

Riverport Development, LLC

Justification Statement

for rezoning from R-4 and R-5 to R-7 and C-1

4650 Cane Run Road

June 15, 2015

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Introduction:

The applicant, Riverport Development, LLC, proposes to rezone the subject property from R-4 and R-5 to R-7 and C-1. The proposed development will contain a Family Scholar House campus, senior apartments, family apartments, a Boys and Girls Club, and commercial space. The proposed rezoning includes changing the zoning along Cane Run Road to C-1 to allow neighborhood-serving commercial space and to R-7 for the remainder of the subject property. The property is surrounded by single-family residential on three sides and Cane Run Road on the fourth.

Guideline 1-Community Form:

The subject property is located in the Neighborhood Form District. The Neighborhood Form District encourages a variety of housing options, including multi-family and inclusive housing. The Form District also encourages commercial, though more often at the intersection of an arterial street and a collector. The proposed development complies with this Guideline as it contains housing for single-parent college students (Family Scholar House), families (family apartments) and seniors (senior apartments). The proposal includes commercial along Cane Run Road but at a size and location that is appropriate for the area. In addition to these uses, the proposed development will include a Boys and Girls Club and an academic services center, both of which will serve the residents in the proposed development and the broader community.

Guideline 2-Centers:

The proposed development complies with this Guideline and its applicable policies. The subject property is over 34 acres, a size that rivals many centers. The proposed development includes three different multi-family options, community facilities, open space and a small amount of commercial space. The project forms a campus or center unto itself, and commercial uses are appropriate in this circumstance. The proposed commercial is designed to be neighborhood-serving, and the applicant is marketing the proposal to neighborhood-serving

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users. The proposed development includes a park area, internal pedestrian connections and community serving uses in the Boys and Girls Club and academic services center.

Guideline 3-Compatibility

The proposed development complies with this Guideline and its applicable policies. The proposed buildings for which renderings are available are traditional in style and building materials. The buildings are also at least 70' from the nearest property line and, in most cases, much more. The applicant will provide screening and buffering to mitigate any incompatibility between the proposal and nearby residences. At the neighbor meeting, the applicant stated that it would work with adjacent landowners on buffer design. The proposed development has been designed to place the most intense uses along Cane Run Road, with residential properties behind and between the commercial and surrounding residential uses. The proposed development is also at a density that is appropriate on Cane Run Road, especially considering the size of the subject property and the amenities included in the project. The proposed development should have no impact on noise, odor or light pollution.

Guidelines 4-Open Space and 5-Natural Areas and Scenic and Historic Resources

The proposed development complies with these Guidelines and their applicable policies. The proposed design includes a 2.6 acre park area and other open space within both the family apartments and Family Scholar House site. There is also ample open space on the senior apartment site. There are no known natural features that impact the development of the project, nor are there any known historic resources.

Guidelines 7-Circulation and 8-Transportation Facility Design

The proposed development complies with these Guidelines and their applicable policies. The proposed development contains three entrances onto Cane Run Road, and a single emergency access to Trumpet Way. The proposal is designed as a self contained campus, with internal pedestrian connections and connections to the area sidewalk system. There is adequate parking and adequate room for transit circulation within the site. All of the individual sites will have pedestrian and vehicular access to the main internal access road, "Street A."

Guideline 9-Bicycle, Pedestrian and Transit

The proposed development complies with this Guideline and its applicable policies. The proposed development will provide bicycle parking per the LDC and contains an access network sufficient to allow for transit service.

Guideline 10-Flooding and Stormwater

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The proposed development complies with this Guideline and its applicable policies. The subject property will provide onsite detention sufficient to comply with all MSD standards and contains many, many acres of open space. The project should have no negative effect on adjacent landowners due to stormwater.

Guideline 11-Water Quality

The proposed development complies with this Guideline and its applicable policies. The proposed development contains several acres of open space, both within the various sections and within the 2.6 acre park. The proposed development will also contain detention basins sized to handle stormwater runoff from the new development and to serve, as required by MSD, as water quality measures.

Guideline 12-Air Quality

The proposed development complies with this Guideline as it should have no negative impact on air quality. The proposal is near transit and has contemplated transit in its design. The proposal is a mixed use development, which should encourage residents within and near the proposed development to walk to the commercial area of the project.

Guideline 13-Landscape Character

The proposed development complies with this Guideline as landscaping will be provided to meet or exceed the requirements of the LDC. The applicant is also proposing to retain or install tree canopy and interior landscape areas that exceed the requirements of the LDC.

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Variance Justification

The proposal includes neighborhood-serving commercial space and a Boys and Girls Club along Cane Run Road. This section of Cane Run Road is five lanes wide and carries a significant volume of traffic. The proposed design includes a double row of parking between the proposed commercial buildings and Cane Run Road. The design is to keep parking in front of the commercial buildings and to minimize the impact of traffic on the residential portions of the proposal.

The proposed variance will not adversely affect the public health, safety or welfare. The proposed development will allow for a campus design with a park and other open space surrounding the Family Scholar House, senior apartments and multi-family complex and the more intense commercial activities focused toward Cane Run Road. The proposal would need to locate parking behind the proposed retail buildings and Boys and Girls Club without the variance. This design would be much more challenging to lease, as customers generally prefer to park in front of the business they are visiting.

The proposed variance will not alter the essential character of the general vicinity. In the area, there are residential and commercial uses fronting on Cane Run Road. Some of these have parking areas in front of the business, and some to the side or rear. The proposed development places parking at the front and sides of the proposed retail buildings and Boys and Girls Club.

The proposed variance will not cause a hazard or nuisance to the public. The impacts of the commercial section of the development will be felt on Cane Run Road, a 5 lane arterial road, instead of near to the proposed park, Family Scholar House or senior apartments.

The proposed variance will not allow an unreasonable circumvention of the Land Development Code. Were the senior apartments and Family Scholar House in place before the development of the commercial section of the development, then placing the parking on the opposite side of the proposed commercial building would be a reasonable way to mitigate the impact of cars maneuvering through the parking areas. Here, it is likely that the residential components of the development will precede the commercial.

The proposed variance arises from special circumstances in that the proposed development is a campus along Cane Run Road, a 5 lane arterial roadway. In this instance, using the commercial buildings as the buffer between the road and the parking areas to the front and the blended residential to the rear provides benefits for both.

The strict enforcement of the regulation would present a hardship to the property owner and to all of the eventual tenants of the subject property. Allowing the retail tenants to have parking near the front door and visible from Cane Run Road will make the retail establishments more attractive. Allowing the commercial buildings to act as a buffer will benefit the blended residential area to the rear of the subject property. Forcing half of the parking to be located behind the commercial buildings will not benefit either of these groups and will make the operation of the commercial uses more difficult.

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The circumstances that led to the filing of the variance application are not the result of actions taken by the applicant but are, instead, the result of the misapplication of the standards to a campus-sized development that is attempting to balance the needs of its eventual tenants and visitors.

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Landscape Waiver Justification

The applicant is proposing to construct a project along Cane Run Road that is impacted by a 125' wide easement for electric transmission lines. The required buffer between the proposed development and the adjacent single family residential is 20'. The applicant proposes to place the buffer entirely within the 125' easement. The applicant also proposes to maintain the easement area as open space and parking. A waiver is required in order to allow for the overlap of the easement and landscape buffer area.

The proposed waiver will not adversely affect the adjacent property owners near the overlapping easement. The applicant is providing significant open space outside of the required LBA, and the parking area will be at least 70 feet from the common property line.

The proposed waiver will not violate the Comprehensive Plan. The requirement for easements and landscape buffer areas to not overlap by more than 50% does not apply the same to easements of the size that impact the subject property. The Comprehensive Plan values infill development and development in neighborhoods that provide a variety of housing types and neighborhood services. The proposed development is just that kind of development. The proposed waiver will also not impact the adjacent property owners, as there will remain a buffer area over three times as wide as the Land Development Code requires.

The proposed waiver is the minimum necessary to provide relief to the applicant. The proposed waiver area would be 125' away from the common property line, as opposed to allowing it to overlap with the overhead transmission line easement.

The applicant is proposing a design for the overall development that exceeds the requirements of the Land Development Code. The applicant is providing significant open space in the form of a park, and is providing over three times the required amount of width to the LBA in the area in question.

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