

VILLAGE OF GILBERTS

RESOLUTION 23-2020

**A RESOLUTION AUTHORIZING AND APPROVING THE RELEASE
OF A LIMITED NUMBER OF BUILDING PERMITS
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 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 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, Gilberts Development LLC previously requested that the Village Board authorize and approve the release of 51 additional building permits (beyond the 123 permits authorized by the Amended Annexation Agreement) in advance of the water service improvements being completed and operational; and

WHEREAS, the Village Board previously approved Resolution No. 01-2018 approving the release of 51 additional building permits for Phase 2A-1, which Resolution was subsequently amended by Resolution 07-2018; and

WHEREAS, Gilberts Development LLC is now requesting that an additional number of building permits be released, 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. Release of a Limited Number of 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 additional building permits for the Conservancy Development (beyond the 123 permits authorized by the Amended Annexation Agreement and the 51 permits authorized for Phase 2A-1 that were released previously), when the following milestones are achieved, subject to compliance with the conditions set forth in Section 3, including without limitation, approval and recordation of plats of subdivision for any phase of the Conservancy Development for which building permits are proposed to be released:

- A. Upon approval of this Resolution, the Village will release 60 building permits for lots within the Conservancy Development; provided, however, that any of the 60 permits approved for release that have not yet been issued shall be immediately rescinded and returned to the Village if any of the following circumstances occur:
 - 1. If work on the physical construction of the water treatment plant building expansion has not commenced by September 30, 2020.
 - 2. If work on the physical installation of the Well 5 raw water main has not commenced by November 1, 2020.
 - 3. If Well 5 and the Well 5 raw water main are not operational and producing its rated design capacity by April 30, 2021.
 - 4. If construction of the physical plant expansion building and delivery of equipment (including but not limited to the completion of the ion exchange, radium removal, high service pumps, motors and variable frequency drives, aerator, SCADA and electrical controls, and generators) is not completed by May 31, 2021.
 - 5. If the water treatment plant expansion project is not complete and fully operational by December 31, 2021.

- B. Upon Well No. 6 being operational and producing its rated design capacity or 1.4 MGD, whichever is greater, no later than February 28, 2021, work on the physical construction of the water treatment plant building expansion having commenced by September 30, 2020, and work on the physical installation of the Well 5 raw water main having commenced by November 1, 2020, the Village will release 79 building permits; provided, however, that any of the 79 permits approved for release that have not yet been issued shall be immediately rescinded and returned to the Village if any of the following circumstances occur:
 - 1. If Well 5 and the Well 5 raw water main are not operational and producing its rated design capacity by April 30, 2021.
 - 2. If construction of the physical plant expansion building and delivery of equipment (including but not limited to the completion of the ion exchange, radium removal,

high service pumps, motors and variable frequency drives, aerator, SCADA and electrical controls, and generators) is not completed by May 31, 2021.

3. If the water treatment plant expansion project is not complete and fully operational by December 31, 2021.
- C. Upon successful completion of the construction of the physical plant expansion building and delivery of equipment (including but not limited to the completion of the ion exchange, radium removal, high service pumps, motors and variable frequency drives, aerator, SCADA and electrical controls, and generators), the Village will release 181 building permits for lots within the Conservancy Development; provided, however, that any of the 181 permits approved for release that have not yet been issued shall be immediately rescinded and returned to the Village if the water treatment plant expansion is not complete and fully operational by December 31, 2021.
- D. The remaining building permits for lots within the Conservancy Development 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.

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. **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.
- 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 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.
- C. **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.

D. Progress Updates. Gilberts Development LLC shall submit a monthly report no later than the 30th of each month to the Village Administrator providing an update on progress made during the preceding month with respect to completion of the required water system improvements.

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; 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 of the Village of Gilberts, Kane County, Illinois, this 1 day of Sept., 2020.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	<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 Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Lou Hacker	<input type="checkbox"/>	<input checked="" 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 1 DAY OF Sept., 2020


 Village President, Rick Zirk


 Deputy Village Clerk, Phillip Versten

Published: _____

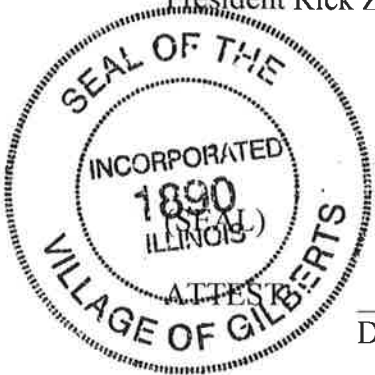


EXHIBIT A

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