

ORDINANCE NO. 08-07

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY
APPROVING THE ZONE CHANGE OF THE HAROLD JOHNSON PROPERTY
LOCATED AT 1762 HWY 21 – BIG HILL ROAD FOR 1.6 ACRES AND
AUTHORIZING THE CHANGE ON THE OFFICIAL ZONING MAP OF
MADISON COUNTY, KENTUCKY.**

WHEREAS, the hereinafter described land is located in Madison County, Kentucky and

WHEREAS, the Madison County Planning Commission held a public hearing on Tuesday, February 19, 2008 following a tie vote at the Public Hearing held on January 15, 2008 concerning the proposed Land Use Map Amendment. The Madison County Planning Commission made a motion and second to not take any action on this matter but forward the requested Land Use Map Amendment to the Madison County Fiscal Court with no recommendation. Motion carried with a vote of 4 yes and three no.

WHEREAS, the Madison County Fiscal Court held a public hearing on March 07, 2008 and made finding of fact the proposed land use map amendment is in agreement with the adopted Comprehensive Plan in that:

- 1) The zone change request is in agreement with the Comprehensive Plan and encourages growth in the Urban Corridors.
- 2) There will be little or no impact to the existing infrastructure.
- 3) The property is compatible with the adjoining commercial property and will allow an existing business to expand where a business has been in existence for over 50 years.
- 4) The property is located on a major State Highway bringing people and good to Berea and the surrounding areas.
- 5) The development of the property will be guided and controlled by local county development regulations.
- 6) The property is located within a ¼ mile of new 200 + lot residential development (Homestead Estates) and will also be located near a major intersection of the New Berea Bypass and KY Highway 21.
- 7) The business presently serves and supports the area for agricultural related items and goods, and it is the only business of its' type in the southern part of Madison County.

Therefore, recommend the classification of the property involved herein be change from UC-7 Urban Agricultural to UC-4 General Commercial with the following conditions:

- 1) A site development plan must be submitted and approved by the Madison County Planning Commission;
- 2) Montgomery Farm Supply agrees to delay deliveries into this 1.6 acre parcel until after twelve o'clock (noon) each day;
- 3) A suitable landscape buffer shall be installed to buffer this property from the lands of Gene and Nita Wiles;

- 4) A written and signed agreement regarding the above must be signed by the parties of Montgomery Farm Supply as well as the Wiles family.

NOW, THEREFORE BE IT ORDAINED AND ENACTED, by Madison County Fiscal Court that the land use classification of the following described property be changed by this ordinance from UC-7 Urban Agricultural to UC-4 General Commercial.

SECTION I

A certain tract of land known as tract of land lying and being in Madison County, Kentucky, and further described as follows:

Parcel A is to be joined with the existing lands of Alfred Johnson, Deed Book 326, Page 569. Access to Parcel A provided by a 16.00' right of way as per Deed Book 400, Page 520.

A certain tract of land located on the south side of Hwy 21 approximately 1000.00' west of the intersection of Hwy 21 and Hwy 1617 (Gabbardtown Road) in Madison County, Kentucky, and being bound by a Class "A" Survey prepared by Central Kentucky Land Surveying Inc., Jay Webb, LS 3505, and further described as follows:

Beginning at a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505) on the west bank of Silver Creek at the southwest corner of Albert Johnson, Deed Book 326, Page 569, and common corner to Harold & Wanda Johnson, Tract 2, Deed Book 502, Page 274, Plat Book 16, Page 146; thence leaving the line of Johnson on new lines dividing lands of Harold & Wanda Johnson continuing with the west bank of silver Creek, S 05° 28' 43" W 109.45' to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence S 40° 50' 40" W 56.68" to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence S 79° 43' 15" W 68.25' to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence N 84° 35' 50" W 64.93' to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence S 76° 42' 46" W 44.19 to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence N 79° 08' 20" W 68.40' to a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); thence N 69° 38' 20" W 58.81' to a point not set on the west ban of the silver Creek in the line of Otis & Verna Mae Pigg, Deed Book 386, Page 783, and Deed Book 386, Page 788; thence continuing with the lines of Pigg, N 56° 47' 50" E 168.66; total (p[assign a set steel pin (½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); at 35.14' as a witness pin) to a set steel pin ((½" rebar, 18" long with yellow plastic cap stamped CKLS WEBB LS 3505); corner to Otis & Verna Mae Pigg and Glen & Nita Wiles, Deed Book 358, Page 154, Plat Book 6, Page 338; thence leaving the line of Pigg, continuing with the line of Wiles, N 20° 38' 10" E 268.46' to a found steel pin with no cap in the line of Glen & Nita Wiles and corner to Diane McWhorter, Deed Book 515, Page 652; thence leaving the line of Wiles with McWhorter, S 69° 56' 17' E 132.63' to a found steel pin with no cap in the line of Johnson, S 05° 28' 43" W 164.16' to the point of beginning hereby designated a Parcel A, containing 1.60 Acres (69,567 Sq. Ft.).

SECTION II

That the Director of Planning and Development make the appropriate changes to the Official Zoning Map of Madison County, Kentucky.

SECTION III

That the County Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statutes.

DATE OF FIRST READING: 2-29-08

MOTION BY: Larry Combs

SECONDED BY: Harold K. Botner

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD K. BOTNER, Jr. ✓

DATE OF SECOND READING: March 25, 2008

MOTION BY: Larry Combs

SECONDED BY: Roger Berger

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD K. BOTNER, Jr. ✓


MADISON COUNTY JUDGE EXECUTIVE

Attest:


MADISON COUNTY CLERK

RECEIVED

MAY 29 2008

MADISON COUNTY
PLANNING & DEVELOPMENT

RECEIVED
JUN 27 REC'D
Madison County
Fiscal Court JD

AGREEMENT

This Agreement is made and entered into this 27th day of June, 2008, by and between Harold Johnson and Wanda E. Johnson, husband and wife, hereinafter referred to as "Property Owner"; Montgomery Farm & Garden, LLC, a Kentucky limited liability company, hereinafter referred to as "Lessee"; and Glen Wiles and Nita Wiles, husband and wife, hereinafter referred to as "Adjoining Owner",

Witnesseth That:

Whereas, Property Owner is the owner of a certain tract of real property located at 1762 Highway 21E in Berea, Madison County, Kentucky, hereinafter referred to as "the Property" which is leased to Lessee for use with Lessee's business; and

Whereas, Property Owner has filed application with the Madison County Planning and Zoning Commission for a land use change for the Property from UC-7 to UC-4; and

Whereas, Adjoining Owner voiced concern to the Madison County Planning Commission and to the Madison Fiscal Court over said Land Use Change and more specifically the loading and unloading of merchandise and the buffer zone between Adjoining Owner and the Property; and

Whereas, the parties have since reached an agreement which they wish to put to writing;

Now, therefore, the parties agree as follows:

1. Adjoining Owner does not contest the reclassification of the Property from UC-7 to UC-4.
2. Lessee will not permit the loading or unloading of transport trucks on the Property between the hours of 5:00 p.m. and 10:00 a.m.
3. Property Owner and Lessee will comply with the Madison County Planning and Zoning Regulations pertaining to buffer zones required for UC-4 zoning classifications.

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IN TESTIMONY WHEREOF, the parties have hereunto set their hands on the date and year first above written.

PROPERTY OWNER:

LESSEE:

Harold D. Johnson
HAROLD JOHNSON

MONTGOMERY FARM & GARDEN, LLC,
a Kentucky limited liability company

By: Doug Platts

Wanda E. Johnson
WANDA E. JOHNSON

Title: Owner

ADJOINING OWNER:

Glen Wiles
GLEN WILES

Nita Wiles
NITA WILES

State of Kentucky

County of Madison

Subscribed and sworn to before me by Harold Johnson and Wanda E. Johnson, husband and wife, on this 25 day of June, 2008.

Barbara J. Ferrell
Notary Public
My commission expires: 05/06/11

State of Kentucky

County of Madison

Subscribed and sworn to before me by Buddy Montgomery as Co-owner of MONTGOMERY FARM & GARDEN, LLC, a Kentucky limited liability company, to be the act and deed of the company, this 25 day of June, 2008.

Barbara J. Ferrell
Notary Public
My commission expires: 05/06/11

State of Kentucky

County of Madison

15th Subscribed and sworn to before me by Glen Wiles and Nita Wiles, husband and wife, this day of May, 2008.

Faye T. Willis
Notary Public
My commission expires: 4/19/2011

