

JULY 13, 2023

**PORTION OF 5000 FREDERICA STREET, PORTION  
OF 5105 BACK SQUARE DRIVE & 5130  
FREDERICA STREET**

## ZONE CHANGE

<b>From:</b> B-4 General Business	
<b>To:</b> I-1 Light Industrial	
<b>Proposed Use:</b> Light Industrial	
<b>Acreage:</b> 11.694	
<b>Applicant:</b> TSM Holdings LLC c/o Matt Hayden (2307.2263)	
<b>Surrounding Zoning Classifications:</b>	
<b>North:</b> B-4	<b>South:</b> B-3 & I-1
<b>East:</b> B-4	<b>West:</b> B-4 & R-3MF

### Proposed Zone & Land Use Plan

The applicant is seeking an I-1 Light Industrial zone. The subject properties are located in a Business Plan Area where light industrial uses are appropriate in limited locations.

### SPECIFIC LAND USE CRITERIA

- Building and lot patterns; outdoor storage yards** – Building and lot patterns should conform to the criteria for “**Nonresidential Development**” (D7), and outdoor storage yards, with “**Buffers for Outdoor Storage Yards**” (D1).
- Logical expansions outside of Industrial Parks** - Existing areas of Light Industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street. Such an expansion should not significantly increase the extent of industrial use in the vicinity and outside of Industrial Parks. Also, such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

### Planning Staff Review

#### GENERAL LAND USE CRITERIA

##### Environment

- It appears that the subject properties are not located in a wetlands area per the US Department of Agriculture Soil Conservation Service map dated March 6, 1990.
- The subject properties are partially located in a special flood hazard area per FIRM Maps 21059CO257D and 21059CO259D.
- The subject properties are not located within the Owensboro Wellhead Protection area per the OMU map dated 2015.
- The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

### Urban Services

All urban services, including sanitary sewers, are available to the subject properties.

### Development Patterns

The subject properties consist of three lots within the Town Square Mall complex. The first of which is a portion of 5000 Frederica Street, most notably the former Sears facility. The second parcel is the former Macy's site; however, the proposed portion does not appear to include any of the former Macy's building, but rather includes the parking lot area as the developer intends to shift the property line. The final tract, located along Back Square Drive, is the basin for the Town Square Mall complex.

Surrounding properties include B-3 Highway Business Center and I-1 Light Industrial zoning to the south, most notably, the 13.42-acre Home Depot facility. To the west, across Back Square Drive, is B-4 General Business and R-3MF Multi-family Residential zoning. To the north is the former JC Penny site within the Town Square Mall complex and is zoned B-4 General Business. To the east, along and across Frederica Street, is a variety of uses zoned B-4 General Business.

The developer intends to rezone the subject properties to I-1 Light Industrial allowing light industrial uses within the former Sears building and the surrounding parking areas. If approved, the applicant shall submit a minor subdivision plat to separate the proposed I-1 zoning from the existing B-4 General Business zoning;

Because the created I-1 Light Industrial property will not have direct access to Frederica Street, the required plat shall also establish an ingress/egress easement utilizing the existing perimeter roadway network to connect the industrial zoning to the southern-most Frederica Street access point. Industrial truck traffic from Frederica Street entering/exiting the property shall be limited to this access easement rather than utilizing the Town Square Mall parking lot to enter/exit the site. In addition to ensuring the connection to Frederica Street is maintained, it should be noted that the perimeter roadway network currently has two connections to the Home Depot site. As the subject properties redevelop, these connections shall remain open in order to provide the continuance of free-flowing traffic throughout the two complexes.

Lastly, as required on previous plats, direct access to Frederica Street (a Principal Arterial roadway) shall be limited to the two existing access points. Currently, there is only one access point to the complex from Back Square Drive, which is located at the former Macy's site. Because this is a local roadway, a second access point providing direct access to the industrial zoning is possible; however, this would require construction of a driveway through the existing basin property.

Prior to any construction activity on the properties the applicant shall obtain approval of a final development plan to demonstrate compliance with zoning ordinance requirements including, but not limited to, parking, landscaping (including screening associated with any proposed storage yards), building setbacks, access management and signage. The OMPC Building, Electrical & HVAC department shall be contacted before any construction activity takes place on the properties.

#### **SPECIFIC LAND USE CRITERIA**

The applicant's proposal is in compliance with the community's adopted Comprehensive Plan. The proposal conforms to the criteria associated with Nonresidential Development and shall comply with the criteria associated with Buffers for Outdoor Storage Yards. The proposal is a logical expansion of existing I-1 Light Industrial and, at 11.694-acres, is not a significant increase of industrial zoning within the vicinity. By limiting direct access to Frederica Street to the two existing access points, and by controlling the industrial truck traffic from Frederica Street, the development will not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

#### **Planning Staff Recommendations**

The planning staff recommends approval subject to the conditions and findings of fact that follow:

#### **Conditions:**

1. Obtain approval of a Minor Subdivision Plat separating the proposed I-1 Light Industrial zoning from the existing B-4 General Business zoning;
2. Direct access to Frederica Street shall be limited to the two existing access points. No additional direct access to Frederica Street shall be permitted;
3. The required Minor Subdivision Plat shall include an ingress/egress easement utilizing the existing perimeter roadway network to connect the industrial zoning to the southern-most access point along Frederica Street;
4. Industrial truck traffic to/from Frederica Street shall be limited to the created ingress/egress easement;
5. As the subject properties redevelop, the two existing connections from the perimeter roadway network to the Home Depot site shall remain open; and,
6. Obtain approval of a Final Development Plan.

#### **Findings of Fact:**

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;
2. The subject properties are located in a Business Plan Area where light industrial uses are appropriate in limited locations;
3. The proposed use, light industrial, conforms to the criteria for nonresidential development and compliance with an approved Final Development Plan will ensure compliance with the criteria associated with buffers for outdoor storage yards;
4. The proposed I-1 Light Industrial zoning is a logical expansion of existing I-1 zoning to the south;
5. At 11.694-acres, the proposal is not a significant increase of the industrial zoning within the vicinity; and,
6. By limiting direct access to Frederica Street to the two existing access points, and limiting industrial truck traffic from Frederica Street to the perimeter roadway network, the proposal will not overburden the capacity of roadways and other necessary urban services that are available in the affected area.