

EidenLaw

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Date: November 4, 2021
Our File No. 10-1015
Via: Email

Krista Barkley Braun
Planning & Zoning Manager
500 W. Winchester Road, Unit 101
Libertyville, IL 60048

Dear Krista,

As you know, the County and my client, Wanish LLC, previously executed an Agreement dated July 13, 2010, temporarily suspending the County's approval of the Final Plat of Wanish Park Planned Development. As a result, the Final Plat, although recorded, is deemed incomplete such that it is not fully in compliance with the provisions of Article 10 of the UDO. The agreement recognizes the impact of the decline of the housing market and the desire to preserve the future marketability of the development and rights associated with the development. Thereafter, the County and Wanish executed a First Amendment to Agreement dated June 13, 2012, Second Amendment to Agreement dated October 2, 2013, Third Amendment to Agreement dated September 1, 2015, Fourth Amendment to Agreement dated November 22, 2017 and Fifth Amendment to Agreement dated December 6, 2019 to continue the effectiveness of the agreement (collectively herein referred to as the "Agreement").

The main thrust of the Agreement is evidenced by the following paragraph:

Upon documentation that the conditions of the Agreement have been met, the Director shall evaluate the request from Wanish LLC to approve the Final Plat Documents and if found to be in acceptable form, shall promptly countersign the notice in subsection (4a) above as a ministerial act and without discretion, and shall record, at Wanish LLC's expense, a certificate that Wanish LLC has complied with the terms and conditions of this subsection. Upon such recording, the Approvals shall no longer be suspended and the Final Plat Documents shall be deemed complete and in conformance with the provisions of the UDO, and Wanish LLC and its successors and assigns shall be entitled to all of the benefits of a recorded Final Plat. All of the Approvals previously granted by the County as a condition to and in conjunction with recording the Final Plat and constructing the subdivision improvements, shall thereafter be unmodified and in full force and effect.

The Agreement also provided:

In the event the Completion Date does not occur on or before December 31, 2021, unless further extended by the parties hereto, (a) the Approval of the Final Plat Documents shall be

terminated, (b) Wanish, LLC or its successors or assigns shall prepare and record a Plat of Vacation that meets the provisions of sections 151.204 (D) (2) and 151.204 (E) of the Lake County Code of Ordinances (as amended from time to time) to vacate the Final Plat, and (c) the Property shall be deemed to revert to its predevelopment status.

The continuing reluctance of developers to undertake development of raw residential land has been a constant for many years in the Illinois housing market, and Wanish is still interested in preserving the future marketability of the subdivision and rights associated therewith.

This letter is to request a Sixth Amendment to Agreement to extend the Completion Date to December 31, 2023 in accordance with the draft Sixth Amendment to Agreement accompanying this letter.

Since the approval of the Fifth Amendment, Wanish entered into an agreement to sell the subject property, but the purchaser just recently terminated. Wanish has had many potential purchasers over the years who have terminated discussions during their due diligence periods. Wanish continues to market the property for sale. The property is attractive to a senior living developer because approvals are in place. Since the granting of the original development approvals, Wanish has received a number of offers for adult living/multi family use. The majority were for senior living. In the past 4 years, there were two proposals for multi family use, and two more for "age in place" senior living..

Wanish has significantly reduced its price for the property, in the hope that the combination of a lower price and existing approvals would be attractive to the market. Vacating the approvals will likely extend the approval process, thereby further imposing a risk to developers whose development horizons continue to shrink.

Please schedule us before the Public Works, Planning and Transportation Committee to present this request.

Mark C. Eiden & Associates, PC

By: _____
Mark C. Eiden