

ZONE CHANGE & VARIANCE STAFF REPORT

City-County Planning Commission
1141 State Street
Bowling Green, Kentucky 42101
(270) 842-1953

Summary: The applicant proposes to rezone a tract of property from **RM-4** (Multi-family Residential) and **OP-C** (Office and Professional – Commercial) to **OP-C** (Office and Professional – Commercial) in order to construct a medical office building. The applicant has also agreed to certain site restrictions as outlined in the Binding Elements.

Docket Number: 2011-13-Z-BG
2011-V-08
Public Hearing Date: May 5, 2011
Pre-application Conference: February 23, 2011

Applicant(s):
Trident Enterprises of Kentucky, LLC - Sanjay Kaul
P.O. Box 369
Brownsville, KY 42210

Development Plan:
This zoning map amendment request was filed with a General Development Plan (Binding Elements).

Zone Map Amendment Request:
FROM: **RM-4** (Multi-family Residential) and **OP-C** (Office and Professional – Commercial)
TO: **OP-C** (Office and Professional – Commercial)

Location of Proposed Zone Change:
439 High Street and 806 5th Ave East
Acreage or Square Footage of Tract:
0.664 acres (28,880.28 Sq. Ft.)
PVA Parcel Number:
039A-02-092 and 039A-02-095

Site District: Urban Density Development
Focal Point: **102-1 Fairview**
Development Status: Transitional
Infra Status: **S** (Sanitary sewer is available)
Characteristics: Residential. In transition from low-moderate priced homes to semi-public, institutional and office uses surrounding the medical complex.

Existing Land Use: Vacant and Residential

Zoning History: **RM-4** (Multi-Family Residential) is the original zoning for all properties. In 2008, a portion of the property was rezoned from **RM-4** to **OP-C** (Office and Professional – Commercial).

Surrounding Zoning and Land Use: See maps.

Soil Analysis:
100% Ub: Urban land-Udorthents complex, 0-12% slopes

Flood Plain: The property is not located in the 100-year flood area according to FEMA FIRM map #21227C0306E.

Traffic Considerations: The property has frontage on High Street, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width. The property also has frontage on Fifth Avenue, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width.

Additional Documentation Required:
N/A Traffic Impact Study
N/A Environmental Assessment
N/A Other

Water: There is a six inch (6") waterline available along High Street providing more than six hundred (600) GPM with more than twenty (20) PSI. This meets the City fire control standards of Bowling Green, KY. There is also a four inch (4") waterline available along Fifth Avenue providing less than six hundred (600) GPM with more than twenty (20) PSI. This does not meet the city fire control standards of Bowling Green.

Sewer: There is an eight inch (8") sewer line available along both High Street and Fifth Avenue.

DEVELOPMENT PLAN REVIEW

Comprehensive Plan Element:	Application:
General placement of the building(s), maximum height of the building(s), and the bulk of the building(s).	The property will have a maximum ground floor area of 8,400 square feet with a maximum total square footage not to exceed 10,000 square feet.
Intended use of the property and building(s).	The applicant is proposing to construct a medical office building on the property.
Design elements (facade treatments, signs, drainage, utilities, sidewalks, gutter and curb, etc).	<p>The exteriors of all new buildings constructed on the property shall be constructed of at least 80% masonry materials; like brick, stone, rock, drivit, EFIS, decorative block or similar material (Binding Element 3).</p> <p>The subject property shall be limited to a single monument style sign no greater than twenty (20) feet in height and one hundred (100) square feet in sign face area for each individual property. The property shall also be limited to wall signage to five percent (5%) of each façade or a maximum of fifty (50) square feet for each individual property (Binding Element 5).</p>
Maximum density level, intensity of use, or maximum number of lots.	As shown on the zone change plat, the applicant is proposing that the total will not exceed 10,000 square foot on .664 Acres (28,880.28 sq. ft.).
General location of internal streets and travelways, average daily trips (ADT) generated by the proposed use, access points to existing streets and parking.	The applicant proposes two (2) access points to the development. One (1) access point on High Street and one (1) access point on 5 th Street. The proposed development must be in compliance with the City of Bowling Green's Traffic Access Management Manual.
Landscape, screening and/or buffering plan.	The property will be required to meet the minimum standards of the landscape provisions of the Zoning Ordinance of Warren County, Kentucky
Lighting plans.	Any new lighting installed on the subject property shall be down lighting, high intensity discharge shoebox luminary type or wall-packed lighting specifically designed to direct all lighting on the subject premises and away from any adjacent property. Said lighting not to exceed 30 feet in height from ground level (Binding Element 1).
Provisions for sewage disposal.	There is an eight inch (8") sewer line available along both High Street and Fifth Avenue.
Provisions for fire protection.	All fire control standards of the City of Bowling Green will be met (Binding Element 2).

Staff Items of Concern

- *None.*

COMPREHENSIVE PLAN COMPLIANCE

Comprehensive Plan Policy:	Application:
<p><u>LU-1A-2</u> In preparing a general development plan, surrounding property owners must be consulted prior to submitting a zone change request to the Planning Commission.</p>	<p>The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting, if possible. No information regarding a neighborhood meeting has been forwarded to the Planning Commission Staff.</p>
<p><u>LU-5A-11</u> All commercial developments must be served with public water adequate for urban fire flow of 600 GPM and 20 PSI and be protected with fire hydrants per the applicable ordinance.</p>	<p>There is a six inch (6") waterline available along High Street providing more than six hundred (600) GPM with more than twenty (20) PSI. This meets the City fire control standards of Bowling Green. There is also a four inch (4") waterline available along Fifth Avenue providing less than six hundred (600) GPM with more than twenty (20) PSI. This does not meet the city fire control standards of Bowling Green.</p>
<p><u>LU-5A-9</u> All new commercial uses shall be served by public sanitary sewer, when sewer is available.</p>	<p>There is an eight inch (8") sewer line available along both High Street and Fifth Avenue.</p>
<p><u>LU-5A-5</u> Commercial uses may be located adjacent to land zoned for residential uses if buffered from the residential uses by landscaping, lighting, and noise controls.</p> <p><u>LU-5A-6</u> Sites for commercial uses located where an adjoining property on two or more boundaries is residential, must maintain at least 50 percent of the site in green space not devoted to parking. Sites larger than one acre should reserve green space of at least 20 percent of the site or one-half acre, whichever is larger.</p> <p><u>LU-5A-12</u> New commercial development should follow sound design principles for buildings, parking, landscaping, signage, and setbacks.</p> <p><u>LU-5A-13</u> Commercial developments, including loading docks, vehicle use areas, public use areas, and outside storage areas should be screened from adjacent residential developments or districts.</p> <p><u>LU-5A-14</u> Parking areas are discouraged within the building setback areas to allow for street landscaping.</p>	<p>As can be seen from the attached Zoning Map, the properties that surround the zone change request are zoned OP-C (Office and Professional - Commercial), RM-4 (Multi-Family Residential), or P (Public). There are also properties in the general vicinity zoned GB (General Business).</p> <p>Although there are two (2) adjoining properties currently zoned RM-4 (Multi-Family Residential), as can be seen from the landuse map, the use of the properties are commercial in nature. The applicants are also requesting a variance for the total lot coverage of the proposed site. As can be seen from the variance staff report, the applicants are seeking an increase of the minimum lot coverage from 75% to 79%. The applicants are also requesting a ten (10) foot variance from the twenty (20) foot side yard setback required for OP-C (Office and Professional - Commercial) zoned land adjacent to RM-4 (Multi-Family Residential) zoned property.</p> <p>The property will be developed to meet the minimum requirements of the landscape provisions of the Zoning Ordinance of Warren County, Kentucky.</p> <p>The exterior facade of all new buildings constructed on the property shall be constructed of at least 80% masonry materials; like brick, stone, rock, drivit, EFIS, decorative block or similar material (Binding Element 3).</p> <p>The applicants have agreed that the property will have a maximum ground floor area of 8,400 square feet with a maximum total square footage not to exceed 10,000 square feet (Binding Element 2).</p>
<p><u>LU-5A-15</u> Free standing signs should be in proper scale, style and bulk with the surrounding area. In general, signs should not be taller than the tallest structure on the site.</p>	<p>The subject property shall be limited to a single monument style sign no greater than twenty (20) feet in height and one hundred (100) square feet in sign face area for each individual property. The property shall also be limited to wall signage to five percent (5%) of each façade or a maximum of fifty (50) square feet for each individual property (Binding Element 5).</p>

COMPREHENSIVE PLAN COMPLIANCE (Continued)

Comprehensive Plan Policy:	Application:
<p><u>LU-5A-16</u> All lighting should be directed downward and away from adjacent residential uses and should be shielded to prevent light trespass or reflection onto adjoining properties.</p>	<p>Any new lightning installed on the subject property shall be down lighting, high intensity discharge shoebox luminary type or wall-packed lighting specifically designed to direct all lighting on the subject premises and away from any adjacent property. Said lighting not to exceed 30 feet in height from ground level (Binding Element 1).</p>
<p><u>LU-5A-4</u> Commercial uses are appropriate only with direct accessibility to at least a minor collector street. Vehicular access to commercial development should be oriented away from residential neighborhoods.</p> <p><u>LU-5B-1</u> Infill sites with access to at least a minor collector street may be developed as commercial uses which are low volume traffic generators. The proposed development shall maintain the residential scale, size, and style of the neighborhood. At least 25 percent of the site shall be landscaped open space.</p> <p><u>LU-5B-2</u> Peripheral commercial development must be located on at least a minor collector street.</p> <p><u>LU-5B-3</u> Primary ingress or egress to the commercial site shall not adversely impact any residential neighborhood.</p> <p><u>TR-2</u> Measures must be taken to ensure that all private and public development is undertaken in a manner which minimizes increased traffic congestion on existing streets, roads and intersections.</p> <p><u>TR-2H</u> Development within the City limits of Bowling Green shall comply with the City's adopted Traffic Access Management Manual.</p> <p><u>TR-2I</u> Within urban areas, private access to existing state, county or city streets should be as restrictive as possible, of few as necessary, and align with other existing entrances.</p>	<p>The property has frontage on High Street, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet or pavement width. The property also has frontage on Fifth Avenue, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width.</p> <p>As can be seen on the Concept Plan, the applicant proposes two (2) access points to the development. One (1) access point on High Street and one (1) access point on 5th Street. The proposed development must be in compliance with the City of Bowling Green's Traffic Access Management Manual.</p> <p>The applicants have proposed that the uses on the property will be limited to office, medical office and health care facility (Binding Element 4). The proposed uses would be considered low traffic generators.</p>

COMPREHENSIVE PLAN COMPLIANCE SUMMARY

The staff evaluated the following seventeen (17) policies for compliance:

POLICIES IN COMPLIANCE

- *LU-5A-4, 5, 6, 9, 11, 12, 13, 14, 15 & 16;*
- *LU-5B-1, 2, & 3*
- *TR-2, 2H & 2I*

POLICIES **NOT** IN COMPLIANCE

- *LU-1A-2*
- *LU-5A-6*

MOTIONS

I make the motion to **approve** the proposed zoning map amendment, together with and conditioned upon the General Development Plan, docket number, **2011-13-Z-BG**. My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing, that the zoning map amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies:

LU-5A-4, 5, 6, 9, 11, 12, 13, 14, 15 & 16;

LU-5B-1, 2, & 3

TR-2, 2H & 2I

Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment.

OR

I make a motion to **deny** the proposed zoning map amendment, docket number **2011-13-Z-BG**. My motion is based on the findings of fact as presented in the staff report and the testimony as presented in this public hearing that the zoning map amendment is **not** in agreement with the adopted Comprehensive Plan as demonstrated by its non-compliance with the Comprehensive Plan's following Policies:

(State specific policies, such as :)

LU-1A-2 and/or LU-5A-6

Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment.

DESCRIPTION OF REQUEST

The applicants are requesting a ten (10) foot variance from the twenty (20) foot side yard setback required for **OP-C** (Office and Professional - Commercial) zoned land adjacent to **RM-4** (Multi-Family Residential) zoned property. The applicants are also requesting a change of four percent (4%) from the seventy-five percent (75%) maximum lot coverage permitted in the **OP-C** (Office and Professional - Commercial) zone classification; bringing the maximum allowed lot coverage to 79% (See Attached Variance Plat).

ZONING ORDINANCE REFERENCE

Article 4.6.8

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.6.8

Additional Setback Adjacent to Residential District

4.6.8.C Commercial District Adjacent to residential District (OP-C, HB and GB). For existing structures the yard that abuts the residential district boundary shall have the same dimension as the abutting residential district. For all new structures, any yard abutting a residential district shall have a minimum 20-foot side and a 40-foot rear yard setback.

Lot Coverage

4.6.8.B Lot coverage for OP-C (Office and Professional - Commercial) zoning districts has a seventy-five (75%) maximum lot coverage standard.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

- (1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

MOTIONS

MOTION TO **APPROVE** THE **VARIANCE** REQUEST:

I make the motion to **approve** the request for a ten (10) foot variance from the twenty (20) foot side yard setback required for **OP-C** (Office and Professional - Commercial) zoned land adjacent to **RM-4** (Multi-Family Residential) zoned property, as well as a change of four percent (4%) from the seventy-five percent (75%) maximum lot coverage permitted in the **OP-C** (Office and Professional - Commercial) zone classification; bringing the maximum allowed lot coverage to 79%, at the intersection of High Street and Fifth Avenue, Docket number 2011-V-08.

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

OR

MOTION TO **DENY VARIANCE**:

I make the motion to **deny** the request for a ten (10) foot variance from the twenty (20) foot side yard setback required for **OP-C** (Office and Professional - Commercial) zoned land adjacent to **RM-4** (Multi-Family Residential) zoned property, as well as a change of four percent (4%) from the seventy-five percent (75%) maximum lot coverage permitted in the **OP-C** (Office and Professional - Commercial) zone classification; bringing the maximum allowed lot coverage to 79%, at the intersection of High Street and Fifth Avenue, Docket number 2011-V-08.

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
 - **will** alter the essential character of the general vicinity.
 - **will** cause a hazard or a nuisance to the public
 - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.