

AN ORDINANCE APPROVING THE FINAL PLAT OF SUBDIVISION AND FINAL PUD PLANS FOR PHASE 2B-2 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 , and has been amended from time-to-time including in the Third Amendment to the Annexation Agreement (“**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, which PUD Ordinance has been amended from time-to-time including the Second Amendment to the PUD Ordinance approved in 2019 (“**Amended PUD Ordinance**”); and

WHEREAS, the Village previously approved final plats of subdivision and final PUD plans for Phase 1, Phase 2A-1, Phase 3A, and Phase 2B-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 2B-2 of the Gilberts Development Parcel, consisting of 46 single family lots; and

WHEREAS, the Final Plat of Subdivision and Final PUD Plan for Phase 2B-2 are substantially in conformity with the preliminary plat and plans approved by the Village Board in the Second Amendment to the PUD Ordinance approved in 2019; and

WHEREAS, on January 12, 2022, the Village Plan Commission conducted a meeting to consider the Final Plat and Final PUD Plans for Phase 2B-2 of the Gilberts Development Parcel, and made a recommendation of approval to the Village Board, subject to various conditions; 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 2B-2 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:

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 Final Plat of Subdivision for Phase 2B-2. 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 2B-2 of the Gilberts Development Parcel, which Plat is attached hereto as **Exhibit B**.

Section 3. **Approval of Final PUD Plans for Phase 2B-2.** 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 2B-2 plans of the Gilberts Development Parcel, which Plans are attached hereto as **Exhibit C**.

Section 4. **Conditions.** 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 2B-2 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 2B-2, including the improvements required by the Amended Annexation Agreement for this phase.
- B. **Final Engineering Plan Approval.** Prior to any permit being issued for any work in Phase 2B-2, final engineering plans must be approved by the Village Engineer, including addressing the outstanding issues raised by the Engineer in its letter dated October 8, 2020, as modified on December 4, 2020, to the satisfaction of the Village Engineer.
- C. **Water Improvements.** Pursuant to the Amended Annexation Agreement and Resolution No. 09-2021, as they may be amended from time-to-time, Gilberts Development is restricted to the number of building permits that may be issued or connections that may be allowed to the Village's water system 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. As a result, any development within Phase 2B-2 is limited by, and must comply with, the restrictions imposed by Resolution No. 09-2021 as it may be amended from time-to-time. However, Gilberts Development may commence the construction of public improvements and grading activities in Phase 2B-2 prior to completion of the water service improvements, but no building permit shall be issued in Phase 2B-2 except in conformance with the restrictions established by Resolution No. 09-2021 as it may be amended from time-to-time.
- D. **Further Development of Phase 2.** Phase 2B-2 consists of 46 single family lots, as approved in the preliminary PUD for the Gilberts Development Parcel, leaving 4 single family lots and 40 townhome units remaining in Phase 2 to be platted. No development of these

remaining townhome and single family lots in Phase 2 will be permitted unless and until a final plat of subdivision and final PUD plan for these units have been submitted for review and approved by the Village in accordance with the required procedures for such review and approval.

- E. Compliance with Laws. 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 for Phase 2B-2 or an amendment to the existing declaration of covenants recorded against portions of the Conservancy Development to add Phase 2B-2 shall be recorded against the Phase 2B-2 property in accordance with the requirements of Section 24.A of the Annexation Agreement, as amended by the Amended Annexation Agreement. The declaration shall include, at a minimum, provisions regarding maintenance by the developer, management company, or owners' association of the outlots, common areas, storm water facilities, and natural resource and other protected areas on the attached plat. The declaration of covenants and restrictions will be subject to review by the Village Attorney and 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.

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 ordinances.

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.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this 18 day of Jan 2022.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	✓	_____	_____	_____
Trustee Brandon Coats	_____	_____	✓	_____
Trustee Dan Corbett	✓	_____	_____	_____
Trustee Lou Hacker	_____	_____	✓	_____
Trustee David LeClerq	_____	_____	✓	_____
Trustee Justin Redfield	✓	_____	_____	_____
President Guy Zambetti	_____	_____	_____	_____

APPROVED THIS 18 DAY OF Jan, 2022

Guy Zambetti
Village President, Guy Zambetti

Courtney Baker
Village Clerk, Courtney Baker

Published: 1-19-22



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; 02-11-348-003; 02-11-348-004; 02-11-350-006; 02-11-350-005; 02-11-350-004; 02-11-404-004; 02-11-350-003; 02-11-404-003; 02-11-350-002; 02-11-404-002; 02-11-350-001; 02-11-404-001; 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; 02-11-451-006; 02-11-451-016; 02-11-451-007; 02-11-451-017; 02-11-451-008; 02-11-451-018; 02-11-451-009; 02-11-451-019; 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; 02-11-403-002; 02-11-403-003; 02-11-403-004; 02-11-403-005; 02-11-403-006; 02-11-403-007; 02-11-403-008; 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; 02-11-405-012; 02-11-405-013; 02-11-405-014; 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; 02-11-425-019; 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; 02-11-452-019; 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 2B-2

[ATTACH]

Exhibit C

Final PUD Plans for Phase 2B-2

[ATTACH]