

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

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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.

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