VILLAGE OF GILBERTS

ORDINANCE 01-2019

AN ORDINANCE APPROVING THE FINAL PLAT OF SUBDIVISION AND FINAL PUD PLANS FOR PHASE 3A OF THE CONSERVANCY DEVELOPMENT

WHEREAS, on January 31, 2017, the Village of Gilberts Board of Trustees approved the First Amendment to an Annexation and Development Agreement between the Village of Gilberts and Gilberts Development LLC for 914.02 acres of Conservancy Development, legally described on Exhibit A ("Gilberts Development Parcel"), which Agreement was recorded on February 3, 2017, with the Kane County Recorder's Office, as Document No. 2017K006674 ("Amended Annexation Agreement"); and

WHEREAS, on January 31, 2017, the Village of Gilberts Board of Trustees also approved Ordinance No. 05-2017, an Ordinance Approving a First Amendment to an Existing Planned Unit Development and the Preliminary PUD Plan for the Conservancy Development, which Ordinance was recorded on February 3, 2017, with the Kane County Recorder's Office, as Document No. 2017K006675 ("Amended PUD Ordinance"); and

WHEREAS, the Village previously approved final plats of subdivision and final PUD plans for Phase 1 and Phase 2A-1 of the Gilberts Development Parcel; and

WHEREAS, Gilberts Development LLC subsequently submitted an application requesting approval of a final plat of subdivision and final PUD plan for Phase 3A of the Gilberts Development Parcel, consisting of 44 of the 152 lots in Phase 3 approved in the preliminary plat and PUD plan; and

WHEREAS, the Final Plat of Subdivision and Final PUD Plan for Phase 3A are substantially in conformity with the preliminary plat and plans approved by the Village Board on January 31, 2017; and

WHEREAS, on December 6, 2018, the Village Plan Commission conducted a meeting to consider the Final Plat and Final PUD Plans for Phase 3A of the Gilberts Development Parcel, and made a recommendation of approval to the Village Board; and

WHEREAS, the Village Board has considered the request for approval of Gilberts Development LLC's Final Plat of Subdivision and Final PUD Plans for Phase 3A of the Gilberts Development Parcel and determined that the requested approvals are in the best interests of the Village and its residents, subject to the conditions contained in this Ordinance, the Amended PUD Ordinance, and the Amended Annexation Agreement.

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS AS FOLLOWS:

- <u>Section 1.</u> <u>Recitals.</u> The recitals set forth above are hereby incorporated into and made a part of this Ordinance as though set forth in this Section 1.
- Section 2. Approval of Final Plat of Subdivision for Phase 3A. Subject to the conditions set forth in Section 4 of this Ordinance, as well as the other approvals granted by this Ordinance, the Amended PUD Ordinance, and the Amended Annexation Agreement, the Village President and Board of Trustees hereby approves the Final Plat of Subdivision for Phase 3A of the Gilberts Development Parcel, which Plat is attached hereto as Exhibit B.
- Section 3. Approval of Final PUD Plans for Phase 3A. Subject to the conditions set forth in Section 4 of this Ordinance, as well as the other approvals granted by this Ordinance, the Amended PUD Ordinance, and the Amended Annexation Agreement, the Village President and Board of Trustees hereby approve the Final PUD Plan for Phase 3A plans of the Gilberts Development Parcel, which Plans are attached hereto as Exhibit C:
- <u>Section 4.</u> <u>Conditions.</u> The approvals granted in Sections 2 and 3 of this Ordinance are conditioned upon and limited by the following requirements, conditions, and restrictions, the violation of any of which shall, in the sole discretion of the President and Board of Trustees, invalidate the approvals:
- A. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on Phase 3A of the Gilberts Development Parcel pursuant to the approvals granted in this Ordinance unless and until all conditions of this Ordinance have been fulfilled and after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law, and only after the developer has provided the required performance security for all public improvements required for Phase 3A, including the water improvements required by the Amended Annexation Agreement and referenced in Subsection 4.C of this Ordinance.
- B. <u>Final Engineering Plan Approval</u>. Prior to any permit being issued for any work in Phase 3A, final engineering plans must be approved by the Village Engineer, including addressing the outstanding issues raised by the Engineer in its letter dated November 27, 2018, to the satisfaction of the Village Engineer.
- C. Water Improvements. Pursuant to the Amended Annexation Agreement, Gilberts Development shall not be entitled to the issuance of any building permits or permission to connect to the Village's water system for any residential unit beyond a total of 123 building permits and water connections (to include Neighborhood 1) until it has designed, financed, and completed construction of the water service improvements listed on Exhibit E of the Amended Annexation Agreement, and those improvements are operational. However, Gilberts Development may commence the construction of public improvements and grading activities in Phase 3A prior to completion of the water service improvements, but no building permit shall be issued in Phase 3A until the water improvements are completed and operational unless expressly approved otherwise by a majority vote of the Village Board.

- D. <u>Further Development of Phase 3</u>. Phase 3A consists of 44 lots of the 152 lots approved in the preliminary PUD for the Gilberts Development Parcel. No development of the remaining 108 lots in Phase 3 shall be permitted unless and until a final plat of subdivision and final PUD plan for these remaining lots in Phase 3 have been submitted for review and approved by the Village in accordance with the required procedures for such review and approval.
- E. <u>Compliance with Laws</u>. The Village's zoning, subdivision, and building regulations, and all other applicable Village ordinances and regulations shall continue to apply to the Gilberts Development Parcel, and the development and use of the Gilberts Development Property shall comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- F. Continued Effect of the Planned Unit Development and Annexation Agreement. The Amended PUD Ordinance and the Amended Annexation Agreement shall remain in full force and effect, and the Owner shall comply with all requirements, conditions, and restrictions therein.
- G. Declaration of Covenants. A declaration of covenants and restrictions shall be recorded against the Phase 3A property in accordance with the requirements of Section 24.A of the Annexation Agreement, as amended by the Amended Annexation Agreement. The declaration shall restrict, among other things, each unit to a maximum of three bedrooms, to require either a one-story home or a first floor master in each unit, and to prohibit certain accessory uses and structures such as sheds, play equipment, pools, trampolines, and similar uses and structures. In addition, the association shall be responsible for maintaining individual yards within the age-targeted development, including without limitation all mowing and landscaping activities, and for snow removal throughout the age-targeted development. The declaration of covenants and restrictions will be subject to the reasonable approval of the Village

In addition, any violation of this Ordinance shall be deemed a violation of the Village of Gilberts Zoning Code and shall subject the Owner to enforcement proceedings accordingly.

<u>Section 5.</u> <u>Severability.</u> In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

Section 6. Repeal and Saving Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this ordinances.

<u>Section 7.</u> <u>Effective Date.</u> Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ______ day of _______ 2019.

	Ayes	<u>Nays</u>	Absent	Abstain
Trustee Dan Corbett	V			
Trustee Elissa Kojzarek	1			
Trustee Nancy Farrell		-	-	-
Trustee Jeanne Allen				-
Trustee Lou Hacker			-	:
Trustee Guy Zambetti				
President Rick Zirk		-	-	-
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EXHIBIT A

Legal Description of the Gilberts Development Parcel

PARCEL 1:

THE WEST 87 LINKS OF GOVERNMENT LOT 1 OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 3:

THE SOUTH 4 RODS OF THE EAST 3 RODS OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 11 TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANE COUNTY, ILLINOIS.

PARCEL 4:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THAT PART OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING EASTERLY OF THE RIGHT OF WAY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY, SAID PARALLEL LINE BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF THE ELGIN AND BELVIDERE ELECTRIC COMPANY IN RUTLAND TOWNSHIP, KANE COUNTY, ILLINOIS.

PARCEL 5:

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 6:

THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 42, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 7:

THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 8:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 9:

THE SOUTH HALF OF THE SOUTH HALF OF SECTION 2 AND THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 11, ALL IN TOWNSHIP 42 NORTH, RANGE 7 EAST OF

THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 10:

THE NORTH HALF OF THE NORTHEAST QUARTER (EXCEPT THE SOUTH 4 RODS OF THE WEST 3 RODS THEREOF) OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 11:

THE NORTHWEST FRACTIONAL QUARTER OF SECTION 2, (EXCEPT THE WEST 87 LINKS OF THE NORTHWEST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER AND ALSO EXCEPT THAT PART OF SAID NORTHWEST FRACTIONAL LYING NORTHEASTERLY OF THE CENTER LINE OF HUNTLEY ROAD), ALSO THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2, ALL IN TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN IN RUTLAND TOWNSHIP, KANE COUNTY, ILLINOIS.

Parcel Identification Numbers: 02-02-100-007; 02-02-100-008; 02-02-300-002; 02-02-300-003; 02-02-300-004; 02-02-400-002; 02-11-100-003; 02-11-100-010; 02-11-200-001; 02-11-200-003; 02-11-200-005; 02-11-200-007; 02-11-300-008; 02-11-400-003; 02-11-400-004; 02-11-400-005; 02-11-475-012; 02-11-425-001; 02-11-475-001; 02-11-425-010; 02-11-401-016; 02-11-296-001; 02-11-401-001; 02-11-401-008; 02-11-401-015; 02-11-350-007; 02-11-404-010; 02-11-475-013; 02-11-401-014; 02-11-401-013; 02-11-401-012; 02-11-401-011; 02-11-401-010; 02-11-401-009; 02-11-401-008; 02-11-401-007; 02-11-401-006; 02-11-401-005; 02-11-401-004; 02-11-401-003; 02-11-401-002; 02-11-296-002; 02-11-402-001; 02- $11-402-002;\ 02-11-402-003;\ 02-11-348-001;\ 02-11-402-004;\ 02-11-348-002;\ 02-11-402-005;\ 02-11-348-002;\$ 003; 02 - 11 - 348 - 004; 02 - 11 - 350 - 006; 02 - 11 - 350 - 005; 02 - 11 - 350 - 004; 02 - 11 - 404 - 004; 02 - 11 - 350 - 003; 02 - 11 - 350 - 006; 0211-404-003; 02-11-350-002; 02-11-404-002; 02-11-350-001; 02-11-404-0011 02-11-404-006; 02-11-404-007; 02-11-404-008; 02-11-404-009; 02-11-451-001; 02-11-451-011; 02-11-451-002; 02-11-451-012; 02- $11-451-003;\ 02-11-451-013;\ 02-11-451-004;\ 02-11-451-014;\ 02-11-451-005;\ 02-11-451-015;\$ 006; 02-11-451-016; 02-11-451-007; 02-11-451-017; 02-11-451-008; 02-11-451-018; 02-11-451-009; 02-11-451-018; 02-11-451-019;11-451-019; 02-11-451-010; 02-11-451-020; 02-11-349-001; 02-11-349-002; 02-11-349-003; 02-11-349-004; 02-11-349-005; 02-11-349-006; 02-11-349-007; 02-11-349-008; 02-11-349-009; 02-11-403-001; 02-11-349-008; 02-11-349-009; $11-403-002;\ 02-11-403-003;\ 02-11-403-004;\ 02-11-403-005;\ 02-11-403-006;\ 02-11-403-007;\$ 008; 02-11-403-009; 02-11-405-001; 02-11-405-002; 02-11-405-003; 02-11-405-004; 02-11-405-005; 02- $11-405-006;\ 02-11-405-007;\ 02-11-405-008;\ 02-11-405-009;\ 02-11-405-010;\ 02-11-405-011;\$ 012; 02-11-405-013; 02-11-405-014; 02-11-405-015; 02-11-405-015; 02-11-405-016; 02-11-405-017; 02-11-405-018; 02-11-405-019; 02-11-425-002; 02-11-425-003; 02-11-425-004; 02-11-425-005; 02-11-425-006; 02 - 11 - 425 - 007; 02 - 11 - 425 - 008; 02 - 11 - 425 - 009; 02 - 11 - 425 - 010; 02 - 11 - 425 - 011; 02 - 11 - 425 - 012; 02 $11-425-013;\ 02-11-425-014;\ 02-11-425-015;\ 02-11-425-016;\ 02-11-425-017;\ 02-11-425-018;\$ 019; 02-11-425-020; 02-11-452-001; 02-11-452-002; 02-11-452-003; 02-11-452-004; 02-11-452-005; 02-11-452-006; 02-11-452-007; 02-11-452-008; 02-11-452-009; 02-11-452-010; 02-11-452-011; 02-11-452-012; 02-11-452-013; 02-11-452-014; 02-11-452-015; 02-11-452-016; 02-11-452-017; 02-11-452-018;11-452-019; 02-11-475-002; 02-11-475-003; 02-11-475-004; 02-11-475-005; 02-11-475-006; 02-11-475-007; 02-11-475-008; 02-11-475-009; 02-11-475-010; 02-11-475-011

Exhibit B

Final Plat of Subdivision for Phase 3A

[ATTACH]

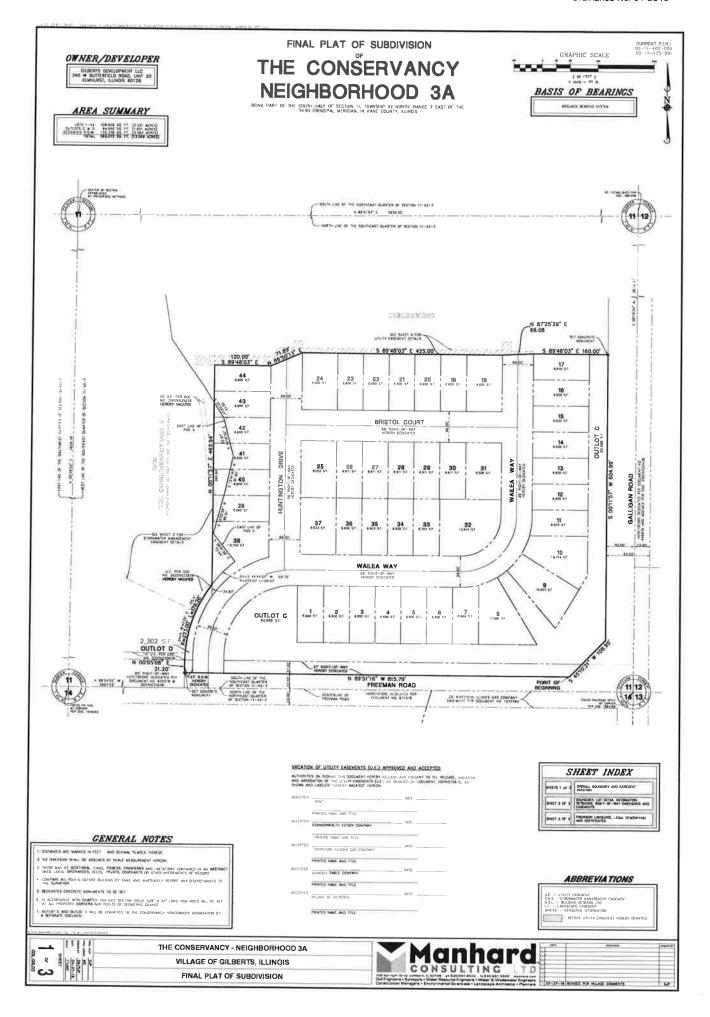
Exhibit C

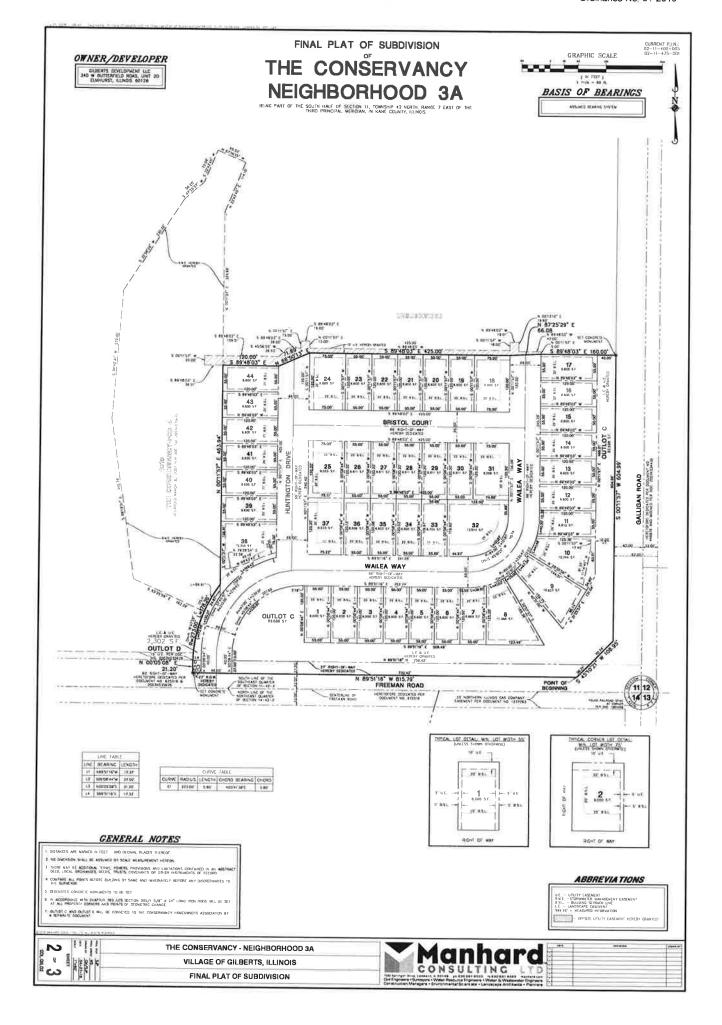
Final PUD Plans for Phase 3A

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THE CONSERVANCY - NEIGHBORHOOD 3A VILLAGE OF GILBERTS, ILLINOIS

VILLAGE OF GILBERTS, ILLINOIS

FINAL PLAT OF SUBDIVISION

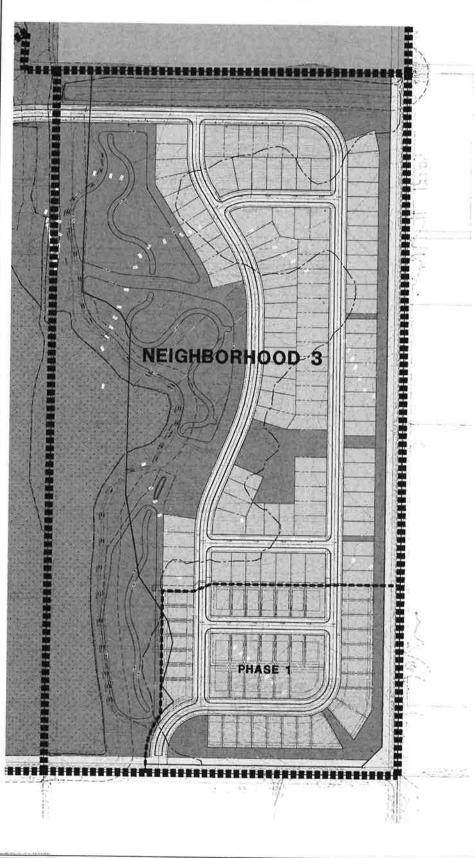


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PRELIMINARY SITE PLAN

THE CONSERVANCY

GILBERTS, ILLINOIS



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(8)	614	10.00	1190	3926	9521	188 10	199
,	29.78	17.16	0.00	1114	28.96	804)	339
. 4	1718	914	0.00	4.00	100	3134	60
(60)	10.44	11.11	28.33	11 55	oue.	146.33	
	18.65	4.0	0.06	(2.19	17:00	66 56	- iù
	13.67	*n	0.00	(424	1939	107.01	3902
	1850	***	0 00	840	1819	49.15	11
((0))	(11)	411	0 00	1212	164	50 81	
146	9 09	370	0.00	916	1991	38.64	39
10	16 30	935	10.28	100		61.76	.19
To live	101 15	£85 12	4810	len	mo	neur	997
(8)	H1994	12.58%	5279	teans	M res	100%	

LEGENO	·
	Residential Lot
	Commercial Lot
制工	Park (Polential)
	Open Space
	Welland
	Open Waler

PARK DEDICATION, PARK AMENITIES AND TRAIL LOCATIONS SUBJECT TO CHANGE TO REFLECT STORMWATER MANAGEMENT REQUIREMENTS AND OTHER FACTORS. FINAL TOTAL PARK DEDICATION AREA MAY NOT REFLECT THE SAME MEASUREMENTS SHOWN ON THIS EXHIBIT.

THE AREAS IDENTIFIED FOR PARKS (POTENTIAL) ARE THE POTENTIAL SITES THE VILLAGE WILL CHOOSE THE 25+ ACRES FROM.