

**Land Development & Transportation
Staff Report**
January 11, 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
- **Parking Waiver** of Land Development Code (LDC), section 9.1.3 to exceed the 25 space maximum parking requirement and provide 33 spaces
- **Landscape Waiver** of LDC, section 10.2.4 & 10.2.10 to reduce the required 10 foot Landscape Buffer Area (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%
- **Abandonment of Conditional Use Permit (B-54-06)**
- **Detailed District Development Plan**

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 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 case is ready to be scheduled for the next available public hearing before the Planning Commission.

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.

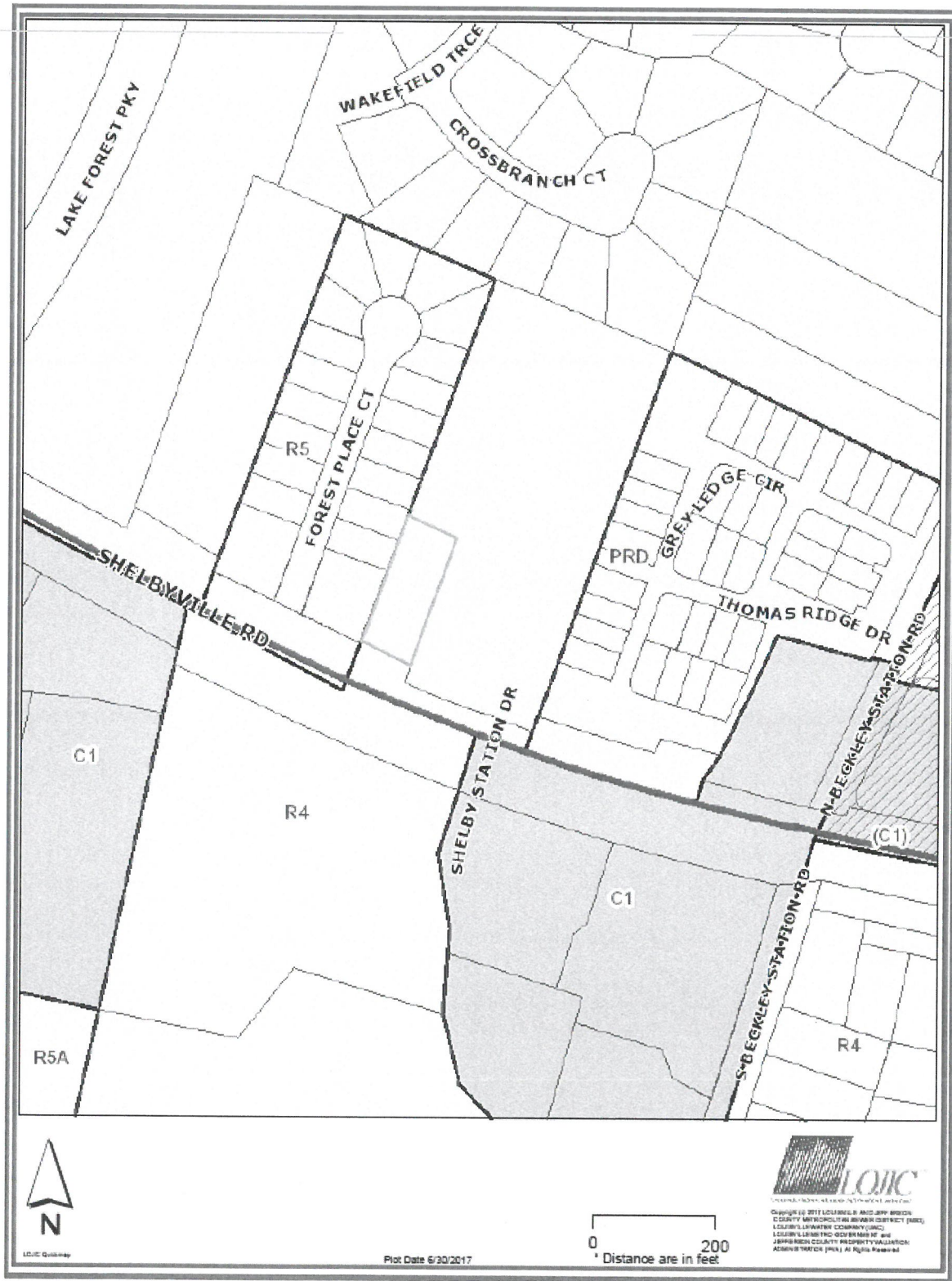
NOTIFICATION

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
	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

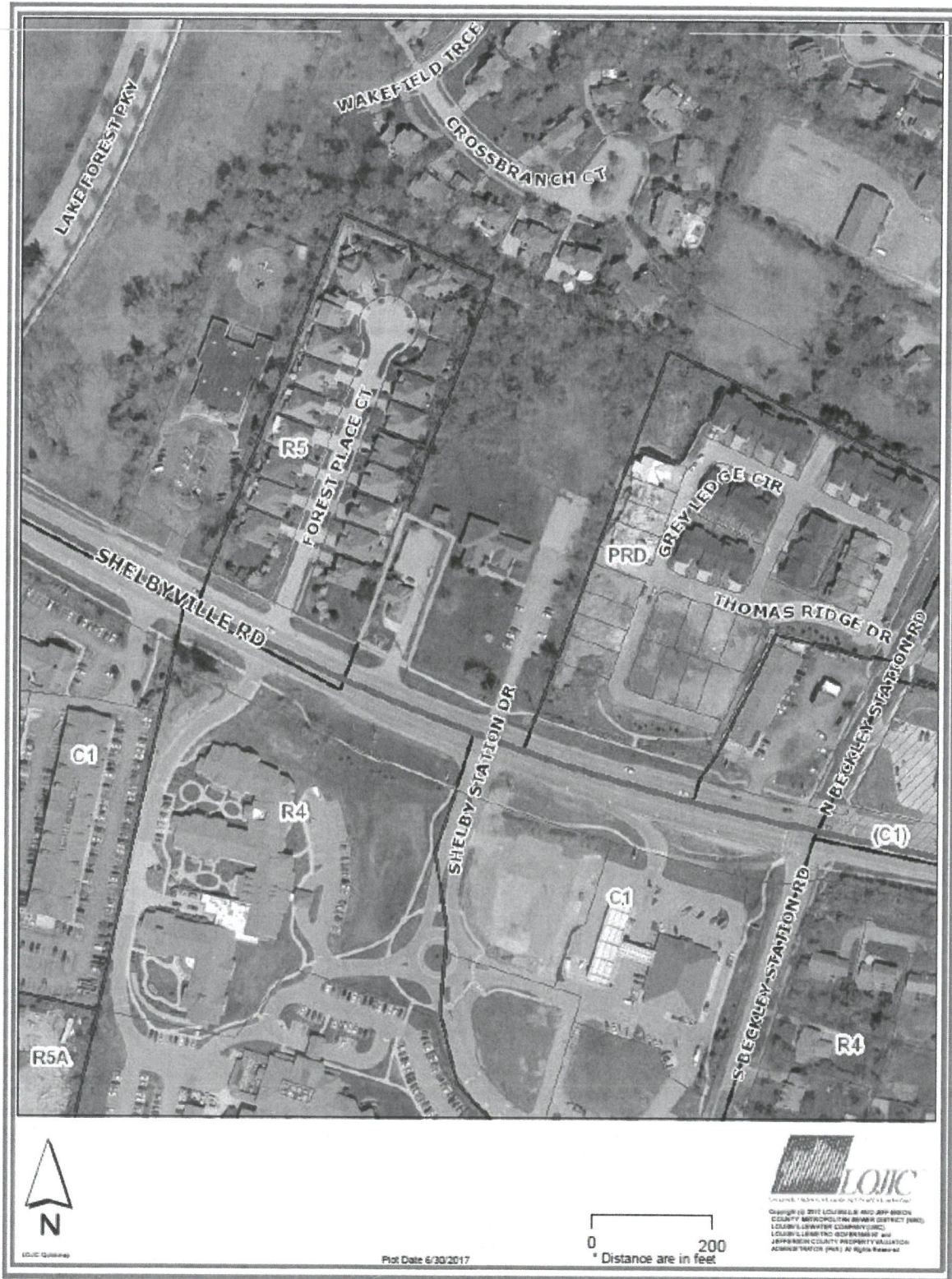
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing Conditions of Approval (B-54-06)

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.

4. 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.