

## ORDINANCE NO. 2022-019

### AN ORDINANCE REZONING APPROXIMATELY 20.5 ACRES LOCATED ON 31-W NORTH FROM AG (AGRICULTURE) TO I-2 (HEAVY INDUSTRIAL) BY ANN PIPER CARPENTER

WHEREAS, Ann Piper Carpenter filed a petition to rezone approximately 20.5 acres located on 31-W North in Franklin, Simpson County, Kentucky currently zoned AG (Agriculture) to I-1 (Heavy Industrial); and

WHEREAS, Ann Piper Carpenter 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 June 21, 2022, 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 20.5 acres located on the 31-W North in Franklin, Simpson County, Kentucky, as more particularly described in Exhibit A attached hereto, is granted a zone change from AG (Agriculture) to I-2 (Heavy Industrial) subject to the following conditions:

1. The zone change is conditioned upon septic systems being utilized in accordance with 902 KAR Chapter 10, and approved by the Simpson County Health Department (or other inspection unit as required by Kentucky Administrative Regulations or other administrative regulation or statute).
2. Provided, however, that the City shall retain jurisdiction to inspect and periodically evaluate the amount of sewage being deposited in the septic system, and to enforce the remaining provisions of this ordinance.
3. If sewer becomes available in accordance with the requirements of the City of Franklin's ordinances (i.e. currently defined to be when an existing sewer line is within 500 feet of the property being rezoned), the then current property owner, upon written request by a duly authorized representative of the City, shall connect to the available sewer line within one (1) year of the receipt of the written notice from the City.
4. The City is approving this rezoning request based upon the property being used for warehousing only, which requires a limited number of persons/employees/workers utilizing the septic system. If the use changes to any function that includes the manufacture or productions of goods or if the number of employees or persons on the property available to utilize the septic system increases to a number of employees greater than 10 per 1,000 gallons of septic tank storage then, and in either of those events, the then current owner of the property, upon written notice by a duly authorized representative of the City, shall connect to the sewer system within one (1) year of the written notice regardless of the nearest location of the City's sanitary sewer system.

5. It is specifically understood and agreed that the provisions set forth in Paragraph 4 are to be calculated on a "per shift" basis. As an example only, if any facility on the property has sixty (60) employees/users of the septic system in an eight (8) hour shift (or a split shift of more hours per shift if required by the employer), the septic system shall have no less than a six thousand (6,000) gallon septic system for the facility(ies). Provided, however, that the number of employees/users at any one time shall not exceed the number of employees/users as set forth in Paragraph 4.
6. The City Attorney shall file a copy of this ordinance of record at the Simpson County Clerk's office, and the conditions of this ordinance shall run with the land that is being rezoned.

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.

July 25, 2022 FIRST READING

August 8, 2022 SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on August 8, 2022, 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 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

A certain tract of land in Simpson County, KY, located approximately 5.9 miles north of downtown Franklin, situated on the north side of Carr Road and further described from a survey made 3-16-22 by Robert G. May, LPLS #2142, as follows

Unless otherwise noted, any monument or reference monument referred to herein as a pin and cap is a ½" x 18" rebar with yellow plastic cap stamped R G May 2142. All bearings stated herein are referred to the recorded bearings as shown in Deed Book 315, Page 128, in the Office of the Simpson County Court Clerk.

Beginning at a found iron pin (cap #3290) located approx. 15' northwest of the existing centerline of Carr Road and being the westernmost corner to Pinnacle Agriculture Distribution Inc. (DB 315 Pg 128); Thence running approx. 15' northwest of the existing centerline of Carr Road, S71°19'13"W - 695.24' to a found iron pin (cap #3290), a corner to Homeplace Exception (DB 358 Pg 603); Thence with the lines of Homeplace Exception and Tommy Meador et al (DB 358 Pg 599), N25°42'19"W - 866.35' to an existing corner rock in the line of Meador et al, a corner to Rochelle Bryant (DB 360 Pg 292); Thence with the lines of Bryant, two calls; (1) N65°13'42"E - 649.26' to a pin and cap located at the bend of established property line, (2) S87°44'32"E - 474.81' to a found iron pin (cap #3290), a corner to same and Vanessa Satterly (DB 339 Pg 612); Thence with the lines of Satterly, two calls; (1) S87°53'36"E - 15.00' to a found ¾" iron pipe, (2) S87°01'40"E - 80.55' to a found iron pin (cap #2142) in the line of same, a corner to Lot #2 as shown in Minor Subdivision Plat Book #1 Pg 274; Thence with the lines of Lot #2, two calls; (1) S12°51'41"W - 160.05' to a found iron pin (cap #2142), (2) S66°28'05"E - 752.50' to a found iron pin (cap #2142) located 50' west of the existing centerline of US Hwy 31W; Thence running 50' west of and parallel to the existing centerline of US Hwy 31W, on a curve to the right with a radius of 13,633.12', a chord of S12°17'48"W - 61.17', an arc length of 61.17' to a found iron pin (cap #3290), a corner to Pinnacle Agriculture Distribution, Inc. (DB 315 Pg 128); Thence with the lines of Pinnacle Agriculture Distribution, Inc., two calls; (1) N66°28'05"W - 694.43' to a found iron pin (cap #3290), (2) S12°51'41"W - 582.17' to the beginning point.

Containing 20.458 acres. Source: Remainder of DB 183 Pg 472 on west side of US Hwy 31W

Being a part of the same property conveyed to Carl Joseph Piper by Carl Joseph Piper, Executor of the Estate of Sara Ann Piper, by deed dated December 11, 1992, of record in Deed Book 183, page 472, in the Simpson County Clerk's office. Title was acquired by Ann Piper Carpenter as devisee of the Will of Carl Joseph Piper by and through the Will dated January 26, 1998, and recorded in Will Book 19, page 324, and First Codicil dated December 8, 1998, of record in Will Book 19, page 330, both in the office aforesaid.

**FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION**

In Re: Petition for Zone Change from AG (Agricultural)  
to I-2 (Heavy Industrial) by Ann Piper Carpenter  
for 20.458 +/- acres immediately west of 6007 Bowling Green Road

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

A public hearing was held before this Commission on June 21, 2022 at the hour of 6:30 p.m. on the petition of the landowner Ann Piper Carpenter, that a tract of land situated on Bowling Green Road be rezoned from AG to I-2. The tract of land contains 20.458 +/- acres, is situated immediately to the west of 6007 Bowling Green Road, and is more particularly described in the March 16, 2022, boundary survey by Robert May, LPLS #2142, a copy of which is attached hereto as "Exhibit A" (the "Subject Property"). A quorum of the Commission was present. Chairperson of the Commission, Debbie Thornton, presided. The petitioner was represented by counsel, Hon. D. Gaines Penn. An audio and video recording of the hearing was made with the consent of the petitioner.

The Commission proceeded to hear an opening statement from Attorney Penn and then heard testimony in favor of the zone change from realtor Charlie Hill, purchaser/developer Fuji Avdic, and the concept plan developer Brian Shirley. There was an opportunity for cross-examination; some questions were asked and answered by members of the audience as well as Commission members. There was no opposition voiced to the proposed zone change.

Having heard testimony, reviewed the exhibits presented, reviewed the petition for zone change, and having reviewed the 2010 Comprehensive Plan Update for Franklin and Simpson County (the "Comprehensive Plan") and the Zoning regulations for the City of Franklin and

Simpson County, Kentucky (the "Zoning Regulation"), Commission member Gary Stiger moved, and Commission member George Weissinger seconded, and the Commission unanimously voted to approve the requested zone change. In connection with this zone change, the Commission finds, concludes, and recommends the following:

### **FINDINGS OF FACT**

#### **I.**

The Petitioner has sold the Subject Property subject to this requested zone change. The purchaser/developer seeks to build and operate a group of buildings for the warehousing and distribution of industrial products. The exact size and number of building will be subject to final engineering and site development but the preliminary concept plan presented at the hearing depicted each warehouse would be 12,000 square feet.

#### **II.**

One of the adjoining properties (PVA Parcel 039-00-00-023.03) is owned by Pinnacle Agriculture Distribution, which operates a seed and chemical warehouse and dry fertilizer house, was rezoned from AG to I-2 in 2015. The other adjoining property that fronts the Bowling Green Road and contains 5 acres was rezoned from AG to I-2 in 2019.

#### **III.**

The Subject Property is within sight and sound of the Hanson Franklin Quarry to the north, and the Wilkey North Industrial Park to the south. The Subject Property is situated on the major thoroughfare of 31-W and is intended to serve the increasing industrial activities located in north Simpson and south Warren counties.

#### **IV.**

The Subject Property is suitable for development for warehousing and distribution services because it is served by all necessary utilities, except sewer, and has excellent road access, is level to gently rolling, and is situated in a growing industrial area. The site distance entering and exiting the Subject Property is more than adequate to provide for the increased traffic flow as a result of this distribution facility.

#### **V.**

The Subject Property together with the surrounding area is becoming increasingly industrial in nature, given the presence of the I-2 zoned Wilkey North Industrial Park just to the south, and the Hanson quarry to the north.

#### **VI.**

The concept development plan as presented for the Subject Property complies with all performance standards required by I-2 zoning, such that the proposed business operation on the Subject Property should not negatively affect any area property owner. An additional landscape barrier will be required along the Carr Road.

#### **VII.**

The purpose of a heavy industrial district is to encourage development of major manufacturing, processing, warehousing, and other business establishments (Zoning Regulations Section 8.16.1). The proposed use of the Subject Property will involve warehousing and distribution of various industrial products such that the proposed industrial nature of the area is particularly suitable for the proposed use.

## VIII.

In terms of economic development, the Comprehensive Plan includes the following goal, “Strengthen and diversify the economic base of Franklin and Simpson County in order to achieve full employment for and increase the per capita income of its residents while maintaining the natural and historic environment.” The proposed warehousing and distribution center is consistent with this goal as it will help strengthen and diversify the local economy, create new jobs, support existing industries, and encourage further industrial development in an orderly fashion.

## IX.

The Subject Property is suitable for industrial use because of its location on 31-W and its close proximity to other industrial uses, including Pinnacle Agriculture Distribution which is operated on the adjoining property, the Hanson Franklin Quarry to the north, and the Wilkey North Industrial Park immediately to the south on the other side of 31-W.

## X.

The Future Land Use Map as set forth in the Comprehensive Plan at Figure 10.2 envisioned that the land immediately across 31-W from the Subject Property would be suitable used for future industrial development. Since Comprehensive Plan was last amended, industrial uses have been approved for the same side of 31-W where the Subject Property is located.

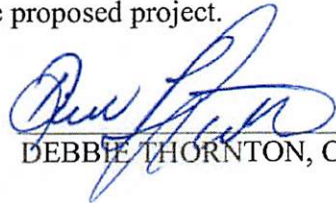
## CONCLUSIONS OF LAW

The proposed zoning map amendment is in agreement with the Comprehensive Plan. Further, the zone change is appropriate as there have been major changes of an economic, physical, or social nature within the area which were not anticipated in the Comprehensive Plan and have substantially altered the basic character of the area. The zone change request meets the criteria of

KRS 100.213 and Section 10.7 of the Zoning Regulations. The concept drawing attached as Exhibit B shows the area to be rezoned and shows the approximate location of the proposed buildings. The tendered drawing meets the minimum requirements of Article 13 of the Zoning Regulations for a development plan. More detailed development plans shall be submitted and approved before development begins.

**RECOMMENDATION**

The Commission, having adopted the foregoing Findings of Fact and Conclusions of Law, does hereby now recommend to the City Commission that the zone change be approved and the Subject Property described in Exhibit A be rezoned from AG to I-2. The attached drawing is also accepted as a minimum development plan for the proposed project.



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DEBBIE THORNTON, Chairperson



**Minutes**  
**Franklin-Simpson Planning & Zoning Commission**  
**Tuesday, June 21, 2022, 6:30 pm.**  
**City Commission Meeting Room**  
**117 West Cedar Street, Franklin, KY.**

Members in Attendance: Madam Chair Debbie Thornton, Kent Wilson, John Mayeur, Gary Sliger and George Weissinger.

Members Absent: Chad Konow, Craig Mylor and Roy Tyler.

Others Present: Carter Munday, Emily Flora, Robert Link, Graham Moore, John Bruno, Scott Satterly, Vanessa Satterly, Charles Garcia, Fuji Avdic, Paxx Burke, Charlie Hill, Bryan Shirley and Gaines Penn.

Madam Chair Debbie Thornton called the meeting to order at 6:30 p.m. George Weissinger opened with prayer.

A motion was made by Gary Sliger and seconded by Kent Wilson to approve the June 7<sup>th</sup> meeting minutes. All members voted in favor of the motion.

L's Property, LLC presented the board with **Preliminary Development Plan** for a rental subdivision **Located at 4539 Bowling Green Road.**

Dale Shivers, engineer for the project, stated that the development will have 64 residential lots with two commercial lots along Bowling Green Road. He also stated that each of these residences will have 3-4 bedrooms and will be on approximately .22 acres each. Carter Munday stated that all preliminary development plan requirements had been met, such as the water and sewer availabilities.

A motion was made by Kent Wilson and seconded by John Mayeur to approve the preliminary development plan for a rental subdivision located at 4539 Bowling Green Road. All members voted in favor of the motion.

Graham Moore presented the board with a **Preliminary Development Plan** for a RV sales and service center **Located at 3263 Scottsville Road.**

Mr. Moore, engineer for the project, stated that the center would be strictly for RV sales and minor services, not a RV park. He also stated that there would be two stormwater management facilities on the property, as well as trees dispersed throughout.

A motion was made by John Mayeur and seconded by George Weissinger to approve the preliminary development plan for a RV sales and service center located at 3263 Scottsville Road. All members voted in favor of the motion.

A motion was made by George Weissinger and seconded by Gary Sliger to exit the regular business meeting and enter the public hearing. All members voted in favor of the motion.

## **PUBLIC HEARING**

**Gaines Penn, attorney representing Ann Piper Carpenter, presented the Board with a request for a zone change from AG (agricultural) to I-2 (Heavy Industrial) for an approximately 20-acre parcel located on Bowling Green Road, immediately west of 6007 Bowling Green Road.**

Mr. Penn stated that the property is on 20.58-acres with a 60 ft. right-of-way from 31-W to the bulk of the property. He also stated that it is in the city limits.

Charlie Hill, real estate broker, was sworn in and Mr. Penn proceeded with testimony. Mr. Hill stated that the property was located on 31-W approximately a mile south from the Warren/Simpson County line. He also stated that the property was under contract to be sold but was contingent upon an I-2 rezone being granted. Mr. Hill stated that this property would be better suited for I-2, rather than AG, because it could serve as warehousing or distribution centers for the plants located across the street.

Fuji Avdic, developer for the property, was sworn in and Mr. Penn proceeded with testimony. Mr. Avdic stated that he had been in the logistics and warehousing business for 10 years and plans to slowly develop this property as the market demands. He also stated that there would be an approximately \$10-\$15 million investment being made into developing the property, with a total of 50-100 jobs being created. Mr. Avdic stated that on all of his current projects, there was no noise outside of working hours, no smell and no excessive lighting, only lights facing downward on the building. He also stated that working hours would be from 6:30 a.m.- 4 p.m.

Bryan Shirley, engineer for the project, was sworn in and Mr. Penn proceeded with testimony. Mr. Shirley stated that because of the shape of the parcel, the design would be more internally focused, so that it could contain stormwater runoff, as well as limit traffic along Carr Road. He also stated that the existing landscape vegetation would be maintained and more would be added to create a buffer around the property. Mr. Shirley stated that water and electric is available, but sewer is not, which would mean that they would have to install a septic system.

Gary Sliger inquired if there would be blacktop or gravel on the driveable portions of the property. Mr. Shirley stated that either blacktop or gravel would be used, but they have not made a decision yet, until they get to the development plan stage. He also stated that there would be approximately 45% lot coverage.

Paxx Burk, adjoining landowner, was sworn in, and voiced his concerns regarding the landscape barrier and limited room for the septic system.

Scott Satterly, adjoining landowner, was sworn in and voiced his concerns regarding the stormwater runoff from the property. Bryan Shirley stated that there would be grading done to control and collect the stormwater runoff on the property.

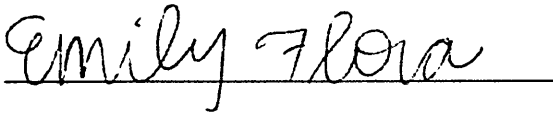
Vanessa Satterly, adjoining landowner, was sworn in, and voiced concerns regarding the landscape buffer. Bryan Shirley stated that the existing vegetation will be preserved, and more will be planted to ensure that there is an adequate buffer.

John Mayeur inquired if there was enough road frontage for the parcel to qualify as a buildable lot, since there was only 60 ft fronting Bowling Green Road. Carter Munday stated that it would be acceptable since there was also frontage along Carr Road, which would put it over the 100ft road frontage minimum.

A motion was made by Gary Sliger and seconded by George Weissinger to approve the requested zone change from AG (agricultural) to I-2 (heavy industrial) for an approximately 20-acre parcel located on Bowling Green Road, immediately west of 6007 Bowling Green Road. All members voted in favor of the motion.

Madam Chair Debbie Thornton adjourned the meeting at 7:54 p.m.

Respectfully Submitted:

Handwritten signature of Emily Flora in cursive script, written over a horizontal line.

Emily Flora, Administrative Assistant

Handwritten signature of Debbie Thornton in cursive script, written over a horizontal line.

Debbie Thornton, Madam Chair