

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 20- 06

AN ORDINANCE ACCEPTING THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE MASON COUNTY JOINT PLANNING COMMISSION AND APPROVING THE APPLICATION OF DG MAYSVILLE KY, LLC, FOR A ZONING MAP AMENDMENT FOR A 2.00 ACRE PARCEL ON KY 9 WEST OF MAYSVILLE, KENTUCKY, FROM A-2 AGRICULTURAL TO B-2 HIGHWAY BUSINESS, AND OTHERWISE ADOPTING APPROPRIATE FINDINGS TO REFLECT THAT SUCH MAP AMENDMENTS FROM A-2 TO B-2 ARE CONSISTENT WITH THE COMPREHENSIVE PLAN FOR MASON COUNTY, KENTUCKY.

WHEREAS, the Mason Fiscal Court adopted a Land Use Ordinance, by virtue of its Ordinance No. 02-07 (hereinafter referred to as “the Ordinance”), such Ordinance, as amended, establishing land use districts which prescribe permitted uses for property within Mason County, Kentucky; and

WHEREAS, DG Maysville KY, LLC has made application to rezone from A-2 Agricultural to B-2 Highway Business, a total of 2.0 acres south of KY 9, and east of the intersection of KY 435, in Mason County, Kentucky; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on November 4, 2020, to consider the proposed Map Amendment and reclassification of the subject property, and entered Findings of Fact, Conclusions of Law, and Recommendations, recommending that the proposed Map Amendment be approved (SEE Exhibit A hereto); and

WHEREAS, the matter has been brought before the Mason Fiscal Court in accordance with the provisions of KRS 100.211(1) as to the proposed map amendments, and such Fiscal Court having limited its consideration of the proposed map amendments to the official record of the Public Hearing held before the Joint Planning Commission to make the legislative determination of the appropriateness of the Map Amendment to reclassify the subject property from A-2 to B-2, and having adopted Findings of Fact recommending such amendment.

NOW THEREFORE, THE FISCAL COURT OF MASON COUNTY, KENTUCKY, does hereby **ENTER THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDAINS** as follows:

FINDINGS OF FACT

1. That the Fiscal Court considered the testimony, exhibits and official record from the Planning Commission’s Public Hearing of November 4, 2020, and did not conduct further hearing or permit further testimony or evidence.
2. That the Planning Commission properly found that there was no testimony at hearing

which specifically objected to the proposed Map Amendment.

3. That the subject property is in an area of the County where there are sufficient highways and proposals of improved highways, as well as other infrastructure, that commercial development is appropriate;

4. That other property in the general area and of similar character as the subject property are zoned B-2, and the proposed Map Amendment will encourage commercial and economic growth in the area;

5. That the subject property is within the urban corridor as defined in Section 406.1 of Ordinance No. 02-07, and such urban corridors are areas which are found to contain infrastructure to support fairly intensive urban-type development;

6. That accordingly, the Mason Fiscal Court finds that the proposed Map Amendment is wholly consistent with the Comprehensive Plan adopted by the Mason Fiscal Court; and

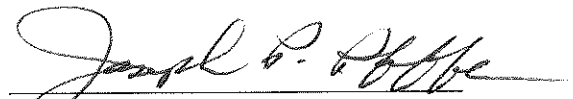
7. That the Planning Commission's Findings of Fact, Conclusions of Law and Recommendations are hereby adopted.

8. The two acre parcel subject to this ordinance is depicted in the proposed minor subdivision plat as proposed Lot 1, attached hereto as Exhibit B, and is described as being a portion of the same real property presently owned by Gary Gray, et ux, by deed dated April 3, 2020, and of record in Dee Book 373, page 497, Mason County Clerk's records.


IT IS FURTHER ORDAINED that Mason Fiscal Court, Ordinance No. 02-07 is hereby AMENDED, and an amended map shall be appended hereto upon adoption, and is incorporated herein by reference.

Given first reading this 15th day of December, 2020.

Thereafter, given second reading, and unanimously adopted, after publication in accordance with KRS Chapter 424 this 12th day of January, 2021.


Hon. Joseph P. Pfeffer
Judge Executive

ATTESTED BY:


Stephanie Schumacher
Mason County Clerk

Ordinance 20-06
Attachment A

MASON COUNTY JOINT PLANNING COMMISSION
PUBLIC HEARING
November 4, 2020
5:30 P.M.

IN RE: Zoning Map Amendment from DG Maysville KY LLC
to re-zone lot on AA Highway from A-2 to B-2.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
and
RECOMMENDATION

In accordance with the Maysville Code Of Ordinances and KRS Chapter 100, the Mason County Joint Planning Commission (hereinafter "Commission") conducted a public hearing at the Cox Building, 2 East Third Street, Maysville, Mason County, Kentucky on November 4, 2020 at 5:30 P.M. regarding the application of DG Maysville KY LLC, as prospective purchaser, for a zoning map amendment for a 2.000 acre lot on the AA Highway, in Mason County, Kentucky from A-2 Agricultural to B-2 Highway Business. The meeting was called to order with a quorum in attendance. Commission members present were Tom Coe, Tim Teegarden, Jean Everett, Xandy Stewart, Peggy Frame, Lesley Myers, Annette Walters and David Reed. At the conclusion of the public hearing, upon a majority vote of the members present, the Commission adopted the following Findings Of Fact, Conclusions Of Law, and Recommendation.

FINDINGS OF FACT

- A. The notice requirements of KRS Chapters 100 and 424 were complied with, written notice of the public hearing having been provided to the public by written notification sent certified mail return receipt requested to adjoining property owners, placement of a sign on the property sought to be re-zoned and by publication in the Ledger-Independent newspaper, as evidenced by the documents submitted for the record by the staff.
- B. The applicant is DG Maysville KY LLC. It was represented at the hearing by attorney Tim Theissen. The applicant has contracted with the current owners to purchase the property and those owners have given their consent to the application with said consent entered into the record. The applicant intends to open a Dollar General on the property which is near the intersection of the AA Highway and Kentucky 435 in the western portion of the county. Dollar General plans to construct one of its demo stores and will have a larger grocery type store. The lot is plenty big enough for the store with no necessary variances for parking or setback lines. In the opinion of Mr. Theissen the application is in conformity with the Comprehensive Plan. The property is on an urban corridor and the sought change is for a commercial use. Sight distances from

the lot are good insofar as traffic flow is concerned. Dollar General provides convenience shopping close to home which minimizes environmental and traffic impact. Research has shown that the majority of its customers don't make separate trips to Dollar General. Rather, they stop at Dollar General as part of normal commuting or as part of other trips. Utility use will be well within local capacity as Dollar General plans lighting that points inward rather than outward to minimize light pollution.

- C. Mr. Larger issued a memorandum detailing his opinion that the proposed amendment is in conformity with the Comprehensive Plan. The lot is located on an urban corridor with appropriate infrastructure for rezoning. The subtraction of two acres from the parent tract would not unduly impinge continued agricultural use thus minimizing the concern regarding conservation of agricultural land. Further, the Joint Planning Commission on its own initiative has rezoned many properties along the AA Highway for commercial use within the last ten years.
- D. The only other member of the public to speak was Cathy Walston. She is a co-owner of a nearby business and she supports the application.
- E. The public hearing was closed and the Commission discussed in

open session the proposed map amendment.

CONCLUSIONS OF LAW

1. That the Mason County Joint Planning Commission is empowered by KRS Chapter 100 and the Code Of Ordinances to conduct public hearings regarding land use matters, and is, in fact, required by law to conduct such hearings. Further, the Mason County Joint Planning Commission is empowered by KRS 100.211 and the Land Use Management Ordinance to conduct public hearings regarding applications to amend the zoning map.
2. The application is in conformity with the Comprehensive Plan. Commercial uses within urban corridors are appropriate and the sought amendment is in keeping with long range planning of the Commission.

RECOMMENDATION

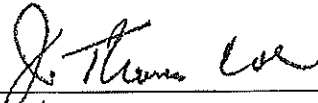
WHEREFORE, the Mason County Joint Planning Commission respectfully recommends to the Mason County Fiscal Court that the application to amend the zoning map be approved.

Motion made by Tom Coe and seconded by Xandy Stewart. Motion passed unanimously.

MASON COUNTY JOINT PLANNING COMMISSION


Tim Teegarden
Chairman

Attest:


Secretary

