

**VILLAGE OF GILBERTS**

**ORDINANCE NO. 02-2020**

**AN ORDINANCE APPROVING  
A REZONING AND A SPECIAL USE PERMIT FOR A GOLF DRIVING RANGE**

***(825 Tyrrell Road)***

**WHEREAS**, A-G Partners (“*Owner*”), the owner of the property generally located 825 Tyrrell Road, Gilberts, Illinois 60136, which property is more specifically described on *Exhibit A* (the “*Property*”), desires to rezone the Property from the R-1 Estate Residence District to the I-1 General Industrial District while continuing the operation of a golf driving range and refreshment stand on the Property ; and

**WHEREAS**, the Owner currently has a special use permit for the operation of the golf driving range and refreshment stand on the Property under the R-1 District; and

**WHEREAS**, the Owner has filed an application to rezone the Property from the R-1 District to the I-1 District to conform with the trend in development in the surrounding area; and

**WHEREAS**, the Owner desires to continue the operation of the golf driving range and refreshment stand on the Property until the Property is redeveloped under the provisions of the I-1 District; and

**WHEREAS**, under the Village’s Unified Development Ordinance (“*UDO*”), the I-1 District allows cultural, recreational, and entertainment uses like a golf driving range and refreshment stand as special uses; and

**WHEREAS**, the Owner has also filed an application for a special use permit to continue the operation of the golf driving range and refreshment stand upon the rezoning of the Property to the I-1 District; and

**WHEREAS**, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the Owner’s request for the rezoning and special use permit on February 12, 2020, and at the conclusion of that public hearing voted to recommend approval of the rezoning from the R-1 District to the I-1 District and the special use permit to allow for the continued operation of the golf driving range and refreshment stand on the Property, subject to certain conditions; and

**WHEREAS**, the Village Board of Trustees has considered the Plan Commission/Zoning Board of Appeal’s recommendation and makes the following findings of fact in reference to the application for approval of the rezoning of the Property from the R-1 District to the I-1 District:

1. The existing uses of property within the general area of the Property are almost entirely industrial or commercial.

2. The existing zoning of property within the general area of the Property is almost entirely industrial. The Property is surrounded on two sides by industrially zoned property. The property to the north is zoned as a PUD under Kane County's jurisdiction, and is used for commercial purposes. The residentially zoned property to the west is separated from the Property by Tyrrell Road.
3. The Property is suitable for classification to the I-1 District. When the Property was annexed into the Village in 1994, it was anticipated that the surrounding area would develop as residential. However, the surrounding area has developed as industrial and commercial. Given the surrounding land uses, the Property is unlikely be developed for residential use. The I-1 District will provide more suitable uses for the Property.
4. Rezoning the Property to the I-1 District will be consistent with the trend of development in the general area of the Property. When the Property was annexed into the Village in 1994, it was anticipated that the surrounding area would develop as residential. However, the surrounding area has developed as industrial and commercial. Therefore, rezoning the Property to the I-1 District will be consistent with changes in the development trends in the area since the Property was originally zoned in the R-1 District in 1994.
5. Rezoning the Property to the I-1 district will not interfere with the trend of uses of property within the general area of the affected property, as represented on the Comprehensive Plan.
6. The Property has not been vacant, but rather has been used as a golf driving range with a refreshment stand. Given the development trend in the surrounding area, it is anticipated that the Property will be redeveloped as an industrial use.
7. The property values of adjacent properties, which are already being used for industrial and commercial purposes, should not be impacted by the rezoning of the Property to the I-1 zoning district. The residential uses to the west are separated from the Property by Tyrrell Road. Further, there is a berm along the western edge of Tyrrell Road providing additional separation between the residential uses and the Property.

**WHEREAS**, the Village Board makes the following findings of fact in reference to the application for approval of the special use permit to allow for the continued operation of the golf driving range and refreshment stand on the Property:

1. The proposed special use complies with all provisions of the I-1 District.
2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large. The Property has been in use as a golf driving range with a refreshment stand for decades, and the operation of the proposed special use will not change under the I-1 District.

3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
4. Adequate utility, drainage, and other necessary facilities have been or will be provided.
5. The proposed special use, where such developments and uses are deemed consistent with good planning practice, can be operated in a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall conform to the applicable regulations of the district; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the Village.

**WHEREAS**, based on the findings of fact detailed above, the Village Board has determined that the Owners' request meets the standards of both state statute and the UDO for approval of the rezoning and the special use permit for the Property, subject to the conditions set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois as follows:

**Section 1. Recitals.** The recitals are incorporated into this Section 1 as if fully set forth.

**Section 2. Rezoning.** The Village Board of Trustees hereby approves a map amendment to rezone the Property from the R-1 District to the I-1 District.

**Section 3. Special Use Permit.** Subject to the conditions set forth in Section 4 of this Ordinance, the Village Board of Trustees hereby approves a special use permit to allow for the continued operation of the golf driving range and refreshment stand on the Property.

**Section 3. Conditions.** The approval granted pursuant to Section 3 of this Ordinance is conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approval granted by Section 3 this Ordinance in accordance with applicable law. In addition, any violation of this Ordinance will be deemed a violation of the UDO and subject the Owners to enforcement proceedings accordingly.

- 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 may be commenced on the Property pursuant to the approvals granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits,

approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law, including, without limitation, issuance of required permits.

B. Compliance with Laws. The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

**Section 5. Severability.** 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 Ordinance.

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

ADOPTED THIS 3 DAY OF March, 2020, pursuant to roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Lou Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Rick Zirk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 3 DAY OF March, 2020

  
 Village President, Rick Zirk



ATTEST:  
  
 Village Clerk, Courtney Baker

**Exhibit A**

*Description of the Property*

THE NORTH 10.5 CHAINS OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 31,  
TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN IN THE  
TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

Common Address: 825 N. Tyrrell Road, Gilberts, Il 60136

PIN: 03-31-101-001