

MEMORANDUM

To: Douglas City Council Members
Date: June 28, 2024
From: Tricia Anderson, AICP
RE: **Westshore PUD Internal Trailways**

Mr. Richard Dyk, representing the developer (BDR, Inc.), has applied for what we have determined, at the time of application, to be an amendment to the Westshore PUD. The Westshore PUD, when adopted, contained the developer's obligation to construct internal and external pathways, per the plan dated July 25, 2012, which is the site plan referenced and adopted as part of Ordinance 03-2012, the Westshore PUD.

The attached Williams & Works memorandum that was included in the June 13, 2024, Planning Commission packet, indicates two requests within the proposed amendment:

- To finalize the location of the internal pathways
- To change the designation of certain sections of the pathways from public to private.

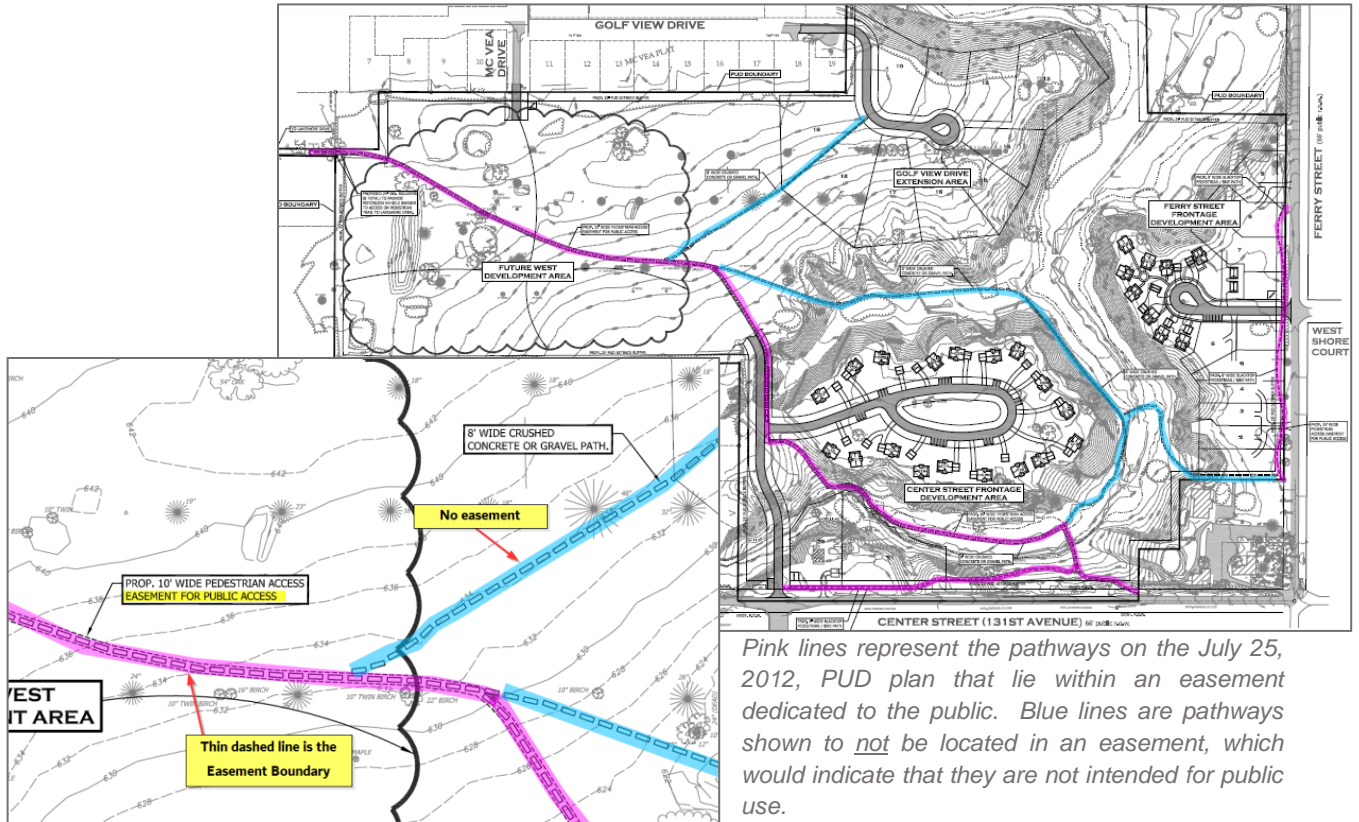
At the June 13, 2024 meeting, the Planning Commission heard comments from the public related to this request, which were a mix of opposition and support of the public/private designation ask. As noted in the City Attorney's memorandum, the Planning Commission made the following motion:

Balmer moved with support from Seibert, to forward a recommendation to City Council for all proposed pedestrian pathways, as required in the Westshore PUD (Ordinance 03-2012), to remain public in designation.

The Planning Commission ultimately voted to forward this recommendation to the City Council, with one member abstaining from the vote. It should be noted that the motion did not reflect a collective decision on the proposed location of the pathways, which was part of the request.

A follow-up meeting with the applicant revealed information that should have been presented to the Planning Commission, but at the time, it was not realized. This information includes the fact that the July 25, 2012 plan set, as adopted as an integral part of the Westshore PUD

Figure 1



(Ordinance 03-2012), only showed a portion of the internal pathways within an easement dedicated to the public (see Figure 1).

Plans that are tied to PUD developments are conceptual in nature and are not intended to be exact in terms of locations of building footprints, topography, stormwater management facilities, and in this case, internal pathway locations. Elements that *do* get determined at the time of PUD approval are things like residential density, required open spaces, road connections and extensions, sidewalks, and the designation of whether any of these elements would be public or private. All of these elements are spelled out in a PUD ordinance, that acts much like a development agreement.

The Westshore PUD also spells out the requirement for any changes to the PUD to be reviewed by the Planning Commission and City Council, even if it is deemed a “minor amendment”. This is the request to change the designation of some trails as private was viewed as an amendment that must be reviewed by the Planning Commission and City Council, thus prompting the applicant’s submittal.

As noted in the City Attorney’s memorandum, the information contained within several historic documents related to the Westshore PUD would support the supposition that the blue pathways shown in Figure 1 were not intended to be public. Additionally, the blue pathways are not

shown within an easement intended to be dedicated to the public, which further supports the intent of the 2012 approval to be a mix of public and private pathways.

Mr. Keast expands on the legal implications of the City Council making a decision at the July 1, 2024 meeting related to the internal pathways. From a planning perspective, if it has been determined that the original approval of the PUD, as demonstrated in the Westshore PUD plan set dated July 25, 2012, shows that the designation of the internal pathways was already approved as a mix of public and private, then procedurally, the applicant should withdraw its application for an amendment. The Planning Commission and/or City Council may impose reasonable conditions on decisions made related to the Westshore PUD, however, neither body should impose conditions that would modify the original approval, unless it is part of a request to amend the PUD.

Recommendation

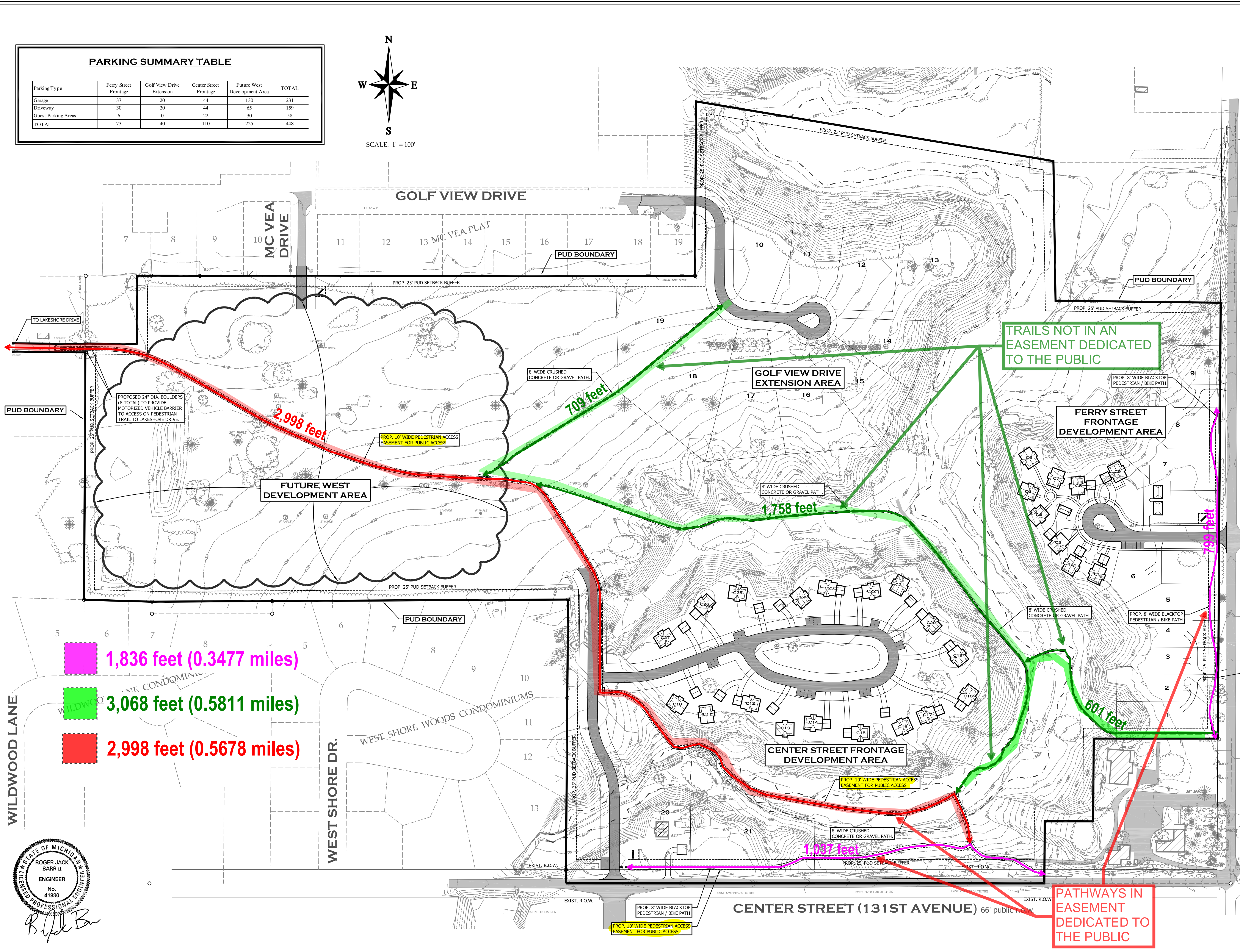
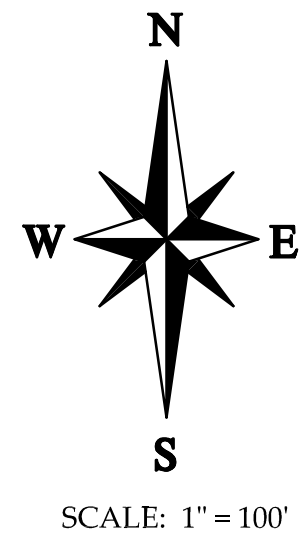
Since the application also included the finalization of the location of the pathways, the City Council may wish to either approve the locations of the public and private pathways, in accordance with the plan submitted with this application, or refer the application back to the Planning Commission, but it should not make any decisions on the public/private designation of the pathways. We would strongly recommend that the Council refer the application back to the Planning Commission, as noted in Mr. Keast's memorandum, to give additional attention to the topics of the pathway locations concerning buffering, safety, and privacy, as well as to allow an opportunity for the Planning Commission to discuss information related to public/private designations as shown on the July 25, 2012, Westshore PUD plan not discussed at the June 13 Planning Commission meeting.

Please feel free to contact me with questions regarding this issue.

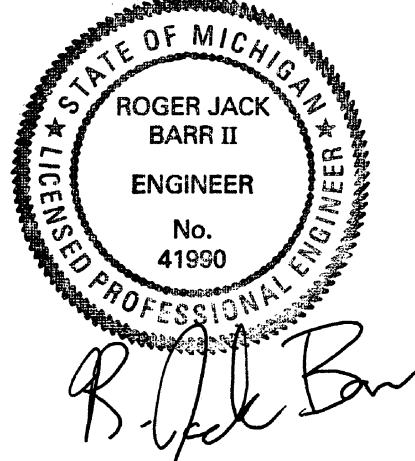
c: Lisa Nocerini, City Manager – City of the Village of Douglas
Sean Homyen, Planning & Zoning Administrator – City of the Village of Douglas
David Keast, City Attorney – Plunkett Cooney

PARKING SUMMARY TABLE

Parking Type	Ferry Street Frontage	Golf View Drive Extension	Center Street Frontage	Future West Development Area	TOTAL
Garage	37	20	44	130	231
Driveway	30	20	44	65	159
Guest Parking Areas	6	0	22	30	58
TOTAL	73	40	110	225	448



■ 1,836 feet (0.3477 miles)
■ 3,068 feet (0.5811 miles)
■ 2,998 feet (0.5678 miles)




NEDERVELD
 www.nederveld.com
 800.222.1868
ANN ARBOR
 3025 Miller Road
 Ann Arbor, MI 48103
 PHONE: 734.929.6963
CHICAGO
 1082 National Parkway
 Schaumburg, IL 60173
 PHONE: 312.578.3897
GRAND RAPIDS
 217 Grandville Ave., Suite 302
 Grand Rapids, MI 49503
 PHONE: 616.373.5390
HOLLAND
 347 Hoover Boulevard
 Holland, MI 49423
 PHONE: 616.393.0449

Vehicle and Pedestrian Access Plan
WESTSHORE GOLF REDEVELOPMENT P.U.D.
 PART OF SECTION 17, T2N, R16W,
 CITY OF DOUGLAS, ALLEGAN COUNTY

DOUGLAS PROPERTY DEVELOPMENT, LLC
 Attention:
Kevin Einfeld
 5510 Cascade Road SE, Suite 21
 Grand Rapids, Michigan 49546
 Phone: (616) 458-8505

check	no.	comment	date	date	drawn by	date
RIB	1	PRELIMINARY PUD SUBMITTAL	12/12/11	12/12/11	WDS	11/29/11
RIB	2	PRELIMINARY PUD SUBMITTAL	03/07/12	03/07/12	WDS	
RIB	3	PRELIMINARY PUD SUBMITTAL	03/28/12	03/28/12	WDS	
RIB	4	FINAL PUD SUBMITTAL	04/20/12	04/20/12	WDS	
RIB	5	FINAL PUD SUBMITTAL	05/21/12	05/21/12	WDS	
RIB	6	FINAL PUD SUBMITTAL	06/28/12	06/28/12	WDS	
RIB	7	FINAL PUD SUBMITTAL	07/25/12	07/25/12	WDS	
RIB	8	FINAL PUD SUBMITTAL	07/25/12	07/25/12	WDS	

project no.:
 11200074
C-109
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MEMORANDUM

To: City of The Village of Douglas Planning Commission
Date: June 6, 2024
From: Tricia Anderson, AICP
RE: **Westshore PUD Amendment – Internal Nonmotorized Pathways
Final Location and Public/Private Designations**

Mr. Richard Dyk, of Douglas Property Development, LLC, has submitted an application for a proposed amendment to the existing Westshore PUD to finalize the location of the non-motorized pathways, and to change the designation of certain sections of the non-motorized pathways from public to private.

Background and History. The Westshore PUD was approved in 2012 in accordance with Article 27, Planned Unit Development District of the City of Douglas Zoning Ordinance and subject to Ordinance 03-2012, the Westshore PUD. One of the standards of PUD approval within Article 27 (Section 27.06), is that the PUD shall result in a “recognizable and substantial benefit to the residents of the PUD and the City, and such benefit would otherwise be unlikely to be achieved”. To satisfy this standard, the Westshore PUD proposed non-motorized pathways throughout the development for the use and enjoyment of the public and the residents of the PUD. As you may know, the developer has not yet satisfied this requirement, with the exception of the exterior non-motorized pathways along Ferry Street and Center Street, which have been constructed and finalized. The interior pathways still remain.

Over the past two years, the applicant has been working with the City Attorney and the Westshore Condominium HOA to design these internal pathways and draft the easement agreements that the pathways will be subject to. A significant amount of concern was expressed by the HOA related to maintenance and liability, particularly since the public would have use of these pathways. The applicant now proposes to designate some of the internal pathways as private to alleviate some of the HOA’s concerns with these areas, with the Westshore Condominium HOA being the responsible party for maintenance and ownership.

Recognizable Benefit. Section 27.03 indicates the eligibility requirements for land to be rezoned to PUD. Part 1 of this section requires the incorporation of a Recognizable and Substantial Benefit:

- 1) *Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely to be achieved,*

taking into consideration the reasonable and foreseeable detriments of the proposed development and use(s); including, without limitation:

- a. *The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;*
- b. *Reducing to a significant extent the non-conformity of a nonconforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.*

The nonmotorized pathways proposed as part of the Westshore PUD are deemed a recognizable and substantial benefit to the community. Our analysis of the request to designate a portion of the nonmotorized pathways as private begs the question of whether removing the public designation for a portion of the nonmotorized would alter the compliance with the requirement to offer a “recognizable and substantial benefit” to the community. In our view, the vast majority of the nonmotorized pathways remain public, and the burden of maintenance would be on the HOA, whether the designation is private or public, and the standard can still be met with this request. The nonmotorized pathways proposed to be designated public will be the responsibility of the future HOA that will be associated with future condominium development of the western areas.

Procedure. Section 27.12 provides the procedures for amending an existing PUD. Some of these provisions are overridden by language within Ordinance 03-2012, such as procedures for a minor amendment, which under Section 27.12.B would be subject to administrative review and approval. Ordinance 03-2012 requires any change to the Westshore PUD to be reviewed by the Planning Commission, per Section V. Approval Limitations, Subsection D., which reads as follows:

*All conditions contained herein and in the final approved site plan shall be binding upon the Developer, as well as its successors, tenants and assigns. **The conditions may be modified or amended only pursuant to a formal amendment of the PUD approval, approved site plan, and ordinance amendment.** The Project must be constructed and operated, and all properties therein used, in strict compliance with the PUD approval (including this Ordinance and the final approved site plan), **and no deviations can occur without prior formal written approval by the City.** So called minor deviations as provided for within Article 27 of the City’s Zoning Ordinance shall not occur unilaterally by the Developer or its successors, tenants, or assigns. Any deviation without prior formal written approval by the City will constitute a violation of this Ordinance and the City of Douglas Zoning Ordinance.*

Section 27.05 provides procedures for review and approval of new PUDs and major amendments to an existing PUD. Since a rezoning is not part of the proposed amendment, the Planning Commission is not required to hold a public hearing, however, the residents within 300’ of the subject property were provided an courtesy notices that a public meeting will be held to consider the amendment to the PUD concerning the nonmotorized pathways. The Planning

Commission will make a recommendation to the City Council, which will hold the public hearing, per the Michigan Zoning Enabling Act, and will be the final reviewing authority for the amendment.

Recommendation. At the June 13th, 2024 meeting, the applicant will be in attendance to present the proposed amendment, and the Planning Commission is encouraged to take comments from the public, even though it is not holding a public hearing. It is recommended that the Planning Commission take into consideration the information outlined in this memorandum, the memorandum provided by the City Attorney, the applicant and members of the public in making its decision to forward a recommendation to the City Council. If the Planning Commission is inclined to forward a favorable recommendation, we suggest that it be subject to the following conditions, along with any others deemed necessary:

1. Upon City Council approval of the nonmotorized pathway plans and public/private designations, the applicant shall record the easement agreements for said nonmotorized pathways no later than July 31, 2024, in accordance with Resolution No. 11-2024.
2. The applicant shall remove all golf course amenities as required by Ordinance 03-2012 prior to or concurrently with the the construction of the internal pathways, subject to the agreed upon inventory of items to be removed as determined by the Planning & Zoning Administrator.
3. The applicant shall provide a performance bond in the form of an an escrow deposit in the amount determined by the City Engineer equal to the cost to construct the internal pathways, prior to commencing construction of the internal pathways. The City may work with the applicant to move any remaining escrow monies for the external pathways into a new escrow account for the internal pathways, if reimburable funds remain.
4. Upon City Council approval of the nonmotorized pathway plans, the applicant shall submit construction drawings to the City Engineer for review and approval prior to commencing construction on the internal pathways.
5. Any further changes to the nonmotorized pathways shall require the same procedures for approval as an amendment to the Westshore PUD.
6. The applicant shall amend the master deed to include the “must be built” finalized locations of the public and private internal pathways, and provide the City with a recorded copy of the master deed amendment, prior to any final inspections of the internal nonmotorized pathways.

As always, please feel free to contact us with questions regarding this request.

LEGAL MEMORANDUM

TO: All members of the Planning Commission
City of the Village of Douglas

CC: Lisa Nocerini, City Manager
City of the Village of Douglas
Sean Homyen, Planning & Zoning Administrator
City of the Village of Douglas

FROM: Philip Erickson, City Attorney
Plunkett Cooney
David S. Keast, Of Counsel
Plunkett Cooney

DATE: June 3, 2024

RE: Douglas Property Development, LLC (“Developer”)
Westshore PUD
Proposed Public and Private Trail Plan and Easement Agreements

Dear Members of the Planning Commission:

We are writing to provide background information for the Planning Commission’s final review of the requested amendment to the Westshore PUD. This request proposes a change to the public and private designations of the non-motorized trail system required by Ordinance 03-2012, adopted pursuant to Article 27 as an amendment to the City Zoning Ordinance. The proposed amendment to the Westshore PUD will also solidify the final locations of the non-motorized trail system.

Ordinance 03-2012, as amended, determined that a planned unit development (PUD) was appropriate for redevelopment of the former West Shore Golf Course, relying in part upon the commitment of Douglas Property Development, as Developer, to provide the “public benefit” required by Article 27 of the City Zoning Ordinance by constructing within the open space areas of the PUD a network of public and private non-motorized trails.

Ordinance 03-2912 and the Final Westshore PUD Plan did not definitively identify the number, location, public or private nature of each Westshore PUD trail, and it did not address their ongoing maintenance responsibilities. Unfortunately, natural topographic issues; the environmental contamination of the Warnock Drain by a contamination plume originating at the former Haworth Manufacturing site; and the construction of residential housing within the Westshore Condominium all have limited the locations at which trails may rationally be constructed.

Extensive discussions with the Developer, Westshore Condominium Association Board of Directors and the owner of Westshore Condominium unit 1 have produced a tentative agreement that, if approved by the City Council, is expected to result in the Developer's construction of all public and private trails this year, while also facilitating a proposal this summer of a site plan for additional development within the undeveloped portion of the Westshore PUD that would be consistent with the trail locations.

The Overall Trail Route and Map and Internal Trail Easement Agreements included within your packet propose a continuous public non-motorized trail with access from both Center Street and Lakeshore Drive. In the writer's opinion, this achieves the central 2012 objective of the Planning Commission and the City Council. Additional trail segments proposed to be constructed within the Westshore Condominium will be "private", i.e., restricted to the use of Westshore Condominium owners, residents and their guests. Two additional trail segments connecting those Westshore Condominium private trails to the Center Street-Lakeshore Drive public trail also will be private, but may be used by the owners, residents and guests of all residential developments within the Westshore PUD (in other words, the Westshore Condominium and any additional development subsequently approved by the City and constructed within the undeveloped portions of the Westshore PUD).

Interior trails generally will be constructed of crushed stone, except that the Westshore Condominium Association has requested a grass surface. The City will monitor the construction of all trails against the Developer's construction plans on file with the City.

Under this proposal there will be no public trail access from Ferry Street. Our review of the 2012 Plan suggests that the Planning Commission and Council may have expected a Ferry Street access, but this is unclear and the Westshore Condominium Unit 1 trail section was depicted as "private". Because the proposed trail system does not provide for public access from Ferry Street, we have considered it important that the Planning Commission again be consulted. It should be noted that, while the proposed trail configuration does not provide public access from the existing Ferry Street public trail system, the existing public trail section *along* Ferry Street, will remain unchanged.

In our opinion, to now require public trail access from Ferry Street, whether from the Golf View Drive cul-de-sac, Artisan Row Court or another location, would run afoul of several important planning considerations:

1. The private trails within the Westshore Condominium will be a maintenance responsibility of the Westshore Condominium Association. Neither the law nor the Westshore Condominium Master Deed requires that Association maintain public trails within the condominium boundaries, and the Association Board of Directors understandably has expressed a strong aversion to additional maintenance costs [particularly because of the proposed wooden boardwalk structures proposed for wetland crossings]

2. Public trail access in the vicinity of the Artisan Row Court area of the Westshore Condominium Association potentially will materially and negatively impact the safety and privacy of residents in their homes or while enjoying the common elements. Public trail access through the Golf View Drive cul-de-sac area of the Westshore Condominium must pass close to constructed residential units, resulting in similar resident safety and privacy issues.
3. All streets within the Westshore Condominium are private and unsuited to public street parking. If the trail segments within the Westshore Condominium were “public”, members of the public accessing the public trail system from Ferry Street would be required to cross the Westshore Condominium private common elements after parking along Ferry Street or other permissible areas for public parking.

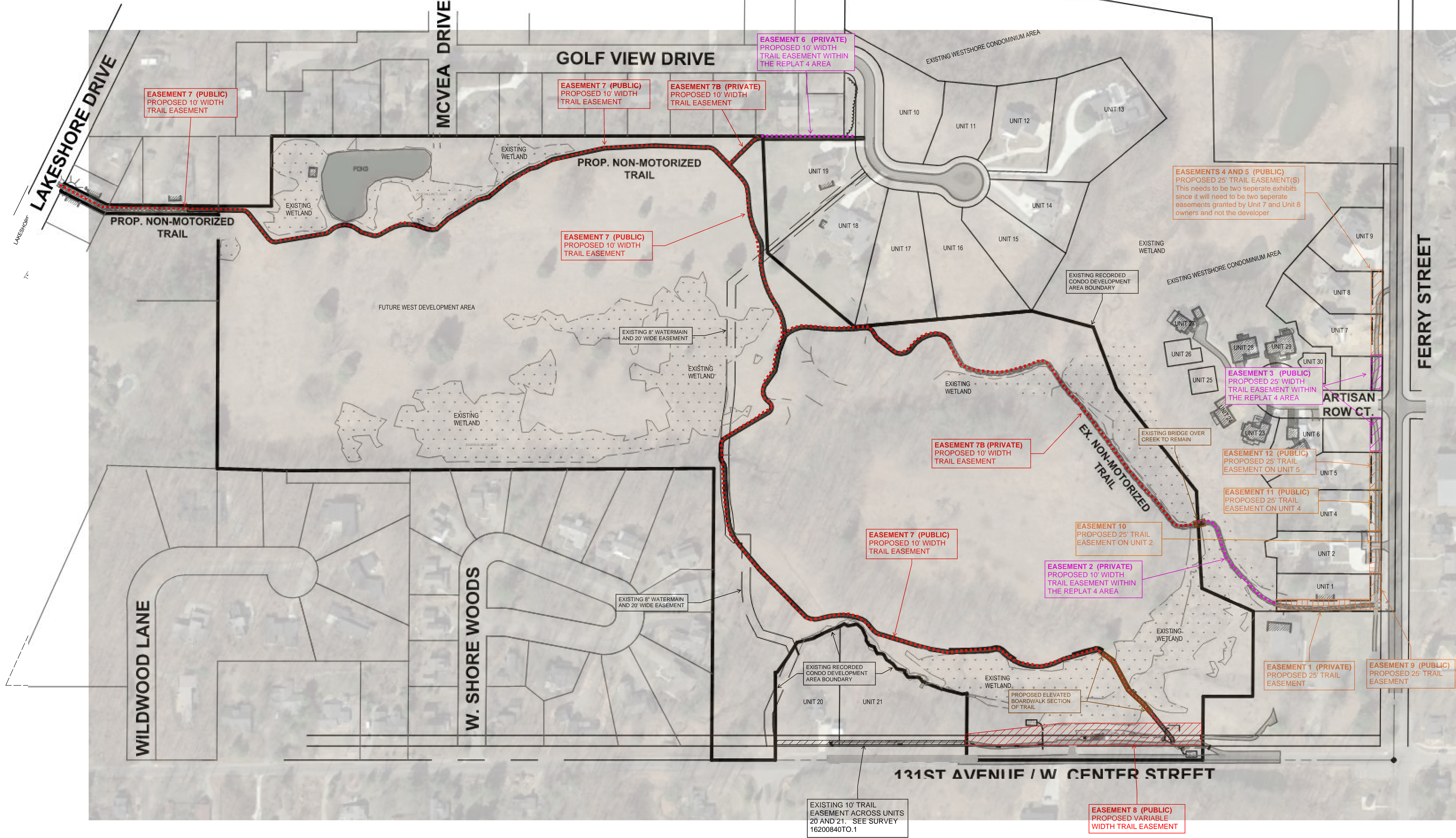
From the City’s perspective, a significant consideration should be that, while the City Engineer will oversee the implementation of the City-approved construction plans, the City WILL NOT incur future trail maintenance costs or requirements under this proposal. The Developer has agreed to assume all such obligations, and to impose them upon the association of owners for any future developments within the Westshore PUD. And the Westshore Condominium Association will be responsible for the maintenance of the common element private trails within the Westshore Condominium.

Respectfully submitted,

s/ David S. Keast, Of Counsel, Plunkett Cooney
Philip Erickson, Plunkett Cooney, City Attorney

Open.20448.43876.33707794-1

2024 - PROPOSED Non-Motorized Trail Configuration + Public and Private Designations



CITY OF THE VILLAGE OF DOUGLAS
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 03 - 2012

**AN ORDINANCE TO AMEND THE CITY OF DOUGLAS ZONING ORDINANCE
AND ZONING MAP TO ESTABLISH THE WEST SHORE GOLF COURSE
REDEVELOPMENT PLANNED UNIT DEVELOPMENT PROJECT.**

The City of Douglas (the "City") Ordains:

Section I. An Amendment to the City of Douglas Zoning Ordinance.

The application received from Kevin Einfeld of Douglas Property Development, LCC (hereinafter referred to as the "Developer") for Planned Unit Development designation for the proposed Westshore Golf Redevelopment Planned Unit Development Project (hereinafter referred to as the "Project") was recommended by the City of Douglas Planning Commission for approval at the July 11, 2012 Planning Commission meeting following a public hearing. The property at issue was previously zoned R-1 PUD, but no PUD ordinance was prepared at that time. This PUD ordinance is enacted pursuant to Article 27 of the City of the Village of Douglas Zoning Ordinance.

Section II. Legal Description.

The legal description of the Project is as follows:

West Shore Golf PUD Description:

Part of the North 1/2 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the Northeast corner of said Section; thence S00°21'57"W 1203.72 feet along the East line of said North 1/2 to the Point of Beginning; thence N89°17'50"W 431.89 feet; thence N00°53'13"W 337.43 feet; thence N80°31'00"W 874.96 feet; thence S00°25'11"W 421.70 feet along the East line of McVea Plat and the extension thereof; thence N89°59'26"W 1471.32 feet along the South line of said Plat and its extension; thence S00°17'10"W 164.97 feet; thence N89°23'53"W 261.35 feet to a point on the East line of Lot 8, Trumbull's Addition to the Village of Douglas; thence N63°36'10"W 112.61 feet; thence S26°11'58"W 20.00 feet along the Southeast line of Lakeshore Drive; thence S63°36'10"E 117.13 feet to a point being 5.00 feet Northeasterly along the East line of said Lot from the Southeast corner of said Lot 8; thence S89°23'53"E 266.04 feet; thence S00°17'10"W 597.78 feet; thence S88°20'23"E 164.16 feet along the North line of Wildwood Lane to the North and South 1/4 line of said Section; thence N89°41'57"E 1004.98 feet along North line of West Shore Woods Condominiums and the extension thereof; thence S00°27'10"W 686.00 feet along the East line of said Condominiums; thence N90°00'00"E 1155.80 feet along said South line; thence N00°21'57"E 150.00 feet; thence N90°00'00"E 117.00 feet; thence N00°21'57"E 200.00 feet; thence N90°00'00"E 333.00 feet; thence N00°21'57"E 1052.88 feet along the East line of said North 1/2 to the point of beginning. Subject to highway right-of-way for 131st Avenue over the South 33.0 feet thereof, and for Ferry Street over the East 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Also, part of the Northeast 1/4 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the East 1/4 corner of said Section; thence

S90°00'00"W 1005.80 feet along the East and West 1/4 line of said Section to the Point of Beginning; thence S90°00'00"W 300.00 feet; thence N00°27'10"E 300.00 feet to Reference Point "B"; thence N00°27'10"E 15 feet, more or less, to the centerline of a drain; thence Southeasterly 380 feet, more or less, along said centerline to a line which bears N00°27'10"E from the Point of Beginning; thence S00°27'10"W 17 feet, more or less, to Reference Point "C", said Reference Point being S51°10'45"E 175.00 feet and S72°47'35"E 170.00 feet from said Reference Point "B"; thence S00°27'10"W 140.00 feet to the point of beginning. Subject to highway right-of-way for 131st Avenue (Center Street) over the South 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Also, part of the Northeast 1/4 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the East 1/4 corner of said Section; thence S90°00'00"W 1305.80 feet along the East and West 1/4 line of said Section to the Point of Beginning; thence S90°00'00"W 300.00 feet to the East line of West Shore Woods Condominiums; thence N00°27'10"E 100.00 feet along said East line to Reference Point "A"; thence N00°27'10"E 24 feet, more or less, to the centerline of a drain; thence Northeasterly 370 feet, more or less, along said centerline to a line which bears N00°27'10"E from the Point of Beginning; thence S00°27'10"W 15 feet, more or less, to Reference Point "B", said Reference Point being N56°26'58"E 361.87 feet from said Reference Point "A"; thence S00°27'10"W 300.00 feet to the point of beginning. Subject to highway right-of-way for 131st Avenue (Center Street) over the South 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Contains 77.3 acres more or less.

Subject to any easements, restrictions or rights of way of record.

Section III. General Provisions.

The following provisions shall hereby apply to the project, in addition to those provisions outlined in Article 27 of the City of the Village of Douglas Zoning Ordinance.

Section IV. Purpose.

The Project occupies approximately 77.3 acres in the City. The Project will be a site condominium development containing 48 detached single family dwelling units. Not less than 65% of the property is to be preserved as open space. The Planned Unit Development technique has been chosen by the Developer to give it and the eventual owners of each unit more control over the Project's aesthetics and appearance. This development technique provides the developer with the ability to develop the Project in a manner to meet market expectations where more traditional mechanisms such as creating subdivision plats do not.

The regulations contained herein are established to define the procedures necessary to ensure high quality development in the Project. Additionally, they are designed to achieve integration of this development with adjacent land uses.

Section V. Approval Limitations.

A. The provisions of this Ordinance are not intended as a substitute for the City of

the Village of Douglas Zoning Ordinance and the Final PUD Plan, nor do they in any way relieve the developer from obtaining all approvals and permits required by the City, except as otherwise expressly provided herein. In the event that a development issue or site plan element is not expressly addressed by this ordinance, the specifications and requirements of the City of the Village of Douglas Zoning Ordinance shall apply. Furthermore, all other City ordinances shall still govern the Project where applicable.

B. Except as expressly otherwise provided herein, the Developer and his assigns must meet all applicable provisions, ordinance requirements, and regulations of City of Douglas, as well as federal and state law, and must obtain all necessary approvals from state and county governmental agencies that are required for construction, operation, or use.

C. This PUD approval is expressly contingent upon all conditions of approval herein remaining fully effective and valid. If any condition imposed herein is determined to be illegal or contrary to law as a result of a successful legal challenge by the Developer or its assigns, or any other party, the City reserves the right to review the entire Project under the PUD provisions of the City of Douglas Zoning Ordinance, and further, to withdraw its approval of this PUD if the City finds that, absent the effect of any condition imposed herein, the PUD no longer meets the standards for PUD approval contained in the Zoning Ordinance.

D. All conditions contained herein and in the final approved site plan shall be binding upon the Developer, as well as its successors, tenants and assigns. The conditions may be modified or amended only pursuant to a formal amendment of the PUD approval, approved site plan, and ordinance amendment. The Project must be constructed and operated, and all properties therein used, in strict compliance with the PUD approval (including this Ordinance and the final approved site plan), and no deviations can occur without prior formal written approval by the City. So called minor deviations as provided for within Article 27 of the City's Zoning Ordinance shall not occur unilaterally by the Developer or its successors, tenants, or assigns. Any deviation without prior formal written approval by the City will constitute a violation of this Ordinance and the City of Douglas Zoning Ordinance.

E. This approval document shall be recorded with the Allegan County Register of Deeds by the Developer prior to construction occurring on site and shall run with and bind the lands involved. Copies of this recorded document shall be supplied by the Developer to the City of Douglas Clerk.

F. Failure to comply with the site plan or any condition of approval herein shall be deemed to be both a nuisance per se and a violation of the City of Douglas Zoning Ordinance.

G. Prior to recording a copy of this document as specified in Section II(E) hereof, the

Developer shall type the following statement onto the end of this document (or add an additional page to the document) as follows, and shall sign and date the same:

"I, Kevin Einfeld, have fully read the above PUD ordinance amendment, understand its provisions and fully agree with all requirements and conditions contained in the same, on behalf of myself and my assigns, successors and transferees in and to the property involved."

Section VI. Site Condominium Documents and Plans.

A. Specific controls relating to architectural elements, common elements of the site condominium project, construction materials, size and space requirements, improvements and out buildings, specific prohibitions and rules of conduct shall be governed by site condominium bylaws and master deed. These restrictions shall become part of this Ordinance by reference.

B. The Project shall be developed exactly in accordance with the site plan approved and signed by the City. The site plan shall indicate the approximate location of each building envelope and shall provide appropriate measurements demonstrating compliance with Section 16.25 of the Zoning Ordinance. Engineering plans and documents relating to utilities, topography, drainage, and the survey of each phase of the Project shall be reviewed and approved by the City Engineer. Approval of these documents shall be based upon their meeting the requirements of the Zoning Ordinance and also meeting recognized, acceptable engineering standards and practices. Once it has been determined that the plans have met City requirements, the City Engineer shall sign and mark these plan documents as "Approved," and forward them to the Developer. Only approved plan documents shall be recorded with the appropriate county and state agencies.

C. The number of building sites may be reduced or consolidated within the Project only after the review by and written approval of the Zoning Administrator. The proposed changes to the site/survey plan to reduce or consolidate building sites shall be reviewed by the Zoning Administrator to ensure compliance with the City of Douglas Zoning Ordinance, this PUD Ordinance, and any other requirements. Once approved by the Zoning Administrator, the amended site/survey shall then be recorded with the Allegan County Register of Deeds Office and the appropriate state agencies by the Developer at his cost. A copy of the recorded site/survey plan shall be forwarded to the City Clerk, so that accurate files regarding the development can be maintained.

Section VII. Permitted Uses.

The permitted uses for the Westshore Golf Course Redevelopment PUD are as follows:

A. Single Family Residences.

B. Accessory buildings customarily incidental to a single family residence, subject to the provisions of the Final Approved PUD Submittal, attached hereto as Exhibit (X).

C. Signs. All signs for the Project shall conform with the City of Douglas Sign Ordinance (Ordinance 111-D).

Section VIII. Design Guidelines, Requirements and Limitations.

The Project shall be developed in exact accordance with the site plan approved by the City and the narrative documentation provided within the Final approved Submittal for PUD. No alterations, expansions or additions may occur as to the Project without a formal amendment to this Ordinance, unless expressly otherwise authorized herein.

A. Maximum Number of Residential Units - The maximum number of single-family detached site condominium units within the Project shall be limited to forty six (46) units until such time as the developer submits a revised PUD plan to be reviewed by the City Planning Commission in accordance with the standards of Article 24 and 27 of the City of Douglas Zoning Ordinance and approved by the Douglas City Council.

Section IX. Private Street Development.

A. The Developer shall submit a street construction, maintenance, and pavement plan consistent with Article 18 of the Zoning Ordinance. The Developer may establish private streets to serve the Project provided the roads are constructed in accordance with the City of Douglas engineering requirements and standards for private streets and the following specifications:

1. All grades shall be sufficient to allow safe ingress/egress of emergency vehicles.
2. The private streets shall be posted with signs stating the street names. These signs shall be consistent with Allegan County Road Commission standards and requirements and shall be installed at the Developer's cost.
3. Any private street shall intersect any public road at a 90 degree angle or a 180 degree angle where appropriate.
4. Copies of any permits required by the Allegan County Road Commission to connect the private street to any public road shall be provided to the City Zoning Administrator by the Developer.

B. The Developer of the Project shall provide a disclosure statement on all property deeds to all owners of the private street, all those who utilize the private street and all persons securing a building permit to construct a building or structure served by the private street, by applying for and securing a building permit for construction of a building or structure that utilizes the private street, all such persons

shall use the private street at their own risk and the City (and its employees, officials, and agents) shall not be responsible for any aspect of the private street.

C. It shall be the responsibility of the Developer and its successors or the individual property owners to fully maintain and keep the private access street in good repair at all times and to ensure that snow and ice is removed in a timely fashion during the winter.

D. No combustible building materials may be erected on the Project until a temporary access road and operable fire hydrants are constructed to within 150 feet of the furthest point of a structure. Such road shall be a minimum 24 feet wide and be able to support 20 tons on a single axle with dual wheels and standard road tires.

Section X. Temporary Buildings.

No structure of a temporary nature; trailer, tent or construction shack shall be constructed, placed or maintained within the Project except accessory to and during construction of any building or infrastructure improvement.

Section XI. Easements

Prior to any construction occurring, the Westshore Golf Course Redevelopment PUD shall provide recorded copies of all permanent easements providing public access to trailways and/or conserving open space on the site. These easements have been illustrated on the site plan dated _____.

Section XII. Utilities.

A. Water and Sewer - The Project will be served by municipal sewer and water and each individual unit shall be serviced by a private lateral. Such systems shall be designed, installed, and maintained pursuant to all applicable requirements of the City of Douglas and the Kalamazoo Lake Sewer and Water Authority.

B. Stormwater Drainage - In lieu of requiring that an Act 433 agreement or a drainage district be established with the Allegan County Drain Commissioner, City of Douglas has agreed to approve the site plan for the Project so long as the Project (and any and all portions thereof) always complies with the City of Douglas Zoning Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances). Accordingly, the property owner's association (the "Association") and all landowners within the Project ("Co Owners") are required to ensure the proper installation and permanent maintenance of any and all storm drainage and water retention systems, pipes, ponds, and facilities for the Project (collectively, the "Facilities") shown on the approved site plan or as otherwise required by the City of Douglas Zoning Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances, all of which shall collectively be referred to hereinafter as the "Zoning Ordinance"). Such

requirements and obligations of the Association and Co-Owners include, but are not necessarily limited to, the following:

1. Maintenance and repair regarding the following items shall be done on a regular basis and in such fashion as to ensure that all components of the Facilities function properly at all times:

- (a) Sediment removal;
- (b) Erosion control;
- (c) Ensuring constant structural integrity of the physical systems; and
- (d) Designate access to the facilities.

2. The City (including its designated officials, officers, agents, and contractors) shall have the right to physically inspect all aspects of the Facilities at all reasonable times, or any other times if, in the opinion of the City, there is a threat to the public health, safety, or welfare.

3. Buildings, structures, landscaping, trees, or similar items shall not be installed, planted, or placed over any portion of the Facilities without prior written approval from the City.

4. The Association and Co-Owners shall supply the City with a permanent recordable easement (in a form acceptable to the City) regarding the following after installation and within 60 days of the date requested by the City for the following:

- (a) Storm sewer pipes;
- (b) Basins;
- (c) Spillways;
- (d) Waterways; and
- (e) Designated access routes

5. The City shall be supplied with an engineer's "as-built" certification to certify that the Facilities as constructed and installed matches the approved design. The City shall also be supplied with a reduced copy of the approved site plan graphically showing the Facilities, together with any and all easements therefore.

6. The City shall be supplied with a permanent easement or irrevocable license allowing the City (as well as its designated officials, officers, agents, and contractors) to have access between the public road right-of-way to any and all portions of the Facilities.

7. Should the Facilities not be properly installed, maintained, and/or repaired, in compliance with all of the requirements of this Section XII.B, the approved site plan, and the Stormwater Ordinance (whether due to the fault or neglect of the developer, the Association, and/or the Co-Owners), and any such noncompliance or deficiency shall not have been fully remedied within 30 days of the date when the City has

given the Association written notice of any such noncompliance or deficiencies, the City, at its sole option and discretion, shall have the right and authority to perform any and all installations, repairs, and/or maintenance which is reasonably required and charge back the costs thereof to the Association and Co-Owners (together with reasonable administrative costs and legal fees, should any challenge occur regarding the City's actions) as follows:

(a) Establish a Special Assessment District. The City may establish a special assessment district for the Project to pay for or reimburse the City for any and all such costs (as well as to ensure future required repairs and maintenance) pursuant to whichever state statute the City desires to utilize. In such event, all of the Co-Owners and the Association shall be deemed to have consented to the establishment of such a special assessment district.

(b) Proceeding to Collect Pursuant to the Master Deed and Condominium Documents. Alternately, the City shall also have the authority to collect or seek reimbursement for any and all such costs from the Association and Co-Owners as if such obligations of the Association and Co-Owners were in the form of a permanent deed restriction or covenant on the Project. Should the City pursue this remedy, the City would have any and all rights attributable to the Association when collecting dues or assessments from Co-Owners. Additionally, such costs shall be a lien on each of the Units, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the City Treasurer, who shall enter the lien on the next tax roll against the applicable Unit, and the costs shall be collected in the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll in the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

The above alternate remedies (being (a) and (b)) shall be deemed to be in addition to any and all other remedies provided for elsewhere in the Master Deed or condominium documents or at law or equity. The City shall have the sole authority and discretion to determine whether or not to proceed pursuant to (a) or (b), above.

C. The Developer shall provide all necessary easements within the Project for telephone, electricity, gas and cable television to the appropriate utility provider without cost. Said easements shall be recorded with the Allegan County Register of Deeds and be provided to each utility provider for their records.

D. Exterior Lighting. All street lighting shall be consistent with Section 19.05 of the Zoning Ordinance and shall either be installed prior to the issuance of any certificate of occupancy for the first building in the Project or paid for prior to the issuance of any certificate of occupancy for the project.

Section XIII. Soil Erosion Control Requirements.

The Developer shall submit a soil erosion control plan showing all temporary and permanent soil erosion control measures to be taken before, during, and after construction on the Project. This plan shall be reviewed and approved by the City Engineer prior to commencing any excavation on the site.

Section XIV. Performance Guarantee.

To ensure compliance with this Ordinance and any conditions herein, the City may require reasonable performance guarantees to ensure completion of improvements such as, but not limited to, landscaping, drainage, lighting, roads, and utilities. The City Council, Engineer, or Zoning Administrator may require such guarantees at any time they deem reasonably necessary to ensure completion of the improvements. The form (including the bank or surety involved), duration, and amount of the performance guarantee as shall be approved by the City. The performance guarantees to be required by the City may include only the provision of performance and payment bonds by an approved surety or the provision of a letter of credit from an approved financial institution.

Section XV. Permanent Common Open Space.

The permanent common open space area is to remain in its present undeveloped state in perpetuity. To ensure this occurs, the following regulations shall apply to the permanent common open space area:

A. No buildings, structures, fences, or driveways shall be erected, constructed or placed within the common open space area. The private streets and their associated infrastructure improvements may encroach into this area provided all plans are approved by the City and are consistent with the development plan for this Project.

B. There shall be no tree or vegetation cutting or removal within the common open space areas except to remove fallen, dead, diseased or dangerous trees or vegetation. The required detention and mitigation areas must also be constructed according to the approved plans.

C. There shall be no draining, filling or any other improvements of the wetlands within this common open space area other than that already permitted by the Michigan Department of Environmental Quality (MDEQ). The project must stay in full compliance with applicable MDEQ permits.

Section XVI. Consistency of the Master Deed and/or Deed Restrictions/Covenants with the PUD Approval.

If the Project will be a condominium project (in whole or in part), the master deed (and attachments) shall be reviewed and approved by the City Attorney prior to final recording to ensure consistency with this Ordinance. If some or all of the Project will be governed by deed restrictions/restrictive covenants apart from a condominium master deed, such deed restrictions/restrictive covenants shall be reviewed and approved by the City Attorney before recording to ensure consistency with this Ordinance.

Section XVII. Consistency with Planned Unit Development (PUD) Standards.

The rezoning to Planned Unit Development will result in a recognizable benefit to the ultimate users of the Project and to the community. Current and future residents will recognize the benefits of a residential development that offers a low-density land use and public non-motorized pathways.

In relation to the underlying zoning (R-1) the City finds the Project will not result in a material increase in the need for public services, facilities and utilities and will not place a material burden upon the subject property and the surrounding properties. The Project is not anticipated to cause undo impact to the stormwater drainage of the surrounding area. All stormwater and soil erosion control plans have been approved by the City Engineer and the appropriate County and State agencies.

The Project has been determined by the City to be compatible with the 2005 Tri-Community Comprehensive Plan and with the spirit and intent of the Planned Unit Development Chapter of the Zoning Ordinance. The Project has been determined to be a "Residential" use, which is consistent with the City of Douglas Comprehensive Plan.

The City finds the Project will not result in an unreasonable negative economic impact upon surrounding properties.

The City finds the Project to have at least the same amount of green areas and usable open space than would typically be required by the City Zoning Ordinance.

Finally, the City recognizes the Project will be under single ownership or control. The City recognizes that the Developer or its assigns will retain ownership and control of the Premises until a majority of the site condominium units are purchased for single family residential purposes.

Section XVIII. Effective Date.

This Ordinance shall become effective twenty (20) days after publication of the ordinance, or a summary thereof, in a newspaper of general circulation within City of Douglas.

The foregoing Ordinance was offered for adoption by Greenwood, supported by

Mayer. The roll call vote being as follows:

YEAS: Bailey, Greenwood, Harvath, Hoexter, Mayer, Smith, Wiley

NAYS: None

ABSENT: None

Ordinance Declared Adopted.

James I. Wiley, Mayor _____
Date

Jean E. Neve, City Clerk _____
Date

CERTIFICATION

I hereby certify the foregoing Ordinance was adopted by the City Council of the City of the Village of Douglas at a meeting held on August 20, 2012 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the City Charter and the Open Meetings Act, Public Act 267 of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Jean E. Neve
City of Douglas Clerk

MEMO

TO: City of the Village of Douglas Council

FROM: Douglas Property Development, LLC

RE: Westshore PUD Trail Matters

DATE: June 27, 2024

Douglas Property Development, LLC ("**Developer**"), the developer of the Westshore Condominium project ("**Westshore Condominium**") and the owner of the vacant development area west of Westshore Condominium, appreciates the opportunity to present this memorandum to the City of the Village of Douglas Council (the "**Council**").

The Westshore Condominium is part of the Westshore PUD, formed pursuant to Ordinance 03-2012. The City of the Village of Douglas Planning Commission considered an amendment to the Westshore PUD at its June 13, 2024, meeting, pursuant to which certain non-motorized path locations within the Westshore Condominium and the remainder of the Westshore PUD area would be finalized and certain path areas would be designated either public and private.

By way of background, Ordinance 03-2012 did not specify that all trails within the Westshore PUD must be public. Sheet C-109 of the original approved Westshore PUD plan, attached to this memorandum as Exhibit A, specified that certain trails would be public, but other trails contemplated in the plan were not designated as public. Additionally, the City Staff memorandum dated April 4, 2012 and revised June 6, 2012, attached to this memorandum as Exhibit B, discussed the Developer's pedestrian circulation plan, including several interior pathways for residents of the community *and* a proposed *public easement* with a proposed pathway that would provide public access across the entire Westshore PUD and exit at Lakeshore Drive. In sum, it appears that the Westshore PUD that was approved contemplated both public and private trails.

As to the location of the trails, to the extent that Ordinance 03-2012 identified the locations of all trails to be constructed within the Westshore PUD, over time, topographical issues, wetland concerns with respect to portions of the Westshore PUD, construction of housing within the Westshore Condominium and discussions with the Westshore Condominium Board have limited the areas in which the trails may be reasonably constructed. The Developer believes that the current trail location plan retains the public benefit that Ordinance 03-2012 contemplated regarding the lengthy public trail which would still run from Lakeshore Drive down to Center Street.

Regarding the maintenance of the trails within the west development area that the Developer owns, the Developer will be responsible for the maintenance of those trails unless and until a condominium project is created within the west development area, at which time the association of co-owners of the condominium project would assume responsible for maintenance of those trails.

Regarding the maintenance of the trails within the Westshore Condominium, the Developer retains the obligation to maintain the trails until the City has determined the trail construction is complete, at which time the Westshore Condominium Association assumes the trail maintenance responsibility.

The Developer has been consistently working with the City staff, the City attorney, the Westshore Condominium Board members and other stakeholders for the last several years to arrive at agreements for the trails that would allow all of the trails to be constructed within several months after final approval of the trails and the recordation of the agreements covering the trail construction and maintenance obligations.

In conclusion, the Developer stands ready and willing to begin construction of the trail improvements, whether they be public or private or a combination of the two, with the goal of completing all trail construction before the end of 2024, depending on the timing of final approval and execution and recording of the trail construction and maintenance agreements. To that end, given the ambiguity in Ordinance 03-2012 and subsequent discussions with the City and other stakeholders over the years regarding the trails and their location and use, the Developer requests that any applicable deadline to complete construction of the trails be extended accordingly.

Exhibit A

Sheet C-109

[See Attached]



WILDWOOD LANE

WILDWOOD LANE CONDOMINIUMS

WEST SHORE DR.

WEST SHORE WOODS CONDOMINIUMS

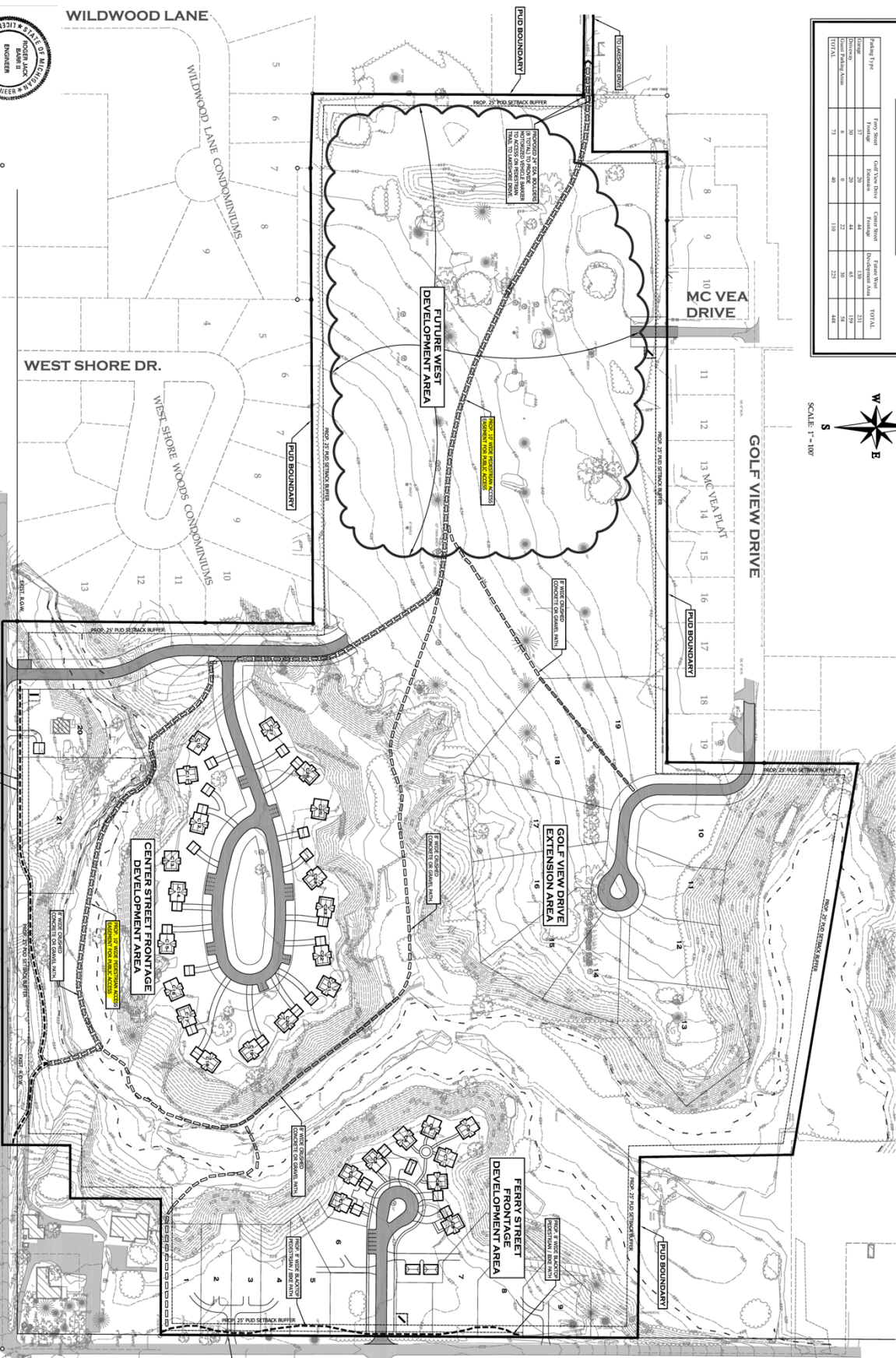
CENTER STREET (131ST AVENUE) 66' public r.o.w.

WEST SHORE COURT

FERRY STREET (66' public r.o.w.)

PARKING SUMMARY TABLE

Category	Count	Percentage	Total
Handicap	2	0.5%	2
Visitor	20	5.0%	20
Guest	8	2.0%	8
Employee	40	10.0%	40
Storage	110	27.5%	110
TOTAL	180	45.0%	180



checked by	date	no.	comment
RJB	12/12/11	1	PRELIMINARY PUD SUBMITTAL
RJB	03/07/12	2	PRELIMINARY PUD SUBMITTAL
RJB	03/26/12	3	PRELIMINARY PUD SUBMITTAL
RJB	04/20/12	4	FINAL PUD SUBMITTAL
RJB	05/21/12	5	FINAL PUD SUBMITTAL
RJB	06/26/12	6	FINAL PUD SUBMITTAL
RJB	07/26/12	7	FINAL PUD SUBMITTAL
RJB	12/12/11	8	

DOUGLAS PROPERTY DEVELOPMENT, LLC
 Attention: **Kevin Einfeld**
 5510 Cascade Road SE, Suite 21
 Grand Rapids, Michigan 49546
 Phone: (616) 458-8505

Vehicle and Pedestrian Access Plan
WESTSHORE GOLF REDEVELOPMENT P.U.D.
 PART OF SECTION 17, T3N, R14W,
 CITY OF DOUGLAS, ALLEGAN COUNTY

NEDERVELD
 www.nederfeld.com
 800.222.1868
ANN ARBOR
 400 North Zeeb Road
 Ann Arbor, MI 48106
CHICAGO
 180 North Dearborn Street
 Suite 2000
 Chicago, IL 60610
GRAND RAPIDS
 277 Grand Rapids, MI 49503
HOLLAND
 345 Holland, MI 49423

Project no.: **1120074**
C-109

Exhibit B

City Staff Memorandum

[See Attached]

86 W. Center Street
PO Box 757
Douglas, MI 49406
269-857-1438 Office
269-857-4751 Fax

City of the Village of Douglas

Memo

To: Planning Commission
From: Ryan Kilpatrick, AICP
Director of Community Development
Date: April 4, 2012 (Revised June 6, 2012)
Re: West Shore Redevelopment – Site Plan Review

This memo is intended to provide a thorough staff analysis of the proposed site plan for the redevelopment of the former West Shore Golf Course. Sections 27.04 (Project Design Standards for PUD) and Article 24 (Site Plan Review) shall be the primary points of reference during this stage of plan review

Section 27.04 Project Design Standards

- 1) **Location:** A Planned Unit Development may be approved in any district subject to review and approval as provided herein.
- 2) **Compatibility with Adjacent Uses:** The proposed PUD shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:
 - a. The bulk, placement, and materials of construction of proposed structures

Staff comments: The applicant has illustrated the proposed location of structures and/or single family lots on the property and the placement of many of the buildings appears to be appropriate. Page 19 of the developer provided narrative description indicates those structures which would require deviation from the underlying standards of the zoning ordinance. Such deviations may be permitted within the criteria of Section 27.04(5) of the zoning ordinance.

As requested, four of the accessory structures located within the Center Street development area would be located between the front foundation line of the

principal structure and the roadway. As described by the developer, no accessory building would be closer than 48 feet to the center line of the private road. This equates to a 15 foot setback from the right of way. Here a deviation from the prohibition on accessory structures in the front yard as well as the minimum front yard setback requirement would be necessary.

The two units with proposed frontage directly upon Center Street would have accessory structures which may also be located between the principal structure and the road. Here such structures would be a minimum of 37 feet from the public right of way and would meet the minimum required setback of the R-1 District. Only a deviation from the prohibition against accessory structures in the front yard would be required here.

The developer has also requested that all of the lots with frontage upon Ferry Street would have accessory structures located between the principal structure and the roadway. Most of these structures would have a minimum setback of 67 feet from the road right of way, which is well above the minimum requirement for the district. Lots 6 and 9 would have a minimum setback of 37 feet. The same would be true for the two lots with direct frontage on Center Street.

The proposed site condos in the Ferry Street development area would include 3 accessory structures between the principal structures and the roadway, as well as an additional two garage structures to the east of the site condos which would be 130 feet from the Ferry Street right of way and approximately 18 feet from the private road right of way.

It is important to note that page 14 of the narrative description states that “no accessory residential dwelling units are proposed for this PUD”.

- b. The location and screening of vehicular circulation and parking areas in relation to surrounding development:

Staff Comments: Two of the proposed vehicular connections within this development will be adjacent to existing single family homes. The connection to Center Street will be adjacent to four single family homes or lots within the West Shore Woods subdivision and the connection to Golfview Drive will be adjacent to one single family home.

The developer has taken steps to move the proposed private road rights of way outside of the required 25 foot buffer area. The developer has also illustrated

(Sheet C-112A) a significant amount of vegetation adjacent to the private roadways as an additional visual buffer.

- c. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

Staff Comments: No equipment or storage is proposed or foreseen at this time.

- d. The hours of operation of the proposed uses.

Staff Comments: The proposed uses are limited to single family homes, used 24 hours per day and having little impact upon adjacent properties.

- e. The provision of landscaping and other site amenities.

Staff Comments: As noted above, the applicant has provided significant landscaping along the proposed private roads where they are adjacent to existing single family lots (Sheet C-112A).

The applicant has also illustrated proposed deciduous trees planted 30 feet on center along the Ferry Street and Center Street rights of way. It should be noted that much of the existing vegetation along the Ferry Street roadway, especially along the north end of the site, will be removed and replaced. The existing vegetation consists of mostly scrub trees and the proposed new trees will be an improvement. However, there will be a noticeable void for the first several years after the existing vegetation is removed.

Additional vegetative screening is proposed within the Ferry Street development area which would screen the two independent garage structures and the small parking area from the Ferry Street road right of way and from adjacent homes.

Landscaping around each individual site condo unit will also be installed and maintained by the developer. A depiction of the typical landscape plan is illustrated in the lower left corner of Sheet C-112A.

- 3) **Permitted Uses:** Staff has no concerns about the proposed use of the site for 46 single family homes, with the potential for additional residential development in the western portion of the property reserved for a future date.

- 4) **Applicable Base Regulations:** Unless waived or modified in accordance with subsection (5) below, the yard and lot coverage, parking, loading, landscaping, lighting, and other standards for the underlying district shall be applicable for uses proposed as part of the PUD.

Staff Comments: The developer has illustrated a majority of the homes and/or site condos on site will be in compliance with the underlying standards of the R-1 Zoning District, which are as follows:

DEVELOPMENT REQUIREMENTS Section 4.02 R-1 Residential District:

	Required
Lot Area:	12,000 sq. ft.
Frontage:	100 ft
Setbacks:	
Front:	35 ft
Side:	7ft/18ft total
Rear:	25ft
Max Lot Coverage:	35%
Height:	28 ft.

However, there are several lots or site condos which would not meet one or more of these requirements. Rather than consider each proposed lot or building individually, the Planning Commission should consider whether the proposed configurations and setbacks are appropriately scaled to the district as illustrated on the plans. It is important to note here that one of the primary purposes of the Planned Unit Development is to allow for regulatory flexibility as it relates to yard setbacks, frontage, lot coverage, etc. where the effect is the preservation of a significant amount of open space or another public purpose can be achieved. Sheets C-102 through C-105 illustrate in detail how each lot would be configured and/or how each structure would be situated in relationship to neighboring structures and roadways. Staff does not have any concerns about the illustrated structures, setbacks or lot configurations proposed, pending planning commission review of the placement of accessory structures on site.

The applicant has illustrated a dark sky compliant lighting fixture on Sheet C-115. The location of the proposed lighting is also illustrated. This appears to comply with all required standards.

- 5) **Regulatory Flexibility:** To encourage flexibility and creativity consistent with the PUD concept, departures from the regulations in subsection 4 above may be permitted, subject to recommendation by the Planning Commission and approval of City Council.

Staff Comments: A majority of the underlying requirements of the R-1 Residential District and other applicable standards of the zoning ordinance have been met on many of the proposed single family lots or condo sites. However, where regulatory flexibility is requested by the developer, it is important for the Planning Commission to be aware of the deviation and provide explicit acknowledgement that the proposed deviation is appropriate. The proposed deviations have been described within page 19 and 20 of the developer provided narrative description. I have requested a separate plan sheet which highlights all proposed lots or structures containing on or more requested deviation from the underlying standards of the ordinance. However, the most significant deviations relate to the placement of the proposed accessory structures and the frontage of some of the proposed lots or units. A majority of the proposed lots do not provide the minimum required frontage of 100 feet, although the Planning Commission may find that the lot area and proposed preservation of open space off set this requested deviation in most cases.

As noted on page three of this memo, the typical standard of the R-1 District is a minimum of 100 feet of frontage along the public or private road adjacent to the lot (this can be reduced to 80 feet of frontage for lots fronting on the circular portion of a cul-de-sac). The proposed site plan illustrates lot frontages which vary from the 100 foot standard to as low as 58 feet where lots front on the proposed cul-de-sac stemming from Ferry Street. This segment of the development also illustrates site condo units which would not have direct frontage upon an improved street (units C4, C5, C6 & C7). This type of layout may be permitted by the Planning Commission. The Fire Department has provided a review and conditional approval.

Due to the requirements of the Fire Department, the applicant is no longer requesting a deviation from the required right of way standards for a private road. All roads will now have a 24 foot minimum pavement width within a sixty-six foot easement. This is a significant change from the previously proposed 14 foot pavement width in the Center Street development area.

- 6) **Residential Density:** The maximum permitted density in the underlying district may be permitted only upon determination that the desired density will not unreasonably affect the immediate and surrounding area and services. The maximum number of dwelling units permitted as part of a PUD proposal shall be determined by submittal of a test plan.

Staff Comments: On February 8th, 2012, the Planning Commission voted to approve a test plan illustrating 111 single family lots, all of which were determined to be in compliance with the minimum required standards of the R-1 Zoning District. The applicant has currently

proposed a 46 unit residential development which would be well below the maximum density permitted on site. The developer may propose additional units in the west development area at a date in the future, though all such proposals will include full site plan review for compliance with Article 27 and Article 24 of the Zoning Ordinance as well as final review and approval by the Douglas City Council.

- 7) **Permitted Mix of Uses:** Although a PUD would allow for a mix of uses not otherwise permitted within the district, the applicant has proposed only single family dwellings.
- 8) **Open Space Requirements:** Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. At least half of the minimum open space shall be held in common, not as individual lots.

Staff Comments: The applicant has met the minimum threshold of supplying the 65% open space which would have been required had the property been developed under the underlying standards of the R-1 Zoning district. The 65% open space which has been designated on the site plan does not include the open spaces provided upon the individual lots proposed within the site (i.e. lots 1-9 along Ferry Street and lots 10-19 extending from GolfView Drive) although it does include the yard spaces surrounding each of the site condominium units (C1-C9 and C10-C27) – see Sheet C-113. Of the total 37.7 acres proposed for open space, the areas surrounding these units would amount to less than 50% of the total acreage and will be landscaped and maintained by the developer.

All of the proposed open space shall be required to be set aside permanently within a deed restriction or covenant which requires the land to remain as open space in perpetuity.

- 9) **Frontage & Access:** PUDs shall front onto a street with adequate capacity to safely accommodate the traffic of the development.

Staff Comments: The proposed neighborhoods stemming from Ferry Street and Center Street are serviced by adequate public roads and would be readily accessible under the standards of the local private road requirements (see also comments regarding regulatory flexibility above).

- 10) **Utilities:** All utilities shall be placed underground.

Staff Comments: Sheets C-111 (A-D) illustrate the proposed locations of utilities within the development. All utilities are proposed to be underground.

- 11) **Privacy of Dwelling Units:** A PUD shall be designed to provide privacy for all dwelling units surrounding the development as well as within the development. The relationship of doors and windows shall be offset wherever possible.

Staff Comments: The applicant illustrated proposed landscaping where the development is adjacent to existing residential properties along the proposed private roads stemming from Golf View Drive and Center Street. The landscaping appears to be adequate to provide a significant screen once plantings have reached maturity.

- 12) **Emergency Access:** The configuration of buildings, driveways and other improvements shall permit convenient and direct emergency vehicle access and shall be subject to the International Fire Code and Fire Department review

Staff Comments: The Fire Department provided a letter of review with conditional approval. The developer has responded by widening all roads within the development and enlarging the cul-de-sacs to meet Fire Department requirements. Additional hydrants have also been proposed to accommodate SDFD requests.

- 13) **Pedestrian & Vehicular Circulation:** A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout shall respect the pattern of existing planned streets, sidewalks and bicycle pathways and shall complement or implement the recommendations of the Tri-Community Comprehensive Plan.

Staff Comments: The applicant has provided an amended pedestrian circulation plan which would include 8 foot paved pathways along the entirety of the Center Street frontage and an appropriate amount of the Ferry Street frontage, except that it should likely extend northward an additional 45 feet to intersect with the northerly most proposed shared driveway. The pedestrian circulation plan also includes several interior pathways for residents of the community. Finally, the plan includes a 10 foot public easement with an 8 foot gravel pathway moving from the east side of the site to the west. This proposed pathway would provide public access across the entire site and exit at Lakeshore Drive, offering the implementation of a long sought after goal of the Tri-Community Comprehensive Plan.

It is recommended that the Planning Commission consider a date certain by which the public pathway to the Lakeshore should be completed and the type of construction. The developer has proposed that this path be constructed within three (3) years of final PUD approval or at the time that the Center Street development area is developed. Further, the western 1/3 of this pathway is proposed to remain a mowed pathway until the final phase (West Development Area) is proposed for construction. Given the hydric soils of portions of this site, it may be appropriate to require that the entire pathway be constructed of compacted gravel

or crushed concrete within a specified time period. This material should not be overly onerous to remove once the final phase of development is approved and under construction.

This pathway seems to be critical to the public benefit component of this plan and should be carefully considered. It is preferred that all required public pathways be mowed from the time that the first certificate of occupancy is issued and that an 8 foot wide crushed concrete or gravel pathway be provided all the way to Lakeshore Drive within the proposed three year time period (or another date certain which is satisfactory to the Planning Commission), with some form of performance guarantee in place to ensure these improvements will occur.

The applicant has not illustrated any interior pathways adjacent to the residential neighborhoods proposed within the development. Rather, the pathways are all proposed within the preserved opens spaces on the site. The Planning Commission may wish to discuss whether any additional pathways are appropriate alongside the proposed private roadways.

The proposed interior road network would align with existing public and private roads within the surrounding community. The road stemming from Ferry Street would be directly located across from the existing Westshore Street, and the road stemming from Center Street would be located directly across from Wilderness Ridge Drive. The equal alignment of these intersections is important and appears to be properly planned.

Finally, the proposed shared driveway intersections along Ferry Street should be carefully evaluated. There is some concern regarding the proposed driveway at the north end of the property due to the topography of the intersecting roadway and the potential lack of clear vision for an adequate distance. Heavy beach traffic during the summer season may make this driveway location a safety hazard.

The developers engineer has provided a topographic and site line evaluation of the proposed driveway intersection and the City Engineer has acknowledged that the drive does meet standard site line protocol.

- 14) **Maximum Height:** Except as otherwise provided, maximum building height shall be consistent with the underlying district.

Staff Comments: The applicant has not yet provided conceptual renderings of any of the proposed units on site. It is understood that all units shall be the 28 foot maximum height requirement of the R-1 Zoning District.

- 15) **Minimum Spacing:** Minimum spacing between detached buildings shall not be less than 15 feet unless authorized by the Planning Commission or City Council.

Staff Comments: The buildings illustrated on the proposed site plan are all in compliance with this standard.

16) **Building Length:** This standard deals with multiple family buildings and does not apply to the proposed site plan.

17) **Sensitive Natural Features:** All sensitive natural features such as drainage ways and streams, wetlands and streams or riverbanks (including areas within the 100 year floodplain) shall remain unencumbered by any structures.

Staff Comments: The applicant has proposed all buildings located on site to be within upland portions of the site and setback from any sensitive natural features.

18) **Buffer Zone Along Streams:** Drainage ways and streams shall be protected by a 25 foot natural vegetation strip, measured from the ordinary high water mark for the Kalamazoo River.

Staff Comments: This standard does not apply as the proposed development is not adjacent to the Kalamazoo River. However, more than 25 feet of buffer area has been provided either side of the Warnock drainage area.

19) **Buffer Zone Along Property Lines:** Natural vegetation, planted or landscaped buffer areas of 25 feet width are required along all exterior boundaries of the property to be development as a PUD.

Staff Comments: The applicant has illustrated the required 25 foot buffer surrounding the entire site. The applicant has also increased the landscaping adjacent to all existing residential areas and the proposed development.

20) **Parking Areas:** The Parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanse of surfaced area.

Staff Comments: Though not required by ordinance, the applicant has provided several parking areas on the site which are outside of the typical residential driveway or garage areas. Given the seasonal nature of much of the Douglas community, as well as the expectation that homeowners may have visitors from time to time, the applicant has proposed small parking areas for visitors. A total of 28 extra parking spaces have been proposed and have been broken up in to areas of 3-6 parking spaces each throughout the development. Each parking area is surrounding by green space or natural area, though specific landscaping detail has not been proposed.

21) **Common Property:** Arrangements must be made for the improvement, operation and maintenance of all common property including private streets, drives, parking, open space and recreational facilities. The applicant shall be required to present a maintenance agreement and any easements necessary to satisfy the City Attorney that all such property shall be properly maintained in perpetuity.

Staff Comments: The applicant has provided the required condo docs, easements and maintenance agreements. These have been reviewed by the City Attorney and are in proper form for Planning Commission review and approval.

22) **Easements across common Property:** All necessary easements for public and/or private access shall be granted to the City.

Staff Comments: The applicant has provided the required easements and they have been reviewed by the City Attorney. The only changes necessary are to those easements which involve public access trails and pedestrian pathways. These easements should be constructed and maintained by the developer. It is recommended that the easements be amended to reflect this requirement.

Site Plan Review (Section 24.02):

The criteria for site plan review are universal for most development applications which come before the Planning Commission. Due to the fact that the proposed project has been submitted as a Planned Unit Development, the standards for site plan review will be coupled with those which are outlined above. The applicant has attempted to address all of the following standards for site plan review within the revised site plans submitted as well as within the narrative description (beginning on page 9).

In reviewing the criteria for Site Plan Review, it is determined that all requirements of site plan review have been completed and satisfied, subject to the Planning Commission's review of the above mentioned items dealing with deviations from the requirements of the underlying zoning district.

Final staff comments: The Phasing of required pedestrian trails should be closely evaluated (see page 23 of narrative description – Phasing of Development & Improvements). It is suggested that, at minimum, the developer be required to maintain a mowed pathway in the area of all required pedestrian trails throughout the site on the date that the first certificate of occupancy is issued. The Planning Commission may also wish to discuss the timing of physical construction.

Staff Recommendation: Remaining details to be discussed should include the timing of installation of pedestrian pathways, both public and private, as well as the maintenance criteria for those pathways. The Planning Commission should also complete any discussion of the proposed location of accessory structures.

The applicant has submitted all necessary information to allow the Planning Commission to make a final recommendation to the City Council. Although staff has scheduled a public hearing for this development, it has been noted that the ordinance requires the Planning Commission to schedule the public hearing. It is recommended that a hearing be scheduled not later than the regular July meeting of the Planning Commission (7/11/12).

Approval Process: As required within Article 27, all Planned Unit Developments must be approved by ordinance. It is recommended that this development be approved via a series of ordinances, as follows:

Ord. #1 West Shore Redevelopment – Site Plan for the entire site (including all sheets provided to date), Conservation Easement, Trail Easements, Master Deed & Condo Documents, and similar related materials.

Ord. #2 Final details pertaining to the installation of infrastructure associated with Phase I of the development (Ferry Street Development Area). This will include the required performance bond and a schedule for completion of required infrastructure and expected triggers which will allow the Zoning Administrator to issue certificates of occupancy.

The Planning Commission should discuss the timing for installation of improvements such as the required street trees along Ferry Street, the sidewalk along Ferry Street and any other trail improvements that may be appropriate as relates to the Ferry Street development area.

A final note, the developer has offered to host an open house at the recently completed model home located at 720 West Center Street (just across from the entrance to Wilderness Ridge) for Planning Commissioners and Council Members. It may be helpful to walk through the home to better understand the type of construction and the views afforded of the ravines on site as a result of the proposed location of structures.

The open house will be held on Wednesday, June 13, prior to our next regular meeting, from 5:00 pm to 6:45 pm. Additionally, the home will be open to the public at varying times throughout the

next week and you may stop by as it is convenient if you see that the door is open or a sign is in the front yard.