

**CITY OF ST. MATTHEWS
ORDINANCE 19-03**

**AN ORDINANCE RELATING TO THE APPROVAL OF A
CHANGE IN ZONING FROM R-4 TO R-6, APPROVAL OF A
DETAILED DISTRICT DEVELOPMENT PLAN AND
BINDING ELEMENTS ON PROPERTY LOCATED AT 3930,
3934 AND 3936 MASSIE AVENUE, BEING IN THE CITY OF
ST. MATTHEWS (CASE NUMBER 18ZONE1006)**

WHEREAS, the City Council of the City of St. Matthews has received and reviewed the findings and recommendations made by the Louisville Metro Planning Commission at its meeting on December 20th, 2018, recorded in the approved minutes from that meeting, and

WHEREAS, the Planning Commission recommended to the City Council of the City of St. Matthews that the Applicant's request to change the zoning from R-4 to R-6 on property located at 3930, 3934 and 3936 Massie Avenue be approved, along with a Detailed District Development Plan, subject to certain agreed upon binding elements, all detailed in Case No. 18ZONE1006, and,

WHEREAS, the owners of the property herein described have agreed to certain binding elements on said property, which are conditions of approval and are set out fully herein,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ST. MATTHEWS:

Section 1. That subject to full compliance with the restrictions contained in all the binding elements placed on this site in Case Number 18ZONE1006, the requested change in zoning from R-4 to R-6 on property known as 3930, 3934 and 3936 Massie Avenue (that property being more particularly described as set out in the Planning Commission record of Case Number 18ZONE1006), along with its Detailed District Development Plan, **BE AND HEREBY IS APPROVED**, subject to the agreed upon binding elements set out in Section 2. Further, the City of St. Matthews Council does hereby specifically adopt in full (incorporated as if set out in full herein) the findings set out in the record of Case 18ZONE1006, supporting the Application.

Section 2. The following shall be binding elements which shall be applicable and enforceable concerning the current and future use of the 3930, 3934 and 3936 Massie Avenue site:

Case 18ZONE1006 Massie Avenue

1. The development shall be in accordance with the approved detailed district development plan, all applicable sections of the Development Code and agreed upon binding elements unless amended pursuant to the Development Code. Any changes/ additions/ alterations of any binding element(s) or to the approved development plan shall be submitted to the Planning Commission or the Planning Commission's designee and to

the City of St. Matthews for review and approval; any changes/ additions/ alterations not so referred shall not be valid. Development shall not exceed 34,368.46 total square feet.

2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District and the City of St. Matthews Public Works Director. Applicant shall dedicate a drainage easement on the East side of its property and direct a portion of the through-drainage in that area into its underground detention system. The amount of through-drainage to be directed into applicant's underground detention system shall be determined by the City of St. Matthews Public Works Director. Post construction flows from the watershed shall keep a 50-year storm event from surcharging out of the downstream system; either through underground detention, or, at the City of St. Matthews' sole option, an off-site drainage improvement. A blocked condition analysis for the 100 year-rain event shall be provided to the City of St. Matthews to verify the flow path of the possible 100-year event surcharge.
 - b. In order to ensure that the underground detention is properly constructed, maintained and properly functioning, Developer shall submit a letter of credit, in the amount of \$25,000.00. Such letter of credit shall be payable to the City of St. Matthews, if, in the opinion of the St. Matthews Public Works Director, the underground detention facilities are not constructed properly, are not maintained, or do not function properly. The letter of credit shall be maintained by the Developer for a period of five years after the issuance of the first certificate of occupancy for the site.
 - c. The property owner/ developer must obtain approval (including City of St. Matthews approval), of a detailed plan for screening (buffering/ landscaping) as described in Article 12 prior to requesting a building permit. St. Matthews may require more landscaping that required by code. Developer shall provide a 15-foot landscape buffer adjacent to the principal structure at 3933 Kennison Court. 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 Design Services and the City of St. Matthews prior to obtaining a building permit.

4. If a building permit is not issued within one year 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 or designee and the City of St. Matthews.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of any structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting a 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 the 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, subcontractor and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the December 20, 2018 Planning Commission meeting.

All binding elements and/or conditions of approval set out herein have been accepted in total, without exception, by the entity requesting this approval.

Section 3. This Ordinance shall take effect upon its passage, approval and publication as required by law.

FIRST READING: Feb. 12, 2019

SECOND READING: March 12, 2019

PASSED AND APPROVED March 12, 2019

Richard J. Tonini
Richard J. Tonini, Mayor

ATTEST:

Susan Clark
Susan Clark, City Clerk

In Favor: 4

Opposed: 2