



Date of Council Meeting: July 11, 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: Consider the additional information as provided in this memo.

Staff Recommendation: Although minor proffer and concept plan revisions have been made, there are still unresolved issues with the application. Staff recommends the application be revised to address unresolved issues identified in this report.

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 in response to continued public input and unresolved issues with the proposed application. The following information is suggested as an outline for discussion of the application at the work session.

A. Concept Plan Changes: The June 28, 2016 public hearing was continued to permit additional changes to the concept plan and proffer statement. On July 1, 2016 the applicant submitted minor revisions to the proffers and concept plan. The revisions include:

- 1. Elimination of the alternative layout:** The layout of commercial buildings C-2 through C-4, located south of Davis Avenue, included an alternative layout for additional surface parking, removing the tuck-under parking under the proposed buildings. This layout did not comply with the Crescent District's building frontage requirements, so its removal from the concept plan eliminates any potential zoning conflicts.

Recommendation: No further discussion of this issue is required.

2. **Building Elevations:** The application does not include building elevations for an alternate Building C-1. Building C-1 is proposed as a four-story commercial building of up to 88,000 square feet. The applicant introduced a last minute change to Building C-1 at the Planning Commission meeting, whereupon Building C-1 could be less than four stories. The Crescent District requires submission of conceptual building elevations that are used to illustrate compliance with required architectural standards. The applicant has provided elevations for the four-story building, but has not provided conceptual elevations for buildings less than four-stories. Staff highlighted this deficiency to the applicant prior to the Council's May 24, 2016 meeting. The applicant has not provided the required conceptual building elevation as required by the Zoning Ordinance requirement. To remedy the conflict, the applicant must provide the required building elevation or Council must grant a waiver of the required application submission requirements.

The Patriot Self-Storage building has been Council's only experience with the Crescent District's architectural requirements. The Patriot Self-Storage applicant submitted numerous architectural modification requests, some of which were not supported by staff. Council's granting of a submission modification for building elevations in the Crescent District will set a precedent. Staff is unaware of any limiting or unique conditions with the Crescent Parke application that would prevent other applicants in the Crescent District from requesting the same waiver. Without conceptual elevations, staff cannot advise Council regarding compliance with Crescent District architectural requirements.

Recommendation: Staff recommends that the application be revised to provide the required building elevations for a three or two story building, or revise the proffer statement and notes on the concept plan to require Building C-1 as a four-story building as depicted on the conceptual building elevations.

B. Proffer Changes: The applicant has provided a revised Proffer Statement. Substantial changes to the Proffer Statement include:

1. **Proffer 1.2.2, Building Type:** This proffer affects the residential unit types for Buildings MU-1 through MU-4. Prior to the change Buildings MU-1 through MU-4 the residential unit type was multi-family. The proffer now permits a "stacked townhouse" configuration over required ground floor non-residential uses. This would likely result in a decreased unit count, but a decrease in density in the area intended for mixed-use. This change represents the elimination of an urban dwelling-unit style intended in the Crescent District. This also represents a decrease in density contrary to the Crescent District, reinforcing the suburban nature of this application.

Recommendation: This revision was a unilateral change made by the applicant not in response to staff comments. Staff does not support this proffer change and recommends its removal from the Proffer Statement.

2. Olde Izaak Walton Park: Proffer 3.3 has been changed to require dedication of the Park Property no later than two years after approval of the rezoning application. In the event the park dedication is not accepted by the Town, the proffer also provides a per unit contribution for park and recreation facilities within the Town of Leesburg. This change was mutually agreed upon by staff and the applicant.

The Olde Izaak Walton Park proffer was also revised to include additional future action by Council, if the application is approved. The revised proffer now requires a resolution by Council to request dedication of the Park Property from the owner by November 30, 2016. Acceptance of the proffers, if the application is approved, is sufficient notification to the applicant to act in accordance with the requirement to dedicate the property within the two year timeframe. .

Additional language inserted into the revised proffers acknowledges the need to reference termination of the lease. However, staff does not agree with the revised language for two reasons:

- The referenced date is incorrect, and
- The proffer language eliminates the rights established under the current lease.

Per the terms of the current lease agreement, “notice shall be given to the Lessor at least sixty days prior to the beginning of the fiscal year involved.” Appropriations for FY 2017 have already occurred and the Town is obligated for FY 2017. The next applicable date would be sixty days prior to July 1, 2017.

If executed as written in the current draft Proffer Statement, Proffer 3.3 would eliminate the Town’s protected use of the Property until such time as the property is dedicated, potentially July of 2018.

Recommendation: Staff recommends that the proffer language should be revised to a more simplified format as previously agreed upon by staff and the applicant.

C. Traffic Impact Analysis: The traffic generated by this development and its impact on the road network has been identified as a major concern. Staff provides the following information to assist in the evaluation of the application.

1. Trip Generation: The traffic study was prepared based on the following uses and maximum densities.

- 461 residential dwelling units
- 177,000 square feet of non-residential uses

Using the Institute of Traffic Engineer's (ITE) trip generation rates, which are coded by use, the trips generated by this development based on the numbers above is as follows:

- 2,844 residential Average Daily Trips (ADTs)
- 6,975 non-residential ADTs

2. Roadway classification: The road network is a hierarchy of roads and streets that facilitate vehicular circulation in, around and through the Town of Leesburg. The ranking of streets are based on the capacity for Average Daily Trips as defined in the DCSM. See the table below.

- | | |
|----------------------|--------------------------------|
| • Local Streets | up to 1,000 ADTs |
| • Local Collector | 1,001 to 2,000 ADTs |
| • Through Collector | greater than 2,001 ADTs |
| • Minor Arterial | As designated in the Town Plan |
| • Principal Arterial | As designated in the Town Plan |



Figure 1, Town Plan Transportation Policy Map

traffic impact analysis was not completed for this study. The analysis was an “order-of-magnitude” comparison for the proposed removal of the Greenway Extension. The model used for previous analyses included the planned Greenway Extension. Essentially, the analysis redistributed historical vehicle trips on the existing network, *excluding* the Greenway Extension from the model. Key technical findings from VDOT’s review included the following:

- Further analysis including an update to existing conditions (existing vehicle trips and updated background development) and recalibration of the model was necessary.
- Construction of the Greenway Extension would represent a 15% reduction of vehicle trips on the Bypass.
- A 60% increase in traffic on South King Street could be expected if the Extension was *not* constructed.
- 25% of the Greenway traffic would use the Extension rather than the Bypass.

The practical findings from VDOT’s comments concluded that:

- The removal of the Extension would worsen the ability to adequately “weave” the turning movements from the Greenway exit ramp to continue west and the South King Street exit from the Bypass to travel north.
- Removal of the Extension significantly increases projected travel volumes on South King Street affecting the capacity of South King Street.

VDOT concluded that removal of the Extension was too severe of an impact affecting local roadways and the National Highway System (7/15 Bypass) and that the Extension should not be removed.

The adoption of the Crescent District Amendments to the Town Plan was completed in January of 2013. The Town Plan’s comprehensive Roadway Network Policy Map retained the Greenway Extension. See Figure 1. The Crescent District update did provide new maps specific to the Crescent District Master Plan area, including the Crescent District Future Streets Policy Map, Figure 3. During the update of the Crescent District it was acknowledged that development and redevelopment within the district would occur over an extended period of time. Recognizing this, the Future Streets Policy Map was prepared to permit flexibility as the district developed. In some areas, logical connections and conceptual alignments were memorialized. While not expressly stated in the planning documents, the map represents the connection points and alignments as triangles and red dashed lines. The intent of identifying connection points was to permit flexibility in design and road classification. The Crescent District also permits privately maintained roads which can accommodate unique urban forms of development desired within the district.

The Greenway Extension was not omitted from the Future Streets Policy Map. Moreover, connections points were included to provide flexibility in site design, potentially providing a more urban form of development.

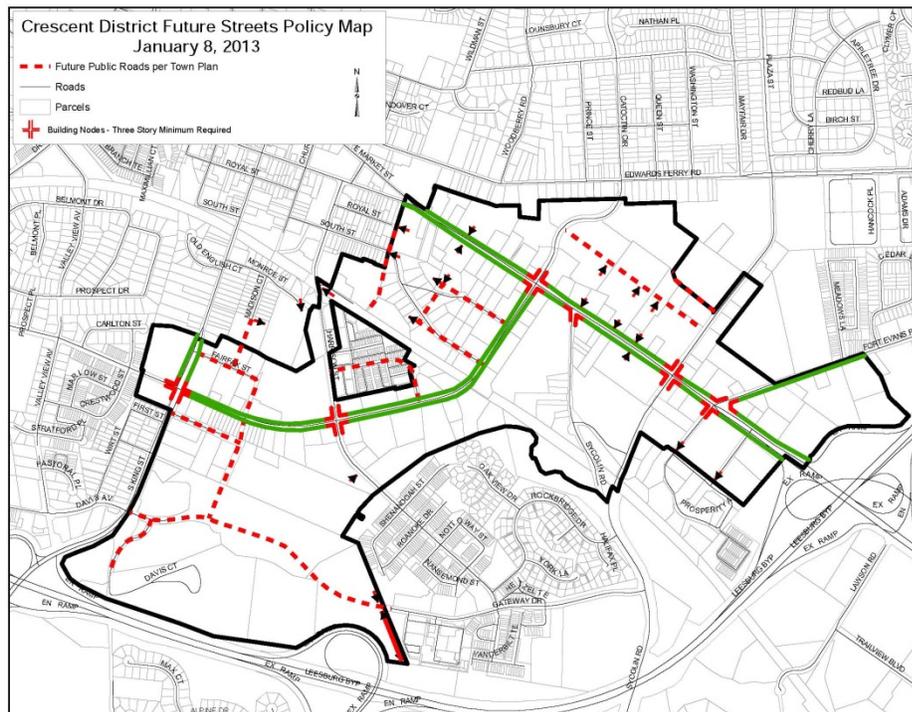


Figure 3, Future Streets Policy Map

D. Stormwater Management, 100-year Storm Event: The applicant has provided revised language that requires third-party analysis of the Upper and Lower Tuscarora Creek Drainage Shed. Proffer 4.5.3.1 provides staff’s recommendation for necessary requirements.

Recommendation: No additional discussion of this issue is necessary.

E. Stormwater Management, Underground Detention: The applicant has provided revised language that falls short of needed protection for the operation and maintenance of proposed underground detention facilities.

After consultation with Loudoun and Fairfax County staff, Town staff has developed the necessary criteria to approve a Design and Construction Standards Manual (DCSM) modification. Following the criteria applied by Fairfax County, any modification of a design standard is subject to specific criteria used to develop required escrow accounts. The escrow accounts are drawn upon for the operation and maintenance or replacement of underground facilities. The criteria cannot be incorporated in the proffers as the

modification criteria are subject to the discretion of the Director of Plan Review. Therefore, the language recommended by staff has been incorporated into a conditional DCSM modification approved by the Director of Plan Review. The DCSM Modification is included as Attachment 3.

Recommendation: The Proffer Statement must be revised to remove Proffer 4.5.4 in its entirety due to the fact that underground detention facilities are subject to a conditional DCSM modification granted by the Director of Plan Review.

F. Approval Criteria: This application is subject to the approval Criteria of TLZO Section 3.3.15. The specific criteria are as follows:

1. Consistency with the Town Plan, including but not limited to the Land Use Compatibility Policies; and

Council adopted a Town Plan amendment reclassifying portions of the property from Open Space and Commercial Mixed-Use to Residential. The proposed development is consistent with the Plan in that residential uses are proposed within the areas classified as Residential. However, this alone does not limit Council's findings. Other considerations such as the Plan's compatibility policies and various goals and objectives can be considered.

- a. Crescent District Policies: The implementation of Crescent District policies should be used to evaluate the application. Examples of implementation measures could include, but are not limited to, the following:
- Does the application extend the fine grain pattern of the downtown area while creating a setting for a mixture of uses including a host of housing types?
 - Is the application consistent with the downtown area that will also incorporate greater density into a collection of uses, coupled with high quality pedestrian spaces?
 - Does the application reinforce and extend the character of the Town? The vision of the district hopes to extend this character to a broader area rather than making a quick transition to suburban style land patterns.
 - Are the size and shape of outdoor amenity areas commensurate with the size of the development area?
 - Does the proposal include a diversity of housing types?
 - Does the proposal provide options for transportation connectivity?

2. Consistency with any binding agreements with Loudoun County, as amended, or any regional planning issues, as applicable; and

Staff is unaware of any binding agreements with Loudoun County or regional planning issues that would affect this application.

3. *Mitigation of traffic impacts, including adequate accommodation of anticipated motor vehicle traffic volumes and emergency vehicle access; and*

The DCSM requires that the traffic impact analysis demonstrate that an application's traffic impact mitigates negative impacts upon the street network. The intersection of Plaza Street and Gateway Drive includes a turning movement that currently operates below a Level of Service 'C'; the left northbound turning movement from Gateway Drive onto Plaza Street. However, the applicant's traffic analysis demonstrates that the development's site generated trips significantly impacts this intersection degrading the Level of Service below the DCSM standard of D at build-out plus 20. While the degradation of the turning movement below an acceptable Level of Service is not directly attributable to this application, staff notes that the impact of traffic from other development or growth in traffic volumes is de minimis. Therefore, it is reasonable to assess whether or not the applicant has mitigated their impact upon the intersection of Gateway Drive and Plaza Street.

4. *Compatibility with surrounding neighborhood and uses; and*

Evaluation of the application can include the impact of the future Greenway Extension. Town Policies and Council actions have been consistent in securing rights-of-way for planned transportation infrastructure. The Town Plan's Transportation Element includes Objective 1.e that states:

Preserve right-of-way in the development review process for future transportation facilities identified in the transportation element and policy maps.

The Greenway Extension is an example of a planned transportation facility. The applicant has proffered a 90-foot wide reservation; however staff notes the following concerns:

- Ultimate alignment: Preliminary engineering to determine the Extensions horizontal alignment and potential vertical impacts has not yet been assessed. Lack of preliminary engineering leads to concern about the adequacy of the Reservation Area.

- **Reservation Area:** As depicted on a conceptual alignment Figure 4, the proposed reservation area is inadequate to accommodate the conceptual alignment of the Extension in the proposed 90-foot reservation.

5. Provision of adequate public facilities.

Public facilities are generally adequate to serve the property. Staff notes the following:

- Public water and sewer facilities, with sufficient capacity, are available to serve the property.
- According to Loudoun County Public Schools, the proposed development will generate approximately 186 students. The elementary schools and Middle school have capacity to serve this development. Based on the 2014 student enrollment and the 2014-2015 Building Program Capacity, the high school is over its capacity. Loudoun County High School has a 2014 enrollment figure of 1,497 students and a building capacity of 1,373. This represents a 124 seat deficit. This development will generate an additional 54 high school students.
- The application negatively affects two intersections; South King Street and the Route 7/15 Bypass, and Gateway Drive and Plaza Street. The applicant has provided an off-site transportation contribution of \$768,060. Council must decide if the proposed cash proffer sufficiently mitigates the traffic impacts generated by this development.



Figure 4, Conceptual Alignment

G. Modification Requests: This application includes modifications to nine (9) sections of the Zoning Ordinance.

- Increased setbacks for the build-to-line (TLZO Sec. 7.10.4.C.1)
- Reduced building frontage percentage (TLZO Sec. 7.10.4.E.2)
- Increased commercial parking (TLZO Sec. 7.10.5.A.1)
- Reduced tree canopy shading in amenity areas (TLZO Sec. 7.10.5.G.6.f)

Staff notes that the applicant has not calculated the area attributable to canopy coverage correctly. The area of credit is based on the area contained in TLZO Sec. 12.9.6.A, B and C respectively. The credit area is not based on the tree's dimensioned "spread". All associated shading modifications must be revised.

- Reduced percentage of dormers for residential dwelling units (TLZO Sec. 70.10.6.E.7.c)
- Modified General Urban street section (TLZO Sec. 7.10.11.A)
- Relocation of required street trees (TLZO Sec. 7.10.11.D)
- Parking Credits for tandem parking spaces (TLZO Sec. 11.3)
- Shared-Use time of day parking reductions (TLZO Sec. 11.4.5)

Some of the requested modifications are contrary to the intended design of the Crescent District. Staff is satisfied with all of the modifications except the reduced tree canopy shading as noted above. Council must decide if the requested modifications are consistent with the intended design of the Crescent Design District.

H. Additional Concept Plan Amendments: On July 1, 2016, a revised Concept Plan was submitted to staff. Based on the applicant's accepted changes to the locational requirements for underground detention facilities, the Concept plan was revised to relocate underground detention facilities that were once under private and public roads and travelways. The detention facilities were relocated to the common area adjacent to Buildings L, N, N and O, or Amenity Area #3. As a consequence, canopy trees were relocated to the perimeter of this open space area.

The revised layout requires an additional modification to the canopy coverage requirements for amenity areas. Staff supports a reduced canopy coverage for amenity areas in commercial areas due to the urban design and amount canopy coverage provided. Staff does not support the reduction of canopy coverage in the residential areas. The required canopy coverage for each amenity area is 50% of the respective area. Amenity Area #3 is 29,138 in size, resulting in a canopy coverage requirement of 14,569 sf. TLZO Sec. 12.9.6 provides the square feet of canopy cover for each of the types of trees permitted; large and medium canopy trees, understory trees and large and small evergreen trees. The revised layout provides two pergola structures, 14 medium canopy trees, and six large evergreen trees resulting in 3,884 square feet of provided canopy coverage; or 27% of the required canopy coverage, or a shading condition of only 13% of the amenity area. The applicant has not sufficiently justified the reduced shading condition. Staff does not support the requested modification.

Attachments:

1. Revised Proffer Statement dated July 7, 2016
2. Revised Concept Plan dated July 7, 2016
3. DCSM Underground Detention Modification dated July 5, 2016

PROFFER STATEMENT

TLZM 2013-0006, CRESCENT PARKE

September 18, 2014
December 23, 2014
April 17, 2015
Updated April 23, 2015
August 28, 2015
December 18, 2015
Revised December 23, 2015
March 4, 2016
May 13, 2016
July 1, 2016
July 7, 2016

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. and Stephen W. Pournaras, 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 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 - 34 and 37 of the Zoning Map Amendment Concept Plan, prepared by Bowman Consulting, dated December 23, 2013 (hereinafter referred to as the "CP") and revised through July 17, 2016, 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 45,100 square feet of office and retail and other nonresidential uses as listed in Zoning Ordinance Table 7.10.9.D.1 under the headings Commercial Uses, Industrial/Manufacturing and Institutional and Community Service Uses. Any of these listed uses which require special exception approval shall obtain special exception approval before being established in the CD-C zoning district.

1.2.2 In the Crescent Design District Mixed-Use Optional (CD-MUO) zoning district, in Buildings MUO-1 through 4, a maximum of 96 multi-family dwellings and a maximum of 28,625 square feet of nonresidential uses as listed in Zoning Ordinance Table 7.10.9.E.1 under the headings Commercial Uses and Institutional and Community Service Uses, including 2,000 square feet for community uses is permitted. At the Owner's option, Buildings MUO-1 through 4 may contain single-family attached dwelling units (including units in the "stacked townhouse" configuration) above the ground-floor nonresidential uses as an alternative to the 96 multi-family dwellings, provided that the amount of residential gross floor area does not exceed 151,630 square feet. In Building C-1, a maximum of 88,000 square feet of nonresidential uses as listed in Zoning Ordinance Table 7.10.9.E.1 under the headings Commercial Uses, Industrial/Manufacturing and Institutional and Community Service Uses. Any of these listed uses for Buildings MUO 1-4 and Building C-1 which require special exception approval shall obtain special exception approval before being established in the CD-MUO zoning district.

1.2.3 In the Crescent Design District Residential High Density (CD-RH) zoning district, a maximum of 196 single family attached dwelling units and 88 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.

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 the right-of-way for Davis Avenue and Gateway Drive Extensions 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 Davis Avenue and Gateway Drive from the existing terminus of Gateway Drive to the existing terminus of Davis Avenue is constructed 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 Other General Urban Streets. The Owner shall dedicate the right-of-way to 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 bonded for construction concurrent with Davis Avenue pursuant to proffer 2.2.1. No occupancy permits shall be approved until Davis Court is constructed 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. Upon acceptance of Davis Court Relocated into the public street system, the Owner will seek to vacate the right-of-way for the unused segment of existing Davis Court and incorporate the right-of-way, when vacated, into the surrounding lot zoned CD-C.

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.

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 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.

2.2.3.3 Right-of-way Reservation Disclosure. The Owner shall provide prospective purchasers written disclosure prior to finalizing any purchase contract about the Town Plan policies regarding the 90-foot right-of-way reservation for the potential extension of the Dulles Greenway to occur within the reservation area.

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. Approval of zoning permits for the construction of any buildings on the Property shall be contingent upon the bonding for the construction of the northbound right-turn lane at the intersection of South King Street and Davis Avenue. No occupancy permits shall be approved until the northbound right-turn lane at the intersection of South King Street and Davis Avenue is constructed and the turn lane 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.

2.2.4.2. 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. Approval of zoning permits for the construction of any buildings on the Property shall be contingent upon the bonding for the construction of the westbound left-turn lane at the intersection of South King Street and Davis Avenue and the re-striping of the existing through left-turn lane. No occupancy permits shall be approved until the westbound left-turn lane at the intersection of South King Street and Davis Avenue and the re-striping of the existing through lane is constructed and the turn lane 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.

2.2.4.3 The Owner shall make any necessary alterations, if required by the Town or VDOT, to the existing traffic signal at the South King Street and Davis Avenue intersection as a result of the alterations to the intersection specified in proffer 2.2.4. The Owner also shall install a pedestrian signal with countdown timer on this traffic signal and install crosswalks where needed at this intersection if approved by VDOT or the Town. Approval of zoning permits for the construction of any buildings on the Property shall be contingent upon the bonding for the

construction of these traffic signal alterations, if required. No occupancy permits shall be approved until these traffic signal alterations are constructed, if required. Approval of any occupancy permits, however, shall not be contingent upon acceptance of these improvements by the Town or VDOT or release of the performance bonds for these alterations.

2.2.4.4 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 Cash Contribution for Off-site Transportation Improvements

The Owner shall provide a cash contribution totaling \$768,060 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; (iv.) installation of a traffic signal at Gateway Drive and Sycolin Road; or (v.) installation of turn lanes and traffic signal at the intersection of South King Street and the eastbound on-ramp of the Route 15 Bypass. Use of these funds is at the discretion of the Town of Leesburg.

2.2.6 Acquisition of Off-Site Right-of-Way

The Owner shall exercise its best efforts to acquire any off-site right-of-way necessary to construct the improvements listed in proffer 2.2, if any is required. The Owner's obligation to construct any improvements requiring off-site right-of-way shall be contingent on the Owner's ability to secure the necessary off-site right-of-way. If, despite the best efforts of the Owner to acquire the off-site right-of-way necessary for the construction of these improvements, the Owner will request in writing to the Zoning Administrator that the Town obtain such right-of-way by eminent domain, and the Owner shall fund the cost of such condemnation. This proffer shall in no way obligate the Town to use its powers of eminent domain and such exercise shall be undertaken solely at the discretion of the Town. If, within ninety (90) days of receipt of the

request to the Town, the Town adopts a resolution to commence condemnation proceedings and the necessary right-of-way is acquired by the Town within fifteen (15) months of the adoption of the resolution, the Owner shall complete the improvements including the off-site right-of-way. If the Town does not adopt a resolution to pursue its powers of eminent domain within ninety (90) days of the receipt of the request or does not acquire the necessary right-of-way within fifteen (15) months from the adoption of the resolution, then the Owner shall provide a cash contribution to the Town equivalent to the bond amounts for the construction of the improvements requiring the off-site right-of-way, which amount shall be submitted to the Town and held specifically for the construction of the improvements in the future by others. This cash contribution shall be paid within 180 days of the town's receipt of the request to pursue eminent domain if the Town does not adopt a resolution to pursue eminent domain. Alternatively, if the Town adopts a resolution to pursue eminent but does not acquire the right-of-way within 15 months from the adoption of the resolution, the Owner shall pay the cash contribution within 18 months of the Town's adoption of the request to pursue eminent domain. However, this cash contribution will be paid only upon approval of construction plans for Davis Avenue Extended which do not require the off-site right-of-way.

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:

3.1.1.a. The Plaza areas surrounding buildings C-2, C-3 and C-4 (labeled #10 on Sheet 29 of the CP) and the Plaza adjacent to building C-1 (labeled #9 on Sheet 29 of the CP), as detailed on Sheet 29 of the CP and which shall be constructed concurrently with buildings C-2, C-3 and C-4 for Plaza #10 and with building C-1 for Plaza #9;

3.1.1.b. The Plaza areas located adjacent to building MU-1 and between buildings MU-2 and MU-3 (labeled #8 on Sheet 28 of the CP), and the Pocket Park behind building MU-3 (labeled #7 on Sheet 28 of the CP), as detailed on Sheet 28 of the CP and which shall be constructed concurrently with buildings MU-1, MU-2 and MU-3, respectively (i.e., the area of #8 adjacent to MU-1 shall be constructed concurrently with building MU-1, the balance of #8 shall be constructed concurrently with building MU-2,

and #7 shall be constructed concurrently with building MU-3) ;

3.1.1.c. The Neighborhood Park (developer's option) open space amenity with details as shown on Sheet 27 of the CP (labeled #6) and which shall be constructed prior to the approval of 127th residential occupancy permit for the Property;

3.1.1.d. The Creekside Park (linear park labeled #5 on Sheet 24 of the CP) with the amenities as shown on Sheet 26 of the CP and which shall be constructed prior to the issuance of the 100th occupancy permit for the CD-RH zoned portion of the Property;

3.1.1.e. The Neighborhood Common (pocket park) labeled as #1 and the Pocket Parks labeled ##2, 3 and 4 on Sheet 24 of the CP as detailed on Sheet 25 of the CP: with the Neighborhood Common #1 constructed prior to the issuance of the 1st occupancy permit for buildings BB, CC, DD, EE or FF; with Pocket Park #2 constructed prior to the issuance of the 1st occupancy permit for buildings CC or X; with Pocket Park #3 constructed prior to the issuance of the 1st occupancy permit for buildings L, M, N or O; and with Pocket Park #4 constructed prior to the issuance of the 1st occupancy permit for buildings H or S;

3.1.1.f. The Owner shall construct a ten-foot wide asphalt shared use trail through the Property as shown on Sheet 2 of the CP. The shared use trail shall be constructed in three segments as follows: (i) One segment runs from Davis Court Relocated to the bridge over Tuscarora Creek and shall be constructed prior to the issuance of the first occupancy permit for buildings C-1, C-2 and C-3; (ii) the second segment is part of the bridge across Tuscarora Creek and shall be constructed concurrently with the improvements specified in proffer 2.2.1; and (iii) the third segment runs from the bridge across Tuscarora Creek to Gateway Drive and shall be constructed prior to the issuance of the 1st occupancy permit for buildings EE or FF.

3.1.2 Bicycle Facilities

The Owner shall install a minimum of 16 bicycle parking spaces in bicycle racks in the CD-C zoned portion of the Property and 32 bicycle parking spaces in bicycle racks in the CD-MUO zoned portion of the Property as shown in the site tabulations on Sheet 4 of the CP.

3.1.3 Community Room

The Owner shall provide a minimum of 2,000 square feet of the ground floor commercial space in Building MU-4 for a community room which can be used as 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 and which shall own the 2,000 square foot condominium space. 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 after which the condominium space may be sold and/or used as retail space.

3.3 Olde Izaak Walton Park Property Dedication

The Owner shall dedicate approximately 18.65 acres of the parcel identified as Loudoun County PIN 232-37-3721 and owned by Failmezger Investments, which is currently leased by the Town for use as Olde Izaak Walton Park, to the Town of Leesburg for public park purposes not later than two years after the date of approval of this rezoning application TLZM-2013-0006 (the "Park Property") subject to the following conditions. The Owner shall dedicate the Park Property to the Town of Leesburg for public park purposes at no cost to the Town upon the following two events precedent occurring: (i) a Resolution is adopted by the Town Council occurring no later than November 30, 2016 requesting such dedication and relinquishing its lease on the 20.99-acre Failmezger Investments property concurrent with the dedication of the Park Property; and (ii) a deed of boundary line adjustment and plat to adjust the approximately 2.34 acre remnant of the 20.99-acre Failmezger Investments property, which 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 by the Owner.

In the event the Town Council chooses not adopt a resolution to request dedication of the Park Property by November 30, 2016, the Town Council by acceptance of these proffers agrees to relinquish its lease on the 2.34 acre remnant of the 20.99-acre Failmezger Investments property that was rezoned to the CD-RH district under TLZM-2013-0006 prior to approval of the first site plan or record plat, whichever event occurs first. In this event, the Owner shall contribute \$1,000 per each residential unit at the time of issuance of the Occupancy Permit to be used for capital costs for parks and recreation facilities located within the Town of Leesburg.

4. **SITE DESIGN**

4.2 Energy Saving Design

All dwellings on the Property shall be designed and constructed as ENERGY STAR Version 3 ® or Home Energy Rating System (HERS) qualified homes with a maximum rating of 90. 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 Version 3 ® or HERS standards with a maximum rating of 90. Prior to the issuance of an occupancy permit, a "wet" ENERGY STAR Version 3 ® 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 Filtterra Devices

If Filtterra devices are used to satisfy BMP requirements and conflict with proposed street tree locations, alternate spacing of street trees to accommodate the Filtterra 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 Filtterra devices.

4.5 Stormwater Management (SWM) and Best Management Practices (BMP) Strategy

4.5.1 Water Quality Requirements: Any site plan submitted for development of the property shall include Best Management Practices ("BMPs") in accordance with the Town's Design and Construction Standards Manual ("DCSM") as well as Virginia's stormwater regulations, whichever is more restrictive. BMP strategies listed in the Virginia State Clearinghouse that may be utilized with this project may include but shall not be limited to, stream restoration, grassed swales, vegetative filter strips, mechanical devices and bioretention facilities.

4.5.1.1 Exceptions: The purchase of off-site nutrient credit for BMPs is expressly prohibited by Zoning Ordinance Section 14.2.2. as all water quality devices must be constructed *on-site* when a modification of the Creek Valley Buffer is requested.

4.5.2 Stormwater Detention Requirements for the 100 year storm: In addition to all other Town required stormwater management requirements as defined by the DCSM, the Town's 1990 Overall Stormwater Management Master Plan, and all other local, State and Federal regulations, the Owner shall in addition, provide storm water detention on the Property for the 100-year storm.

4.5.3 Alternate Compliance for providing detention for the 100 year Storm Event: In lieu of the requirements stated in Proffer 4.5.2 above, the Owner may elect to prepare a 100-year stormwater detention study (herein

referred to as the “Study”). If the Alternate Compliance Option is chosen, the Owner shall adhere to the following process.

4.5.3.1 The Owner shall prepare an updated 100 year stormwater Study for the entire Tuscarora Drainage Shed (Upper and Lower) including all contributing tributaries, following generally accepted best engineering, hydraulic and hydrologic practices. This study shall be submitted prior to or concurrent with the first submission of any site plan or construction drawing associated with the Property. The Study shall be reviewed and approved by a third party expert (see proffer 4.5.3.3), the Town and any other applicable review agencies prior to the approval of any site plan or construction drawing associated with the Property. At a minimum, the Study shall include but not be limited to the following criteria:

- (a) Provide an analysis based upon current buildout of the drainage shed.
- (b) Provide an analysis based upon the maximum potential development of the drainage shed based upon the maximum possible runoff.
- (c) Provide an analysis that encompasses all ponds within the drainage shed and associated routings.
- (d) Provide a detailed analysis of the timing of individual peak flows. Specifically, the timing of the peak flows from Town Branch and the peak flows of Tuscarora Creek.
- (e) Provide justification for any differences found between the results of the Town of Leesburg Stormwater Management Master plan and the results determined by the applicant.

4.5.3.2 The purpose of said Study is to compare the new updated Study to the Town’s 1990 Overall Stormwater Management Master Plan and determine whether detention of the 100 year storm event for the Property would increase or decrease the peak 100 year flood water surface elevations along Tuscarora Creek on downstream adjacent properties near the confluence of Town Branch. The analysis to be done with this Study, is to determine the net benefit or detriment of detaining the 100-year storm event and its impact on the Property and adjacent downstream properties.

4.5.3.3 This Study shall be prepared by the Owner’s engineer and reviewed by both the Town as well as a third party expert to be mutually agreed upon by both the Town and the Owner.

4.5.3.4 The Owner shall contract with the mutually agreed upon third party expert directly. The Owner shall also be responsible for all contractual services and payments for services rendered to the mutually agreed upon third party expert.

4.5.3.5 Alternate compliance in lieu of stormwater detention on the Property for the 100-year storm event shall only be permitted with the expert's finding and the Town's concurrence that such detention of the 100-year storm would result in increased peak 100-year stormwater elevations within Tuscarora Creek which would have a negative impact on the stream itself and or a negative impact on the downstream adjacent properties.

4.5.4 Underground Stormwater Management Requirements

4.5.4.1 Underground Detention. A modification is required by the Director of Plan Review to allow the use of underground stormwater management facilities within residential developments. If the modification is to be approved, the Owner, at a minimum, shall satisfy the following requirements.

4.5.4.1.1 Location: The location of underground facilities shall be in substantial conformance to the locations depicted on Sheet 14 of the Concept Plan. The areas above such underground stormwater locations may be used for passive recreation and open space. Under no circumstances shall any portion of the underground stormwater management system be located on any residential building lot, under any public or private residential travelway, parking area or residential common parking court.

4.5.4.1.2 Construction: Underground detention facilities shall consist of reinforced concrete box-shaped vaults or large diameter reinforced concrete or metal pipe or other construction materials as may be modified by the Director of Plan Review. If other construction materials are to be proposed, the Owner should make their request during the pre-submission meeting for any site plan or construction plan proposing development of the Property.

4.5.4.1.3 Design: Underground facilities shall be designed to detain stormwater run-off for the required storms within the upper Tuscarora Drainage Shed pursuant to

the DCSM and the Town's 1990 Stormwater Management Master Plan. In the event the Owner's Study results in a finding that supports detaining the 100-year storm event for the Property, these underground stormwater facilities shall also be designed to detain the 100 year storm event according to proffer 4.5 (in addition to the requirements for smaller storms required by the DCSM and Stormwater Management Master Plan).

4.5.4.1.4 **Ownership/Maintenance:** All underground detention facilities shall be privately maintained by a master Property Owners Association (POA). All said facilities shall be placed in privately maintained stormwater management easements as to be approved by the Town Attorney. Prior to final plan approval, any such private stormwater management easement and required accompanying maintenance agreement shall be recorded in the chain of title of the property among the land records of the County of Loudoun.

4.5.4.1.5 To further ensure proper notice is available to all future owners regarding the maintenance of the private stormwater facilities; the Owner shall provide, at the time of settlement, a disclosure statement of said private easements and associated maintenance responsibilities and costs.

4.5.4.2 **Agreement:** Prior to the approval of the first site plan or construction plan for development of the Property, the Owner shall execute an agreement with the Town in a form satisfactory to the Director of Plan Review, the Director of Public Works and Capital Projects and the Town Attorney (herein referred to as the "Underground Stormwater Management Agreement") providing for perpetual maintenance of all elements of any underground stormwater management facilities. The Underground Stormwater Management Agreement shall at a minimum include, but is not limited, to the following:

- (a) An agreement by the Owner not to petition the Town to take future maintenance responsibility or replace any underground stormwater facilities; and
- (b) Easements for Town inspection and emergency maintenance to ensure that the underground stormwater

facilities are in good working order (any emergency maintenance performed by the Town shall be billed back to the Owner / POA in accordance with the Town Code); and

- (c) Establish procedures to facilitate Town inspections. The Underground Stormwater Management Agreement shall also require the Owner to contract with one or more maintenance/management companies (certified to do such work) to perform regular routine maintenance of the underground stormwater management facilities and to provide a maintenance report annually to the Department of Public Works and Capital Projects.
- (d) The maintenance responsibilities of the Owner, its successor, or any POA established pursuant to these Proffers regarding the Underground Stormwater Maintenance Agreement shall be: Disclosed to future purchasers prior to entering into a contract for sale; Specified in the POA documents; and Included on all recorded plats associated with the Property.

4.5.4.3 Capital Reserve Initial Funding (Escrow Account): The Owner shall provide a per residential unit capital contribution at the time of Occupancy Permit approval to fund a capital reserve fund specifically allocated for the maintenance and replacement of the underground stormwater facilities. The exact capital contribution amount is subject to approval by the Town prior to the issuance of the first residential Zoning Permit. Calculation of the capital contribution shall be based on [*to be determined*] divided by the final number of residential units shown on the final site plans and construction plans. This reserve fund amount shall be above and beyond the capital reserve funding calculations required for the POA to meet its financial obligations or any other financial obligations it may incur. The capital reserve fund study prepared at the time the POA is established shall determine the appropriate amount of the initial funding payment within the range specified in this proffer based on the facility design once it is constructed. The bond for the underground stormwater facility may be reduced once a year but not to exceed the amount equivalent to the funds deposited in the Escrow Account for the underground stormwater facility or by an amount determined by the Department of Public Works and Capital Projects, whichever is less.

4.5.4.4 Capital Reserve Annual Funding. The POA documents will require that, on an annual basis built into the annual budget, a

contribution for the repair and maintenance of the underground stormwater management facility will be collected on an annual basis for each unit for a period of twenty years from the year the POA is established. The exact amount of this contribution shall be provided by the Owner to the Town for approval along with appropriate back-up information to justify the amount. The exact amount must be approved by the Town prior to the issuance of the first residential Zoning Permit. The amount shall not exceed \$200 per unit per year. This annual payment shall be above and beyond the remainder of the funding required for the POA to meet its obligations listed under Proffer 6 and any other financial obligations it may incur. The POA documents shall include a provision to provide a capital reserve fund study every two years to the Town to confirm sufficient capital reserves are being maintained by the POA to fund the maintenance and / or replacement of the underground stormwater management facilities. The capital reserve fund study prepared at the time the POA is established shall determine the appropriate amount of the annual funding payment within the range specified in this proffer based on the facility design once it is constructed.

4.6 Building Elevations

The final design of the buildings for which a rezoning to increase the building height is requested shall be in substantial conformance with the conceptual building elevations, which are attached to these proffers as Exhibit B, as follows:

4.6.1 Building C-1: The elevations prepared by DBI Architects including the east elevation dated January 22, 2015, the south elevation dated January 23, 2015, the west elevation dated January 27, 2015, and the north elevation dated February 9, 2016. These elevations shall apply only to the building where the height is above three stories. For buildings comprising three stories or less, the building design shall adhere to the Crescent Design District standards set forth in Section 7.10 of the Town of Leesburg Zoning Ordinance.

4.6.2 Buildings MU 1-4: The elevations prepared by DBI Architects dated January 22, 2015.

4.6.3 Townhouses: The elevations prepared by DBI Architects dated April 21, 2015.

4.6.4 Two-Over-Two Units: The elevations prepared by DBI Architects dated May 22, 2015.

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 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 community room condominium space provided for in proffer 3.1.3. 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.

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, including the replacement of any diseased or dead trees.

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 C closest to the Route 15 Bypass, and all of the units in buildings D, K, P, Q, R, U, V, 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 \$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.

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 _____, 2016.

Loudoun County PIN ##: 232-37-7166,
232-37-5627 and 232-38-9290

MREC LD Leesburg Crossing, LLC
A Virginia Limited Liability Company

By: Lansdowne at Leesburg Crossing LLC
A Virginia Limited Liability Company, its
Manager

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 _____, 2016

Notary Public

My Commission Expires:

Date

Loudoun County PIN #: 232-28-3893

By: _____

Name: Stephen W. Pournaras

Its: Trustee

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 _____, 2016

Notary Public

My Commission Expires:

Date

Loudoun County PIN #: 232-37-3721

Failmezger Investments, LLC
A Virginia Limited Liability Corporation

By: _____

Name: Carl 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 _____, 2016

Notary Public

My Commission Expires:

Date

EXHIBIT A

Crescent Parke Concept Plan

Prepared by Bowman Consulting

| Dated December 23, 2013 and Revised through July ~~13~~7, 2016

TLZM 2013-0006, Crescent Parke

Proffer Statement

| ~~May 13~~July 7, 2016

EXHIBIT B

Crescent Parke Conceptual Building Elevations

Prepared by DBI Architects

**TLZM 2013-0006, CRESCENT
PARKE REZONING APPLICATION
REQUEST FOR
ZONING ORDINANCE
MODIFICATIONS
and SLDR VARIATIONS
April 17, 2015
Revised August 28, 2015
Revised December 23, 2015
Revised July 7, 2016**

In order to achieve the design depicted on the concept plan, the following modifications to the Zoning Ordinance are necessary and appropriate.

I. Zoning Ordinance Section to be Modified

Section 11.3 Number of Parking Spaces Required

***Parking Standards
Table***

<i>Type of Use</i>	<i>Minimum Number of Spaces Required</i>
<i>Single-Family Attached</i>	<i>2.0 per dwelling if access to the lot is onto a public street; 2.5 per dwelling if access to the lot is from a private accessway. For townhouses with a single-car garage, the garage shall not be counted as a parking space. For townhouses with a two-car garage, the two-car garage shall count as a single (one) parking space.</i>

Requested Modification

Type of Use	Minimum Number of Spaces Required
Single-Family Attached	2.5 spaces per dwelling unit, including all garage and driveway spaces.*

Justification for Modification

The applicant is requesting a modification of the residential parking requirement to permit garage spaces to count towards meeting the parking requirement for the two-over-two style dwelling units. Of the total 721 spaces provided, 582 spaces will be located on the lots in garages and driveways and 139 spaces will be on-street parking spaces. Since each two-over-two style unit will have only one garage space and one driveway space, and since these units will not be responsible for grounds maintenance, these units logically are the ones for which the garage space should be reserved for parking use only.

II. Zoning Ordinance Section to be Modified

Section 7.10.11. Streetscape Requirements

- A. *Streets. Streets, including associated streetscape improvements, in the CD District shall be provided according to the following requirements.*
 2. *Street Types. The street shall be in accordance with the applicable street cross sections shown in the accompanying drawings....Cross sections are provided for the following streets:*
 - a. *Urban Boulevards. This designation includes the extension of Davis Avenue...*

Requested Modification

The street designation for the Davis Avenue Extension between the existing terminus of Davis Avenue and the roundabout intersecting with the Gateway Drive Extension shall be a General Urban Street with parking on both sides pursuant to Section 7.10.11.A.2.b.

Justification for Modification

This modification request accompanies the Town Plan Amendment filed to designate Davis Avenue Extension as a Through Collector roadway, which is implemented as a General Urban Street under the Crescent Design District standards. The applicant's traffic study indicates that the projected traffic volumes for this road connection of 3,690 VTD can be adequately handled with a two-lane roadway. The General Urban Street section, therefore, is more appropriate for the Davis Avenue Extension than is the current designation of the Urban Boulevard.

Section 7.10.11.A.4.b of the Crescent Design District includes criteria to adjust street cross sections, which are addressed as follows:

- i. The General Urban Street section will facilitate vehicular turning movements, since two-lane streets are easier to navigate than four-lane streets. The on-street parking lane can be used as a turning lane near the approach to intersections. Additionally, two roundabouts are proposed for the Davis Avenue Extension, which also will facilitate vehicular turning movements. Two-lane roundabouts also are easier to navigate than four-lane roundabouts.
- ii. The General Urban Street section will facilitate superior building design, since low-rise buildings, such as the three- and four-story buildings proposed along the Davis Avenue Extension are better able to frame two-lane roadway than a four-lane boulevard. Four-lane boulevards are better framed by mid-rise buildings of at least six or more stories.
- iii. The General Urban Street section enhances the pedestrian environment by

encouraging lower speeds on the roadway and by providing a narrower street section for pedestrians to cross.

- iv. The General Urban Street section alleviates a significant engineering constraint for the bridge crossing Tuscarora Creek. The two-lane road section requires less support structure and less disruption to the flood plain. Resources are wasted when roadways are over-designed and over-built for the traffic conditions. Reduced areas devoted to impermeable surfaces also improve the environment and the community character.

III. Zoning Ordinance Section to be Modified

Section 7.10.6, Building Type Specifications

E. Building Elements

7. Roof Form

c. Dormer Windows. Any grouping of single family attached buildings shall include dormer windows for a minimum of 50 percent (50%) of the buildings in each grouping of buildings.

Requested Modification

For one of the single family attached elevations proposed for Crescent Parke, permit roof lines that use cross gables on the front elevation rather than dormer windows.

For the two-over-two style single family attached elevations, use a shed roof (sloping from front to back) behind a parapet that appears as a flat roof on the front elevation.

Justification for Modification

For one of the single family attached elevations proposed for Crescent Parke, cross gables are proposed to be used on the front elevation. The cross gable serves a similar function as a dormer in terms of the effect on the roof line by breaking up the roof line and providing a richness of light and shadow on the front elevation. The cross gables will be embellished with stick-style trim which will provide additional architectural interest.

For the two-over-two style single family attached elevations, a shed roof sloping from front to back will be used in conformance with Section 7.10.6.E.7.b, which permits pitched, flat of shed roofs. The dormer windows specified in Section 7.10.6.7.c is most appropriate when used with pitched roofs. Crescent Parke is proposing a parapet wall to provide architectural interest to the front elevation, which will appear as a flat roof style from that elevation.

IV. Zoning Ordinance Section to be Modified

Section 7.10.5, Site Requirements

G. Useable Open Space/Amenity Area.

6. Design Requirements.

f. Amenity Areas shall be designed to provide at least fifty percent (50%) of the area in a “shaded” condition. This can be accomplished with landscaping or structures such as a pergola.

Requested Modification

For amenity areas ~~##1, 2, and 3 and 8~~ as shown on sheet 25 of the plan set, the applicant is requesting to provide these amenity areas a shaded condition of ~~43%, 12% and 38%~~ and 33%, respectively.

Justification for Modification

The applicant is requesting the proposed modifications to the shaded area of these amenity areas in order for these areas to be more useable for their intended purposes of providing gathering spaces and passive recreation for the community. Designs meeting the shaded area requirement of 50% required large canopy trees to be planted, which discouraged the use of these areas. Instead, and after discussions with staff, the applicant is planting small canopy trees and providing the amenities within each park area as listed on sheet 25 of the concept plan.

V. Zoning Ordinance Section to be Modified

Section 7.10.11, Streetscape Requirements

D. Street Trees. One medium or large canopy street tree shall be provided for every forth feet (40'), or one understory tree shall be provided for every fifteen feet (15') where conditions do not favor a canopy tree, of lot frontage in the tree zone between the sidewalk and street curb. The tree zone, as shown on the street cross sections (see also the DCSM) may be grass or sidewalks with planting beds or grates over continuous tree-root trenches as determined acceptable by the Zoning Administrator. Street trees shall comply with the sight distance standards of the Design and Construction Standards Manual except that locations may be modified by the Zoning Administrator due to engineering and sight distance constraints.

Requested Modification

The applicant requests modifying the General Street cross section to eliminate street trees where necessary to resolve engineering constraints due to sight distance requirements at intersections pursuant to Section 7.10.11.A.4.b.vi.

Justification for Modification

Section 7.10.11.A.4.b.vi permits modification of cross sections of streets within the CD district in order to alleviate a significant engineering constraints, which is the case with the street trees along the west side of Davis Avenue Extended between Tuscarora Creek and Residential Street “A” and along the east side of Davis Avenue between Residential Street “A” and the roundabout (See attached drawing.) The thirteen trees shaded red are located

within the sight distance lines along Davis Avenue Extended, which prevents the street trees from being planted. Pocket Park #2, which fronts on Davis Avenue Extended between Residential Street “A” and the roundabout will be planted with trees, and therefore will provide the desired landscaped effect in lieu of the street trees along this block.

VI. Zoning Ordinance Section to be Modified

Section 12.8.2, Buffer Yards

G. Buffer-Yards Adjacent to Certain Public Streets.

2. The width of the buffer and the screening materials required to be planted within the buffer yard shall be as follows:

C. Limited Access Highway. *A minimum of 75 feet wide with following plant material per 100 linear feet of right-of-way:*

Table 12.8.2.C

<i>Canopy Trees</i>	8
<i>Evergreen Trees</i>	20
<i>Shrubs</i>	48

Requested Modification

The applicant requests a reduction in the number of plantings along the Route 15 Bypass/ the Dulles Greenway frontage (Buffer E-F on Sheet X of the Concept Plan) to be as shown in the Buffer Yard and Screening Table for Buffer E-F on Sheet 8 of the Concept Plan.

Justification for Modification

Buffer yard E-F is located along the ramp from the Dulles Greenway onto the Route 15 Bypass. As such, the yard area contains sloping topography which limits the amount of plant material that can be planted within this area. Even with the reduction, 78 medium-canopy trees, 190 evergreen trees and 428 shrubs will be planted within this buffer-yard, assuring that it will be well-landscaped. While it seems counter-intuitive to reduce plantings along a limited access highway, the ramp embankment creates a situation whereby the dwelling units are located approximately twenty-five feet below the roadway. This grade differential will provide the additional screening and separation between the roadway and residential uses.

VII. Zoning Ordinance Section to be Modified

Section 12.8.3, Buffer-Yard Matrix

The buffer-yard matrix describes the requirements for screening and buffer between adjoining land uses.

Rb (Proposed Land Use) adjacent to Rc (Existing Land Use):

25-foot minimum buffer width

S3 required screen type

Requested Modification

For Buffer Yard D-E as shown on Sheet 7 of the Concept Plan, the applicant requests to retain the existing vegetation with the exception of grading along the western edge to accommodate a ten-foot wide asphalt trail with vegetation to be planted according to the Buffer Yard and Screening Table on Sheet 8 of the Concept Plan. This buffer yard and screening will be provided until such time as the Dulles Greenway extension occurs within buffer yard D-E.

Justification for Modification

Buffer Yard D-E is located within the 90-foot wide Dulles Greenway right-of-way reservation along the eastern property boundary adjacent to the Brookmeade condominium community and the Virginia Knolls community. This 90-foot strip is currently heavily vegetated with naturally occurring vegetation, and the residents requested that the natural vegetation remain to the extent possible. The proposed buffer yard and screening retains the natural vegetation with the exception of the western edge of the reservation area where the applicant will be grading to install a ten-foot wide asphalt trail. Sixteen medium canopy trees and 159 shrubs will be planted within the graded area to supplement the existing vegetation.

VIII. Zoning Ordinance Section to be Modified

Section 7.10.5.A. Parking. Each use shall be required to provide off-street parking in accordance with the requirements of Article 11, except as follows:

- 1. **Maximum Number of Spaces.** The parking requirements of Sec. 11.3 Number of Parking Spaces Required shall not be exceeded except when parking spaces are located in a parking structure. A modification of this regulation may be granted by the Zoning Administrator where it can be demonstrated that the provision of additional parking spaces benefits other properties and the intent of the CD District is not compromised.*

Requested Modification

The applicant requests to exceed the minimum required parking spaces in the CD-RH zoned portion of the property by eleven spaces.

Justification for Modification

The parking requirement is 2.5 spaces per dwelling unit for a total of 710 parking spaces. The proposed parking provides 582 spaces in the driveways and garages for the individual dwelling units (including the modification of Section 11.3, above) and 139 on-street parking spaces for guest parking for a total of 721 parking spaces. The proposed excess is only 1.5% above the parking requirement and permits full use of garage and driveway spaces for each individual dwelling unit, while permitting on-street parking spaces wherever they can be located, which maximizes the number of guest parking spaces. The intent of the CD District is not compromised, because on-street spaces are consistent with the street section standards contained in the CD ordinance, and no parking lots are being

created to provide the proposed parking, which are not consistent with the intent of the CD District.

IX. Subdivision and Land Development Regulations Section Requested for Variation

Sect. 4.04 Lots

(c) (2) Dwellings Abutting Common Parking Courts. Single-family attached dwelling lots may abut, but not extend into a common parking court provided that:

((d)) Maximum Dwellings Served. Each approved common parking court shall serve no more than a total of 64 single-family attached dwelling lots.

Requested Modification

The applicant requests to provide two public access points to serve the 205 dwelling units located on the west side of Davis Avenue Extended in the CD-RH zoned portion.

Justification for Modification

In order to provide the number of public access points required under this provision of the SLDR, the land bay located on the west side of Davis Avenue would be required to provide a cul-de-sac for the roadways to qualify as a public access point for the purpose of meeting this provision. Such a cul-de-sac design is contrary to the design intent of the Crescent Design District, since it would interrupt the streetscape and desired grid pattern. The proposed travelway design provides sufficient connections for the 205 dwelling units so as not to create any public safety hazards as well as meeting the Crescent Design District standards. These travelways merely do not qualify as providing public street access points.