

**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

**Acreage:** 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

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