



Michael L. Thurmond

Chief Executive Officer

DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability
330 Ponce De Leon Avenue, Suite 300
Decatur, GA 30030



Wednesday, December 9, 2020 at 1:00 PM

Planning Department Staff Analysis

N8 Case A-20-1244443

Parcel ID(s): 18-111-03-018

Commission District: 04 Super District 06

Applicant: R. Kyle Williams, Esq.
Williams Teusink
309 Sycamore Street
Decatur, GA 30030

Owner: Schneider Resources, Inc.
289 Culver Street
Lawrenceville, GA 30046

Project Name: 1795 Constitution Road, SE

Location: The south side of Constitution Road, approximately 1,171 feet west of the intersection of Bouldercrest Road and Clifton Church Road.

REQUESTS: Reduce the transitional buffer from the minimum required depth of 75 feet to 50 feet; and

Staff Recommendation: Deferral to [\[the second meeting in January, 2020\]](#).

STAFF FINDINGS

The subject property is a 5.036-acre property located on the south side of Constitution Road, a four-lane minor arterial. It is currently developed with a vacant 38,692-square foot commercial building. The area behind the building is level and cleared, except for tall trees that border the east property line and the south property line.

The property is currently zoned M (Light Industrial) (Bouldercrest-Cedar Grove-Moreland Overlay District – Tier 1) (Conditional). The conditions are for (1) a buffer on the east property line and (2) road improvements on Constitution Road as required by the Public Works Department.

Concurrently with this application for variances, the applicant has filed an application pursuant to Z-20-1244232 to request that the Board of Commissioners rezone the property to M (Light Industrial). If the rezoning is approved, the property owner could allow use of the property for truck driver training, which would include: coupling and uncoupling of a tractor trailer, securing of freight, driving, parking, and unloading of freight. The rezoning application is scheduled to go before the Board of Commissioners on January 26, 2021.

Variance requests: (1) reduce the required transitional buffer on the east side of the property from 75 feet to 50 feet; and
(2) eliminate the required landscape strip, sidewalk, and street trees along Constitution Road.

FINAL STAFF ANALYSIS:

The Department of Planning and Sustainability recommends that the application be “deferred” to [the second meeting in January, 2021], to allow time for the concurrent rezoning application to complete the January 2021 zoning cycle.

**ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)**

BOA No. _____

Applicant and/or

Authorized Representative R. Kyle Williams, Esq.

Mailing Address: 309 Sycamore Street

City/State/Zip Code: Decatur, GA 30030

Email: kwilliams@williamsteusink.com

Telephone Home: _____ Business: 404 373 9590 Fax No.: 404 378 6049

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: Schneider Resources, Inc.

Address (Mailing): 289 S. Culver St.,

City/State/Zip Code: Lawrenceville, GA 30046

Email: Bauerj@schneider.com

Telephone Home: _____ Business: _____ Fax No.: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 1795 Constitution Road, SE City: Atlanta State: GA Zip: 30316

District(s): 15 Land Lot(s): 077 Block: 01 Parcel: 002

District(s): _____ Land Lot(s): _____ Block: _____ Parcel: _____

District(s): _____ Land Lot(s): _____ Block: _____ Parcel: _____

Zoning Classification: M Commission District & Super District: 3 & 6

CIRCLE TYPE OF HEARING REQUESTED

• VARIANCE (From Development Standards causing undue hardship upon owners of property.)

• SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)

• OFFICIALS APPEALS OF ADMINISTRATIVE DECISIONS.

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT

Date Received: _____

Fee Paid: _____

ZONING BOARD OF APPEALS APPLICATION AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
To inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

See 02 - Notarized Authorization for Representation by Property Owner

DATE: _____

Applicant: _____
Signature

DATE: _____

Applicant: _____
Signature

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
to inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the Zoning
Board of Appeals for the requests as shown in this application

DATE: _____ Applicant/Agent: _____
Signature

TO WHOM IT MAY CONCERN: See 02 - Notarized Authorization for Representation by Property Owner

(I)/ (WE) _____
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to:

(Name of Applicant or Representative)

To file an application on (my) / (our) behalf

Notary Public Owner

Notary Public Owner

Notary Public Owner



R. Kyle Williams
Attorney at Law

404.373.9351 Direct Dial
kwilliams@williamsteusink.com

November 5, 2020

via electronic mail to: jreid@dekalbcountyga.gov

Andrew Baker
Director, Department of Planning & Sustainability
DeKalb County, Georgia
350 W. Ponce de Leon Avenue
Decatur, Georgia 30030

**Re: APPLICATION FOR VARIANCES TO REDUCE MINIMUM
TRADITIONAL BUFFER REQUIREMENTS OF CHAPTER 27 SECTION
5.4.3-A(2), 5.4.4-B, 5.4.5 AND TABLE 5.2 (A).**

**1795 Constitution Road, SE, Atlanta, DeKalb County, Georgia 30316
(Tax Parcel Id No. 15 077 01 002)**

Dear Director Baker:

I represent Schneider Resources, Inc. ("Owner") owner of that certain industrial real property known as and located at 1795 Constitution Road, Atlanta, DeKalb County, Georgia 30316 (the "Property").

The Property contains a total lot area of 219,340 sq. ft. or 5.036 acres. The Property has 325.04' of front yard frontage on Constitution Road, SE.

The Property is zoned M (Light Industrial) District, Conditional pursuant to CZ-90092. The two (2) conditions adopted in 1990 as part of CZ-90092 were:

1. A buffer as required by the Zoning Ordinance is established on the east property line prior to conversion of the tract to an industrial use; and
2. Road improvements are provided on Constitution Road as may be required by Public Work Department.

The Property is classified by the DeKalb County 2035 Comprehensive Plan with a Character Area/Land Use of Light Industrial.

Despite its industrial zoning and classification, the Property is included within the Bouldercrest-Cedar Grove-Moreland Overlay District – Tier 1. The Property is the westernmost and last property fronting Constitution Road that is included in the Bouldercrest-Cedar Grove-Moreland Overlay District – Tier 1.

On September 3rd, 2020, I filed a Rezoning Application with the DeKalb County Department of Planning and Sustainability seeking to remove the Bouldercrest-Cedar Grove-Moreland Overlay District – Tier 1 Zoning. The adjacent and adjoining properties to the west and south, which are owned by Owner, are zoned M (Light Industrial) District, but are not included within the Bouldercrest-Cedar Grove-Moreland Overlay – District Tier 1 or any overlay. The approval of the pending Rezoning Application will make the Property's zoning more consistent with the adjacent M (Light Industrial) District properties.

Additionally, The properties to the east are zoned MR-2 (Medium Density Residential-2) District, and the properties to the north are zoned a mixture of R-75 (Residential Medium Lot-75) District, C-1 (Local Commercial) District and OI (Office Institutional) District.

The Property is improved with a one-story, commercial structure and related improvements. The as-built improvements include an existing driveway at and along the northern boundary line of the Property (the "Existing Driveway"). The Property is not improved with any garage or covered-parking.

Owner purchased the Property on December 19th, 2019, for the express purpose of redeveloping the property as a location to train and certify its employees. Owner also owns the neighboring properties including, 1749 Enterprise Court, Atlanta, DeKalb County, Georgia 30316 (Tax Parcel ID. No. 15 077 01 025) ("1749 Enterprise") and 3300 International Park Dr, Atlanta, DeKalb County, Georgia 30316. (Tax Parcel ID. No. 15 077 01 023) ("3300 International") to the west, and 1790 Continental Way, Atlanta, DeKalb County, Georgia 30316 (Tax Parcel ID No. 15 077 01 026) ("1790 Continental") to the south. .

SUMMARY OF PROPOSED VARIANCES

As stated above, Owner also owns several properties adjacent to the Property. 1749 Enterprise is immediately adjacent to and adjoins the Property to the west sharing a common boundary line to the Property, and 1790 Continental is immediately adjacent to and adjoins the Property to south also sharing a common boundary to the Property.

Owner desires to develop the Property as an on-site vocation job training center for its job applicants and drivers working towards a CDL Class A License. Owner is expanding its commercial trucking facility in this area of DeKalb County will continue Owner's long tradition of creating more jobs and improving DeKalb County's local economy.

Owner's proposed development will include a 25' landscaped buffer along Constitutional Road, SE and proposes a 50' landscaped buffer along the eastern side of the property as a buffer with the MR-2 property. This proposed 50' buffer would be a variance under Table 5.2(a) reducing the buffer requirements from 75' to 50'. Owner seeks a variance from Table 5.2(a), Sections 5.4.5, 5.4.3-A(2) and 5.4.4-B in order to eliminate streetscape and perimeter landscaping requirements

and reduce the transitional buffer along the eastern edge of the property.

**A. DOCUMENTED CRITERIA UNDER SECTION 27-7.5
JUSTIFYING A GRANT OF THE REQUESTED VARIANCES**

- (1) **The strict application of Section 5.4.5, 5.4.3-A(2), 5.4.4-B and Table 5.2(a) would deprive Applicant of rights and privileges enjoyed by other property owners in the same zoning district by reason of exceptional narrowness, shallowness, and shape of the Property, which were not caused by Applicant.**

The Property is unique and unlike most properties in the M (Light Industrial) District because it is adjacent to a rental apartment complex zoned MR-2 (Medium Density Residential-2) District. Strict application of Table 5.2(a) would prevent Owner from developing the property as envisioned by the M (Light Industrial) District. The purpose of M zoning is "To provide an environment for light industrial uses that produce no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas." Here, the proposed development will not have an appreciable impact on the adjacent property because Owner does not intend to build a large, imposing structure that will cause a disturbance or affect the aesthetic of the surrounding area. Rather, Owner seeks to develop a large and flat open area to properly train new commercial drivers.

Moreover, Section 5.4.5(A) states the intent of "Transitional buffers [are] to create a visual screen in order to diminish the potential negative impacts of non-residential and mixed land uses on adjacent residential land uses." Here, the proposed development will have minimal impact on the neighboring residential property because no visual obstruction will be created by the development. The proposed development will have minimal, if any, elevation, so the intent of the Section 5.4.5 (A) is still preserved with the approval of the variance.

The purpose of the proposed 50' transitional buffer is to ensure that a sufficient distance is kept from the neighboring residential property, while also maintaining a large enough area to perform the training needed to certify commercial drivers as safe and properly trained. If the variance is not approved, the proposed development will not be large enough to adequately and safely train new commercial drivers.

Similarly the requested variance under 5.4.3-A(2) and 5.4.4-B would allow Owner to enjoy the same rights as other neighboring properties along Constitution Road. As clearly shown in the supporting documents attached hereto (items 8 and 9) no neighboring properties along Constitution Road have been developed with an 11' Streetscape zone. The imposition of these requirements would further handicap the Property and would be a burden not shared by surrounding properties.

In Owner's proposed development, the Property serves a use expressly as permitted by the M (Light Industrial) District. The purpose of M zoning is "To provide an environment for light industrial uses that produce no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas" The proposed development would have minimal impact on neighboring residential and commercial properties but requires a large space in which to perform the training needed to certify commercial drivers as safe and properly

trained.

(2) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the M zoning district.

The Property is unique and unlike most properties in the M (Light Industrial) District because it is adjacent to a rental apartment complex zoned MR-2 (Medium Density Residential-2) District.

Section 5.4.5(A) states the intent of “Transitional buffers [are] to create a visual screen in order to diminish the potential negative impacts of non-residential and mixed land uses on adjacent residential land uses.” Here, the proposed development will have minimal impact on the neighboring residential property because no visual obstruction will be created by the development. The proposed development will have minimal elevation and create no visual obstruction to the adjacent residential property, so the intent of the Section 5.4.5 (A) is still preserved with the approval of the variance.

Strict application of the 75.0’ Transitional Buffer Minimum on the Property’s eastern side will severely constrict the space required to adequately and safely train commercial drivers. Owner has diligently worked to design a training facility that has the appropriate dimensions to produce properly trained and certified commercial drivers. Owner proposes construction of a 185,035.19 sq. ft. training area as depicted and shown on the *Variance Plan*, which requires reduction of the 75.0’ Transitional Buffer Minimum on the eastern side of the property.

The relief sought under Sections 5.4.3-A(2) and 5.4.4-B would be in keeping with the surrounding properties and the standards they are developed to. Enforcing strict application of 5.4.3-A(2) and 5.4.4-B would result in a small section of Constitution Road with a sidewalk from nowhere to nowhere and serving no residential properties. Granting relief would provide Owner the opportunity to develop the property in keeping with surrounding properties.

The requested variances are the minimum necessary to enable Owner to develop an adequate and productive commercial driver training facility on the Property.

(3) The grant of the requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the M, or MR-2 zoning districts.

The Property is unique and unlike most properties in the M (Light Industrial) District because it is adjacent to a rental apartment complex zoned MR-2 (Medium Density Residential-2) District.

Section 5.4.5(A) states the intent of “Transitional buffers [are] to create a visual screen in order to diminish the potential negative impacts of non-residential and mixed land uses on adjacent residential land uses.” Here, the proposed development will have minimal impact on the neighboring residential property because no visual obstruction will be created by the development. The proposed development will have minimal elevation and create no visual

obstruction to the adjacent residential property, so the intent of the Section 5.4.5 (A) is still preserved with the approval of the variance.

Similarly granting of the variances under Sections 5.4.3-A(2) and 5.4.4-B would result in no detrimental impact to the public welfare. Granting the variance would preserve the existing infrastructure provided and would avoid disruptions along Constitution Road. Enforcing the provisions of Section 5.4.3-A(2) and 5.4.4-B would result in a sidewalk dead-ending into a guard rail to the East and a chain link fence to the West.

The requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the M zoning district or in the neighboring MR-2 zoning district.

(4) The literal interpretation and strict application of Table 5.2(a), Sections 5.4.3-A(2) and 5.4.4-B would cause undue and unnecessary hardship, not merely impose a casual/discretionary inconvenience upon Applicant.

Strict application of the 75.0' Transitional Buffer Minimum on the Property's eastern side will severely constrict the space required to adequately and safely train commercial drivers. Owner has diligently worked to design a training facility that has the appropriate dimensions to produce properly trained and certified commercial drivers. Owner proposes construction of a 185,035.19 sq. ft. training area as depicted and shown on the *Variance Plan*, which requires reduction of the 75.0' Transitional Buffer Minimum on the eastern side of the property.

Strict application of the perimeter landscaping buffer also flies in the face of the purpose of Section 5.4.4-B. Owner holds the properties located to the south and west of the Property, while the Eastern border along the Multi-Family property to the east has a 50' Transitional buffer that makes any 5' landscaped strip superfluous for the purposes of stated intent of Section 27-5.4. Section 27-5.4 reads "The requirements and regulations for landscaping in DeKalb County are a critical public concern that are necessary in order to preserve and enhance property values, the aesthetic beauty of the county, and the safety and general welfare of its residents." Here, the 50' Transitional buffer satisfies the intent of the Ordinance, and the use of landscape strip would be redundant and unduly burdensome. As it stands, the existing buffer between the Multi-Family property located directly to the East would be sufficient to preserve property values, meet the aesthetic standards of the county and provide a natural barrier discouraging entry.

Granting the variance reducing the 75.0' Transitional Buffer Minimum, removing the on the eastern side of the property would enable Owner to develop a valuable and safe training facility that is consistent with and will significantly improve Owner's other commercial driving facilities located adjacently.

(5) The requested variance is consistent with the spirit and purpose of the Zoning Ordinance and Comprehensive Plan text.

The proposed variance will permit the development of a vocational and special training facility that is suitable in view of the use and development of adjacent and nearby property. The Property abuts and adjoins to the west the industrial building known as "Schneider Trucking

NOTARIZED AUTHORIZATION FOR REPRESENTATION BY PROPERTY OWNER

1795 Constitution Road, SE (Tax Parcel ID No. 15 077 01 002)

I, Glenn Buntin, as Senior Director of Facilities and authorized representative of Schneider Resources, Inc., swears that Schneider Resources, Inc. is the owner of that certain real property located at and known as 1795 Constitution Road, SE, Atlanta, DeKalb County, Georgia 30316 (Tax Parcel ID No. 15 077 01 002)(the "Property"), which is the subject matter of the attached Application. I authorize the persons and firm named below to act as Applicant and my representative in pursuit of this Application, in all matters related to zoning, permitting, planning, building, and development.


Name of Applicant: R. Kyle Williams

Name of Firm: Williams Teusink, LLC
Address: The High House
309 Sycamore Street
Decatur, Georgia 30030

Telephone No.: (404) 373-9590

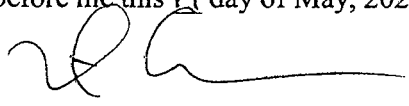
Email: kwilliams@williamsteusink.com

SCHNEIDER RESOURCES, INC.



Glenn Buntin, Senior Director of Facilities

Sworn and subscribed
before me this 19 day of May, 2020.



Notary Public
Commission Expiration Date: NEVER

