

AN ORDINANCE CHANGING THE ZONE FROM A TWO-FAMILY RESIDENTIAL (R-2) ZONE TO A LIGHT INDUSTRIAL (I-1) ZONE, FOR 0.24 NET (0.28 GROSS) ACRES, FOR PROPERTY LOCATED AT 910 AND 912 DELAWARE AVENUE. (CLAY INGELS COMPANY, INC.; COUNCIL DISTRICT 5).

WHEREAS, at a Public Hearing held on April 26, 2018 a petition for a zoning ordinance map amendment for property located at 910 and 912 Delaware Avenue from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone for 0.24 net (0.28 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 910 and 912 Delaware Avenue from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone for 0.24 net (0.28 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are appropriate and proper because the site lies immediately adjacent to existing single family uses across Delaware Avenue and shall apply via conditional zoning:

- a. Any outdoor lighting shall not be directed towards nearby residential properties.
- b. Any freestanding signage shall be limited to one freestanding sign, not to exceed 15-feet in height and 32 square feet in area.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference

to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 21, 2018

MAYOR 

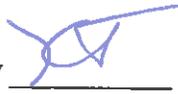
ATTEST: 
CLERK OF URBAN COUNTY COUNCIL

Published: June 28, 2018-1t
567-18_TWJ/kt_X:\Cases\PLANNING\18-LE0001\LEG\00614929.DOCX

910-912 Delaware Avenue
Liberty Heights Subdivision
(Clay Ingels Company INC, Property)
Zone Change from R-2 to I-1
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED SOUTH OF AND ADJACENT TO DELAWARE AVENUE APPROXIMATELY 0.8 MILES EAST OF THE INTERSECTION OF DELAWARE AVENUE AND U.S. 60 IN CENTRAL LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

.BEGINNING AT A POINT in the centerline of Delaware Avenue, said point also lying in the extended common line of 908 and 912 Delaware Avenue as shown on the Consolidation Minor Subdivision Plat of Liberty Heights Subdivision (Clay Ingels Company, LLC) and recorded in Plat Cabinet R, Slide 659 of record in the Fayette County Clerk's Office; Thence South 48 Degrees 45 Minutes 40 Seconds East, a distance of 80.00 feet to a point; Thence South 41 degrees 14 minutes 20 seconds West, a distance of 150.00 feet to a point; Thence North 48 Degrees 45 Minutes 40 Seconds West, a distance of 80.00 feet to a point; Thence North 41 Degrees 14 Minutes 20 Seconds East, a distance of 150.00 feet to the **POINT OF BEGINNING** and containing 0.28 acres gross and 0.24 acres net.

Rec'd by 

Date: 5/18/18

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-18-00005: CLAY INGELS COMPANY, INC.** – a petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone, for 0.24 net (0.28 gross) acres, for property located at 910 and 912 Delaware Avenue. (Council District 5)

Having considered the above matter on **April 26, 2018**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested Light Industrial (I-1) zone is appropriate for the subject site, for the following reasons:
 - a. The site is surrounded on three sides by either Light Industrial (I-1) or Wholesale and Warehousing (B-4) zones and uses.
 - b. Historically, landscape buffering was not provided between the residential lots and the industrial/warehousing lots.
 - c. The residential structures on the subject property were vacant for many years, eventually leading to their demolition, most likely due to the close proximity of active industrial sites and the lack of transition between the industrial and residential uses.
2. The existing Two-Family Residential (R-2) zone is not appropriate for the subject site, for the following reasons:
 - a. Single family homes and duplexes located in an area surrounded by industrial and warehousing zones and uses are generally considered incompatible, unless substantial buffering exists between the uses.
 - b. Article 3-1(a) of the Zoning Ordinance states that no land shall be used or occupied except in conformance with the zone in which it is located (paraphrased), meaning that if a use is not allowed in a zoning district, one cannot put that prohibited use on a piece of land in that zone. Also, Article 8-11 states that off-street parking lots and their associated vehicle use areas (driveways) are not allowed in an R-2 zone as a principle use. In this manner, industrially zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of **PLN-MJDP-18-00020: Liberty Heights Subdivision (Clay Ingels, Co., LLC)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the property:**
 - a. Any outdoor lighting **shall not be directed towards nearby residential properties.**
 - b. Any freestanding signage shall be limited to one freestanding sign, not to exceed 15-feet in height and 32 square feet in area.

These restrictions are appropriate and proper because the site lies immediately adjacent to existing single family uses across Delaware Avenue.

ATTEST: This 18th day of April, 2018.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-18-00020: Liberty Heights Subdivision (Clay Ingels, Co., LLC) was approved by the Planning Commission on April 26, 2018 and certified on May 10, 2018.

K.R.S. 100.211(7) requires that the Council take action on this request by July 25, 2018.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Nick Nicholson, Attorney.**

OBJECTORS

- None

OBJECTIONS

- None.

VOTES WERE AS FOLLOWS:

AYES: (10) Bell, Berkley, Brewer, Cravens, Forester, Owens, Penn, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (1) Mundy

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-18-00005** carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: CLAY INGELS CO, INC, 914 DELAWARE AVE, LEXINGTON, KY 40505
Owner(s): CLAY INGELS CO, INC, 914 DELAWARE AVE, LEXINGTON, KY 40505
Attorney: Nick Nicholson, Stoll Keenon Ogden, PLLC, 300 W Vine Street #2100, Lexington, KY 40507 PH: 859-231-3000

2. ADDRESS OF APPLICANT'S PROPERTY

910-912 DELAWARE AVE, LEXINGTON, KY

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-2	Vacant	I-1	Industrial	0.24	0.28

4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

5. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable





NICK NICHOLSON
DIRECT DIAL: (859) 231-3950
DIRECT FAX: (859) 246-3649
Nick.Nicholson@skofirm.com

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

March 28, 2018

Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Dear Members of the Planning Commission:

On behalf of Clay-Ingels Company, Inc., (“Clay-Ingels” or “Applicant”) we have filed a zone change application to Light Industrial (I-1), for the property located at 910-912 Delaware Avenue (the “Property”). The Property consists of approximately 0.24 net (0.28 gross) acres. While it is presently zoned Two-Family Residential (R-2), the site is vacant, as the two residential structures previously on the site were demolished after remaining unoccupied for a lengthy period of time. The Applicant requests approval of the proposed zone change as the existing R-2 zoning classification is inappropriate and the I-1 zoning classification is appropriate as discussed below.

The Applicant proposes to use a portion of the Property to improve the entrance by widening and realigning the existing narrow access point with poor sightlines to better handle the traffic from Winchester Road. These improvements will only benefit the area. This request is not to introduce a new use or a new business to the area. It will not lead to greater traffic or noise. What this change will do is ensure that the trucks already accessing the existing site can do so in a more appropriate and safe manner.

The Property is almost completely surrounding by either Industrial (I-1) land or Wholesale and Warehouse Business (B-4) land in an area that is predominantly industrial in nature. In fact, a majority of the properties on Delaware Avenue are zoned either I-1 or B-4 with only a small area of R-2 zoned property between Winchester Road and Dallas Avenue – especially on the southern side of Delaware Avenue. The Applicant proposes to incorporate the site into its building material distribution facility at 958 Delaware Avenue, which is a 10+ acre Light Industrial (I-1) site surrounding the Property to the south and east that has been in this location since 1965. The Property adjoins the entrance to the Clay-Ingels facility and the proposed zone change will allow for the design of a more formal and improved entrance into the facility. The primary reason that the residential zoning is inappropriate and that the industrial zoning is appropriate are essentially the same. The location of the vacant parcel is just not suited for residential use as it is almost completely surrounded by either warehousing or industrial use. And, due to this proximity to I-1 and B-4 properties, it is appropriate to add on a small vacant parcel to the existing adjacent industrial user to help remedy a known access issue. As such, we submit that the requested zone change is appropriate.

Another reason why residential zoning is inappropriate on this parcel is that there is no existing landscape buffer between the industrial and residential zones. As such, any new residential structure must comply with Article 18's landscaping requirements between industrial and residential uses with a 15 foot landscaping buffer with trees, a fence, and double row of hedges all the way around the side and rear yards. 910 and 912 Delaware have been consolidated into a single lot. As such, Applicant could only build a single family house or a duplex if the existing zoning remained in place. While there may be technically enough room on the .24 acre site for such a structure, the buffer area creates a very narrow buildable area that is just not suited for a new residential structure. The former residential structures had been vacant for quite some time before being torn down as there simply wasn't a demand to live wedged in between the neighboring warehouse, the major industrial user to the rear, and at the corner of a substandard access road for industrial traffic. Simply put, there is no logical reason to rebuild a residential structure that no one wants to live in due to the location and surrounding uses.

In contrast to the above scenario, the Applicant is proposing to improve the existing access drive, which is a clear need for the user and the neighborhood. This improvement can only occur with this zone change and it makes industrial zoning very appropriate at this location. The proposed realigned access drive will fit in seamlessly with the neighborhood and the operations of the longstanding existing industrial user resulting in improved existing conditions for all of Delaware Avenue – especially the residential uses. Finally, this will not have any type of adverse impact to the surrounding neighbors as the proposed development plan does not introduce a new access point or new industrial traffic onto Delaware. This zone change merely aids in the property owner's efforts to address a known issue in a manner that does not add any additional stress onto the surrounding residential houses and allows a local business to function in a more efficient manner.

While we are not justifying the zone change request on compliance with the Comprehensive Plan, the Applicant firmly believes that this proposal is not adverse to the Goals and Objectives of the Comprehensive Plan. Simply put, as a policy document for the entire community, the Plan doesn't really lay out goals and objectives relating to this small of a change to benefit an existing business. This request is simply a 0.24 net acre site being absorbed by the larger adjacent use of the area – not something that is typically addressed in a community policy document. While small in nature, this change will allow for the betterment of the surrounding area and help make a local business a more efficient property. These types of concepts are certainly encouraged by our Plan.

The Applicant commits to working with Staff to develop appropriate buffering and landscaping requirements around the proposed access aisle and appropriate conditional zoning restrictions to limit the types of industrial uses for the Property due to the proximity to the existing residential use along Delaware.

We will be at the April public hearing in order to make a complete presentation of this application and request your favorable consideration.

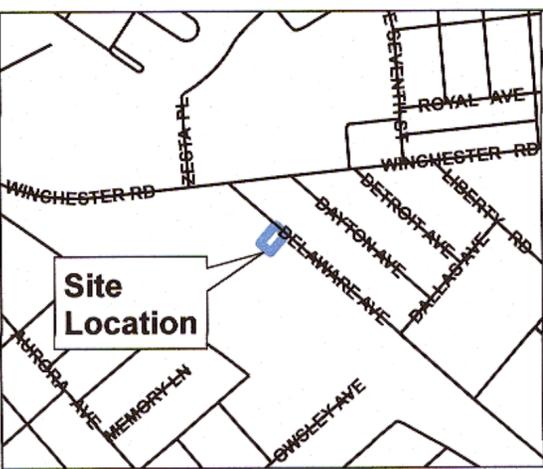
Planning Commission
March 28, 2018
Page 3

Best Regards;

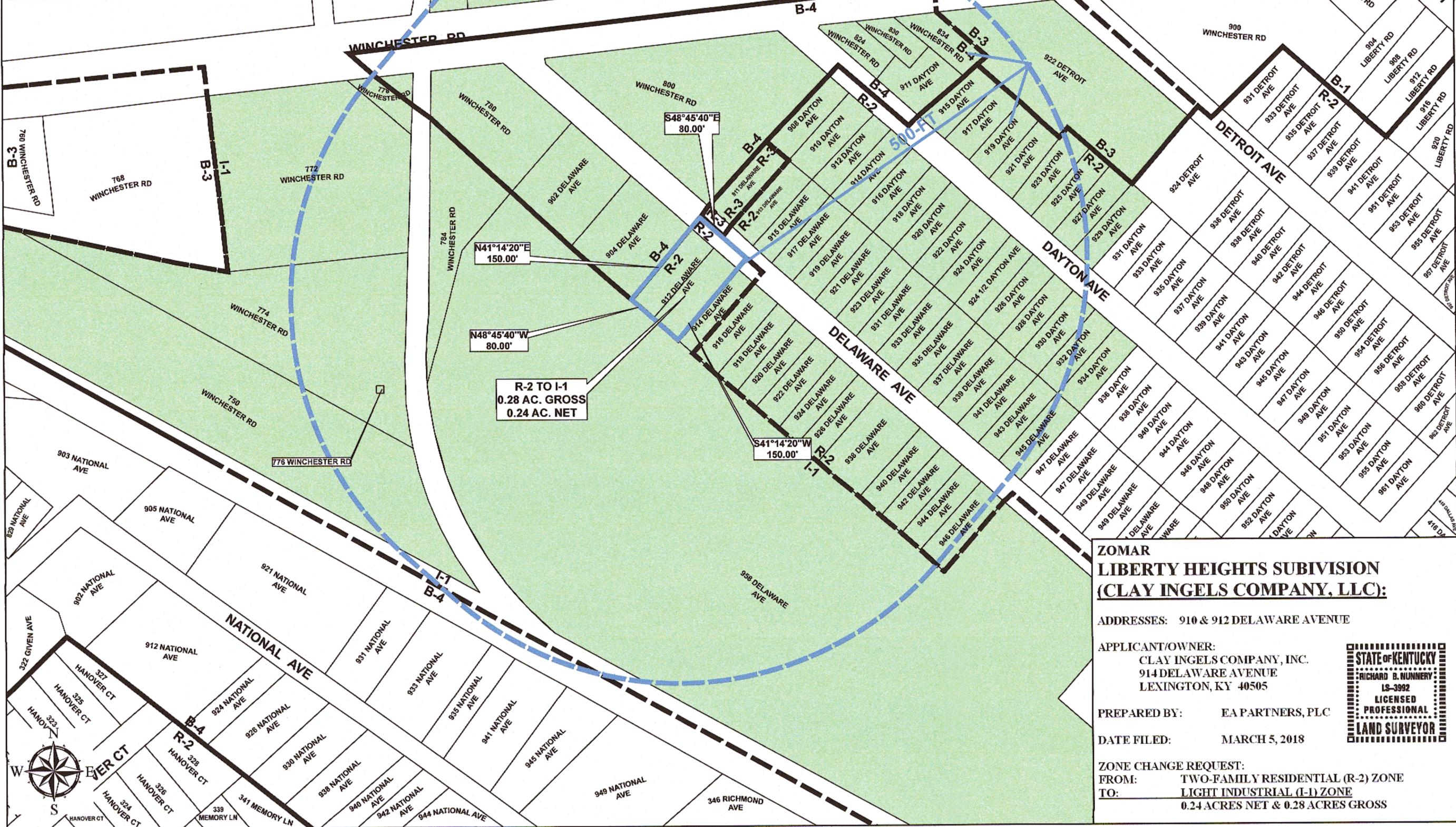
Stoff Keenon Ogden PLLC

Nick Nicholson

004246.124761/7657391.2



Vicinity Map



R-2 TO I-1
0.28 AC. GROSS
0.24 AC. NET

S48°45'40"E
80.00'

N41°14'20"E
150.00'

N48°45'40"W
80.00'

S41°14'20"W
150.00'

500-FT

ZOMAR
LIBERTY HEIGHTS SUBDIVISION
(CLAY INGELS COMPANY, LLC):

ADDRESSES: 910 & 912 DELAWARE AVENUE

APPLICANT/OWNER:
 CLAY INGELS COMPANY, INC.
 914 DELAWARE AVENUE
 LEXINGTON, KY 40505

PREPARED BY: EA PARTNERS, PLC

DATE FILED: MARCH 5, 2018

ZONE CHANGE REQUEST:
 FROM: TWO-FAMILY RESIDENTIAL (R-2) ZONE
 TO: LIGHT INDUSTRIAL (I-1) ZONE
 0.24 ACRES NET & 0.28 ACRES GROSS

STATE OF KENTUCKY
 RICHARD B. NUNNERY
 LS-3992
 LICENSED PROFESSIONAL LAND SURVEYOR

Notification Map 0 50 100 200 300 400 Feet 1 inch = 100 feet



NICK NICHOLSON
DIRECT DIAL: (859) 231-3950
DIRECT FAX: (859) 246-3649
Nick.Nicholson@skofirm.com

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

March 28, 2018

Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Dear Members of the Planning Commission:

On behalf of Clay-Ingels Company, Inc., (“Clay-Ingels” or “Applicant”) we have filed a zone change application to Light Industrial (I-1), for the property located at 910-912 Delaware Avenue (the “Property”). The Property consists of approximately 0.24 net (0.28 gross) acres. While it is presently zoned Two-Family Residential (R-2), the site is vacant, as the two residential structures previously on the site were demolished after remaining unoccupied for a lengthy period of time. The Applicant requests approval of the proposed zone change as the existing R-2 zoning classification is inappropriate and the I-1 zoning classification is appropriate as discussed below.

The Applicant proposes to use a portion of the Property to improve the entrance by widening and realigning the existing narrow access point with poor sightlines to better handle the traffic from Winchester Road. These improvements will only benefit the area. This request is not to introduce a new use or a new business to the area. It will not lead to greater traffic or noise. What this change will do is ensure that the trucks already accessing the existing site can do so in a more appropriate and safe manner.

The Property is almost completely surrounding by either Industrial (I-1) land or Wholesale and Warehouse Business (B-4) land in an area that is predominantly industrial in nature. In fact, a majority of the properties on Delaware Avenue are zoned either I-1 or B-4 with only a small area of R-2 zoned property between Winchester Road and Dallas Avenue – especially on the southern side of Delaware Avenue. The Applicant proposes to incorporate the site into its building material distribution facility at 958 Delaware Avenue, which is a 10+ acre Light Industrial (I-1) site surrounding the Property to the south and east that has been in this location since 1965. The Property adjoins the entrance to the Clay-Ingels facility and the proposed zone change will allow for the design of a more formal and improved entrance into the facility. The primary reason that the residential zoning is inappropriate and that the industrial zoning is appropriate are essentially the same. The location of the vacant parcel is just not suited for residential use as it is almost completely surrounded by either warehousing or industrial use. And, due to this proximity to I-1 and B-4 properties, it is appropriate to add on a small vacant parcel to the existing adjacent industrial user to help remedy a known access issue. As such, we submit that the requested zone change is appropriate.

Another reason why residential zoning is inappropriate on this parcel is that there is no existing landscape buffer between the industrial and residential zones. As such, any new residential structure must comply with Article 18's landscaping requirements between industrial and residential uses with a 15 foot landscaping buffer with trees, a fence, and double row of hedges all the way around the side and rear yards. 910 and 912 Delaware have been consolidated into a single lot. As such, Applicant could only build a single family house or a duplex if the existing zoning remained in place. While there may be technically enough room on the .24 acre site for such a structure, the buffer area creates a very narrow buildable area that is just not suited for a new residential structure. The former residential structures had been vacant for quite some time before being torn down as there simply wasn't a demand to live wedged in between the neighboring warehouse, the major industrial user to the rear, and at the corner of a substandard access road for industrial traffic. Simply put, there is no logical reason to rebuild a residential structure that no one wants to live in due to the location and surrounding uses.

In contrast to the above scenario, the Applicant is proposing to improve the existing access drive, which is a clear need for the user and the neighborhood. This improvement can only occur with this zone change and it makes industrial zoning very appropriate at this location. The proposed realigned access drive will fit in seamlessly with the neighborhood and the operations of the longstanding existing industrial user resulting in improved existing conditions for all of Delaware Avenue – especially the residential uses. Finally, this will not have any type of adverse impact to the surrounding neighbors as the proposed development plan does not introduce a new access point or new industrial traffic onto Delaware. This zone change merely aids in the property owner's efforts to address a known issue in a manner that does not add any additional stress onto the surrounding residential houses and allows a local business to function in a more efficient manner.

While we are not justifying the zone change request on compliance with the Comprehensive Plan, the Applicant firmly believes that this proposal is not adverse to the Goals and Objectives of the Comprehensive Plan. Simply put, as a policy document for the entire community, the Plan doesn't really lay out goals and objectives relating to this small of a change to benefit an existing business. This request is simply a 0.24 net acre site being absorbed by the larger adjacent use of the area – not something that is typically addressed in a community policy document. While small in nature, this change will allow for the betterment of the surrounding area and help make a local business a more efficient property. These types of concepts are certainly encouraged by our Plan.

The Applicant commits to working with Staff to develop appropriate buffering and landscaping requirements around the proposed access aisle and appropriate conditional zoning restrictions to limit the types of industrial uses for the Property due to the proximity to the existing residential use along Delaware.

We will be at the April public hearing in order to make a complete presentation of this application and request your favorable consideration.

Planning Commission
March 28, 2018
Page 3

Best Regards;

Stoff Keenon Ogden PLLC

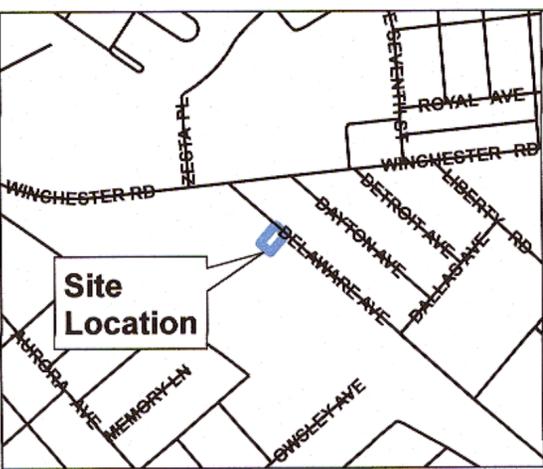
Nick Nicholson

004246.124761/7657391.2

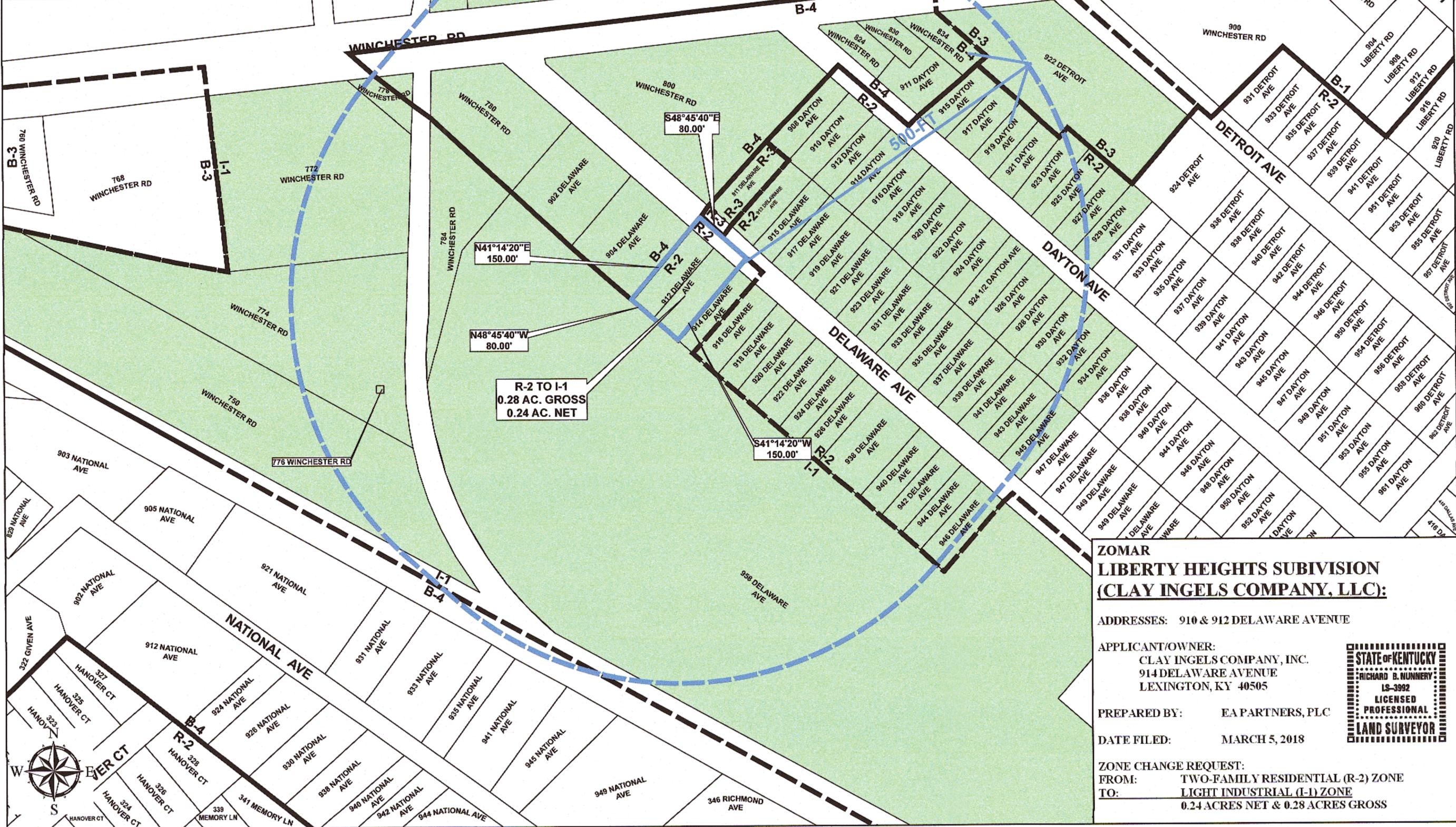
910-912 Delaware Avenue
Liberty Heights Subdivision
(Clay Ingels Company INC, Property)
Zone Change from R-2 to I-1
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED SOUTH OF AND ADJACENT TO DELAWARE AVENUE APPROXIMATELY 0.8 MILES EAST OF THE INTERSECTION OF DELAWARE AVENUE AND U.S. 60 IN CENTRAL LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

.BEGINNING AT A POINT in the centerline of Delaware Avenue, said point also lying in the extended common line of 908 and 912 Delaware Avenue as shown on the Consolidation Minor Subdivision Plat of Liberty Heights Subdivision (Clay Ingels Company, LLC) and recorded in Plat Cabinet R, Slide 659 of record in the Fayette County Clerk's Office; Thence South 48 Degrees 45 Minutes 40 Seconds East, a distance of 80.00 feet to a point; Thence South 41 degrees 14 minutes 20 seconds West, a distance of 150.00 feet to a point; Thence North 48 Degrees 45 Minutes 40 Seconds West, a distance of 80.00 feet to a point; Thence North 41 Degrees 14 Minutes 20 Seconds East, a distance of 150.00 feet to the **POINT OF BEGINNING** and containing 0.28 acres gross and 0.24 acres net.



Vicinity Map



R-2 TO I-1
0.28 AC. GROSS
0.24 AC. NET

S48°45'40"E
80.00'

N41°14'20"E
150.00'

N48°45'40"W
80.00'

S41°14'20"W
150.00'

500-FT

ZOMAR
LIBERTY HEIGHTS SUBDIVISION
(CLAY INGELS COMPANY, LLC):

ADDRESSES: 910 & 912 DELAWARE AVENUE

APPLICANT/OWNER:
 CLAY INGELS COMPANY, INC.
 914 DELAWARE AVENUE
 LEXINGTON, KY 40505

PREPARED BY: EA PARTNERS, PLC

DATE FILED: MARCH 5, 2018

ZONE CHANGE REQUEST:
 FROM: TWO-FAMILY RESIDENTIAL (R-2) ZONE
 TO: LIGHT INDUSTRIAL (I-1) ZONE
 0.24 ACRES NET & 0.28 ACRES GROSS

STATE OF KENTUCKY
 RICHARD B. NUNNERY
 LS-3992
 LICENSED PROFESSIONAL LAND SURVEYOR

Notification Map 0 50 100 200 300 400 Feet 1 inch = 100 feet

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-18-00005: CLAY INGELS COMPANY, INC.

DESCRIPTION

Zone Change: From a Two-Family Residential (R-2) zone
To a Light Industrial (I-1) zone

Acreeage: 0.24 net (0.28 gross) acres

Location: 910 – 912 Delaware Avenue

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-2	Vacant
To North	R-2 & R-3	Single Family Residential
To East	I-1	Industrial – Clay Ingels Company
To South	I-1	Industrial – Clay Ingels Company
To West	B-4	Warehouses

URBAN SERVICES REPORT

Roads – Winchester Road (US 60) runs in an east-west direction in this area, approximately 350 feet north of the subject site. Winchester Road is a five-lane major arterial roadway, one of several state roads and federal highways that lead into downtown Lexington. Delaware Avenue is a two-lane local street that intersects with Winchester Road east of the CSX railroad crossing, between Walton Avenue and Liberty Road. Delaware Avenue begins at Winchester Road, a signalized intersection, and terminates at Henry Clay Boulevard, which is also a signalized intersection. Based on KYTC traffic counts, the average daily traffic volume north of the site is approximately 31,200 vehicle trips on Winchester Road (2011 count), in the vicinity of Delaware Avenue. There are 562 vehicle trips on Henry Clay Boulevard, south of the site (2015 count). Delaware Avenue is a lightly traveled local roadway; therefore, it does not have recorded traffic counts by KYTC. Access to the site will be through a new curb cut on Delaware Avenue, which will replace the existing curb cut on 914 Delaware Ave. There is also access to the site closer to Henry Clay Boulevard, between the southern edge of the Clay Ingels brickyard and the Pasta Garage Italian Café, and directly from Winchester Road.

Curb/Gutter/Sidewalks – Curb, gutter and sidewalks all exist along Delaware Avenue in the immediate area of the properties. There is no utility strip between the sidewalks and Delaware Avenue. Given the age of the street, some improvements may be necessary for the subject property. Additionally, a new apron and curb will mark the entrance to the brickyard on the subject site.

Storm Sewers – The subject site is located within the Town Branch watershed. No known flooding problems exist in the immediate area. The properties are planned to be incorporated into the larger Clay Ingels facility; however, the Division of Engineering must determine to what extent this expansion would require stormwater improvements, if any.

Sanitary Sewers – This property is located within the Town Branch sewershed, and is served by the Town Branch Wastewater Treatment Facility on Old Frankfort Pike. The site is vacant and the proposed use is for a wider access point, so no additional sewer capacity will be needed at this time.

Refuse – The Urban County Government provides collection service to this portion of the Urban Service Area on Tuesdays. No additional collection is expected for the proposed use.

Police – The nearest police station to this property is the Central Sector Roll Call Center on Goodwin Drive near the Eastland Shopping Center, about one mile northeast of this location.

Fire/Ambulance – The nearest fire station is Station No. 2, located on Eastland Drive, west of the New Circle overpass. The fire station is located approximately one mile to the northeast of the subject site.

Utilities – All utilities are currently serving the properties, including natural gas, electric, streetlights, telephone, water, and cable television service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the 2013 Comprehensive Plan has established six themes, with goals and objectives to support each of the themes, which include: *Growing Successful Neighborhoods* (Theme A), *Protecting the Environment* (Theme B), *Creating Jobs and Prosperity* (Theme C), *Improving a Desirable Community* (Theme D), *Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land* (Theme E) and *Implementing the Plan for Lexington-Fayette County* (Theme F).

The petitioner proposes to rezone the subject site in order to construct a wider, realigned entrance driveway. The subject site is approximately a quarter of an acre in size.

CASE REVIEW

The applicant requests a zone change from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone for two small parcels located at 910 and 912 Delaware Avenue, on 0.24 net (0.28 gross) acres. A wider, realigned, entrance driveway will be created on a portion of the subject site, crossing onto 914 Delaware Avenue to the east (already zoned I-1), which is under the same ownership as the subject site. This driveway will replace an old narrow driveway in order to create a more formal entrance that better accommodates the truck traffic to and from the adjacent Clay Ingels Company.

The subject properties are located on the south side of Delaware Avenue. A mix of uses are located along Delaware Avenue, including residential, industrial, and warehousing. The Liberty Heights subdivision is across the street, on the north side of Delaware Avenue. This Two-Family Residential (R-2) neighborhood consists of predominately single family residences. The one Planned Neighborhood Residential (R-3) zoned parcel on the north side of Delaware contains a parking lot. To the west of the subject site are warehousing facilities in the Wholesale and Warehouse Business (B-4) zoning district. The property to the east of the subject site is zoned Light Industrial (I-1) and it is also owned by the Clay Ingels Company. It contains the narrow driveway that presently leads to the Light Industrial (I-1) zoned Clay Ingels Company's brickyard and outdoor storage facility, which is located directly to the south of the subject property. The rezoning request would allow the subject parcels to be incorporated into the Clay Ingels Company's facility.

Historically, the subject site contained single family residences, but the dwellings have been removed. Each of the subject parcels measures 40 feet wide and 130 feet deep, but they are in the process of being consolidated into one lot. The Light Industrial (I-1) parcel to the east, 914 Delaware, is already part of the Clay Ingels Company's facility and it contains the existing narrow driveway used for Clay Ingels' truck traffic. This driveway will be replaced with a more substantial entrance that crosses through the subject site, if the present rezoning request to I-1 is successful.

In 1997, a rezoning request from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone at 958 Delaware Avenue was successful and allowed the expansion of the Clay Ingels Company onto that site. Conditional zoning restrictions associated with that rezoning prohibit outdoor light from being directed toward nearby R-2 zoned property and prohibit free-standing signage from occupying that site.

In 2006, a rezoning request from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone on one of the subject parcels, 912 Delaware Avenue, was requested. At that time, the residential homes were still on the site. This request was disapproved by the Planning Commission and subsequently withdrawn prior to Urban County Council action, as the 2001 Comprehensive Plan recommended Medium Density Residential as the use of these two parcels. The 2007 Comprehensive Plan also recommended Medium Density Residential.

The rezoning cannot be directly supported by the 2013 and/or 2018 Comprehensive Plan, as the Plans do not comment on zone change requests such as this one. The rezoning request also cannot be supported as a situation that resulted from an unanticipated change in economic, social, or physical condition that occurred in the area since the 2013 Comprehensive Plan was adopted. However, this rezoning request can be supported by examining the inappropriateness of the existing zone compared to the appropriateness of the proposed zone.

The applicant justifies this rezoning request by stating that the existing R-2 zone is inappropriate and the proposed I-1 zone is appropriate. This is due to the fact that the location of the subject property is not ideal for housing, as it is surrounded on three sides by either I-1 or B-4 zones and uses. Historically, landscape buffering was not provided between the residential lots and the industrial/warehousing lots. The residential structures on the subject property had remained vacant for many years, eventually leading to their demolition, likely due to the close proximity of active industrial sites and the lack of transition between the industrial and residential uses. The proposed I-1 zone is also more appropriate than the existing R-2 zone, because access to an industrial zone is not permitted to be established through a residentially zoned site. Therefore, in order to improve access to the Clay Ingels Company facility, the subject site has to be rezoned to an industrial zoning district.

The staff agrees with the applicant's justification and recommends approval.

The Staff Recommended: **Approval**, for the following reasons:

1. The requested Light Industrial (I-1) zone is appropriate for the subject site, for the following reasons:
 - a. The site is surrounded on three sides by either Light Industrial (I-1) or Wholesale and Warehousing (B-4) zones and uses.
 - b. Historically, landscape buffering was not provided between the residential lots and the industrial/warehousing lots.
 - c. The residential structures on the subject property were vacant for many years, eventually leading to their demolition, most likely due to the close proximity of active industrial sites and the lack of transition between the industrial and residential uses.
2. The existing Two-Family Residential (R-2) zone is not appropriate for the subject site, for the following reasons:
 - a. Single family homes and duplexes located in an area surrounded by industrial and warehousing zones and uses are generally considered incompatible, unless substantial buffering exists between the uses.
 - b. Article 3-1(a) of the Zoning Ordinance states that no land shall be used or occupied except in conformance with the zone in which it is located (paraphrased), meaning that if a use is not allowed in a zoning district, one cannot put that prohibited use on a piece of land in that zone. Also, Article 8-11 states that off-street parking lots and their associated vehicle use areas (driveways) are not allowed in an R-2 zone as a principle use. In this manner, industrially zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00020: Liberty Heights Subdivision (Clay Ingels, Co., LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the property:
 - a. Any outdoor lighting directed toward nearby R-2 property.
 - b. Any freestanding signage shall be limited to one freestanding sign, not to exceed 15-feet in height and 32 square feet in area.

These restrictions are appropriate and proper because the site lies immediately adjacent to existing single family uses across Delaware Avenue.

AT/TW

4/3/2018

Planning Services/Staff Reports/MAR/2018/PLN-MAR-18-00005.doc

1. **CLAY INGELS COMPANY, INC ZONING MAP AMENDMENT & LIBERTY HEIGHTS SUBDIVISION (CLAY INGELS, CO., LLC) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-18-00005: CLAY INGELS COMPANY, INC. (6/3/18)*- petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Light Industrial (I-1) zone, for 0.24 net (0.28 gross) acres, for property located at 910 and 912 Delaware Avenue.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the 2013 Comprehensive Plan has established six themes, with goals and objectives to support each of the themes, which include: *Growing Successful Neighborhoods* (Theme A), *Protecting the Environment* (Theme B), *Creating Jobs and Prosperity* (Theme C), *Improving a Desirable Community* (Theme D), *Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land* (Theme E) and *Implementing the Plan for Lexington-Fayette County* (Theme F).

The petitioner proposes to rezone the subject site in order to construct a wider, realigned entrance driveway. The subject site is approximately a quarter of an acre in size.

The Zoning Committee Recommended: **Approval** to the full Commission.

The Staff Recommended: **Approval**, for the following reasons:

1. The requested Light Industrial (I-1) zone is appropriate for the subject site, for the following reasons:
 - a. The site is surrounded on three sides by either Light Industrial (I-1) or Wholesale and Warehousing (B-4) zones and uses.
 - b. Historically, landscape buffering was not provided between the residential lots and the industrial/warehousing lots.
 - c. The residential structures on the subject property were vacant for many years, eventually leading to their demolition, most likely due to the close proximity of active industrial sites and the lack of transition between the industrial and residential uses.
2. The existing Two-Family Residential (R-2) zone is not appropriate for the subject site, for the following reasons:
 - a. Single family homes and duplexes located in an area surrounded by industrial and warehousing zones and uses are generally considered incompatible, unless substantial buffering exists between the uses.
 - b. Article 3-1(a) of the Zoning Ordinance states that no land shall be used or occupied except in conformance with the zone in which it is located (paraphrased), meaning that if a use is not allowed in a zoning district, one cannot put that prohibited use on a piece of land in that zone. Also, Article 8-11 states that off-street parking lots and their associated vehicle use areas (driveways) are not allowed in an R-2 zone as a principle use. In this manner, industrially zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00020: Liberty Heights Subdivision (Clay Ingels, Co., LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the property:
 - a. Any outdoor lighting directed towards nearby R-2 property.
 - b. Any freestanding signage shall be limited to one freestanding sign, not to exceed 15-feet in height and 32 square feet in area.

These restrictions are appropriate and proper because the site lies immediately adjacent to existing single family uses across Delaware Avenue.

- b. PLN-MJDP-18-00020: LIBERTY HEIGHTS SUBDIVISION (CLAY INGELS, CO., LLC) (6/3/18)* - located at 910, 912 AND 914 DELAWARE AVENUE, LEXINGTON, KY (**EA Partners**)

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property L-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping and landscape buffers.
5. Denote proposed land use in site statistics (Industrial access).

Staff Zoning Presentation – Ms. Tourkow presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She described the vicinity using the aerial

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

photograph, pointing out the subject property, the adjacent railroad, intersections, and the existing driveway to the Clay Ingles Company.

Ms. Tourkow said the applicant is proposing this zone change in order to construct a wider, realigned entrance driveway to better accommodate the truck traffic to and from the subject property. She said that the applicant states the 2013 Comprehensive Plan doesn't speak toward this type of rezoning, therefore the rezoning can't be justified utilizing that finding, and the staff concurred. However, the staff then looked at appropriateness of the proposed zone versus inappropriateness of the existing zone. She said the applicant stated that the appropriateness of the proposed zone change is that the Light Industrial I-1 zone is appropriate for the following reasons: the subject property is bounded on three side by either Light Industrial (I-1) or Wholesale and Warehousing (B-4) zones; buffering has been non-existent between the residential lots and the industrial/warehousing lots; the residences that were in close proximity had been vacant and eventually demolished; and the access to an industrial zone is not permitted through a residential zone. She said the staff and the Zoning Committee recommended approval of this zone change with conditional zoning restrictions, noting a small change to one of the conditional zoning restrictions, as follows:

The Staff Recommends: **Approval**, for the following reasons:

1. The requested Light Industrial (I-1) zone is appropriate for the subject site, for the following reasons:
 - a. The site is surrounded on three sides by either Light Industrial (I-1) or Wholesale and Warehousing (B-4) zones and uses.
 - b. Historically, landscape buffering was not provided between the residential lots and the industrial/warehousing lots.
 - c. The residential structures on the subject property were vacant for many years, eventually leading to their demolition, most likely due to the close proximity of active industrial sites and the lack of transition between the industrial and residential uses.
2. The existing Two-Family Residential (R-2) zone is not appropriate for the subject site, for the following reasons:
 - a. Single family homes and duplexes located in an area surrounded by industrial and warehousing zones and uses are generally considered incompatible, unless substantial buffering exists between the uses.
 - b. Article 3-1(a) of the Zoning Ordinance states that no land shall be used or occupied except in conformance with the zone in which it is located (paraphrased), meaning that if a use is not allowed in a zoning district, one cannot put that prohibited use on a piece of land in that zone. Also, Article 8-11 states that off-street parking lots and their associated vehicle use areas (driveways) are not allowed in an R-2 zone as a principle use. In this manner, industrially zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00020: Liberty Heights Subdivision (Clay Ingles, Co., LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the property:
 - a. Any outdoor lighting **shall not be** directed towards nearby **residential properties**.
 - b. Any freestanding signage shall be limited to one freestanding sign, not to exceed 15-feet in height and 32 square feet in area.

These restrictions are appropriate and proper because the site lies immediately adjacent to existing single family uses across Delaware Avenue.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with the zone change. He said that the applicant is proposing a driveway to serve the large trucks that access the Clay Ingles Company site. He said that the staff and the Subdivision Committee are recommending approval.

Applicant Presentation – Mr. Nicholson, attorney representing the petitioner, said that this zone change is to widen and re-align the existing industrial access point to direct the traffic in a more efficient manner. He said that it is not introducing a new use or business to the area, nor increasing traffic in any way. He said the applicant will continue to work with the staff in regards to any landscape buffering that is necessary to meet Article 18 of the Zoning Ordinance. He also stated that the applicant is in agreement with the staff's recommendations and is available for questions.

Commission Questions – Mr. Cravens asked if a fire hydrant could be relocated. Mr. Nicholson said it will be relocated, if necessary.

Ms. Plumlee asked if a landscape buffer will be installed. Mr. Nicholson said that the applicant will coordinate with the staff for the appropriate buffering.

Mr. Owens asked if the property will be exiting onto Winchester Road. Mr. Nicholson said that the site currently forces the trucks to make a full 90 degree turn to enter and exit the site. This proposal will allow the applicant to make a more natural turn onto Delaware Avenue, toward Winchester Road and not into the residential neighborhood to the southeast of the site.

Citizen Comment – There were no citizens present to speak to this application.

Zoning Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson, and carried 10-0 (Mundy absent) to approve PLN-MAR-18-00005: CLAY INGELS COMPANY, INC., for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson, and carried 10-0 (Mundy absent) to approve PLN-MJDP-18-00020: LIBERTY HEIGHTS SUBDIVISION (CLAY INGELS, CO., LLC), for the reasons provided by the staff.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.