

**Staff Report:** Completed by Jeff Palmer Director of Planning & Zoning

**Report Date:** February 18, 2020, **Updated February 25, 2020**

**Meeting Date:** March 2, 2020

**Applicant:** David Oakes, agent for Villages of Winding Creek

**Requested Action:** BLVDS Section 10 Stage 3 PUD Approval  
BLVDS Section 2 Stage 3 PUD Modification Approval  
BLVDS Section 6 Stage 3 PUD Modification Approval  
BLVDS Section 8 Stage 3 PUD Modification Approval  
BLVDS Section 9 Stage 3 PUD Modification Approval

**Attached:** Clearcreek Township Resolutions: 3632, 4159, 4324, 4325, 4530 and 5176, Planned Unit Development Stage 3 Final Site Plan Review Cover Letter and Application (February 5, 2020), Applicant's Responses to Trustee Conditions (February 5, 2020), The Boulevards at Winding Creek Section Ten Final Site Plan (February 5, 2020), Proposed Open Space Exhibit (February 5, 2020), Lot Size Exhibit (February 5, 2020), Signage Exhibit (February 7, 2020), Signage Exhibit (October 2, 2019), Sidewalk/Path Exhibit (February 5, 2020), Landscape Plan Sheets L1 (February 5, 2020).

*The Stage 3 request is a formal checklist to make sure the applicant has adhered to the conditions imposed from all applicable agencies. In addition to the Trustee Resolutions, Section 13.05 (C) of the Clearcreek Township Resolution must also be reviewed with the applicant.*

**Trustee Resolutions associated with Villages of Winding Creek R-1APUDs:**

1. On April 15, 2004 the Clearcreek Township Trustees approved Resolution 2733, with fifteen (15) conditions. This was the Stage 1 approval.
2. On February 3, 2005 the Clearcreek Township Trustees approved Resolution 2851, with forty-one (41) conditions. This resolution was modified by Trustee Resolution 3632 and is not applicable to the submittal.
3. On March 3, 2005 the Clearcreek Township Trustees approved Resolution 2854, with five (5) conditions. This resolution was modified by Trustee Resolution 3632 and is not applicable to the submittal.
4. On June 23, 2005 the Clearcreek Township Trustees approved Resolution 2903, with two (2) conditions. This resolution was modified by Trustee Resolution 3632 and is not applicable to the submittal.
5. On December 9, 2009 the Clearcreek Township Trustees approved, Resolution 3632, a modification to the previously approved Stage 2 for the Villages of Winding Creek with forty-three (43) conditions. This is the modified Stage 2 approval.
6. On February 8, 2012 the Clearcreek Township Trustees approved, Resolution 4159, the rezoning of 19.73 acres of the R-1APUD. A total of 16.84 acres was rezoned to R-1APUD with the maximum of 63 single family dwelling lots. The lot size is 55'. A cap of 809 units was imposed for the platted R-1APUD, unplatted R-1APUD and the rezoning request. A total of 2.89 acres was rezoned to B-1PUD. A total of 4.99 acres of open space was required. The total combined percentage of open space for the platted, unplatted and request was identified as 34.38% or 145.23 acres. This

resolution is a Stage 1 approval that is depicted on several submitted documents of this submittal.

7. On February 13, 2013 the Clearcreek Township Trustees approved Resolution 4324, a modification to the Stage 2 approval for the Villages of Winding Creek R-1APUD. This request modified Trustee Resolution 3632 Condition 36 Architectural Requirements for Exterior Finishes.
8. On February 13, 2013 the Clearcreek Township Trustees approved Resolution 4325, a Stage 2 Approval for the R-1APUD section of the 19.73 acreage identified in Resolution 4159. This resolution has thirty-three (33) conditions.
9. On March 31, 2014 the Clearcreek Township Trustees approved Resolution 4530, a modification to the Stage 2 approval for the Villages of Winding Creek R-1APUD. This request modified Trustee Resolution 3632 Conditions 26 and 27 and Resolution 4325 Condition 22.
10. On July 22, 2019 the Clearcreek Township Trustees approved, Resolution 5176, a modification to the Stage 2 approval for the Villages of Winding Creek R-1APUD. This request removed Trustee Resolution 3632 Condition 23(a). The first reading was on July 22, 2019, the second reading was scheduled for August 12, 2019. On August 12, 2019 the reading was tabled until August 26, 2019. The request was approved by the Trustees on August 26, 2019.

**The first request is for Stage 3 approval for the Villages of Winding Creek BLVDS Section 10. The request is for a total of ninety-six (96) lots (55' and 70') and one (1) open space lot. This request is 33.1979 acres in size. The entire R-1APUD is 422.33 acres.**

**The second request is for Stage 3 modification approval for the Villages of Winding Creek BLVDS Sections 2, 6 and 9. The request is to reconfigure the trail network.**

**The third request is for Stage 3 modification approval for the Villages of Winding Creek BLVDS Sections 8 and 9. The request is to remove two (2) neighborhood column signs.**

### **Stage 3: PUD Objectives**

- (a) The Stage 3: PUD Final Site Plan objective is to further refine the Stage 2: PUD Preliminary Site Plan into a finalized Site Plan. Therefore, the following information shall be specified/clarified in the narrative and on the drawing(s) at the time of approval:

- (1) A finalized list of uses permitted within the PUD are defined.

#### Staff Comments:

#### **Lot Size Exhibit**

A new Lot Size Exhibit was submitted on February 5, 2020. Staff counted a grand total of 809 lots. A maximum of 809 lots have been approved (746 +63). See Trustee Resolution 3632, # 23 (c) (3) and Trustee Resolution 4159, # 8.

1. 55' lots

- a. The revised submitted count is 376 lots.
  - b. The submitted lot count complies with the deviation allotment.
  - c. See Trustee Resolution 3632 # 23 (c) (4) & #23(d) (1) and Trustee Resolution 4159 # 8.
  - d. The additional 63 lots are from Trustee Resolution 4325.
- 2. 70' lots
    - a. The revised submitted count is 321 lots.
    - b. The submitted lot count complies with the deviation allotment.
    - c. See Trustee Resolution 3632 # 23 (c) (4) & #23(e) (1).
  - 3. 90' lots
    - a. The revised submitted count is 112 lots.
    - b. The submitted lot count complies with the deviation allotment.
    - c. See Trustee Resolution 3632 # 23 (c) (4) & #23(f) (1).

### **Open Space Exhibit**

A new Lot Size Exhibit was submitted on February 4, 2020. See Trustee Resolution 3632, # 24 (a).

- 1. A minimum of 145.23 acres of open space is required. See Trustee Resolution 4159 # 12.
- 2. During the July 2019 modification of the Stage 2 PUD, the need for another category of land was discussed. The plan now designates Non-Build Lots. A total of 1.06 acres of Non-Build Lots have designated.
- 3. **After The BLVDS Section 10 is platted: a total of 144.19 acres of open space will be platted (142.90 acres of open space out of ROW and a total of 1.29 acres in ROW).**
- 4. **The remaining 1.07 acres of open space out of ROW is associated with the retail area that has only received Stage 1 approval.**

### **Sidewalk/Path Exhibit**

A new Sidewalk/Path Exhibit was submitted on February 5, 2020. See Trustee Resolution 3632, # 25 and Trustee Resolution 4325, #21.

- 1. **The pending request is for the completion of a four (4) foot mulch path that connects Fairwater Springs Drive, BLVDS 10 to Cold Stream Drive, BLVDS 9.**
- 2. **The pending request is to eliminate the asphalt path connection across the creek (Reserve Lot 230-A, BLVDS 2 to Reserve Lot 733, BLVDS 9).**
- 3. **The pending request is to eliminate one of the mulch path connections to the asphalt path west of the creek (Reserve Lot 230-A, BLVDS 2).**
- 4. **The pending request is to re-locate the path east of the creek (Reserve Lot 733, BLVDS 9) instead of west of the**

creek (Reserve Lot TT, BLVDS 6) to utilize an existing culvert.

5. **The pending request is to reduce the length of the asphalt path and relocate the connection with the mulch path to the east (Reserve Lot 733, BLVDS 9).**

#### **Signage Exhibit**

1. A new Signage Exhibit was submitted on February 7, 2020, See Trustee Resolution 3632, #19, 20 & 25 and Trustee Resolution 4325, #15, 16 & 21.
2. **The request is to remove the future neighborhood column sign that was proposed in BLVDS Section 8, Reserve Lot 660. See the change from October 2, 2019 submittal.**
3. **The request is to remove the future neighborhood column sign that was proposed in BLVDS Section 9, Lot 710. See the change from October 2, 2019 submittal.**
4. **A path sign is proposed for the road connection (Fairwater Springs Dr.) and the mulch path with Reserve Lot 832.**

#### **Landscape Exhibit**

1. No change to the landscape plan.
  2. **Reserve Lot 832 is required to have a perimeter buffer per Section 17.07 of the Clearcreek Township Zoning Resolution. Existing trees and shrubs have not been identified for consideration for credit.**
    - i. **The section of Lot 832 (357.34') west of Lots: 753-757 shall have a minimum of 36 trees.**
    - ii. **The section of Lot 832 (669.38') north of Lots: 779, 780, 801-807 shall have a minimum of 67 trees.**
    - iii. **The remaining section of Lot 832 (400') north of Lots: 813-816 shall have a minimum of 28 trees.**
    - iv. **The section of Lot 832 (543.36') east of Lots: 807-816 shall have a minimum of 38 trees.**
- (2) The exact locations, types, heights, materials, and designs of such uses are finalized.

#### Staff Comments:

- **The Final Site Plan specifies twenty-two (22) lots that meet the parameters of a 70' lot.**
- **The Final Site Plan specifies seventy-four (74) lots that meet the parameters of a 55' lot.**
  - **Lots 773-776, 806-808, 812-816 are considered irregular lots, because of a decrease in lot frontage. This complies with Trustee**

**Resolution 3632 and the Overall Plat dated  
October 13, 2009.**

- (3) All use-specific standards that apply to the permitted uses are finalized and identified in a table which includes: the average, highest, and lowest quantities and a count of each occurrence.

Staff Comments: Use standards are outlined in Stage 2.

- (4) The maximum density or intensity permitted within the PUD is finalized.

Staff Comments: Request conforms to density provision.

- (5) The exact amount and location of open space/recreation areas are finalized.

Staff Comments: See # (a)(2) above and the Final Site Plan.

- (6) The layout of all new street(s), major access drive(s), sidewalks, trails, and any other methods of circulation required or necessary throughout the PUD are defined and the acreage is finalized.

Staff Comments:

- **Cold Stream Drive and Falling Stream Drive are both shown along the same street network. The name change occurs at a midblock knuckle. This name change is problematic and will need to be changed. This comment was brought up at the time of the revised preliminary plan.**

- (7) The exact location of all impervious surfaces for non-residential building areas, parking and truck loading areas with ingress and egress drives are finalized.

Staff Comments: No non-residential building areas are in the stage 3.

- (8) The exact location(s) and a submitted timeline of all of the proposed development's amenities are finalized. *\*Note: Amenities part of a phase shall be constructed concurrently with that phase. If the PUD consists of multiple phases to be developed over time, no more than 25% of the total number of lots approved for the PUD as a whole shall be built on before planned amenities and buffers are constructed. This requirement may be modified depending on the distribution, number, and location of amenities in the PUD as a whole.*

Staff Comments:

**Status of Building/Installing Amenities:**

The following was not part of the Stage 3 submittal. Staff is providing this progress report so that the status of the approved amenities can be discussed at a public meeting. If any deficiencies or timing delays are identified they can be addressed at the time of the pending Stage 3 request.

1. Club house:
  - a. Amenity is built.
  - b. Parking is built.
  - c. Landscape has been installed.
2. Pool:
  - a. Amenity is built.
3. Basketball play area:
  - a. Amenity is built.
  - b. Landscape has been installed.
4. Playground:
  - a. Amenity is built.
  - b. Landscape has been installed.
5. Pond and open spaces in The Boulevards Section Two:
  - a. Amenity is built.
  - b. The fountains are installed.
6. Walking path/trails in The Boulevards Section Two:
  - a. The 6' asphalt path is built.
  - b. The 4' mulch path is built.
  - c. The pending request is to eliminate the asphalt path connection across the creek (Reserve Lot 230-A, BLVDS 2 to Reserve Lot 733, BLVDS 9).**
  - d. The pending request is to eliminate one of the mulch path connections to the asphalt path west of the creek (Reserve Lot 230-A, BLVDS 2).**
7. Landscape in The Boulevards Section One and Two:
  - a. Landscape has been installed.
8. Landscape in The Boulevards Section Four (renamed to 4B):
  - a. Landscape has been installed.
9. Landscape in The Boulevards Section Five (renamed to 4A):
  - a. Landscape has been installed.
10. Walking path/trail in The Boulevards Section Five (renamed to 4A):
  - a. Landscape has been installed.
11. Pond in The Boulevards Section Five (renamed to 4A):
  - a. Amenity is built.
12. Meadows at Winding Creek Section Two:
  - a. The 6' asphalt path is built as a 9' asphalt path.
  - b. Landscape has been installed.

13. Landscape, Path, Signage in Turning Leaf at Winding Creek Section Four, Reserve Lot QQ:
  - a. Landscape has been installed.
  - b. The 6' asphalt path is built as a 9' asphalt path.
14. **Turning Leaf at Winding Creek Section Four, Reserve Lot RR (Turning Leaf Section 4):**
  - a. Landscape has been installed.
  - b. **As of February 13, 2020, the Neighborhood Column Signage is in the process of being installed.**
  - c. The 6' asphalt path has been installed.
15. **Turning Leaf at Winding Creek Section Four, Reserve Lot PP (Turning Leaf Section 4):**
  - a. Landscape has been installed.
  - b. The 4' mulch path has been installed.
  - c. **As of February 13, 2020, the Trail Signage hasn't been installed.**
16. Club House Addition Approved September 12, 2016
  - a. Amenity has been installed.
17. Second Swimming Pool Addition Approved September 12, 2016
  - a. Amenity has been installed.
18. Parking Lot Approved September 12, 2016
  - a. Amenity has been installed.
  - b. Dumpster and screening have been installed.
19. Replat of Boulevards Section Two:
  - a. Pond has been installed.
20. **BLVDS Section 6, Reserve Lot TT:**
  - a. **As approved, this Section has the continuation of a four (4) foot mulch path that starts at Whispering Stream Court on Lot 627 (BLVDS 7), travels through Reserve Lot TT (BLVDS 6) and terminates into the asphalt path that connects Crooked Creek Drive and Winding Creek BLVD (BLVDS 9).**
    - i. **The mulch path hasn't been installed.**
    - ii. **The pending request is to re-locate the path east of the creek (Reserve Lot 733, BLVDS 9) instead of west of the creek (Reserve Lot TT, BLVDS 6) to utilize an existing culvert.**
  - b. Perimeter buffer along parcel number 05213000040 and 05213000050: Buffer per Section 17.07 shall be provided consisting of existing trees and shrubs and supplement trees and shrubs as required.
    - i. **Thirty-six (36) trees are required. On February 13, 2020, twenty-nine (29) trees were counted.**

21. **BLVDS Section 7, (renamed Reserve Lot 618C):**
  - a. Mulch path has been installed.
  - b. As of February 13, 2020, the path sign hasn't been installed.**
  - c. Entrance sign is in the process of being installed.**
  - d. The landscape has been installed.
22. BLVDS Section 7, Reserve Lot 619:
  - a. The landscape has been installed.
23. BLVDS Section 7, Reserve Lot 620:
  - a. The landscape has been installed.
24. **BLVDS Section 7, Reserve Lot 621:**
  - a. As of February 13, 2020, the Neighborhood Sign is in the process of being installed.**
  - b. The landscape has been installed.
25. BLVDS Section 7, Reserve Lot 622:
  - a. The landscape has been installed.
26. BLVDS Section 7, Reserve Lot 623:
  - a. The landscape has been installed.
27. BLVDS Section 7, Reserve Lot 624:
  - a. The landscape has been installed.
28. BLVDS Section 7, Reserve Lot 625:
  - a. The landscape has been installed.
29. BLVDS Section 7, Reserve Lot 626:
  - a. The landscape has been installed.
30. **BLVDS Section 7, Reserve Lot 627:**
  - a. Entrance sign is installed.
  - b. The landscape has been installed.
  - c. The mulch path hasn't been installed at the entrance from Whispering Stream Court.**
  - d. As of February 12, 2020, the path sign hasn't been installed at the entrance from Whispering Stream Court.**
  - e. Perimeter Buffers:**
    - a. Perimeter buffer along Lots 592 to 600.**  
Landscape Plan: Buffer per Section 17.07 shall be provided consisting of existing trees and shrubs and supplement trees and shrubs as required.
      - i. Forty-seven (47) trees are required. On February 13, 2020, thirty-nine (39) were counted.**
    - b. Perimeter buffer along Lots 581 to 588.**  
Landscape Plan: Buffer per Section 17.07 shall be provided consisting of existing trees and

shrubs and supplement trees and shrubs as required.

- i. Thirty-six (36) trees are required. As of February 13, 2020, twenty-eight (28) trees were counted.**
- c. **Perimeter buffer along Lots 569 to 578.**  
Landscape Plan: Buffer per Section 17.07 shall be provided consisting of existing trees and shrubs and supplement trees and shrubs as required.
  - i. Sixty-one (61) trees are required. As of February 13, 2020, forty-four (44) trees were counted.**
- d. **Perimeter buffer along Lots 567 to 569.** This area has been reduced in width to a 10' utility easement.
  - i. On November 4, 2019 the Zoning Commission required that no later than June 1, 2020, the buffer adjacent to Lots 567-569 and Lytle Five Points Road shall be modified to staff's satisfaction to eliminate the tree requirement (forty-one (41) trees) and substitute a combination of earth mound and decorative fence.
  - ii. As of February 13, 2020, no plan has been submitted.**
- e. **Perimeter buffer along Lots 553 to 578.**  
Landscape Plan: Buffer per Section 17.07 shall be provided consisting of existing trees and shrubs and supplement trees and shrubs as required.
  - i. Seventy (76) trees are required. As of February 13, 2020, Seventy-two (72) trees were counted.**
- f. **On November 4, 2019 the Zoning Commission required that no later than June 1, 2020, 50 percent (108 trees) of the perimeter buffer vegetation deficiencies identified in VWC BLVDS Section 7 shall be installed. Focus should be to address existing owner occupied adjacent areas prior to addressing non occupied areas.**
  - i. As of February 13, 2020, a total of one hundred and eighty-three trees (183) had been installed.**

- g. On November 4, 2019 the Zoning Commission required that no later than November 1, 2020, the remaining **thirty-three (33)** trees of the perimeter buffer vegetation deficiencies identified in VWC BLVDS Section 7 shall be installed.
  - i. As of February 13, 2020, a maximum of **seventy-four (74)** trees are still required.
  - ii. This maximum total will reduce to **thirty-three (33)** trees, once the plan for the perimeter buffer along Lots 567 to 569 is approved and installed.

**BLVDS Section 8, the Final Plat hasn't been recorded and the street network hasn't been initiated, therefore the Reserve Lots haven't been created or improved.**

- 31. On November 4, 2019 the Zoning Commission required that no later than November 1, 2020, all landscape vegetation shall be installed as identified in VWC BLVDS Section 8.
- 32. BLVDS Section 8, Reserve Lot 659:
  - a. The landscape hasn't been installed.
- 33. BLVDS Section 8, Reserve Lot 660:
  - a. The landscape hasn't been installed.
  - b. Neighborhood column sign hasn't been installed.
    - i. The pending request is to remove the sign.
- 34. BLVDS Section 8, Reserve Lot 661:
  - a. The landscape hasn't been installed.
- 35. BLVDS Section 8, Reserve Lot 662:
  - a. The landscape hasn't been installed.
  - b. Neighborhood column sign hasn't been installed.
  - c. On November 4, 2019 the Zoning Commission required that no later than September 1, 2020, all paths, path signage and neighborhood signs shall be installed as identified in VWC BLVDS Section 8.
- 36. BLVDS Section 8, Reserve Lot 663:
  - a. The landscape hasn't been installed.
- 37. BLVDS Section 8, Reserve Lot 664:
  - a. The landscape hasn't been installed.
- 38. BLVDS Section 8, Reserve Lot 665:
  - a. The landscape hasn't been installed.
- 39. BLVDS Section 8, Reserve Lot 666:
  - a. The landscape hasn't been installed.

**BLVDS Section 9, the Final Plat hasn't been recorded and the street network hasn't been initiated, therefore the Reserve Lots haven't been created or improved.**

- 40. BLVDS Section 9, Reserve Lot 733:**
- a. The landscape hasn't been installed.
  - b. Path signage hasn't been installed.
  - c. The asphalt path hasn't been installed.
  - d. The mulch path hasn't been installed.
    - i. The pending request is to re-locate the path east of the creek (Reserve Lot 733, BLVDS 9) instead of west of the creek (Reserve Lot TT, BLVDS 6) to utilize an existing culvert.
    - ii. The pending request is to reduce the length of the asphalt path and relocate the connection with the mulch path to the east (Reserve Lot 733, BLVDS 9).
  - e. On November 4, 2019 the Zoning Commission required that no later than September 1, 2020, all paths, path signage and neighborhood signs shall be installed as identified in VWC BLVDS Section 9.

- 41. BLVDS Section 9, Reserve Lot 734:**
- a. The landscape hasn't been installed.
  - b. On November 4, 2019 the Zoning Commission required that no later than November 1, 2020, all landscape vegetation shall be installed as identified in VWC BLVDS Section 9.
  - c. The mulch path hasn't been installed. Connects Cold Stream Drive, BLVDS 9 to Reserve Lot 832, BLVDS 10.
  - d. The path sign at Cold Stream Drive hasn't been installed.
  - e. On November 4, 2019 the Zoning Commission required that no later than September 1, 2020, all paths, path signage and neighborhood signs shall be installed as identified in VWC BLVDS Section 9.

- 42. BLVDS Section 9, Lot 710:**
- a. Neighborhood column sign hasn't been installed.
    - i. The pending request is to remove the sign.
    - ii. On November 4, 2019 the Zoning Commission required that no later than September 1, 2020, all paths, path signage and neighborhood signs shall be installed as identified in VWC BLVDS Section 9.

**BLVDS Section 10 is currently being reviewed, the Final Plat hasn't been recorded and the street network hasn't been initiated, therefore the Reserve Lot hasn't been created or improved.**

- 43. BLVDS Section 10, Reserve Lot 832:**
- a. The landscape hasn't been installed.

- b. **The mulch path hasn't been installed.**
  - i. **Connects Fairwater Springs Drive, BLVDS 10 to Cold Stream Drive, BLVDS 9.**
- c. **Path sign at Fairwater Springs Drive connection hasn't been installed.**

(9) The exact location and size of all signage are finalized.

Staff Comments: See # (a)(1) above and Final Site Plan.

(b) Additionally, the Stage 3: PUD Final Site Plan shall:

- (1) Conform to the approved Stage 2: PUD Preliminary Site Plan as revised or amended by the Clearcreek Township Board of Trustees.
- (2) Conform to all applicable regulations set forth herein.

Staff Comments: Plan conforms to Trustee Resolutions.

### **Conditions for Approval**

The following criteria shall be used in the recommendations and decisions made regarding the Stage 3: PUD Final Site Plan. Failure to comply with any of these criteria shall require a PUD modification and shall therefore be subject to the criteria set forth in **SECTION 13.07, PUD Modifications.**

- (a) All requirements established as part of the approved Stage 1: PUD Concept Plan and Stage 2: PUD Preliminary Site Plan have been satisfied.
- (b) All requirements of the Zoning Resolution that have not been varied as part of the Stage 1: PUD Concept Plan and Stage 2: PUD Preliminary Site Plan have been satisfied.
- (c) When phased, the proposed Stage 3: PUD Final Site Plan for the individual phase of the overall PUD is consistent with the approved Stage 1: PUD Concept Plan and Stage 2: PUD Preliminary Site Plan.
- (d) Any part of the PUD not used for structures, parking and loading areas, public improvements, streets, or walkways shall be landscaped, improved for the purpose intended, or returned to and maintained in a natural state.
- (e) The internal streets and thoroughfares conform to the approved Stage 2: PUD Preliminary Site Plan.
- (f) The amenities that are part of the submitted phase are scheduled to be constructed concurrently with that phase.

- (g)** The Stage 3: PUD Final Site Plan is consistent with the intent and purpose of the Clearcreek Township Zoning Resolution, Clearcreek Township Board of Trustee Resolutions, and promotes the protection of public health, safety, morals, and general welfare of Clearcreek Township.
- (h)** The comments and recommendations received from the Warren County departments as well as representatives of federal and state agencies have been satisfactorily addressed.
- (i)** The following Stage 3: PUD Final Site Plan documents have also been satisfied:

  - (1)** All necessary legal documentation relating to the incorporation of a homeowners' or property owners' association for residential PUDs or other similar associations for non-residential or mixed use PUDs, have been submitted and approved as part of the PUD Final Site Plan. Such legal documentation has demonstrated how the common open space will be permanently maintained.
  - (2)** Copies of any restrictive covenants or agreements that are to be recorded have been submitted.