

Inland Real Estate Development, LLC  
2901 Butterfield Road  
Oak Brook, Illinois 60523  
630-218-8000 Fax: 630-954-5673  
www.inland-development.com

RECEIVED

JAN 16 2008

LAKE COUNTY  
PLANNING, BUILDING & DEVELOPMENT

January 12, 2009

Pat Tierney  
Lake County Planning, Building and Development  
18 N. County Street – 6<sup>th</sup> Floor  
Waukegan, Illinois 60085

**Re: Mill Creek Estates - Bonds**

Dear Pat;

We received your December 23<sup>rd</sup> correspondence regarding the option of Phasing the Subdivision and appreciate the time that you and other staff members have given to this issue. We acknowledge that the challenges of this less-than-stellar housing market have put strains on all of us. When we met in your offices on Friday, November 14<sup>th</sup> several different scenarios were discussed. Ultimately, two possible tracks were outlined – release of the bond through recordation of a Bond Agreement or a re-phasing of the Plat to reduce the amount of the bond (and premium) due now.

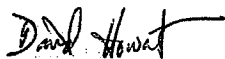
Through research of the two options, we have determined that the gradual re-phasing of the Plat will add significant costs and expenses to both Inland and Lake County. Although the fees and bond would be reduced, a large portion of the development costs are attributed to the entryway to the subdivision, which would need to be bonded in a Phase One of any size. In addition, there would be significant costs associated with re-permitting, re-engineering and platting each phase. For example, a surveyor and an engineer would be needed for each separate phase to produce accurate surveys and plans and apply for permits. Further, there is no assurance that we would not need to come back in to staff to discuss adjustments of the re-platting.

We feel that the recorded Bond Agreement provides the most protection for Lake County as well as future residents of this development. The Agreement provides that no development of the property can or will occur until the performance bond and application permits are re-issued and the County is not responsible for the improvements at the subdivision. Further, the Bond Agreement would be recorded against title to the property, thereby placing the public on notice that development will not occur and that the County is not responsible. No work can be performed at the site until we receive the applicable permits, which are no longer in effect. Accordingly, if we attempted to start work without the bond or permits, the County can stop the work completely, in the same way as if no plat of subdivision were ever recorded. Again, we feel that the aforementioned facts, along with the recording of the Bond Agreement provide all necessary protections to both the County and future residents.

Your December 23<sup>rd</sup> correspondence indicates that the Planning Building and Zoning Committee will have a meeting on January 27<sup>th</sup>. We would like the chance to present our request for release of the bond with the Bond Agreement to the Committee. Again, thank you for your consideration regarding this issue and I look forward to hearing back from you. We will be happy to provide any materials that the Committee will need for consideration of our request.

Sincerely,

INLAND REAL ESTATE DEVELOPMENT, LLC



David Howat  
Inland Real Estate Development, LLC  
2901 Butterfield Road  
Oak Brook, Illinois 60523  
[howat@inlandgroup.com](mailto:howat@inlandgroup.com)  
(630) 586-4731

cc. Tony Casaccio, Matt Fiascone, H. Dan Bauer, Esq., Phil Rovang, Bob Mosteller, Lisle Stalter

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Philip J. Rovang  
Director

18 North County Street - 6th Floor  
Waukegan, Illinois 60085  
Phone 847 377 2875  
Fax 847 360 6734  
E-mail [planning@co.lake.il.us](mailto:planning@co.lake.il.us)

December 23, 2008

David B. Howat  
Inland Real Estate Development, LLC  
2901 Butterfield Road  
Oak Brook, IL. 60523

Re: Mill Creek Estates – Warren Township  
Phasing of Subdivision

Dear Mr. Howat:

This letter is being sent pursuant to our discussion with you and other representatives of Inland along with County representatives on November 14<sup>th</sup> concerning options to reduce your financial exposure for Mill Creek Estates. Since that meeting, we have also requested input from neighboring counties concerning their experience on similar issues to explore other alternatives we may not have considered. This communication focuses on how a phased subdivision plan could be carried out, the steps involved, and the approximate time to complete the initial amendment if you pursued it.

As explained in the meeting, this office suggests the gradual phasing of a series of plat amendments for designated lots and the associated improvements is an approach to consider prior to proceeding with your variation request to have your performance assurance released. Article 10, Section 10.13 of the Unified Development Ordinance (UDO) establishes standards for the phasing of the subdivision. This approach enables you to keep lots in inventory for sale, yet reduces your financial commitment to the County because we would only require that you pay fees and bond for those lots/improvements contained within the final plat for each phase. Using this approach, all existing lots not included in the final plat for that phase would be vacated in the interim until platted. The Preliminary Plat for the subdivision will remain in effect in its entirety. From our perspective, the only provisions that may need to be varied would be time extensions in: 1.) the 24 month time limit requirement to plat all phases of the subdivision; and 2.) an extension in the 24 month period to establish a Conditional Use Permit for a Planned Unit Development (establishing defined as: “the onset of construction for on-site improvements”). The first request is decided by the Planning, Building and Zoning Committee; the second request, is decided by the Zoning Board of Appeals. The expiration date for both categories is October 2, 2009.

Development Review  
Bob Mosteller  
Deputy Director

Zoning Administration  
Sheel Yajnik  
Zoning Administrator

Planning and Support Services  
Dennis Sandquist  
Deputy Director

Community Development  
Vern Witkowski  
Deputy Director

The attached chart represents an estimate of the tasks and time limits required to approve the initial amendment to the approved final plat for Mill Creek Estates. These estimates assume immediate implementation by Inland, one review by the Staff Review Committee, and of course, no "surprises" or unusual issues.

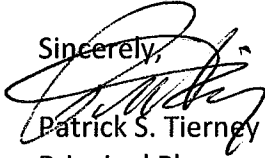
The initial phase will likely be the most time consuming given that you will need to complete the access process with LCDOT for the ultimate development of the subdivision, and staff will need to evaluate the phasing plan for the engineering improvements. Deadlines for IDNR, ACOE, IEPA and SMC's wetland impact mitigation approvals will also need to be investigated and extensions granted if necessary prior to approval of the amendment and final engineering plans. Additionally, given that the school agreements for Warren High School and Woodland Elementary School District are over one year old, the agreements will need to be updated for each school district. If any changes need to be made to the agreements, they can be pursued concurrently with the Staff Review Committee's review of your amendment.

The UDO requires that each phase of the subdivision be self-sustaining with respect to site capacity, open space (e.g. natural resource protection, stormwater detention, and recreation areas), and engineered improvements. In the past, we typically advise applicants to plat all the open space and associated recreational and natural resource protection areas with the initial phase of the subdivision so the open space balancing requirement will not be an issue. You would not necessarily need to take this approach, but it would eliminate performing calculations for each phase of the subdivision. Because the final engineering plans have already been approved for the subdivision, and your desire is to phase in the improvements, a phased implementation plan will need to be submitted with the initial phase of the subdivision showing the limits of each phase. Staff will evaluate these plans to assure that the self-sustaining requirement is met. Cost estimates would then be prepared for the improvements associated with each phase and the corresponding bonds would need to be posted prior to final plat approval for each phase. The current administrative costs for reviewing the plat and engineering plans for each phase are \$765.00 per lot. If you chose to seek the variation, the variation fee will be \$260.00. It is anticipated that these fees may increase the first part of 2009. Fees associated with the phased approach and planning-related issues associated with other departments can be obtained at a Preapplication meeting if you choose phased approach for the subdivision.

The Planning, Building and Zoning Committee will be meeting on January 6 and January 27. I suggest if you wish to proceed with the variation for the January 6<sup>th</sup> meeting, that you prepare your request using standards found in Section 10.2.5 of the Unified Development Ordinance, and submit your request with the above-referenced fee to this office on or before December 26th. If you want your request placed on the January 27<sup>th</sup> meeting, I must receive your request on or before January 16<sup>th</sup>.

I trust the above information provides you with sufficient guidance to decide on an approach to continue with the subdivision. Until all details have been worked-out, you should not assume that staff will support any variations. If you have any questions, or if you would like to meet on this issue, feel free to contact me at (847) 377-2128 or at [ptierney@lakecountyl.gov](mailto:ptierney@lakecountyl.gov).

Sincerely,

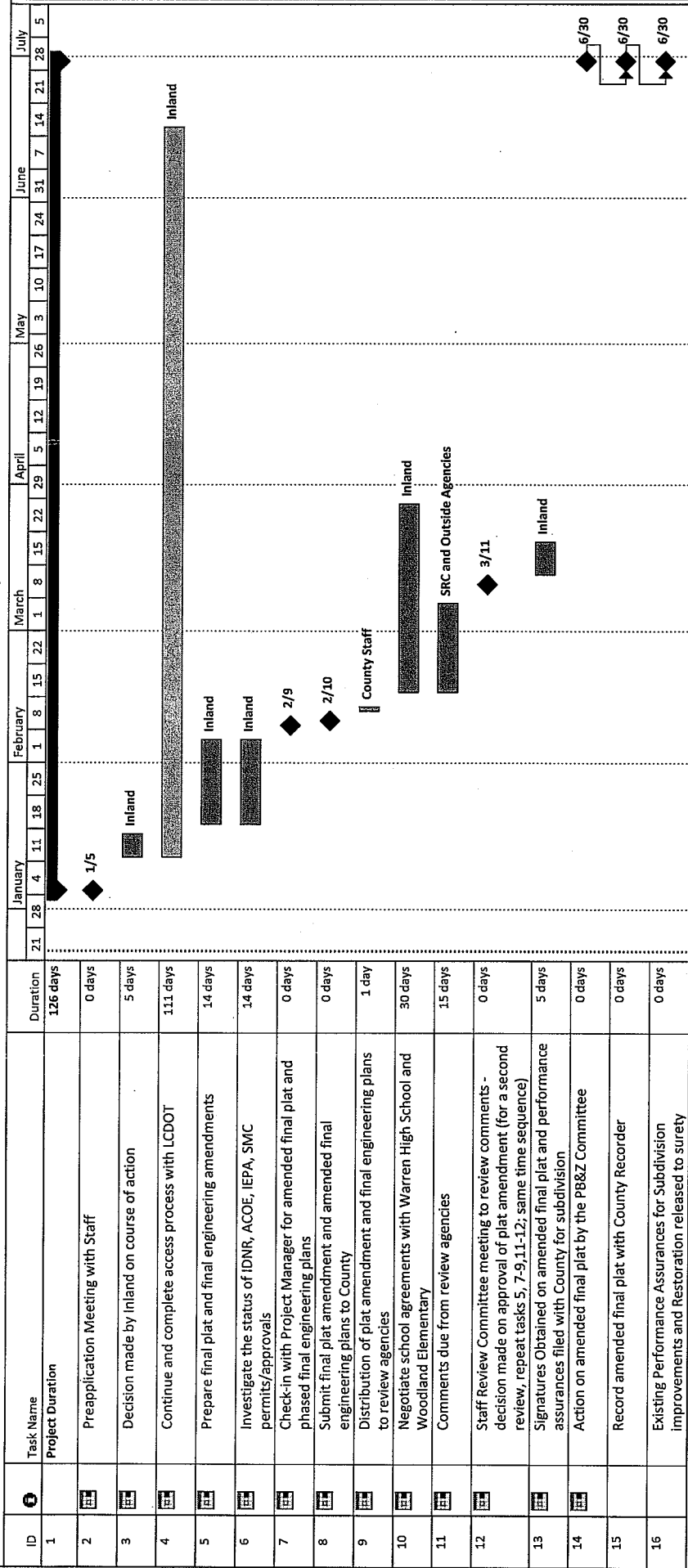


Patrick S. Tierney  
Principal Planner

Encl.

Cc Lisle Stalter  
Bob Mosteller  
Sheel Yajnik  
Phil Rovang  
Steve Crivello  
Paula Trigg  
Peter Kolb

REPRESENTATIVE SCHEDULE FOR A PLAT SUBDIVISION APPROACH  
**Mill Creek Estates Subdivision - Warren Township**



Project: Plat Amendment Process  
 Date: Tue 12/23/08

Task: [Solid Bar] Summary [Dotted Bar] Rolled Up Progress [Solid Bar] Project Summary [Solid Bar] Group By Summary [Solid Bar]

Progress: [Solid Bar] Rolled Up Task [Solid Bar] Split [Dotted Bar] External Tasks [Dotted Bar]

Milestone: [Diamond] Rolled Up Milestone [Diamond]

October 27, 2008

Mr. Dave Howat  
Inland Real Estate Development LLC  
2901 Butterfield Road  
Oak Brook, Illinois 60523

RE: Mill Creek Estates

Dear Mr. Howat:

In response to your request of October 13, 2008 that we "postpone the posting of bonds to cover the on-site improvements" to this subdivision, I'm sure you are aware that a bond was posted at the time the plat was recorded. Therefore, rather than delaying the posting you are effectively requesting that we allow this bond to expire or be withdrawn.

The County's subdivision regulation requires that a performance assurance be posted at the time of Final Plat approval to insure that all the public improvements necessary to serve the development will be constructed regardless of the performance of the developer. The purpose of this is, of course, to insure that future lot buyers get the public improvements they expected when they purchased the lot. Waiving this buyer protection is non-negotiable.

Likewise, when the County approved the bond for Mill Creek Estates, we also assumed the responsibility and liability of providing these public improvements even in the event the amount of the bond proves insufficient. It is also non-negotiable that the County would remain liable for these improvements in the absence of a valid performance assurance.

We have discussed your request with representatives of the Lake County Recorders of Deeds and the Lake County State's Attorney, as well as the staffs of other affected departments.

While we understand and sympathize with your situation, the only solution we can visualize involves the partial or complete vacation of the plat of subdivision at this time which would reduce the size of the performance bond for now. Then when you are ready to market the lots, apply to have the plat of subdivision approved again by the Plat Committee at which time the bond would have to be re-calculated and accepted by the County.

We are most willing to consider any other options you may propose, keeping in mind the non-negotiable considerations stated above.

Sincerely,

Bob Mosteller  
Deputy Director

BM:mug

cc: Jeff Bell  
Phil Rovang  
Lisle Stalter



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Oak Brook, Illinois 60523  
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www.inland-development.com

October 13, 2008

Bob Mosteller  
Lake County Planning, Building and Development Dept.  
18 North County Street - 6<sup>th</sup> Floor  
Waukegan, Illinois 60085

**Re: Subdivision Bonds # 5030233 and #5030144 - Mill Creek Estates**

Dear Bob;

The purpose of this correspondence is to follow up on recent conversations you have had with Ike Magalis regarding our Mill Creek Estates Development on Stearns School Road. Specifically, we would like to request a postponement of the posting of the bonds to cover the on-site improvements at this site until such time as we are ready to install such on-site improvements. As you are probably aware, we have completed the off-site water and sewer work, and these utilities have been stubbed to the property line. We are fully prepared to post our maintenance bond for the off-site improvements.

The request for the postponement of the bond posting for the on-site improvements is as a result of the housing market downturn. While we have received inquiries from interested parties about the availability of single-family lots, no one has made an offer to purchase a lot. So, while we expect there will be a demand for these lots sometime in the future (and we look forward to the time when we can sell into that demand), nevertheless, because of the housing market downturn, no lots have been sold and no sales are expected in the near future.

As you are aware, the County has control over the development and building process, and, since no lots have been sold, no one will be coming to the County requesting a building permit which can not be issued because the on-site improvements have not been completed. Further, while the Final Plat remains in place, the Site Development Permit will be controlled by the County, and can be re-issued at the time that we are ready to re-post the bond. Obviously, we agree not to sell any lots to a homeowner until the appropriate bonds have been posted.

We appreciate your attention to this matter. We would like to set up a meeting with you and your attorney as soon as possible to discuss next steps, and would appreciate if you could get back to me with some suggested dates and times.

Sincerely,

INLAND REAL ESTATE DEVELOPMENT LLC

David Howat  
Inland Real Estate Development LLC  
2901 Butterfield Road  
Oak Brook, Illinois 60523  
[howat@inlandgroup.com](mailto:howat@inlandgroup.com)  
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cc. Tony Casaccio, Matt Fiascone, Dan Bauer, Ike Magalis, Jeff Bell

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