



**Date of Council Meeting: November 9, 2015**

**TOWN OF LEESBURG  
TOWN COUNCIL WORK SESSION**

**Subject:** TLTA 2014-0001, Crescent District Uses and Davis Avenue road classification  
TLOA 2015-0002, Urban Boulevards, Davis Avenue elimination  
TLZM 2013-0006, Crescent Parke, rezoning a portion of the property

**Staff Contact:** Michael Watkins, Senior Planner – Department of Planning and Zoning

**Council Action Requested:** Work session discussion of the *Town Plan* Amendment, Zoning Text Amendment, and Rezoning Applications for Crescent Parke.

**Staff Recommendation:** Staff recommends that Council provide guidance on the broader policy topics contained in this memorandum, and that another work session be scheduled to discuss the technical details of the rezoning proposal.

This memorandum contains the following information requested by Council at the public hearing of October 13, 2015:

- Applicant's proposed proffers including schools contribution, capital facilities, and Olde Izaak Walton Park;
- Improvements needed to Olde Izaak Walton Park;
- Dulles Greenway Extension;
- Applicant's proposed residential land use south of Tuscarora Creek; and
- Design of Davis Avenue.

**Commission Recommendation:** The Planning Commission recommended denial of all three applications. The majority of the Commission recommended denial of the Town Plan amendment because the proposed land use does not meet the intent of the Crescent District which is intended to be primarily mixed use in this area. The Commission also recommended denial of the rezoning and text amendment due to concerns about the conversion of land from commercial mixed use to residential use south of Tuscarora Creek, conversion of open space to residential development, concerns about the limited open space within the development layout, and adequate buffering between uses.

Should Council desire to approve these applications, the Commission recommended a list of items for the Council to consider which would improve the proposal. This list is included as Attachment 1.

**Fiscal Impact:** The application's Fiscal Impact Analysis does not provide an economic comparison of development with the current zoning and the zoning district proposed by the Applicant. The property is currently zoned commercial mixed –use (CD-C and CD-MUO) and the proposed rezoning replaces a significant portion of the property as a residential district (CD-

RH). Without the comparison analysis, the potential business tax revenue that could be generated by nonresidential uses on the subject property is not fully evaluated.

The Applicant's proffer package proposes the purchase of Olde Izaak Walton Park and dedication to the Town. However, there are fiscal implications with Town ownership of the property that are discussed below in this memorandum. The Applicant has proffered money that could be used by Council toward park improvements or other capital facilities including school contributions – the choice is Council's.

**Work Plan Impact:** This application is part of the core function of Planning and Zoning and fits within the work plan. The Town will need to review and approve additional site development applications prior to construction of the site. Such site development plan processing is anticipated in the Town's work plan.

**Executive Summary:** This memorandum provides requested information and addresses issues raised by the Town Council during the October 13, 2015 public hearing. Discussion topics for the November 9, 2015 work session include:

- Overview of the proposed proffers pertaining to Olde Izaak Walton Park, capital facilities, and schools contribution;
- Recommended improvements for Olde Izaak Walton Park if the property is owned by the Town;
- Dulles Greenway Extension;
- Proposed residential land use south of Tuscarora Creek; and
- Design of Davis Avenue.

Questions regarding the application that Council had asked during the public hearing are provided to help facilitate discussion. Staff notes that on October 23, 2015, the applicant submitted a revised Concept Development Plan and response letter to address technical issues raised by staff. However, staff has not completed a review of this submittal so information related to the revised Concept Development Plan is not presented. As noted above, staff recommends that Council provide guidance on the broader policy topics contained in this memo, and that another work session be scheduled to discuss the technical details of the rezoning proposal.

**Background:** Town Council posed a series of questions which is set forth below with the requested information.

**A. School Costs:**

- *What is the project's anticipated impact upon public schools?*

Attached to this memo is the referral letter from Loudoun County Public Schools (Attachment 2) which in summary states:

- The development will generate 186 students.
  - The students from this development will attend: Catoctin and Douglas Elementary Schools, Simpson Middle School, and Loudoun County High School.
  - The development will generate \$8,723,380 in Capital Costs.
  - The development will generate \$2,362,200 in annual Operational Costs.
- *What does the Applicant proffer to address this school impact?*

The Applicant does not specifically proffer any contribution to address school capital facilities. Instead, proposed Proffer #8 offers “a one-time cash contribution in the amount of \$4,433 per each multi-family dwelling unit, and \$8,848 for each single-family-attached dwelling unit *“which may be used for schools or capital projects in the Town of Leesburg”*”.

Depending on how Town Council decides to spend the contribution, it is possible that no proffer funds may be allocated for school capital facilities per the adopted proffer policy. See Attachment.

Although the Applicant has not specifically allocated any proffer money towards a school contribution, the Applicant’s proffer contribution is based on the guidelines for schools proffers as specified in Council Resolution 2005-111. Based on those figures, the expected capital facilities contribution is \$5,341,650 (294 TH x \$15,619 = \$4,591,986 + 96 MF x \$7,809 = \$749,664). The Applicant does propose a total of \$3,026,880 that could be used for schools based on the per-unit contribution in this proffer. (294 TH x \$8,848 = \$2,601,312 + 96 MF x \$4,433 = \$425,568).

## **B. Olde Izaak Walton Park Issues:**

### **1. Past and Future Fiscal Impact**

- *What is the fiscal impact of the lease of the Failsmezger property?*

On December 29, 1999, the Town signed a lease agreement with Failsmezger Investments, the owner of the property. The lease entitles the Town to use the property as an active and passive park and recreation area for a term of 30 years.

Per the terms of the agreement which began on July 1, 2000, the Town is obligated to pay rent to the property owner and taxes to the County of Loudoun. Since the commencement of the lease, the Town has paid \$2,021,106 in lease payments and taxes.

| <b>Table 1. Past Payments</b> |                    |
|-------------------------------|--------------------|
| Lease payments                | \$1,555,976        |
| Tax Payments                  | \$465,130          |
| <b>Total Payments</b>         | <b>\$2,021,106</b> |

Per the terms of the lease agreement which will expire on June 30, 2030, the Town will pay approximately \$2,131,500 in additional lease payments and taxes assuming the Town does not terminate the lease prior to June 30, 2030.

| <b>Table 2. Future Payments</b> |                    |
|---------------------------------|--------------------|
| Lease payments                  | \$1,609,500        |
| Tax Payments                    | \$522,000          |
| <b>Total Payments</b>           | <b>\$2,131,500</b> |

Upon expiration of the lease agreement, the Town will have spent approximately \$4,152, 606 for the use of the Olde Izaak Walton Park property assuming the Town does not terminate the lease prior to June 30, 2030.

| <b>Table 3. Total Costs</b> |                    |
|-----------------------------|--------------------|
| Lease payments              | \$3,165,476        |
| Tax Payments                | \$987,130          |
| <b>Total Payments</b>       | <b>\$4,152,606</b> |

## 2. Anticipated Olde Izaak Walton Park Improvements and Costs

- *What improvements and costs can be anticipated associated with owning the park property?*

The items below concern maintenance issues and potential improvements to the park that staff believes are likely and/or necessary.

- **Pond Rehabilitation:** Staff notes that the existing pond is *not* a storm water management facility, and is most likely an amenity feature constructed by the Izaak Walton League that served as a “farm” pond. An issue of concern is the condition of the pond during the summertime when the surface is covered by algae. This is a consistent complaint by users of the park. The algal bloom will continue until such time as the aquatic environment of the pond is changed. A potential solution is to dredge the

pond to increase the depth necessary to support a healthier aquatic environment.

Also of concern is the outfall for the pond which has visible erosion to the channel, and appears to be in need of at least minor repairs. Unknown at this time is the exact permitting process, and the potential for dredging to negatively impact the existing pond embankment. The work should include an analysis of the embankment, an updated survey of the pond, dredging and excavation of sediment, and aeration equipment.

Are these improvements necessary? Staff believes these improvements are necessary to ensure proper functioning of the pond, safety, and to enhance the visitor experience if the Town assumes ownership of the property.

Who should be responsible for these improvements? Staff estimates that approximately \$454,000 is necessary to complete improvements to dredge, improve the spillway, and install aerators. Staff believes this work should be completed by the applicant if the existing pond is to be included with the proposed park dedication. Acceptance of the pond in its current condition will ultimately lead to expenditure by the Town to address its current condition.

Beyond these basic improvement, staff also notes that the pond embankment shows some breaching and is covered with trees growing from it. There are also utility poles protruding from the bank. There is potential for the embankment to fail and negatively impact Tuscarora Creek. The pond has been there for at least 50 years and has not yet failed. Improvements to the dam structure itself to assure that it continues to be safe could be upwards of \$500,000. Therefore, basic improvements to the pond (\$454,000) plus the improvements to the dam (\$500,000 or more) could be expected to be as high as \$1,000,000.

As an alternative, the Town could accept the dedication of land towards a public park but exclude the existing pond. The potential liability of the existing pond would remain with the private property owner.

- **Bridge Maintenance/Repair:** The existing bridge is maintained by the Town, but has structural problems that limit the weight of vehicles that may cross it. There is an approved maintenance project in the Town's Capital Improvement Plan to replace it in kind in order to continue the current vehicular access from Davis Court to the Olde Izaak Walton Park property.

However, if it is anticipated that more people will use the park, a stronger bridge may be necessary to increase capacity to handle heavier trucks and emergency vehicles. The Town's Design and Construction Standards Manual (DCSM) regulations state that if a site is improved, emergency access to the development during a 100-year flood event must be provided. That means that the existing bridge which is located within the 100-year floodplain and would have to be replaced with a structure that is outside of the floodplain unless a secondary vehicular access is provided into the site from the proposed development.



*View of the Existing Bridge to Olde Izaak Walton Park*

Are these improvements necessary? If there is an emergency at the park, emergency vehicles will not traverse the bridge if the bridge is inundated by twelve inches or more of floodwater. This situation does not change if the Town assumes ownership of the park and if no improvements are made to the park. There are no ordinance requirements for the bridge to be improved more than what is currently planned in the Town Capital Improvements Plan. That said the Town may potentially assume increased liability for the park as emergency vehicles would not be able to access the park during larger rain events. The Town Attorney may wish to comment on this point. However, if improvements *are* made to the park that require a site plan, our ordinances will require that the bridge deck be located above the floodplain to provide emergency access during the 100-

year flood or that an alternate access be provided. The maintenance project for the bridge as currently proposed in the approved Capital Improvements Plan does not include this improvement. A cost estimate for a bridge that is above the floodplain is premature until it is known exactly what would be required.

Who should be responsible for these improvements? This improvement is a consequence of accepting the land as a public park. Given that the park is to supply active recreation land for the adjacent proposed development, and to eliminate liability issues, staff believes the applicant should proffer some contribution toward a future bridge upgrade. The applicant's off-site transportation proffer money could be used to address this improvement.

- **Accessible Pedestrian Route:** If the property is dedicated to the Town, the property and the existing building become "public". The property does not contain a pedestrian accessible route from the public right-of-way (Davis Court) to the existing building. As a result, there is no accessible walkway connecting the street to the building. The most logical route would be to connect the building from Davis Court, although there are other routes that could be considered. An alternate option could include the provision of the public accessible connection via easements through the proposed residential development.

Are these improvements necessary? Staff believes they are necessary in order to be consistent with the other Town facilities to be compliant with the Americans with Disabilities Act (ADA). This improvement could be deferred and placed on the Capital Improvement Plan as a future improvement. Alternate options through private property should be coordinated through the rezoning via proffers.

Who should be responsible for these improvements? The cost of extending a walkway from the terminus of Davis Court to the building is approximately \$200,000. Staff believes the rezoning process should be utilized to obtain the cost of this walkway given that the park is to supply active recreation for the adjacent proposed development, and will be dedicated to the Town, who would ultimately accept responsibility for providing this connection in the future.

- **Building Renovation:** The Town currently uses the existing building for recreation programs that cannot be accommodated at Ida Lee. The programs include gymnastics, dog obedience, art and nature classes, and martial arts. In March of 2001, a feasibility study was done by Clint Good

Architects, PC. The Town studied potential improvements to the existing building which included:

- A handicapped accessible entrance;
- Handicapped accessible bathrooms;
- Reconfiguration of the floor plan to accommodate multipurpose rooms and individual classrooms; and
- Repair of foundation settlement (which has settled 18” in some places)

Are these improvements necessary? Staff believes these building upgrades are needed if the Town assumes ownership of the property. The programs currently held at the Olde Izaak Walton Park building cannot be accommodated at Ida Lee. These improvements are necessary to comply with American with Disabilities Act (ADA) accessibility requirements for public buildings, and to avoid a decrease in services provided to the community. The current facility is considered an existing non-conforming condition, but once needed improvements are undertaken, compliance with current codes and standards would be required.

Who should be responsible for these improvements? The estimated cost for building renovation is approximately \$1,500,000. This potential improvement for the building could be deferred and placed on the Capital Improvement Plan as a future improvement. Staff believes the rezoning process should be utilized to obtain some of the replacement cost given that the park is to supply active recreation for the adjacent proposed development which has no Homeowners Association (HOA) clubhouse facilities for 390 units.

In summary, the estimated costs for improvements to the park are \$2,700,000 which includes: pond (\$1,000,000), the building (\$1,500,000) and access to the building (\$200,000). This does not include improvements to the bridge.

- *What has the Applicant proffered with regard to the Park to address these issues?*

Proffer #3.3 states that the Applicant proffers to dedicate approximately 18.65 acres of the 21 acre property (retaining the balance for development) which they value at \$2,315,000. The proffer then deducts this amount from the capital facilities contribution in Proffer #8, leaving \$3,026,880 cash contribution for school and “other public facilities”. Added to this is a “Public Park Cash Contribution” under Proffer #3.2 of \$390,000 (\$1,000 per residential unit) that “may be used for capital improvements to Town of Leesburg recreational facilities . . .” leading to a total contribution of \$3,416,880 that could be used totally for improvements to the Park if the Council so decided. Preliminary estimates for improvements to the pond, building and access to Izaak Walton Park

as noted above are \$2,700,000. This does not include improvements to the bridge.

### C. Dulles Greenway Extension

- *Should the Greenway Extension be removed from the Town Plan?*

To address this question, Town Council should consider the following information:

- **Why is there a Greenway Extension?** The extension of the Dulles Greenway is a feature identified on the *Town Plan's* Roadway Network Policy Map. This planned road improvement was identified in the 1986 *Town Plan* as the "Harrison Street" extension. The road was planned as a four-lane Through Collector intended to by-pass existing townhouses (Virginia Knolls subdivision), and to be aligned with a future interchange on the Route 15 Bypass. That interchange has been constructed and is known as the Dulles Greenway interchange. The road was intended to take pressure off of the Route 15 Bypass, South King Street and Sycolin Road to better disperse increased traffic entering and leaving downtown Leesburg.

In 1988, the Town Plan recommended updating the conceptual design to accommodate an extension of the Phase II Dulles Toll Road plans (i.e., the Greenway). The alignment of the Greenway Extension toward downtown Leesburg would essentially become the Harrison Street Through Collector Road. The Town Council adopted a resolution (Res. No. 89-257) on December 12, 1989 endorsing a conceptual alignment of the extension inside the Bypass. The resolution and conceptual alignment are included as Attachments 2 and 3.

The Crescent District Master Plan included an updated traffic impact analysis. State Code requires that traffic impact analysis be jointly reviewed by Virginia Department of Transportation (VDOT) for amendments to comprehensive planning documents. During this review, several alternatives were proposed including *elimination* of the Greenway Extension to Catoctin Circle. VDOT's response indicated that removal of the Greenway Extension would have negative consequences to the surrounding road network. Specifically, VDOT commented that:

- 25% of the traffic using the Greenway would use the Extension Road instead of the By-Pass.
- A "no-build" scenario of the Greenway Extension would increase daily traffic on Route 15, north of the By-Pass, by 60%.

- A “no-build” scenario of the Greenway Extension would increase daily traffic on the By-Pass by 15%.
- Less than 5% of the daily traffic would be “cut-through”, meaning 95% of the daily traffic either begins their trip or ends their trip within Leesburg.

Based on the extent of these negative impacts, VDOT did not support removal of the Greenway Extension. VDOT’s conclusion was that the Greenway Extension Road is an essential future improvement. Consequently, the Greenway Extension was retained as part of the Town Plan Road Network Policy Map by the Town Council.

- **What does the applicant’s Traffic Impact Analysis state in regards to the Greenway Extension?** The traffic proposed by the Crescent Parke development will impact the South King Street interchange. The traffic study includes analysis for a “build-out” condition, build-out plus six (6) years, and build-out plus 20 years. The build-out plus 20 year condition included the Greenway Extension as a constructed roadway. The study addresses the Greenway Extension on Page 3 and states:

*“A long term mitigation of these movements [referring to the operation of South King Street interchange] is expected to occur with the Greenway Extension. By opening up this corridor to the Leesburg central business district, a ‘spreading’ of traffic demand would be expected for each of the ramp movements.”*

The applicant’s study indicates that the Greenway Extension will be built in the future, and it will lessen the impact of future traffic on the South King Street Interchange.

- **What does the applicant proffer with regard to the Greenway Extension?** The Applicant does not proffer any actual construction of the Greenway Extension. Instead, in Proffer #2.2.3.1 Applicant proffers to reserve “a 90-foot wide strip of land along the eastern Property boundary in substantial conformance with Sheet 2 of the CP [Concept Plan] for the construction of the Dulles Greenway Extension as provided in the Town Plan.” The proffer also requires applicant to install two signs warning residents of the planned use of the reservation area, and allows the area to be used as open space with a trail until such time as the area is dedicated for public street purposes. Proffer #2.2.3.2 states applicant shall dedicate the property “upon approval of the construction plans for the roadway extended to Harrison Street or Catoclin Circle to be prepared by others, upon full funding or bonding of the improvements to be constructed by others . . .” but will automatically expire if this has not occurred within

21 years from the date of approval of the Crescent Parke rezoning. Staff notes that this full funding or bonding condition runs directly counter to VDOT requirements.

In Proffer #2.2.6 Applicant proffers up to \$789,030 to be used for off-site transportation improvements in the vicinity of Crescent Parke, and lists possible projects such as reconstruction of the bridge on Davis Court to access Olde Izaak Walton Park, but leaves use of the contribution to the Town Council's discretion.

Apart from the lack of proffered construction funds for the Greenway Extension, staff is concerned about the impact of the future roadway on the existing residential development to the east, and the new residents who would live in the proposed development. Staff's principle concerns include:

- General absence of preliminary engineering both horizontally and vertically for the extension;
- Physical impact on adjacent properties; and
- Appropriate buffering and noise attenuation for all residents.

As proffered on the Concept Plan, several proposed townhomes are less than 10 feet from the Greenway Extension right-of-way, and at least seven existing townhomes in Virginia Knolls are within 30 feet. Should the Greenway Extension be constructed, there will likely be no buffers to shield any of these homes from the impact of the traffic.

- **What is the process to remove the Greenway Extension from the Town Plan?** To remove the Greenway Extension, Town Council must initiate a *Town Plan* Amendment. The *Town Plan* Amendment application would require:

- A traffic scoping meeting with VDOT;
- Traffic counts in multiple locations;
- Preparation of a traffic impact analysis by a private contractor; and
- Review by both VDOT and Town staff.

Staff believes that possible mitigation projects for removal of the Greenway Connector Road could include:

- Widening of South King Street; and
- Alterations of the South King Street interchange.

Staff notes that the traffic analysis is required to understand the impact of the removal of the Greenway Extension, and any street widening or interchange alteration necessary as a result. Staff notes that the long-term planned transportation improvements are not on any Town of Leesburg, Dulles Greenway Corporation, or VDOT capital improvement plan. However, the South King Street interchange is already experiencing deficient levels of service without any planned improvements. Although the applicant has proffered a contribution toward future signalization of a South King Street interchange ramp, the contribution will not cover the total cost of the signalization and changes to create appropriate turning lanes.

Ultimately it is the Town Council's authority to make the decision to either leave the Dulles Greenway Extension on the Town Plan or to remove it. This decision should be made in consultation with VDOT to fully understand the impacts of such decision on the regional road network, including VDOT-controlled roads such as the Bypass.

#### **D. Town Plan Land Use**

- *Should the planned land use of "Mixed-Use Commercial" be revised to "Residential"?*

Staff recommends retention of the current planned land use as Mixed-Use Commercial. During the preparation of the Crescent District *Town Plan* Amendment, Town Council adopted the planned land use based on the following factors:

- Higher density residential was located directly adjacent to the Historic District to support the Downtown because of a more pedestrian-oriented environment.
- The future Greenway Extension is incompatible with residential development on the proposed property.
- The property has good visibility from the Bypass.
- The traffic noise generated by the Bypass and the future Greenway Extension is not compatible with residential development.
- The frontage of the property adjacent to the Bypass includes Dominion Virginia Power transmission lines which are more appropriate for proximity of commercial uses.

Other factors to consider include:

- The proposed change in land use contradicts economic development goals for retaining planned commercial land for non-residential development.
- The Crescent Design Zoning District does not support suburban-styled neighborhoods.

- The applicant has not satisfied the approval criteria in the Zoning Ordinance to justify the change in land use to residential as a more compatible use designation.

**E. Davis Avenue Zoning Text Amendment**

*Should the classification of Davis Avenue be revised to permit a General Street versus an Urban Boulevard?*

Staff's recommendation is to retain Davis Avenue as an Urban Boulevard based on the planned land use as Commercial Mixed-Use which is four travel lanes and on-street parking. The applicant's traffic impact analysis was prepared with Davis Avenue as a General Street with two travel lanes and on-street parking. The traffic study supports the reclassification as all the proposed intersections operate at acceptable levels of service mainly due to residential development in place of mixed use commercial.

As a follow-up to comments made by the public, staff offers the following information:

- Restricted turning movements (where? Gateway and Harrison?) would contradict many *Town Plan* goals and objectives regarding the desire for and beneficial effect of a "grid of streets" which creates a more efficient transportation network.
- The percentage of site related residential trips affecting the Catocin Circle/Harrison Street intersection is 5% to the east and 1% to the west.
- Based on recent traffic counts conducted on October 22, 2015, traffic has decreased since the construction of the Sycolin road overpass.
- Traffic control warrants have not been met for signalization of the Sycolin Road/Gateway Drive intersection.

If the planned land use is revised to Residential, staff recommends that there be a transition in the number of lanes from four (to support the mixed-use development north of Tuscarora Creek) to two (reflecting the residential development south of Tuscarora Creek and north of Tuscarora Creek).

- F. Revised Concept Plan:** Staff notes that a revised concept plan was submitted on October 28, 2015. Staff has not had sufficient time to review the revised layout, but notes that it appears there are zoning issues that will affect the layout and potential density of the project. Staff recommends that a future work session be held after consensus is made regarding planned land use and potential reclassification of Davis Avenue.

**Attachments:**

1. Planning Commission list of improvements for the Crescent Parke proposal

2. Loudoun County Public Schools 9-15-2015 letter
3. Resolution No. 89-257
4. Dulles Greenway Extension Staff Alignment

List of Recommendations for Crescent Parke applications from Planning Commission – August 20, 2015

The Planning Commission decided to include a list of recommendations for Town Council to consider and discuss as they evaluate the Crescent Parke applications. The following are recommendations made by a majority of the Planning Commissioners:

- Davis Avenue-Gateway Drive should consist of a four lane boulevard.
- The Applicant should conduct or proffer an engineering plan to rehabilitate the Izaak Walton Park pond.
- Land disturbance should be limited to retain the existing trees along the pond and maintain the existing rustic environment.
- The School Capital Facilities proffer guideline should be maintained and that the associated monetary contributions are used for school capital facility improvements. No school capital facility contributions should be used to purchase the Izaak Walton Park.
- The rezoning of the two acres of open space should be denied and the two acres should continue as open space.
- Two-over-twos are generally acceptable, but the two-over-two density should be reduced.
- Attached dwelling units should be developed with enough room at the rear and side of the units for exterior household appurtenances such as utilities or refuse containers so as not to result in a 'cluttered' appearance.
- The proposed townhouses should include a varied unit width for each grouping of units within a building and not be uniform in unit width.
- Additional fiscal analysis should be provided that demonstrates a need for more residential dwellings and less commercially zoned land.
- The Concept Plan should be revised to include appropriate buffers outside the Dulles Greenway Extension reservation area.
- The Applicant should include a proffer that requires a disclosure statement for potential buyers identifying the Dulles Greenway Reservation area as a potential future right-of-way.
- The Applicant should proffer a phasing program.
- To promote the mix of uses envisioned within the Crescent District, ground floor non-residential uses with residential uses above should be located south of Tuscarora Creek; however, a location was not specified.
- Request that the Applicant commit to tree save/preservation areas and note these areas on the Concept Plan.
- Decrease residential density south of Tuscarora Creek to accommodate more useable open space.
- Revise the Concept Plan to provide a minimum of 100' separation of overhead transmission lines to any residential units.
- Residential parking modifications which would reduce available parking for residents and visitors should not be granted.



**LOUDOUN COUNTY PUBLIC SCHOOLS  
DEPARTMENT OF PLANNING SERVICES**

21000 Education Court  
Ashburn, Virginia 20148  
Telephone: 571-252-1050  
Facsimile: 571-252-1101  
Email: [lcpsplan@lcps.org](mailto:lcpsplan@lcps.org)

September 15, 2015

Mr. Michael Watkins  
Town of Leesburg  
Department of Planning and Zoning  
25 West Market Street  
Leesburg, Virginia 20176

RE: TLZM-2013-0006 / Crescent Parke

Dear Mr. Watkins:

Thank you for the opportunity to provide feedback regarding the revisions to the Crescent Parke public school proffers. It is understood that the revised proffers would negate the collection of an estimated \$5.3 million dollars originally offered and intended for school facilities located in the Town of Leesburg.

School Board staff cannot support nor could we recommend to the Superintendent or School Board that they support any action that would repurpose the proposed capital impact fees collected by the Town of Leesburg. Loudoun's school facilities are aging and with that will come significant capital costs to renovate and rehabilitate existing schools in Leesburg and the rest of the County. Therefore, opportunities to acquire and allocate capital funding sources for the renovation and rehabilitation of school buildings is greatly appreciated by the school community.

Should you require additional information, please contact me at your earliest convenience. An updated project assessment, reflecting the revised residential unit mix, is also provided for your perusal.

Sincerely,

Sam Adamo  
Executive Director

**Attachment**

c: Loudoun County School Board  
(Site Location: Leesburg Election District)  
Eric Williams, Ed. D.  
Kevin Lewis, Assistant Superintendent



# Loudoun County Public Schools

Department of Planning and Legislative Services

## Project Assessment

**Project Name: TLZM-2013-0006 Crescent Parke**

| Loudoun County Public Schools Student Generation Factors, 2014 | Housing Units | Elementary School Student Generation | Middle School Student Generation | High School Student Generation | Student Generation Total  |
|--|---------------|--------------------------------------|----------------------------------|--------------------------------|---------------------------|
| Single Family Detached (SFD)                                   | 0.77          | 0                                    | 0                                | 0                              | 0                         |
| Single Family Attached (SFA)                                   | 0.53          | 294                                  | 75                               | 36                             | 156                       |
| Multifamily (MF)   | 0.31          | 96                                   | 14                               | 7                              | 30                        |
| <b>Total Students</b>  |               | <b>89</b>                            | <b>43</b>                        | <b>54</b>                      | <b>186</b>                |
| Capital Costs  |               | Elementary School Cost (FY 2016 CIP) | Middle School Cost (FY 2016 CIP) | High School Cost (FY 2016 CIP) | Total Capital Expenditure |
| School Cost  |               | \$36,620,000                         | \$58,500,000                     | \$111,600,000                  |                           |
| Capacity   |               | 928                                  | 1,350                            | 1,800                          |                           |
| Per Pupil Cost   |               | \$39,461                             | \$43,333                         | \$62,000                       |                           |
| <b>Project's Capital Costs</b>                                 |               | <b>\$3,512,047</b>                   | <b>\$1,863,333</b>               | <b>\$3,348,000</b>             | <b>\$8,723,380</b>        |
| Annual Operational Costs                                       |               | Adopted FY 2016 Per Pupil Cost       | Student Generation Total         | Annual Operational Costs       |                           |
|  |               | \$12,700                             | 186                              | \$2,362,200                    |                           |
| School Facility Information                                    |               | Elementary School (Grades K-5)       | Middle School (Grades 6-8)       | High School (Grades 9-12)      |                           |
| 2015-16 School Attendance Zone                                 |               | Catoctin/<br>Frederick Douglass      | JL Simpson                       | Loudoun County                 |                           |
| September 30, 2014 Student Enrollment                          |               | 569/688                              | 1006                             | 1497                           |                           |
| 2014-15 Building Program Capacity                              |               | 677/865                              | 1198                             | 1373                           |                           |

*The  
Town  
of*  
**Leesburg in Virginia**

RESOLUTION NO. 89-257

PRESENTED December 12, 1989

ADOPTED December 12, 1989

A RESOLUTION: ENDORSING THE DULLES TOLL ROAD/HARRISON STREET CONNECTOR STUDY - PHASE I, PRELIMINARY ACCESS REPORT PREPARED BY TOWN OF LEESBURG STAFF

WHEREAS, the Transportation Policy Map element of the Town Plan 1986, as amended, reflects the conceptual alignment of a new minor arterial road between the future interchange of the Dulles Toll Road Extension (Route 267) inside the Route 7/15 Bypass to the intersection of relocated Harrison Street at Catoctin Circle; and

WHEREAS, the November 1988, Town Plan update provided that the town should re-evaluate this conceptual minor arterial connector road; and

WHEREAS, due to the increased pace of planning for the Dulles Toll Road Extension, a contract for engineering services was awarded to Kamber Engineering, Inc. on April 12, 1989, following Town Council authorization, to investigate the feasibility of the conceptual connector road, and to determine whether the proposed Toll Road/Bypass interchange design would accommodate an extension inside the Bypass; and

WHEREAS, Kamber Engineering, Inc. in association with Bellomo-McGee, Inc. prepared an analysis dated November 3, 1989, including traffic generation projection and a roadway design/alignment analysis; and

WHEREAS, this analysis, which was presented to the Planning and Zoning Committee of the Town Council on November 8, 1989, recommended that the conceptual connector road remain a part of the Town Plan transportation policy map. The roadway network proposed by Kamber Engineering, Inc., however, did not conform to the adopted conceptual roadway network of the Town Plan and did not achieve appropriate inter-parcel connections; and

WHEREAS, in response to concerns raised regarding the estimated costs and benefits of the conceptual toll road connection inside the bypass, as well as access to the connector proposed by Kamber,

the town manager's office directed the town's Planning, Engineering, and Public Works departments to further evaluate this conceptual transportation network; and

WHEREAS, town staff prepared a conceptual alignment and access study map dated November 28, 1989 in accordance with the Town Plan as part of a Phase I Preliminary Access Report dated December 1, 1989 to Mayor and Council, which can physically implement the Town Plan road network in this area:

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. The Leesburg Town Council hereby endorses the Dulles Toll Road/Harrison Street Connector Study - Phase I Preliminary Access Report dated December 1, 1989, including the conceptual alignment and access study map dated November 28, 1989, as prepared by Town of Leesburg staff.

SECTION II. The Manager is directed to prepare the Phase II Cost/Benefit Analysis based on the Phase I Preliminary Access Report conceptual alignment, in lieu of the proposed Kamber Engineering, Inc. roadway design/alignment analysis.

PASSED this 12th day of December, 1989.

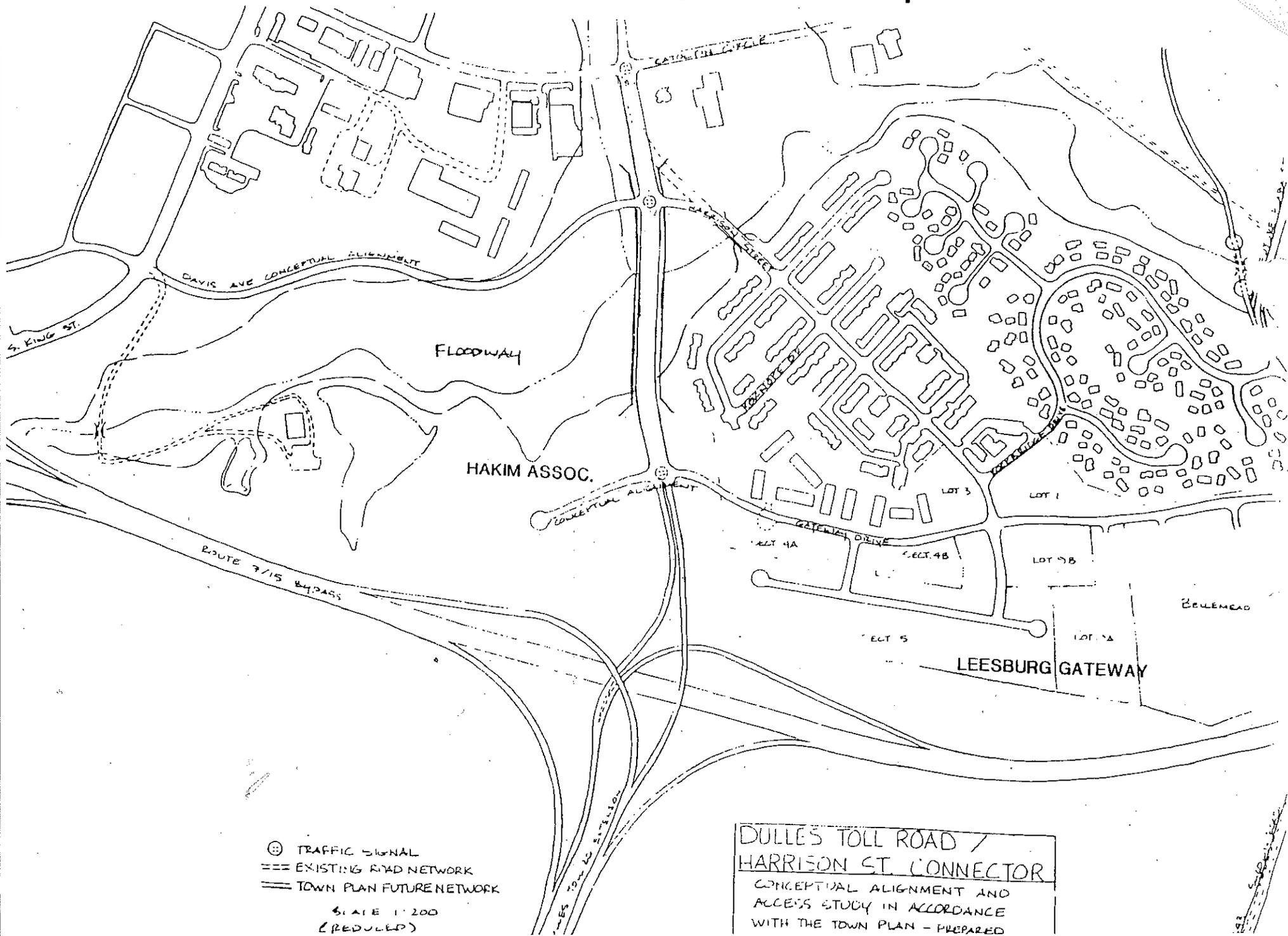
Robert E. Sevila, Mayor  
Town of Leesburg

ATTEST:

  
Clerk of Council

R:Tollroad

# Phase I Preliminary Access Report



## PROFFER STATEMENT

### TLZM 2013-0006, CRESCENT PARKE

September 18, 2014  
December 23, 2014  
April 17, 2015  
Updated April 23, 2015  
August 28, 2015

MREC LD Leesburg Crossing, LLC, as the owner of approximately 39.71 acres of land, more particularly described as Loudoun County parcel identification numbers (hereinafter, "PIN") 232-37-7166, 232-37-5627 and 232-38-9290, Edward R. Mooney Jr. et al Trustees, the owner of approximately 11.28 acres of land, more particularly described as Loudoun County PIN 232-28-3893, and Failmezger Investments, as the owner of an approximately 2.34 acre portion of a 20.99 acre parcel of land, more particularly described as Loudoun County PIN 232-37-3721 (hereinafter all three owners shall be referred to collectively as the "owner and all parcels collectively referred to as the "Property") hereby voluntarily proffer, pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and Section 3.3.16 of the Town of Leesburg Zoning Ordinance, as amended, that the development of the Property shall be in substantial conformance with the proffers as set forth below. All exhibits referred to in this proffer statement are attached and incorporated into this proffer statement.

All proffers made herein are contingent upon the approval of the rezoning concept plan and proffer amendment request in the pending application and upon approval of the zoning modification requests. These proffered conditions are the only conditions offered on this rezoning application. These proffers shall become effective only upon approval by the Town Council of Leesburg, Virginia, of the Zoning Amendment application TLZM 2013-0006.

#### 1. **LAND USE**

##### 1.1 Concept Plan

Development of the Property shall be in substantial conformance with Sheets 1 - 36 of the Zoning Map Amendment Concept Plan, prepared by Bowman Consulting, dated December 23, 2013 (hereinafter referred to as the "CP") and revised through August 28, 2015, which is attached to these proffers as Exhibit A and which shall control the use, layout, and configuration of the Property, with reasonable allowances to be made for engineering and design alteration and to meet Town zoning, subdivision and land development regulations.

##### 1.2 Development Program

The Property shall be developed with a mix of uses as follows:

1.2.1 In the Crescent Design District Commercial (CD-C) zoning district. A maximum of 45,000 square feet of office and retail and other commercial uses.

1.2.2 In the Crescent Design District Mixed-Use Optional (CD-MUO) zoning district. A maximum of 96 multi-family dwellings, 28,625 square feet of retail and 90,000 square feet of office or hotel uses.

1.2.3 In the Crescent Design District Residential High Density (CD-RH) zoning district. A maximum of 198 single family attached dwelling units and 96 single family attached dwelling units in the “stacked townhouse” configuration.

1.3 Development Phasing:

1.3.1 Transportation Improvements. The transportation improvements shall be constructed according to the timing as described in Proffer 2.

1.3.2 Land Disturbance. The initial phase of development shall not limit land disturbance on any portion of the Property.

1.4 Parking

Parking is being provided as shown on Sheet 2 of the CP, as provided in the parking tabulations shown on Sheet 4 of the CP, and pursuant to the modification of Zoning Ordinance Section 11.3.

2. **TRANSPORTATION IMPROVEMENTS**

2.1 Sidewalks.

Sidewalks shall be constructed as shown on Sheets 2 and 4 of the CP. Planting areas for internal street trees shall be comprised of enhanced/amended planting media suitable for urban settings and which will be maintained by the Property Owners’ Association (POA) established in proffer 6.7.

2.2 Public Street Improvements and Phasing of Improvements

2.2.1 Davis Avenue and Gateway Drive Extensions. The Owner shall dedicate a minimum 70-foot wide right-of-way plus any additional right-of-way needed to accommodate turn lanes or the roundabout from the existing terminus of Davis Avenue to the existing terminus of Gateway Drive in substantial conformance with Sheet 2 of the CP, including the construction of the bridge over Tuscarora Creek. The dedication of the right-of-way shall be conveyed in fee simple, free and clear of any and all liens to the Town by a Deed of Dedication. The Owner shall bond for construction of the General Urban Street section in substantial conformance with Sheet 4 of the CP, subject to Town approval. Approval of zoning permits for the construction of any buildings on the Property shall be contingent upon the bonding for the construction of Davis Avenue and Gateway Drive from the existing terminus of Gateway Drive to the existing terminus Davis Avenue. No occupancy permits shall be approved

until the construction of Davis Avenue and Gateway Drive from the existing terminus of Gateway Drive to the existing terminus of Davis Avenue is completed and roadway is open for traffic. Approval of any occupancy permits, however, shall not be contingent upon acceptance of this roadway into the public street system or release of the performance bonds for roadway construction.

2.2.2 Other General Urban Streets. The Owner shall dedicate a minimum 70-foot wide right-of-way plus any additional right-of-way needed to accommodate turn lanes for and construct the General Urban Streets listed in proffers 2.2.2.1, 2.2.2.2 and 2.2.2.3 and in substantial conformance with Sheets 2 and 4 of the CP. The dedication of the right-of-way shall be conveyed in fee simple, free and clear of any and all liens to the Town by a deed of dedication.

2.2.2.1 Davis Court Relocated. The right of way shall be dedicated and be bonded for construction concurrent with Davis Avenue pursuant to proffer 2.2.1. No occupancy permits shall be approved for buildings C-2, C-3 or C-4 as shown on Sheets 2 and 4 of the CP until the construction of Davis Court is completed and the roadway is open for traffic. Approval of any occupancy permits, however, shall not be contingent upon acceptance of this roadway into the public street system or release of the performance bonds for roadway construction.

2.2.2.2 First Street. The right of way from the Property boundary to the roundabout on Davis Avenue extended shall be dedicated and bonded for construction prior to the issuance of the first zoning permit for building C-1 or buildings MU-1 through MU-4 and shall be constructed prior to the issuance of the first occupancy permit for building C-1 or for buildings MU-1 through MU-4. Approval of any occupancy permits, however, shall not be contingent upon acceptance of this roadway into the public street system or release of the performance bonds for roadway construction.

2.2.2.3 General Urban Street A. The right of way from the Property boundary to the intersection with Davis Avenue extended shall be dedicated and bonded for construction prior to the issuance of the first zoning permit for buildings MU-1 through MU-4 and shall be constructed prior to the issuance of the first occupancy permit for buildings MU-1 through MU4. Approval of any occupancy permits, however, shall not be contingent upon acceptance of this roadway into the public street system or release of the performance bonds for roadway construction.

### 2.2.3 Dulles Greenway Extension

2.2.3.1 Right-of-way Reservation. The Owner shall reserve a 90-foot wide strip of land along the eastern Property boundary in substantial conformance with Sheet 2 of the CP for the construction of the Dulles Greenway Extension as provided in the Town Plan. The right-of-way reservation shall be shown on the first record plat or site plan, whichever occurs first, which contains any portion of the Property south of Tuscarora Creek. Subject to approval of any required sign permits, the Owner shall install two signs within the right-of-way reservation area facing Gateway Drive and Davis Avenue Extended informing the future residents of Crescent Parke of the eventual planned use of the reservation area. These signs shall be installed prior to issuance of the first occupancy permit within the CD-RH zoned portion of the Property. Until such time as the reservation area is dedicated for public street purposes pursuant to proffer 2.2.4.2, the reservation area may be used for open space purposes, including the construction of the multi-use trail as shown on Sheet 2 of the Concept Plan. The Owner shall remove any asphalt trails, constructed within the reservation area upon dedication of the right-of-way at no cost to the Town or VDOT.

2.2.3.2 Right-of-way Dedication. The Owner shall dedicate any land located within the 90-foot wide reservation area as shown on Sheet 2 of the CP that is needed for right-of-way for the Dulles Greenway Extension at no cost to the Town or VDOT upon approval of the construction plans for the roadway extended to Harrison Street or Catoctin Circle to be prepared by others, upon full funding or bonding of the improvements to be constructed by others, and upon written request of the Town. The Owner shall sign the required record plat and accompanying documents such as the deed for the right-of-way dedication prepared by others within thirty days of receipt of the Town's written request. The dedication of the right-of-way shall be conveyed in fee simple, free and clear of any and all liens to the Town by a Deed of Dedication. The Owner's obligation to dedicate this land and remove any improvements constructed within the dedication area specified in proffer 2.2.9.1 shall terminate if the construction plans are not approved and bonded or funded by others within twenty-one years of the date of approval of TLZM-2013-0006.

### 2.2.4 South King Street Turn Lanes

2.2.4.1. The Owner shall construct one northbound right-turn lane at the intersection of South King Street and Davis Avenue. This

improvement shall be bonded and constructed concurrent with the improvements in proffer 2.2.1.

2.2.4.2. The Owner shall construct one westbound left-turn lane at the intersection of South King Street and Davis Avenue, creating dual left-turn lanes. The Owner also shall re-stripe the existing through left-turn to a through right-lane. This improvement shall be bonded and constructed concurrent with the improvement in proffer 2.2.1.

2.2.4.3 The Owner shall make any necessary alterations, if required by the Town or VDOT, to the existing traffic signal at this intersection as a result of the alterations to the intersection specified in this proffer 2.2.4. The Owner also shall install a pedestrian light on this traffic signal and install crosswalks where needed at this intersection if approved by VDOT or the Town. These improvements shall be provided concurrently with the improvements specified in proffers 2.2.4.1 and 2.2.4.2. The Owner shall provide a cash equivalent contribution to the Town for the improvements specified under proffer 2.2.4, in the event these improvements are constructed by others. The cash equivalent contribution shall be provided upon written request of the Town with the invoices of the construction costs provided to the Owner.

#### 2.2.5 South King Street Traffic Signal

The Owner shall prepare and submit a warrant study for a traffic signal at the intersection of South King Street and the eastbound interchange ramp of the Route 15 Bypass and shall contribute \$200,000 towards the installation of the signal prior to the issuance of the zoning permit for the 100<sup>th</sup> residential dwelling unit on the CD-RH zoned portion of the Property, or the issuance of zoning permits for 22,000 square feet of retail uses on the Property, or the issuance of a zoning permit for Building C-1. If the traffic signal is not warranted, the Owner shall contribute the \$200,000 to the Town to be used toward other transportation improvements in the Town.

#### 2.2.6 Cash Contribution for Off-site Transportation Improvements

The Owner shall provide a cash contribution totaling \$789,030 for off-site transportation improvements. This cash contribution shall be paid at the time of issuance of the occupancy permit for each residential unit in the amount of \$1,797 for each multi-family unit located in the CD-MUO district and \$2,097 for each single-family attached dwelling unit located

in the CD-RH district. The funds the Town receives from this cash contribution may be used for transportation improvements in the vicinity of the Crescent Parke property including but not limited to the following: i. Reconstruction of the bridge on Davis Court to access the Olde Izaak Walton Park property; ii. Construction of improvements to First Street off-site of the Crescent Parke property; iii. Revisions to Gateway Drive to restrict left-turn movements onto Harrison Street; or iv. Installation of a traffic signal at Gateway Drive and Sycolin Road. Use of these funds is at the discretion of the Town of Leesburg.

### **3. OPEN SPACE AND RECREATION**

#### **3.1 Internal Open Space and Recreation**

##### **3.1.1 Open Space Amenity Areas**

The Owner shall provide internal open space areas as shown on Sheet 24 of the CP and the amenities within these open space areas as shown on Sheets 25 through 29 of the CP. These areas include the following amenities: (i) the plaza located between buildings MU2 and MU3 including the details shown on Sheet 28 of the CP; (ii) the “Developer’s Option” amenity with details as shown on Sheet 27 of the CP and which shall be constructed prior to the approval of 133<sup>rd</sup> residential zoning permit for the Property; (iii) the linear park labeled #4 on Sheet 24 of the CP with the amenities as shown on Sheet 26 of the CP; (iv) the interim minimum eight-foot asphalt trail within the Dulles Greenway right-of-way reservation area as shown on Sheet 27 of the CP; and (v) the Tuscarora Greenway Trail located on the Property as a minimum ten-foot wide asphalt multi-purpose trail as shown on Sheet 24 of the CP and which shall be constructed prior to the issuance of the 245<sup>th</sup> residential occupancy permit.

##### **3.1.2 Pocket Parks**

The Owner shall construct the amenity areas identified as pocket parks #1, #2 and #3 on Sheet 24 of the CP with the amenities as shown on Sheet 25 of the CP prior to the approval of occupancy permit for the dwelling unit closest to that pocket park.

##### **3.1.2 Bicycle Facilities**

The Owner shall install a minimum of six bicycle parking racks to be interspersed throughout the Property to be located in the vicinity of each of the commercial buildings: C-1, C-2, MU-1, MU-2, MU-3 and MU-4.

### 3.1.3 Community Facility

The Owner shall provide a minimum of 2,000 square feet of the ground floor commercial space in Building MU-4 for use as community meeting space, party room, facility for classes or other uses by the POA or residents of Crescent Parke deemed suitable by the Property Owners' Association established pursuant to proffer 6. The use of this space by the POA may cease only upon the POA gaining control of the association and upon a vote of the majority of the residential property owners to terminate the use of the community meeting room.

### 3.2 Public Park Cash Contribution

The Owner shall contribute \$1,000 per residential unit, at the time of issuance of the occupancy permit for each residential unit, to the Town of Leesburg which may be used for capital improvements to Town of Leesburg recreation facilities operated by the Department of Parks and Recreation.

### 3.3 Olde Izaak Walton Park Property Dedication

The Owner has contracted to purchase the approximately 21 acre property owned by Failmezger Investments, which is currently leased by the Town of Leesburg for use as Olde Izaak Walton Park (Loudoun County PIN 232-37-3721, the "Park Property"). The Owner has agreed to pay Failmezger Investments a contract purchase price of approximately \$2,315,000 for approximately 18.65 acres of the property. The Owner shall dedicate the approximately 18.65 acre Park Property to the Town of Leesburg for public park purposes (i) after a deed of boundary line adjustment and plat to adjust an approximately 2.34 acre portion of the parcel that is being rezoned to the CD-RH district into Loudoun County PIN 232-28-3893 is approved by the Town of Leesburg and recorded within the land records of Loudoun County, and also, (ii) after the first site plan and record plat for the CD-RH zoned portion of Crescent Parke is approved by the Town and ready for construction. The deed of boundary line adjustment and plat shall be submitted to the Town no later than concurrent with the first site plan and record plat for the property rezoned to the CD-RH district.

The full amount of the purchase price of the Park Property shall be deemed as an in-kind contribution towards the cash contribution for capital facilities specified in proffer 8, and the cash contribution provided in proffer 8 deducts the \$2,315,000 purchase price from the total cash contribution. In order to assure continuous use of the Park Property as a public park during this period of transfer of ownership, the lease the Town of Leesburg currently holds on the Park Property shall continue with the transfer of the Park Property ownership to the Owner, including payments on the lease of the land and any property taxes, until such time as the dedication of the Park Property is recorded in the land records of Loudoun County, at which time the lease shall be terminated.

#### 4. **SITE DESIGN**

##### 4.2 Energy Saving Design

All dwellings on the Property shall be designed and constructed as ENERGY STAR 2.0 ® or Home Energy Rating System (HERS) qualified homes. With the submission of a zoning permit for each building, the Applicant shall provide certification that the construction documents have been reviewed by a qualified Home Energy Rater, and that the building meets ENERGY STAR 2.0 ® or HERS standards. Prior to the issuance of an occupancy permit, a "wet" ENERGY STAR 2.0 ® or HERS label must be verified at each dwelling unit's electrical panel and a copy of the Home Energy Rating report shall be provided by the Home Energy Rater. The Home Energy Rating report shall include the unit address, builder's name, Rater's name and date of verification.

##### 4.3 Dumpster Pad

The dumpsters use for the mixed-use buildings MU-1, MU-2, MU-3 and MU-4 shall be designed to compact the refuse and minimize odors emanating from the dumpster. The dumpster enclosures shall include a sign limiting the hours trash and recycling pick-up may occur.

##### 4.4 Filtrerra Devices

If Filterra devices are used to satisfy BMP requirements and conflict with proposed street tree locations, alternate spacing of street trees to accommodate the Filterra device shall be provided prior to any determination that the required street trees cannot be provided. Understory trees, subject to the approval of the Zoning Administrator, shall be installed as the vegetative material with Filterra devices

#### 5. **FIRE AND RESCUE SERVICES**

##### 5.1 Residential Uses

Upon issuance of the Zoning Permit for each residential unit on the Property, the Owner shall provide the Town with a one-time cash contribution of \$100.00 per residential unit for distribution to the fire and rescue companies providing primary service to the Property. This contribution shall be divided equally between those fire and rescue companies that primarily serve the Property.

##### 5.2 Non-residential Uses

Upon issuance of each Zoning Permit for each non-residential use, the Owner shall provide the Town with a one-time cash contribution of TEN CENTS (\$.10) per gross square foot of commercial use on the Property for distribution to the fire

and rescue companies providing primary service to the Property. This contribution shall be divided equally between the primary servicing fire and rescue companies.

5.3 Cessation of Contribution

The obligation to provide this contribution shall cease at such time as the provision of fire and rescue services is no longer provided by predominantly volunteer organizations or at such time as either the Town of Leesburg or the County of Loudoun levies a tax payment on the Property for these services.

5.4 Emergency Vehicle Access during Construction

The Owner shall provide, no later than the framing stage of construction, all-weather, gravel-compacted access for emergency vehicles, acceptable to the Fire Marshal, to all portions of the Property under construction.

**6. PROPERTY OWNERS ASSOCIATION**

6.1 Town Review

Documents to establish a Property Owners' Association (POA) for the Property, in which all property owners (both residential and non-residential) will be required to be a member, will be submitted to the Town for review and approval as to form and consistency with these proffers. The POA documents shall state that no provisions shall be amended by the POA which address any matters that are proffered or are otherwise required by this rezoning approval without prior approval by the Town.

6.2 Timing

The POA will be established prior to approval of the first Site Plan for the Property.

6.3 Duties

The POA shall have, among its duties, snow removal, trash removal and the maintenance of all commonly owned facilities on the Property including the underground stormwater management facility, private roads and private access easements, private parking areas, private storm drainage, private common areas, including the POA-owned open space, trails, greens, recreational facilities, bicycle parking facilities and play areas. The POA also shall be responsible for enforcing the covenants on the property, including the covenant that garage space is not permitted to be converted to habitable space.

6.4 Garage Conversions

The POA documents shall include a provision that will prohibit any garage space from being converted to any type of habitable and/or living space or be used principally for other than the storage of vehicles.

6.5 Private Parking Courts

The POA documents shall include a disclosure that the private parking courts cannot be accepted as public roads by the Town of Leesburg and will be the responsibility of the POA.

6.6 Private Yard Maintenance

The POA documents shall include a provision making the POA responsible for maintaining the yards and landscaping of all of the lots within the Property, including the individually owned lots for the single family attached dwelling units. The POA shall monitor the building-mounted light fixtures on the rear of the dwelling units, which provide safety lighting for residential common parking court travel ways (alley ways), to ensure these light fixtures remain lit during nighttime hours and to ensure light bulbs are replaced in a timely fashion.

6.7 Street Tree Maintenance

The POA documents shall include a provision making the POA responsible for maintaining the street trees within the public street right-of-way.

**7. NOISE ATTENUATION**

The Owner shall install windows and doors with a minimum 32 Sound Transmission Class (“STC”) rating on the south, east and west sides of the following buildings as shown on Sheet 2 of the CP: the four units of building A closest to the Route 15 Bypass, the three units of building D closest to the Route 15 Bypass, K, P, Q, U, the two two-over-two buildings of building V, X, Y, Z and AA. A Commonwealth of Virginia licensed acoustical engineer shall submit a report with the engineer’s seal prior to issuance of the occupancy permit for any of the units in the buildings as listed in this proffer certifying the following information: the STC rating of the installed windows and the interior noise level. Furthermore, the Owner shall include a disclosure statement to the buyers of the units in the buildings as listed in this proffer, which indicates that the home is located with the Noise Abatement Corridor Overlay District (NAC). The Owner also shall provide copies of the report provided to the Town of Leesburg pursuant to this proffer.

**8. CAPITAL FACILITIES CONTRIBUTION**

The Owner shall provide, upon issuance of each occupancy permit for a dwelling unit, a one-time cash contribution in the amount of \$4,433 per each multi-family dwelling unit and \$8,848 for each single-family-attached dwelling unit, which may be used for schools or capital projects in the Town of Leesburg. These amounts have been determined after deducting the \$2,315,000 in kind contribution for the 18.65 acre portion of the Park Property dedication provided in proffer 3.3 from the typical per unit amount requested by the Town of Leesburg as a capital facility contribution.

**9. CONSTRUCTION TRAFFIC**

The Owner shall prohibit construction traffic from using Davis Court to access the Property. Instead, construction traffic shall use Davis Avenue Extension for access or a temporary construction access drive in the Davis Avenue Extension right-of-way until the permanent roadway is constructed.

**10. WAIVERS AND MODIFICATIONS**

Approval of this application #TLZM-2013-0006 does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual, except as expressly approved in application #TLZM-2013-00036 and all final plats, development plans, and construction plans shall remain subject to these applicable Town regulations.

**11. ESCALATION CLAUSE**

All monetary contribution proffers shall escalate on a yearly basis beginning one year from the date of approval of the first site plan containing residential buildings and/or mixed use buildings or the first record plat containing such buildings, whichever occurs first in time, and which shall change effective each January 1 thereafter, based on the Consumer Price Index (CPI) for the Washington SMSA.

**12. BINDING EFFECT**

The undersigned owners of record of the Property do hereby voluntarily proffer the conditions stated above, which conditions shall be binding on the Owner, its successors and assigns shall have the effect specified in Section 15.2-2303, et seq. of the Code of Virginia (1950), as amended.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals this day of \_\_\_\_\_, 2015.

MREC LD Leesburg Crossing, LLC  
a Virginia limited Liability Company

By: \_\_\_\_\_

Name: Leonard S. Mitchel  
Its: Managing Partner

State of \_\_\_\_\_  
City/County of \_\_\_\_\_

to-wit:

I, Notary Public in and for the state and city/county aforesaid, do hereby certify that \_\_\_\_\_ whose name is signed to the foregoing instrument, personally appeared before me and has this day acknowledged that he executed the foregoing proffers with the full power and authority to do so.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
Date

Witness the following signatures and seals this day of \_\_\_\_\_, 2015.

Edward R. Mooney, Jr., Trustee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

State of \_\_\_\_\_

City/County of \_\_\_\_\_

to-wit:

I, Notary Public in and for the state and city/county aforesaid, do hereby certify that \_\_\_\_\_, whose name is signed to the foregoing instrument, personally appeared before me and has this day acknowledged that he executed the foregoing proffers with the full power and authority to do so.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
Date

Witness the following signatures and seals this day of \_\_\_\_\_, 2015.

Stephen J. Panouras, Trustee

By: \_\_\_\_\_

Name \_\_\_\_\_

Its: \_\_\_\_\_

State of \_\_\_\_\_

City/County of \_\_\_\_\_

to-wit:

I, Notary Public in and for the state and city/county aforesaid, do hereby certify that \_\_\_\_\_, whose name is signed to the foregoing instrument, personally appeared before me and has this day acknowledged that he executed the foregoing proffers with the full power and authority to do so.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
Date

Witness the following signatures and seals this day of \_\_\_\_\_, 2015.

Failmezger Investments, LLC  
A Virginia Limited Liability Corporation

By: \_\_\_\_\_

Name: George R. Failmezger  
Its: Managing Member

State of \_\_\_\_\_  
City/County of \_\_\_\_\_

to-wit:

I, Notary Public in and for the state and city/county aforesaid, do hereby certify that \_\_\_\_\_, whose name is signed to the foregoing instrument, personally appeared before me and has this day acknowledged that he executed the foregoing proffers with the full power and authority to do so.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
Date

# EXHIBIT A

Crescent Parke Zoning Map Amendment

Prepared by Bowman Consulting

Dated December 23, 2013 and Revised through August 28, 2015