSISTING OF TWO TRACTS)
LOCATED ON BROWN ROAD AND KENTUCKY HIGHWAY 1008
FROM B-4 (HIGHWAY BUSINESS) TO I-2 (HEAVY INDUSTRIAL)
BY GAIL H. MANNING, TRUSTEE OF THE JAMES A. MANNING
AND GAIL H. MANNING REVOCABLE TRUST**

WHEREAS, Gail H. Manning, Trustee of the James A. Manning and Gail H. Manning Revocable Trust (hereafter "Manning"), filed a petition to rezone 4.00 acres (consisting of two tracts) located on Brown Road and Kentucky Highway 1008 from B-4 (Highway Business) to I-2 (Heavy Industrial); and

WHEREAS, Manning desires to rezone the aforementioned property from B-4 to I-2 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 October 6, 2020, 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 4.00 acres (consisting of two tracts) located on Brown Road and Kentucky Highway 1008, of record in Deed Book 315, Page 563 in the Simpson County Clerk's Office as described herein is granted a zone change from B-4 (Highway Business) to I-2 (Heavy Industrial).

Certain real property located northeast of Franklin in Simpson County, Kentucky, to-wit:

Tract No. 1: Commencing at an iron pin found, No. 2142, same being 19.03 feet S 35° 9' 4" west from the beginning point, another point which is the southwest corner of the subject property; thence with the northeast right-of-way of the Broderson Mobile Home Park Road, presently not traveled by the public, N 43° 2' 12" W 94.89 feet to a point; thence continuing with the road an additional 83.29 feet to a point in the road; thence continuing N 43° 2' 12" W 157.69 feet to a point, beginning an arc of the Broderson Mobile Home Park Road 43.52 feet in width to a concrete right-of-way marker found with the intersection of the south

right-of-way of Brown Printing Road; thence with the east right-of-way of Brown Printing Road N 57° 56' 3" E 104.44 feet to a point; thence with the right-of-way of Brown Printing Road N 51° 41' 15" E 407.17 feet to a point; thence continuing with the east right-of-way of the Brown Printing Road N 50° 36' 55" E 120.28 feet to a three inch metal post in the south right-of-way line of Kentucky State Route 1008; thence with the south right-of-way line of Kentucky State Route 1008, S 36° 45' 5" E 188.38 feet to a point, being a three inch metal post in the northeast right-of-way of the subject property; thence S 35° 9' 4" W 614.30 feet to the point of beginning, containing 3.89 acres, according to October 30, 2008, survey of Gary Lee Dunning Registered Land Surveyor #3290.

Being a part of the same property conveyed to James A. Manning by W. Paul Manning, Jr. et ux et al by deed dated July 25, 1988, of record in Deed Book 163, 196, Simpson County Clerk's Office.

Tract No. 2: Beginning at a point in the east right-of-way of Kentucky State Route 1008, same being at a 3" metal post and the southeastern corner of the James Manning property, thence with the line of Manning S 35° 9' 4" W 165.82 feet to a point, the southernmost point of the Manning property; thence on a new line S 48° 22' 28" E 28.90 feet to a point; thence N 35° 9' 4" E 166.61 feet to a point in the east right-of-way of Kentucky State Route 1008; thence with said right-of-way N 48° 22' 28" W 28.16 feet to the point of beginning, containing .11 acre, according to October 30, 2008, survey by Gary Lee Dunning, Kentucky Registered Land Surveyor No. 3290.

Being the same property conveyed to James A. Manning and wife, Gail H. Manning by Benny's Aperture, LLC, a Kentucky limited liability company, by deed dated December 10, 2008, of record in Deed Book 280, Page 317, Simpson County Clerk's Office.

Being a part of the same property conveyed to James A. Manning and Gail H. Manning, Co-Trustees of the James A. Manning and Gail H. Manning Revocable Trust by James A. Manning and wife, Gail H. Manning by deed dated July 7, 2015, of record in Deed Book 315, Page 563, and Simpson County Clerk's Office.

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.

October 12, 2020

FIRST READING

October 26, 2020

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on October 26, 2020, on motion made by Commissioner Bennett and seconded by Commissioner Powell, the foregoing ordinance was adopted, after full discussion, by the following vote:

Yes LARRY DIXON, MAYOR
Yes JAMIE POWELL
Yes BROWNIE BENNETT
Yes WENDELL STEWART
Yes HERBERT WILLIAMS

APPROVED BY:

Larry Dixon Mayor
Larry Dixon, Mayor

ATTEST:

Cathy Dillard
Cathy Dillard, City Clerk

FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

In Re the Petition for Zone Change from B-4 (Highway Business) to I-2 (Heavy Industrial) by
Gail H. Manning, Trustee of the James A. Manning and Gail H. Manning Revocable Trust

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDATION FOR ZONE CHANGE**

A public hearing was held before this Commission on October 6, 2020, at the hour of 6:30 p.m. on the petition of Gail H. Manning, Trustee of the James A. Manning and Gail H. Manning Revocable Trust ("Petitioner") that its 4.00 acre lot (consisting of two tracts) located on Brown Road and Kentucky Highway 1008, northeast of Franklin, in Simpson County, Kentucky (the "Property"), be re-zoned from B-4 to I-2. The Chairperson of the Commission, Debbie Thornton, presided. A quorum of the Commission was present. The Petitioner was represented by G. William Leach, Jr.. The hearing was stenographically recorded by a licensed court reporter.

The Commission then proceeded to hear an opening statement from attorney Leach and testimony in favor of the zone change from representatives of the Petitioner. There was an opportunity for cross-examination. Questions were asked and answered.

Having heard testimony, having reviewed the petition for zone change, the exhibits presented, and having reviewed the Comprehensive Plan, for Simpson County, Kentucky,

Craig Mylor moved,
George Weissinger seconded, and the Commission
unanimously voted to recommend the zone change. In connection with the zone change, the
Commission finds, concludes, and recommends the following:

FINDINGS OF FACT

I

The Property contains 4.00 acres and is bounded on the north by Kentucky Highway 1008, bounded on the north and west by Brown Printing Road, bounded on the south by Broderson Mobile Home Park Road, and on the east by vacant lands. The Property borders and is in the vicinity of the Brown Printing Company campus, Charles Deweese Construction, Sliger Construction, and Broderson Trailer Park.

II

The subject area is mixed use. There is heavy industrial of approximately 100.00 acres to the west, multi-family housing in Broderson Trailer Park, a scattering of single family residences in the area, agricultural, and some commercial property uses in the area. Generally, the area is industrial in nature, given the significant industrial acreage to the west and to the east on Highway 1008.

III

The Property was recommended for a zone change by this Commission from I-2 to B-4 after a public hearing on March 4, 2014, and it was duly re-zoned B-4. Such re-zoning turned out to be misplaced, as the Property is industrial in nature, and all prospects who have wanted to utilize buildings on the Property have been industrial in nature. There are no other commercial operations nearby to the Property.

IV

The Simpson County Comprehensive Plan is dated 1992, and was adopted in the fall of 1994. Based on the Comprehensive Plan and the purpose statement therein, the Property could reasonably expect to be zoned heavy industrial, given the adjacent sizable acreage of heavy industrially zoned property. The prior re-zoning in 2014 was improvidently sought.

V

The area in question has continued to develop in an industrial fashion, as it trends from agricultural to industrial.

VI

The Property is served by all necessary utilities and has exceptionally good road access, being bordered on three sides by roadways.

CONCLUSIONS OF LAW

A re-zoning of the subject Property is consistent with the Comprehensive Plan, as it lies adjacent to a sizable I-2 tract of land on which a major industrial complex has been constructed. The zone change request meets the criteria of KRS 100.213 and Section 10.7 of The Franklin-Simpson Zoning Regulations.

RECOMMENDATION

The Commission having adopted the foregoing Findings of Fact and Conclusions of Law, does now hereby recommend to the Simpson County Fiscal Court that the zone change be approved and that the Property described in the Appendix be re-zoned from B-4 to I-2.



DEBBIE THORNTON, Chairperson