

ORDINANCE NO. 2021 - 006

**AN ORDINANCE REZONING 38.27 ACRES LOCATED AT
5629 NASHVILLE ROAD FROM B-2 (GENERAL BUSINESS
DISTRICT) TO B-5 (INTERSTATE INTERCHANGE BUSINESS DISTRICT)
BY KENTUCKY DOWNS, LLC AND DECLARING AN EMERGENCY TO EXIST**

WHEREAS, Kentucky Downs, LLC, a Kentucky limited liability company, filed a petition to rezone 38.27 acres being a part of the property located at 5629 Nashville Road, Franklin, Kentucky from B-2 (General Business District) to B-5 (Interstate Interchange Business District); and

WHEREAS, Kentucky Downs, LLC desires to rezone the aforementioned property from B-2 to B-5 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;

WHEREAS, it is provided in KRS 83A.060(7) that publication of an Ordinance, in order to make it effective, need not be done in an emergency, upon the affirmative vote of two-thirds (2/3) of the membership of the City's legislative body, provided that the legally required publication requirement is carried out within ten (10) days of the date of enactment of the emergency ordinance; and,

WHEREAS, it is essential and in the public interest that the City issue this ordinance immediately and any postponement would be detrimental to the residents of the City due to the potential development and/or use of the property and the timing required, and, therefore, an emergency exists so that it is necessary and in the public interest to issue this ordinance immediately, and the City hereby declares such emergency to exist.

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

SECTION I.

DECLARATION OF AN EMERGENCY

1. It is hereby found, determined, and declared that the facts and recitals set forth in the preamble of this ordinance are true and correct and are hereby affirmed, and all acts described in preamble are hereby ratified. Such facts and recitals, including any terms defined therein, are adopted and incorporated as a part of this ordinance.

2. In accordance with KRS 83A.060(7), an emergency is hereby declared to exist for the reasons described in the preamble of this ordinance and the Board of Commissioners suspends the requirement of publication of the ordinance in order for it to become effective, so that the ordinance is and shall be effective upon the adoption of this ordinance; and further, this ordinance, because of said emergency hereby declared, shall be effective upon its adoption on first reading, without publication, as provided in KRS 83A.060(7), and the Board of City Commissioners having hereby suspended the requirements of second reading and publications. The ordinance shall be published within ten (10) days of the adoption of this ordinance as provided by law.

SECTION II.

REZONING PROPERTY FROM B-2 TO B-5

1. The preambles to this ordinance are incorporated in this section as if set forth in full herein.
2. The 38.27 acres located at 5629 Nashville Road, Franklin, Kentucky as described below is granted a zone change from B-2 (General Business District) to B-5 (Interstate Interchange Business District):

A certain portion of land lying in Simpson County, Kentucky and to be rezoned, said land being a portion of land owned by Kentucky Downs, LLC per previous survey completed by Kenner Randolph Engineering & Surveying, dated 10/5/2018, and as recorded in Deed Book 340, Page 350, Office of the Simpson County Clerk.

The basis of bearings referred to hereon were based on Grid North as it relates to the Kentucky State Plane Coordinate System. As observed via RTK based off NGS CORS Network. March, 2020.

Beginning at a corner to JED Holding Company, LLC as recorded in Deed Book 312 Page 797, and being in the northing right of way of US Highway 31 W (100' R.O.W.);

Thence leaving in the line of JED Holding Company, LLC with the northern right of way of US Highway 31 W for the following calls: thence S 23⁰ 59' 05" W a distance of 187.46' to a calculated point not set; thence S 23⁰ 00' 36" W a distance of 264.60' to a calculated point not set; thence S 22⁰ 29' 27" W a distance of 312.02' to a calculated point not set;

Thence leaving the northern right of way of US Highway 31 W with an existing zoning line and the parent tract for the following calls: thence N 74° 27' 28" W a distance of 595.22' to a calculated point not set; thence N 19° 35' 28" E a distance of 268.47' to a calculated point not set; thence N 08° 41' 28" E a distance of 720.50' to a calculated point not set; thence N 74° 23' 15" W 719.63' to a calculated point not set; thence N 21° 24' 03" E a distance of 459.18' to a calculated point not set; thence N 79° 36' 13" W a distance of 643.37' to a calculated point not set; thence N 16° 29' 01" E a distance of 159.05' to a calculated point not set; thence S 76° 49' 00" E a distance of 2202.47' to a calculated point not set, said point being on the northern right of way of US Highway 31 W; Thence with the northern right of way of US Highway 31 W S 23° 51' 12" W a distance of 752.11' to a calculated point not set said point being a corner to JED Holding Company, LLC; Thence leaving the northern right of way of US Highway 31 W for the following calls: thence N 70° 03' 37" W a distance of 233.44' to a calculated point not set; thence S 23° 52' 22" W a distance of 132.48' to a calculated point not set; thence S 70° 04' 04" E a distance of 233.57' to the point of beginning containing 38.27 acres . (1,667,318.27 square feet).

SECTION III.

EFFECTIVE DATE

This Ordinance shall be effective immediately upon the reading of the ordinance at the meeting being specifically approved and adopted for the purposes of first and only reading and for the purposes of publication according to law.

If any section, subsection, sentence, clause, or 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 holding shall not affect the validity of the remaining portions.

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

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, KENTUCKY, by the affirmative vote of at least two-thirds (2/3) of its membership upon one reading and upon declaration of an emergency as described above, all in accordance with and pursuant to KRS 83A.060(7) at a meeting held on April 26, 2021, and ordered to be published according to KRS 83A.060(7) within ten (10) days from the adoption of this ordinance and declared to be in full force and effect immediately according to law.

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

**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 April 13, 2021, on the petition of Kentucky Downs, LLC requesting a zone change from B-2 (General Business District) to B-5 (Interstate Interchange Business District) for a portion of 5629 Nashville Road described as follows:

A certain portion of land lying in Simpson County, Kentucky and to be rezoned, said land being a portion of land owned by Kentucky Downs, LLC per previous survey completed by Kenner Randolph Engineering & Surveying, dated 10/5/2018, and as recorded in Deed Book 340, Page 350, Office of the Simpson County Clerk.

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It was reported to the Commission that Kentucky Downs, LLC desired to rezone said property to make it consistent with neighboring and adjoining properties. Kentucky Downs, LLC was represented by Hon. Timothy J. Crocker. The Commission heard statements of counsel and the testimony of R.T. Browning and Matthew Allen. The Development Plan for the above-described property was presented to the Commission for review. After considering the testimony, 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 it contemplates structures that will promote tourism by providing services located along the Interstate. I-65, and its interchanges, continue to play a significant role in the development of Franklin and Simpson County with major land developments around the interchanges, including motels, in recent years. The Comprehensive Plan further identifies this area along U.S. 31-W south to the I-65 interchange to the Tennessee state line as an area for significant future growth.

2. The original zoning classification given to the property, B-2, was inappropriate or improper, because there are no adjacent B-1 zoning districts to the property or nearby residential neighborhoods on neighboring highways leading from a B-1 zoning district. The original zoning classification was inappropriate and improper because the surrounding property is classified as B-

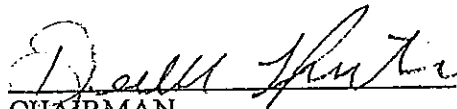
5. Amending the original zoning classification from B-2 to B-5 will be consistent and bring it into conformity with the surrounding property.

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. Kentucky Downs has expanded its business which has created the need for a hotel to accommodate its patrons. The development of a new I-65 interchange has seen an expansion of commercial and retail business in this area which has created a demand for overnight accommodations and a demand for a communal meeting space.

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-2 to B-5 be granted.

Approved and recommended for zoning change, this the 13th day of April, 2021.


CHAIRMAN