



PLAN COMMISSION STAFF REPORT

To: Members of the Plan Commission

From: Sergio Mendoza, Planning Director

Meeting Date: December 12, 2023

Agenda Item: PC 23-027

Application Type: Performance Surety for Final Plat

Hearing: Other Items/Continued Discussion

Summary: Attorney Scott Yahne, representing FLOYDS CONCERNS LLC, is seeking a favorable recommendation to the Town Council to accept a Performance Surety Bond for 3 FLOYDS SECOND CONSOLIDATION FINAL PLAT for the public improvement of a sidewalk.

Applicant: Attorney Scott Yahne representing Three Floyds

Property Address: 9750 Indiana Parkway

Current Zoning: CD-4B - General Urban - B Character District

Adjacent Zoning: North: CD-4B - General Urban - B Character District
South: SD-4A General Urban-A Character District
East: CD-4B - General Urban - B Character District
West: CD-3.R2 - Neighborhood - 60' Lot One Family Residence District

Action Requested: Favorable recommendation to accept Performance Surety Bond

Actions Required: Surety Review and recommendation to Town Council

Staff Recommendation: Forward a favorable recommendation to the Town Council

Attachments: 1. Performance Surety Bond, Exhibit A (pg 5)
2. Final Plat of 3 FLOYDS SECOND CONSOLIDATION, Exhibit B (pg 8)



Figure 1 Subject Property.

PROJECT BRIEFING

Attorney Scott Yahne, representing Floyds Concerns LLC, properties (*see figure 1*) received approval to replat four lots of records into two lots of records through a subdivision process and record: 3 FLOYDS SECOND CONSOLIDATION, Lot 1 and Lot 2 (*see figure 2*). The four lots of record to be replated are:

- MIDWEST CENTRAL INDUSTRIAL PARK UNIT 1 LOT 13
- MIDWEST CENTRAL INDUSTRIAL PARK UNIT 1 LOT 16
- 3 FLOYD'S CONSOLIDATION LOT 1
- 3 FLOYD'S CONSOLIDATION LOT 2

3 Floyd's Consolidation, Lot 2 was replated as:
LOT 2 of 3 FLOYDS SECOND CONSOLIDATION



MUNSTER SUBDIVISION REQUIREMENTS (CHAPTER 26, ARTICLE V, SUBDIVISIONS):**Sec. 26-293. Completion of improvements; guarantee of improvements.**

(a) Verification of completion of improvements. When the final plat is submitted to the plan commission for approval, it shall be accompanied by written advice from the town council stating that all improvements and installations to the subdivision for its approval have been made or completed in accordance with ordinances and specifications, in which event the commission may approve the plat.

(b) Bond in lieu of completion of improvements. If the improvements and installations are not completed as required by the ordinances and specifications, the commission may approve the plat if the applicant provides a bond which:

(1) Is in an amount determined by the board and commission to be sufficient to complete the improvements and installations in compliance with the ordinances and specifications.

(2) Runs to the town council and town plan commission.

(3) Is with surety satisfactory to the town council and town plan commission, which may include:

a. A surety company entered and licensed to do business in the state;

b. An unqualified irrevocable standby letter of credit issued by a national bank, an Indiana state bank or other financial institution acceptable to the council and the commission; or

c. A deposit of money to a special account controlled by the town.

(4) Specifies the time for completion of the improvements and installations.

STAFF FINDINGS and RECOMMENDATION

Staff finds the Performance Surety Bond meets the Town of Munster subdivision requirements and supports the Plan Commission November 14, 2023 motion to grant Final Plat Approval contingent upon a performance surety be secured for the public improvement of a sidewalk. A Performance Surety Bond in the amount of \$20,000.00 has been secured in the Office of the Clerk-Treasurer.

MOTION

The Plan Commission may consider the following motion:

Motion to send a favorable recommendation to the Town Council to accept a Performance Surety Bond in the amount of Twenty Thousand Dollars and Zero Cents for 3 FLOYDS SECOND CONSOLIDATION FINAL PLAT for the public improvement of a sidewalk.

EXHIBIT A PERFORMANCE SURETY BOND

THE CINCINNATI INSURANCE COMPANY Performance Bond

Bond No.: CBE1035901

KNOW ALL BY THESE PRESENTS, that

Floyds Concern, LLC located at
9750 Indiana Pkwy, Munster, IN 46321-4004, as Principal, and
 The Cincinnati Insurance Company located at 6200 South Gilmore Road, Fairfield, Ohio 45014, existing
 under the laws of the state of Ohio and authorized to do business in the State of _____,
 as Surety, are held and firmly bound unto Town of Munster
 located at _____, as Oblige, in the full and just penal sum of Twenty Thousand Dollars and Zero Cents
 (\$ 20,000.00) lawful money of the United States, for the payment of which, well and truly to be
 made, we hereby bind ourselves, successors, heirs, representatives and assigns.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that

WHEREAS, the Principal is required to perform certain obligations with the following description:

Sidewalk permit work

according to the terms and conditions of the Oblige's permit/contract, the satisfactory completion of
 which is required to be guaranteed by security as a condition of the approval; and

WHEREAS, this bond shall become effective on 12/1/2023, and shall continue
 in effect unless released in writing by the Oblige or cancelled as provided herein.

IT IS FURTHER AGREED AND UNDERSTOOD, that

- (1) No party other than the Oblige shall have rights hereunder against the Surety; and
- (2) Regardless of the number of years this bond shall remain in force, the number of claims made or the sum of premiums paid, the aggregate liability of the Surety shall be limited to the penal sum of this bond and reduced by any payment or payments made by the Surety hereunder to the extent of such payment or payments; and
- (3) The Surety reserves the right to cancel this bond by giving thirty (30) days written notice to the Oblige and on the effective date of such thirty (30) day cancellation notice, the Surety is discharged and relieved of any liability, it being understood and agreed, however, that the Principal and Surety will be liable for any loss accruing up to the effective date of said cancellation notice, in no event, however, in excess of the penalty of the bond; and
- (4) Cancellation by the Surety shall not be construed as a default by either the Surety or the Principal recoverable under this bond.

NOW THEREFORE, if the said Principal shall perform all undertakings and obligations described above according to the terms and conditions of the permit/contract and shall indemnify and save harmless the Oblige from all related costs and damages then this obligation shall be null and void, otherwise to remain in full force and effect.

SINED, SEALED AND DATED on this 21st day of November, 20 23.Principal: Floyds Concern, LLC

By: _____

Name and Title:

FOUNDER/PRESIDENTSurety: THE CINCINNATI INSURANCE COMPANY

By: _____

Attorney-in-Fact: Thomas A Pampalone

**THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY**

Fairfield, Ohio

CBK1035901

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Thomas A Pampalone

of Merrillville IN
their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Twenty Thousand Dollars \$ 20,000.00

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.



STATE OF OHIO) SS:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Stephen A. Ventre

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett
Keith Collett, Attorney at Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 21st day of November, 2023



BN-1457 (3/21)



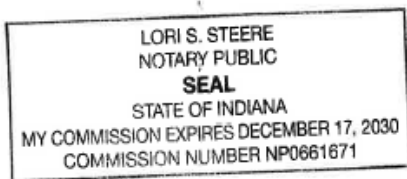
Ed H.

STATE OF INDIANA

COUNTY OF LAKE

I, Lori S. Steere, Notary Public of Lake County, in the State of Indiana do hereby certify that Thomas A. Pampalone, Attorney-in-Fact, of the Cincinnati Insurance Company who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument, for and on behalf of the Cincinnati Insurance Company for the uses and purposes therein set forth.

Given under my hand and notarial seal at my office in the City of Merrillville in said County, this 21st day of November A.D. 2023



Lori S. Steere
Notary Public
12/17/2030 Lake
My Commission Expires County of Residence
Commission Number: NP0661671

[illegible]

1005 Ridge Road • Munster, IN 46321 • (219) 836-8810 • Police/Fire Emergencies 911
Police Non-Emergency (219) 836-6600 • Fire Non-Emergency (219) 836-6960 www.munster.org