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MEMORANDUM

To: Members of the City Council, City of the Village of Douglas
Date: December 26, 2023
From: Tricia Anderson
RE: **Westshore PUD – Open Space Preservation Agreement**

This memorandum is intended to provide some historical context as it relates to the Westshore PUD, and to hopefully provide some clarity on issues related to the Center Street connection as shown on the approved 2012 plan.

Regarding the open space preservation easement: The agreement has been written in a way that allows the developer to go back and modify legal descriptions or any other language upon agreement by the City and the HOA. To answer the question of whether the open space easement being recorded would preclude the construction of the Center Street connection – the answer is no. The precise location and legal description of the open space is anticipated to change once the “third phase” has been approved, as things will shift around in response to grading plans and stormwater management plans when the Developer seeks approvals for this phase. This is why the agreement is written in a way that allows amendments, subject to the approval of the City and the HOA. The same would happen if a road is proposed in the current area deemed open space preservation.

Regarding the Center Street road connection. It was known when the Golf View extension portion of the PUD was constructed that the number of units exceeded the threshold for a secondary access point, per the fire code and the Zoning Ordinance. Sometimes Cities and Townships give the developer the benefit of the doubt and conditionally approve one phase, with the understanding that the secondary access will be built in the second phase. It’s also true that cities and townships that grant such conditional approvals do not anticipate a decade or more between phases. It’s sometimes difficult to foresee an economic recession or a worldwide pandemic, or whatever the case may be that causes the Developer to not construct a subsequent phase, and no municipality can effectively require that a property is developed.

Because the development is within a PUD, that also means that it’s tied to an approved plan. The elements in this plan “shall be built” unless an amendment to the PUD is approved to waive such elements. Only the Planning Commission and City Council have the authority to approve an amendment to the Westshore PUD. The amendment that was applied for last spring proposed to not construct the Center Street road connection, and instead use a 20’ strip of land that connects to Lakeshore Drive as an “emergency access”. This does not fix the issue of McVea Drive being the only point of ingress and egress for all the property owners on Golfview, McVea and now the proposed 22 lots for this “third phase” of the condo development. This fact, combined with several mentions in the record of the requirement to build the Center Street connection in conjunction with the “third phase”, tells the story that it has been an expectation from day one and it has been anticipated. This documentation in meeting minutes and old files

from the 2012 approval of the PUD (and even from the Wick's PUD from before it was Westshore). Therefore, the applicant has been advised that there will be much opposition to the "third phase" development NOT including the Center Street connection from neighbors. Additionally, the Planning Commission, in its recommendation to the City Council for any proposed amendments, will take into account the past Planning Commission and Council's intent to require the Center Street connection as part of a conditional approval of the first phase (which included Ferry St. frontage areas, Artisan Row, and Golf View Extension).

Conclusion. It is my hope that the information contained within this memorandum provides a bit more insight as it pertains to any impacts the open space easements would have on the construction of a Center Street road connection to the Westshore PUD condo development. Again, the short answer is that the recordation of the open space preservation easements for the Westshore PUD will not have an impact on the City's authority to require the road connection to Center Street.

As always, please feel free to reach out with any questions.

c: David Keast, City Attorney – Plunkett Cooney
Lisa Nocerini, City Manager – City of the Village of Douglas