

Development Review Committee
Staff Report
May 22, 2019



Case No:	19DEVPLAN1046
Project Name:	Kentuckiana Pain Specialists
Location:	3710 Chamberlain Ln
Owner(s):	Atreya Holdings, LLC.
Applicant:	Atreya Holdings, LLC.
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waivers:**
 1. Waiver from 10.2.10 to allow the parking lot to encroach into the 15 foot Vehicle Use Area Landscape Buffer Area along Chamberlain Ln and Hampton Lake Way as shown on the development plan.
 2. Waiver from 10.3.7 to allow the parking lot and dumpster enclosure to encroach into the Gene Snyder Freeway Buffer as shown on the development plan.
- **Revised Detailed District Development plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to expand an existing 10,827 SF medical office by 10,809 SF. The site is zoned C-1 in the Regional Center form district. The site was originally rezoned under docket 9-86-88 as part of the larger development known as Maplebrook, and the site was previously the site of a restaurant.

STAFF FINDING

The requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will not adversely affect adjacent property owners, as the encroachment is an existing conditions and additional landscaping will be provided to meet planting requirements.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form goal 1 policy 16 states that we should consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected. Community Form goal 2 policy 9 states that we should encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. The waiver will not violate the comprehensive plan, as most of the encroachment is existing pavement, and all required plantings will be provided on the subject site. The waiver will facilitate the expansion and continued use of a previously developed site within an existing activity center.

- (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 no additional encroachment is proposed and all required plantings will be provided on the subject site.

- (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 as it would require the removal of significant existing pavement and parking areas, and make it difficult to provide required parking on the subject site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

STAFF: The waiver will not adversely affect adjacent property owners, as the encroachment is an existing conditions and additional landscaping will be provided to meet planting requirements.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form goal 1 policy 16 states that we should consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected. Community Form goal 2 policy 9 states that we should encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. The waiver will not violate the comprehensive plan, as most of the encroachment is existing pavement, and all required plantings will be provided on the subject site. The waiver will facilitate the expansion and continued use of a previously developed site within an existing activity center.

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STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as no additional encroachment is proposed and all required plantings will be provided on the subject site.

- (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 as it would require the removal of significant existing pavement and parking areas, and make it difficult to provide required parking on the subject site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- (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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- (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, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- (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 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.

- (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 existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (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 and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the Waivers
- **APPROVE** or **DENY** the Revised Detailed District Development Plan

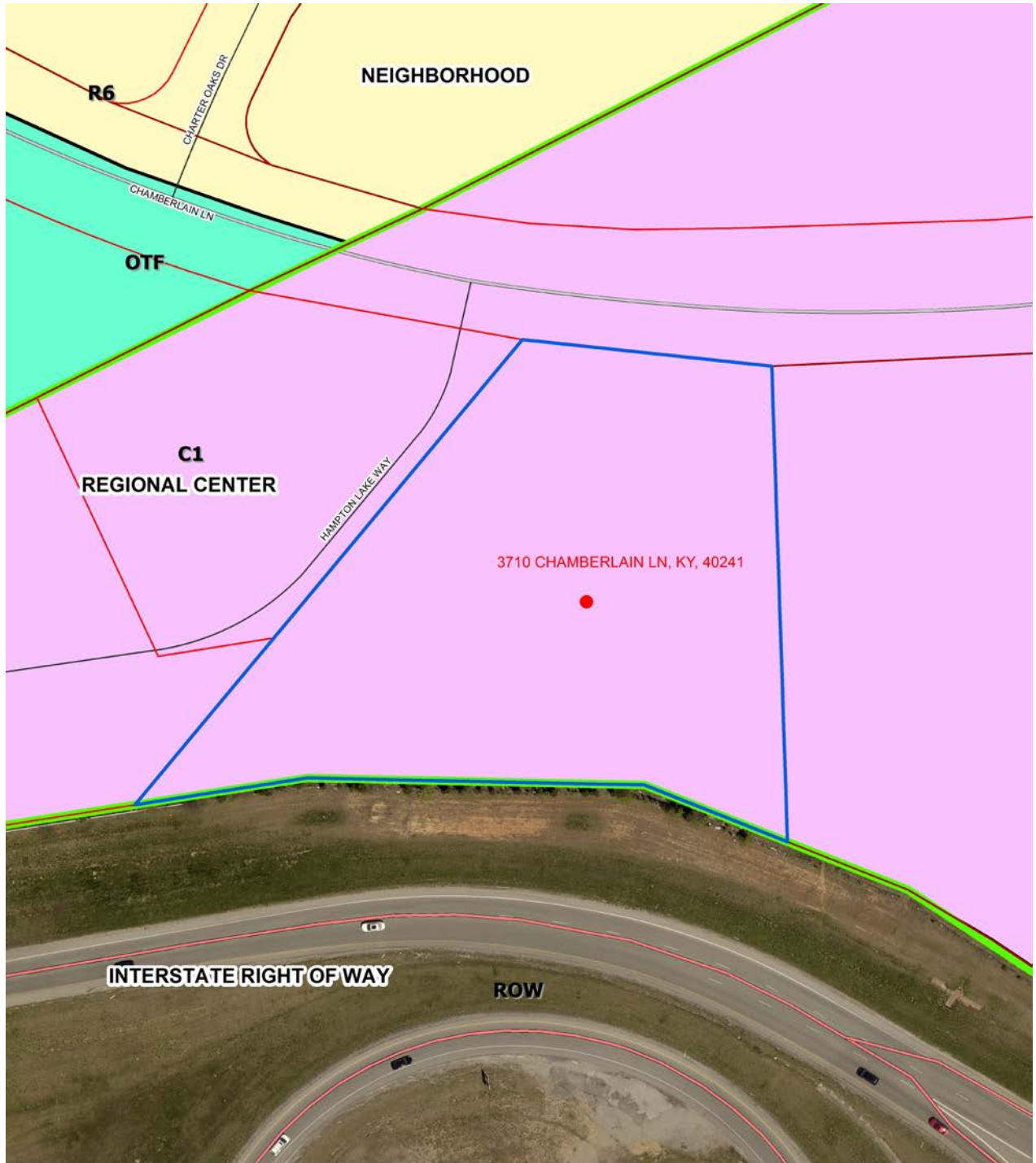
NOTIFICATION

Date	Purpose of Notice	Recipients
5-10-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 17

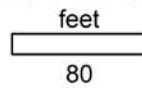
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Existing Detailed Plan Binding Elements with Proposed Changes
5. Proposed Detailed Plan Binding Elements

1. Zoning Map

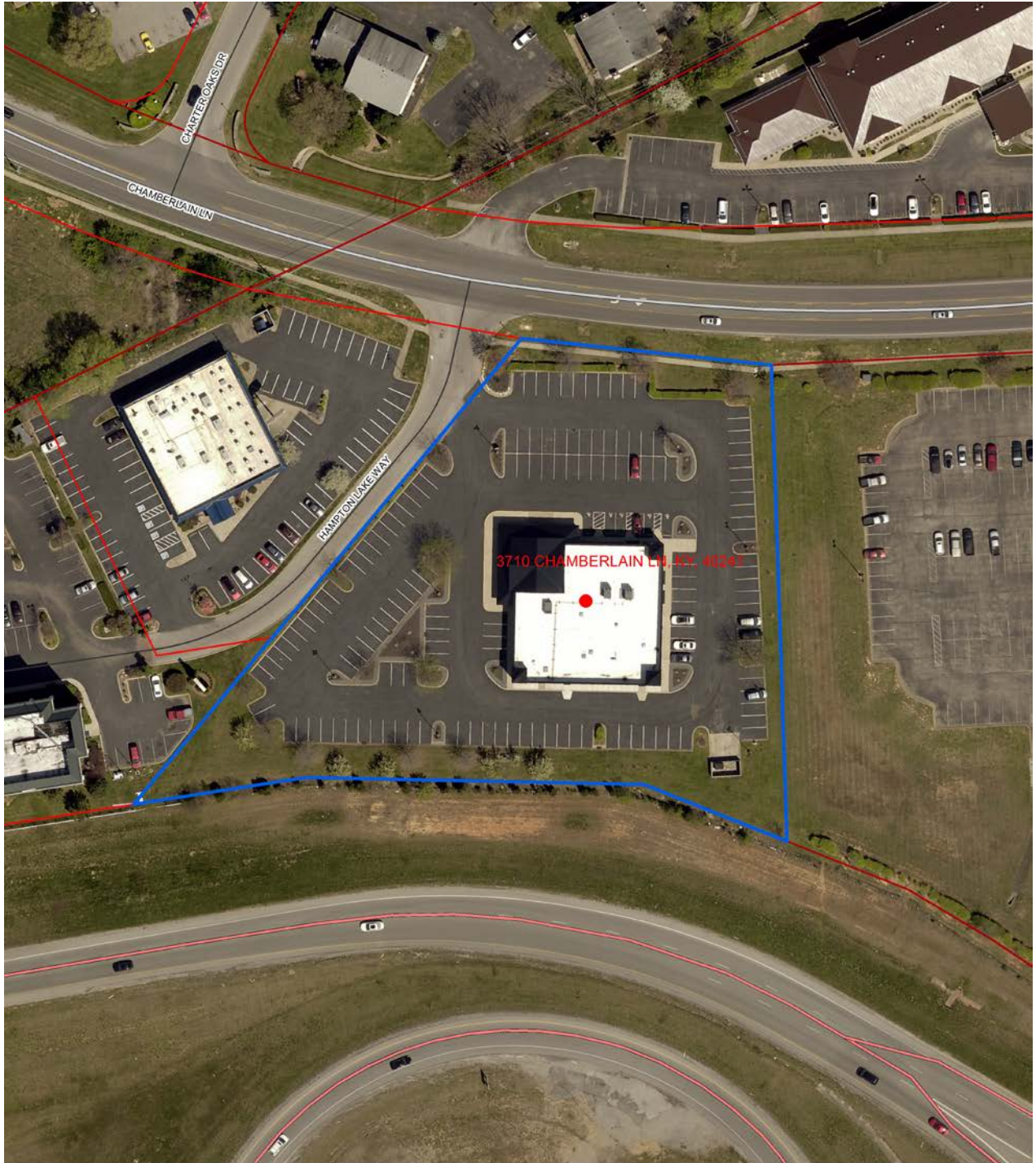


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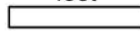
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2. Aerial Photograph



19DEVPLAN1046

feet



80

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3. Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
 - a. Prior to the development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size, and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signage
 - f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
2. A detailed construction plan showing existing and proposed construction in Chamberlain Lane and Westport Road, and including a 20 scale drawing of their intersection, will be submitted to and approved by the Jefferson County Department of Public Works and the Kentucky Department of Transportation prior to the commencement of any construction. These improvements will be in conformance with the approved General District Development Plan, Preliminary Subdivision Plan Docket No. 10-48-88, and Traffic Impact Analysis study, and will be completed prior to the issuance of any certificate of occupancy.
3. Direct access is prohibited to any lot from Westport Road with the exception of the entrance 400 feet east of Chamberlain Lane center line to center line. The access shall be right-in right-out only, as approved by the Jefferson County Department of Public Works and Transportation.
4. There shall be no direct access to Chamberlain Lane for the out parcels except out lot #2 and service roads as shown on the approved development plan.
5. The development excluding out lots shall not exceed the following:
 - a. R-7 Residential Multi-family district – 200 dwelling units (18.18 du / acre on 11.0 acres)
 - b. OR-3 Office/Residential District – 139,200 square feet
 - c. C-1 Commercial District – 394,000 square feet
 - c. C-2 Commercial District – 15,000 square feet

6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A major subdivision plat creating the lots and roadway as shown on the approved general district development plan and preliminary subdivision plan shall be recorded prior to issuance of any building permits.
 - d. An access or crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. All necessary recording fees shall be paid.
7. All primary development identification signs shall be monument signs. Each sign shall not exceed 64 square feet in area and 9 feet in height.
8. All lots located below the 100 year flood elevation shall conform to the Floodplain Regulations.
9. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
10. Tenants of all automobile service facilities shall submit written documentation to the Planning Commission concerning tire disposal.
11. The motel located east of Chamberlain Lane, as depicted on the General District Development Plan, shall not exceed two stories or 25 feet in height.
12. A six-foot high solid brick wall of style and design to be approved by the Shaker Farms Condominium Association, which approval shall not be unreasonably withheld, shall be constructed for a length of approximately 950 feet along the edge of the motel and office parking areas which are situated east of Chamberlain Lane along the north property line of the Maple Brook development; location of the wall is shown on the site plan entitled Maple Brook Wall Exhibit dated July 25, 1996. Along that north property line is an approximate 15-foot landscape buffer area which shall separate the motel and office buildings from the Shaker Farms Condominium development. The wall shall be situated along the south side of that landscape buffer area. In order to soften the impact of the wall, the developer or its successor in interest shall be responsible for planting trees or shrubbery along the north side of the wall in accordance with Article 12 of the Jefferson County Development Code (the County landscape regulation). This landscape buffer area may be fully utilized by Shaker Farms Condominium owners as if this area were an extension of their yard; however, unless the parties agree otherwise, this landscape buffer area shall continue to be owned by the developers of their successors in interest. The wall shall be maintained on both the north and south sides by the developers or their successors in interest.
 - a. The wall shall be constructed prior to commencement of building construction on Lots 1 or 2 as shown on the approved General District Development Plan and Preliminary

Subdivision Plan. Site grading for the proposed construction and the wall may occur concurrently, however, no building construction may occur until such time as the wall is completed.

13. Free-standing signs shall be restricted as follows:

For the lot depicted on the general district development plan as mote #1, 20 feet in height and 80 square feet in area.

For the lot and building depicted on the general district development plan as motel #2, 30 feet in height and 144 square feet in area.

For the lot and building depicted on the general district development plan as restaurant #1, 20 feet in height and 80 square feet in area.

For the lot and building depicted on the general district development plan restaurant #2, 30 feet in height and 96 square feet in area.

For the lot and building depicted on the general district development plan as out parcel #4, 20 feet in height and 96 square feet in area.

14. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
15. The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Maple Brook, adult entertainment, book binding facilities, dance halls, kennels, monuments sales, sign painting, skating rinks, used car sales unless in connection with a new car sales dealership, and advertising signs (billboards).
16. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
17. A certificate of occupancy must be received from the appropriate code enforcement office 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.
18. 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. There 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.
19. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

20. The above binding elements may be amended as provided for in the Zoning District Regulations.
21. The Chamberlain Lane frontage of Lots 4, 5, 6, 7, 8 and 13 as depicted on the major record plat of Maple Brook Section #1, shall have landscape buffer areas as follows:

<u>Lot #</u>	<u>LBA on Property</u>	<u>LBA in R.O.W.</u>
4	0	10
5	0	10
6	0	10
7	3	6
8	3	6
13	5	5

4. Existing Detailed Plan Binding Elements with Proposed Changes

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
- ~~2. The development shall not exceed 10,600 square feet of gross floor area.~~
3. No outdoor advertising signs (billboards), small free- standing (temporary) signs, pennants or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site.
5. The only permitted freestanding sign shall be nine feet in height and 64 square feet in size.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the ~~Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building)-~~ **Develop Louisville** and the Metropolitan Sewer District (700 W. Liberty Street).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ **Chapter 10** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - ~~d. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
- ~~7. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~

8. A certificate of occupancy must be received from the appropriate code enforcement office 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.
9. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
10. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

5. Proposed Detailed Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
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 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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