

**JUSTIFICATION STATEMENT
Change in Zoning and
Detailed District Development Plan**

Commerce Crossings Two, LLC

9710 Preston Highway

Case No.

INTRODUCTION

Commerce Crossings Two, LLC (the "Applicant") proposes to re-zone the property located at 9710 Preston Highway from R-4 to PEC and R-6 for the proposed development of the site as a warehouse, office space, and multifamily residential development. The subject property is a parcel of land with access to Commerce Crossings Drive and Cooper Church Drive. The applicant seeks a change in zoning from R-4 to PEC and R-6 to develop the land into an extension of the existing Commerce Crossings, a longstanding business park in south central Jefferson County. In addition to the business park, the Applicant proposes to construct an apartment community on Cooper Church Drive to provide additional housing options for workers in Commerce Crossings and others in the area. For the reasons set out below, the proposed rezoning complies with the applicable Plan Elements of the Plan 2040 Comprehensive Plan.

COMMUNITY FORM

The proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Suburban Workplace Form District, which Plan 2040 states is a form "characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development." Here, the proposal is consistent with the Suburban Workplace Form District as the proposed development seeks to develop a currently vacant parcel into a mixed development comprised of warehouse, office, and residential uses, which in varying forms are all permitted uses within the Suburban Workplace Form District. Other similar uses adjacent to the subject property including the Creekside Crossings Apartment Homes, the Willard, multiple distribution centers, and offices like Mortenson Family Dental.

The proposal is compatible with the scale and site design of the surrounding properties. The proposal is surrounded by similarly zoned properties, with R-4 and PEC zoning adjacent and nearby to the subject property. The proposed development will provide buffering as required in the Land Development Code to prevent adverse impacts on adjacent properties and will seek to preserve trees along its common property line with the Treasure Island neighborhood.

MOBILITY



21 - 1st ZONE - 0125

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will have access to Commerce Crossings Drive and Cooper Church Drive and, from there to Preston Highway and I-265. Preston Highway is a major arterial roadway that provides direct access to I-265, and necessary to serve the needs of the development. Likewise, new public rights of way will be developed to serve the needs of the development. In addition to traditional vehicular traffic, the Applicant is proposing to provide easements for an extension of the Louisville Loop and to construct a portion of the Loop along the new roadway within the proposed development. The Applicant will also provide sidewalks along Cooper Church Drive adjacent to the proposed apartment community.

COMMUNITY FACILITIES

The proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer.

ECONOMIC DEVELOPMENT

The proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposed development will allow the improvement of an existing vacant parcel to provide additional employment opportunities and residential options in this section of Jefferson County. Commerce Crossings has been a successful business park and, with the addition of new potential business locations and housing integrated into the park, the proposed development should provide new economic opportunities.

LIVABILITY

The proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed use of the property develops a vacant parcel but does so in a way that will respect Fish Pool Creek and the land around it. The Applicant has purposely designed the plan to avoid stream crossings and to retain needed buffers near the creek. In addition, the integration of new housing options near Commerce Crossings will reduce vehicle miles traveled by workers who live in the new apartment community and work in the park. in an area already subject to similar uses and zoning. The proposed development is consistent with uses in the area that surrounds it, and locates the development of additional warehouses, office, and residential uses amongst similar uses. The development will incorporate appropriate landscape design and buffering as necessary in addition to the preservation of a portion of the pre-existing tree canopy.



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The proposal is compatible with the scale and site design of the surrounding properties. The proposal is surrounded by similarly zoned properties, with R-4 and PEC zoning adjacent and nearby to the subject property. The proposed development will provide buffering as required in the Land Development Code to prevent adverse impacts on adjacent properties and will seek to preserve trees along its common property line with the Treasure Island neighborhood.

MOBILITY



21 - DDP - 0100

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will have access to Commerce Crossings Drive and Cooper Church Drive and, from there to Preston Highway and I-265. Preston Highway is a major arterial roadway that provides direct access to I-265, and necessary to serve the needs of the development. Likewise, new public rights of way will be developed to serve the needs of the development. In addition to traditional vehicular traffic, the Applicant is proposing to provide easements for an extension of the Louisville Loop and to construct a portion of the Loop along the new roadway within the proposed development. The Applicant will also provide sidewalks along Cooper Church Drive adjacent to the proposed apartment community.

COMMUNITY FACILITIES

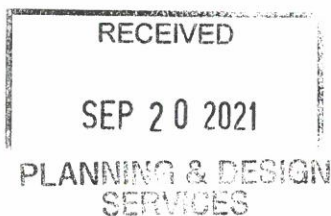
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LIVABILITY

The proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed use of the property develops a vacant parcel but does so in a way that will respect Fish Pool Creek and the land around it. The Applicant has purposely designed the plan to avoid stream crossings and to retain needed buffers near the creek. In addition, the integration of new housing options near Commerce Crossings will reduce vehicle miles traveled by workers who live in the new apartment community and work in the park. in an area already subject to similar uses and zoning. The proposed development is consistent with uses in the area that surrounds it, and locates the development of additional warehouses, office, and residential uses amongst similar uses. The development will incorporate appropriate landscape design and buffering as necessary in addition to the preservation of a portion of the pre-existing tree canopy.



VARIANCE 1 JUSTIFICATION STATEMENT

Commerce Crossings Two, LLC

9701 Cooper Church Drive

The proposed variance, which will permit the applicant to waive the buffer area requirements of Table 4.8.1, will not adversely affect the public health, safety, or welfare. The applicant proposes to construct a new development consisting of warehouses, offices, and multi-family residential units. The applicant seeks to reduce the buffer width to allow a private drive to encroach into the 100-foot protected waterway buffer a maximum of 35.18 feet. The variance will not result in any adverse impacts on public health, safety, or welfare as the proposed reduction accommodates a proposed drive directly across Cooper Church Drive from an existing driveway.

The variance will not alter the essential character of the general vicinity. The subject property is aligned along Cooper Church Drive directly across from an existing private drive. The proposed development plan should have no impact on the character of the mixed commercial and residential area.

The variance will not cause a hazard or nuisance to the public for the reasons stated above and because a drive already exists across Cooper Church Drive that sets the location of the proposed private drive.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The applicant proposes to reduce the buffer only to the extent necessary to locate the private drive in the safest alignment.

The variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The subject property is at the corner of Cooper Church Drive and Commerce Crossings Drive and is directly across Cooper Church Drive from an existing access point to an existing office building. Moving the proposed driveway away toward the intersection and offsetting the alignment of these two driveways would create an unsafe condition.

The strict application of the regulations would deprive the applicant of reasonable use of the land and create an unnecessary hardship on the applicant because the buffer zone would force the applicant to align the proposed driveway in an unsafe manner or forego the use of the property at all. The applicant seeks only to reduce the buffer to the extent necessary to provide a safe location for the proposed drive.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed or taken any action with respect to the property.

VARIANCE JUSTIFICATION STATEMENT

Variance 2

Commerce Crossings Two, LLC

9701 Cooper Church Dr.

The proposed variance, which will permit the applicant to waive the buffer area requirements of Table 4.8.1, will not adversely affect the public health, safety, or welfare. The applicant proposes to construct a new development consisting of warehouses, offices, and multi-family residential units. The applicant seeks to reduce the buffer width to allow a public road to encroach into the 100-foot protected waterway buffer a maximum of 34.79 feet. The variance will not result in any adverse impacts on public health, safety, or welfare as the proposed reduction is necessary to allow open space between the public road and adjacent lots, including residential single-family lots, and prevent unnecessary tree removal along this common property line.

The variance will not alter the essential character of the general vicinity. The area along the proposed public road currently consists of open space and trees. The proposed placement of the public road will protect existing trees between the road and adjacent residential lots while maintaining open space buffering the road from neighboring parcels. The proposed development plan should have no impact on the character of the mixed commercial and residential area.

The variance will not cause a hazard or nuisance to the public for the reasons stated above and because the placement allows a buffer between the public road and adjacent lots. Further, the curvature of the road promotes safer travel for drivers and passengers than a sharp turn in the road.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The applicant proposes to reduce the buffer only to the extent necessary to maintain a safe curvature of the public road, prevent unnecessary tree loss along the road, and maintain a buffer of open space between the public road and adjacent lots.

The variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The space between neighboring parcels and the floodplain is limited, creating the need for the public road to encroach into a portion of the stream buffer. The applicant's proposed development plan minimizes the possibility of flood damage within the local regulatory floodplain. This minimal deviation from the Land Development Code will have no impact on surrounding developments.

The strict application of the regulations would deprive the applicant of reasonable use of the land and create an unnecessary hardship on the applicant because the buffer zone would force the applicant to remove more trees from the planned buffer area, place the public road closer to neighboring parcels without an adequate buffer of space between the road and nearby residences, and make the curvature of the road less safe for travelers. The applicant seeks only to reduce the buffer to the extent necessary to adequately buffer the public road from adjacent lots. The

variance is necessary because of the existing layout of the property and the limited space between the proposed development and neighboring parcels.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed or taken any action with respect to the property.

VARIANCE JUSTIFICATION STATEMENT
Variances 3 and 4

Commerce Crossings Two, LLC

9701 Cooper Church Drive

The proposed variances, which will permit the applicant to encroach into the 100 foot protected waterway buffer a maximum of 45.97 feet in one location and 31.26 feet in another, will not adversely affect the public health, safety or welfare. The applicant proposes to develop this vacant property into warehouses, offices, and apartments. Due to the location and curvature of the existing stream, a small portion of Proposed Building 2 and a small portion of maneuvering area near Proposed Building 1 encroaches into the waterway buffer. Encroachment into the buffer area has been limited to the minimum necessary to accommodate these proposed uses. In addition, the applicant will be providing floodplain compensation and an area for the Louisville Loop along the stream, both of which will improve the public health and safety.

The proposed variances will not alter the essential character of the area. The proposed development is located west of Preston Highway where there are several adjacent developed properties. The proposed variance will engage the middle zone of the waterway buffer area, where a sanitary sewer line already exists and where both floodplain compensation and the Louisville Loop are planned. This minimal deviation from the Land Development Code will have no impact on surrounding areas.

The proposed variance will not cause a hazard or nuisance to the public. The proposed development features a proposed floodplain compensation area within the waterway buffer. This use falls under the allowable uses and activities within the middle zone of a Type B buffer area under the Land Development Code. The floodplain compensation area will be developed to compensate for any loss of current floodplain storage and will improve storm drainage in the area.

The proposed variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The applicant proposes to reduce the buffer only to the extent necessary to construct a floodplain compensation area and maintain the design of the proposed building.

The proposed variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The waterway buffer will retain the necessary footage to maintain water quality but will be reduced in order to allow the proposed development. The stream in question runs south to north through the existing Commerce Crossings and the Treasure Island neighborhood. In both of these sections, there are significant encroachments on

the existing stream. The stream then runs under I-265 and into a former quarry that is a regional basin controlled by MSD.

The strict application of the regulations would create an unnecessary hardship because the applicant is requesting the variance to accommodate a floodplain compensation area and construct an addition to the Commerce Crossings business park. Strict application of the regulations would deny the applicant an effective use of the land. One of the purposes of Chapter 4 Part 8 of the Land Development Code is to “to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, lakes and other critical waterways, wetlands, and their associated riparian areas provide in Jefferson County.” The proposed variance does not infringe upon this purpose.

The circumstances are not the result of actions taken by the applicant as the applicant has not yet developed the subject property. The proposed variance will allow the applicant to maintain the ecological functions of the stream and preserve the proposed site design.