

Development Review Committee

Staff Report

October 30, 2019



Case No:	19DEVPLAN1021
Project Name:	Anchorage Landmark II
Location:	2604 Chamberlain Ln
Owner(s):	Ghasem Properties
Applicant:	Ghasem Prpoerties
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waiver** of Land Development Code 10.2.10 to not provide the 15 foot Vehicle Use Area Landscape Buffer Area along Old La Grange Rd.
- **Revised District Development Plan** with revisions to binding elements.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 24,579 SF retail commercial structure in the Suburban Workplace form district. The site is part of a commercial center that was rezoned to CM and C-1 under docket 9-4-02. The plan was most recently revised under docket 19DEVPLAN1021 for a similar but smaller development.

STAFF FINDING

The Revised Detailed District Development Plan is generally compliant with the Land Development Code and the development pattern in the area. The Waiver is not adequately justified and does not meet the standard of review. Staff could support some encroachment into the LBA to accommodate required parking as long as all plantings and screening could still be provided, but not the elimination of the buffer requirement.

TECHNICAL REVIEW

The proposal includes closure of a portion of the Old La Grange Rd right-of-way which is currently under review under docket 19-STRCLOSUREPA-0003.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will adversely affect adjacent property owners since it will result in development that is not sufficiently screened from the public street.

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

STAFF: The waiver will violate Community Form goal 1, policy 12 which states that parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. While some encroachment into the buffer area may be acceptable without violating the Comprehensive Plan if necessary to accommodate vehicle use areas, full elimination of the buffer would leave a parking lot unscreened adjacent to a public street.

- (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 not the minimum necessary to afford relief to the applicant since they are proposing to close public land and add it to their property, but not provide adequate screening and buffering adjacent to the remaining public street.

- (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 not deprive the applicant of the reasonable use of the land, as they could build a smaller structure and associated parking that provided the required buffering, as evidenced by their previously approved plan.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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. Louisville Metro Emergency Services as well as the Anchorage-Middletown fire department have expressed concerns that the proposed closure of right-of-way associated with this request could negatively impact emergency service response in the area.

- (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, but the applicant will need to address screening along Old La Grange Rd. 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 generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised District Development Plan** with revisions to binding elements.

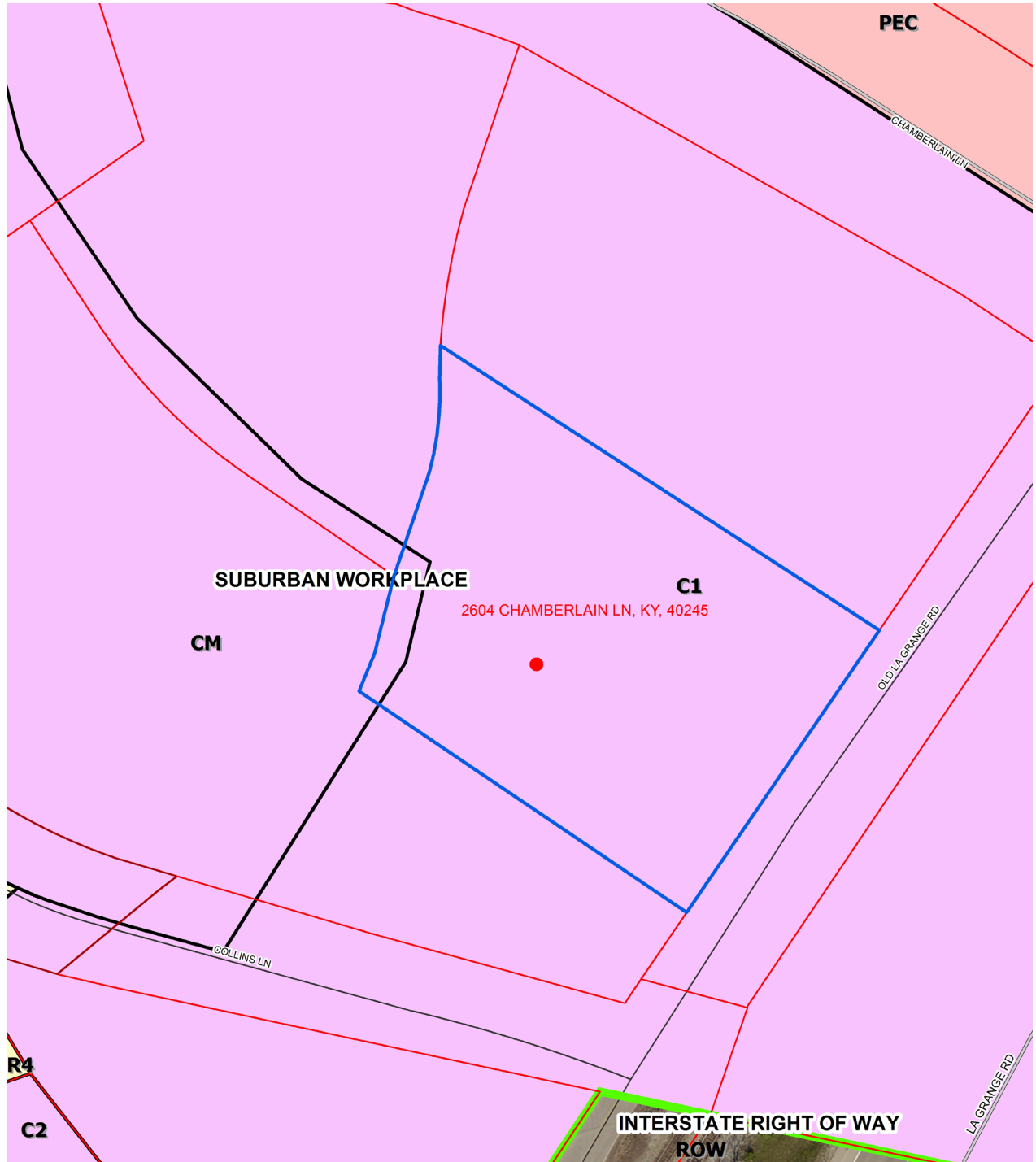
NOTIFICATION

Date	Purpose of Notice	Recipients
10-7-19	Hearing before DRC	1st tier adjoining property owners Speakers at Planning Commission public hearing. Registered Neighborhood Groups in Council District 17

ATTACHMENTS

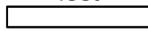
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. Zoning Map



19VARIANCE1020

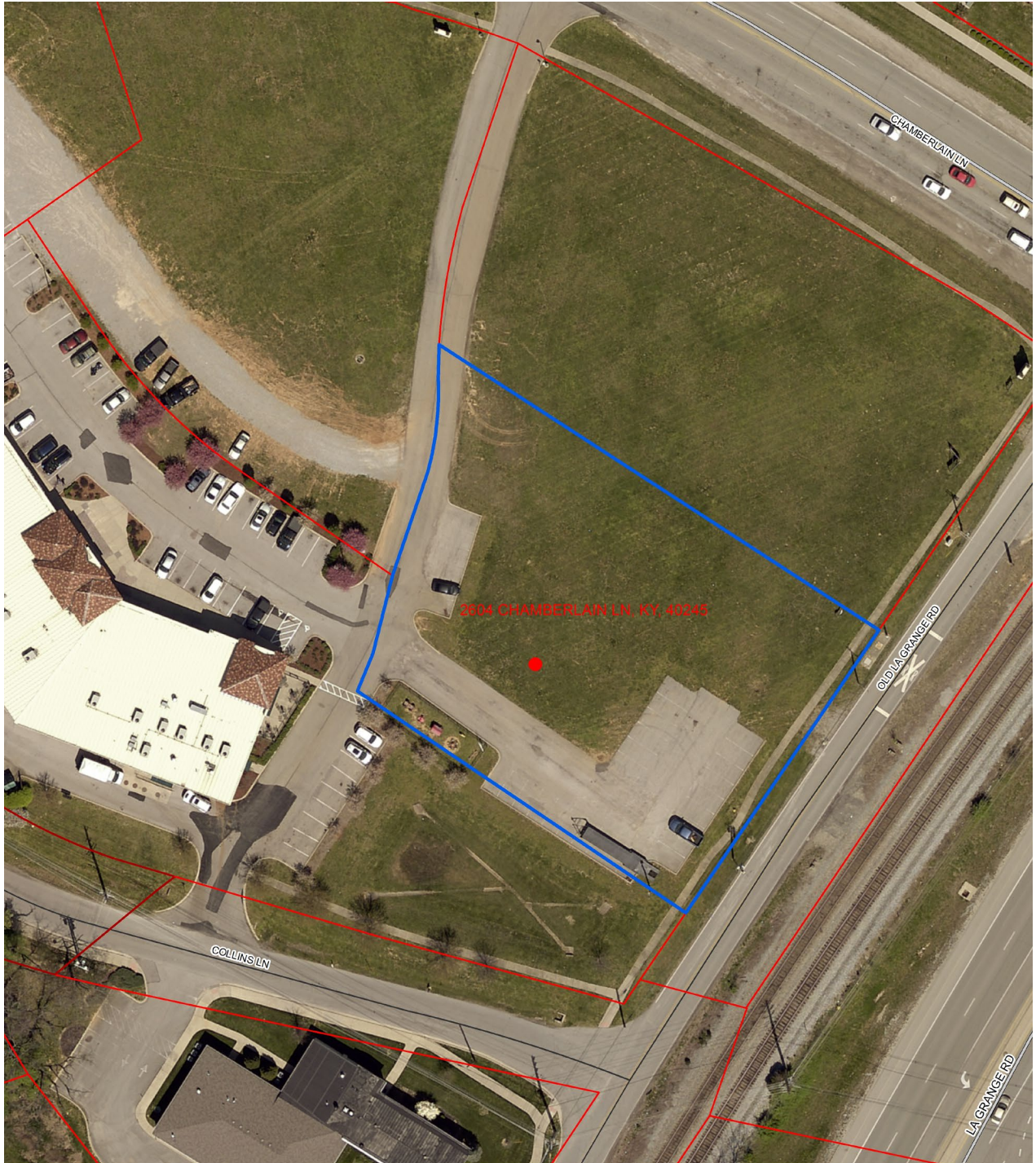
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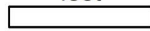
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2. Aerial Photograph



19VARIANCE1020

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3. Existing 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. 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.
2. The only permitted freestanding signs shall be monument style signs, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The signs shall not exceed 64 and 128 square feet in area per side and 8 and 16 feet in height. No sign shall have more than two sides.
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage, display or sales permitted on the site.
5. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. The site shall utilize shoebox lighting fixtures and shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site, with a 20 foot maximum height. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
6. 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.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
8. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - 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

- d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
 - f. A road closure approval for the portion of Old La Grange Rd shall be approved prior to requesting a building permit**
 - g. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.**
9. 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.
 10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 11. 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.
 12. 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.
 13. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m.
 - ~~14. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 7th, 2002 Planning Commission meeting and the May 8, 2019 Development Review Committee meeting. Canopy treatments for the gas station shall be submitted to the Planning Commission staff for review and approval.~~
 15. The landscape plan shall be developed in consultation with Mr. Cain (12515 Old Lagrange Rd. Louisville, KY 40245) and Mr. Rick Wardlow, for specific landscape materials and placement of landscaping.
- 4. Proposed 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.
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 - e. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
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