

VILLAGE OF GILBERTS

RESOLUTION 37-2023

A RESOLUTION AUTHORIZING AND APPROVING THE RELEASE OF A TOTAL OF 436 BUILDING PERMITS IN 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 the 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 which Agreement was further amended by the Second Amendment and the Third Amendment (collectively, “*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 Ordinance was further amended by the Second Amendment to the PUD Ordinance (collectively, “*Amended PUD Ordinance*”); and

WHEREAS, the Amended Annexation Agreement restricts the number of building permits that can be issued for lots in the Conservancy Development Parcel to 123 permits until the water service improvements required by the Amended Annexation Agreement are completed and operational, unless expressly approved otherwise by a majority vote of the Village Board; and

WHEREAS, the Village Board previously approved various Resolutions that approved the release of additional building permits beyond the 123 permits approved by the Amended Annexation Agreement in Resolution No. 01-2018, Resolution 07-2018, Resolution 23-2020, and Resolution 09-2021; and

WHEREAS, the Village Board also previously approved various plats of subdivision for phases of development of the Conservancy Development Parcel, including final plats for Neighborhoods 1, 2A-1, 2A-2, 2B-1, 2B-2, 2B-3, and 3A, which, in total, platted 436 lots in the Conservancy Development Parcel; and

WHEREAS, the Village Board desires to repeal the previous Resolutions and adopt this Resolution which would authorize a release of a total number of building permits to correspond with the number of platted lots that were previously approved by the Village, for a total of 436 authorized building permits, all in accordance with the terms and conditions of this Resolution.

THEREFORE, BE IT RESOLVED 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 Resolution as though set forth in this Section 1.

Section 2. Authorization of 436 Total Building Permits for the Conservancy. In accordance with the authority granted by the Amended Annexation Agreement, the Village Board of Trustees hereby authorizes and approves the release of a total of 436 building permits for the Conservancy Development Parcel (which number includes the 123 permits authorized by the Amended Annexation Agreement, the 51 permits authorized for Phase 2A-1 that were authorized previously, and the 184 building permits authorized by Resolution 09-2021), and which number corresponds with the 436 platted lots in the Conservancy Development Parcel that the Village Board approved previously for Neighborhoods 1, 2A-1, 2A-2, 2B-1, 2B-2, 2B-3, and 3A, all subject to compliance with the conditions set forth in Section 3 and approval and recordation of a plat of subdivision for any phase of the Conservancy Development for which building permits are proposed to be released.

Section 3. Conditions. The approvals granted in Section 2 of this Resolution 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. **Remaining Building Permits.** The remaining building permits (beyond the 436 permits authorized for release by this Resolution) for lots within the Conservancy Development Parcel that have not yet been platted as of the date of this Resolution will be released only after all of the water service improvements required by the Amended Annexation Agreement are completed, accepted by the Village, and fully operational in accordance with the Amended Annexation Agreement unless expressly approved otherwise by a majority vote of the Village Board.
- B. **No Authorization of Work.** This Resolution 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 the Gilberts Development Parcel pursuant to the approvals granted in this Resolution unless and until all conditions of this Resolution 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, including but not limited to the approval and recordation of final plats of subdivision for any phase of development that has not yet been platted and approval of final engineering plans for any phase of development.
- C. **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 Parcel shall comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- D. **Continued Effect of the Approvals.** The Amended PUD Ordinance, the Amended Annexation Agreement, and all final plats of subdivision approvals shall remain in full

force and effect, and the Owner shall comply with all requirements, conditions, and restrictions therein.

In addition, any violation of this Resolution shall be deemed a violation of the Village of Gilberts Zoning Code and shall subject the Owner to enforcement proceedings accordingly.

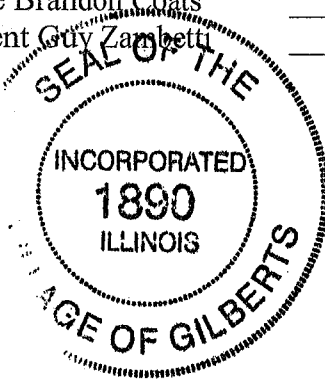
Section 4. Severability. In the event a court of competent jurisdiction finds this Resolution or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this Resolution and the application thereof to the greatest extent permitted by law.

Section 5. Repeal and Saving Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed, including without limitation the Resolutions that previously approved the release of building permits; 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 Resolution.

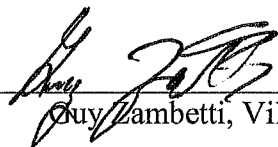
Section 6. Effective Date. Upon its passage and approval according to law, this Resolution shall, by authority of the Board of Trustees, be published in pamphlet form.

PASSED BY THE BOARD OF TRUSTEES this 7th day of November, 2023, as follows:

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



APPROVED THIS 7th DAY OF NOVEMBER, 2023.


 Guy Zambetti, Village President

(SEAL)
 ATTEST:


 Lynda Lange, Village Clerk

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; 02-11-405-015; 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