

SEPTEMBER 14, 2023

**PORTION OF 5000 FREDERICA STREET &
PORTION OF 5015 BACK SQUARE DRIVE**

ZONE CHANGE

From: B-4 General Business	
To: I-1 Light Industrial	
Proposed Use: Light Industrial	
Acreage: 5.969	
Applicant: TSM Holdings LLC c/o Matt Hayden (2309.2268)	
Surrounding Zoning Classifications:	
North: B-4	South: B-3 & I-1
East: B-4	West: 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

- (a) **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).
- (b) **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 two lots within the former Town Square Mall complex: a portion of the former Macy's property, and a portion of the former Sear's site.

In July 2023, the applicant completed an 11.694-acre rezoning which:

- Rezoned the entirety of the former Sears within the mall facility to I-1 Light Industrial;
- Rezoned parking lot portions of 5015 Back Square Drive (former Macy's site) to I-1 Light Industrial;
- Rezoned a third tract that is used for drainage facilities to I-1 Light Industrial; and,
- Left the remaining mall properties zoned B-4 General Business.

The previous rezoning included the following conditions:

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

At this time, the applicant proposes a 5.969-acre expansion of the I-1 zoning by:

- Rezoning the entirety of the former Macy's building to I-1 Light Industrial;
- Rezoning additional portions of the parking lots to I-1 Light Industrial; and,
- Leaving the remainder of mall facilities zoned B-4 General Business.

All previous conditions shall be upheld with this rezoning. The 4th bullet-point shown above references limiting truck traffic to the perimeter roadway network, connecting the industrial zoning to the southern-most Frederica Street access point. In similar fashion, industrial truck traffic may utilize the perimeter roadway network to connect the former Macy's site to the existing Back Square Drive access point if appropriately shown on the required minor subdivision plat.

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 zoning and, at 5.969-acres, is not a significant increase of industrial zoning within the vicinity. By limiting direct vehicular access to Frederica Street to the two existing access points, and also by controlling the industrial truck traffic, 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. Development shall comply with the conditions established within the previous rezoning of the subject properties, heard by the OMPC on July 13, 2023; and,
2. In addition to limiting industrial truck traffic to the southern-most Frederica Street access point, industrial trucks may also use the perimeter roadway network to utilize the existing Back Square Drive access point if platted through appropriate ingress/egress easements on the required minor subdivision plat; and,

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 5.969-acres, the proposal is not a significant increase of the industrial zoning within the vicinity; and,

6. By limiting direct vehicular access to Frederica Street to the two existing access points, and also by limiting industrial truck traffic 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.