

Sponsors:	<u>Commissioner Powell</u>
	<u>Commissioner Stewart</u>
Second Reading:	<u>June 1, 2021</u>
Publication Date:	<u>June 10, 2021</u>

ORDINANCE NO. 2021-011

AN ORDINANCE REZONING APPROXIMATELY 7.6 ACRES LOCATED ON WEST MADISON STREET FROM MULTIPLE ZONES TO R-4 (MULTIPLE FAMILY/HIGH DENSITY RESIDENTIAL DISTRICT) BY BSIG, LLC

WHEREAS, BSIG, LLC, a Kentucky limited liability company, filed a petition to rezone approximately 7.6 acres located on West Madison Street, in Franklin, Simpson County, Kentucky currently in multiple zones to R-4 (Multiple Family/High Density Residential District); and

WHEREAS, BSIG, LLC desires to rezone the aforementioned property from multiple zones to R-4 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 May 4, 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 approximately 7.6 acres located on West Madison Street in Franklin, Simpson County, Kentucky, as described in Exhibit A attached hereto is granted a zone change from its current zoning to R-4 (Multiple Family/High Density Residential 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All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

May 24, 2021

FIRST READING

June 1, 2021

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on June 1, 2021, on motion made by Commissioner Powell 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

PROPERTY DESCRIPTION APPENDIX

Being a 7.5876 acre tract of land on West Madison Street (KY Hwy 383) in Franklin, KY. The property is owned by BSIG, LLC, a portion of Deed Book 345, Page 800, as recorded in the Simpson County Clerk's Office.

The tract is a portion of the property located at 707 West Madison Street - KY Hwy 383 (50-ft R/W), located approximately 182 feet South-West of the centerline of Knapp Lane. The property is more particularly described as follows:

Commencing at a set 5/8-inch iron pin with a yellow plastic cap stamped "L SLAVEY KY 3922" (all set iron pins called out in this description meet with aforementioned description) in the right of way of West Madison Street - KY Hwy 383 (50-ft R/W), located approximately 182 feet South-West of the centerline of Knapp Lane, a corner common with the Traughber property (Master Commissioner Deed Book 12, Page 431); thence leaving said right of way and with the line of the Traughber property, S 05° 25' 20" W 395.15 feet to a set iron pin, the true point of beginning; thence continuing with the Traughber property, S 05° 25' 20" W 62.74 feet to a set iron pin; thence continuing with the line of the Traughber property and after the right of way of Knapp Lane and with Wyatt property, S 82° 31' 01" E 324.42 feet to a set iron pin, a corner common with the Wyatt property (Deed Book 256, Page 748); thence leaving the Wyatt property and with the line of Lot 5 of Plat Book 3, Page 48B and Lot 6 of Plat Book 1, Page 99A, S 08° 46' 37" W 84.05 feet to a set iron pin in the line of Lot 24 of Plat Book 1, Page 26; thence with the line of Lot 24, N 83° 32' 49" W 45.00 feet to a set iron pin; thence continuing with the line of Lots 24, 25 & 26 of Plat Book 1, Page 26 and an unimproved right of way as shown in Plat Book 1, Page 10, S 11° 26' 39" W 371.80 feet to a set iron pin, a corner common with Lot 7 of Plat Book 1, Page 10; thence continuing with the line of Lots 7, 19, 20 & 21 of Plat Book 1, Page 10, N 81° 22' 03" W 274.25 feet to an existing 1/2-inch iron pin, a corner common with the Summers property (Deed Book 296, Page 672); thence leaving Lot 21 and with the line of the Summers property, N 83° 27' 47" W 271.23 feet to an existing 5/8-inch iron pin (disturbed); thence continuing with the line of the Summers property, N 05° 50' 38" E 79.39 feet to an existing 1/2-inch iron pin "KY2142," a corner common with the Pendleton property (Deed Book 331, Page 168); thence leaving the Summers property and with the line of the Pendleton property, N 06° 05' 18" E 78.13 feet to an existing 4-inch wooden post; thence continuing with the Pendleton property, N 84° 00' 20" W 145.31 feet to a set iron pin in the right of way of West Madison Street - KY Hwy 383 (50-ft R/W); thence leaving the Pendleton property and with the line of said right of way, N 07° 33' 14" E 364.27 feet to a set iron pin; thence serving the lands of BSIG, LLC, S 82° 26' 46" E 440.26 feet to the true point of beginning, having an area of 330,514 square feet, **7.5876 acres.**

Being part of the same property conveyed by G. W. Caldwell, LLC, a Kentucky limited liability company to BSIG, LLC, a Kentucky limited liability company, by deed dated December 20, 2019, of record in Deed Book 345, Page 800, Simpson County Clerk's Office.

FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

In Re the Petition for Zone Change from B-3 (Neighborhood Business District), R-2 (Single Family and Two Family Residential District), I-2 (Heavy Industrial District) and I-1 (Light Industrial District) to R-4 (Multi-Family / High Density Residential District) by BSIG, LLC

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

A public hearing was held before this Commission on Tuesday, May 4, 2021, at the hour of 6:30 p.m. on the petition of BSIG, LLC, a Kentucky limited liability company, active and in good standing ("Petitioner"), that a certain 7.5876 acre tract, being a portion of the Petitioner's lands located on the east side of Kentucky Highway 383 (West Madison Street) within the corporate limits of the City of Franklin, in Simpson County, Kentucky, the title to which is presently held by the Petitioner as a portion of that certain deed dated December 20, 2019, by G. W. Caldwell, LLC, a Kentucky limited liability company to BSIG, LLC, a Kentucky limited liability company, of record in Deed Book 345, Page 800, Simpson County Clerk's Office; **be re-zoned from B-3, R-2, I-2, and I-1 to R-4.** The Chairperson of the Commission, Debbie Thornton, presided. A quorum of the Commission was present. The Petitioner was represented by local attorney, David Cummins. The hearing was stenographically recorded by a licensed court reporter.

The Commission then proceeded to hear an opening statement from attorney Cummins and testimony in favor of the zone change on behalf of the Petitioner offered by one of its members, Johnston Boyd, and the Petitioner's surveyor, Jase Caldwell of Van Meter & Slavey, LLC, Professional Engineering & Land Surveying of Bowling Green, Kentucky. There was an opportunity for cross-examination. Questions were asked and answered. A call for any public comments was made to those in attendance.

Having heard testimony, having reviewed the petition for zone change, having reviewed the exhibits presented including a survey and conceptual plan of the subject parcel previously prepared by the firm of Van Meter & Slavey, LLC, and with regard to the Comprehensive Plan for Simpson County, Kentucky, Craig Mylor moved and Chad Konow seconded, and the Commission voted 5-0 to recommend the zone change. In connection with the zone change, the Commission FINDS, CONCLUDES, AND RECOMMENDS the following:

FINDINGS OF FACT

I

The subject property consists of 7.5876 acres as determined by a survey conducted by Lucas L. Slavey, Kentucky licensed professional land surveyor no. 3922 of Van Meter & Slavey, LLC, Professional Engineering & Land Surveying, 1015 Shive Lane, Bowling Green, Kentucky 42103, and is more particularly described as follows, to-wit:

Being a 7.5876 acre tract of land on West Madison Street (KY Hwy 383) in Franklin, KY. The property is owned by BSIG, LLC, a portion of Deed Book 345, Page 800, as recorded in the Simpson County Clerk's Office.

The tract is a portion of the property located at 707 West Madison Street - KY Hwy 383 (50-ft R/W), located approximately 182 feet South-West of the centerline of Knapp Lane. The property is more particularly described as follows:

Commencing at a set 5/8-inch iron pin with a yellow plastic cap stamped "L SLAVEY KY 3922" (all set iron pins called out in this description meet with aforementioned description) in the right of way of West Madison Street - KY Hwy 383 (50-ft R/W), located approximately 182 feet South-West of the centerline of Knapp Lane, a corner common with the Traughber property (Master

Commissioner Deed Book 12, Page 431); thence leaving said right of way and with the line of the Traugher property, S 05° 25' 20" W 395.15 feet to a set iron pin, the true point of beginning; thence continuing with the Traugher property, S 05° 25' 20" W 62.74 feet to a set iron pin; thence continuing with the line of the Traugher property and after the right of way of Knapp Lane and with Wyatt property, S 82° 31' 01" E 324.42 feet to a set iron pin, a corner common with the Wyatt property (Deed Book 256, Page 748); thence leaving the Wyatt property and with the line of Lot 5 of Plat Book 3, Page 48B and Lot 6 of Plat Book 1, Page 99A, S 08° 46' 37" W 84.05 feet to a set iron pin in the line of Lot 24 of Plat Book 1, Page 26; thence with the line of Lot 24, N 83° 32' 49" W 45.00 feet to a set iron pin; thence continuing with the line of Lots 24, 25 & 26 of Plat Book 1, Page 26 and an unimproved right of way as shown in Plat Book 1, Page 10, S 11° 26' 39" W 371.80 feet to a set iron pin, a corner common with Lot 7 of Plat Book 1, Page 10; thence continuing with the line of Lots 7, 19, 20 & 21 of Plat Book 1, Page 10, N 81° 22' 03" W 274.25 feet to an existing 1/2-inch iron pin, a corner common with the Summers property (Deed Book 296, Page 672); thence leaving Lot 21 and with the line of the Summers property, N 83° 27' 47" W 271.23 feet to an existing 5/8-inch iron pin (disturbed); thence continuing with the line of the Summers property, N 05° 50' 38" E 79.39 feet to an existing 1/2-inch iron pin "KY2142," a corner common with the Pendleton property (Deed Book 331, Page 168); thence leaving the Summers property and with the line of the Pendleton property, N 06° 05' 18" E 78.13 feet to an existing 4-inch wooden post; thence continuing with the Pendleton property, N 84° 00' 20" W 145.31 feet to a set iron pin in the right of way of West Madison Street - KY Hwy 383 (50-ft R/W); thence leaving the Pendleton property and with the line of said right of way, N 07° 33' 14" E 364.27 feet to a set iron pin; thence serving the lands of BSIG, LLC, S 82° 26' 46" E 440.26 feet to the true point of beginning, having an area of 330,514 square feet, **7.5876 acres.**

Being part of the same property conveyed by G. W. Caldwell, LLC, a Kentucky limited liability company to BSIG, LLC, a Kentucky limited liability company, by deed dated December 20, 2019, of record in Deed Book 345, Page 800, Simpson County Clerk's Office.

II

The subject area presently has a mixed use. Surrounding adjacent areas are presently zoned: North = I-2 and I-1; East = I-1 and R-2; South = R-2 and B-3; and West = B-3 and R-3. The subject 7.5876 acre tract abuts and frontage on Kentucky Highway 383 and has adequate

vehicle access to and from said state highway.

III

The Simpson County Comprehensive Plan adopted for 2010, is dated October 10, 2009. All suitability scenarios accommodate the proposed zone change particularly given that the subject property is situated along and abuts Kentucky Highway 383, in a mixed use area presently used to a significant extent for residential purposes. The Comprehensive Plan envisions the subject property as an area suitable for development and the requested zoning map amendment is consistent with the Comprehensive Plan.

IV

The subject property is within the corporate limits of the City of Franklin, is presently undeveloped, and no agricultural lands will be lost to its development as an R-4 zoned property.

V

The present zone classifications of the subject property are a mix of industrial, residential, and highway business uses being primarily zoned R-2, with a significant portion of the subject property being zoned I-2 and I-1, and a small portion being zoned B-3. Said zoning classifications previously assigned to the subject property were inappropriate and major changes of an economic, physical, or social nature within the subject area have occurred which have substantially established the area as residential in nature.

CONCLUSIONS OF LAW


A re-zoning of the entirety of the subject 7.5876 acre property consistent with the Comprehensive Plan is in order given that the Comprehensive Plan envisions growth and development in the subject area and along Kentucky Highway 383 and moreover, the mix of present zoning classifications assigned to the subject property was inappropriate given the primary residential use of the neighboring areas, the continued residential growth in the subject area, and the general mixed uses within the attendant neighborhoods. Consequently, a zone change to a R-4 multi-family / high density residential district will bring zoning uniformity to the property, will be consistent with the Comprehensive Plan, and will remedy the inappropriate mixture of zoning classifications previously assigned to the subject property. A zone change to B-4 is now appropriate; it is commensurate with major economic, physical, and social changes in this area; and it will improve this area for the residents of Franklin. The zone change request meets the criteria of KRS 100.213, and Section 10.7 of the Franklin-Simpson Zoning Regulations.

[THIS SPACE INTENTIONALLY LEFT BLANK]

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 entirety of the subject 7.5876, acre property described in paragraph I, hereof and as further provided in the **Attachment** hereto which is incorporated by reference, **be re-zoned from B-3, R-2, I-2, and I-1, to R-4.**

This May 4, 2021.


DEBBIE THORNTON, Chairperson