

Sponsors:	<u>Commissioner Powell</u>
	<u>Commissioner Bennett</u>
Second Reading:	<u>May 10, 2021</u>
Publication Date:	<u>May 20, 2021</u>

ORDINANCE NO. 2021-007

AN ORDINANCE REZONING 6.83 ACRES LOCATED ON THE WEST SIDE OF BROADWAY AVENUE FROM I-2 (HEAVY INDUSTRIAL) TO AG (AGRICULTURAL) BY BOWEN

WHEREAS, Mr. Bowen filed a petition to rezone 6.83 acres located on the west side of Broadway Avenue, in Franklin, Simpson County, Kentucky from I-2 (Heavy Industrial) to AG (Agricultural); and

WHEREAS, Bowen desires to rezone the aforementioned property from I-2 to AG 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 April 13, 2021, 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 6.83 acres located on the west side of Broadway Avenue in Franklin, Simpson County, Kentucky, of record in Deed Book 338, Page 770, and in Deed Book 346, Page 499, in the Simpson County Clerk's Office as described in Exhibit A attached hereto is granted a zone change from I-2 (Heavy Industrial) to AG (Agricultural).

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All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

April 26, 2021

FIRST READING

May 10, 2021

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on May 10, 2021, on motion made by Commissioner Stewart and seconded by Commissioner Williams, 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

EXHIBIT A

The subject property, a 6.83 acre parcel on the west side of Broadway Avenue, under consideration for re-zoning was acquired by the Petitioner by that certain deed dated December 18, 2018, of record in Deed Book 338, Page 770, and by that certain deed dated January 31, 2020, in Deed Book 346, Page 499, Simpson County Clerk's Office. Said real property is the subject of that certain revised minor subdivision plat of record in Plat Cabinet 6, Page 3, said clerk's office. At the time of its acquisition by the Petitioner, said land was unimproved, however the petitioner intends to construct his personal residence thereon. The subject real property is more particularly described as follows:

TRACT I:

A certain parcel of land located in northern Franklin, Kentucky west of the CSX Railroad on Kentucky Highway 1788 being more particularly described as follows:

Beginning at a post on the west line of right of way of Broadway Avenue, said point a corner to Jones Partners, LLC (Deed Book 332, Page 12); thence leaving the line of right of way with same in 85° 08' 06" W 717.85 feet to an iron pin found (May); thence with a new line of KAC Investments N 06° 38' E 365.30" feet to an iron pin set in a fence row; thence N 86° 56' 02" E 561.12 feet to an iron pin set on the west line of right of way of Broadway Avenue. Thence with the line of right of way S 07° 00' 00" E 61.31 feet; thence N 83° 00' 00" E 10.00 feet; thence S 07° 00' 00" E 174.58 feet; thence on a radius of 550.90 feet an arc distance of 236.15 feet and when reduced to chord S 19° 16' 50" E 234.35 feet to the beginning corner **containing 5.83 acres, more or less**, by survey of Barry W. Claypool, Kentucky Registered Professional Land Surveyor #2314 dated December 4, 2018, and shown on record as Tract #1 of the KAC Investment Subdivision in Plat Cabinet 5, Page 141, in the office of the Simpson County Court Clerk.

See also KAC Investment, LLC Minor Subdivision Plat of record in Minor Subdivision Plat Book 5, Page 141, Simpson County Clerk's Office.

Being the same property conveyed by KAC Investments, LLC to John Hunter Bowen by deed dated December 18, 2018, of record in Deed Book 338, Page 770, Simpson County Clerk's Office.

TRACT II:

A certain parcel of land located in Simpson County, Kentucky on Broadway Avenue, being more particularly described as follows:

Beginning an iron pin found on the southwest corner to Hunter Bowen (Deed Book 338, Page 770); thence leaving Bowen with a new line of KAC Investments N 85° 08' 06" W 122.44 feet to an iron pin set; thence continuing with KAC Investments N 06° 06' 38" E 348.18 feet to an iron pin set; thence N 86° 56' 02" E 124.00 feet to an iron pin found; thence with Bowen's original line S 06° 06' 38" W 365.30 feet to the beginning corner **containing 1.00 acre more or less** by survey of Barry W. Claypool, Kentucky Registered Land Surveyor #2314 dated 11-11-19 **being shown of record as Tract 3 of the KAC Investment property in Plat Book 6, Page 3 in the office of the Simpson County Court Clerk.**

See also KAC Investment, LLC Minor Subdivision Plat of record in Minor Subdivision Plat Book 5, Page 141, Simpson County Clerk's Office.

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FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

In Re the Petition for Zone Change from I-2 (Heavy Industry) to AG (Agricultural) by
John Hunter Bowen

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDATION FOR ZONE CHANGE**
Regarding 6.83 acres on the west side of Broadway Avenue

A public hearing was held before this Commission on Tuesday, April 13, 2021, at the hour of 6:30 p.m. on the petition of John Hunter Bowen, ("Petitioner"), that certain property being located on the west side of Broadway Avenue within the corporate limits of the City of Franklin, and by survey consisting of 6.83 acres (PVA Map No. 003-00-01-005.03), **be re-zoned from I-2 to AG**. The Chairperson of the Commission, Debbie Thornton, presided. A quorum of the Commission was present. The hearing was stenographically recorded by a licensed court reporter.

The Commission then proceeded to hear an opening argument from the Petitioner as well as testimony in favor of the zone change on behalf 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 Property Valuation Administrator's aerial map for the subject vicinity, the Minor Subdivision Plat of record in Plat Cabinet 6, Page 3, Simpson County Clerk's Office, a vicinity zoning map, and having reviewed the Comprehensive Plan for Simpson County, Kentucky, John Mayeur moved, and Craig Mylor seconded, with the Commission otherwise voting to recommend the zone change. In regard to the zone change, the Commission FINDS, CONCLUDES, AND RECOMMENDS the following:

FINDINGS OF FACT

I

The subject property, a 6.83 acre parcel on the west side of Broadway Avenue, under consideration for re-zoning was acquired by the Petitioner by that certain deed dated December 18, 2018, of record in Deed Book 338, Page 770, and by that certain deed dated January 31, 2020, in Deed Book 346, Page 499, Simpson County Clerk's Office. Said real property is the subject of that certain revised minor subdivision plat of record in Plat Cabinet 6, Page 3, said clerk's office. At the time of its acquisition by the Petitioner, said land was unimproved, however the petitioner intends to construct his personal residence thereon. The subject real property is more particularly described as follows:

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II

The subject real property is situated on Broadway Avenue within the corporate limits of the City of Franklin in a bucolic setting with varying uses within its general vicinity. The adjacent parcels are presently zoned I-2 and R-1S.

III

The suitability scenarios of the Simpson County Comprehensive Plan support the proposed zone change inasmuch that the Comprehensive Plan promotes the preservation of agricultural lands in harmony with residential uses in the subject area, allowing a site built single-family dwelling by the subject landowner, while protecting the visual character of Franklin and Simpson County. The immediate location of the subject property, given its

neighboring mixed uses and undulating terrain, likewise supports the use of the subject property as an Agricultural Zone with an attendant single-family owner-occupied, residential use.

CONCLUSIONS OF LAW

A re-zoning of the subject property consistent with the Comprehensive Plan is in order given that the Comprehensive Plan promotes the preservation of agricultural lands in general and regarding this particular property which is well suited for an Agricultural use, to be improved by a site built, owner occupied, single-family dwelling. The terrain and location of the subject property is well suited for the requested zone change in conformity with the Comprehensive Plan and as an enhancement of the subject neighborhood. Consequently a zone change from I-2 to AG is now appropriate. 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 hereby now recommend to the City of Franklin that the zone change **BE APPROVED** and that the subject property described in paragraph I, hereof, and as further provided in the **Attachment** hereto and incorporated by reference, **be re-zoned from I-2 to AG.**

This April 13, 2021.


DEBBIE THORNTON, Chairperson