

## JUSTIFICATION STATEMENT

Capstone Realty, Inc.

5210 Commerce Crossings Drive, 10108 Old Preston Highway

Case No. 19-ZONEPA-0018

### INTRODUCTION

Capstone Realty, Inc. (the "Applicant") proposes to re-zone the properties located at 5210 Commerce Crossings Drive and 10108 Old Preston Highway from R-4 Single-Family Residential to C-2 Commercial and re-develop the site as a small retail center with outdoor dining space for a potential restaurant. 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 the Comprehensive Plan states is a form "characterized by predominantly industrial and office uses where the buildings are set back from the street in a landscaped setting." Here, the proposal is consistent with the Suburban Workplace Form District as it will provide for smaller scale office/retail opportunities to complement the existing Commerce Crossings business park. The proposed development will observe the Suburban Workplace form in much the same way as the office building across Commerce Crossings Drive.

The proposal is compatible with the scale and site design of the surrounding properties. The proposal is surrounded by a large office on the west, a small office center on the north, Preston Highway on the east and a single family residence to the south. The proposed development will provide buffering as required in the Land Development Code to prevent adverse impacts on adjacent properties. The proposal will add to the mixture of uses available in the Commerce Crossings business park and will be at a scale to serve both the workers in Commerce Crossings and the residents in nearby neighborhoods.

### MOBILITY

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will be accessed via both Commerce Crossings Drive and Old Preston Highway. The proposed development is near other activity centers along Preston Highway as well as Interstate 265. The proposed development will share access with the office use to the west. The proposed development will also contain sidewalks along both street frontages.

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**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 is designed to serve the needs of the larger Commerce Crossings business park and nearby residential areas. Allowing workers an option for lunch, a medical office visit or other daily need within Commerce Crossings should prove to be an asset for both the workers and others in the area.

**LIVABILITY**

The proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed development will accommodate both the new and through drainage as required by MSD. The proposed development is also designed to give the workers within Commerce Crossings and residents of surrounding neighborhoods access to the property via sidewalk, reducing vehicle miles traveled. The proposed development will comply with the tree canopy sections of the LDC.

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**VARIANCE JUSTIFICATION**

**Elda Acquisition, LLC**

**5210 Commerce Crossings Dr.**

**Case No. 19ZONE1036**

The proposed variance, which will permit the 80' setback maximum to be exceeded, will not adversely affect the public health, safety or welfare. The applicant proposes to develop the subject property into a single story retail building totaling 16,875 square feet. Because the access to the property is from the east from Old Preston Highway near its intersection with Commerce Crossings Drive, the retail building must be located in the southwest corner of the property to permit for required vehicle use areas and parking consistent with the Land Development Code. This configuration requires that the retail building be set back more than the maximum 80' from Old Preston Highway.

The variance will not alter the essential character of the general vicinity as the proposed configuration of the property—with the building set back from Commerce Crossing Drive—is consistent with the configurations of the adjacent commercial properties.

The variance will not cause a hazard or nuisance to the public. The proposed variance will permit the proposed retail building to be located in the southwest corner of the property, which will allow for optimal vehicle maneuvering in and out of the property from Old Preston Highway and will maximize the amount of parking spaces on the property.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to provide adequate parking and vehicle circulation. This design will ensure the safety of vehicles parking and maneuvering within the development.

The variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The proposal calls for access to the property from Old Preston Highway to the east, which requires the subject property to be located in the southwest corner of the subject property.

The strict application of the regulations would create an unnecessary hardship because the layout of the subject property and the access point from Old Preston Highway requires that the retail building be constructed in the southwest corner to permit adequate parking and vehicle circulation. Strict application of the regulations would force the applicant to reconfigure or reduce the size of the proposed development.

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 the subject property.

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