# Village of Gilberts

Village Hall 87 Galligan Road, Gilberts, IL 60136 Ph. 847-428-2861 Fax: 847-428-2955 www.villageofgilberts.com

#### Village Administrator Memorandum 58-14

TO:

Village President Rick Zirk

**Board of Trustees** 

FROM:

Ray Keller, Village Administrator

DATE:

August 15, 2014

RE:

Village Board Meeting – August 19, 2014

The following summary discusses the agenda items for the Village Board meeting scheduled for August 19, 2014:

- 1. CALL TO ORDER
- 2. ROLL CALL / ESTABLISH QUORUM
- 3. PUBLIC COMMENT
- 4. CONSENT AGENDA

Any item may be removed from the consent agenda by request.

A. Motion to approve Minutes from the August 5, 2014 Village Board Meeting
Staff recommend approval of the August 5 minutes, which were reviewed and added to
the consent agenda at the August 12 Committee of the Whole meeting. Please contact
Village Clerk Debra Meadows prior to the meeting with any corrections or questions.

B. Motion to approve Minutes from the August 12, 2014 Committee of the Whole Meeting

Please review the enclosed minutes from the August 12 Committee of the Whole meeting. Please contact Village Clerk Debra Meadows prior to the meeting with any corrections or questions. Staff recommend approval.

C. Motion to approve the July 2014 Treasurer's Report

Staff recommend approval of the July 2014 Treasurer's Report, which was reviewed and added to the consent agenda at the August 12 Committee of the Whole meeting. Please contact me or Finance Director Blocker with any questions or requests for additional documentation that may be needed at the meeting.

Public Works Facility
Finance & Building Departments
73 Industrial Drive, Gilberts, IL 60136
Ph. 847-428-4167 Fax: 847-551-3382

Police Department 86 Railroad St., Gilberts, IL 60136 Ph. 847-428-2954 Fax 847-428-4232

#### D. Motion to approve Bills & Salaries dated August 19, 2014

Please review the enclosed spreadsheet for bills and salaries recommended for approval. Please contact me or Finance Director Blocker with any detailed questions that can be answered prior to the meeting.

# E. Motion to approve Resolution 36-2014, a Resolution approving the 2005 Facility Plan amendments

Staff recommend approval of the proposed Facility Plan Amendment, which updates the 2005 wastewater treatment plan to account for new housing development trends and project costs, including obligations attached by the IEPA and the environmental advocacy groups (EAGs). The plan will be submitted to IEPA for final approval. The Plan was reviewed and added to the consent agenda at the August 12 Committee of the Whole meeting. Due to the length of the plan document, only the title page and the executive summary are attached to the ordinance in the board packet. If approved, the entire plan will be archived with the executed ordinance. Please let me know if you have any questions about the plan or if additional information will be needed at the meeting.

#### 5. ITEMS FOR APPROVAL

# A. Motion to approve Ordinance 16-2014, an Ordinance approving a Special Use Permit for Pub Rt. 72 to allow for an outdoor dining area on property zoned C-1 Commercial located at 36 E. Higgins

Mr. Thomas Trier has requested approval of a special use permit to allow a permanent outdoor seating area for "Pub 72," the restaurant/bar located at 38 East Higgins Road, Gilberts, IL. Section 10-4-4, Paragraph B-6 requires the approval of a special use permit as a condition of operating a permanent outdoor seating area associated with a restaurant or bar.

The 24-foot long deck would be used for seated service only and would not host parties or special events or be used as an enclosed beer garden. In recognition of the nearby residences, use of the outdoor seating area would be limited to 10:00 p.m., which matches the Village's noise ordinance hours. Outdoor music, amplified sound live acts or other noise- or vibration-generating activity on the deck would also be prohibited. Smoking would also be prohibited to prevent the deck from becoming a de facto smoking area.

To accommodate the proposed deck, the ordinance includes a variance allowing a reduced front yard setback along Galligan Road to five feet and reducing the front yard setback along Higgins Road to match the existing south wall of the building. The proposed deck would also need to include a waiver of the additional 10 parking stalls that would normally be required by the UDO to serve the expanded seating area. Additional parking cannot be provided onsite, so the requirement would need to be waived in the absence of alternative parking arrangements (e.g. parking permission from neighboring properties). Patrons will likely be dissuaded by the absence of convenient parking, thus applying a practical limit on the maximum number of patrons at the restaurant/bar regardless of the presence of the outdoor seating area.

At their July 23 meeting, the Plan Commission conducted the public hearing and recommended approval 5-0 (2 absent), subject to numerous conditions that address the

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appearance and use of the service area, including the setback and parking waivers. Based on feedback from the August 12 Committee of the Whole meeting, the draft ordinance was amended to clarify that "seated" service includes food and/or liquor (condition #6); no bar may be placed in the outdoor seating area (condition #14) and maximum occupancy will be based on the number of seats that can be accommodated by the deck in accordance with the Village's building codes (condition #15).

Please let me know if you have any questions about the petition or if additional information will be needed at the meeting.

- B. Motion to approve Ordinance 17-2014, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control Staff recommend approval of Ordinance 17-2014, which amends the Village's Liquor Control requirements to address two issues:
  - 1. Creating the "OS" ("Outdoor Service") license, an add-on license that could be obtained by a restaurant/bar that holds a valid Class A, B or F license. As noted above, the add-on license was drafted to respond to Pub 72's request for an outdoor liquor service, which is currently prohibited by Section 3-2-15 of the Liquor Code. The add-on license would allow outdoor alcohol service that would be available for an additional \$200.00 annual fee. Holders of the OS license would need to comply with the list of conditions that mirror the operational conditions that were drafted for the Pub 72 special use permit, including access control through the principal structure and no private parties, special events, beer gardens, noise, music, smoking or service after 10:00 p.m.

To establish the OS license, the description, terms and availability of the license would be amended into Section 3-2-7 of the Code. Section 3-2-15 "Outdoor Consumption" would be amended to reflect the possibility of outdoor service, while Section 2-4-19 in the Village's "Fee Schedule" would establish the \$200.00 annual fee.

2. Reducing the fee for Class C "Special Events" licenses to \$100.00/day. Staff received feedback that the \$200.00 or \$500.00 application fee that may be applied may be a barrier to hosting special events in Gilberts. Staff proposed amending the fee structure to allow any one-day event to get a license for \$100.00. The reduced fee would not result in a loss of revenue for the Village, but it may encourage better compliance with our Liquor Code and may stimulate additional events that would benefit local establishments and bring additional visitors to Gilberts. The license fee for Community Days would be reduced from \$500.00 to \$400.00 to reflect the \$100/day fee for the four-day event.

Based on the feedback from the August 12 Committee of the Whole meeting, the ordinance was amended to reflect the additional conditions that were added to the Pub 72 special use permit ordinance. Please let me know if you have any questions about the petition or if additional information will be needed at the meeting.

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# C. Motion to approve Ordinance 18-2014, an Ordinance approving a Final Plan for Building III of the Prairie Business Park PUD and the Plat of Dedication for the Burnet Drive Right of Way

Interstate Partners LLC has submitted a final plan for their Building III site, located at the southwest corner of the Prairie Business Park PUD. Because Prairie Business Park was entitled a Planned Unit Development (PUD), final plan requires Village Board approval before permits may be issued.

Interstate Partners will construct a 275,265 s.f. building that will extend across Lots 58 through 65 in the area that is currently used by J.S. Riemer. Baxter & Woodman reviewed the engineering plans and recommended approval. The only remaining requirement is that Interstate Partners will need to post a performance/payment bond for \$3,127,237.85 to guarantee the infrastructure improvements shown on the plan.

Access to the site will be provided via Burnet Drive, to be located along sliver lots 57-58. The accompanying plat of dedication would grant the right of way to the Village for the road to be built by Interstate. The dedication of the 41-foot right of way, with 20-foot utility easements on either side, is required to satisfy the terms that were established by the development agreement and PUD ordinance for the development.

At their August 13 meeting, the Plan Commission recommended approval of the final plan and plat of dedication by a vote of 5-0 (2 absent). Please let me know if additional information will be needed for the meeting.

#### 6. ITEMS FOR DISCUSSION

Please contact me or Village President Rick Zirk to add any new discussion items.

#### 7. STAFF REPORTS

Staff will provide any updates at the meeting.

#### 8. BOARD OF TRUSTEES REPORTS

#### 9. PRESIDENT'S REPORT

#### 10. EXECUTIVE SESSION

Please contact me about any current executive session topics.

#### 11. ADJOURNMENT

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# Village Board of Trustees Meeting Agenda Village of Gilberts 87 GALLIGAN ROAD, GILBERTS, ILLINOIS 60136

August 19, 2014 7:00 P.M.

#### AGENDA

#### **ORDER OF BUSINESS**

- 1. CALL TO ORDER / PLEDGE OF ALLEGIANCE
- 2. ROLL CALL / ESTABLISH QUORUM
- 3. PUBLIC COMMENT
- 4. CONSENT AGENDA
  - A. A Motion to approve Minutes from the August 5, Village Board Meeting
  - B. A Motion to approve Minutes from the August 12, 2014 Committee of the Whole Meeting
  - C. A Motion to approve July 2014 Treasurer's Report
  - D. A Motion to approve Bills and Salaries dated August 19, 2014
  - E. A Motion to approve Resolution 36-2014, a Resolution approving the 2014 Water Reclamation Facility Facility Plan Amendment

#### 5. ITEMS FOR APPROVAL

- A. A Motion to approve Ordinance 16-2014, an Ordinance approving a Special Use Permit for Pub Rt. 72 to allow for an outdoor dining area on property zoned C-1 Commercial located at 36 E. Higgins
- B. A Motion to approve Ordinance 17-2014, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control
- C. A Motion to approve Ordinance 18-2014, an Ordinance approving a Final Plan for Building III of the Prairie Business Park PUD and the Plat of Dedication for the Burnet Drive Right of Way
- 6. ITEMS FOR DISCUSSION
- 7. STAFF REPORTS
- 8. BOARD OF TRUSTEES REPORTS
- 9. PRESIDENT'S REPORT

#### 10. EXECUTIVE SESSION

A portion of the meeting will be closed to the Public, effective immediately as Permitted by 5 ILCS 120/2 (c) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village, and as permitted by 5 ILCS 102/2 (c) (11) to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal of which is imminent and as permitted by 5 ILCS 120/2 (c) (21) to review and approve closed session minutes and as permitted by 5 ILCS 120/2 (c) 2 Collective negotiating matters.

#### 11. ADJOURNMENT

#### **AUDIENCE PARTICIPATION**

Anyone indicating a desire to speak during Public Comments will be acknowledged by the Village President. Please state your name, address and topic when called upon to speak. All remarks are to be addressed to the Village President and Board of Trustees as a whole, not to any specific person(s). Interrogation of the Village Staff, Village President, Village Board or any of their comments will not be allowed at this time. Personal invectives against Village Staff or Elected Officials are not permitted.

To ensure that everyone who wishes to speak has the opportunity to do so, please limit your comments to five minutes. Additional time may be granted at the discretion of the Village President.

If you have written comments, please provide a copy to the Village President. If there are a number of individuals present to speak on the same topic, please designate a spokesperson that can summarize the issue.

During Public Comments, the Village President, Trustees and Staff will listen to comments and will not engage in discussion. The Village President or Trustees may ask questions to better understand your concern, suggestion or request. Please direct any personnel concerns to the Village Administrator before or after the meeting.

"The Village of Gilberts complies with the Americans with Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number 874/428-2861." Assistive services will be provided upon request.

NOT APPROVED MINUTES

Village of Gilberts 87 Galligan Road Gilberts, IL 60136 Village Board Meeting Minutes August 5, 2014

#### Call to Order/Pledge of Allegiance

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

#### Roll Call / Establish Quorum

Village Clerk Meadows called the roll. Roll Call: Members present: Trustees Corbett, Mierisch, Zambetti, Farrell, Hacker and President Zirk. 1-absent: Trustee LeClercq. Others present: Administrator Keller, Assistant Administrator Beith, Finance Director Blocker and Chief of Police Rossi. For members of the audience please see the attached sign-in sheet.

#### **Employee Introduction**

Chief Rossi introduced Daniel Gregory a newly sworn-in part-time police officer. He commented on Officer Gregory's accomplishments. Officer Gregory is a graduate of Streamwood High School at which time he enlisted in the Army Reserve to serve his country. Officer Gregory even as a child dreamed of someday becoming a police officer.

In 2013 Officer Gregory submitted his application to attend the Basic Law Enforcement Academy at Southwestern Illinois College. Southwestern Illinois College is a full time Illinois Police Academy which is accredited by the Illinois Training and Standards Board. After extensive testing and a background investigation Officer Gregory was one of four applicants accepted into the academy.

On April 4, 2014 Officer Gregory proudly graduated from the Police Academy and is a state certified law enforcement officer, while attending the academy Officer Gregory also obtained certifications in D.U.I. Detection, Field Sobriety Testing, Defensive Driving, Haz Mat, First Aid, AED, Taser, Radar Enforcement and LEADS. Currently Officer Gregory is in the field training under the supervision of Sgt. Block.

Officer Gregory thanked the Board Members for their time and expressed his extreme gratitude for being afforded the opportunity to serve the community. The Board Members extended a warm welcome to Officer Gregory.

#### **Public Comment**

President Zirk asked if anyone in the audience wished to address the Board. No one from the audience expressed an interest in providing any public comments.

#### **Consent Agenda**

- A. A Motion to approve Minutes from the July 15, 2014, Village Board Meeting
- B. A Motion to approve Bills and Salaries dated August 5, 2014 as follows: General Fund \$349,335.28, Permit Pass Thrus \$1,582.50, Performance Bonds and Escrows \$1,909.25, Water Fund \$38,709.64 and Payroll \$68,286.17

President Zirk asked if any of the Board Members wished to remove any items from the Consent Agenda. There was no response from any of the Board Members. A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve the Consent Agenda items A-B as presented. Roll call: Vote: 5-ayes: Trustees Corbett, Mierisch, Zambetti, Farrell and Hacker. O-nays, O-abstained. Motion carried.

#### **Items for Approval**

A Motion to approve Ordinance 15-2014, an Ordinance amending certain sections of the Village Code Title 4 "Health, Sanitation and Environment"

Administrator Keller reported approval of this ordinance would remove the Village's obligation to send uncut grass/weed abatement notices by certified mail. Trustee Mierisch noted that the previous attorney recommended the Village send the notices via certified mail as proof that the property owner had been sufficiently noticed prior to the Village abating the uncut weeds or grass. Administrator Keller reported that he had discussed the code amendment with Attorney Tappendorf and she advised that the return receipt does create a record that the notice had been mailed to the property owner. However, mailing uncut grass/weed abatement notices is not required by State Statute.

Trustee Mierisch questioned if the abatement notice was sent via U. S. Mail and the property owner disputed receipt would the clock for the notification period need to be reset. Administrator Keller reported that Attorney Tappendorf believes if there was ever litigation or a dispute with respect to an abatement notice being received by a property owner the judge would rule in favor of the Village. The Village Staff would have no reason to perjure themselves about mailing an abatement notice to a property owner.

A lengthy discussion ensued with the pros/cons of mailing abatement notices via certified mail. President Zirk commented that if the code amendment is found to be problematic the Board can rescind the amendment.

There being no further discussion on the code amendment, <u>a Motion was made by Trustee Farrell and seconded by Trustee Zambetti to approve Ordinance 15-2014, an Ordinance amending certain sections of the Village Code Title 4 "Health, Sanitation and Environment". Roll call: Vote: 5-ayes: Trustees Mierisch, Zambetti, Farrell, Hacker and Corbett. 0-nays, 0-abstained. Motion carried.</u>

# Motion to approve Resolution 34-2014, a Resolution ratifying an agreement between the Village of Gilberts and Central Salt for the purchase of Road Salt.

Administrator Keller reported that on July 17<sup>th</sup> Central Management Services (CMS) stated that Gilberts was one of the 195 jurisdictions that did not receive a proposal for road salt through the annual state RFP process. Staff used the salt vendor contact information provided by CMS and directly solicited seven vendors who were known to be active in Illinois. Central Salt was the only respondent; one vendor declined to bid while five others did not return emails or phone calls. Administrator Keller reported that Central Salt's agreement is for 1,000 tons of road salt at a total amount of \$97,600.00 (\$97.60/ton).

Trustee Mierisch questioned if anyone had contacted the Illinois State Representatives to see if they were aware of the reasons why 195 jurisdictions had been omitted from the state contract. Both Administrator Keller and President Zirk had contacted Representative Tryon and Senator McConnaughay's offices. President Zirk reported that Representative Tryon was quick to respond.

Administrator Keller reported that CMS has offered to reopen the bid process. However, CMS would not guarantee that the process would yield a quote. In addition, the process would take about two months and by this time salt supplies are being delivered to the various jurisdictions.

A lengthy discussion ensued with respect to why 195 jurisdictions had been omitted from the State salt contract. Administrator Keller noted that he had spoken with many of the surrounding communities Public Works Directors who were also scrambling for road salt. Most have decided to acquire their own salt contract this year.

Trustee Hacker inquired if Morton Salt used a method to omit various jurisdictions from the salt contract or was it arbitrary. Administrator Keller discussed the fact that Morton Salt may have factored in quantities and trucking cost in deciding which communities to include in the contract. However no one is sure on how they determined which jurisdictions were included or omitted.

Trustee Mierisch noted that the cost of the salt per ton had almost doubled from last year and exceeded the budgeted amount by \$25,000.00. She questioned how staff proposed to make up the shortfall.

Administrator Keller replied that in November the Board Members along with staff will review the FY-2015 expenditures and revenues and make budget adjustments accordingly.

President Zirk recalled a similar situation in the 1990's in which some jurisdictions were omitted from the State contract. However, historically the State's salt contracts awarded by CMS have been supplied by the most reliable vendors at the most reasonable price per ton.

Trustee Farrell noted that the weathermen are once again predicting a harsh winter. She questioned if staff had increased the salt supply tonnage. Administrator Keller replied yes by 10%. In addition, the Village does have 150 tons left from last year's supply. Staff hopes they won't have to stretch the salt by adding sand. This process makes it difficult to clean the catch basins in the spring.

There being no further discussion on the motion, a Motion was made by Trustee Corbett and seconded by Trustee Farrell to approve Resolution 34-2014, a Resolution ratifying an agreement between the Village of Gilberts and Central Salt for the purchase of Road Salt. Roll call: Vote: 5-ayes: Trustees Zambetti, Farrell, Hacker, Corbett and Mierisch. 0-nays, 0-abstained. Motion carried.

#### **Items for Discussion**

Motion to approve Resolution 35-2014, a Resolution authorizing an agreement between the Village of Gilberts and Dixon Engineering & Inspection Services to provide engineering and coating inspection of Raymond Street Water Tower.

Administrator Keller reported that staff recommends approval of an agreement with Dixon Engineering to conduct the RFP process and supervise the repainting of the Raymond St. water tower for the amount of \$21,422.00. President Zirk noted that his preference is to have the bottom of the bowl and the stem painted a darker color to camouflage the build-up of mold. The Board Members agreed.

Intern Wright provided the Board Members with pictures of various letter painting options. The Board Members agreed in order to hold down cost to have the current block letters repainted. In addition, the Board Members directed staff to request two cost estimates one estimate for painting the top portion of the bowl white and the bottom of the bowl in a darker color. The second cost estimate request reflect painting the top of the bowl white and the bottom of the bowl along with the stem in a darker color. Staff will work with Dixon Engineering and move forward with the RFP process.

There being no further discussion on the motion, a Motion was made by Trustee Hacker and seconded by Trustee Corbett to approve Resolution 35-2014, a Resolution authorizing an agreement between the Village of Gilberts and Dixon Engineering & Inspection Services to provide engineering and coating inspection of the Raymond Street Water Tower. Roll call: Vote: 5-ayes: Trustees Farrell, Hacker, Corbett, Mierisch and Zambetti. 0-nays, 0-abstained. Motion carried.

#### **Staff Reports**

Assistant Administrator Beith provided the Board Members with an update on the "Spirit of 45" event scheduled for this coming Sunday. He reported that Mr. Jerry Christopherson will provide the opening remarks followed by the Posting of the Colors, the National Anthem, and the Pledge of Allegiance. President Zirk will read the Proclamation followed by two guest speakers U.S. Marine Colonel Larry Kailfesh and Illinois Senator Mike Noland. Musical entertainment will be provided by Legacy Girls, Andrew's Sisters Revue and the Ladies Must Swing Orchestra. At dusk the Movie Honor Flight will be shown.

Intern Wright reported that City of Elgin Intern Isabelle Bourgeois has invited the Village of Gilberts to join them in the first annual Pet Services Expo, which is tentatively scheduled to be held on October 11 in the Hemmens Centre in Elgin. There will be no cost to the Village and the Village can invite local vendors to participate for a nominal fee between \$50 and \$100.00. If the Board Members are in favor of the idea Intern Wright will continue to work on the event details with Intern Bourgeois. The Board Members were in favor of Intern Wright partnering with the City of Elgin's Intern in organizing the Pet Services Expo.

Village Clerk Meadows noted that the National Night Out and final Movie in the Park is scheduled for this Friday beginning at 6:00 p.m.

#### **Board of Trustee Reports**

Trustee Hacker noted that J.S. Riemer has begun installing the water main infrastructure at the corner of Route 72. However, there is still a lot of work to be done. Administrator Keller reported that Mr. Ebacher will be attending the August 19<sup>th</sup> Village Board meeting. At that time the Board Members can express their concerns with the condition of his construction site.

Trustee Hacker inquired if Developer Mertz still envisions having models built in the Conservancy by November of this year. Administrator Keller replied yes their target date is still November 2014.

Administrator Keller reported that Developer Mertz along with his attorneys is still working on resolving the performance bond issues. President Zirk reported that he had heard that Lexon's bond rating was downgraded from an "A" rating to a "B". He question if the Village Code had language restricting a Bond Holder from having a rating lower than an "A". Staff will research this matter and report back.

#### Adjournment

There being no further public business to discuss, <u>a Motion was made by Trustee Zambetti and seconded by Trustee Corbett to adjourn from the public meeting at 7:52 p.m.</u> Roll call: Vote: 5-ayes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

**Debra Meadows** 

Village of Gilberts 87 Galligan Road Gilberts Illinois 60136 Village Board Meeting August 5, 2014 Sign in Sheet

Name	Address	Telephone Number
DAN + LODA F	Baird 571 Running	

Village of Gilberts 87 Galligan Road Gilberts, IL 60136 Committee of the Whole Meeting Minutes August 12, 2014

NOT APPROVED MINUTES

#### Call to Order/Pledge of Allegiance

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

#### Roll Call/Establish Quorum

Village Clerk Meadows called the roll. Roll call: Members present: Trustees Corbett, Zambetti, Farrell, Hacker and President Zirk. 2-absent: Trustees Mierisch and LeClercq. Others present: Administrator Keller, Assistant Administrator Beith, Chief Building Inspector Swedberg, Finance Director Blocker and Village Clerk Meadows. For members of the audience please see the attached sign-up sheet.

#### Items for Discussion

#### Minutes from the August 5, 2014 Village Board Meeting

President Zirk asked the Board Members if they had any questions on the minutes. The Board Members provided no comments on the minutes. The minutes will be placed on the next consent agenda.

#### July 2014 Treasurer's Report

President Zirk asked the Board Members if they had any questions or comments on the July 2014 Treasurer's Report. There was no response from any of the Board Members. The July 2014 Treasurer's Report will be placed on the next consent agenda.

#### **Facility Plan Update**

Baxter & Woodman Engineer, Carl Fisher provided the Board Members with an update on the amended Facility Plan. Engineer Fisher commented on the fact that the last time he provided the Board Members with an update on the proposed Facility Plan amendment he recommended increasing the sewer rates by 10% to support funding the necessary expansion of the Water Reclamation Facility (WRF) and continued repairs, replacements, upgrades at the current WRF and existing pump stations. The Board Members unanimously agreed that a 10% sewer rate increase was out of the question.

Engineer Fisher reported that he along with staff continued analyzing other ways in which the Village could fund the mandated expansion of the WRF and the necessary repairs, replacement, upgrades of the existing system. Engineer Fisher along with Staff proposed increasing the connection fees for single family homes to \$13,000 per unit and Duplex/Townhomes to \$10,400 per unit and the user fee by 3.2% per year. Engineer Fisher reported that the increased sewer rate is still competitive with the surrounding communities' sewer rates.

Engineer Fisher reported that he recommends phasing in the improvements with Phase 1 beginning in 2016 at an estimated cost of \$10,455,000 in 2016 dollars, Phase 2 in year 2021 at a cost of \$38,000 in 2021 dollars, Phase 3 in year 2026 at a cost of \$109,000 in 2026 dollars, Phase 4 in 2031 at a cost of \$335,000 in 2031 dollars, and Phase 5 at a cost of \$13,704, 000 in 2036 dollars. All estimated cost included an inflation rate at 4.35% per year which was the average annual increase cited in the Engineering News Record Construction Cost Index.

Engineer Fisher discussed the proposed financing for Phase 1. Engineer Fisher recommends the Village participate in the IEPA's Water Pollution Control Loan Program and finance the first phase of the WRF improvements and borrow the \$10,455,000 at an interest rate of 1.992% for a 20 year term for a total amount of \$12,726,860. The debt repayment schedule would consist of four semi-annual payments in the amount of \$318,171. The Village could then pay-off the loan with \$1,500,000 cash on hand, connections fees in the amount of \$9,268,517, user charges in the amount of \$1,958,343 with a rate increase of 3.2% per year. The remainder of the phased improvements would be paid by future developers or through annexation and recapture agreements or financing options.

Engineer Fisher commented on the fact that the Village currently does not need the additional plant capacity. However, the Village had oversold the capacity and is committed to expand the PE capacity to 1.25 MGD by 2036.

Engineer Fisher recommends the Village submit the amended Facility Plan to the IEPA. Once approved by the IEPA Baxter & Woodman can begin the design of Phase 1 as recommended in the plan. He noted that the Village may amend this schedule if the actual rate of development significantly differs from the projected rate.

A lengthy discussion ensued with respect to the committed PE and the possibility of the Conservancy and Tyler Creek developments moving forward. Engineer Fisher noted that there was sufficient PE to support the Conservancy Development as it appears this development will move forward first.

President Zirk noted that newer homes will require less PE due to the availability of more energy efficient appliances and plumbing features. Engineer Fisher added in addition to the energy efficient appliances being readily available if the Village maintains a tight sewer system this will also ensure lower PE used.

Administrator Keller inquired if the Board Members would like for Staff to draft a Resolution adopting the amended Facility Plan and place the Resolution on the next Board agenda for consideration.

Trustee Hacker inquired if the Board Members should first inform the resident of the sewer rate increase. Administrator Keller reported that in September Staff will be providing the Board Members with a water rate study examining both the water and sewer rates. There was some discussion on the cost of implementing the IEPA's mandates. Engineer Fisher speaking as a resident noted that he would prefer to see a gradual rate increase spread over several years.

Engineer Fisher discussed the need for the sewer rate adjustments. He noted that in 2001-2005 most communities experienced an economic slowdown which affected the housing market. Producing a negative drop in the revenues the Village receives from water and sewer connection fees. In addition, IEPA implemented costly treatment and testing mandates and Environmental Advocacy Groups petitioned to require the Village construct a Reclaimed Water Distribution and Irrigation Systems, a Wetland Park and improve the Biosolids Treatment System.

Trustee Farrell inquired on the estimated length of time it will take the IEPA to review and approve the Facility Plan. Engineer Fisher replied the IEPA review time can vary, in some case it has taken four years. President Zirk noted that IEPA has previously reviewed the plan so they are familiar with the components.

Engineer Fisher reported that once the IEPA has reviewed and approved the Facility Plan he would recommend the Village formalize the Memorandum of Understanding with the Environmental Advocacy Groups.

The Board Members along with Staff discussed the upcoming Water Rate Study discussion. President Zirk inquired if the recently passed American Iron Steel Act would apply to the WRF expansion. Engineer Fisher replied yes. Trustee Corbett asked if the project cost depicted in the Facility Plan included the cost necessary to maintain and repair the existing system. Engineer Fisher replied yes.

There being no further discussion on this matter staff will draft a Resolution recommending the approval of the Facility Plan and place the resolution on the next agenda.

Ordinance 16-2014, an Ordinance approving a Special Use Permit for Pub Rt. 72 to allow for an outdoor dining area on property zoned C-1 Commercial located at 36 E. Higgins

President Zirk commented on the fact that consideration of Ordinance 16-2014 and Ordinance 17-2014 conversations will be interlaced. Ordinance 16-2014 deals with zoning issues related to the petitioners request to allow an outdoor dining area and Ordinance 17-2014 reflects the proposed amendments to the liquor code to allow liquor sales in the outdoor dining area.

Administrator Keller provided the Board Members with an overview of Mr. Trier's petition for a special use permit and variations from setback and parking requirements. He reported that the Plan Commission on July 23, 2014 recommend approval of the special use permit with variations and subject conditions, by a vote of 5-0.

Administrator Keller commented on the conditions. He noted that no part of the proposed deck/outdoor seating area may encroach into the sight-distance triangle. The proposed deck shall match the material, color and appearance of the principal structure. Access to the proposed deck shall be strictly controlled through the existing principal building. The perimeter of the deck shall be enclosed by a wooden fence that is at least 50% open and does not exceed three (3) feet in height. The deck shall be used for seated food and beverage service only. Use of the outdoor seating area shall be limited to 10:00 a.m.-10:00 p.m. daily. There will be no outdoor music or amplified sound. Smoking is prohibited and any lighting shall comply with the requirements set forth by the UDO. Bollards shall be placed at the perimeter of the deck to protect it from errant traffic.

# Ordinance 17-2014, an Ordinance amending Various Provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control

Administrator Keller reported approval of this Ordinance would allow for a valid Class A, B or F license to apply for an add-on license OS (Outdoor Service). The class OS license was drafted to respond to Pub RT. 72's request for an outdoor liquor service, which is currently prohibited by Section 3-2-15 of the Liquor Code.

President Zirk expressed his concern with allowing outdoor seating. He noted that some of the current liquor establishments are located in the heart of residential subdivisions. Administrator Keller noted the liquor establishment would have to apply for a special use permit and a public hearing would be conducted.

Trustee Farrell inquired what the occupancy capacity of the proposed deck was. Chief Building Inspector Swedberg replied the occupancy capacity was based on square footage and he would need to check and report back.

Trustee Hacker inquired if Pub Rt. 72 would lose parking spaces if allowed to construct the deck. Administrator Keller replied theoretically no. Where the deck is planned to be constructed is currently used by staff for breaks. Administrator Keller reported that currently Pub Rt. 72's parking lot is grandfathered in with respect to parking spaces and setbacks.

Trustee Corbett questioned currently where do patrons park. Mr. Trier replied that many patrons utilize the parking lot located across the street on Rt. 72.

Trustee Corbett questioned if Mr. Trier planned on having a television on the outdoor deck. Mr. Trier replied no and the speakers currently located outside are going to be removed.

Trustee Corbett questioned if the deck would block the line of sight at the intersection of Galligan and Route 72. Administrator Keller replied no, that is one of the conditions.

President Zirk inquired if he planned on having an outside bar area. Mr. Trier replied no, all alcohol will be poured indoors. President Zirk recommends this language be added to the Ordinance prohibiting outdoor bars in outdoor dining areas. Administrator Keller will amend the proposed Ordinance to reflect his comment.

President Zirk questioned the absence of language restricting standing and consuming alcohol. Administrator Keller was uncertain if restricting standing and consuming alcohol would be enforceable, unless you had language requiring a percentage of the gross receipt equal to a predetermined amount of food sales. This however, is difficult to track.

President Zirk noted that he also serves as the Liquor Commissioner and wants to ensure the amendment to the Liquor Code is concise and enforceable. He recommends staff amend section 4 of the draft Ordinance to "The outdoor seating area shall be used for seated food and/or beverage service only. In addition, the Ordinance should require the liquor establishment to have signs located in the outdoor area prohibiting smoking and state the occupancy capacity.

A lengthy discussion ensured with respect to limited parking. Mr. Trier commented that many of his patrons utilized Engineered Ceramics' parking lot across the street from his establishment. Mr. Trier reported that he has been a responsible restaurant owner for over 32 years. President Zirk acknowledged that Mr. Trier maybe a responsible restaurant owner. However, President Zirk's skepticism comes from past experiences with the previous owners.

Administrator Keller commented on the fact if the outdoor dining experiment fails the Board Members can rescind the Special Use and revoke the OS Liquor License which would still allow Pub Rt. 72 to operate as an indoor restaurant and bar.

President Zirk directed staff to place the Ordinances on the next agenda under "Items for Approval".

Administrator Keller reported that Ordinance 17-2014 also addresses the Fee Schedule. The Ordinance amends the Class "C" fees. Other than licenses issued for Community Days, the Village has not received any requests for special event liquor licenses.

Staff received feedback that the \$200.00 or \$500.00 application fee, whichever may apply to a given event, may be a barrier to hosting special events in Gilberts. Staff recommends reducing the fee for a one-day special event license to \$100.00. The reduced fee may encourage better compliance with the liquor code and may stimulate additional events that would benefit local establishments and bring additional visitors to Gilberts. The Board Member concurred with Staff's recommendation.

#### Village Code Title 4 of Chapter 5-D "Sites under Construction"

Administrator Keller reported that Staff had surveyed several surrounding communities about how they applied the plant/weed height restriction to construction sites. None of the respondent communities apply more stringent requirements to construction sites, though how they manage them with respect to quarterly mowing varied.

The Board Members discussed the various types of open spaces and how the code deals with each type of land differently. Farming, Natural Sites, Improved Sites, and Sites under Construction all have different restrictions on grass/weed heights and the required mowing frequency.

A lengthy discussion ensued on the Board's expectation of enforcing weed/grass regulations. Trustee Hacker discussed his concerns with Interstate Partners construction sight. He noted that the mound of dirt on their site has unsightly weeds growing to a height that exceeds the height limits referenced in the Village Code. In addition, there is disorderly placement of equipment and material through-out the site. The Board Members also noted the general lack of attention to the SWWPPS requirements.

Mr. Possin (Interstate Partners Representative) replied that the area Trustee Hacker is referring to is owned by Mr. Reimer. Mr. Reimer's site work has been delayed due to personal reasons. Mr. Reimer has now resumed the construction of the roadways and sanitary improvements. In the future Mr. Reimer will be using the mound of dirt to balance the site. Once the site is balanced he will then proceed with stabilizing the site which will include the planting of prairie grass or crops.

Mr. Possin noted that in his opinion the visual aesthetics of the Prairie Business Park has greatly improved the curb appeal at the intersection of Route 72 and Tyrrell.

President Zirk commented on that fact that his time recently has been consumed dealing with complaints about appearance of Interstate Partners' construction site, which takes his focus off of other necessary actions items Interstate Partners would like resolved. He noted that it was their choice on which matters they would prefer he allocates his time to.

Mr. Possin reported that they have a couple of prospects for the commercial portion of their site. Mr. Possin then proceeded to ask the Board Members to grant them additional time to address the concerns with the construction site. Trustee Hacker believed the Board had already allowed them sufficient time to address the concerns.

The Board Members directed Staff to aggressively enforce the Village Code weed/grass abatement procedures.

#### **Staff Reports**

Administrator Keller reported that Mr. Possin was also in attendance to ask the Board Members to allow Interstate Partner's Wildlife Management Consultant Mr. Rick Wilberschief to eradicate the geese population whom are nesting on their property.

Mr. Rick Wilberschief provided the Board Members with an overview of the concerns with the geese population on Interstate Partners site. He reported that the geese are grassing on the prairie grass and Interstate Partner's is unable to stabilize the area without the plantings. Mr. Wilberschief reported that he had tried various methods to relocate the geese. However, none of the methods have proven effective.

Mr. Wilberschief inquired if the Board Members would allow him to discharge a firearm within the Village limits. He reported that this is the only remaining method he is aware of that will effectively eradicate the geese population. He continued to provide great detail on the process he would use to eradicate and dispose of the geese.

A lengthy discussion ensued on complying with IDNR and Federal agency regulations. Mr. Wilberschief reported that he was licensed with the state. Trustee Hacker recommended staff contact the Illinois Department of Natural Resource to discuss this matter. Staff will research this matter and contact both State and Federal agencies and report back.

Assistant Administrator Beith provided the Board Members with a postmortem report on the "Tribute to 45" event. He noted that the event was well management. However, the attendance numbers were low.

#### **Board of Trustee Reports**

Trustee Corbett inquired on the progress of the Town Center Park improvements. Administrator Keller reported that ComEd had delayed the installation of the electrical power. They cited storm damage as the delay. He reported that staff had researched the cost of renting a generator to temporarily supply power to the splash park. In addition, ComEd's installation cost projections exceeds the budgeted amount. Staff will be asking the Board to consider a budget adjustment. Chief Building Inspector Swedberg reported that the additional parking lot will be larger than originally planned and the base of the ice rink has been installed.

#### **President's Report**

President Zirk had provided no additional remarks.

#### **Adjournment**

There being no further public business to discuss, a Motion was made by Trustee Farrell and seconded by Trustee Zambetti to adjourn from the public meeting at 9:52 p.m. Roll call: Vote: 4-ayes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

**Debra Meadows** 

Village of Gilberts 87 Galligan Road Gilberts Illinois 60136 Committee of the Whole August 12, 2014 Sign in Sheet

Name	Address	Telephone Number
JEAF POSSIN	2860 Galon Done 60124	
RICK WILBERSCHIEN	915 5 Flerring RD GOORS	DOM GOM COM
Ton WAJda	915 5 Frency RD 60098 435 Kildon	(MI) - (MI) - (MI)
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# FINAL BILLS AND SALARIES AUGUST 19, 2014

# FINAL BILLS AND SALARIES AUGUST 19, 2014

							Committee of the commit	
	773.05					773.05	VIKING CHEMICAL CO	VIKING01
					352.46	352.46	REBECCA YOUNGS	T0001722
					275.00	275.00	MICHAEL & SHERI SHEA	T0001719
					420.50	420.50	LIONEL & KIRNA SCHLICHT	T0001718
					110.83	110.83	MICHAEL C. CAPESIUS	T0000220
	317.00					317.00	SUBURBAN LABORATORIES	SUBLAB01
		45.90			99.45	145.35	SUN-TIMES MEDIA	STMSUB01
					390.00	390.00	SOIL AND MATERIAL CONSULTANTS	SOIL001
				1,598.19		1,598.19	RUTLAND-DUNDEE FPD	RUTLAND
					350.00	350.00	RUDY KOSANOVICH	RUDYK01
					500.00	500.00	RESERVE ACCOUNT	RESERVE
	110.00					110.00	PRIORITY PROMOTIONS	PRIORITY
	555.00					555.00	PRAIRIE ANALYTICAL SYSTEMS	PRANAL01
					147.00	147.00	PITNEY BOWES	PIT002
					76,640.00	76,640.00	PHOENIX & ASSOCIATES, INC.	PHOENIX
	223.77					223.77	NICOR	NIG001
					48.66	48.66	DUNDEE NAPA AUTO PARTS	NAPA01
	2,646.21					2,646.21	MORTON SALT, INC	MORTSALT
	345.98				109.00	454.98	MMD	MMD001
	24.12				119.82	143.94	MENARDS - CARPENTERSVILLE	MEN002
					46,125.19	46,125.19	MDC ENVIRONMENTAL SVCS.	MDCENV01
	431.00					431.00	MCHENRY ANALYTICAL WATER	MANALY01
				17,476.58		17,476.58	COMMUNITY UNIT SCHOOL	CUSD300
	6,618.06					6,618.06	CONSTELLATION NEWENERGY, INC.	CONSTELL
					1,272.96	1,272.96	COMMONWEALTH EDISON	COM003
	378.94					378.94	COLUMBIA PIPE & SUPPLY CO	COLUMBIA
	137,988.45					137,988.45	BOLLER CONSTRUCTION CO., INC.	BOLLER01
	100.00				2,642.51	2,742.51	CARD SERVICES	BANKCARD
					41.25	41.25	BAXTER & WOODMAN, INC.	B&W001
		2,486.25			9,169.37	11,655.62	ANCEL, GLINK, DIAMOND, BUSH,	ANCEL
	CNC	ESCROWS	THRUS	CONATIONS	FOND	2		ē
TATROLL		BONDS AND	DACC	DONATIONS		TOTAL		5

Payroll Checks From 6/27/14 THRU 8/9/14	
Employee Name	
Employee Name	Net Pay
Anderson, Matthew	655.12
Beith, William	1,445.44
Block, Todd J	1,871.23
Blocker, Marlene	1,327.98
Castillo, John	1,667.92
Corbett, Dan	218.37
Danca, Karen	408.48
Farrell, Nancy	218.37
Gregory, Daniel	1,365,21
Hacker, Louis	173.37
Haufe, Neal	277.77
Hemandez, Jason	186.60
Hill, Jeff R	1,555.75
zydorski, Michael	393.40
Joswick, Michael	1,970.34
Keller, Raymond B.	2,396.25
Klaras, Jason	1,159.43
Koukol, Henry	1,049.29
Leclerq, David	218.37
Levand, James A	821.95
Lorkowski, Michael	201.60
Maculitis, Jerome	201.60
Meador, Eric E.	1,425.89
Meadows, Debra	1,415.00
Mierisch, Patricia	226.70
Mueller, Steve	29.56
Pulgar, Hector L	1,631.31
Ringa, Sean	551.35
Rodriguez, Vanessa	574.00
Rood, Jackie E. Jr	1,852.11
Rossi, Louis	1,564.25
Rowlett, Heather	186.60
Russell, Claudine	922.57
Schuring, Larry	1,114.97
Siegbahn, Lisa	612.36
Steiner, George	373.77
Swanson, Michael	605.61
Swedberg, John L	1,953.40
Varas, Randy	2,114.32
Wittenauer, Robert A.	858.42
Zambetti, Guy	218.37
Zirk, Rick	436.75
PAYROLL LIABILITIES:	
Federal Tay Deposits	14,852.30
Federal Tax Deposits	600.00
ICMA-RC	500.00
ICMA-RA	2,626.99
Illinois Department of Revenue	162.04
KCC State Disbursement Unit	341.60
SD1 State Disbursement Unit SDU State Disbursement Unit	323.00
	1 323.00

United States Postal Service

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#### **RESOLUTION**

#### **VILLAGE OF GILBERTS**

#### A Resolution approving the 2014 Water Reclamation Facility - Facility Plan Amendment

Be it Resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

#### **Section 1:**

The Village of Gilberts hereby approves and adopts the 2014 Water Reclamation Facility – Facility Plan Amendment, hereto attached as Exhibit "A".

#### Section 2:

This resolution shall approval pursuant to law.	l be in full for	rce and in effec	et from and after	its passage and
Passed this d	ay of	_ 2014 by a rol	ll call vote as fol	llows:
	<u>Ayes</u>	<u>Nays</u>	Absent	Abstain
Trustee David LeClercq Trustee Dan Corbett Trustee Nancy Farrell Trustee Louis Hacker Trustee Patricia Mierisch Trustee Guy Zambetti President Rick Zirk	APPROVI	ED THIS		
,		Village Pr	esident, Rick Zi	rk
(SEAL)				
ATTEST: Village Cler	k, Debra Mea	adows		
Published:				

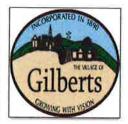
# Exhibit "A"

### Village of Gilberts, Illinois

# Water Reclamation Facility - Facility Plan Amendment











Prepared by:

BAXTER WOODMAN

www.baxterwoodman.com

July 2014

EXECUTIVE SUMMARY Page 2

#### **EXECUTIVE SUMMARY**

#### **PURPOSE**

Revise the 2005 Plan to account for the new housing industry economics since the 2008 collapse:

- 1. Make cost of wastewater treatment more competitive with that of neighbor communities.
- 2. Comply with draft Memorandum of Understanding (MOU) with stakeholders. See Appendix B.

#### PROPOSED CONNECTION FEES

	Per Unit		Per PE
Unit	(in 2016\$\$)	PE per Unit	(in 2016\$\$)
Single Family Home	\$13,000	3.2	\$4,063
Duplex/Townhome	\$10,400	2.0	\$5,200
Commercial, Industrial, and Institutional			\$4,600

#### **RECOMMENDED PLAN**

- 1. Expand WRF from 1.0 to 1.25 mgd.
- 2. Make necessary repairs, replacements, & upgrades at WRF and existing pump stations.
- 3. Wetlands: Continue to discharge WRF effluent to enhancement wetlands.
- 4. Irrigation: Begin to irrigate land.
- 5. Expand wetlands and irrigation in phases to keep pace with development.
- 6. Continue to dispose of biosolids in liquid form until it becomes cost effective to build dewatering facilities, currently projected to occur in 2036.

#### **COST** See Table 23-Table 27and Appendix J for cost breakdown.

Phase 1 (2016)	\$10,455,000 (in 2016\$\$)
Phase 2 (2021)	\$ 38,000 (in 2021\$\$)
Phase 3 (2026)	\$ 109,000 (in 2026\$\$)
Phase 4 (2031)	\$ 335,000 (in 2031\$\$)
Phase 5 (2036)	\$13,704,000 (in 2036\$\$)

Inflation Rate: 4.35% per year, which was the average annual increase in the Engineering News Record Construction Cost Index for Chicago from December 1992 to August 2013.

#### **FINANCING - PHASE 1**

**Loan**: IEPA's Water Pollution Control Loan Program:

10,455,000 at 1.992% for 20 years  $318,171 \times 40$  semi-annual payments = 12,726,860

**Loan Payment**: The Village intends to pay back the WPCLP loan with a combination of:

1.	Cash on hand	\$ 1,500,000	
2.	Developer upfront contributions	\$ 0	
3.	Connection Fees	\$ 9,268,517	
4.	User charges	\$ 1,958,343 Rate Increase 3.32%/ye	<u>ear</u>
	TOTAL	\$12,726,860	



EXECUTIVE SUMMARY Page 3

#### **FINANCING - PHASE 2-4**

The Village expects that a combination of upfront developer contributions and connection fees will provide the funds for the Phase 2-4 improvements. An increase in sewer rates is not expected to fund Phases 2-4. The need for rate increases for Phases 2-4 will be determined at the time the improvements are constructed.

#### RATE OF DEVELOPMENT

The projected rate of development is shown in the table below. "Homes" means single family homes or the equivalent in duplexes, townhomes, or non-residential development.

Year	Projected Rate of Development
2014-2016	50 new homes per year (or the non-residential equivalent)
2017-2091	100 new homes per year (or the non-residential equivalent)
2092-2096	No growth, but 342 currently existing, but unsewered homes (68.4 per year) will be connected to the sanitary sewer system

#### **NEED TO EXPAND TO 1.25 MGD**

The existing WRF has a design and permitted capacity of 1.0 MGD. The projected influent flow in the 20th year (2036) is 0.99 MGD (see Figure 3). Therefore, the WRF has sufficient capacity to meet the 20-year need.

However, the Village has committed 1.20 MGD for developments (see Table 18). To meet this obligation, the Village must expand the WRF from 1.0 MGD to 1.25 MGD.

The WRF is configured in such a way that 0.25 MGD is the smallest increment by which it can logically be expanded.

#### **SCHEDULE**

The Village may change this schedule if the actual rate of development significantly differs from the projected rate.

Task	Date
Submit Facility Plan to IEPA and Environmental Advocacy Groups	July 2014
IEPA Completes Review & Approves Facility Planning Report	Nov. 2014
Begin Design of Phase 1 of Recommended Plan	Nov. 2014
Submit Plans, Specs, Construction Permit Application to IEPA	May 2015
IEPA issues Construction & NPDES Permit	Aug. 2015
Advertise for Bids for Phase 1 Improvements	Sept. 2015
Open Bids	Oct. 2015
Receive IEPA Loan Offer	Nov. 2015
Issue Notice of Award	Dec. 2015
Issue Notice to Proceed	Jan. 2016
Substantial Completion	Nov. 2016
Final Completion of Phase 1 Improvements	Dec. 2016



AN ORDINANCE APPROVING A SPECIAL USE PERMIT TO ALLOW A PERMANENT OUTDOOR SERVING AREA FOR A RESTAURANT/BAR WITIN THE C-1 GENERAL COMMERCIAL ZONING DISTRICT LOCATED AT 38 EAST HIGGINS ROAD

WHEREAS, Mr. Tom Trier has filed a petition with the Village Clerk of the Village of Gilberts, Illinois, for a special use permit and variations from setback and parking requirements to allow a permanent outdoor serving area for a restaurant/bar within the C-1 General Commercial zoning district on property located at 38 East Higgins Road, Gilberts, IL: and,

WHEREAS, the Gilberts Plan Commission held a public hearing and reviewed the request on July 23, 2014 and recommended approval of the special use permit with variations, subject to conditions, by a vote of 5-0 (2 absent), as detailed on the attached findings of fact and recommendations (Exhibit "A"); and,

WHEREAS, the Village Board has considered and adopts the findings of fact of the Plan Commission and further finds that the requested zoning relief meets the standards set forth in the UDO for granting such zoning relief, including without limitation that the applicant's requested relief from the otherwise required setback and parking regulations meets the practical difficulty or particular hardship variation standard of the UDO; now,

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois as follows:

<u>Section 1</u>. The recitals set forth above are hereby incorporated into this Section 1.

<u>Section 2</u>. A special use permit to allow a permanent outdoor serving area for a restaurant/bar within the C-1 General Commercial zoning district on property located at 38 East Higgins Road is hereby approved, subject to the following conditions:

- 1. No part of the proposed deck/outdoor seating area may encroach into the sight-distance triangle extending 25 feet along both lot lines starting at the southeast corner of the property. The petitioner must provide an engineering site plan demonstrating that the proposed deck/outdoor seating area complies with the provisions of UDO Section 10-12-3, Paragraph B-3-f "Line of Sight Easements at Intersections."
- 2. The proposed deck shall match the material, color and appearance of the principal structure.
- 3. Access to the proposed deck shall be strictly controlled through the existing principal structure, which shall be altered to provide access/egress for the deck in accordance with all applicable building and life safety codes.

- 4. The perimeter of the deck shall be enclosed by a wooden fence that is at least 50% open and does not exceed three (3) feet in height, unless otherwise required to comply with applicable building or life safety codes. The fence shall match the material, color and appearance of the deck itself and the principal structure.
- 5. Landscaping shall be installed and maintained around the perimeter of the deck. The landscaping shall comply with the Village Code requirements for permitted species of trees and shrubs. Landscaping shall not obstruct the sight-distance triangle or otherwise impair traffic visibility or safety.
- 6. The deck shall be used for seated food and/or seated beverage service only; it shall not be used for private parties or special events, not shall it function as an enclosed beer garden where only liquor is principally served.
- 7. Use of the outdoor seating area shall be limited to between 10 a.m. and 10 p.m. daily, subject to further restriction by any applicable Liquor Code requirements affecting the restaurant/bar's sale or consumption of alcohol.
- 8. No outdoor music, amplified sound, live performances or other noise- or vibration-generating activities shall be permitted within the outdoor seating area.
- 9. Smoking in the outdoor seating area is prohibited.
- 10. Any lighting of the outdoor seating area shall comply with the requirements set forth by UDO Section 10-9-5. Compliance with this section of the UDO shall be demonstrated by the submittal and approval of a photometrics plan prior the issuance of any building permits for the lights.
- 11. The subject property and business continue to comply with all other terms set forth in the UDO.
- 12. Bollards shall be placed at the perimeter of the deck to protect it from errant traffic from Galligan Road.
- 13. If liquor is to be served and/or consumed within the outdoor serving area, the petitioner shall apply for and satisfy all requirements of a liquor license allowing outdoor service or consumption, as set forth by the Liquor Code of the Village of Gilberts.
- 14. All alcohol shall be dispensed from within the principal structure/establishment. No bar may be set up or operated within the outdoor seating area.
- 15. Maximum occupancy of the outdoor seating area shall be based on the maximum seated capacity as determined by the Village's building and life safety codes. The maximum seated occupancy of the outdoor seating area shall be prominently displayed at its entrance.

<u>Section 3</u>. The following variations from the requirements otherwise set forth in the Unified Development Ordinance are hereby approved:

- 1. The front yard setback along the subject property's east lot line (Galligan Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to five (5) feet. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 2. The front yard setback along the subject property's south lot line (Higgins Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to match the south wall of the existing principal structure. The proposed deck/outdoor seating area may not project into the front yard setback beyond the existing wall. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 3. The parking space requirement applicable to the outdoor seating area, as set forth in UDO Section 10-9-1, Paragraph B-3, is hereby waived. This parking variation only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure. This parking variation does not apply to any change of use or expansion of the principal structure that would negate the subject property's legal nonconforming status.
- <u>Section 4.</u> <u>Severability</u>. 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.
- <u>Section 5.</u> <u>Repeal and Savings Clause</u>. 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.

<u>Section 6.</u> <u>Effective Date.</u> This Ordinance shall be in full force and effect from and after the passage, approval, and publication in pamphlet form.

**PASSED BY THE BOARD OF TRUSTEES** of the Village of Gilberts, Illinois at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_\_, 2014.

	Ayes	Nays	Absent	Abstain
Trustee David LeClercq Trustee Dan Corbett Trustee Louis Hacker	-			·
				<del>2</del>
Trustee Nancy Farrell		%		2
Trustee Patricia Mierisch	8 <del></del>	2	-	-
Trustee Guy Zambetti	-			-
President Rick Zirk			· · · · · · · · · · · · · · · · · · ·	

APPROVED this day	of, 2014
(SEAL)	
	Village President Rick Zirk
ATTEST: Village Clerk, De	ebra Meadows
Published:	

# Exhibit 'A" Village of Gilberts

Village Hall 87 Galligan Road, Gilberts, Illinois 60136 Ph. 847-428-2861 Fax: 847-428-2955 www.villageofgilberts.com

# VILLAGE OF GILBERTS PLAN COMMISSION/ZONING BOARD OF APPEALS

#### FINDING OF FACT AND RECOMMENDATION

TO:

Village President Rick Zirk and the Board of Trustees

FROM:

Village of Gilberts Plan Commission/Zoning Board of Appeals

RE:

Finding of Fact and Recommendation

APPLICANT:

Mr. Thomas Trier

**APPLICATION:** 

Special Use Permit

LOCATION:

38 East Higgins Road

#### I. GENERAL INFORMATION

Complete information regarding the proposed amendment can be found in the staff report accompanying this application, VA48-14, which is hereby attached to and made a part of these Findings.

#### II. PROCEDURES

Pursuant to law, a public hearing was held by the Village of Gilberts Plan Commission regarding this matter on July 23, 2014. The hearing was advertised in the Courier News and appeared in an edition available to the public 15 to 30 days prior to the hearing. A quorum of the Commission was present at the hearing in which subject Application and documentation materials were reviewed and all persons who desired to testify were heard.

#### III. APPLICANT'S REQUEST

The Petitioner requested approval of a special use permit to allow a permanent outdoor seating area for the restaurant/bar located at 38 East Higgins Road, Gilberts, IL, as required by UDO Section 10-4-4, Paragraph B-6.

#### IV. PUBLIC SUPPORT AND/OR OBJECTIONS

Note: For a summary of all public input, please refer to the Plan Commission minutes from the public hearing on this item.

Finance & Building Departments
Public Works Facility - Utility Billing
73 Industrial Drive, Gilberts, Illinois 60136
Ph. 847-428-4167 Fax: 847-551-3382

Police Department 86 Railroad Street, Gilberts, Illinois 60136 Ph. 847-428-2954 Fax: 847-428-4232

#### V. CONCLUSIONS

Based upon careful review and consideration of the application, the public input received, and the criteria set forth in the Zoning Ordinance regarding this application, the Plan Commission/Zoning Board of Appeals of the Village of Gilberts draws the following conclusions:

#### 1. The proposed use complies with the applicable district regulations.

Approval of the proposed special use permit would require waivers from the front yard and parking requirements applicable to properties within the C-1 General Commercial zoning district. To accommodate the proposed deck, the special use permit would need to include a variance allowing a reduced front yard setback along Galligan Road to five feet and reducing the front yard setback along Higgins Road to match the existing south wall of the building. Granting the setback variances would not substantively impact the appearance of the building, as the open deck area would not increase the building mass as would a completely enclosed addition. The addition of an open fence around its perimeter and landscaping around the deck itself will further minimize the visual impact from the reduced setbacks.

The special use permit would also need to include a variance from Section 10-9-1, Paragraph B-3 of the UDO, which would require the addition of 10 parking spaces to serve the expanded seating area created by the proposed deck. Additional parking cannot be provided onsite, so the requirement would need to be waived in the absence of alternative parking arrangements (e.g. parking permission from neighboring properties). Patrons will likely be dissuaded by the absence of convenient parking, thus applying a practical limit on the maximum number of patrons at the restaurant/bar regardless of the presence of the outdoor seating area.

## 2. The proposed use will not be detrimental to property values in the immediate area nor to the public welfare at large.

The proposed use will not be detrimental to property values in the immediate area nor to the public welfare at large as the requested deck area is an accessory to the long-standing use of the property as a restaurant/bar. The application of the proposed conditions would minimize any externalities that may potentially affect the adjacent residential property to the north, which is already screened by the existing wooden fence.

## 3. The use and accompanying physical attributes are such that the use will not dominate the immediate neighborhood.

The addition of the outdoor seating area will not result in uses or structures that would dominate the immediate neighborhood. The proposed deck would be noticeable given its location at a highly visible intersection (Higgins/Galligan Roads) and would be "something new" for a property and use that predates much of the Village. The application of the proposed conditions would minimize any externalities that may potentially affect the adjacent residential property to the north, which is already screened by the existing wooden fence.

#### 4. Adequate utility services exist or will be provided.

The property is served by public utility services. The proposed use will not generate service demands requiring upgrades and/or connection to the public systems.

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5. The use is consistent with good planning practice, will conform to the regulations of the district in which it is located, and is essential or desirable to preserve and promote the public health, safety and welfare of the citizens of Gilberts.

The proposed use is consistent with good planning practice as it will enhance the existing business without substantively changing the nature of the property or its use. The requested special use permit would require reductions in the front yard setbacks and a waiver from the UDO's parking space requirements. The special use permit also includes conditions that would minimize any potential impacts on the surrounding area, especially the nearby residential properties. The use is not essential to the preservation and promotion of public health and safety, though the proposed outdoor seating area adds a restaurant/bar environment not already present in the community.

### VII. DETERMINATION AND RECOMMENDATION

NOW, THEREFORE, BE IT RESOLVED, that the Plan Commission/Zoning Board of Appeals of the Village of Gilberts does find and conclude, and recommends to the Village Board that this request by Mr. Thomas Trier for a special use permit to allow a permanent outdoor seating area for the restaurant/bar located at 38 East Higgins Road, Gilberts, IL as set forth by UDO Section 10-4-4, Paragraph B-6, be approved. This recommendation is subject to the following conditions:

- 1. The front yard setback along the subject property's east lot line (Galligan Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to five (5) feet. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 2. The front yard setback along the subject property's south lot line (Higgins Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to match the south wall of the existing principal structure. The proposed deck/outdoor seating area may not project into the front yard setback beyond the existing wall. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 3. No part of the proposed deck/outdoor seating area may encroach into the sight-distance triangle extending 25 feet along both lot lines starting at the southeast corner of the property. The petitioner must provide an engineering site plan demonstrating that the proposed deck/outdoor seating area complies with the provisions of UDO Section 10-12-3, Paragraph B-3-f "Line of Sight Easements at Intersections."
- 4. The proposed deck shall match the material, color and appearance of the principal structure.
- 5. Access to the proposed deck shall be strictly controlled through the existing principal structure, which shall be altered to provide access/egress for the deck in accordance with all applicable building and life safety codes.
- 6. The perimeter of the deck shall be enclosed by a wooden fence that is at least 50% open and does not exceed three (3) feet in height, unless otherwise required to comply with applicable building or life safety codes. The fence shall match the material, color and appearance of the deck itself and the principal structure.

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- 7. Landscaping shall be installed and maintained around the perimeter of the deck. The landscaping shall comply with the Village Code requirements for permitted species of trees and shrubs. Landscaping shall not obstruct the sight-distance triangle or otherwise impair traffic visibility or safety.
- 8. The deck shall be used for seated food and beverage service only; it shall not be used for private parties or special events, not shall it function as an enclosed beer garden where only liquor is principally served.
- 9. Use of the outdoor seating area shall be limited to between 10 a.m. and 10 p.m. daily, subject to further restriction by any applicable Liquor Code requirements affecting the restaurant/bar's sale or consumption of alcohol.
- 10. No outdoor music, amplified sound, live performances or other noise- or vibration-generating activities shall be permitted within the outdoor seating area.
- 11. The prohibition of smoking set forth by the Illinois Smoke Free Act shall apply to the outdoor seating area, which shall be treated as an extension of the restaurant/bar's public area.
- 12. Any lighting of the outdoor seating area shall comply with the requirements set forth by UDO Section 10-9-5. Compliance with this section of the UDO shall be demonstrated by the submittal and approval of a photometrics plan prior the issuance of any building permits for the lights.
- 13. The parking space requirement applicable to the outdoor seating area, as set forth in UDO Section 10-9-1, Paragraph B-3, is hereby waived. This parking variation only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure. This parking variation does not apply to any change of use or expansion of the principal structure that would negate the subject property's legal nonconforming status.
- 14. The subject property and business continue to comply with all other terms set forth in the UDO.
- 15. Bollards shall be placed at the perimeter of the deck to protect it from errant traffic from Galligan Road.

Passed and Approved by the Plan Commission/Zoning Board	of Appeals of the Village of Gilberts,
Illinois, this $23^{rd}$ day of July 2014, by a vote of $\underline{5}$ aye, $\underline{\circ}$	nay, 2 absent.
Randy Mills, Chair	

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# Village of Gilberts

### Village Hall 87 Galligan Road, Gilberts, Illinois 60136 Ph. 847-428-2861 Fax: 847-428-2955 www.villageofgilberts.com

### VILLAGE OF GILBERTS STAFF REPORT

July 17, 2014

TO:	Village of Gilberts Plan Commission/	Zoning Board of Appeals
RE:	Special Use Permit – 38 East Higgins	Road
Ī.	GENERAL INFORMATION	
A.	Purpose	To approve a special use permit to allow a permanent outdoor seating area for a restaurant/bar
B.	Location	38 East Higgins Road
C.	Access	Higgins Road, Galligan Road
D.	Size	14,236 square feet (0.33 acre)
E.	Existing Zoning	C-1 General Commercial
F.	Existing Land Use	Restaurant/bar
G.	Proposed Land Use	Addition of outdoor seating area
H.	Surrounding Zoning and Land Use	North: R-3, single-family residential South: I-1, industrial East: C-1, commercial West: C-1, single-family residential

Zone X (not in floodplain zones)

Commercial

Floodplain

Comprehensive Plan Designation

I.

 $J_{i}$ 

### II. APPLICANT'S REQUEST

Mr. Thomas Trier, petitioner, has requested approval of a special use permit to allow a permanent outdoor seating area for "Pub 72," the restaurant/bar located at 38 East Higgins Road, Gilberts, IL. Section 10-4-4, Paragraph B-6 requires the approval of a special use permit as a condition of operating a permanent outdoor seating area associated with a restaurant or bar.

## III. CHARACTERISTICS OF SUBJECT PROPERTY AND SURROUNDING LAND USES AND ZONING CLASSIFICATIONS

The subject property is 14.236 square feet in size (0.33 acre) and is located at the northwest corner of Higgins Road (IL Route 72) and Galligan Road. The property is zoned C-1 General Commercial and is adjacent to single-family residential uses to the north and west. Cruisin', another restaurant/bar, is on the east side of Galligan Road and a mix of industrial uses is on the south side of Higgins Road. The property is not in a floodplain zone. Traffic can access the property from either Higgins or Galligan Roads. There is a six-foot high wooden fence along the north property line that provides separation from the adjacent residential use. The area in which the proposed outdoor seating area would be located is paved and currently used by employees on breaks.

### IV. DISCUSSION

The property has been used as a restaurant/bar for many years, with Mr. Trier recently purchasing the business from property owner Mr. Brett Coleman. The petitioner proposes to add a permanent outdoor seating area on the east side of the building where patrons could be served food and liquor.

### A. Outdoor Seating Description

The petitioner proposes to construct a deck that would be raised approximately three feet from ground elevation to match the floor of the existing building. A new door between the building and the deck would be installed in the vicinity of the existing window, with the exact placement to be specified when he applies for building permits. The deck would be enclosed with a three-foot high wood railing, which would control access through the building only. The perimeter fence would maintain an "open" seating environment, rather than a "beer garden" which typically has a tall sight-proof perimeter fence that hides activity within its confines. A wooden lattice would cover the three-foot area between the underside of the deck and the ground.

The proposed deck would extend 24 feet from the east side of the building, projecting into the 15-foot front yard setback along the Higgins Road and Galligan Road frontages that is required by the G-1 General Commercial zoning district. To accommodate the proposed deck, the special use permit would need to include a variance allowing a reduced front yard setback from both the Higgins and Galligan Road frontages. Reducing the Galligan Road setback from 15 feet to 5 feet would accommodate a deck while ensuring adequate separation between the serving area on the deck and the nearby sidewalk. The 5-foot separation would also provide adequate space to place landscaping around the perimeter of the deck. As the building is legal nonconforming ("grandfathered") because it predates the setback requirement, the front yard setback for the deck could be reduced to match the existing south wall of the building.

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The proposed deck may extend up to 30 feet from the building at its longest point, so he may need to slightly modify the deck dimensions to comply with the modified front yard setbacks. However, in no instance should the deck be located within the sight-distance triangle, which extends a minimum of 25 feet along the east and south property lines from the southeast corner of the lot at the Higgins/Galligan intersection. The final location of the deck placement to ensure compliance with these setbacks and the sight-distance triangle will need to be demonstrated on an engineering site plan based on a current survey of the property.

The existing property's site coverage and storm water management would be considered legal nonconforming as they predate the Village's current requirements. The proposed deck would extend over an area that is already paved, so there would be no net increase in impervious surface that would require additional onsite storm water detention.

### B. Outdoor Seating Operation

The petitioner has represented that the deck area would be for seated service only; it would not be used for parties, special events or as a beer garden. In recognition of the nearby residential area, the petitioner agreed to Staff's recommendations to limit operation of the outdoor seating area to 10:00 a.m. to 10:00 p.m. and to prohibit any outdoor music, amplified sound, lives acts or other noise- or vibration-generating activity on the deck. Because the restaurant is subject to the Illinois Smoke Free Act, no smoking would be allowed within 15 feet of an entrance to the building. Applying the smoking prohibition to the entire deck's serving area would be consistent with the intent of the Act and would prevent the deck from becoming a de facto smoking area.

### C. Lighting

The petitioner has stated that the area may be lighted, either immediately or at a later date. Any lighting would need to comply with Section 10-9-5 of the UDO, which requires that all lights be shaded and angled downward to eliminate glare and that the light spillage be no more than 2 foot candles. To ensure that any lighting would impact neither the residential area to the north nor traffic along Galligan Road, the petitioner will be required to provide a photometrics plan demonstrating compliance prior to receiving a building permit for the lights.

### D. Parking

The site presently provides 17 parking spaces for customers and employees. The existing restaurant/bar area would be considered to be legal nonconforming, as the business predates the UDO's current parking requirement of 18 spaces per 1,000 square feet of net floor area. However, the proposed deck would add an additional 528 square feet of floor area to the business, which would correspond to a required additional 10 parking spaces. As shown on the provided aerial photograph, there is no way the additional parking can be provided on the subject property.

In order to accommodate the proposed outdoor seating area, the special use permit would need to include a variation from the parking requirement found in Section 10-9-1, Paragraph B-3 of the UDO. Without additional spaces, the site's parking spaces may become the practical limiting factor for the maximum number of customers present at the restaurant/bar. The property owner and the petitioner are encouraged to explore alternatives for providing additional parking capacity, such as securing permission(s) from neighboring properties or providing alternate transportation options (e.g. taxis, transit).

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### E. Outdoor Liquor Sales and Consumption

The special use permit is required to allow the "use" of the deck for outdoor service of both food and liquor. The special permit would not control the sale of liquor directly, but allowing the outdoor seating area would expand the area in which liquor could potentially be served. Pub 72 is operated with a Class A liquor license (on premises consumption and package liquor sales allowed), which presently does not allow outdoor consumption under the Village's Liquor Code.

Parallel to the special use permit petition, Staff will provide the Village Board a draft ordinance creating an add-on liquor license that would allow a Class A holder to secure permission for outdoor sales and consumption. The conditions of the proposed add-on liquor license would mirror the conditions recommended for inclusion in the special use permit, which could include the prohibition of music, limitations on the hours of use, controlled access and supervision of liquor service within the deck area, etc. If both the special use permit and the proposed add-on license are approved, the Village would have the authority to ensure compliance with the proposed conditions through both its zoning powers and its liquor code.

### V. STANDARDS OF SPECIAL USE

### 1. The proposed use complies with the applicable district regulations.

Approval of the proposed special use permit would require waivers from the front yard and parking requirements applicable to properties within the C-1 General Commercial zoning district. To accommodate the proposed deck, the special use permit would need to include a variance allowing a reduced front yard setback along Galligan Road to five feet and reducing the front yard setback along Higgins Road to match the existing south wall of the building. Granting the setback variances would not substantively impact the appearance of the building, as the open deck area would not increase the building mass as would a completely enclosed addition. The addition of an open fence around its perimeter and landscaping around the deck itself will further minimize the visual impact from the reduced setbacks.

The special use permit would also need to include a variance from Section 10-9-1, Paragraph B-3 of the UDO, which would require the addition of 10 parking spaces to serve the expanded seating area created by the proposed deck. Additional parking cannot be provided onsite, so the requirement would need to be waived in the absence of alternative parking arrangements (e.g. parking permission from neighboring properties). Patrons will likely be dissuaded by the absence of convenient parking, thus applying a practical limit on the maximum number of patrons at the restaurant/bar regardless of the presence of the outdoor seating area.

# 2. The proposed use will not be detrimental to property values in the immediate area nor to the public welfare at large.

The proposed use will not be detrimental to property values in the immediate area nor to the public welfare at large as the requested deck area is an accessory to the long-standing use of the property as a restaurant/bar. The application of the proposed conditions would minimize any externalities that may potentially affect the adjacent residential property to the north, which is already screened by the existing wooden fence.

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## 3. The use and accompanying physical attributes are such that the use will not dominate the immediate neighborhood.

The addition of the outdoor seating area will not result in uses or structures that would dominate the immediate neighborhood. The proposed deck would be noticeable given its location at a highly visible intersection (Higgins/Galligan Roads) and would be "something new" for a property and use that predates much of the Village. The application of the proposed conditions would minimize any externalities that may potentially affect the adjacent residential property to the north, which is already screened by the existing wooden fence.

### 4. Adequate utility services exist or will be provided.

The property is served by public utility services. The proposed use will not generate service demands requiring upgrades and/or connection to the public systems.

5. The use is consistent with good planning practice, will conform to the regulations of the district in which it is located, and is essential or desirable to preserve and promote the public health, safety and welfare of the citizens of Gilberts.

The proposed use is consistent with good planning practice as it will enhance the existing business without substantively changing the nature of the property or its use. The requested special use permit would require reductions in the front yard setbacks and a waiver from the UDO's parking space requirements. The special use permit also includes conditions that would minimize any potential impacts on the surrounding area, especially the nearby residential properties. The use is not essential to the preservation and promotion of public health and safety, though the proposed outdoor seating area adds a restaurant/bar environment not already present in the community.

### VI. CITIZEN INPUT

To date, the Village has not received any comments regarding the proposed special use permit.

### VII. CONCLUSIONS AND RECOMMENDATIONS

Mr. Thomas Trier has petitioned for the approval of a special use permit to allow a permanent outdoor seating area for the restaurant/bar located at 38 East Higgins Road, as required by the UDO. The petitioner proposes to construct an enclosed deck with controlled access from the existing building to provide an area for outdoor food and liquor consumption. The outdoor seating area would be an expansion of a long-standing restaurant/bar business and would provide a new environment to enjoy the business' offerings.

The proposed deck would not result in a physical structure that would be out of scale with the existing building or generate significant externalities for the surrounding neighborhood, especially the adjacent residential uses. To accommodate the deck, the front yard setbacks would need to be reduced and the parking requirement for expanded seating area would need to be waived. The Village would also need to enact changes to its Liquor Code to allow outdoor liquor sales and consumption within the proposed deck area. However, the application of the recommended conditions of approval would minimize any potential impacts associated with the proposed deck area and/or the outdoor sale and consumption of food and liquor. Through both its

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Liquor Code and its zoning powers, the Village would have enforcement tools at its disposal to address any problems that may arise from future operation of the outdoor seating area.

Staff recommend approval of the special use permit to allow an outdoor seating area for the restaurant/bar located within the C-1 General Commercial zoning district on the property at 38 E. Higgins Road. This recommendation is conditional upon the following requirements and variations:

- 1. The front yard setback along the subject property's east lot line (Galligan Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to five (5) feet. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 2. The front yard setback along the subject property's south lot line (Higgins Road frontage) is reduced from 15 feet, as required by Section 10-4-6, Paragraph A of the UDO, to match the south wall of the existing principal structure. The proposed deck/outdoor seating area may not project into the front yard setback beyond the existing wall. This setback reduction only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure.
- 3. No part of the proposed deck/outdoor seating area may encroach into the sight-distance triangle extending 25 feet along both lot lines starting at the southeast corner of the property. The petitioner must provide an engineering site plan demonstrating that the proposed deck/outdoor seating area complies with the provisions of UDO Section 10-12-3, Paragraph B-3-f titled "Line of Sight Easements at Intersections."
- 4. The proposed deck shall match the material, color and appearance of the principal structure.
- 5. Access to the proposed deck shall be strictly controlled through the existing principal structure, which shall be altered to provide access/egress for the deck in accordance with all applicable building and life safety codes.
- 6. The perimeter of the deck shall be enclosed by a wooden fence that is at least 50% open and does not exceed three (3) feet in height, unless otherwise required to comply with applicable building or life safety codes. The fence shall match the material, color and appearance of the deck itself and the principal structure.
- 7. Landscaping shall be installed and maintained around the perimeter of the deck. The landscaping shall comply with the Village Code requirements for permitted species of trees and shrubs. Landscaping shall not obstruct the sight-distance triangle or otherwise impair traffic visibility or safety.
- 8. The deck shall be used for seated food and beverage service only; it shall not be used for private parties or special events, not shall it function as an enclosed beer garden where only liquor is principally served.

VA48-14 PAGE 6 OF 7

- 9. Use of the outdoor seating area shall be limited to between 10 a.m. and 10 p.m. daily, subject to further restriction by any applicable Liquor Code requirements affecting the restaurant/bar's sale or consumption of alcohol.
- 10. No outdoor music, amplified sound, live performances or other noise- or vibration-generating activities shall be permitted within the outdoor seating area.
- 11. The prohibition of smoking set forth by the Illinois Smoke Free Act shall apply to the outdoor seating area, which shall be treated as an extension of the restaurant/bar's public area.
- 12. Any lighting of the outdoor seating area shall comply with the requirements set forth by UDO Section 10-9-5. Compliance with this section of the UDO shall be demonstrated by the submittal and approval of a photometric plan prior the issuance of any building permits for the lights.
- 13. The parking space requirement applicable to the outdoor seating area, as set forth in UDO Section 10-9-1, Paragraph B-3, is hereby waived. This parking variation only applies to the deck/outdoor seating area proposed as an accessory structure/use attached to the principal structure. This parking variation does not apply to any change of use or expansion of the principal structure that would negate the subject property's legal nonconforming status.
- 14. The subject property and business continue to comply with all other terms set forth in the UDO.

Respectfully Submitted,

BY: Ray Keller, ICMA-CM, AICP Village Administrator

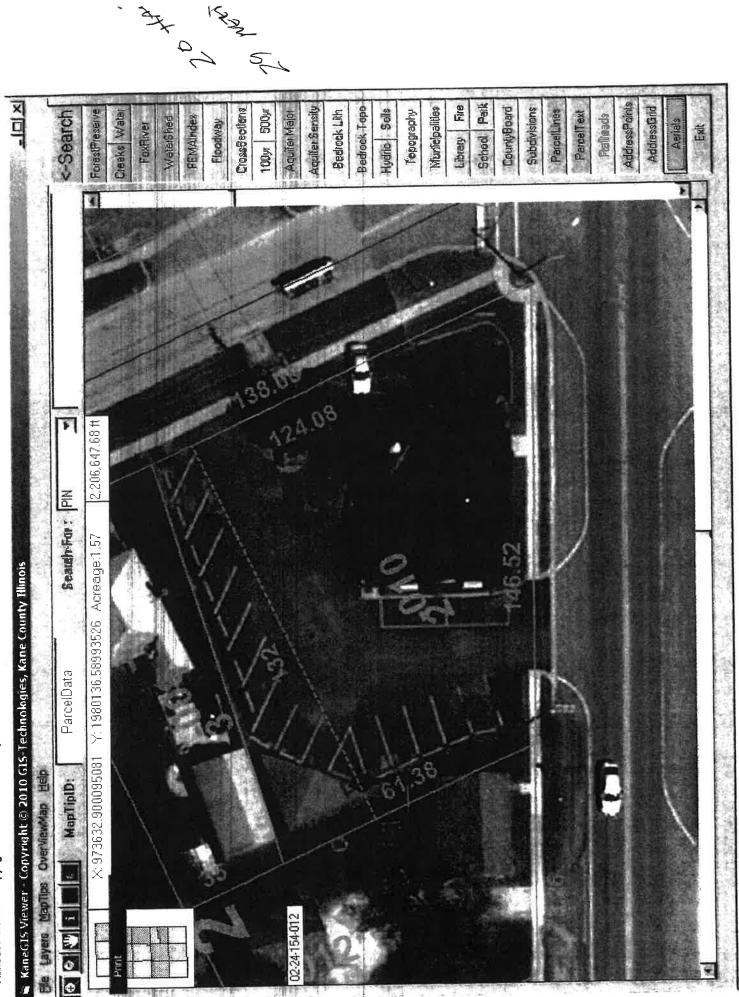
VA48-14 PAGE 7 OF 7

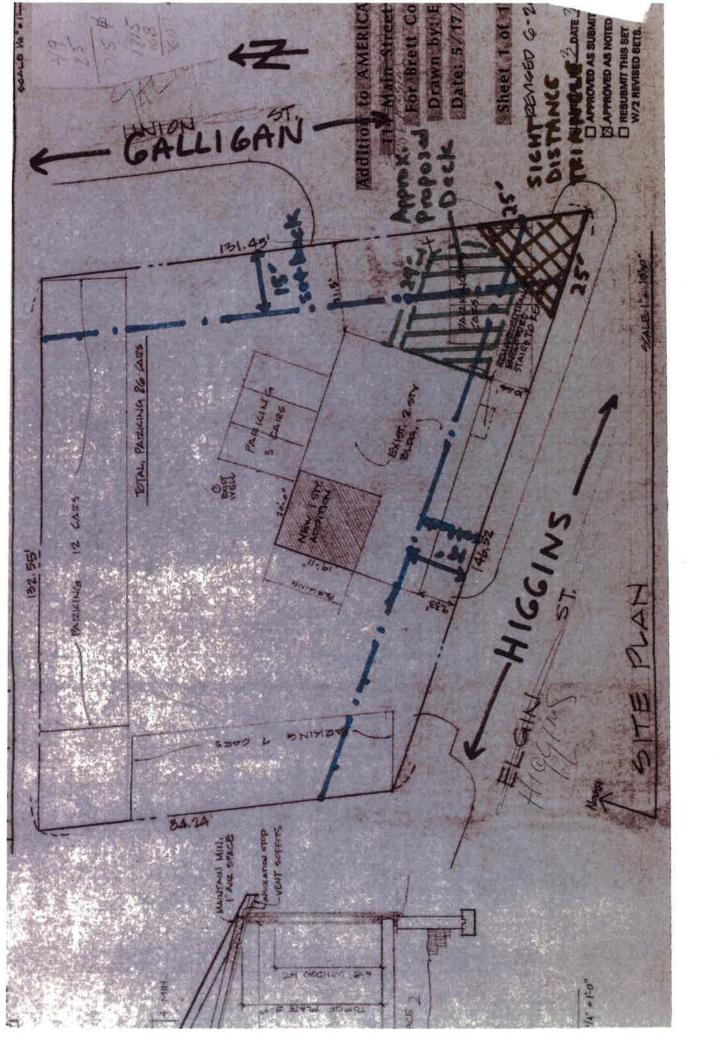


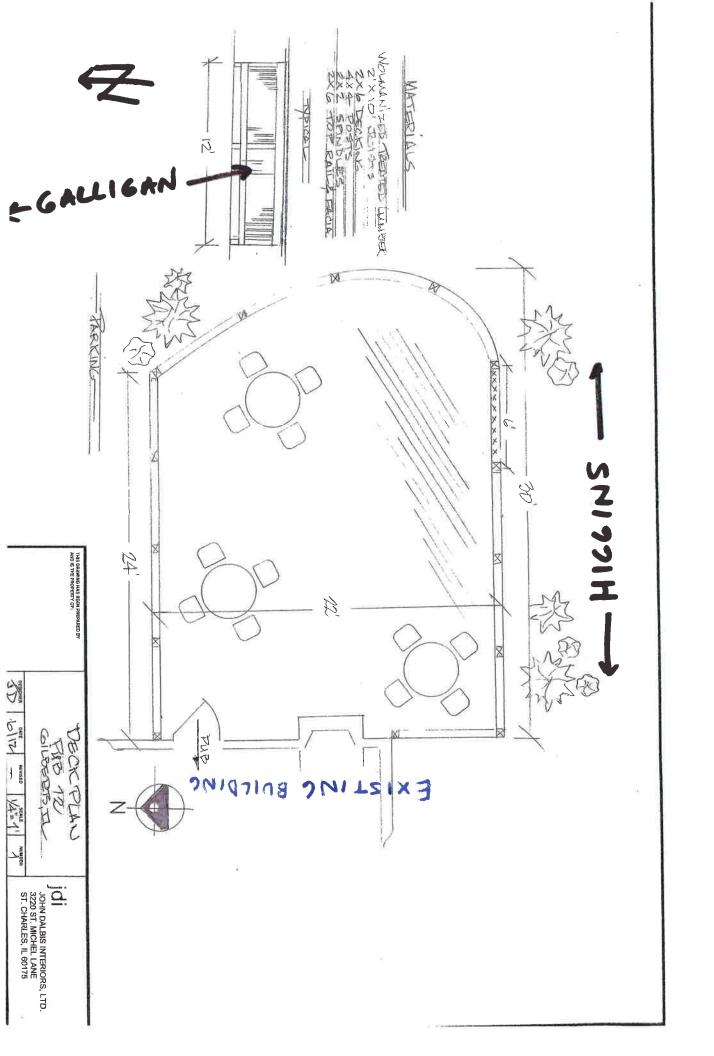


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# AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 2 OF TITLE 3 OF THE VILLAGE CODE REGARDING LIQUOR CONTROL

**WHEREAS**, the Village is authorized by the Illinois Liquor Control Act, 235 ILCS 5/1 *et seq*. to license and regulate the sale of alcoholic beverages in the Village; and

**WHEREAS**, the Village has established local liquor license regulations in Chapter 2 of Title 3 of the Gilberts Village Code; and

WHEREAS, the Village has determined it to be in the best interests of the Village and its residents to consider amendments to the Gilberts Village Code to create a new liquor license classification, among other amendments, as set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Village Board of the Village of Gilberts, Kane County, Illinois pursuant to its non-home rule powers, as follows:

Section 1: The recitals set forth above are incorporated into Section 1 as if set forth herein.

<u>Section 2</u>: That Section 3-2-7 "Classification of Licenses" of Chapter 3-2 "Liquor Control" of the Gilberts Village Code shall be amended to add a new Subsection G, titled "Class OS", which new Subsection 3-2-7G shall read as follows:

- G. Class OS: A class OS license shall entitle a valid holder of a Class A, Class B or Class F license to sell alcoholic liquor at retail for consumption on the premises outside the principal structure, subject to the following conditions:
  - 1. The OS license shall be considered an add-on license to a valid Class A, B or F license. The term and validity of the OS license shall be coterminous with the prerequisite Class A, B or F license and shall be subject to all other terms of the prerequisite license except as specified in this section.
  - 2. Outdoor alcohol consumption may only occur within a secured area, with access to the serving area strictly controlled through the principal structure for which a valid Class A, B or F license has been issued.

- 3. The outdoor seating area shall be enclosed by a wooden or wrought iron (or similarly-appearing) fence that is at least 50% open and does not exceed three (3) feet in height, unless otherwise required to comply with applicable building or life safety codes. The fence shall match the color and appearance of the principal structure.
- 4. The outdoor seating area shall be used for seated food and beverage service only; it shall not be used for private parties or special events, not shall it function as an enclosed beer garden where only liquor is principally served.
- 5. Use of the outdoor seating area shall be limited to between 10 a.m. and 10 p.m. daily, subject to further restriction by any applicable requirements associated with the prerequisite Class A, B or F license or liquor licenses in general.
- 6. Access to and service within the outdoor serving area shall be under the control of BASSET trained representatives and/or employees of the licensee.
- 7. Use of the outdoor seating area shall comply with the noise ordinance (chapter 6 of title 4 of this code) and section 3-2-16A of this code. No outdoor music, amplified sound, live performances or other noise- or vibration-generating activities shall be permitted within or directed at the outdoor seating area.
- 8. No smoking shall be permitted in the outdoor seating area, which shall be treated as an extension of the restaurant/bar's public serving area.
- 9. Any lighting and landscaping of the outdoor seating area shall comply with the Village's Unified Development Ordinance unless otherwise expressly provided in a PUD, special use, variance or other zoning approval ordinance.
- 10. The licensed establishment must comply with all other terms set forth in any zoning approval ordinance, this code, the Village's Unified Development Ordinance and state statutes and regulations.
- 11. <u>All alcohol shall be dispensed from within the principal structure/establishment. No bar may be set up or operated within the outdoor seating area.</u>

12. Maximum occupancy of the outdoor seating area shall be based on the maximum seated capacity as determined by the Village's building and life safety codes. The maximum seated occupancy of the outdoor seating area shall be prominently displayed at its entrance.

Section 3: That Section 3-2-9 "Number of Licenses" of Chapter 3-2 "Liquor Control" of the Gilberts Village Code shall be amended by adding the following underlined text and deleting the following stricken text:

A. The liquor commissioner shall be authorized to issue the following number of licenses to be outstanding at any one time:

Class Of License	Number Of Licenses
A	4
В	1
C	1
D	2
D1	2
Е	1
F	1
<u>os</u>	<u>4</u>

**Section 4:** That Section 3-2-15 "Outdoor Consumption" of Chapter 3-2 "Liquor Control" of the Gilberts Village Code shall be amended as follows:

### **3-2-15: OUTDOOR CONSUMPTION:**

It shall be unlawful for any person to consume any alcoholic liquor outside any licensed premises unless such premises has been specifically licensed for outdoor operation either through the issuance of an add-on class OS license for class A, B or F licensed establishments or as specially permitted by the liquor commissioner for class C or E licensed establishments in accordance with section 3-2-7 of this code and this section 3-2-15. The liquor commissioner may permit outdoor consumption on the premises of a class E license if consumption is within an area secured by a permanent board on board fence around a deck, patio or other improved surface, located not less than five hundred feet (500')

from a property with residential zoning, as measured from the outside boundary of the serving area to the adjoining property line, with access to and service within the outdoor serving area under the control of BASSET trained representatives and/or employees of the licensee. The liquor commissioner retains the authority to apply limitations, conditions or additional requirements upon the holder of the class E license as appropriate to the circumstances of the environment in which outdoor consumption may occur. (Ord. 08-16, 6-19-2008; amd. 2010 Code)

<u>Section 5</u>: That Section 2-4-19 "Liquor Licenses" of Chapter 2-4 "Fee Schedule" of the Gilberts Village Code shall be amended by adding the following underlined text:

### A. Fees Established; Waivers:

### 1. The fees for liquor licenses shall be as follows:

Class Of License	Fee
Class A	\$1,800.00
Class B	\$1,200 .00
Class C:	
Community Days/Multi-Day Festivals	\$500 .00 <u>\$400.00</u>
Special events: Reunions, weddings, anniversaries and baby and wedding showers; car shows; misc. one-day events	\$100 .00 <b>Per day</b>
Sporting events	\$200.00
Other events	To be determined by the village board
Class D	\$1,200.00
Class D1, in addition to the class D liquor license fee	\$100.00
Class E	\$1,500.00
Class F	\$1,200.00
Class OS, in addition to the fee for the prerequisite Class A, B or F liquor license	<u>\$200 .00</u>

<u>Section 6</u>: That each section, paragraph, sentence, clause and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance, nor any part thereof, other than that part affected by such decision.

<u>Section 7:</u> That except as to the amendments heretofore mentioned, all Sections of the Gilberts Village Code shall remain in full force and effect.

Section 8: Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees be published in pamphlet form. On the tenth day after the date of publication, this Ordinance shall be in full force and effect

PASSED BY THE BOAI regular meeting thereof held				erts, Illinois at a
	Ayes	Nays	Absent	Abstain
Trustee David LeClercq Trustee Dan Corbett Trustee Louis Hacker Trustee Nancy Farrell Trustee Patricia Mierisch Trustee Guy Zambetti President Rick Zirk				
APPROVED this	day of	, 2014		
(SEAL)				
		Village Presid	lent Rick Zirk	
ATTEST: Village Clerk	c, Debra Meadov	ws		
Published:		-		

4825-9502-8764, v. 1

### **ORDINANCE 18-2014**

### AN ORDINANCE APPROVING A FINAL PLAN FOR BUILDING III OF THE PRAIRIE BUSINESS PARK PUD AND THE PLAT OF DEDICATION FOR BURNET DRIVE RIGHT OF WAY

WHEREAS, Interstate Partners LLC has filed a petition with the Village Clerk of the Village of Gilberts, Illinois, for approval of a final plan for Building III of the Prairie Business Park and an accompanying plat of dedication for Burnet Drive right of way, in accordance with a Development Agreement and a PUD ordinance/Preliminary Plat approved with the passage of Ordinances 12-2013 and 13-2013, respectively; and,

WHEREAS, the Gilberts Plan Commission reviewed the final plan and plat of dedication submittals at their meeting on August 13, 2014 and recommended approval of the request by a vote of 5-0 (2 absent); now,

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois as follows:

- **Section 1**. That the final plan submittal for Building III of the Prairie Business Park PUD, hereto attached as Exhibit "A", be approved.
- **Section 2**. That the plat of dedication for Burnet Drive right of way, hereto attached as Exhibit "B", be approved.
- <u>Section 3.</u> The terms and conditions contained herein shall be binding upon the Owner and specifically enforceable in the Village.
- <u>Section 4.</u> That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, other than the part affected by such a decision.
- <u>Section 5.</u> This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law. This ordinance shall be published in pamphlet form.

PASSED BY ROLL CALL	<b>VOTE OF T</b>	HE BOARD OF	TRUSTEES of	the Village of	Gilberts,
Kane County, Illinois, this	day of _	, 2014.			

	<u>Ayes</u>	<u>Nays</u>	Absent	<u>Abstain</u>
Trustee David LeClercq Trustee Dan Corbett Trustee Louis Hacker Trustee Nancy Farrell Trustee Patricia Mierisch Trustee Guy Zambetti President Rick Zirk				
APPROVED this	day of	, 2014		
(SEAL)				
A TOTAL CITY		Village Pres	ident Rick Zirk	<u> </u>
ATTEST: Village Cle	rk, Debra Meado	ows		
Published:				

PXMibit 'A'

INTERSTATE PARTNERS, LLC 2860 GALVIN DRIVE ELGIN, IL 60124 (847)428-5303 PLANS PREPARED FOR

INDEX OF SHEETS

1, TILE SHEET

3, EROSION CONTROL PLAN

5, UTILITY PLAN

6. PLAN AND PROFILE - BURNET DRIVE

8. PROJECT NOTES AND SPECIFICATIONS

10. CONSTRUCTION STANDARDS 11. CONSTRUCTION STANDARDS

12, CONSTRUCTION STANDARDS

RWG Engineering, LLC 975 E. 22nd Street, Guite 400, Wheaton, IL 60189 Phone: (6.30) 480-7889 www.rwg-engineering.com Cvil Engineering - Fensier Consulting - Project Management

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PRAIRIE BUSINESS PARK PROPOSED IMPROVEMENTS **BUILDING III** 

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FORCE MAIN
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WATER MAIN
CONSTRUCT WATER MAIN
UNDER SEWER
GRANULAR TRENCH BACKFILL

ECTRICAL CABLE
CONDUIT ENCASEMENT
ECTRICAL TRANSFORMER
PEDESTAL

POWER POLE STREET SIGN

TREET LIGHT

GILBERTS, ILLINOIS

LOCATION MAP

- 2, SITE GEOMETRIC AND PAVING PLAN
- 4. GRADING PLAN
- 7. UTILITY PROFILES AND DETAILS
- 9. CONSTRUCTION STANDARDS

TITLE SHEET PRAIRIE BUSINESS PARK, GILBERTS IL BUILDING III

BENCHMARKS

BENCHMARK #2 SW UPPER FLANCE BOLT (ARROW BOLT) CN FRE FYRKANT LOCATED ON WEST SIDE CLEW, BOALTO NAVO 1888

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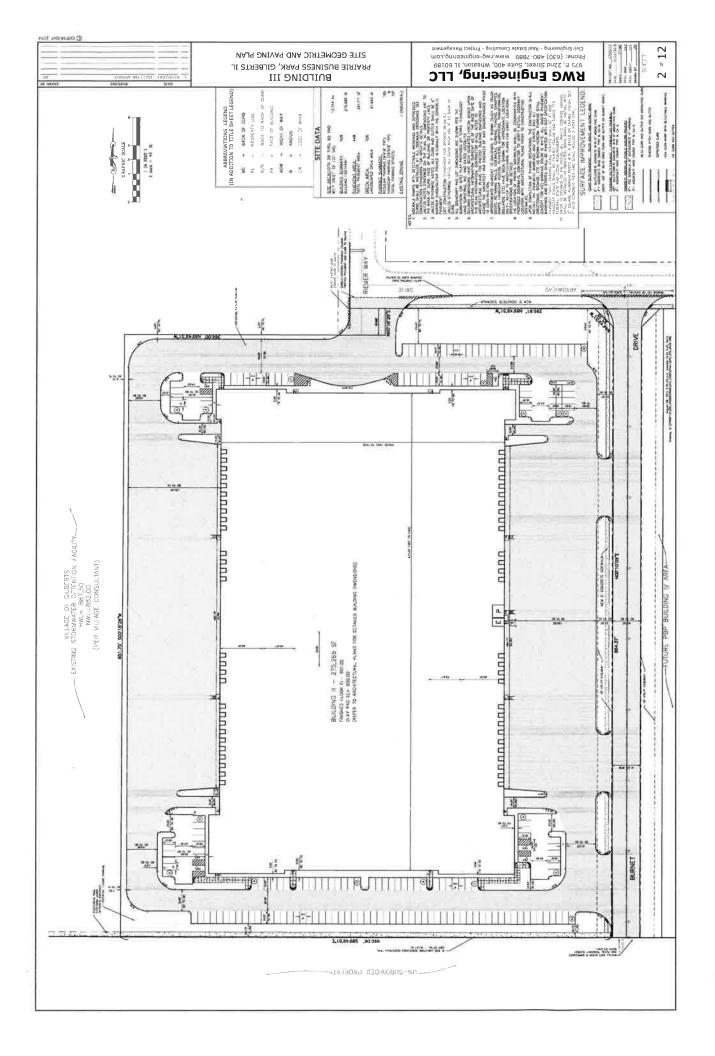
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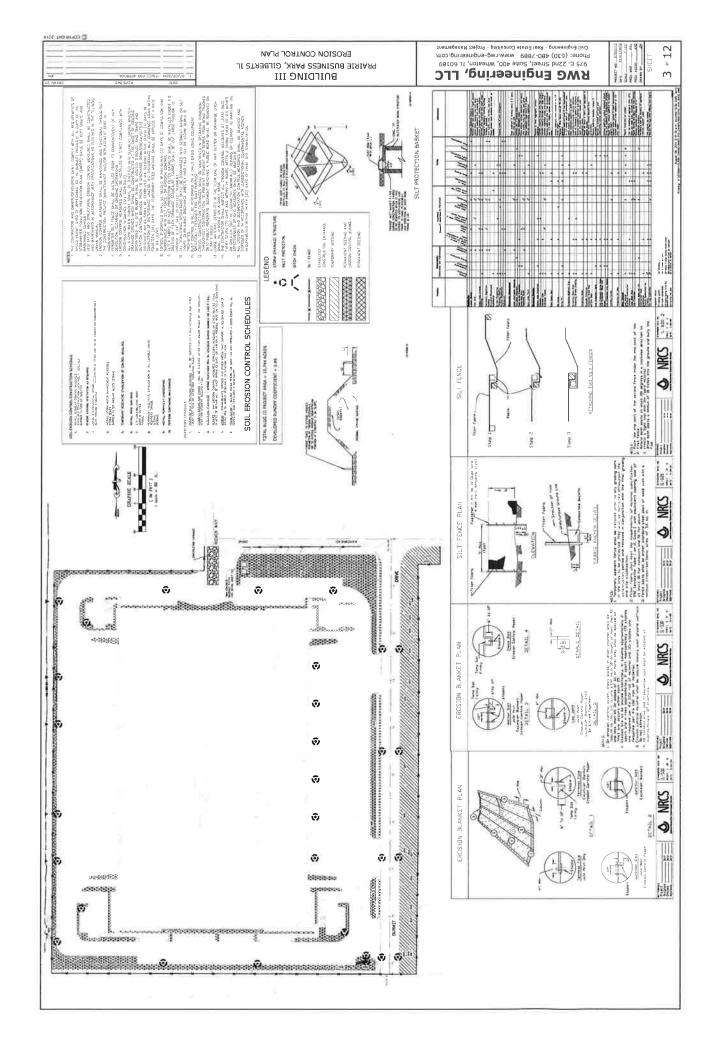
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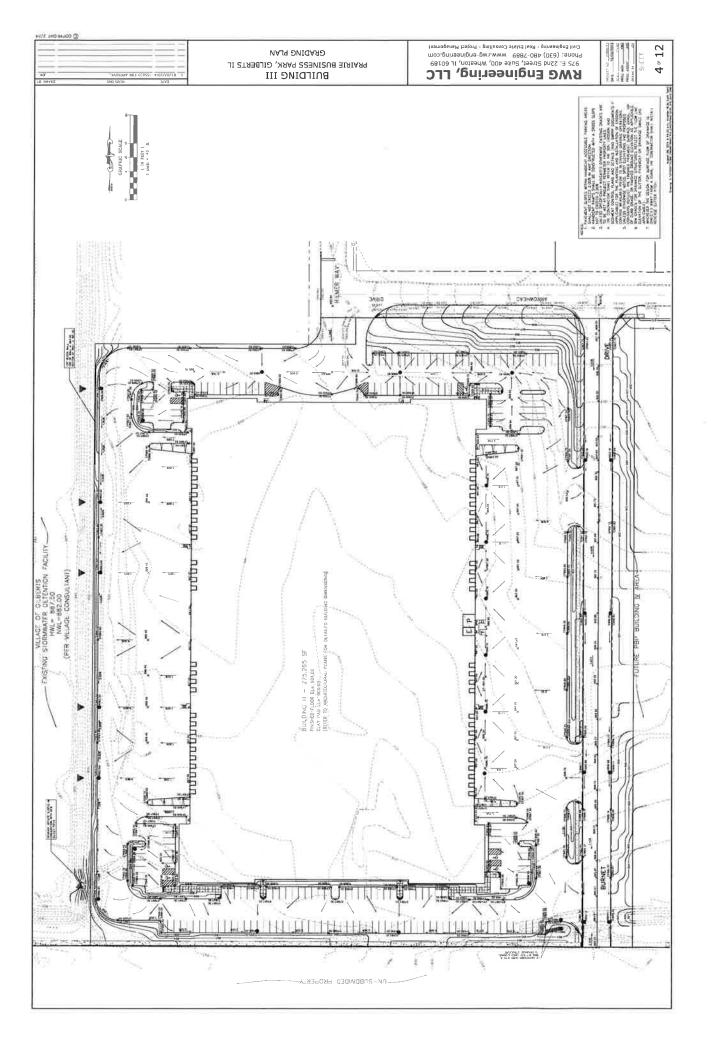
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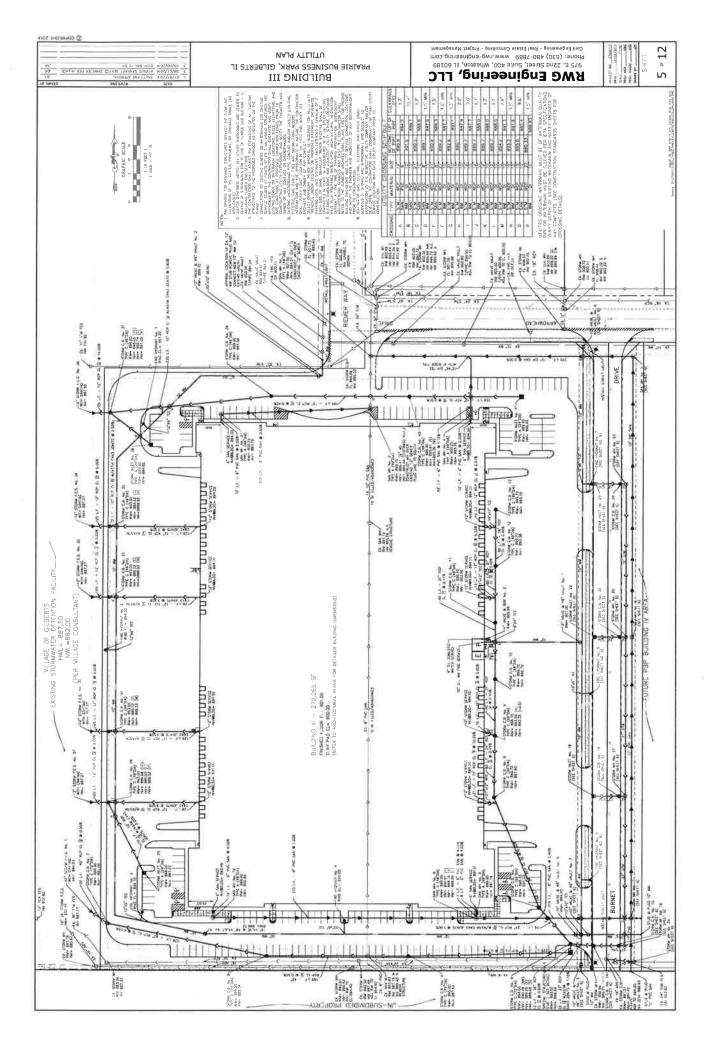
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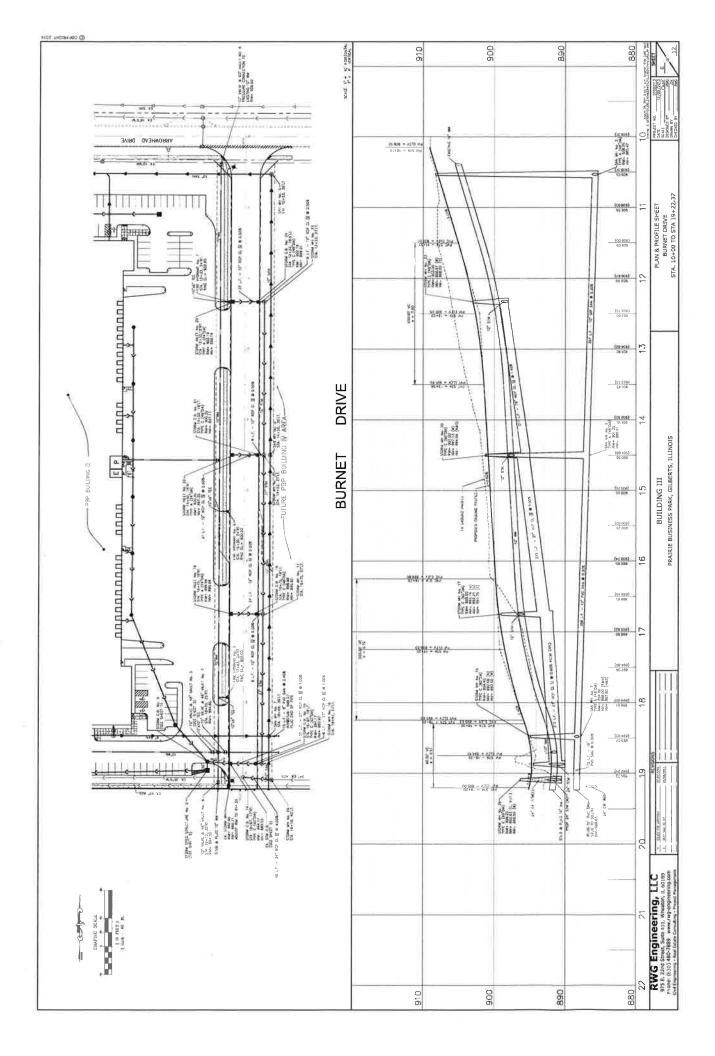
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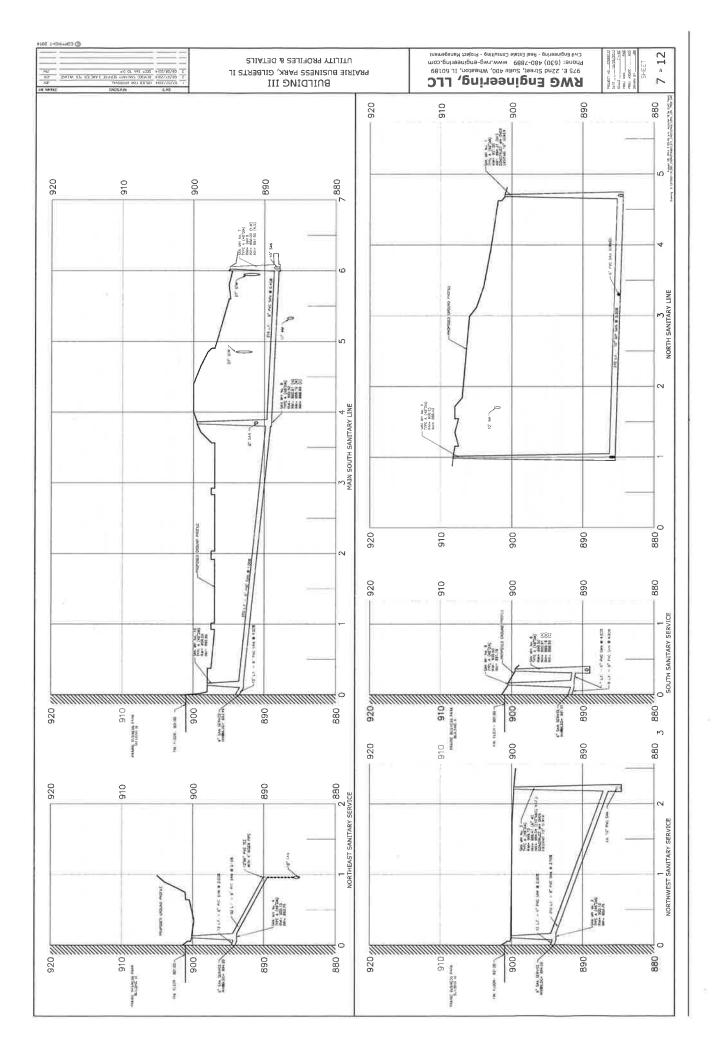












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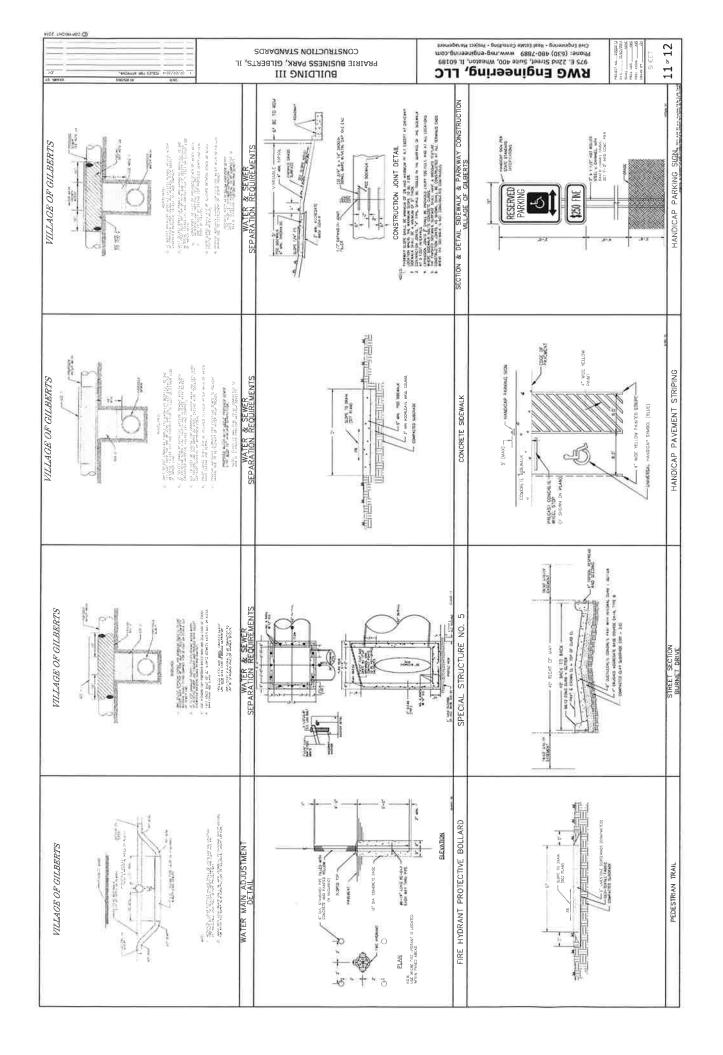
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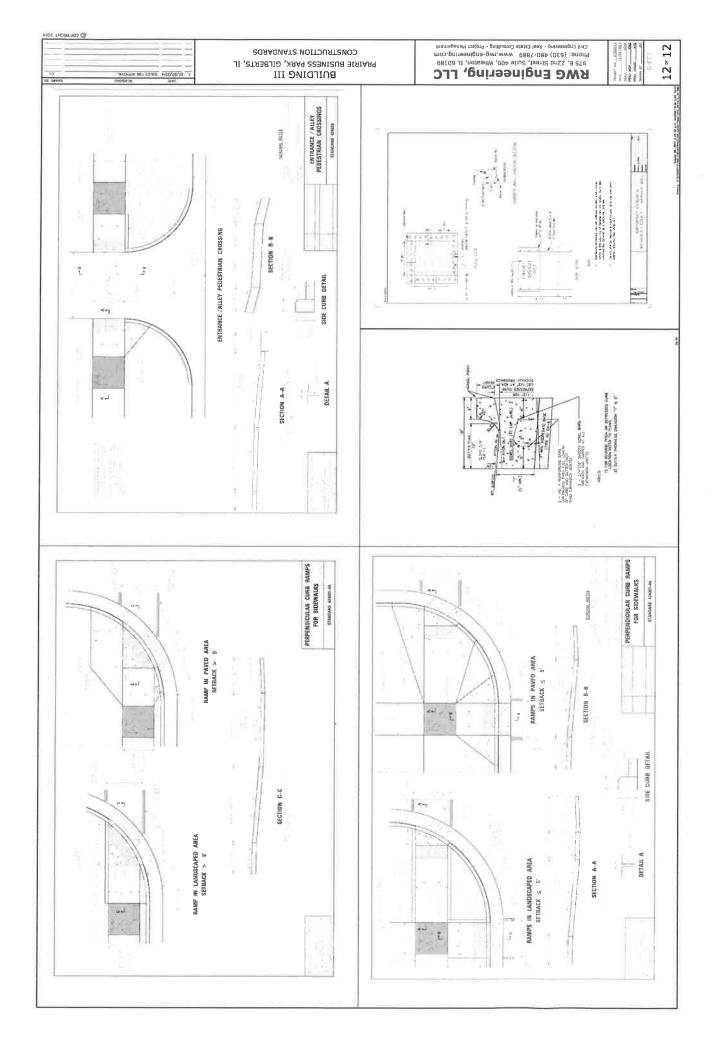
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ARCHITECTURAL RENDERING FOR:

PBPIII GILBERTS, IL

Developed & Managed by:

Interstate Partners ILC
Real Estate Development

WWW HARRISARCHITECTS, INC.

