

1. **WHAYNE SUPPLY COMPANY ZONING MAP AMENDMENT**

- a. MAR 2011-19: WHAYNE SUPPLY COMPANY (1/29/12)* - petition for a zone map amendment from a Light Industrial (I-1) zone to a Heavy Industrial (I-2) zone, for 10.59 net and gross acres, for property at 195 Lisle Industrial Avenue (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan recommends Light Industrial land use for the subject property. The petitioner proposes a restricted Heavy Industrial (I-2) zone in order to allow for the expansion of the existing facility.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

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

1. A restricted Heavy Industrial (I-2) zone is appropriate and the existing Light Industrial (I-1) zone is inappropriate for the following reasons:
 - a. The change of zoning proposed for the subject property will make it consistent with the rest of the applicant's parcel, as well as property zoned to the southwest and southeast of this location.
 - b. The proposed expansion of the existing facility and land use onto the rear portion of the property should not create any additional nuisance in the immediate area if appropriate conditional zoning restrictions are established for the land closest to the existing residential development to the northwest.
 - c. The proposed land use and the existing dealership and equipment rebuilding facility are unique to the community and cannot be fully realized in the existing I-1 zone.
 - d. Although a 50-foot extension of the proposed land use into the rear portion of the split-zoned parcel could be granted by the Board of Adjustment (as a conditional use), that would still severely restrict the subject property and not meet the true needs of the applicant's business.
2. Several Objectives to Goal 11 of the adopted 2007 Comprehensive Plan would be advanced by the proposed use of the subject property for the manner proposed by the applicant, instead of outdoor storage under the current zoning of the property.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning:

A. Within 200 feet of any residential zone:

- i. The use of the property shall be restricted to only those uses permitted in the Light Industrial (I-1) zone.

B. Prohibited Uses:

- i. Bottle making
- ii. Brewery, winery or distillery
- iii. Correctional institutions
- iv. Nitrating processes
- v. Railroad roundhouse or yards
- vi. Stadium
- vii. Manufacturing of any of the following: acid (non-erosive); asbestos; briquettes (from previously prepared charcoal); candle or sperm oil; canvas; carpet or rug; coke (coal by-product); disinfectant, insecticide or poison; dye (or dyestuff) or printing; fertilizer; glass fiber; glucose; hair; leaf mold and similar plant processing; matches; paper or pulp; perfume; starch or sugar refining; and textiles.

C. Landscape Buffer:

- i. A twenty-five foot (25') landscape buffer shall be established and maintained along the northwestern property lines, adjacent to the Planned Neighborhood Residential (R-3) zone. The established tree line shall be maintained in this buffer area along this property boundary, and the required property perimeter (zone-to-zone) screening per Article 18 shall be provided parallel to the established tree line. Dead or diseased trees may be removed as necessary, with the prior approval of the Urban Forester.

D. Open Space Buffer:

- i. A twenty-five foot (25') buffer shall be established along the alluvial soils area as designated by the topographic and soils floodplain mapping in the Division of Planning. This buffer area shall be devoid of parking, outdoor storage, and permanent structures.

These restrictions are appropriate and necessary for the subject property to limit uses of the subject property to those more closely recommended by the 2007 Comprehensive Plan for this location, to protect the existing Townley Park development to the northwest from the most intensive and nuisance-creating I-2 land uses, and to protect the existing environmentally sensitive areas on the site.

Staff Presentation: Ms. Wade presented the staff report, noting that the staff had distributed their revised conditional zoning recommendation prior to the start of the hearing. She briefly oriented the Commission to the location of the subject property, explaining that it is located on the rear portion of the property at 195 Lisle Industrial Avenue, which is a connector street between Leestown Road and South Forbes Road. Although the subject property has frontage on Lisle Industrial Road, this rezoning request involves approximately 10 acres on the rear portion of the property. Ms. Wade said that in the general vicinity

* - Denotes date by which Commission must either approve or disapprove request.

of the subject property are the Townley Park subdivision to the north; a Kroger shopping center, to the northeast; and I-2 zoning to the southwest, extending to Old Frankfort Pike and New Circle Road. Also located on Lisle Industrial Avenue are the Town Branch Wastewater Treatment Plant, a cemetery, the Bluegrass Stockyards, and a number of other industrial uses, as well as a small amount of P-1 and B-1 zoning along Leestown Road. Although there are other types of uses located in the area, it is predominantly characterized by Light Industrial uses.

Ms. Wade stated that the primary use of the subject property is for industrial vehicle and equipment rebuilding; the petitioner is the local Caterpillar sales dealership, equipment rental, and heavy equipment rebuilder, serving central and eastern Kentucky. There are also several accessory Heavy Industrial uses located on the subject property, including a metal workshop; iron storage and baling; and storage of cloth and rags, which are all principal uses in the requested I-2 zone as well. Ms. Wade said that the rental and sales portion of the petitioner's operations is located at 181 Lisle Industrial Avenue, but that portion of the business currently uses the subject property for storage of the vehicles when they are not being rented. The portion of the property proposed for rezoning is devoid of structures, but gravel has been laid to provide for circulation and parking areas. In addition, a large drainage area crosses the property from the Meadowthorpe subdivision and leads to the water treatment facility, although that stormwater is not treated at that facility. The petitioner would like to be able to use the entirety of their property, rather than trying to separate the uses into the I-1 and I-2 zones. If this rezoning request is approved, the petitioner would be able to use the entirety of the property, and further their service of the heavy equipment industry in the region. Ms. Wade noted that the petitioner has submitted proposed conditional zoning restrictions with this request, which would eliminate 26 of the potential principal uses in the I-2 zone.

Ms. Wade presented the following photographs of the subject property: 1) the front entrance to the petitioner's property on Lisle Industrial Avenue; 2) the approximate location of the zone line between the I-1 and I-2 areas on the property; 3) the area proposed for rezoning to I-2; 4) the stormwater drainage area, noting the potentially environmentally sensitive brushy areas that had been partially cleared, and the berming and silt fabric intended to protect the stormwater flow.

Ms. Wade said that the 2007 Comprehensive Plan recommends Light Industrial land use for the property in its entirety, including the parcel proposed for rezoning to I-2. She explained that the Light and Heavy Industrial land use categories differ slightly. The Heavy Industrial uses tend to have a high potential for nuisance factors such as noise, odor, or vibration; and, they are more likely to include the manufacturing of goods from raw materials into a finished or semi-finished product. In addition, the Heavy Industrial use category typically encompasses some of the rare or unique uses in the community, such as mining operations, sanitary sewer treatment plants, or power production facilities.

Ms. Wade stated that the existing I-1 zoning is in agreement with the recommendations of the Comprehensive Plan, so the Planning Commission must consider whether the current zoning is inappropriate, and the proposed I-2 zoning is appropriate. She said that the Zoning Ordinance does allow an expansion or extension of a use through an application to the Board of Adjustment. In this case, however, a 50' extension would only encompass a portion of the 10-acre parcel that the petitioner would like to utilize. The staff believes, therefore, that such an extension could prove to be just a short-term solution for the petitioner. The staff does not believe that the petitioner's proposal to rezone a portion of their property would create an additional nuisance in the immediate area; and that, with conditional zoning restrictions in place, the I-2 zone could be appropriate at this site.

Ms. Wade said that the proposed conditional zoning restrictions could help to protect the residential development that is currently underway in the adjacent Townley Park development. At the Zoning Committee meeting, the staff recommended a 200' boundary, in which the uses would be limited to those allowed in the I-1 zone, adjoining the R-3 zoned properties to the northwest. The staff also recommended establishing a 25' vegetative buffer along that boundary, which would mimic the existing buffer on the Townley Park side and would provide a visual buffer for the residential uses. In addition, the staff suggested a conditional zoning restriction to protect the stormwater drainage and alluvial soils areas on the property. When the staff researched the alluvial soils, however, they determined that those soils exist well beyond the limits of the drainage area. The Zoning Ordinance and the Stormwater Manuals would provide protection for the alluvial soils area if it was ever proposed to be developed with structures, so the staff's concerns for that portion of the property center on the protection of the water.

Ms. Wade stated that, in considering the proposed rezoning, the staff believes that, since most of the area surrounding the subject property is zoned I-2, the rezoning would not make the property incompatible with its surroundings. The staff also believes that Goal 11 of the 2007 Comprehensive Plan, which pertains to economic development, will be furthered through the rezoning of the subject property, particularly with regard to the Objective that speaks to retaining and expanding existing local industries and providing for diverse business and employment opportunities.

Ms. Wade stated that, since the Zoning Committee meeting, the staff has considered the conditional zoning restriction that relates to the drainage area, and found that the proposed 25' is appropriate, but the buffer should be measured from the top of the bank at the edge of the stormwater drainage area. The petitioner was concerned about some proposed conditional zoning restrictions, so the staff is now agreeable to changing item "d" to denote that the 25' buffer area should be devoid of overnight parking, rather than all parking; to eliminate storage of fluid or liquids; and to restrict the area from all permanent structures. With those changes, the staff is recommending approval of this request, for the reasons as listed in the staff re-

* - Denotes date by which Commission must either approve or disapprove request.

port. Ms. Wade noted that, since the petitioner proposed conditional zoning restrictions for the entire property, item "b" in the list of conditional zoning restrictions refers to uses that the petitioner is willing to restrict from the rest of their property.

Petitioner Representation: Steve Ruschell, attorney, was present representing the petitioner. He stated that the petitioner is in complete agreement with the staff's recommendations, and he requested approval.

Mr. Ruschell stated that the staff had worked with the petitioner to get to this point in the process, and he complimented Mr. Martin and Ms. Wade for their willingness to work with the petitioner in order to develop a recommendation that would benefit his client and the community. He said that the petitioner's company has been in existence for 98 years, and has been a corporate citizen in Lexington-Fayette County since the 1950s.

Citizen Comment: No citizens were present to comment on this item.

Commission Questions: Mr. Penn asked if the petitioner intends to build any structures on the portion of the property proposed for rezoning to I-2. Mr. Ruschell answered that the petitioner hopes to build a structure there at some point, but has no concrete plans at this time. He added that the petitioner's operation has been hampered by the split zoning of the property for many years. Mr. Penn commented that it is unusual for the Commission to review a rezoning request without a development plan.

Action: A motion was made by Ms. Blanton, seconded by Mr. Penn, and carried 9-0 (Beatty and Brewer absent) to approve MAR 2011-19, including the revised conditional zoning restrictions as proposed by staff.