



Change in Zoning / Form District Application

Louisville Metro Planning & Design Services

Case No.: 16ZONE1042 Intake Staff: Brian Davis

Date: October 3, 2016 Fee: \$4,000

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Change in Zoning / Form District from R-4 to C-1 and C-N

Project Description (e.g., retail center and office development, etc.): Retail center to be located on the proposed C-1 tract and daycare/preschool to be located on the proposed C-N tract.

Project Name: Schulte Bush Farm

Primary Project Address: 14801 Bush Farm Road, Louisville, Kentucky 40245

Additional Address(es): 15001 Bush Farm Road, Louisville, Kentucky 40245

Primary Parcel ID: 21-0015-0609-0000

Additional Parcel ID(s): N/A

of Residential Units: None Commercial Square Footage: 31,900 s.f. total

Proposed Use: Retail center and daycare Existing Use: Vacant land

Existing Zoning District: R-4 Existing Form District: Neighborhood

Deed Book(s) / Page Numbers²: Deed Book 10344, Page 775

The subject property contains 5.4422 acres. The area to be rezoned contains 5.4422 acres.

Number of Adjoining Property Owners (APOs): 18 1st tier; 31 2nd tier (refer to tax map from PDS)

To the best of your knowledge and belief, does the applicant or any of its related interests have a personal or financial relationship with any Louisville Metro Officer, Metro Council Member, Planning Commission Member or any of their related interests? If yes, please explain the nature of the relationship (including name of official) NO

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹

Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 09-099-98 Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

16 ZONE 1042

Contact Information:

Owner: Check if primary contact

Applicant: Check if primary contact

Name: Darryl D. Schulte, Jr.

Name: _____

Company: Papa Oreo DS, LLC

Company: _____

Address: 2000 High Wickham Place, Suite 300

Address: _____

City: Louisville State: KY Zip: 40245

City: _____ State: _____ Zip: _____

Primary Phone: (502) 489-3737


Primary Phone: _____

Alternate Phone: (502) 500-2353

Alternate Phone: _____

Email: darryljr@schultehospitality.com

Email: _____

Owner Signature (required): 

Attorney: Check if primary contact

Plan prepared by: Check if primary contact

Name: Jamie L. Cox

Name: Kevin Young

Company: Vice Cox & Townsend PLLC

Company: Land Design & Development, Inc.

Address: 2303 River Road, Suite 301

Address: 503 Washburn Avenue

City: Louisville State: KY Zip: 40245

City: Louisville State: KY Zip: 40222

Primary Phone: (502) 290-6771

Primary Phone: (502) 426-9374

Alternate Phone: (502) 767-6284

Alternate Phone: (502) 523-7010

Email: jcox@vctfirm.com

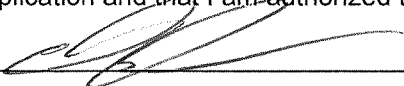
Email: young@lidd-inc.com

Certification Statement: A certification statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Darryl D. Schulte, Jr., in my capacity as Manager, hereby

certify that Papa Oreo DS, LLC representative/authorized agent/other is (are) the owner(s) of the property which

name of LLC / corporation / partnership / association / e is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature:  Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

STATEMENT OF JUSTIFICATION

Docket 16ZONE1024

In connection with the completed and signed Change in Zoning/Form District Application for approximately 5.4422 acres located at 14801 and 15001 Bush Farm Road in Louisville, Kentucky 40245 (the "Property"), the owner of the Property, Papa Oreo DS, LLC, a Kentucky limited liability company (the "Owner") justifies the request for a change in zoning as follows:

SUBDIVISION

The Property is currently a single tract zoned as R-4. The enclosed application and proposed Detailed District Development Plan (the "DDDP") contemplates a subdivision of the Property into two (2) separate lots as follows:

"Tract A" shall consist of a single lot of approximately 3.0 acres, located at the corner of Old Henry Road and Bush Farm Road;

"Tract B" shall consist of a single lot of approximately 2.4 acres, located to the northeast of Tract A along Bush Farm Road and backing up to the private drive known as McKinley Ridge Drive in the Hamilton Garden Homes development.

REZONING

The enclosed application and DDDP requests the following zoning changes with respect to the Property:

Tract A shall be rezoned to C-1 for purposes of multi-tenant retail and commercial use, to meet the needs of the surrounding office, medical, and residential users.

Tract B shall be rezoned to C-N, also for commercial use, to meet the needs of the surrounding office, medical, and residential users. The Owner has executed a contract with a nationally recognized and highly reputable private daycare and preschool operator to be the proposed user of Tract B.

DDDP

As indicated in the enclosed DDDP, the following development details are planned for the project:

Tract A shall have no direct access to Old Henry Road, and direct access only to Bush Farm Road. A variance is requested with respect to the 80' maximum front and street side setback.

Tract B shall have no direct access to Old Henry Road, and direct access only to Bush Farm Road. A variance is requested with respect to the 80' maximum front and street side setback, as well as the 35' required yard along the north east property line to allow for encroachment of the parking and drive lane.

With respect to both Tracts:

- Parking areas and drive lanes shall be a hard and durable surface;
- An encroachment permit and bond will be obtained for all work done in the right-of-ways;
- A State highway encroachment permit will be obtained for entrances to Bush Farm Drive;
- There shall be no increase in drainage run-off to State roadways;
- No commercial signs will be permitted in the right-of-ways;
- Any landscaping in the right-of-ways shall be subject to an encroachment permit;
- Site lighting shall not shine in the eyes of drivers and will be adjusted, shielded or darkened as required in order to accomplish this;
- Construction fencing shall be erected prior to any construction or grading activities preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the drip line of the tree canopy and shall remain in place. No parking, material storage, or construction activities shall be permitted within the fenced area.
- Mitigation measures for dust control shall be in place during construction to prevent fugitive particulate emissions from reaching existing roads and neighboring properties; and
- A KTC permit will be required prior to construction plan approval.
- All drainage structures within the State right-of-way shall be State design.
- All new and existing sidewalks shall be either brought up to or built to ADA current standards.
- An encroachment permit and bond will be required for all work done within the right-of-way.
- Compatible utilities shall be placed in a common trench unless otherwise required by appropriate agencies.
- At the time of construction review, if sidewalks or a multi-use path is not built along Old Henry Road frontage in accordance with KYTC Road Project #5-367.20, the fee in lieu will apply.
- A karst survey detected no karst objects.

Two neighborhood meetings were held for discussion of this project – the first on Tuesday, July 5, 2016, at 7:00 at Community Presbyterian Church at 13902 Factory Lane, and the second on Monday, September 26, 2016 at the same time and place. Attendance lists and meeting minutes are attached with the Application.

The Property is located within the Neighborhood Form District. As permitted in the Neighborhood Form District, the Property will contain civic uses and neighborhood centers including a retail center and a daycare/preschool, at a scale that is appropriate for nearby neighborhoods (i.e., the retail center shall be approximately 20,900 s.f., and the daycare/preschool shall be approximately 11,000 s.f.). The surrounding residential population to the southeast is fairly dense with patio homes and other single family homes, including the Hamilton Springs development and Lake Forest Subdivision of over 1700 homes, sufficient to support expanding

the commercial uses in the area to include the retail center and daycare/preschool planned at the Property.

As required in the Neighborhood Form District, the Property will provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit. Bush Farm Road is approximately 80' wide, accommodating automobiles and public transportation, and sidewalks are planned along the boundary of the Property for purposes of inviting human interaction via bicyclists and pedestrians. Placement of utilities will be underground to permit the planting of shade trees along the streets. As indicated in the site plan enclosed with the Application and proposed buffer renderings, buffering is planned along Hamilton Springs Drive and McKinley Ridge Drive.



General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 16ZONE1042 Intake Staff: Brian Davis

Date: 11/15/16 Fee: ~~-\$264~~ \$215

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2
- Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation of Waiver: Waiver of 50% overlap limitation on encroachment of utility easement over landscape buffer to allow for 100% overlap.

Primary Project Address: 14801 Bush Farm Road, Louisville, Kentucky 40245

Additional Address(es): 15001 Bush Farm Road, Louisville, Kentucky 40245

Primary Parcel ID: 21-0015-0609-0000

Additional Parcel ID(s): N/A

RECEIVED
NOV 15 2016
PLANNING & DESIGN SERVICES

Proposed Use: Retail center & daycare Existing Use: Vacant land

Existing Zoning District: R-4 Existing Form District: Neighborhood

Deed Book(s) / Page Numbers²: Deed Book 10344, Page 775

The subject property contains 5.442 acres. Number of Adjoining Property Owners: 18 1st tier; 31 2nd tier

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 09-099-98 Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

No, adjacent property owners will not be adversely affected. The landscape buffer will be maintained, regardless of the additional overlap of utility easements. In the event that work required to service utilities destroys the landscape buffer, it will be promptly replaced. All utilities will be located underground and will not be visible within the landscape buffer.

2. Will the waiver violate the Comprehensive Plan?

No, the waiver is consistent with the Comprehensive Plan, as the purpose of the landscape buffer is preserved and utility service is provided as required for development and operation of the neighborhood center.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

Yes, there is no additional corridor in which utilities may be located in order to service the subject property as required for development and operation of a neighborhood center.

4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The 30 ft Parkway Buffer Area is required to be adjacent to the Old Henry Road right-of-way. The utilities are existing and have been installed within 30 ft of the Old Henry Road r/w. To relocate the utilities outside of the 30 ft Buffer Area would be an unnecessary hardship on the applicant. To locate the 30 ft Parkway Buffer Area beyond the 30 ft of existing utility easements would result in 60 ft swath along the Old Henry Road frontage which cannot be developed. This is a significant reduction in developable land resulting in an unnecessary hardship.

RECEIVED

NOV 15 2016

Contact Information:

Owner: Check if primary contact

Applicant: Check if primary contact

Name: Darryl D. Schulte, Jr.

Name: _____

Company: Papa Oreo DS, LLC

Company: _____

Address: 2000 High Wickham Place, Suite 300

Address: _____

City: Louisville State: KY Zip: 40245

City: _____ State: _____ Zip: _____

Primary Phone: (502) 489-3737

Primary Phone: _____

Alternate Phone: (502) 2352

Alternate Phone: _____

Email: darryljr@schultehospitality.com

Email: _____

Owner Signature (required): 

Attorney: Check if primary contact

Plan prepared by: Check if primary contact

Name: Jamie L. Cox

Name: Kevin Young

Company: Vice Cox & Townsend PLLC

Company: Land Design & Development, Inc.

Address: 2303 River Road, Suite 301

Address: 503 Washburn Avenue

City: Louisville State: KY Zip: 40206

City: Louisville State: KY Zip: 40222

Primary Phone: (502) 290-6771

Primary Phone: (502) 426-9374

Alternate Phone: (502) 767-6284

Alternate Phone: (502) 523-7010

Email: jcox@vcpllc.com

Email: young@ldd-inc.com

RECEIVED

NOV 15 2016

PLANNING & DESIGN SERVICES

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Darryl D. Schulte, Jr., in my capacity as Manager, hereby representative/authorized agent/other

certify that Papa Oreo DS, LLC is (are) the owner(s) of the property which name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature:  Date: 11-14-16

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.



Variance Application

Louisville Metro Planning & Design Services

Case No.: 16ZONE1042 Intake Staff: Brian Davis

Date: 11/15/16 Fee: \$625.50 \$600.00

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section Table 5.3.2 of the Land Development Code, to allow a variance of the 80 ft. maximum front and street side setbacks along Bush Farm Rd., Old Henry Rd., and Hamilton Springs Road with respect to two to-be-constructed commercial buildings.

Primary Project Address: 14801 Bush Farm Road, Louisville, Kentucky 40245

Additional Address(es): 15001 Bush Farm Road, Louisville, Kentucky 40245

Primary Parcel ID: 21-0015-0609-0000

Additional Parcel ID(s): N/A

Proposed Use: Retail center & daycare Existing Use: Vacant land

Existing Zoning District: R-4 Existing Form District: Neighborhood

Deed Book(s) / Page Numbers²: Deed Book 10344, Page 775

The subject property contains 5.442 acres. Number of Adjoining Property Owners: 18 1st tier
31 2nd tier

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 09-099-98 Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

RECEIVED

NOV 15 2016

PLANNING &
DESIGN SERVICES

Contact Information:

Owner: Check if primary contact

Applicant: Check if primary contact

Name: Darryl D. Schulte, Jr.

Name: _____

Company: Papa Oreo DS, LLC

Company: _____

Address: 2000 High Wickham Place, Suite 300

Address: _____

City: Louisville State: KY Zip: 40245

City: _____ State: _____ Zip: _____

Primary Phone: (502) 489-3737

Primary Phone: _____

Alternate Phone: (502) 500-2352

Alternate Phone: _____

Email: darryljr@schultehospitality.com

Email: _____

Owner Signature (required): 

Attorney: Check if primary contact

Plan prepared by: Check if primary contact

Name: Jamie L. Cox

Name: Kevin Young

Company: Vice Cox & Townsend PLLC

Company: Land Design & Development, Inc.

Address: 2303 River Rd., Suite 301

Address: 503 Washburn Avenue

City: Louisville State: KY Zip: 40245

City: Louisville State: KY Zip: 40222

Primary Phone: (502) 290-6771

Primary Phone: (502) 426-9374

Alternate Phone: (502) 767-6284

Alternate Phone: (502) 523-7010

Email: jcox@vctfirm.com

Email: young@ldd-inc.com

RECEIVED

NOV 15 2016

Certification Statement: A certification statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Darryl D. Schulte, Jr., in my capacity as Manager, hereby representative/authorized agent/other

certify that Papa Oreo DS, LLC is (are) the owner(s) of the property which name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature:  Date: 11-14-16

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

NOV 15 2015

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance requested with respect to the building to be constructed on proposed Tract A is to provide for a 163 ft. setback from Hamilton Springs Drive, 101 ft. setback from Old Henry Road, and 93 ft. setback from Bush Farm Road property lines. The variance requested with respect to the building on proposed Tract B is to provide for a 142 ft. setback from the Bush Farm Road property line. Proposed Tract A and proposed Tract B are each large tracts and the proposed buildings are configured in such a manner that not all maximum set back requirements can be satisfied. The maximum setback requirements are for aesthetic uniformity, rather than for purposes of health, safety or public welfare. If anything, keeping moving vehicles on the adjacent roadways further away from pedestrian areas and sidewalks, as well as the children's playground area of the proposed daycare, seems beneficial to public health, safety and welfare.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variance is not inconsistent with the commercial character of the general vicinity. The new Thornton's headquarters is under development across Bush Farm Road from the subject development. The Thornton's headquarters is set back from Bush Farm Road by several hundred feet due to the presence of a detention basin. Most of the remaining commercially zoned tracts across Old Henry Road from the subject property are vacant.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

As mentioned in #1 above, keeping moving vehicles on the adjacent roadways further away from pedestrian areas and sidewalks, as well as the children's playground area of the proposed daycare should reduce hazards to the public. At previously held neighborhood meetings, many neighbors voiced concerns about looking at the backs or sides of buildings from Old Henry Road and Hamilton Springs Drive. Increasing the setbacks, along with additional buffering, helps reduce any perceived light, noise, or aesthetic nuisance to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variance requested arises from the need to appropriately locate commercial buildings on spacious tracts of land, while allowing for adequate parking and pedestrian areas, while protecting children's play areas and responding to the concerns voiced by residential neighbors during the two previously held neighborhood meetings. Although the required maximum setbacks are intended to create uniformity and add to aesthetic consistency, the expanded setbacks will not be inconsistent with the current commercial character of the area, as described in #2 above.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The subject tracts are sandwiched between the Thornton's headquarters, which is located hundreds of feet away from Bush Farm Road (beyond a large detention basin area), and a residential neighborhood, many of whose residents have voiced concerns about noise and light from the development interfering with the residents along Hamilton Springs Drive, and that the development could convert Old Henry Road to a "Dixie Hwy"- type corridor if the buildings are too close to Old Henry Road. Due to the relatively slow pace of commercial development in this area, there is currently no uniformity among commercial property in the vicinity which will be interrupted by the requested variance.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Proposed Tract A is a corner lot bounded by Bush Farm Road, Old Henry Road, and Hamilton Springs Road. In order to satisfy the front and side street setback requirements, the building proposed for Tract A would need to be reconfigured and located much closer to the southwest corner of that lot. This would create additional concern for residential neighbors as noted above, and would likely require an increase in building square footage which would be costly for the Owner. With respect to proposed Tract B, locating the building closer to Bush Farm Road would also require reconfiguration of the parking areas, moving them closer to the children's play area and closer to the residential neighborhood along Hamilton Springs Road. This creates safety concerns for the daycare operator, and noise and light concerns for the residential neighbors.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

Any commercial development of this area will face these issues or similar ones in order to satisfy residential neighbors and provide needed retail and services of a Class A nature in this area.