

**Land Development and Transportation Committee**  
**Staff Report**  
March 22, 2018



<b>Case No:</b>	18DEVPLAN1010
<b>Project Name:</b>	Chenoweth Ln Medical Office
<b>Location:</b>	224 Chenoweth Ln
<b>Owner(s):</b>	Maguire Properties
<b>Applicant:</b>	Maguire Properties
<b>Jurisdiction:</b>	St Matthews
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Jay Lockett, Planner I

**REQUEST(S)**

- **Waiver** of Development Code (St. Matthews) article 12.D.1.b.C.2 to allow a proposed parking lot to encroach into a 5' Vehicle Use Area Landscape Buffer Area (VUA LBA)
- **Revised District Development Plan** with the removal of existing binding elements to be replaced by the proposed binding elements.

**CASE SUMMARY/BACKGROUND**

The subject site is approximately .94 acres and was rezoned from R-7 to C-1 under docket 9-60-80. The applicant is proposing to renovate a former interior design shop for use as a medical office. The site currently has parking and structures that extend beyond the bounds of the property and into the public rights-of-way. As part of this project, the encroaching structures and parking will be removed and brought entirely onto the site. Most of the encroachment area associated with the waiver request is already an existing condition of the site.

**STAFF FINDING**

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

**TECHNICAL REVIEW**

The Board of Zoning Adjustment will consider a variance request associated with this plan on Monday, March 19.

**INTERESTED PARTY COMMENTS**

Staff has received no comment from any interested parties concerning this request.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP 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 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 and the Kentucky Transportation Cabinet have 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, except in the area of the waiver requested.

- 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 Development Code, with the exception of the waiver requested today, and the variance being considered by the Board of Zoning Adjustment..

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF DEVELOPMENT CODE (ST. MATTHEWS) ARTICLE 12.D.1.b.C.2 TO ALLOW A PROPOSED PARKING LOT TO ENCROACH INTO A 5' VUA LBA**

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposed parking lot will generally be more compliant with the Development Code than current conditions, as there is currently no buffer in these areas, and the existing lot encroaches into the public right-of-way.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs.

- (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 since the applicant is eliminating the encroachment into the right-of-way, and has limited space on site to fit the required parking for the use.

- (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 the southern part of the site cannot be used for parking per a binding element. This leaves a limited area on the site to meet parking requirements and provisions for safe circulation through the site.

**REQUIRED ACTIONS:**

- **RECOMMEND** that the City of St. Matthews **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** that the City of St. Matthews **APPROVED** or **DENY** the **Revised District Development Plan**

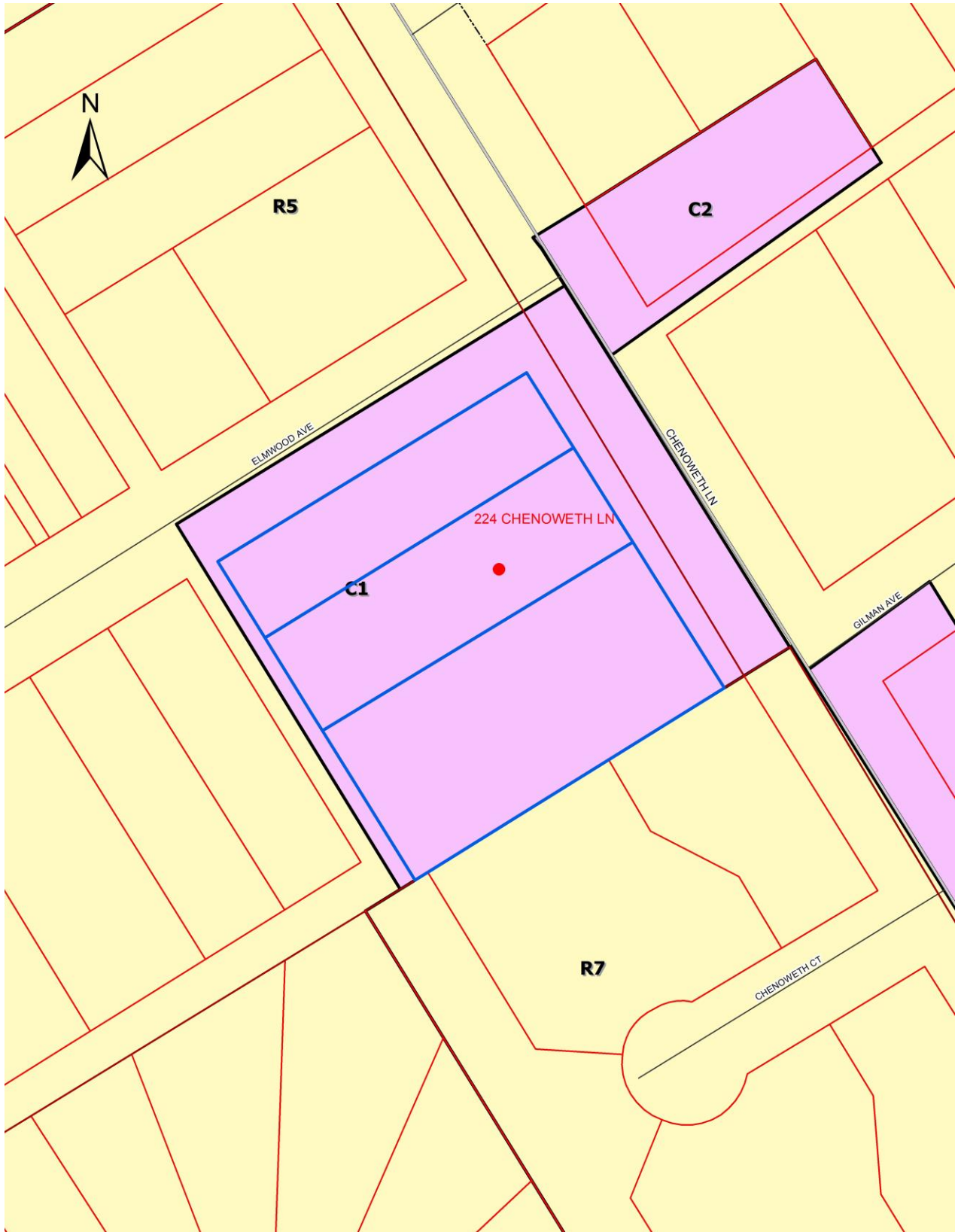
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3-13-18	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9

**ATTACHMENTS**

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

1. **Zoning Map**





2. Aerial Photograph



### 3. Existing Binding Elements

1. ~~No further development will be allowed until a Revised District Development Plan has been reviewed and approved by the Planning Commission and by the City Council.~~
2. ~~No vehicular access driveway shall cross the front property line.~~
3. ~~The structures on the property shall not be externally altered in any way such that their appearance, separately or collectively, would be incompatible with nearby residential uses. Plans and specifications for any external alterations must first be approved by the City Council.~~
4. ~~Plans and specifications for landscaping the property shall be submitted to and approved by the City Council with an agreement that it will be permanently and professionally maintained.~~
5. ~~No part of the property between the front of the structures and Chenoweth Lane may be paved except for use as a pedestrian walkway parallel to Chenoweth Lane.~~
6. ~~The property owner shall submit the drainage plan to be approved by the City Engineer before building permits shall be approved.~~
7. ~~The property may only be used for one or more of the following uses:~~
  - ~~a. Antique Shops~~
  - ~~b. Interior Decorating Shops~~
  - ~~c. Bookstores~~
  - ~~d. Stationery Stores~~
  - ~~e. Florist Shops~~
  - ~~f. Gift Shops~~
  - ~~g. Offices~~
  - ~~h. Dressmaking or Millinery Shops~~
  - ~~i. Jewelry Stores~~
  - ~~j. Household Accessory Stores Excluding Major Appliances~~
  - ~~k. Ready-to-Wear Apparel Shops~~
  - ~~l. Retail Art Stores or Galleries~~
  - ~~m. Any Residential Use Permitted in R-7 Zone Districts~~
  - ~~n. Accessory Uses~~
8. ~~Free-standing signs shall not exceed twenty-four square feet in area, which area shall include all faces of such signs, if located between the front of the structures and Chenoweth Lane. No free-standing sign shall have interior illumination. No free-standing sign shall have a height exceeding ten feet from the ground to the top of the sign. The total area of signs attached to the buildings on the side shall not exceed twelve square feet in area, and shall not extend more than twelve inches in front of any wall or any structure, shall not extend beyond any wall or above any roof line, and shall not be internally illuminated.~~
9. ~~All vehicular parking areas shall be located in the rear yard and north side of existing structures.~~
10. ~~Upon request by the City when the City deems improvements are necessary, the owners of the property described in section 1 of this ordinance shall dedicate to the City of St Matthews, without further compensation, a strip of land ten feet in width and lying adjacent to and parallel with Chenoweth Lane, for improvements to said Chenoweth Lane.~~

- ~~11. Reapproval must be received from the Water Management, Transportation and Engineering, and Fire Safety Sections of the Jefferson County Departments and Transportation within six months of the change in zoning.~~
- ~~12. Unless use in accordance with the approved plan and binding elements have been established within six months from the date of approval of the plan or rezoning, whichever is later, the property may not be used in any manner until such time as a District Development Plan has been approved by the Planning Commission and the City Council.~~

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved 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) shall be submitted to the Planning Commission or the Planning Commission's designee (and to the St. Matthews) 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, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from Develop Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Chenoweth Lane ROW.
  - c. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan/dedicating additional right-of-way to the rear alley.)
  - d. The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
  - e. 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.
5. If a certificate of occupancy or 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.

6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
8. 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.
9. No vehicular access driveway shall cross the front property line.
10. The structures on the property shall not be externally altered in any way such that their appearance, separately or collectively, would be incompatible with nearby residential uses. Plans and specifications for any external alterations must first be approved by the City Council.
11. No part of the property between the front of the structures and Chenoweth Lane may be paved except for use as a pedestrian walkway parallel to Chenoweth Lane.
12. The property may only be used for one or more of the following uses:
  - a. Antique Shops
  - b. Interior Decorating Shops
  - c. Bookstores
  - d. Stationery Stores
  - e. Florist Shops
  - f. Gift Shops
  - g. Offices
  - h. Dressmaking or Millinery Shops
  - i. Jewelry Stores
  - j. Household Accessory Stores Excluding Major Appliances
  - k. Ready-to-Wear Apparel Shops

I. Retail Art Stores or Galleries

m. Any Residential Use Permitted in R-7 Zone Districts

n. Accessory Uses

13. Free-standing signs shall not exceed twenty-four square feet in area, which area shall include all faces of such signs, if located between the front of the structures and Chenoweth Lane. No free-standing sign shall have interior illumination. No free-standing sign shall have a height exceeding ten feet from the ground to the top of the sign. The total area of signs attached to the buildings on the side shall not exceed twelve square feet in area, and shall not extend more than twelve inches in front of any wall or any structure, shall not extend beyond any wall or above any roof line, and shall not be internally illuminated.
14. All vehicular parking areas shall be located in the rear yard and north side of existing structures.
15. Upon request by the City when the City deems improvements are necessary, the owners of the property described in section 1 of this ordinance shall dedicate to the City of St Matthews, without further compensation, a strip of land ten feet in width and lying adjacent to and parallel with Chenoweth Lane, for improvements to said Chenoweth Lane.
16. When sidewalks are constructed along the portion of Chenoweth Lane adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.