

**VILLAGE OF GILBERTS**

**KANE COUNTY**

**STATE OF ILLINOIS**

**ORDINANCE NUMBER 06-2016-01**

**An Ordinance approving a deviation from the maximum driveway pitch regulation  
for lot 518 in the Conservancy Development**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE  
VILLAGE OF GILBERTS  
KANE COUNTY  
STATE OF ILLINOIS**

April 19, 2016

**Published in pamphlet form by authority of the President and Board of Trustees of  
the Village of Gilberts, Kane County, Illinois this 19<sup>th</sup> day of April, 2016.**

---

**AN ORDINANCE APPROVING A DEVIATION FROM  
THE MAXIMUM DRIVEWAY PITCH REGULATION FOR LOT 518 IN  
THE CONSERVANCY DEVELOPMENT**

**WHEREAS**, on October 31, 2005, the Village of Gilberts Board of Trustees approved an Annexation and Development Agreement between the Village of Gilberts and the owners of approximately 1,114 acres of land ("*Annexation Agreement*") for the development of 1,114 acres known as the Conservancy ("*Conservancy*"), which Agreement was recorded on January 9, 2006, with the Kane County Recorder's Office, as Document No. 2006K002188; and

**WHEREAS**, Exhibit B-3 of the Annexation Agreement sets forth subdivision regulations, including a restriction on the maximum slope of residential driveways of 8%; and

**WHEREAS**, pursuant to Section 3.A of the Annexation Agreement, the Board of Trustees has the authority to modify or approve a deviation from the regulations contained in Exhibit B-3 without requiring an amendment to the Annexation Agreement; and

**WHEREAS**, the builder and contract purchaser of Lot 518 in the Conservancy have requested that the Board of Trustees approve a deviation from the 8 % driveway slope regulation to allow the driveway on Lot 518 to be built at a slope not to exceed 9% ; and

**WHEREAS**, the Board of Trustees has considered the request for approval of the requested deviation from the driveway slope requirements for Lot 518, and desires to approve the request, subject to the conditions contained in this Ordinance.

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

**Section 1. Recitals.** 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 Deviation for Lot 518.** Subject to the conditions set forth in Section 3 of this Ordinance, the Board of Trustees hereby approve a deviation from the maximum driveway slope of 8 contained in Exhibit B-3 of the Annexation Agreement to allow the driveway on Lot 518 to be constructed at a slope not to exceed 9%.

**Section 3. Conditions.** The approval granted in Section 2 of this Ordinance is 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 approval:

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on Lot 518. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on Lot 518 pursuant to the approvals granted in this Ordinance unless and until all conditions of this Ordinance precedent to such work 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.

- B. Compliance with Laws. The Village's zoning, subdivision, and building regulations, and all other applicable Village ordinances and regulations shall continue to apply to Lot 518, and the development and use of Lot 518 shall comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. Continued Effect of the Annexation Agreement. Except as expressly modified by this Ordinance, the Annexation Agreement and all other approvals, including without limitation the PUD approval, shall remain in full force and effect to govern the development and use of Lot 518.

**Section 4. 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 5. 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.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until the builder and contract purchaser have both executed and filed with the Village their unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit A**, within 30 days following the passage of this Ordinance.

ADOPTED THIS 19<sup>th</sup> DAY OF April, 2016, pursuant to roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee David LeClercq	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Louis Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<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 19<sup>th</sup> DAY OF April, 2016



[Signature]  
Village President, Rick Zirk

ATTEST: [Signature]  
Village Clerk, Debra Meadows

Published: April 20, 2016

**EXHIBIT A**

**Unconditional Agreement and Consent**

Pursuant to Section 6 of Ordinance No. \_\_\_\_\_, and to induce the Village of Gilberts to grant the approvals provided for in that Ordinance, the undersigneds acknowledge for themselves and their successors and assigns in title to the Property that they:

1. have read and understand all of the terms and provisions of that Ordinance; and
2. acknowledge and understand the implications of constructing a driveway with a slope of 9 percent;
3. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Village of Gilberts UDO, and all other applicable codes, ordinances, rules, and regulations;
4. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of Lot 518, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the owner or lessee against damage or injury of any kind and at any time; and
5. represent and acknowledge that the persons signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the builder and contract purchaser, as the case may be.

**William Ryan Homes**

By: \_\_\_\_\_

Its \_\_\_\_\_

**CONTRACT PURCHASER, Mr. Peter Thomas**

\_\_\_\_\_

**CONTRACT PURCHASER, Mrs. Christine Thomas**

\_\_\_\_\_