

VILLAGE OF GILBERTS

KANE COUNTY

STATE OF ILLINOIS

ORDINANCE NUMBER 20-2016

**An Ordinance approving the second amendment to the Annexation and
Development Agreement for Gilberts Town Center**

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

December 20 2016

**Published in pamphlet form by authority of the President and Board of Trustees of
the Village of Gilberts, Kane County, Illinois this *20th* day of *December* 2016.**

Prepared by and Return to:
Julie A. Tappendorf
Ancel Glink
140 S. Dearborn Street, Ste 600
Chicago IL 60603

**AN ORDINANCE APPROVING THE SECOND AMENDMENT
TO THE ANNEXATION AND DEVELOPMENT AGREEMENT
FOR GILBERTS TOWN CENTER**

WHEREAS, in 2005, the Village of Gilberts approved an Annexation Agreement between the Village of Gilberts and the owners of various parcels of land as described in the original Annexation Agreement for the development known as Gilberts Town Center (“Annexation Agreement”); and

WHEREAS, CalAtlantic Group, Inc. (“*CalAtlantic*”), the successor in interest to The Ryland Group, Inc., is legal title holder to that portion of the Gilberts Town Center development described on **Exhibit A** (“*CalAtlantic Townhome Parcel*”); and

WHEREAS, CalAtlantic has proposed certain changes to the previous parking requirements set forth in the Annexation Agreement that are applicable to the CalAtlantic Townhome Parcel; and

WHEREAS, Section 31 of the Annexation Agreement provides that the Annexation Agreement can be amended by the Village and the legal title holder of that portion of the property that is subject to the amendments, in this case CalAtlantic as to the CalAtlantic Townhome Parcel; and

WHEREAS, the Village Board of Trustees held a public hearing on the proposed Second Amendment to the Annexation Agreement for the CalAtlantic Townhome Parcel on December 20, 2016, pursuant to notice as required by state statute; and

WHEREAS, the President and Board of Trustees find that amending the Annexation Agreement is in the best interests of the Village and its residents, as set forth in the Second Amendment attached to this Ordinance as Exhibit A.

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; Authorization. The Second Amendment to the Annexation Agreement is hereby approved in substantially the form attached hereto as Exhibit A. The Village President and Village Clerk are hereby authorized and directed to execute and attest, respectively, the Second Amendment on behalf of the Village following the delivery of the executed Second Amendment by CalAtlantic. The Village Clerk is also authorized and directed to record this Ordinance and Second Amendment with the Office of the Kane County Recorder of Deeds.

Section 3. Continued Effect. Except as expressly modified by this Ordinance, the Annexation Agreement, as modified by the First Amendment, shall remain in full force and effect to govern the development and use of Gilberts Town Center.

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 causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this ordinance.

Section 6. Effective Date. This Ordinance shall be in full force and effect after its approval in the manner provided by law.

[Remainder of this page left intentionally blank]

ADOPTED THIS 20th DAY OF DECEMBER, 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 20th DAY OF DECEMBER, 2016





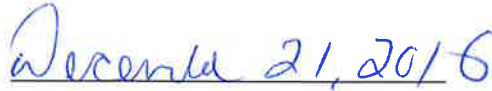
Village President, Rick Zirk

ATTEST:



Village Clerk, Debra Meadows

Published:



December 21, 2016

**SECOND AMENDMENT
TO THE ANNEXATION AND DEVELOPMENT AGREEMENT
FOR GILBERTS TOWN CENTER**

THIS SECOND AMENDMENT TO THE ANNEXATION AND DEVELOPMENT AGREEMENT (“*Second Amendment*”) dated December 10, 2016, to that certain Annexation Agreement and Development Agreement (“*Annexation Agreement*”) dated April 27, 2005, and recorded as Doc. No. 2005K066197, is made and entered into by and between **THE VILLAGE OF GILBERTS, an Illinois municipal corporation, Kane County, Illinois (“*Village*”) and **CALATLANTIC GROUP, INC.** (“*CalAtlantic*” or “*Developer*”).**

WITNESSETH:

WHEREAS, on April 27, 2005, the Village of Gilberts approved the Annexation Agreement between the Village of Gilberts and the owners of various parcels of land as described in the original Annexation Agreement for the development known as Gilberts Town Center; and

WHEREAS, pursuant to Section 31 of the Annexation Agreement, the Parties, and/or their respective successors and assigns, as the case may be, reserved the right, by mutual consent, to agree in writing to amend the terms and conditions of the Annexation Agreement, provided, however, that only the legal title holder of the property subject to the proposed amendment is required to execute an amendment to the Annexation Agreement; and

WHEREAS, CalAtlantic, the successor in interest to The Ryland Group, Inc., is legal title holder to that portion of the Gilberts Town Center development described on **Exhibit A** (“*CalAtlantic Townhome Parcel*”); and

WHEREAS, CalAtlantic has proposed certain changes to the previous parking requirements set forth in the Annexation Agreement that are applicable to the CalAtlantic Townhome Parcel; and

WHEREAS, all notices, publications, procedures, public hearings and other matters required for the consideration and approval of this Second Amendment have been made, given, held and performed by the Village as required by 65 ILCS 5/11-15.1-1 *et seq.*, and all other applicable statutes, and all applicable ordinances, regulations and procedures of the Village; and

WHEREAS, this proposed Second Amendment was submitted pursuant to the applicable provisions of the Illinois Municipal Code to the Corporate Authorities of the Village (hereinafter referred to as the “*Corporate Authorities*”), and a public hearing was held on December 20, 2016, pursuant to proper notice as provided by statute; and

WHEREAS, the Corporate Authorities of the Village have considered this Second Amendment and determined that this Second Amendment is in the best interests of the Village and its residents; and

WHEREAS, by a favorable vote of two-thirds of the Corporate Authorities of the Village then holding office, the Village has considered the question of this Second Amendment and has adopted an ordinance approving this Second Amendment and authorizing execution hereof; and

WHEREAS, the Parties, consistent with Illinois law, have agreed to the terms and conditions set forth in this Second Amendment as evidenced by the signatures affixed hereto.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. **Incorporation of Recitals.** The foregoing recitals are material to this Second Amendment and are incorporated into this Second Amendment and made a part of this Second Amendment as if fully stated herein.

2. **Capitalized Words and Terms.** Capitalized words and terms not otherwise defined in this Second Amendment shall have those meanings and definitions contained in the Annexation Agreement and any prior amendments thereto.

3. **Prior Agreements/Conflicts.** In the event of any conflict or inconsistency between the terms and provisions of the Annexation Agreement and this Second Amendment, this Second Amendment shall govern and apply, but solely as applicable to the CalAtlantic Townhome Parcel.

4. **Amendment to Exhibit F-3 of the Annexation Agreement.** Exhibit F-3 to the Annexation Agreement, entitled "Gilberts Town Center, Townhome Product, Requested Departures from R-4 District Standards" is hereby amended as it relates to the use and development of the CalAtlantic Townhome Parcel as follows:

Minimum Parking

Parking will be provided in accordance with section 10-9-1B3a of the Gilberts Unified Development Ordinance, which requires 2 spaces per dwelling unit, plus one guest parking space for each 20 required parking spaces.

5. **Approval of Parking Exhibit.** The additional guest parking spaces to be provided by CalAtlantic for the CalAtlantic Townhome Parcel are hereby approved as substantially depicted on **Exhibit B** to this Second Amendment.

6. **Continued Effect of Annexation Agreement.** Except as expressly modified by this Second Amendment, the Annexation Agreement, as amended by the First Amendment, shall remain in full force and effect, and CalAtlantic shall comply with all requirements, conditions, and restrictions therein.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment effective the date first above stated.

Village of Gilberts, an Illinois municipal corporation

By: 
Village President

Attest:


Village Clerk

CalAtlantic Group, Inc., a Delaware Corporation

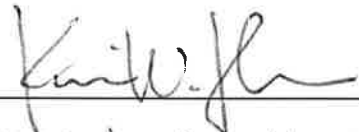
By: 
Its Division President



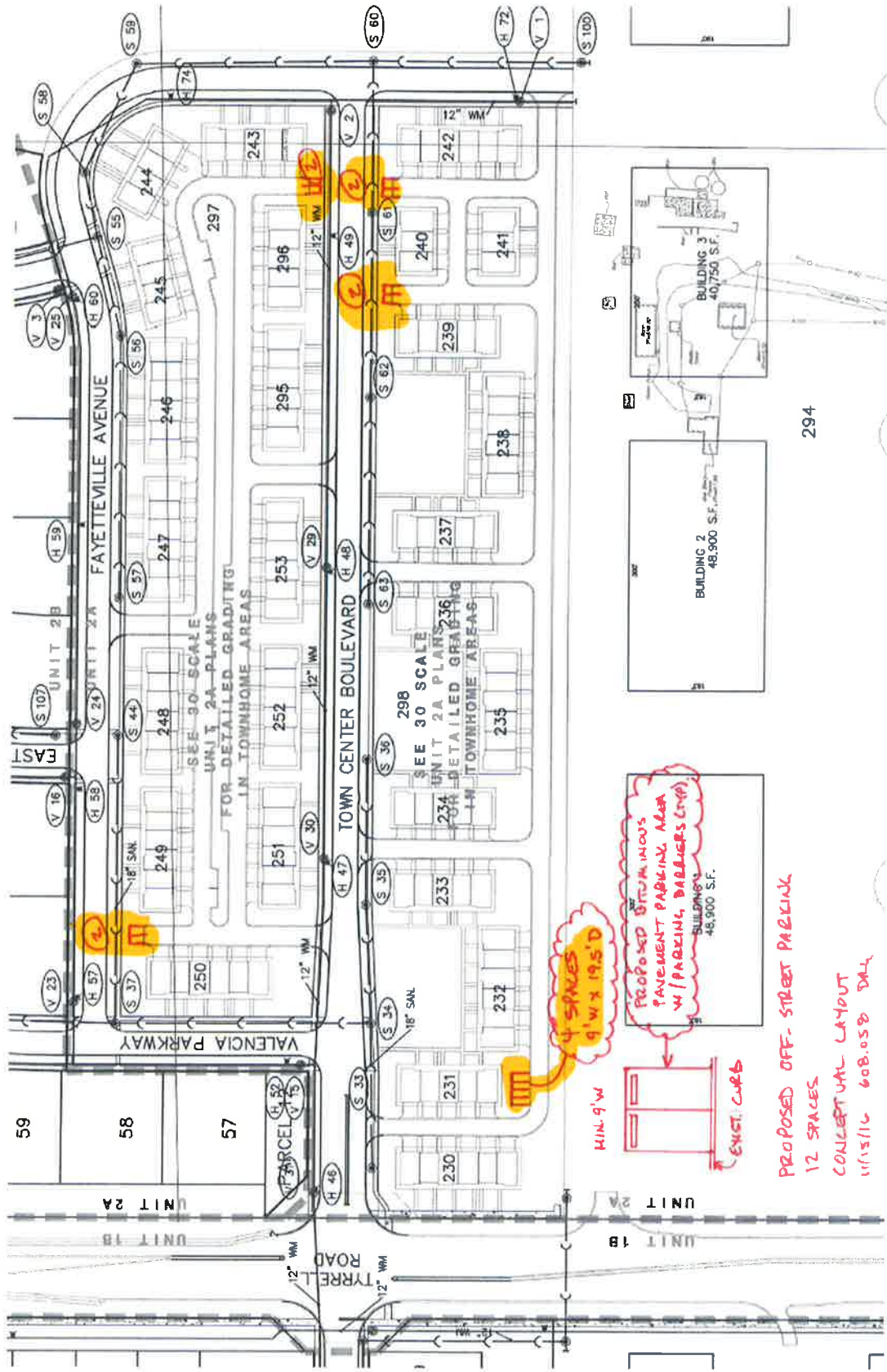
EXHIBIT A

Gilberts Town Center – Unit 2A – Legal Description

LOTS 230 THROUGH 253, BOTH INCLUSIVE, AND LOTS 295 THROUGH 298, BOTH INCLUSIVE, IN GILBERTS TOWN CENTER - UNIT 2A, BEING A SUBDIVISION OF A PART OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 42 NORTH, RANGE 7 EAST AND PART OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 28, 2006, AS DOCUMENT NUMBER 2006K032928, IN KANE COUNTY, ILLINOIS.

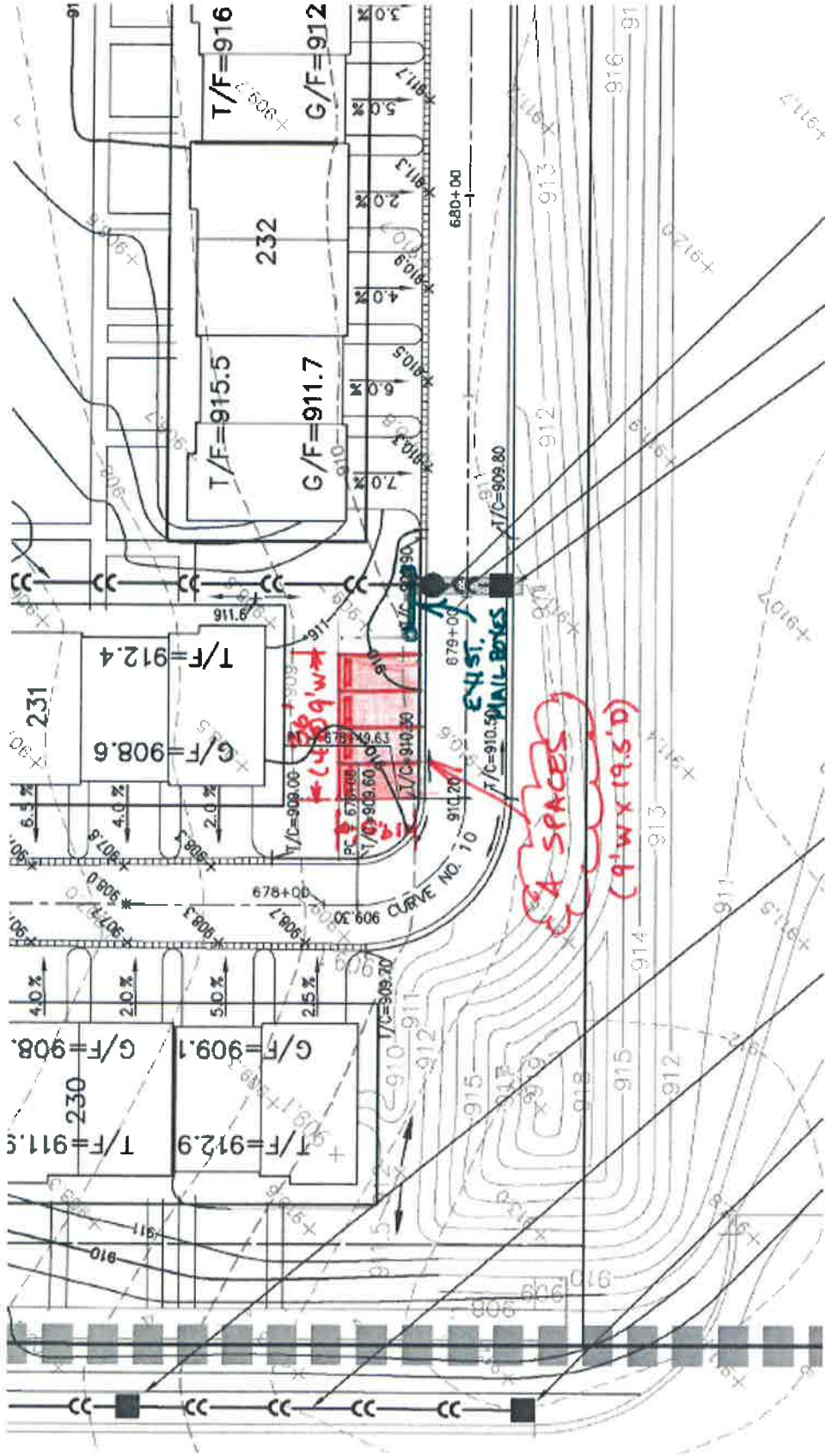
EXHIBIT B

Phase 2A Additional 12 Parking Spaces Plan

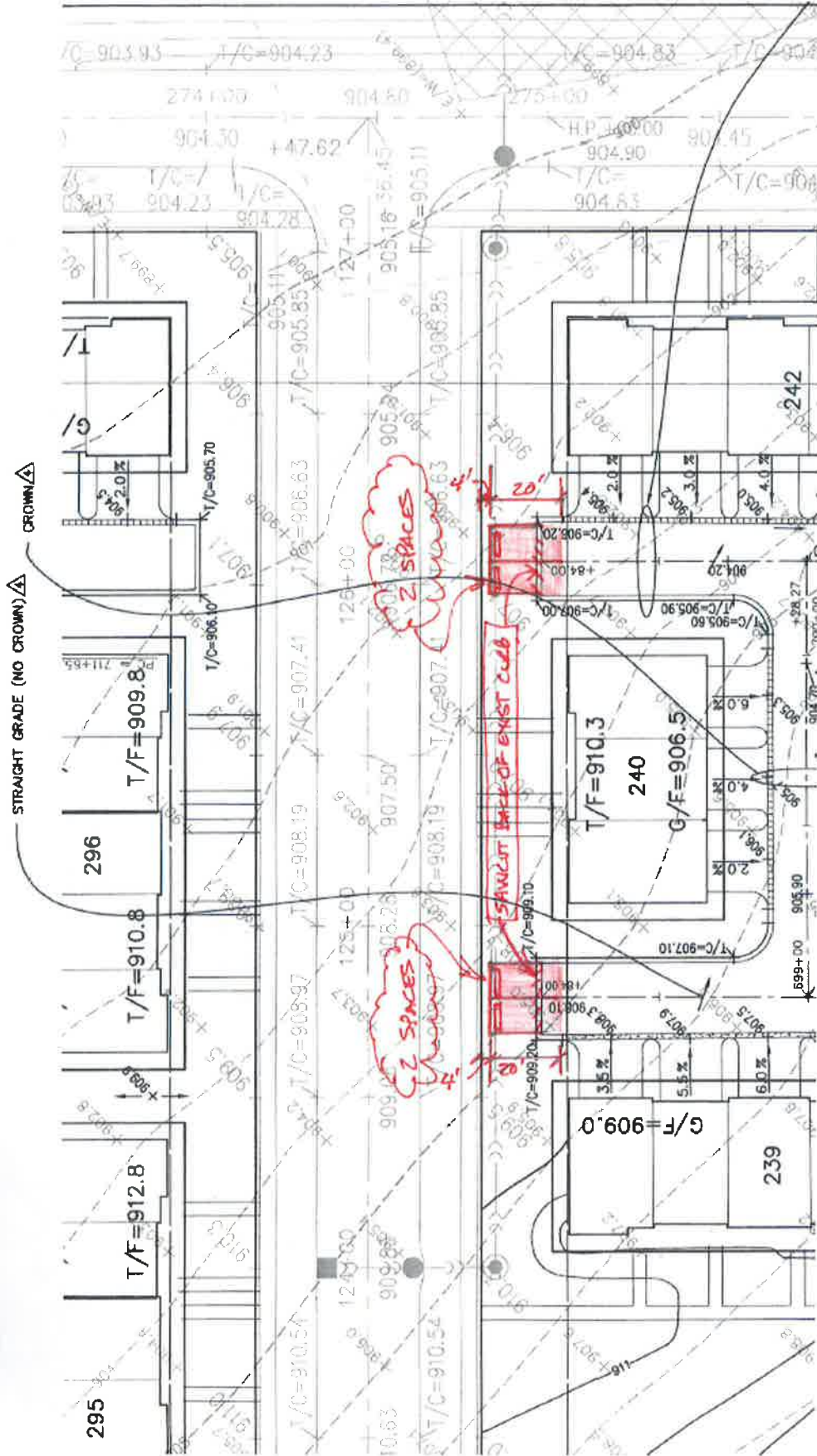


Phase 2A Park Plan

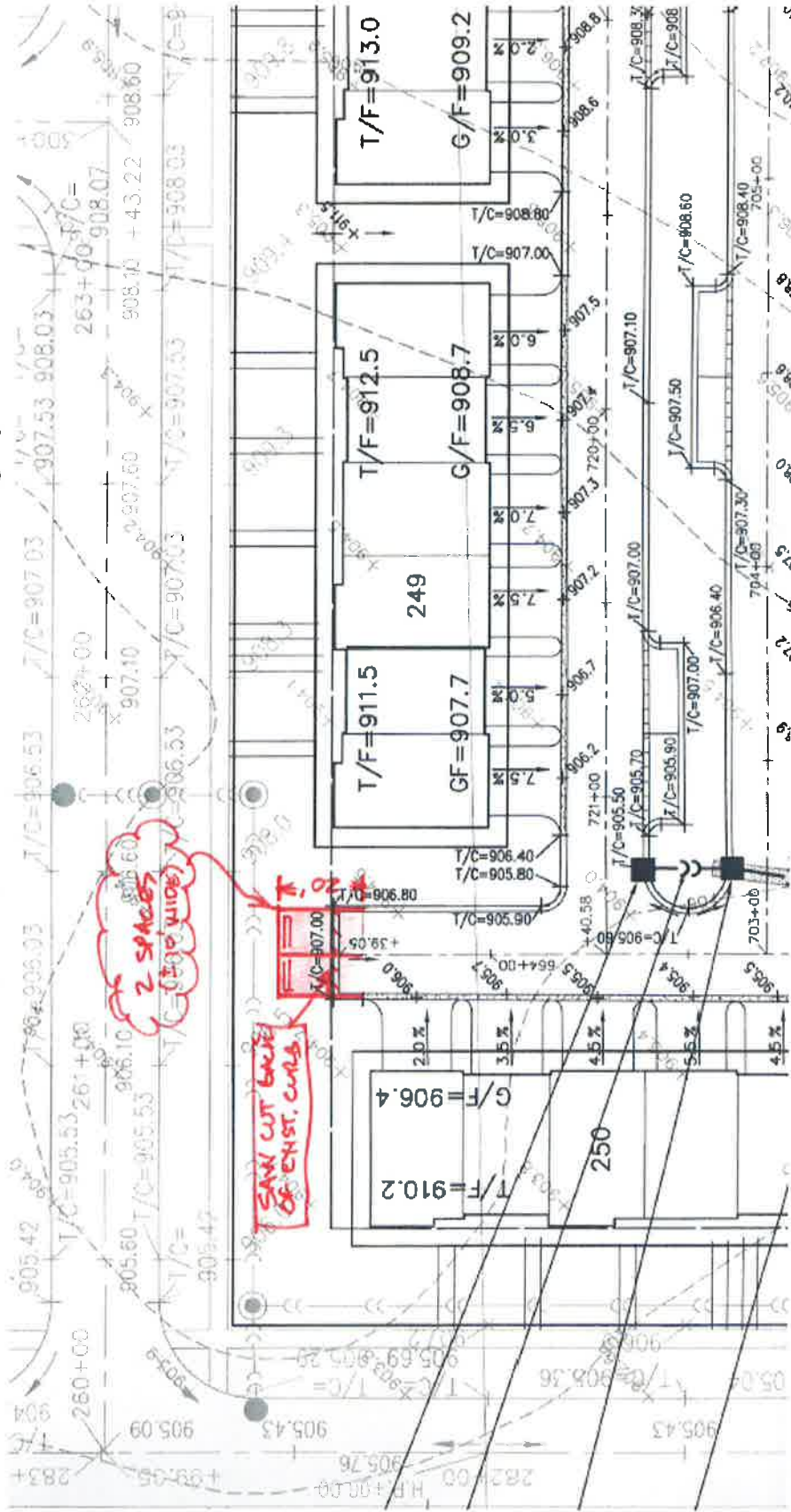
Proposed Building 231 Additional Parking Spaces



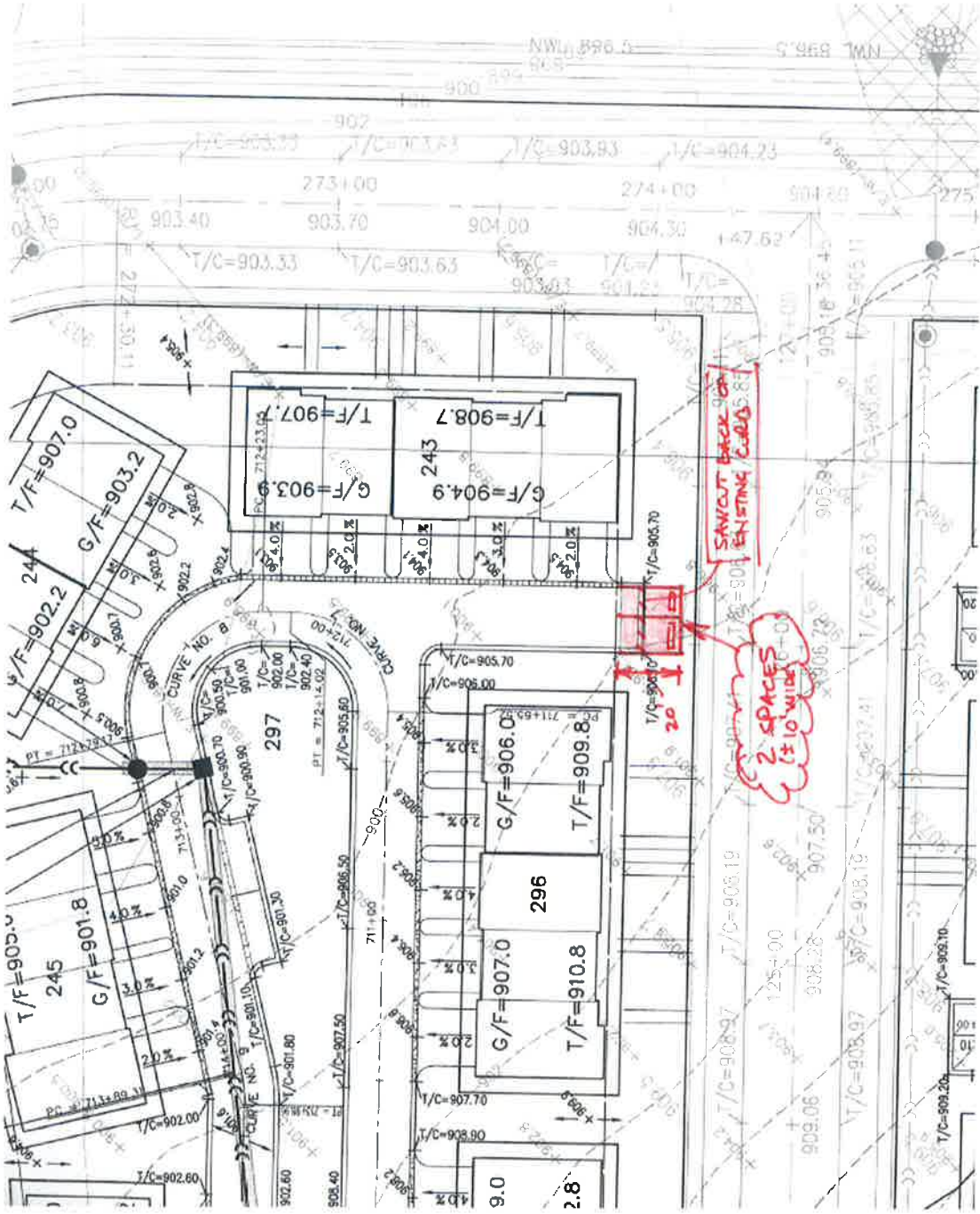
Building 240 Additional 4 Parking Spaces



Buildings 249/250 Additional 2 Parking Spaces



Building 296 Additional 2 Parking Spaces



Simplify E-Recording Banking Report

Detail View

Prepared for: Debra Meadows
 Included Organization: The Village of Gilberts
 For the period: 01/03/2017
 Account number: ILTAQE
 Report generated: 01/03/2017 08:35 PM MST

Charges

NAME	TYPE	PG	ENTRY	RECORD DATE	AMT	SF	TOTAL
Kane County, IL							
Jan 3, 2017							
Annexation Agreement Amendment Gilbert Town Center							
Ordinance 202016	AMENDMENT	14	E 2017K000143	01/03/2017 12:19 PM CST	57.00 4	2.00 4	59.00
Totals for Kane County, IL							
					57.00	2.00	59.00
Total of All Charges							
					57.00	2.00	59.00

Payments

PAYMENT PROCESSING	DESCRIPTION	ACCOUNT #	BANK DATE	AMT	SF	TOTAL
Simplify ACH: E-Recording Account	Record Fees	**0083	01/04/2017	57.00 4	2.00 4	59.00
Total of All Payments						
				57.00	2.00	59.00

Document Count: 1

Questions Contact:
 Simplifile Support 1-800-460-5657, option 3
 4844 North 300 West, Suite 202
 Provo, UT 84604

2017K000143

**SANDY WEGMAN
RECORDER - KANE COUNTY, IL
RECORDED: 1/3/2017 12:19 PM
REC FEE: 57.00
PAGES: 14**

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