

Planning Commission Staff Report

February 15, 2018



Case No:	17ZONE1027
Project Name:	Eberle Orthodontics
Location:	13913 Shelbyville Road
Owner(s):	SJE, Inc.; Faith Community Church UCC, Inc.
Applicant:	SJE, Inc
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Project Area/Size:	0.70 acres
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, Single-Family Residential to OR, Office-Residential
- **Variance** of LDC, section 5.3.1.C.5 to reduce the required 15 foot non-res to res setback to 5 feet for proposed building additions
- **Landscape Waiver** of LDC, section 10.2.4 to reduce the required 15 foot Landscape Buffer Area (LBA) to 5 feet for proposed building additions
- **Landscape Waiver** of LDC, section 10.2.4 and 10.2.10 to reduce the required 10 foot LBA/VUA LBA to 5 feet
- **Landscape Waiver** of LDC, section 10.2.4.B.3 to allow a utility easement and LBA to overlap for a width that is greater than 50%
- **Parking Waiver** to exceed the 25 space maximum parking requirement and provide 33 spaces
- **Detailed District Development Plan**
- **Abandonment of Conditional Use Permit (B-54-06)**

CASE SUMMARY

A change-in-zoning from R-4, single-family residential to OR, office-residential to allow for an expansion in the existing operations of an orthodontic office in Eastern Louisville Metro, East of Interstate-265 along Shelbyville Road is being requested. The current use of this residential property is permitted under an active conditional use permit (B-54-06) granted in 2006. Proposed improvements to the subject site include an eight-hundred and eighty-one square foot expansion to the principal structure, along with the addition of twenty-two parking spaces resulting in an increase of seven-thousand one-hundred and seventy-eight square feet of impervious surface. The surrounding area consists of a mixture of single-family and multi-family residential uses (R-4, R-5, PRD, R-6, and R-7), as well as a variety of commercial uses (C-1 and CN) providing goods and service to the growing surrounding population.

A parking waiver to exceed the maximum number of spaces has been requested in order to provide sufficient parking based upon the number of employees and patients common for the orthodontic practice. Landscape waivers and a variance have also been requested. Lastly, the existing conditional use permit will need to be abandoned to eliminate the existing conditions of approval that limit the number of employees.

STAFF FINDING

The proposed use is located on a site with an existing low intensity use. The expansion of the existing use is being proposed in the lowest intensity office zoning district. The zoning change and development plan allows

for the growth of the orthodontic office in a manner compatible with the Guidelines and Policies of the Comprehensive Plan. Appropriate transitions between uses that are substantially different in scale and intensity of the development will be provided. Setbacks, height, building materials, buffering, and site design are compatible with the existing conditions of the site and surrounding area.

Landscape waivers, variance, parking waiver, and detailed district development plan appear to be adequately justified based upon the staff analysis of the standard of review.

TECHNICAL REVIEW

- A motion will need to be made during the public hearing to formally abandon the existing conditional use permit of docket B-54-06 in order to eliminate the existing conditions of approval; thus, allowing for the binding elements placed upon the detailed district development plan of the rezoning to control. The Planning Commission may exercise the powers of the Board of Zoning Adjustment in cases of zoning map amendments, LDC 11.5A.1.A. The motion to abandon the CUP should state that it shall not be effective until such time as the Louisville Metro Council approves the change in zoning.
- In accordance with LDC 9.1.17.B, the requirements to provide a traditional parking study in conjunction with a parking waiver have been waived based upon the site specific parking counts provided by the applicant which appear to sufficiently justify the parking needs of the orthodontic office.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies of Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR PROPOSED REZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The proposed use is located on a site with an existing low intensity use. The expansion of the exiting use is being proposed in the lowest intensity office zoning district. The zoning changes allows for the growth of the operation of the orthodontic office in a manner compatible with the Guidelines and Policies of the Comprehensive Plan. Appropriate transitions between uses that are substantially different in scale and intensity or density of the development will be provided. Setbacks, height, building materials, buffering, and site design are compatible with the existing conditions of the site and surrounding area.

The proposed use is compact. The building is currently a repurposed single family residence with a conditional use permit for an orthodontic office with one practitioner. Expansions are consistent with exiting conditions. All parking facilities are located to the rear of the existing structure. A parking waiver to exceed the maximum number required by the proposed use has been requested. Based upon site specific studies conducted by the applicant, reviewed by staff, and further elaborated upon in the standard of review the parking spaces requested appear to be sufficient to provide for employees and customers of this orthodontic practice. Future cross-access will be provided upon the redevelopment of the abutting religious grounds for any other non-residential use.

The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities. Bicycle parking and pedestrian connection to public ways have been provided. The required number of handicap space will be provided at a convenient location at the rear of the building. The subject site is located along a major transportation corridor. The impact of this low intensity office use upon exiting traffic patterns is minimal. No roadway improvements or work within the right-of-way will be conducted with the exception of sidewalk connectivity to the facility

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

LDC section 5.3.1.C.5 to reduce the required 15 foot non-res to res setback to 5 feet for proposed building additions

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health safety or welfare as the proposed building additions do not impact site lines for vehicular or pedestrian traffic or create conflict with the provisions of appropriate drainage and buffering from abutting uses.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed building additions are consistent with style and material of the existing structure and conform to the existing setback established by the current Western sidewall of the structure.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the encroachments are to facilitate improvements to a low-intensity office use and zone.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is in keeping with the established setback of the existing structure.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property was originally a single-family residence and maintained setbacks common to single-family residential properties. The current and expanded use maintains those previously established setbacks.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as front and rear setbacks, along with parkway buffers are being complied with and the encroachments are in keeping with the currently established side setback.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no improvements have been made on the site that create conflict with the current regulations.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

LDC section 10.2.4 to reduce the required 15 foot Landscape Buffer Area (LBA) to 5 feet for proposed building additions

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as adjacent property owners are accustomed to the existing buffering along this section of the property that has existed with the current conditions. The expansion allows for the structure to remain compatible with the existing conditions. Any screening or material will provided as required.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as the proposed encroachment is in keeping with the established buffer of the existing structure and does not encroach beyond that point. No intrusions upon public spaces or streets are created and the proposed encroachment allows the structure to be developed in a compatible manner with existing conditions.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as an expansion to the East would conflict with drive lanes, expansion out the rear would conflict with parking facilities, and the expansion is in line with existing structures.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) 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.

STAFF: 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 as the encroachments allow for the structure to remain compatible with the existing conditions and surrounding neighborhood while facilitating the growth of the operation.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

LDC 10.2.10 to reduce the required 10 foot LBA/VUA LBA to 5 feet

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent use is religious grounds/non-residential and significant open spaces exist on the abutting property.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as the encroachments are located to the rear of existing parking away from the street and public views, are in line with existing facilities, and the abutting users is non-residential.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the application of the full LBA on this side of the property would result in the inability to provide for adequate vehicular circulation and parking demand, and may result in the applicant requesting to reduce the LBA on the opposite side which contains single-family residential uses that are more susceptible to nuisances than the property to the East.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) 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.

STAFF: 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 as provision of adequate parking and circulation will be adversely impacted by the full application of the LBA.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

LDC section 10.2.4.B.3 to allow a utility easement and LBA to overlap for a width that is greater than 50%

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as all screening and planting material is being provided as required.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as all screening and planting material is being provided as required.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all screening and planting material is being provided as required.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) 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.

STAFF: 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 as all screening and planting material is being provided as required.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING WAIVER

To exceed the 25 space maximum parking requirement and provide 33 spaces

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. Based on site specific information for the current use on-site and projected employment and customer expansions the maximum parking standards restrict the applicant from the providing adequate parking to meet the demand of the proposed use. Due to the nature of the proposed use (orthodontic office), the combination of employees present during work hours, patients being treated, and patients waiting to be treated the peak demand during certain periods can reach thirty vehicles. The application includes provisions for pedestrian connection to public ways and bicycle parking, but the majority of trips generated will be automobile dependent. The parking facilities are compact and compatible with the surrounding area. On-street parking is not available and the location of facility does not allow for accessible parking off-site.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: Due to the location of the subject site along a major arterial roadway abutting residential properties and smaller commercial uses on the same side of the street, parking is not conveniently accessible on property under the same ownership or through joint use provisions. ON-street parking is not available.

- (c) The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use as the combination of employees present during work hours, patients being treated, and patients waiting to be treated results in a peak demand during certain periods of roughly thirty vehicles.

- (d) The requested increase is the minimum needed to do so.

STAFF: The requested increase is the minimum necessary to provide adequate parking to meet the demand of the proposed use.

STANDARD OF REVIEW FOR DETAILED DISTRICT DEVELOPMENT PLAN

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: Tree canopy credit areas to preserve existing tree masses are proposed along the western property line. A parkway buffer is being provided to preserve views along the parkway.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as pedestrian connection to the public way, bike park, and safe and convenient parking to meet the demands of the proposed use are provided on site.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required for this application and the development is compact.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the surrounding area as the subject site parking areas are located to the rear of existing facilities, expansions to the building are in keeping

with materials of the current structure and surrounding area, and landscaping is provided to buffer adjacent single-family uses.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Review Checklist* for the change in zoning request contained in *Attachment 3* of the staff report.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single-Family Residential to OR, Office-Residential on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** of LDC, section 5.3.1.C.5 to reduce the required 15 foot non-res to res setback to 5 feet for proposed building additions
- **APPROVE or DENY** the **Landscape Waiver** of LDC, section 10.2.4 to reduce the required 15 foot LBA to 5 feet for proposed building additions
- **APPROVE or DENY** the **Landscape Waiver** of LDC, section 10.2.4 and 10.2.10 to reduce the required 10 foot LBA/VUA LBA to 5 feet
- **APPROVE or DENY** the Landscape Waiver of LDC, section 10.2.4.B.3 to allow a utility easement and LBA to overlap for a width that is greater than 50%
- **APPROVE or DENY** the **Parking Waiver** to exceed the 25 space maximum parking requirement and provide 33 spaces
- **APPROVE or DENY** the **Detailed District Development Plan**
- **Abandon** the **Conditional Use Permit** (B-54-06) and all conditions of approval on condition and effective immediately at the time of final action by the Louisville Metro Council approving the change in zoning

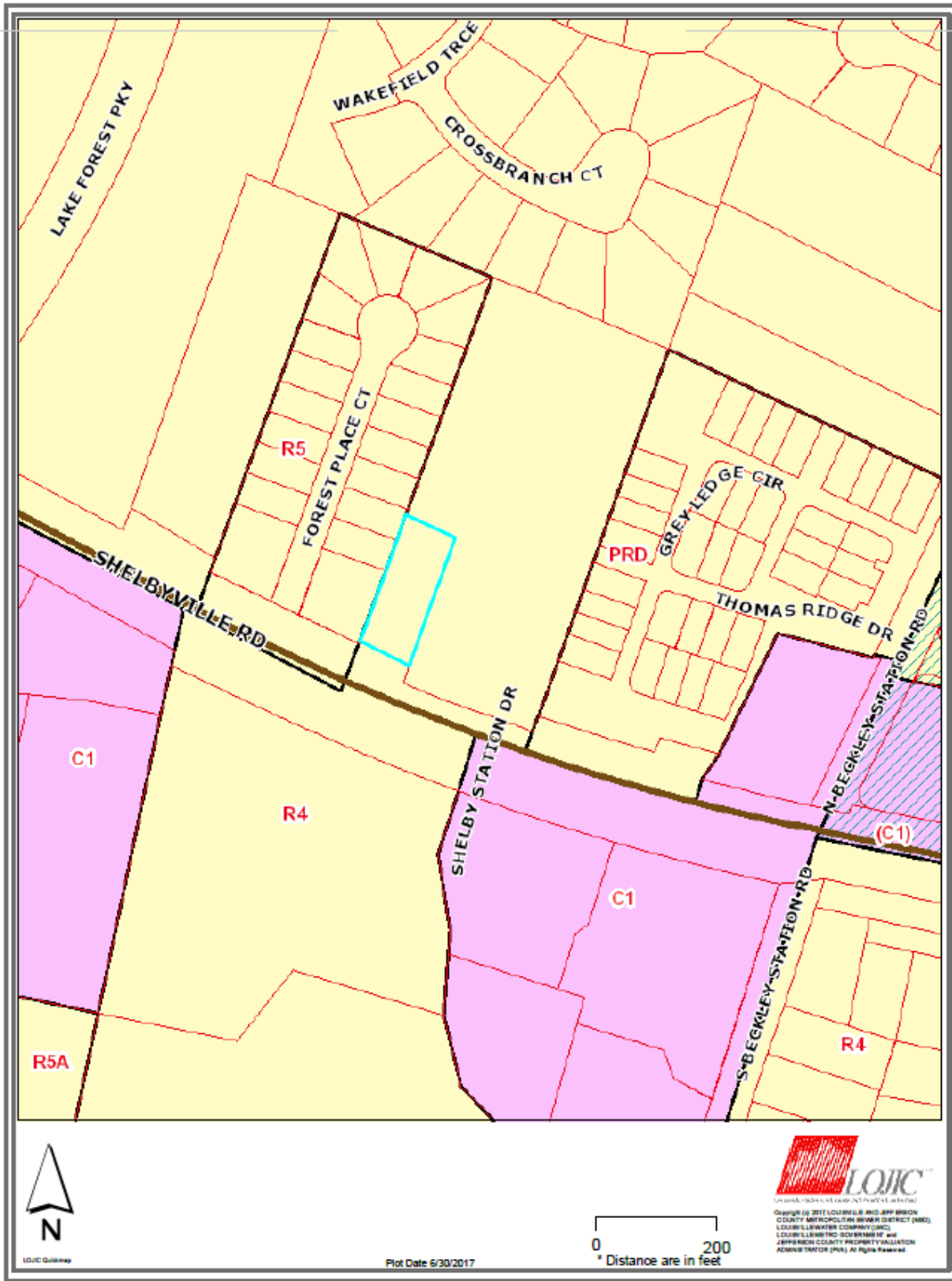
NOTIFICATION

Date	Purpose of Notice	Recipients
12/29/17	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
1/26/18	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
1/25/18	Hearing before PC	Sign Posting on property
2/3/18	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Existing Conditions of Approval – *to be abandoned*
5. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	✓	The proposal is located along a major transportation corridor and surrounded by a mixture of single-family and multi-family residential uses (R-4, R-5, PRD, R-6, and R-7), as well as a variety of commercial uses (C-1 and CN) providing goods and service to the surrounding population. The area consists of many existing structures, structures under construction, and proposed development.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	✓	The proposed use is an existing low intensity use. The improvements/expansion requiring the CIZ is being proposed in the lowest intensity office zoning district to permit the proposed use along a major arterial.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal does not create a new center. It includes the reuse of an existing structure
4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	Population surrounding and to come in the future would appear to support the neighborhood service provided by the expanded use
5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposed use is compact. All parking facilities are located to the rear of the existing structure.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposed development supports alternative modes of transport. Bicycle parking and pedestrian connections to public ways will be provided.
7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	✓	The proposal is an office use and is adequately supported by surrounding retail and residential uses.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
8	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is a minimal size
9	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	Future cross-access will be provided upon the redevelopment of the abutting religious grounds for any other non-residential use.
10	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	MSD comments have been addressed. Any other provisions to provide service to the subject site and facilitate future services to abutting uses will be provided at time of construction.
11	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities. Bicycle parking and pedestrian connection to public ways have been provided. The required number of handicap space will be provided at a convenient location at the rear of the building.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Proposed building materials are consistent with existing materials and surrounding neighborhood.
13	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal does not constitute a non-residential expansion into an existing residential area as the abutting use is "religious grounds" or non-residential. Furthermore, the use is appropriately located in a mixed use area and would have minimal impact on abutting residential uses to the West and appropriate landscaping will be provided
14	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	There would not appear to be any nuisances created by odor or emissions as the site is a low intensity office use
15	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The subject site is located along a major transportation corridor. The impact of this low intensity office use upon existing traffic patterns is minimal.
16	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will be no more than required to provide safety and security.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
17	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposed low-intensity office use is located along an arterial level roadway and within proximity of nearby commercial and medium to high density uses.
18	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Appropriate transitions between uses that are substantially different in scale and intensity or density of development will be provided. Landscape buffers and tree canopy will be provided along the Western property line. Expansions to the parking areas comply with required setbacks.
19	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers. Landscape buffers and tree canopy will be provided along the Western property line. Expansions to the parking areas comply with required setbacks.
20	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Minimal changes are being made to the existing structure. All changes being made are consistent with the integrity of the existing structure and surrounding property.
21	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	Parking, loading and delivery areas located adjacent to residential areas have been designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians. The parking areas are located to the rear of the lot away from Shelbyville Road which is a designated parkway. Tree canopy and landscape buffering will be provided along the Western line adjacent to residential homes and buffers will be provided along property lines shared with the abutting religious grounds.
22	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The proposal includes screening and buffering of parking and circulation areas adjacent to the street. Shelbyville Road is a designated parkway and planting and buffers will be provided to comply with parkway standards.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
23	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking structures are proposed.
24	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Existing sign. It does not appear that any changes are being requested to the existing dimensions of signage.
25	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	Open space is not required for this application and the site is being developed in a manner to make the improvements as compact as possible.
26	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	No open space is required per this application.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The proposal integrates natural features into the pattern of development as tree canopy credit areas are being provided along the Western property line to preserve existing tree masses.
28	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	No significant changes appear to be made to the site that will result in environmental degradation as the site does not appear to contain sensitive features.
29	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The property is not recognized as historic and does not appear to have any features of historical significance. The building is currently a repurposed single family residence and expansions are consistent with exiting conditions.
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	There do not appear to be any significant environmental issues related to soils.
31	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	Site is not within the urban core or located near downtown
32	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for a major industry. Primary users will be individuals.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The proposal is not a retail commercial use. Parking indicates that it may, however, generate significant traffic. It is located on an arterial level roadway.
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	Use is not a major industry and will have minimal employees and generate little traffic.
35	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	No roadway improvements or work within the right-of-way will be conducted with the exception of sidewalk connectivity to the facility.
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Bicycle parking and pedestrian connection to public ways will be provided.
37	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as no new work is being done within the right-of-way and future access will be provided in the event of non-residential development to the East.
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	No dedication of right-of-way will be required.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	A parking waiver to exceed the maximum number required by the proposed use has been requested. Based upon site specific studies conducted by the applicant, reviewed by staff, and further elaborated upon in the standard of review the parking spaces requested appear to be sufficient to provide for employees and customers of this orthodontic practice.
40	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Future cross access will be provided in the event of non-residential development to the East.
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	Future cross access will be provided in the event of non-residential development to the East.
42	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the subject site is immediately obtained from an arterial level roadway.
43	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	Appropriate linkages have been made to facilitate vehicular users of public streets and maintain hierarchy.
44	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity. Bike parking will be provided, pedestrian connection has been indicated, and future access will be provided if needed to adjacent lands.
45	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	All MSD comments have been addressed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
46	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	The proposal has been reviewed by APCD and found to not have a negative impact on air quality
47	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	No natural corridors are impacted by the proposal
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
49	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
50	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

4. Existing Conditions of Approval (B-54-06) – to be abandoned

- ~~1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.~~
- ~~2. The sign shall be a 20 square foot monument style sign and placed as shown on the submitted site plan.~~
- ~~3. The office shall be limited to one dentist.~~
- ~~4. The landscaping between the parking lot and the residential properties to the west shall be increased with trees such as Arborvitae, Norway Spruce, Hemlock, or Austrian Pine.~~
- ~~5. The size of the office shall be limited to 2260 square feet.~~
- ~~6. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a dentist office without further review and approval by the Board.~~

5. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.