Date of Council Meeting: June 13, 2016

TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION

Subject: Rezoning Application TLZM-2013-0006, Crescent Parke

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

Council Action Requested: No action is required by Council at this time.

Staff Recommendation: No new information has been provided by the applicant. In preparation for Council's action on this application, staff recommends that the work session be used to facilitate detailed discussion of the information contained in this memo and issues addressed in the Council's May 24, 2016 public hearing memo.

Commission Recommendation: The Planning Commission did not recommend approval of this application.

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 understood.

Work Plan Impact: The review of applications is part of the core function of the Planning and Zoning Department's work plan.

Executive Summary: This memo is provided to follow up the discussion held at the public hearing on May 24, 2016 at which specific questions were asked of staff and the applicant. This memo serves to provide answers to those questions and provide clarifications on issues. Additionally, individual Council members have posed questions to staff since the public hearing and answers to those questions are included in this memo. The questions and answers are grouped according to topic areas. The memo concludes with a reference to the May 24, 2016 public hearing staff report which notes seven (7) areas of policy discussion that Council may also wish to discuss at the work session.

To start discussion at the work session, Staff will provide a brief overview of information covered in the memo. Staff will defer to Council regarding which topics should be the focus of discussion at the work session and staff will help facilitate discussion of those topics

Background: The following responses and information are provided to Council for consideration of the Crescent Parke application.

Land Use

1. *What is the approved Crescent Place density compared to the proposed Crescent Parke density?*

   Crescent Place was approved with 224 dwelling units (town houses, two-over-twos, and multifamily) and 32,000 square feet of non-residential uses. This translates into a residential density of 19 dwelling units per acre, and a commercial FAR of 0.04. The property is 11.77 acres or 509,652 square feet.

   Crescent Parke proposes 380 dwelling units (town houses, two-over-twos, and multifamily) and 161,725 square feet of non-residential uses. This results in an overall residential density of 7.1 dwelling units per acre, and an overall commercial FAR of 0.07. The property is 53.3 acres or 2,323,328 square feet.

2. *The use of Building C-1 was brought up as a discussion point*

   Staff does not have any additional information. The issue is relevant due to the trend associated with recent rezoning amendments. Initial mixed-use rezoning approvals include large single-use buildings dependent on structured parking. After the majority of the residential component has been constructed the application is then amended to significantly reduce the non-residential density. In some instances the proposed non-residential density is nearly cut in half and the opportunity for employment uses converted to predominately retail uses or residential uses. Staff questions the feasibility of Building C-1 as proposed.

Transportation

1. *What are the costs of needed off-site transportation improvements generated by this proposal?*

   The Crescent District permits commercial development by-right. The Appendix B Off-Site Transportation contribution was calculated using a formula applicable to the residential uses which are not permitted by-right. If the commercial uses were included in the calculation of the Appendix B contribution, the amount would be approximately $2.3 million. Applicant has proffered $768,000 for the Appendix B Off-site Transportation contribution (see Proffer #2.2.5).

   The applicant's site generated vehicle trips effect the following intersections or potential road connections:

   a. Greenway Extension: The applicant is providing a reservation for the future Greenway Extension. The reservation of right-of-way is proffered at no cost to

the Town, but only if the design and funding for the road occurs prior to the termination of the 21 year reservation. No money is specifically earmarked for construction of this extension.

b. South King Street/Route 7 Bypass: This intersection experiences inadequate turning movements today. The addition of the Crescent Parke vehicle trips will further degrade the left turn from South King Street to go east on the Route 7 Bypass. The applicant's forecasted site generated trips equate to 43% of the traffic volume using this left turn movement. The applicant had proffered $200,000 as a pro-rata contribution for this specific future improvement in earlier proffers. This contribution was in addition to the $768,000 for the Appendix B Off-site Transportation contribution. This specific contribution was removed during the Planning Commission's consideration of the project. The improvements to the intersection will require new traffic signalization, retiming of traffic signals and extension of the left turn lane. Staff estimates that the future improvements would be significantly more than $200,000. Preliminary engineering for the turning lane is necessary to establish a realistic estimate.

   Staff recommends that the proffers be revised to include a pro-rata contribution to mitigate the site generated trips from Crescent Parke through this intersection.

c. First Street: The existing public right-of way for First Street is directly adjacent to the property. A small drainage ditch separates the Crescent Parke property from the adjacent properties to the north. The applicant is not required to make the off-site connection and has elected to terminate the portion of First Street on their property with a cul-de-sac. One of the goals of the Crescent District is to provide a grid of streets providing more ingress/egress opportunities for drivers and greater dispersal of traffic. The cul-de-sac does not achieve this goal. By-right development of the adjacent properties to the north will result in the same condition: a cul-de-sac which will prevent the future connection of First Street through to the Crescent Parke property.

d. Gateway Drive/Sycolin Road/Plaza Street intersection:

   i. Left Turn Lane: The applicant's traffic study indicates that the left turn from Gateway Drive to go north on Plaza Street does not currently meet an adequate level of service. However, the applicant's site generated trips make the condition proportionally worse. The Design and Construction Standard's Manual (DCSM) requires that traffic studies describe mitigation measures to correct the deficiency to a minimum level of service 'C' at build-out and 'D' at build-out plus 20

years. The applicant's traffic study does not offer a mitigation measure to correct the deficient level of service for the left turning movement.

ii. Signal Light: Staff notes that technical requirements called 'warrants' are used to judge whether or not a traffic signal should be installed. Although some warrants are met, there is not enough to justify the installation of a traffic signal at the intersection based on applicant's additional trips. Other consequences resulting from the installation of a traffic signal include:

1. Slower traffic on Plaza Street and Sycolin Road, both are designated as a Minor Arterial road.
2. Potential increase in traffic accidents. There have only been five in the last three years at this intersection.
3. Longer wait times to travel through this intersection.

If Council were to direct the installation of a traffic signal, the cost is estimated at approximately $300,000.

2. *What is required to remove the Greenway Extension from the Town Plan?*

Town Council would have to initiate a Town Plan Amendment in order to remove the Greenway Extension from the Town Plan's Roadway Network Policy Map. As part of the amendment a traffic analysis prepared by an outside consultant is required with review by VDOT. The cost of the analysis is estimated at $75,000 or more. The process of removing the roadway, including analysis and public hearings by both Planning and Council, is estimated at 12 months. Attachment 1 provides a more detailed explanation of the process.

3. *Is the applicant responsible for a traffic signal at the Gateway Drive and Sycolin/Plaza Streets intersection?*

The DCSM requires a traffic study to analyze a development's impact on the existing road network and describe the potential mitigation measures if the studied intersections fall below acceptable levels of service. A traffic study does not obligate an application to any improvements. There are two milestone events that measure the impact of a development's traffic. The first is the completion of a project. It is referred to as "build-out". The second milestone is "build-out plus 20", or 20 years after the project is constructed. The intersections that an applicant must study are determined using a 15% rule. If the development's traffic is 15% or more of an intersection's traffic volume the intersection must be studied.

The DCSM establishes a minimum level of service, or LOS. A level of service can be assigned to the intersection as a whole or by specific turning movement. Intersections are graded by letter based on their LOS. 'A' through 'B' is good. 'C' through 'D' is acceptable. 'F' or lower is failing. At build-out, the minimum LOS must be 'C' or better. At build-out plus 20, the minimum LOS must be 'D' or better.

The applicant has not provided sufficient mitigation measures to achieve a service level of 'C" or "D" at the Gateway Drive and Sycolin Road/Plaza Street intersection.

4. *Can Council be supplied with the trip counts for the intersection of Catoctin Circle and Harrison Street, Harrison Street and Gateway Drive, and Gateway Drive and Sycolin/Plaza Streets?*

   Staff has requested that the applicant's traffic consultant provide the requested information from their analysis.

Stormwater Management

1. *Is the applicant providing 25-year or 100-year stormwater management control?*

   The applicant is not providing 100-year control at this time. Further, the applicant's proposal does not meet applicable Design and Construction Manual Standards or the Town's overall stormwater management master plan. The applicant is proffering to provide the minimum stormwater management required by the Commonwealth of Virginia, and conduct an analysis of the Tuscarora watershed. This does not meet the Town's adopted stormwater management requirements. Note that the Town has the authority to adopt standards that exceed the State minimum requirements. The issue is whether 100-year control is beneficial due to the convergence of the watershed's drainage passing the property and the timing of the drainage from the property entering Tuscarora creek at the same time. The analysis would be reviewed by an independent third party.

School Proffers

1. *Can money proffered for school capital facilities be used for other types of capital facilities within the Town?*

   The Crescent Parke capital facilities proffer is worded as follows:

   The Owner shall provide, upon issuance of each occupancy permit for a dwelling unit, a one-time cash contribution I the amount of $5,100 per each multi-family dwelling unit, $6,652 per each two –over-two dwelling unit, and $11,974 for each

single-family-attached dwelling unit, which shall be used for capital projects for public schools serving the Town of Leesburg.

The per unit amounts and intent to direct this money toward public schools serving Leesburg residents is consistent with Council amended Resolution adopted Resolutions 2015-0105 and 2005-0111.

Staff notes that once proffers are collected the *"The Town Manager will receive assurance from Loudoun County prior to dispensation of funds collected via this resolution that these school funds will be used for schools in Leesburg."(Resolution 2015-105.)* To administer this directive, protocol is in place to hold money collected for schools. When Loudoun County Public Schools makes a request for the monies the Zoning Administrator determines that the improvement, for which money is being requested, is indeed a school facility that will serve Leesburg students. Conveyance of the school capital facilities money is made on a reimbursement basis. Loudoun County must provide proof that the improvement has been made and that it is to Leesburg schools. Once all assurances are provided, then the money is appropriated by Council for the school improvements.

Resolutions 2015-105 and 2005-111 are proffer guidelines specifically for mitigation of impacts imposed by new development on schools. If Council chooses to not collect school proffer money for the County per these resolutions, then staff would advise that the proffer guidelines be repealed or on a case-specific basis, provide a reasonable rationale for not collecting the school proffer money.

If Council wishes to discuss mitigation of facilities other than schools, such as police or safety stations, Council may do so with the applicant. Staff notes that the Town does not have proffer guidelines that would help to determine a reasonable proffer contribution for such facilities. Note that Council accepted a proffer with Crescent Place whereby the proffer language did not identify capital facility contributions specifically for schools. The Crescent Place proffers states that the cash contribution can "… be used for capital projects in the Town of Leesburg." In this instance, the Crescent Place application was approved without a specific cash contribution for school capital facilities. However, it does not prohibit the use of those monies for school capital facility improvements either. The applicant gave the Council flexibility but it is worth noting that the sum collected and the justification put forth by the Town for the cash contribution request was based on a need for school capital facilities and current Virginia Code proffer statutes require a reasonable nexus between the contribution and what it is used for. Prior to releasing school/capital facilities proffer money collected on the units in Crescent Place, administrative protocol dictates that the money be appropriated by Council. If Council does not wish to release the money to the County for schools, but elects to direct the Crescent Place proffer money to other capital facilities in Leesburg, it may do so through the

appropriation process or provide direction to staff at any time prior to appropriating the money.

Olde Izaak Walton Park

1. *What is the value of the Olde Izaak Walton Park property to the Town of Leesburg after making lease payments?*

   The applicant has negotiated a contract purchase price of approximately $2.3 million dollars with the property owner. The lease agreement does not include an option whereby the lease payments would discount an appraised or negotiated purchase price. To date, staff has not been directed to engage the property owner for a potential purchase agreement. The future value of the park property will depend on future use and improvements made to the property.

2. *What is the Town's general liability while using the Olde Izaak Walton Park Property?*

   Paragraph 8 of the lease agreement requires the Lessee (the Town) to "*extend liability insurance on the property and its use as a public park to protect the Lessor from any liability or claim for injuries or property damage sustained on the property as a result of the use of the Property by Lessee and subject to the terms of the lease*".

3. *Who is responsible for maintenance of the Olde Izaak Walton Park property?*

   Davis Court Bridge: The existing Davis Court Bridge serves as the only access point to the park property and also provides access to an undeveloped parcel to the west. The bridge lies in the old Evergreen Mill Road right-of-way. Because of this, the Town is responsible for the maintenance of this existing bridge *regardless of who owns the park property*. The Capital Improvements Program (CIP) includes a bridge maintenance project in FY 2019 at a current estimated cost of $606,000.

   a. The applicant for Crescent Parke has included a cash contribution for off-site transportation improvements. Council can elect to designate that cash contribution, or portions thereof, for the replacement of the Davis Court Bridge.

   b. Maintenance per the Lease: Staff notes that the Crescent Parke application does not *require* any improvements on the Olde Izaak Walton Park property. Although staff has identified deficiencies in active recreation with the Crescent Parke application, the rezoning application is not dependent on the park property to satisfy any zoning related requirements.

A final decision to continue the use of the property beyond the current lease agreement has not been made by Council. *Per the terms of the lease agreement, maintenance of the property is the responsibility of the Town*. Only minor repairs and maintenance have been to the property to date, and will continue through the term of the lease.

Continued use of the property assumes the current lease remains in place. The current use of the property would not change: the dog park, instructional programs, and the park's passive recreation amenities would continue as is. Access to the park would continue from Davis Court. Town Council will be required to notify the property owner of Council's consent to the sale of the 2.3 acre portion of the park property which modifies the subject area of the lease. The lease agreement requires the consent of both parties to any lease changes.

c. Maintenance if Town is Owner: The applicant is proposing to dedicate the park as currently developed. This property and its improvements are not currently included in any Town maintenance plan or Capital Improvements Program (except for the Davis Court Bridge mentioned above). Acceptance of a developed park may require future maintenance. Identification of potential improvements will assist in accessing future capital needs and budgeting. Potential improvements to the property include:

- Renovations to the existing building
- Repair to the existing travelway from Davis Court
- Replacement of the existing pond embankment and dredging
- Construction of an accessible path from Davis Avenue, or an adjacent property

Events that may trigger the need for the above mentioned improvements are as follows:

- Building Rehabilitation: Continued monitoring of the foundation is required. The last assessment was made in 2010. Upon a determination that the foundation is not structurally sound, the building would need to be closed and the repair to the foundation made. Note also that the building has substandard accessible features, entrance and bathrooms. The Americans with Disabilities Act requires that the budget include funds to make the building ADA accessible.

- Travelway: There are no imminent triggers for the replacement of the existing travelway. Just like other streets in the Town, normal wear and tear will degrade the surface and require maintenance and at some point in time the

travelway will need to be replaced. Additional appropriations would be needed to maintain the travelway.

- Pond Embankment: There are no imminent triggers for the rehabilitation of the pond embankment. The pond does not have an emergency spillway. Large rainfall events may pose potential damage to the embankment without the spillway and could negatively affect the Town's Tuscarora Creek stream restoration project. If the pond were to be dredged, the pressure from the increased volume could cause the embankment to fail. Staff recommends that an assessment of the embankment's stability be performed by a geotechnical engineer. Additional appropriations would be needed for the stability assessment, including potential replacement of the embankment.

- Pond Conditions: Without increasing the depth of the pond and without the addition of aeration equipment, the algal problem will continue. This is an aesthetic condition and therefore not a public safety risk. There are no imminent triggers for this future improvement. Additional appropriations would be needed to dredge the pond and add aeration equipment.

- Filling the Pond: One option that has been discussed is the possibility of filling in the pond. There are no imminent triggers that require this improvement. However, due to the extent of the potential land disturbance, a site plan would be required. The site plan cannot be waived. The site plan would trigger frontage improvements to Davis Court. The Subdivision and Land Development Regulations require curb, gutter, sidewalk and street trees when site plans are required. A standard two-way entrance would also be required.

  The review of the site plan would include various agencies, one of which would be the Fire Marshall's office. The Fire Marshall would have to support the use of a one-lane bridge. Otherwise, the bridge would have to be increased to two lanes.

  The Subdivision and Land Development Regulations does allow the Planning Commission to grant variations. The variation could waive the frontage requirement, but would still require the Fire Marshall's approval of a one-lane bridge. The provision of an alternate emergency access may justify the one-lane bridge and meet staff's and Fire Marshall's support.

  If the pond is filled and used for active recreation, the increased use would justify a two-lane bridge and alternate emergency access. Additional appropriations for a two-lane bridge or construction of an alternate emergency access, including acquisition of easements, would be needed.

4. *When would Town lease payments cease if the park was dedicated to the Town?*

   The applicant is proffering to dedicate the Park Property within two years from the date of approval of the application. Council has appropriated funds which will cover year one, FY 2017. Council would need to appropriate approximately $150,000 in lease payments for year two, FY 2018. Staff has suggested that the applicant consider a cash proffer of $150,000 to cover the Town's lease payment during year two of their proposed dedication process.

Other Remaining Issues

The May 24, 2016 staff report identified a list of policy issues recommended for Town Council discussion. There are eight (8) issues listed on pages 6-12 in the report and they include:

- Lack of proffered building elevations
- Commercial viability of Building C-1
- Use of a suburban development approach in the Crescent Design District
- Phasing emphasis on residential development south of Tuscarora Creek which does not include mixed use
- development north of the creek
- Greenway Extension buffering
- Inadequate transportation proffers
- Stormwater management including the dependence on underground detention

Attachments:
(1) Steps for Amending the Town Plan Network Road Policy Map

Process for Amending the Town Plan Network Road Policy Map
June 13, 2016

1. **Initiation**: Amendments to comprehensive planning documents may be initiated by applicants, but are typically initiated by Council. Applicant initiated Plan amendments are typically part of a land development application package. Council initiated amendments are typically done as part of regular updates the the Town Plan or as part of the Town Plan's monitoring program. The initiation is done via a resolution. Due to the costs associated with the required traffic analysis, a funding source should be identified with the initiation as well.

2. **Defined Scope of Work**: Town of Leesburg staff would need to clearly define the purpose of the amendment in order to seek qualified transportation consultant proposals for the preparation of a traffic impact analysis. Part of the scope of work would also include development of potential scenarios. Comprehensive changes to the Town's transportation network cannot be completed "in-house" due to the extent of the required analysis. The process of defining the project and securing qualified proposals can take 30+ days.

3. **Scoping Meeting**: The Code of Virginia requires that amendments to comprehensive planning documents are coordinated with VDOT. Town staff, the Town's consultant, and VDOT staff are required to meet and "scope" the required analysis. This meeting establishes the required data and technical analysis to be included in the study. The consultant may need to revise the proposal depending on the data or analysis or refinement of potential scenarios that may be required by VDOT. This process typically takes two to three weeks.

4. **Data Gathering**: During this process the data needed to complete the analysis/modeling is collected. Data may include vehicle counts, review of recently submitted traffic studies, and vehicle crash history. Traffic counts are typically done during the months of September and May when schools are in session. This process may take as long as two or more months to complete.

5. **Analysis/Modeling**: The calculations, modeling, and analysis occur during this phase. The consultant will also test the scenarios that were agreed upon with the scoping of the study. A preliminary report is prepared based on the analysis. Review of the conclusions are examined and refined if necessary. The conclusions detail the potential scenarios included in the analysis. The conclusions describe the potential positive and negative impacts and possible mitigation strategies. This process can take up to three or more months depending on the complexity of the study.

6. **Submission to VDOT**: The consultant's final report is prepared and submitted to VDOT. VDOT has 45 days to complete its review. Technical comments may be generated causing revisions to the analysis. Otherwise, VDOT's advisory comments are issued and become part of the public record for Council's consideration.

7. **Planning Commission Review**: Ideally, the Planning Commission's public hearing would not be scheduled until such time as the final VDOT comments are issued. The Planning Commission is required to review the proposed amendments and accompanying analysis and provide a recommendation to the Council.

8. **Town Council Action**: The Council's public hearing can be scheduled no sooner than 100 days following the issuance of VDOT's advisory comments and receipt of the Planning Commission's recommendation. Town Council's actions are recorded via a resolution and transmitted to VDOT. The Town Plan is then revised to reflect the decision of Council.

PRESENTED: May 24, 2016

ORDINANCE NO._____ ADOPTED: _____

AN ORDINANCE: APPROVING TLZM 2013-0006, CRESCENT PARKE, REZONING THE PROPERTY FROM CRESCENT DISTRICT–COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–OPEN SPACE TO CRESCENT DISTRICT – COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–RESIDENTIAL HIGH DENSITY.

WHEREAS, the rezoning application with concept plan and proffers, TLZM 2013-0006 Crescent Parke, has been filed by Lansdowne Development Group, LLC, to rezone the property from Crescent District – Commercial (CD-C), Crescent District-Mixed Use Option (CD-MUO) and Crescent District – Open Space (CD-OS) to Crescent District – Commercial, Crescent District-Mixed Use Option and Crescent District – Residential High Density (CD-RH); and

WHEREAS, approval of the rezoning application would permit 45,100 square feet of permitted uses in the CD-C district; and 114,625 square feet of permitted uses, a 2,000 square foot community room and 96 multifamily dwelling units in the CD-MOU districts; and a total of 284 town houses and/or stacked town houses in the CD-RH district; and

WHEREAS, the subject property of rezoning application TLZM 2013-0006 Crescent Parke, is identified by the Loudoun County Parcel Identification Numbers (PIN) 232-37-7166, 232-37-5627 and 232-38-9290 and 232-28-3893 and 232-37-3721; and

WHEREAS, duly advertised Planning Commission public hearings were held on June 4, 2015 and January 21, 2016; and

WHEREAS, at the August 20, 2015 and April 21, 2016 meetings, the Planning Commission recommended denial of this application to the Town Council; and

AN ORDINANCE: APPROVING TLZM 2013-0006, CRESCENT PARKE, REZONING THE PROPERTY FROM CRESCENT DISTRICT–COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–OPEN SPACE TO CRESCENT DISTRICT – COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–RESIDENTIAL HIGH DENSITY.

WHEREAS, the Town Council held duly advertised public hearing on this application on October 13, 2015 and May 24, 2016; and

WHEREAS, staff recommended approval; and

WHEREAS, the Council has concluded that approval of the application would be in the public interest and in accordance with sound zoning and planning principles.

The Council in the Town of Leesburg in Virginia hereby ORDAINS:

SECTION I. TLZM 2013-0006, Crescent Parke, is hereby approved, subject to the proffers last dated May 13, 2016; and

SECTION II. The property shall be developed in substantial conformance with the concept plan last dated April 29, 2016; and

SECTION III. The modifications listed in the May 24, 2016 staff report are hereby granted; and

SECTION V. All prior ordinances in conflict herewith are hereby repealed.

SECTION VI. Severability: If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of this ordinance; and

SECTION VII. This ordinance shall be in effect upon its passage.

AN ORDINANCE: APPROVING TLZM 2013-0006, CRESCENT PARKE, REZONING THE PROPERTY FROM CRESCENT DISTRICT–COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–OPEN SPACE TO CRESCENT DISTRICT – COMMERCIAL, CRESCENT DISTRICT-MIXED USE OPTION AND CRESCENT DISTRICT–RESIDENTIAL HIGH DENSITY.

PASSED this ___ day of _____, 2016.

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David S. Butler, Mayor
Town of Leesburg

ATTEST:

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Clerk of Council