

ORDINANCE NO. 31-2024

**AN ORDINANCE APPROVING
A SPECIAL USE PERMIT FOR A PRELIMINARY PLANNED UNIT DEVELOPMENT**

(Bespoke Motor Union)

WHEREAS, the CTLC Trust No. 03-5993, dated March 15, 2003 (“*Owner*”), is the owner of the 19-acre property located generally at the northwest corner of the intersection of Columbia Lane and Tyrell Road, which property is more specifically described on **Exhibit A** (“*Property*”); and

WHEREAS, the Property is currently zoned in the C-1 General Commercial District; and

WHEREAS, Aspiration, LLC (“*Applicant*”), is the contract purchaser of the Property from the Owner; and

WHEREAS, the Applicant desires to construct a private auto condominium development on the Property, that will include (1) up to 156 private auto condominium units; (2) a clubhouse with amenities for the private auto condominium owners and their guests; and (3) two general commercial condominium buildings (the “*Development*”); and

WHEREAS, given the unique nature of the auto condominium use, and the mixture of the proposed uses within the Development, the Applicant, with the permission of the Owner, has applied for a special use permit for a Preliminary Planned Unit Development (the “*PUD*”) to construct and operate the Development on the Property; and

WHEREAS, as part of the PUD application, the Applicant has provided a Preliminary PUD Plat, attached hereto as **Exhibit B**, that outlines the site plan and preliminary plat of condominium for the Development and (1) identifies the two general commercial condominium buildings as “Retail Condominium Building A” and “Retail Condominium Building B”; (2) identifies the private clubhouse for the use of the private auto condominium owners and their guests as the “Clubhouse”; and (3) identifies the private auto condominium units as “Building 1” through “Building 10”; and

WHEREAS, pursuant to Section 10-11-12 of the Gilberts Unified Development Ordinance (“*UDO*”), a PUD may depart from strict conformance with the required density, dimension, area, bulk, use and other regulations for the standard zoning districts and other provisions of the UDO to the extent specified in the preliminary PUD documents; and

WHEREAS, the Applicant’s proposed PUD includes departures from the regulations of the underlying C-1 General Commercial District; and

WHEREAS, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and public meeting and reviewed the Applicant’s request for the PUD on November 13, 2024, and voted to recommend that the Village Board deny the Applicant’s request for the PUD; and

WHEREAS, the Village Board makes the following findings of fact in reference to the application for approval of a special use permit for the PUD:

1. The Applicant's proposed PUD complies with all provisions of the applicable district regulations, except for the departures specifically authorized as part of the PUD.
2. The Applicant's proposed PUD 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.
3. The location and size of the Applicant's proposed PUD, 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 proposed PUD 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 PUD, in which 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 except for the approved departures; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the Village.

WHEREAS, further, the Village Board makes the following findings of fact in reference to the Applicant's request for a PUD for the Development:

- A. The Applicant's proposed PUD is consistent with the stated purpose of the planned unit development regulations.
- B. The Applicant's proposed PUD will be in harmony with the general and specific purpose for which this code was enacted and for which the regulations of the district were established and with the general purpose and intent of the comprehensive plan.
- C. The Applicant's proposed PUD will not have an undue adverse impact on adjacent property, the character of the area, or the public health, safety, and welfare.
- D. The Applicant's proposed PDU will be constructed, arranged, and operated so as not to dominate the immediate area or interfere with the use and development of neighboring property in accordance with applicable district regulations.
- E. The Applicant's proposed PUD will be adequately served by essential public facilities and services, including streets, public utilities, drainage facilities, police

and fire protection, refuse, disposal, parks, or schools, or the applicant will provide adequately for such facilities.

- F. The Applicant's proposed PUD will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
- G. The Applicant's proposed PUD will not result in the destruction, loss, or damage of natural, scenic, or historic features of significant importance including trees, habitat reserves, rivers, streams, lakes, ponds, hills, ridges, and historic structures.
- H. The Applicant's proposed PUD will comply with all additional standards imposed on it by the particular provision of this code authorizing such use.

WHEREAS, the Village Board has considered the Applicant's request for the PUD for the Development and has determined that the requested approvals are in the best interests of the Village and its residents, subject to the conditions contained 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. **Preliminary Planned Unit Development.** Subject to the conditions set forth in Section 5 of this Ordinance, the Village Board of Trustees hereby approves a Special Use Permit for a Preliminary Planned Unit Development pursuant to Section 10-11-2 of the UDO to allow for the Applicant's Development on the Property, as depicted on the Preliminary PUD Plat attached hereto as Exhibit B, and in accordance with the PUD uses and Departures set forth in Section 3 of this Ordinance.

Section 3. **PUD Uses.** Subject to the conditions set forth in Section 5 of this Ordinance, the following uses are permitted within the specified areas of the PUD:

- A. The uses listed on **Exhibit C** will be the permitted and special uses for the Retail A and Retail B Condominium Buildings, as depicted on the Preliminary PUD Plat.
- B. The uses listed on **Exhibit D** will be the permitted and special uses for the Club House building, as depicted on the Preliminary PUD Plat.
- C. The uses listed on **Exhibit E** will be the permitted and special uses for the Auto Condominium Buildings 1-10, as depicted on the Preliminary PUD Plat.
- D. Any portion of the Property that is not otherwise improved with buildings, structures, or pavement may continue to be used for farming or agricultural uses involving the growing of crops, trees, or bushes. No agricultural use involving the raising, keeping, or grazing of livestock or animals is permitted on the Property.

Section 4. Departures from Standards. The following departures from the C-1 General Commercial District standards are hereby approved for the PUD:

- A. A departure from Section 10-9-1 of the UDO to provide a total of 143 off-street parking spaces for Retail Condominium Building A and Retail Condominium Building B combined, based on the uses provided for in Exhibit C. The off-street parking spaces provided for the Clubhouse and the Auto Condominium Buildings, as shown on the Preliminary PUD Plat, do not require a departure from the UDO.
- B. A departure from Section 10-4-6 of the UDO to allow for the lot coverage for the Development to be 64.6% of the Property.
- C. A departure from Section 10-9-4 of the UDO to allow for 4 landscaped parking lot islands on the Property, as depicted on the Preliminary PUD Plat.
- D. A departure from Section 10-9-4 of the UDO to eliminate the requirement for building foundation plantings for Auto Condominium Buildings 1 through 10.
- E. A departure from Section 10-9-5 of the UDO to eliminate the requirement for parking lot lighting within the gated parking areas surrounding the Auto Condominium Buildings 1 through 10 and the Clubhouse, and to allow for building-mounted down-lighting instead.
- F. A departure from Section 11-12-D-1-e-I of the UDO to allow the Applicant a period of three (3) years from the effective date of this Ordinance to file its application for final PUD approval.
- G. To the extent the Preliminary PUD Plan as shown and approved by the Village's Corporate Authorities further departs from any standard applicable within the C-1 General Commercial District, such departures are hereby approved.

Section 5. Conditions. The approvals granted pursuant to Section 2, 3, and 4 of this Ordinance are 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 approvals granted by Section 2, 3, and 4 of 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 Owner to enforcement proceedings accordingly.

- A. Principal Use of the Auto Condominium Buildings. The principal use of the Auto Condominium Buildings must be for storage purposes only. All other uses of the Auto Condominium Buildings must be accessory to the principal storage use. No commercial uses are permitted within the Auto Condominium Buildings.
- B. No Residential, Hotel, or Motel Use. No portion of the Property may be used for residential, hotel, or motel uses.

- C. Final Plans. The Applicant must submit a final landscape plan, signage plan, lighting plan, engineering plans, and other final documents that comply with the UDO's requirements, except as expressly authorized by this Ordinance, to the Zoning Administrator prior to Final PUD Approval.
- D. Condominium Declaration. The Applicant must submit the draft declaration of covenants, conditions, and restrictions for the condominium units on the Property to the Village prior to Final PUD Approval. The declaration will be subject to the reasonable approval of the Village Attorney.
- E. Phasing Plan. The Applicant must develop the PUD in accordance with the Phasing Plan attached hereto as **Exhibit F**. Any amendment to the Phasing Plan will be considered a Minor Change to the PUD.
- F. Final PUD Approval. The approvals granted pursuant to this Ordinance are expressly conditioned upon the approval of a Final PUD in accordance with Section 10-11-12 of the UDO. As part of its application for Final PUD Approval, the Applicant must demonstrate that it has acquired fee simple ownership of the Property.
- G. Compliance with Plans. The development, maintenance, and use of the Property must be in substantial conformance with the plans attached hereto as **Exhibit G**, and the plans approved as part of any Final PUD Approval for the Development.
- H. 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.
- I. 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 6. Failure to Comply. Upon failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the approval granted in Section 2, 3, and 4 of this Ordinance for the Property ("**Conditioned Approval**"), will, at the sole discretion of the Board of Trustees, by ordinance duly adopted, be revoked and become null and void as to any portion of the Property as to which no Phase of the PUD (as such Phases are defined herein) has already been substantially commenced; provided, however, that the Board of Trustees will not revoke the Conditioned Approval unless it first provides the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees regarding the revocation. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the C-1 Zoning District, as the

same may, from time to time, be amended. Further, in the event of revocation, the Village Administrator and Village Attorney are authorized and directed to bring all zoning enforcement action as may be appropriate under the circumstances. The Owner acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, have considered the possibility of the revocation provided for in this Section 5, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Owner required by this Section 5 is given.

Section 7. Binding Effect; Non-Transferability. The privileges, obligations, and provisions of each and every section of this Ordinance are for the sole benefit of, and shall be binding on, the Applicant. Nothing in this Ordinance will be deemed to allow the Special Use Permit for a Planned Unit Development granted pursuant to this Ordinance to be transferred to any person or entity without a new application for approval for any person or entity other than the Applicant.

Section 8. 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 9. 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.

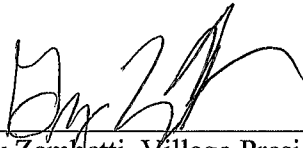
Section 10. Effective Date. Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the Owner has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit H**, within 30 days following the passage of this Ordinance.

PASSED BY A VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this 3rd day of December, 2024.

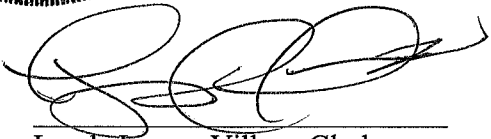
	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	<u>X</u>	_____	_____	_____
Trustee Robert Chapman	<u>X</u>	_____	_____	_____
Trustee Robert Vanni	<u>X</u>	_____	_____	_____
Trustee Brandon Coats	<u>X</u>	_____	_____	_____
Trustee Justin Redfield	<u>X</u>	_____	_____	_____
Trustee Frank Marino	<u>X</u>	_____	_____	_____
President Guy Zambetti	_____	_____	_____	_____

APPROVED THIS 3RD DAY OF DECEMBER, 2024.





Guy Zambetti, Village President

ATTEST: 

Lynda Lange, Village Clerk

Exhibit A

Description of the Property

Legal Description: *A 19 ACRE PARCEL OF LAND AT THE SOUTHEAST CORNER OF THE FOLLOWING DESCRIBED LAND:*

THE SOUTHWEST QUARTER AND THE WEST HALF OF THE SOUTHEAST OF SECTION 13, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE FOLLOWING) BEGINNING AT THE NORTHEAST CORNER OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID SOUTHEAST QUARTER 1006.4 FEET; THEN NORTHERLY 965.93 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER, WHICH POINT IS 1106.4 FEET WEST OF THE POINT OF BEGINNING; THENCE EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER AND SAID SOUTHEAST QUARTER 1106.4 FEET TO THE PLACE OF BEGINNING, ALSO EXCEPT THE ORTH 420 FEET OF THE WEST 208 FEET OF THE EAST HALF OF SAID SOUTHWEST QUARTER.

Portions of PINs: *02-13-300-019 & 02-13-400-017*

Exhibit B

Preliminary PUD Plat

Exhibit C

Permitted and Special Uses for Retail Condominium Buildings A and B

- **Permitted uses.**

- **Retail Business Uses.**

- Antique shops.
 - Appliance sales and service.
 - Bicycle sales and service.
 - Business machine sales and service.
 - Cigar, cigarette, and tobacco stores.
 - Lawn mower sales and service.
 - Restaurant (without drive-through).
 - Tool sales and service.
 - Retail business uses, general, except as noted elsewhere.
 - Bars and taverns.

- **Service Uses.**

- Banks, credit unions and other financial institutions without drive through
 - Barber and beauty shops.
 - Blue printing, copying, and small duplicating establishments.
 - Dry cleaners (except industrial laundries/dry-cleaning plants).
 - Insurance agents.
 - Furniture cleaning, upholstery, and repair shops
 - Travel agencies.
 - Service uses, general, except as noted elsewhere.

- **Office and Professional Uses**

- *Drug stores / pharmacies without drive-through*
 - Real estate sales and brokerage offices.

- Office and professional uses, general.
- Drug stores and pharmacies (without drive-through).
- Billiard and pool halls
- *Similar and Compatible Uses.* Other uses that are similar and compatible to those allowed as permitted uses in the C-1 District, as determined by the Zoning Administrator.
- **Special uses converted to Permitted Uses**
 - Automobile, motorcycle, and truck sales and service, but only if the inventory for sale is parked within the Retail Condo Unit.
 - Boat sales and service, but only if the inventory for sale is parked within the Retail Condo Unit.
 - Parcel pick-up and delivery
 - Permanent outdoor seating areas accessory to bars, restaurants, and taverns.
- **Special uses**
 - *Planned Unit Developments.* Planned unit developments, but only subject to the special procedures and standards set forth in the Village UDO.
 - Tire, battery and accessory sales and service.
 - Drive-through facilities for any permitted or special use activity.

Exhibit D

Permitted and Special Uses for the Clubhouse

- **Permitted Uses:**
 - Meeting room
 - Light foods
 - Consumption (but not sale) of alcoholic beverages (including alcohol belonging to members and alcohol brought in by licensed caterers)
 - Vending machines
 - television viewing
 - video games
 - Computer / internet access
 - Outdoor seating for outdoor dining, drinking, and smoking
 - Tennis, pickle ball, volleyball, basketball, Bocci ball, bad mitten and similar sports activities facilities for use by the Members and their guests ; these recreational facilities may be lighted for night use subject to compliance with the Village lighting requirements.
 - The central Clubhouse may be periodically rented out for occasional third-party events such as weddings; business meetings, etc, subject to any applicable liquor licensing requirements.

- **Special Uses:**
 - The sale of alcoholic beverages.

Exhibit E

Permitted and Special Uses for Auto Condominium Buildings 1 through 10

- **Permitted uses**

Non-Commercial Uses:

- Vehicle and equipment storage, maintenance, and repair of automobiles, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, boats;
- Storage of other non-commercial personal property
- Personal record storage
- Non-commercial lounge / recreational area for the private use and enjoyment of the owner and the owner's guests. Any such lounges may contain light cooking and refrigeration equipment and a private bar for the non-commercial consumption of all types of beverages.)

Similar and Compatible Uses:

- Other uses that are similar and compatible to those allowed as permitted uses in the C-1 District, as determined by the Zoning Administrator.

- **Special Uses.**

- *Planned Unit Developments.* Planned unit developments, but only subject to the special procedures and standards set forth in the Village UDO.

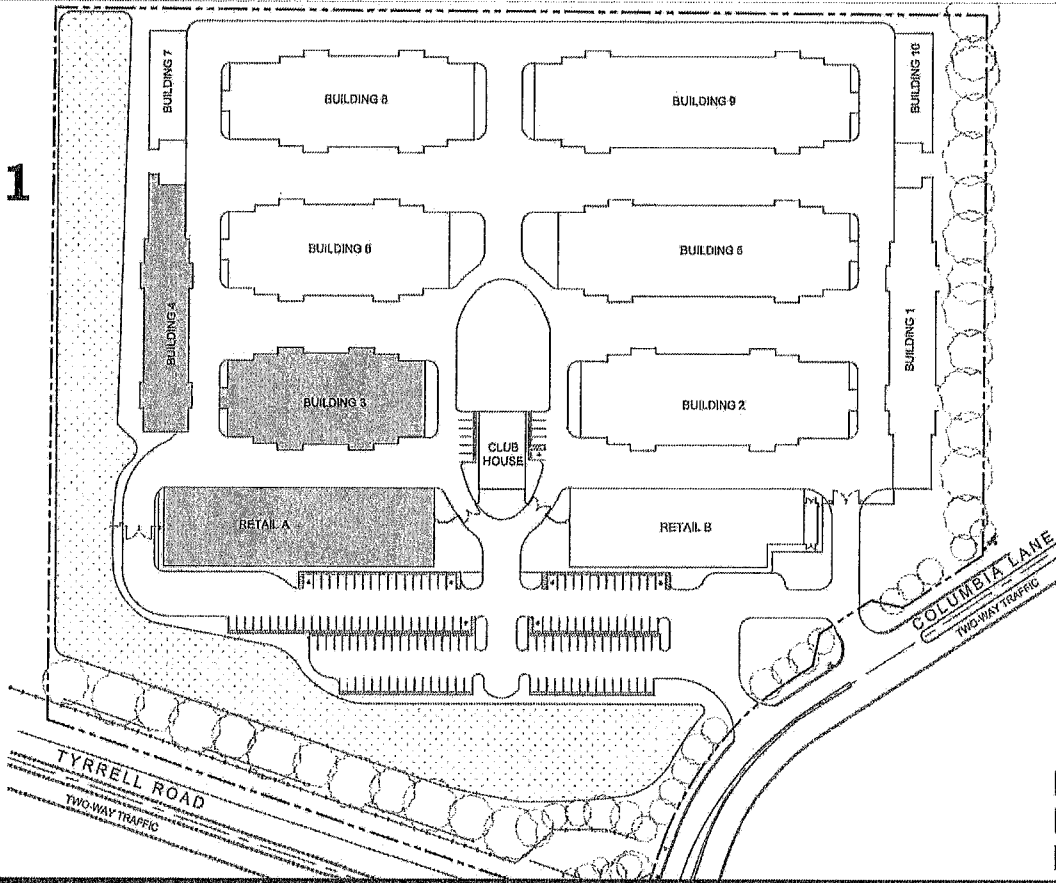
Exhibit F

Phasing Plan

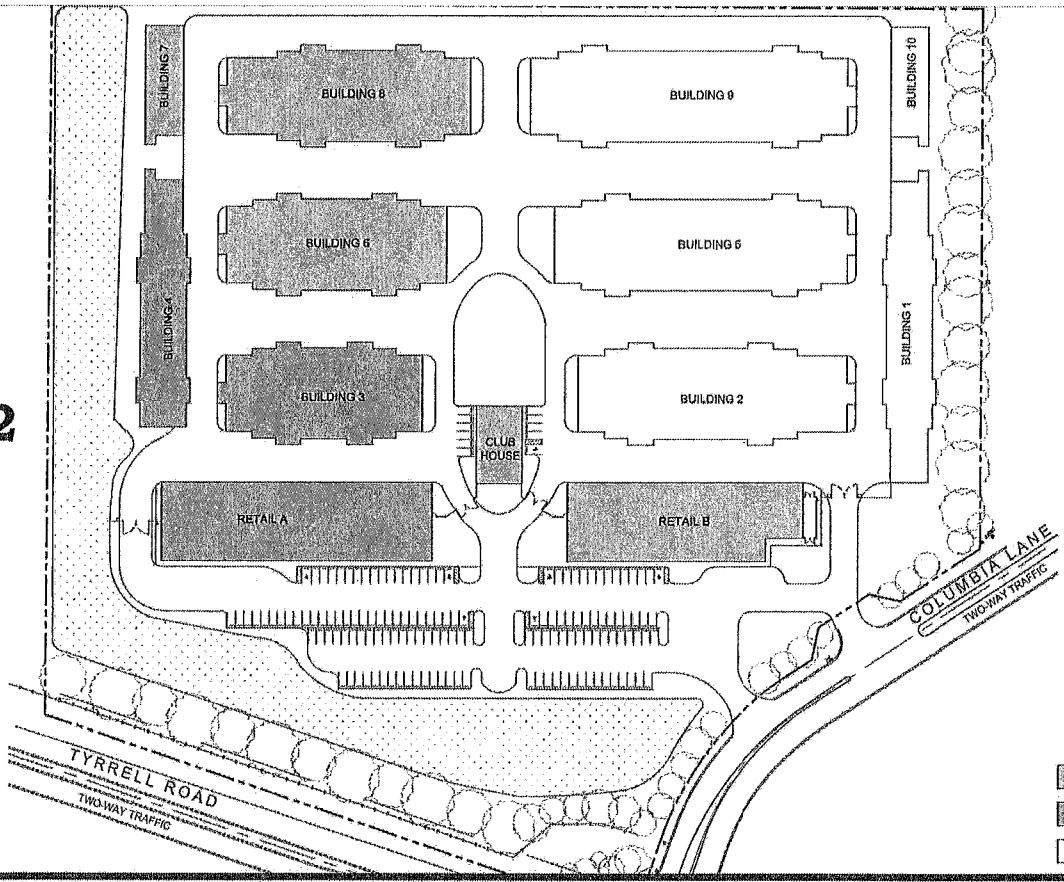
1. The Applicant must submit a complete application for final PUD approval within three (3) years after the date of the Preliminary PUD Approval.
2. The Applicant must Commence substantial construction of Phase 1 within two (2) years of approval of the Final PUD. Phase 1 must include the commencement of substantial construction of the following:
 - a. Retail Building A.
 - b. Auto Condominium Building 3.
 - c. Auto Condominium Building 4.
 - d. The portion of the Parking Lot and paved area that will service Retail Building A and Buildings 3-4
 - e. All necessary access improvements for the Development from Columbia Lane.
 - f. Stormwater facilities and other utilities necessary to support this phase of development.
3. Commence substantial construction of Phase 2 within five years of the completion of Phase 1. Phase 2 must include the commencement of substantial construction of the following:
 - a. Retail Building A.
 - b. Auto Condominium Building 3.
 - c. Auto Condominium Building 4.
 - d. The portion of the Parking Lot and paved area that will service Retail Building A and Buildings 3-4
 - e. All necessary access improvements for the Development from Columbia Lane.
 - f. Stormwater facilities and other utilities necessary to support this phase of development.
4. Commence substantial construction of Phase 3 within five years of the completion of Phase 2. Phase 3 must include the commencement of substantial construction of the following:
 - a. Auto Condominium Building 1.
 - b. Auto Condominium Building 2.

- c. Auto Condominium Building 5.
- d. Auto Condominium Building 9.
- e. Auto Condominium Building 10.
- f. The portion of the Parking Lot and paved area that will service Buildings 1,2,5,9 and 10.
- g. Stormwater facilities and other utilities necessary to support this phase of development.

PHASE 1



PHASE 2



- ACTIVE CONSTRUCTION
- COMPLETED CONSTRUCTION
- FUTURE CONSTRUCTION

PHASE 3

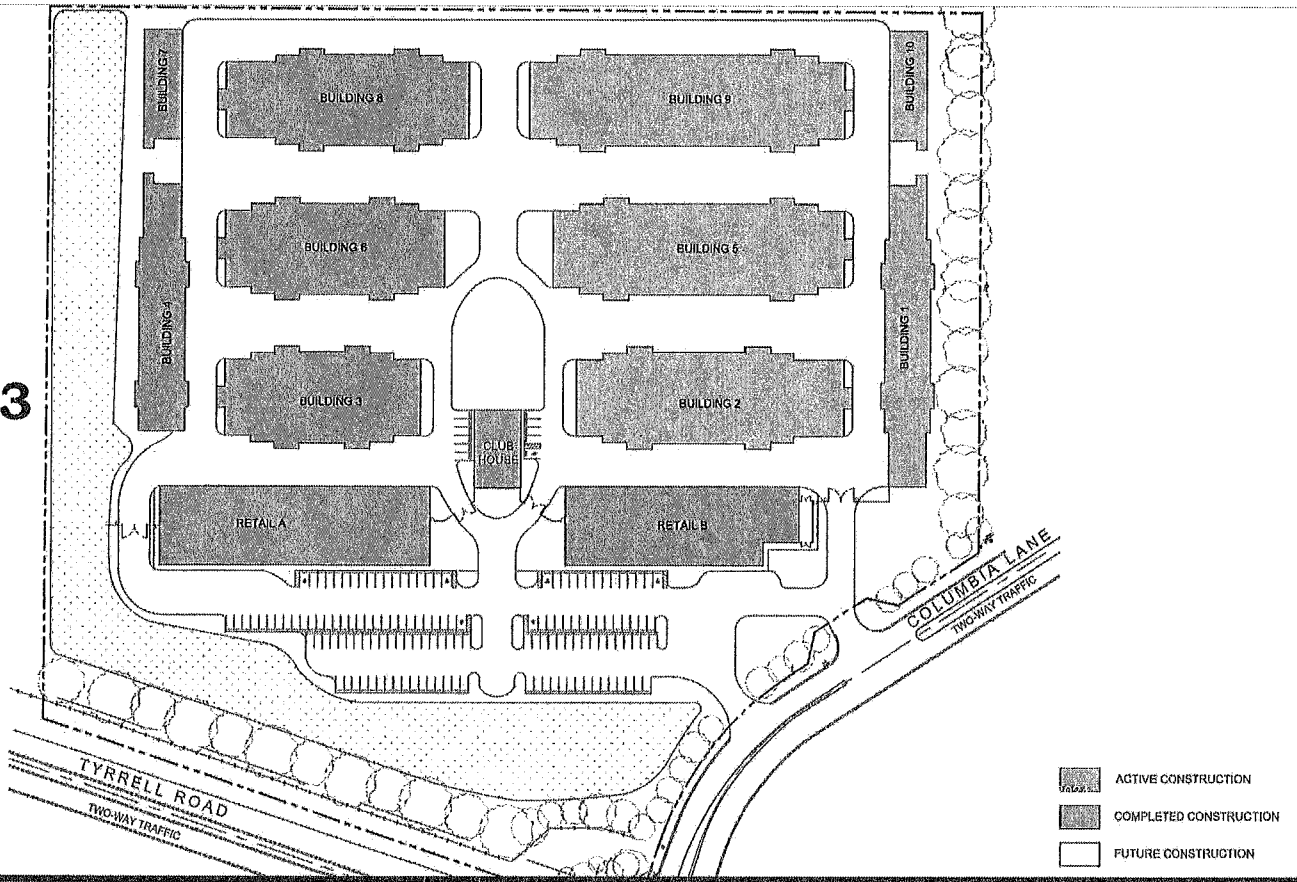
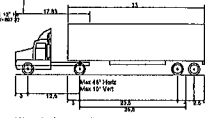
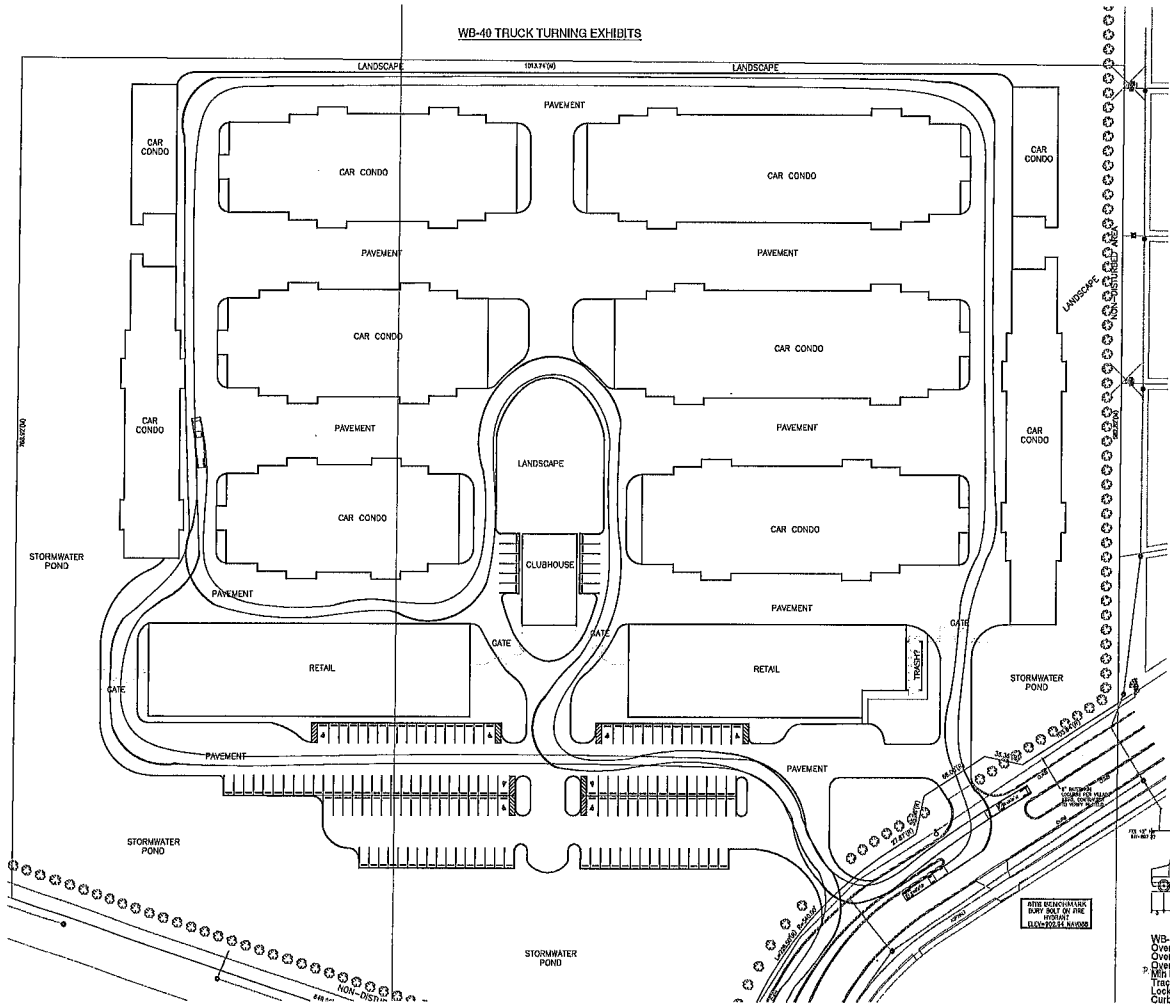


Exhibit G

Plans

WB-40 TRUCK TURNING EXHIBITS



DATE	10/15/11
REVISION	
PROJECT NAME	WB-40 TRUCK TURNING EXHIBITS
PROJECT NUMBER	11-0000000000
PROJECT LOCATION	BESPOKE LUXURY CAR CONDOS
PROJECT OWNER	TYRELL RD. & COLUMBIA LN., GILBERTS, IL
PROJECT ARCHITECT	BCI
PROJECT ENGINEER	BORG CONSULTING
PROJECT SURVEYOR	CHAS. J. BORG
PROJECT DRAFTER	CHAS. J. BORG
PROJECT CHECKER	CHAS. J. BORG
PROJECT APPROVER	CHAS. J. BORG
PROJECT SCALE	AS SHOWN
PROJECT SHEET	5

Exhibit H

Unconditional Agreement and Consent

Pursuant to Section 10 of Ordinance No. 31-2014, and to induce the Village to grant the approvals provided for in that Ordinance, the undersigned acknowledges for itself and its successors and assigns in title to the Property that it:

1. has read and understand all of the terms and provisions of Ordinance No. 31-2014;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees 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 the Property, 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;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Owner and the Applicant.

Aspiration, LLC

BY: [Signature]

ITS: President

Date: 12/19/2024

CTLC Trust No. 03-5993, dated March 15, 2003

BY: [Signature]

ITS: Agent for land trust beneficiaries

Date: December 19, 2024