


# 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 68-14

**TO:** President Rick Zirk  
Board of Trustees

**FROM:** Ray Keller, Village Administrator 

**DATE:** October 17, 2014

**RE:** Village Board Meeting – October 21, 2014

---

The following summary discusses the agenda items for the Village Board meeting scheduled for October 21, 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 October 7, 2014 Village Board Meeting**

Staff recommend approval of the October 7 minutes, which were reviewed and added to the consent agenda at the October 14 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 October 14, 2014 Committee of the Whole Meeting**

Please review the enclosed minutes from the Committee of the Whole meeting on October 14. Staff recommend approval. Please contact Village Clerk Debra Meadows prior to the meeting with any corrections or questions.

**C. Motion to approve the September 2014 Treasurer's Report**

Staff recommend approval of the September 2014 Treasurer's Report, which was reviewed and added to the consent agenda at the October 14 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 October 21, 2014**

Please refer to the enclosed spreadsheet, which lists the bills to be approved. If you need additional information about any of these bills, please contact me or Finance Director Marlene Blocker prior to the meeting. Staff recommend approval.

**5. ITEMS FOR APPROVAL**

**A. Motion to approve Ordinance 20-2014, an Ordinance approving a special use permit for the operation of a pulverizing use within the I-1 General Industrial zoning district located at 75 Koppie Drive**

Mr. Ken Copenhaver of Copenhaver Construction has requested approval of a special use permit to allow the pulverizing and recycling of soils and asphalt grindings at the contractor's office/yard located at 75 Koppie Drive. In 2012, Mr. Copenhaver acquired the site and subsequently expanded his contractor's office and yard activities from his Sola Drive property to the Koppie Drive property, including the storage of equipment and piles of materials for his road construction business. In June 2014, Staff issued a stop work order for the subject property when it was discovered that the Applicant was recycling soil and asphalt onsite, prompting Mr. Copenhaver to apply for the required special use permit.

The Plan Commission opened the public hearing on the request on August 13 and continued it to October 8. The Plan Commission recommended approval of the request, subject to numerous conditions that are outlined in the finding of fact and the draft ordinance. The conditions include requiring a site plan and a topographic survey memorializing existing conditions; block enclosures to contain the stockpiles; preparation of a dust control plan, and limiting the recycling activity to just soil and asphalt.

At the October 14 Committee of the Whole meeting, the Board expressed their reservations about whether the special use could be operated without negatively impacting the surrounding area or possible contamination of the site. At the Board's request, Staff drafted additional conditions of approval as shown in the revised draft ordinance:

- The Applicant would be required to post a reclamation bond as a guarantee against future contamination or grading without a permit, and provide the Village funding should site remediation be required. Village Engineer Bill Blecke estimated that the value of the bond should not be less than \$177,200.
- The Applicant would be required to establish a CCDD monitoring station at the entrance to the site and test every load brought to the facility for possible contamination. Village Engineer Bill Blecke advised that each load would be required to be accompanied by the appropriate CCDD form. Each load would be tested for possible contaminants before being pulverized and/or stored onsite. Any violation of this requirement would give the Village the grounds to call the reclamation bond and use the proceeds to remediate and restore the site.

The draft ordinance was further amended to clearly warn the Applicant that any violation of the special use permit terms, the UDO, the Village Code or any other federal, state or local laws would entitle the Village to seek revocation of the special

use permit and any other remedies available by law without requiring a new public hearing before the Plan Commission.

Based on the Board's feedback at the Committee of the Whole meeting, Staff also prepared a separate draft ordinance (Ord. 21-2014, below) denying the requested special use permit. Staff advises that the Board has the option of either approving the requested special use permit and the accompanying conditions by passing this ordinance, or denying the use by approving Ord. 21-2014. Please contact me with any questions or requests for supplemental information.

**B. Motion to approve Ordinance 21-2014, an Ordinance denying a special use permit for the operation of a pulverizing use within the I-1 General Industrial zoning district located at 75 Koppie Drive**

At the October 14 Committee of the Whole meeting, the Board expressed their reservations about whether the requested special use of pulverizing soils and asphalt could be operated without negatively impacting the surrounding area or possible contamination of the site. At the Board's request, Staff prepared a draft ordinance denying the special use permit as an alternative action to Ordinance 20-2014 (above). The ordinance was prepared to include the Board's findings of fact that support their decision to deny the requested special use permit, which would supersede the Plan Commission's findings. Please contact me with any questions or requests for supplemental information.

**C. Motion to approve Resolution 41-2014, a Resolution authorizing a purchase agreement between the Village of Gilberts and Biggers Chevrolet, Elgin, Illinois for one 2015 Chevrolet Colorado Truck**

Approval of this resolution authorizes the purchase of a new 2015 Chevrolet Colorado truck from Biggers Chevrolet in Elgin for \$21,117.00. The vehicle is a 2-wheel drive light pickup truck with an extended cab that would be used by the Utilities Superintendent. The Colorado was the only light duty pickup truck that the Public Works Department was able to find in the area that was within budget and met their specifications. The vehicle was included in the FY 2015 enterprise fund budget. Please contact me or Public Works Coordinator John Swedberg with any questions or requests for supplemental information.

**6. ITEMS FOR DISCUSSION**

Please contact me or President Zirk if there are any topics to be added for discussion at this meeting.

**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 with any questions about other current closed session topics.

**11. ADJOURNMENT**

**Village Board of Trustees  
Meeting Agenda  
Village of Gilberts  
87 GALLIGAN ROAD,  
GILBERTS, ILLINOIS 60136  
October 21, 2014  
7:00 P.M.  
A G E N D A**

**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 October 7, 2014 Village Board Meeting
- B. A Motion to approve Minutes from the October 14, 2014, Committee of the Whole Meeting
- C. A Motion to approve the September 2014 Treasurer's Report
- D. A Motion to approve Bills and Salaries Dated October 21, 2014

**5. ITEMS FOR APPROVAL**

- A. A Motion to approve Ordinance 20-2014, an Ordinance approving a special use permit for the operation of a pulverizing use within the I-1 General Industrial zoning district located at 75 Koppie Drive
- B. A Motion to approve Ordinance 21-2014, an Ordinance denying a special use permit for the operation of a pulverizing use within the I-1 General Industrial zoning district located at 75 Koppie Drive
- C. A Motion to approve Resolution 41-2014, a Resolution authorizing purchase agreement between the Village of Gilberts and Biggers Chevrolet, Elgin, Illinois for one 2015 Chevrolet Colorado Truck

**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.*

**Village of Gilberts  
320 Raymond Drive  
Gilberts, IL  
Committee of the Whole  
Meeting Minutes  
Part One  
October 14, 2014**

**Roll Call / Establish Quorum**

Present were Trustees Mierisch, Corbett, and Hacker. A quorum was not established.

Others present were Assistant Administrator Beith, Finance Director Blocker, Water Superintendent Castillo, and Harry Harmon of Baxter & Woodman. Administrator Keller arrived at 5:52 pm.

Mr. Harmon presented an overview of the new Barium-Radium treatment process.

At 6:30 those present left the water treatment facility to attend the Committee of the Whole meeting which was to convene at 7:00 at the Village Hall, 87 Galligan Rd.

**Village of Gilberts  
87 Galligan Road  
Gilberts, IL  
Committee of the Whole  
Meeting Minutes  
October 14, 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**

Members present were Trustees Corbett, Mierisch, Zambetti, Farrell, Hacker and President Zirk. Others present were Administrator Keller, Assistant Administrator Beith, Finance Director Blocker, and Attorney Tappendorf.

**Items for Discussion**

**Minutes from the October 7, 2014 Village Board Meeting**

There were no comments. The minutes will be placed on the next consent agenda.

**September 2014 Treasurer's Report**

There were no comments. The treasurer's report will be placed on the next consent agenda.

**Ordinance 20-14, an Ordinance approving a special use permit to allow a recycling business within the I-1 General Industrial zoning district located at 75 Koppie Drive**

Administrator Keller informed the Board that it was discovered in June that Copenhaver Construction was recycling dirt and asphalt. Mr. Copenhaver was informed that he would need a special use permit to continue with that line of business, so he stopped the recycling and went through the special use permit process before the Plan Commission. Administrator Keller drafted an ordinance with the 13 conditions and finding of fact from the Plan Commission.

Attorney Tappendorf stated that while making decisions and discussing, the Board Members need to keep Mr. Copenhaver's two properties separate. They need to look at the proposed standards placed on the property at 75 Koppie Drive.

Trustee Corbett verified that the two other recycling companies in the Village don't do the type of proposed recycling.

Trustee Hacker stated his concern for the noise and dust. Conditions similar to those placed on Elgin Recycling would be put in place, including the need for a dust control plan. The recycling would be limited to weekdays (excluding holidays) from 7:00 am – 5:00 pm.

The challenge to apply the noise control ordinance was discussed. Mr. Ken Copenhaver stated he would not be using a crusher, which is louder; however, he would be using a pulverizer, which is a belt that chews up dirt and asphalt.

Trustee Zambetti stated his concern for the amount of truck traffic. Mr. Copenhaver stated that the trucks typically drive from Koppie Drive, to Tyrrell Rd, to Route 72. Since Koppie Drive is maintained by the Village, Trustee Zambetti is concerned for the wear and tear on the road. Trustee Zambetti then stated his concern of the oil content in the asphalt that will be recycled. Mr. Copenhaver informed the Board that the EPA comes to the job site to test the asphalt before it is brought back to his property.

Trustee Mierisch questioned the proximity to the nearby residence and streams. Administrator Keller informed her that there are no natural features that are considered protected nearby, and the business is located in an Industrial Park. Trustee Mierisch then stated her concern of soil contamination by the grindings. Mr. Copenhaver restated that the EPA tests the grindings to make sure they are not contaminated. He added that the asphalt is milled out on the construction site, brought in by truck, then grinded on-site an additional time by the pulverizer. Trustee Mierisch questioned how the Village is assured that the grindings are free of contamination. Administrator Keller stated that the IEPA regulates that. He added that it is recommended that the material is enclosed in a blocked area. Mr. Copenhaver restated that the material is tested on-site before it would be brought back to his property.

Trustee Farrell requested clarification on a few of the conditions that the approval would be subject to. She questioned numbers 9 (Operator shall maintain gravel areas for dust control when warranted.) and 10 (All vehicles and storage shall be kept behind sightless fencing.). Mr. Copenhaver stated that he has a water truck on-site which will be used to spray the materials for dust control. Administrator Keller stated that #10 is a reiteration of the Village Code. The Board would like to see further specifications added to both 9 and 10. Administrator Keller informed the Board that a dust control plan will have to be provided by Mr. Copenhaver; however, it hasn't been submitted yet.

Trustee Zambetti questioned condition #8 (Any increase in permanent exterior storage capacity will require additional detention according to local standards and ordinance.). A discussion ensued regarding pervious and impervious surface.

President Zirk stated additional conditions he would like placed on the approval of the ordinance. He would like it stated that tests on the material will be completed on-site. He would like to see per load checking, the requirement of a reclamation bond, which encourages clean up by the company. Otherwise the Village can do the cleaning if needed. President Zirk stated his concern for the increase in truck traffic and the noise associated with it. He added that the Village has been working hard to raise the bar on Industrial users. He is not happy with the cement block enclosure. President Zirk doesn't feel it will help attract potential businesses. He added that since Mr. Copenhaver began the process without a recycling permit, he is concerned that Mr. Copenhaver may continue to not follow Village Ordinances and Village Code.



President Zirk doesn't support the ordinance because of the negative impact it may have on the community.

Trustee Mierisch stated that she agrees with that statement because of the negative impact it may have on the undeveloped property nearby and surrounding 75 Koppie Drive.

#### **Wastewater System Connection Fee Review**

A discussion ensued between Trustee Hacker and President Zirk regarding the fee associated with the expansion of the wastewater treatment plant and the developer and tap-on fees.

Trustee Hacker stated his concern if a developer were not to approach the Village any time soon as well his concern for increasing rates. He would like to see that the residents are protected, so dramatic rate increases don't occur.

Administrator Keller posed the question of what the connection fee should be.

The Board continued to discuss capacity.

Administrator Keller proceeded to explain the environmental regulations.

The Board then went over the Tap-On Fee Schedule which was provided to them.

Trustee Corbett inquired if the fee began at \$5,800 and gradually increased, after 20 years it would be greater than \$13,000, which is accurate.

A discussion ensued regarding future development.

The Board is leaning toward a progressive rate schedule.

President Zirk stated his concern for a lack of money if a developer were to come in and prepay their connection fee. He thought it might be more beneficial to set a rate of \$13,000.

#### **Water/Wastewater User Rates Review**

The Board looked over Table 5, the Water and Sewer Rate Study for surrounding municipalities. From viewing this it is seen that some communities aren't collecting enough money. Trustee Mierisch questioned the discrepancy in Elburn's charges compared to the rate the Board received approximately a year ago.

Administrator Keller went over each of the 5 tables presenting different rates and increases. He added that there is a need to be concerned with the additional Barium costs.

No action was taken at this time.

### **Staff Reports**

Administrator Keller informed the Board of the need to go into executive session.

### **Board of Trustee Reports**

Trustee Hacker questioned the street light being out at Tyrrell and Higgins. The light bulb was recently changed; however, the work had been rescheduled numerous times by the contractor.

### **President's Report**

None

### **Executive Session**

**A motion was made by Trustee Zambetti and seconded by Trustee Corbett to close a portion of the meeting to the public, effective immediately as permitted by 5ILCS 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 120/2 (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 with no business to follow.** Roll Call: Vote: 5-ayes: Trustees Corbett, Mierisch, Zambetti, Farrell, and Hacker. 0-nays. 0-abstained. Motion carried.

The Board members along with Administrator Keller, Assistant Administrator Beith, Finance Director Blocker, Attorney Tappendorf, and Administrative Clerk Danca went into Executive Session at 8:59 pm and returned to the public meeting at 9:18 pm. Roll Call: Trustees Corbett, Mierisch, Zambetti, Farrell, Hacker and President Zirk. Others Present: Administrator Keller, Assistant Administrator Beith, Finance Director Blocker, Attorney Tappendorf, and Administrative Clerk Danca.

### **Adjournment**

**A motion was made by Trustee Hacker and seconded by Trustee Zambetti to adjourn from the meeting at 9:19 pm.** Roll Call: Voice Vote: all ayes: Trustees Corbett, Mierisch, Zambetti, Farrell, and Hacker. 0-nays. 0-abstained. Motion carried.

Respectfully Submitted,

Karen Danca



DRAFT 10/21/14

VENDOR	GRAND TOTAL	GENERAL FUND	DEVELOPER DONATIONS	PERMIT PASS THRU	PERFORMANCE BONDS AND ESCROWS	WATER FUND	PAYROLL
	<b>80,368.38</b>	<b>63,294.48</b>	<b>5,500.00</b>	<b>-</b>	<b>8,823.42</b>	<b>2,750.48</b>	<b>-</b>
ANCEL, GLINK, DIAMOND, BUSH,	1,560.00				1,560.00		
BAXTER & WOODMAN, INC.	7,168.92	900.00			6,268.92		
CARD SERVICES	2,669.29	2,669.29					
BENEFIT PLANNING CONSULTANTS	100.00	100.00					
THE BUG MAN, INC	33.00	33.00					
CALL ONE	1,262.82	980.06				282.76	
CHICAGO COMMUNICATIONS	122.50	122.50					
COMMONWEALTH EDISON	1,303.21	1,303.21					
T. J. CONEVERA'S, INC.	700.00	700.00					
CUCCI AUTO GROUP LLC	295.04	295.04					
COMMUNITY UNIT SCHOOL	5,000.00		5,000.00				
ELMUND & NELSON CO.	326.00	326.00					
EMBASSY CANTEEN	49.03	49.03					
FACILITY SOLUTIONS GROUP	198.96	198.96					
GILBERTS POLICE PENSION FUND	2,436.90	2,436.90					
G.W. BERKHEIMER CO., INC	94.84	94.84					
NORTHERN KANE COUNTY	95.00	95.00					
KANE COUNTY DIVISION OF	1,744.80	1,744.80					
DAVID & DAWN KLAWIKOWSKI	398.25	398.25					
MCHENRY ANALYTICAL WATER	905.00					905.00	
MCCANN INDUSTRIES, INC.	48.65	48.65					
MDC ENVIRONMENTAL SVCS.	43,339.80	43,339.80					
MENARDS - CARPENTERSVILLE	112.97	7.98				104.99	
DUNDEE NAPA AUTO PARTS	498.01	498.01					
NICOR	291.74					291.74	
PROVENA ST. JOSEPH HOSPITAL	38.00	38.00					
RUTLAND-DUNDEE FPD	500.00		500.00				
SARGENTS EQUIPMENT	46.68	46.68					
SHERWIN INDUSTRIES, INC.	4,840.00	4,840.00					
SMITH AMUNDSEN LLC	100.00	100.00					
STAPLES ADVANTAGE	202.89	101.20				101.69	
SUBURBAN LABORATORIES	506.00					506.00	
NANCY D. SABATE	500.00	500.00					



**Ordinance 20-2014**

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR THE OPERATION OF A PULVERIZING USE WITHIN THE I-1 GENERAL INDUSTRIAL ZONING DISTRICT LOCATED AT 75 KOPPIE DRIVE**

**WHEREAS**, Mr. Ken Copenhaver has filed a petition with the Village Clerk of the Village of Gilberts, Illinois, for a special use permit to allow a recycling business within the I-1 General Industrial zoning district on property located at 75 Koppie Drive, Gilberts, IL; and,

**WHEREAS**, the Gilberts Plan Commission held a public hearing on August 13, 2014 and continued the hearing on October 8, 2014 to consider the request, and recommended approval of the special use permit, subject to conditions, by a vote of 5-0 (2 absent), as detailed on the attached findings of fact and recommendations (Exhibit "A"); now,

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

**Section 1.** The recitals set forth above are hereby incorporated into this Section 1.

**Section 2.** A special use permit to allow a recycling business within the I-1 General Industrial district on property at 75 Koppie Drive is hereby approved, subject to the following conditions:

1. The Applicant may only recycle and/or pulverize dirt/soils and asphalt grindings. The Applicant may not recycle concrete or other construction materials.
2. The Applicant shall pay the Village any fees for outstanding zoning, special use permit, building or property maintenance violations within ten (10) days of the approval of the special use permit ordinance. The Applicant shall also demonstrate compliance with all applicable codes and requirements within the same time period.
3. The Applicant shall apply for and maintain annually a recycling business license as required by Village Code Section 3-6 and Section 2-4-22.
4. The subject property owner/business operator shall submit to two inspections annually demonstrating conformance with all applicable local and state regulations.
5. All materials must be stored overnight in a block enclosure not to exceed 8 feet in height and total floor area dimensions of 300 feet by 600 feet in the location shown on the attached site plan. The materials shall not be stored so as to extend beyond the height or width of the block enclosure. All materials shall be stored so that they are not visible from any adjacent property or right of way.
6. All storage of recycled materials shall be contained to not allow migration of the same to adjoining properties or public ways.
7. The petitioner shall submit a site plan approved by a licensed engineer for review for compliance with all applicable zoning and special use permit conditions, as well as any

applicable state or federal environmental regulations. The site plan shall be accompanied by a topographic survey memorializing existing grade conditions for the entire property.

8. Any increase in permanent exterior storage capacity will require additional detention according to local standards and ordinance.
9. Operator shall maintain gravel areas for dust control when warranted.
10. All vehicles and storage shall be kept behind sightless fencing.
11. The petitioner shall submit to the Village of Gilberts and implement a plan for dust, debris and litter control to ensure their containment within the subject property.
12. All recycling activity shall be restricted to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday. There shall be no recycling activity on Saturdays, Sundays or federal or state holidays.
13. This special use permit is specifically granted to Copenhagen Construction/Hayden Properties for the use on the specified subject property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than Copenhagen Construction/Hayden Properties without the approval of a special use permit amendment by the Village of Gilberts.
14. Prior to starting any pulverizing activity, the Applicant shall post and keep current a reclamation bond to the benefit of the Village of Gilberts for an amount not less than \$177,200. The Village shall have the right to use the reclamation bond to remediate and restore the site to pre-activity conditions should the Applicant be found to have violated any terms of this special use permit, the Unified Development Ordinance or the Village Code.
15. Prior to starting any pulverizing activity, the Applicant shall establish a permanent, state-approved CCDD monitoring station at the entrance to the site. An inspector designated by the facility must inspect every load before its acceptance at the facility utilizing an elevated structure, a designated ground level inspection area, or another acceptable method as specified in the state permit. All loads brought to the site shall be accompanied by the IEPA Source Site Certification form, Uncontaminated Soil Certification form, or other applicable form as required by law. In addition to a visual inspection, the inspector must use an instrument with a photo ionization detector utilizing a lamp of 10.6 eV or greater or an instrument with a flame ionization detector, or other monitoring devices approved by the state, to inspect each load. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. The Applicant must record information about the rejected load and make the information available to the state and the Village. Rejected loads must be disposed of at a permitted landfill in accordance with all applicable state and federal laws. Any violation of this requirement shall give the Village grounds to rescind the special use permit for the subject property and call the above-referenced reclamation bond to remediate and restore the site to original conditions.
16. Any violation of any of the above-stated conditions or any other provision of this Ordinance, the Village's Unified Development Ordinance, Village Code, or any federal, state, or local law, ordinance, policy, regulation, or rule shall entitle the Village to seek any and all remedies available at law and equity, including revocation of this Ordinance, without requiring a hearing before the Plan Commission.

**Section 3. Severability.** In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

**Section 4. Repeal and Savings Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this ordinance.

**Section 5. Effective Date.** 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.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<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)

\_\_\_\_\_  
Village President Rick Zirk

ATTEST: \_\_\_\_\_  
Village Clerk, Debra 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. Ken Copenhaver  
**APPLICATION:** Special Use Permit  
**LOCATION:** 75 Koppie Drive

**I. GENERAL INFORMATION**

Complete information regarding the proposed amendment can be found in the staff report accompanying this application, VA54-14A, 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 August 13, 2014 and continued on October 8, 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**

Mr. Ken Copenhaver of Copenhaver Construction, petitioner, has requested approval of a special use permit to allow the recycling of soils and asphalt road grindings at the contractor's office/yard located at 75 Koppie Drive, Gilberts, IL.

**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.**

The proposed special use will be operated to comply with the applicable district regulations. The application of the proposed conditions will facilitate compliance with the Village's regulations.

**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 subject property is located in an industrial zoning district and removed from residential areas. The application of the proposed conditions would minimize any externalities that may potentially affect the surrounding area, which is already screened by the existing fence.

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

The addition of the recycling operations will not dominate the adjacent neighborhood, provided that all materials are contained within an enclosure or a building and do not migrate from the site.

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

The property is not presently served by public utility services. The proposed use will not demand new water or sewer service 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 special use permit includes conditions that would minimize any potential impacts on the surrounding area. The use is not essential to the preservation and promotion of public health and safety.

## 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. Ken Copenhaver for a special use permit to allow the recycling of soils and asphalt road grindings at the contractor's office/yard located at 75 Koppie Drive, Gilberts, IL, be approved. This recommendation is subject to the following conditions:

1. The Applicant may only recycle and/or pulverize dirt/soils and asphalt grindings. The Applicant may not recycle concrete or other construction materials.
2. The Applicant shall pay the Village any fees for outstanding zoning, special use permit, building or property maintenance violations within ten (10) days of the approval of the special use permit ordinance. The Applicant shall also demonstrate compliance with all applicable codes and requirements within the same time period.

3. The Applicant shall apply for and maintain annually a recycling business license as required by Village Code Section 3-6 and Section 2-4-22.
4. The subject property owner/business operator shall submit to two inspections annually demonstrating conformance with all applicable local and state regulations.
5. All materials must be stored overnight in a block enclosure not to exceed 8 feet in height and total floor area dimensions of 300 feet by 600 feet in the location shown on the attached site plan. The materials shall not be stored so as to extend beyond the height or width of the block enclosure. All materials shall be stored so that they are not visible from any adjacent property or right of way.
6. All storage of recycled materials shall be contained to not allow migration of the same to adjoining properties or public ways.
7. The petitioner shall submit a site plan approved by a licensed engineer for review for compliance with all applicable zoning and special use permit conditions, as well as any applicable state or federal environmental regulations. The site plan shall be accompanied by a topographic survey memorializing existing grade conditions for the entire property.
8. Any increase in permanent exterior storage capacity will require additional detention according to local standards and ordinance.
9. Operator shall maintain gravel areas for dust control when warranted.
10. All vehicles and storage shall be kept behind sightless fencing.
11. The petitioner shall submit to the Village of Gilberts and implement a plan for dust, debris and litter control to ensure their containment within the subject property.
12. All recycling activity shall be restricted to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday. There shall be no recycling activity on Saturdays, Sundays or federal or state holidays.
13. This special use permit is specifically granted to Copenhaver Construction/Hayden Properties for the use on the specified subject property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than Copenhaver Construction/Hayden Properties without the approval of a special use permit amendment by the Village of Gilberts.

Passed / Not Passed and Approved / Not Approved by the Plan Commission/Zoning Board of Appeals of the Village of Gilberts, Illinois, this 8<sup>th</sup> day of October 2014, by a vote of \_\_\_ aye, \_\_\_ nay, \_\_\_ absent.

---

Randy Mills, Chair

# 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**  
August 8, 2014  
Updated October 6, 2014

**TO:** Village of Gilberts Plan Commission/Zoning Board of Appeals

**RE:** Special Use Permit – 75 Koppie Drive

**I. GENERAL INFORMATION**

- |                                    |  |
|------------------------------------|--|
| A. Purpose                         | To approve a special use permit to allow a recycling business  |
| B. Location                        | 75 Koppie Drive  |
| C. Access                          | Koppie Drive   |
| D. Size                            | 20.2 acres   |
| E. Existing Zoning                 | I-1 General Industrial   |
| F. Existing Land Use               | Contractor's office/yard   |
| G. Proposed Land Use               | Addition of materials recycling  |
| H. Surrounding Zoning and Land Use | North: I-1, agricultural<br>South: A-1, agricultural<br>East: I-1, agricultural<br>West: Kane County Forest Preserve |
| I. Floodplain                      | Zone X (not in floodplain zones)   |
| J. Comprehensive Plan Designation  | Industrial   |

## II. APPLICANT'S REQUEST

Mr. Ken Copenhaver of Copenhaver Construction, petitioner, has requested approval of a special use permit to allow the recycling of soils and asphalt grindings at the contractor's office/yard located at 75 Koppie Drive, Gilberts, IL. UDO Section 10-6-3, Paragraph 2 requires the approval of a special use permit to allow recycling activities within the I-1 zoning district.

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

The subject property is approximately 20.2 acres in size and is located on Koppie Drive, west of Galligan Road, and is known as the former location of the W. Kost truss manufacturing plant. The property is zoned I-1 General Industrial and is located at the southern end of the Gilberts Corporate Park, an undeveloped industrial subdivision. The property is surrounded by other undeveloped properties zoned for industrial uses with individual residences nearby. The property is encircled by an existing fence.

## IV. DISCUSSION

In 2012, Copenhaver Construction acquired the former W. Kost truss manufacturing property, located at 75 Koppie Drive. Mr. Copenhaver subsequently expanded his contractor's office and yard activities from his Sola Drive property to the Koppie Drive property, including the storage of equipment and piles of materials for his road construction business. In June 2014, it was brought to Staff's attention that Mr. Copenhaver was pulverizing soil and asphalt road grindings at the subject property, which constitutes a "recycling" function for which the UDO requires a special use permit. Staff issued a stop work order on the materials recycling activity, prompting Mr. Copenhaver to apply for the required special use permit.

The addition of the recycling function raises questions about noise, vibration and dust that may be generated by the site. As a contractor's yard, piles of construction materials are already present, but the addition of the recycling function may create additional externalities that will require mitigation or conditions of approval. Staff had requested an engineer's stamped topographic survey and a site plan showing the proposed locations for the pulverizing equipment and stockpiles in relation to the existing buildings. The topographic survey will also memorialize existing ground conditions and elevations to inhibit migration or spreading of soils or grindings without a permit.

## V. STANDARDS OF SPECIAL USE

- 1. The proposed use complies with the applicable district regulations.**  
The proposed special use will be operated to comply with the applicable district regulations. The application of the proposed conditions will facilitate compliance with the Village's regulations.
- 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 subject property is located in an industrial zoning district and removed from residential areas. The application of the proposed conditions would minimize any externalities that may potentially affect the surrounding area, which is already screened by the existing fence.

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

The addition of the recycling operations will not dominate the adjacent neighborhood, provided that all materials are contained within an enclosure or a building and do not migrate from the site.

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

The property is not presently served by public utility services. The proposed use will not demand new water or sewer service 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 special use permit includes conditions that would minimize any potential impacts on the surrounding area. The use is not essential to the preservation and promotion of public health and safety.

## **VI. CITIZEN INPUT**

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

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

Mr. Ken Copenhaver of Copenhaver Construction, petitioner, has requested approval of a special use permit to allow the recycling of soils, concrete, asphalt and other construction materials at the contractor's office/yard located at 75 Koppie Drive, Gilberts, IL. The proposed use will not be detrimental to the immediate area nor to the public welfare at large as the subject property is located in an industrial zoning district. As a contractor's yard, piles of construction materials are already present, but the addition of the recycling function may create additional externalities that will require mitigation or conditions of approval. The application of the proposed conditions would minimize any externalities that may potentially affect the surrounding area, which is already screened by the existing fence.

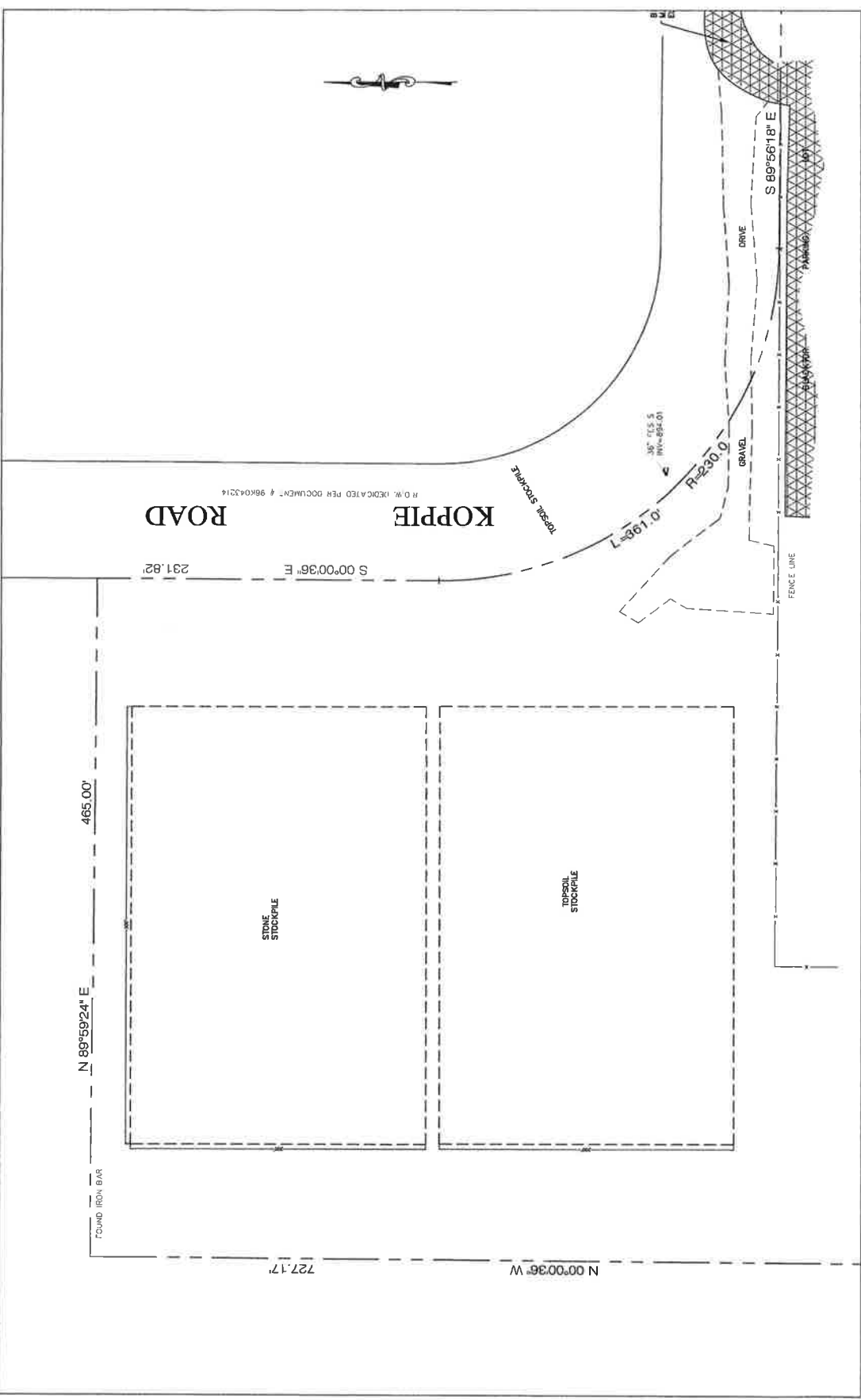
Therefore, staff recommend approval of the request, subject to the following conditions of approval:

1. The Applicant may only recycle and/or pulverize dirt/soils and asphalt grindings. The Applicant may not recycle concrete or other construction materials.
2. The Applicant shall pay the Village any fees for outstanding zoning, special use permit, building or property maintenance violations within ten (10) days of the approval of the special use permit ordinance. The Applicant shall also demonstrate compliance with all applicable codes and requirements within the same time period.
3. The Applicant shall apply for and maintain annually a recycling business license as required by Village Code Section 3-6 and Section 2-4-22.
4. The subject property owner/business operator shall submit to two inspections annually demonstrating conformance with all applicable local and state regulations.
5. All materials must be stored overnight in a block enclosure not to exceed 8 feet in height and total floor area dimensions of 300 feet by 600 feet in the location shown on the attached site plan. The materials shall not be stored so as to extend beyond the height or width of the block enclosure. All materials shall be stored so that they are not visible from any adjacent property or right of way.
6. All storage of recycled materials shall be contained to not allow migration of the same to adjoining properties or public ways.
7. The petitioner shall submit a site plan approved by a licensed engineer for review for compliance with all applicable zoning and special use permit conditions, as well as any applicable state or federal environmental regulations. The site plan shall be accompanied by a topographic survey memorializing existing grade conditions for the entire property.
8. Any increase in permanent exterior storage capacity will require additional detention according to local standards and ordinance.
9. Operator shall maintain gravel areas for dust control when warranted.
10. All vehicles and storage shall be kept behind sightless fencing.
11. The petitioner shall submit to the Village of Gilberts and implement a plan for dust, debris and litter control to ensure their containment within the subject property.
12. All recycling activity shall be restricted to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday. There shall be no recycling activity on Saturdays, Sundays or federal or state holidays.
13. This special use permit is specifically granted to Copenhaver Construction/Hayden Properties for the use on the specified subject property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than Copenhaver Construction/Hayden Properties without the approval of a special use permit amendment by the Village of Gilberts.

Respectfully Submitted,

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





DATE	ISSUE	SCALE
08-01-14	1	AS SHOWN

### SITE PLAN

Prepared For:	Property Address:	Scale:
Doppelbauer Construction	75 Koppie Gilbert, Illinois	1" = 20'
Revised:		DATE
X		X

**Stetner & Associates**  
 866 St Charles St  
 Elgin, Illinois 60120  
 847-704-6675



APPLICATION FOR  
SPECIAL USE

CASE# 2402-2011  
Revision #1: \_\_\_\_\_  
Revision #2: \_\_\_\_\_  
Revision #3: \_\_\_\_\_  
For office use only

Development Name: Copenhagen Construction Date of Submission: 7/24/2014

I. APPLICANT:

Ken Copenhagen  
Name

Hayden Properties  
Corporation

75 Kippie Drive  
Street

Gilberts  
City

State

Zip Code

Ken Copenhagen 847-627-0080 847-428-6696  
Contact Person Telephone Number Fax Number

Owner  
Relationship of Applicant to subject Property (e.g. Owner, Developer, Contract Purchaser, etc.)

II. ACTION REQUESTED (Check applicable boxes):

Rezoning from \_\_\_\_\_ to \_\_\_\_\_

Special Use for Pulverizing Topsoil and Grindings (Recycle material For IDOT Job  
IDOT Tests All materials on site

Any additional requests, which are being processed with the Special Use (i.e. variances subdivision, etc.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is this development within the Village limits?

- Yes.
- No, requesting annexation.
- Under review by another governmental agency and requires review due to 1.5 mile jurisdictional requirements.

III. DEVELOPERS STAFF:

Attorney: SCOTT Richmond Telephone Number: 847-695-2444 Fax Number \_\_\_\_\_

Builder: Copenhagen Construction Telephone Number: 847-627-0280 Fax Number 847-408-6798

Developer: \_\_\_\_\_ Telephone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_

Engineer: STETTLER ASS Telephone Number: 847-308-5590 Fax Number \_\_\_\_\_

IV. PROJECT DATA:

1. General Location: 75 Koppie Drive Gilberts Northwest Corner of property - Approximately 4 acres of Farm Land

a. County: Kane

b. Township: Putnam Township

c. PIN#(s): 02-14-400-015

2. General description of the site: 4 acres of farm land, dirt ground

3. Existing zoning on the site: Industrial

4. Acreage of the site: 4 acres

5. Character of surrounding area:

	Zoning	Jurisdiction	Existing Land Use	Adopted Village Plan
North	<u>Agriculture</u>		<u>Farming</u>	
South	<u>Agriculture</u>		<u>Farming</u>	<u>Road For development</u>
East	<u>Industrial</u>		<u>Copenhagen Const.</u>	
West			<u>Rail road Tracks</u>	

6. List Controlling Ordinances (annexation agreement, development agreement, site plans, any ordinances annexing or zoning the property etc.): \_\_\_\_\_

Zoned Industrial

7. Detailed description of the Special Use requested including type of use, square footage or building or space to be occupied, by the Special Use, hours of operation, and number of parking spaces to be provided: \_\_\_\_\_

Recycle for IDOT projects black dirt and stone, Brought in  
From job sites recycled and bring back. 175,000 sq ft. of Farm land  
hours 7-5 Monday - Thursday. No parking necessary,

DISCLOSURE OF BENEFICIARIES

Name Ken Copenhaver

Address 75 Koppie Drive Gilberts IL 60136

2) Nature of Benefit sought: Recycle material

3) Nature of Applicant: (please check one)

- a. Natural Person
- b. Corporation
- c. Land Trust/Trustee
- d. Trust/Trustee
- e. Partnership
- f. Joint Venture

4) If applicant is an entity other than described above, briefly state the nature and characteristics of applicant:

5) If in your answer to Section 3 you checked box b, c, d, e or f. identify by name and address each person or entity which is a 5% shareholder in the case of a corporation, a beneficiary in the case of a trust or land trust, a joint venture in the case of C3Se of a joint venture, or who otherwise has a proprietary interest, interest in profits and losses or right to control such entity:

a.	Name	Address	Interest
	<u>Ken Copenhaver</u>	<u>12 Little Bend Borington Hills 60136</u>	<u>100% Share holder</u>
b.			
c.			
d.			

6) Name, address and capacity of person making this disclosure on behalf of the applicant:

Ken Copenhaver

**IMPORTANT NOTE: In the event your answer to Section 5 identifies entities other than a natural person, additional disclosures are required for each entity.**

VERIFICATION

I, Ken Copenhaver being first duly sworn under oath, depose and state that I am the person making this disclosure on behalf of the applicant, that I am duly authorized to make this disclosure, that I have read the above and foregoing Disclosure of Beneficiaries, and that the statements contained therein are true in both substance and fact.

[Signature]

Subscribed and Sworn to before me this 24 day of July, 2014.

[Signature]  
Notary Public



**ORDINANCE 21-2014**

**AN ORDINANCE DENYING A SPECIAL USE PERMIT FOR THE OPERATION OF A PULVERIZING USE WITHIN THE I-1 GENERAL INDUSTRIAL ZONING DISTRICT LOCATED AT 75 KOPPIE DRIVE**

**WHEREAS**, Ken Copenhaver of Copenhaver Construction owns the property located at 75 Koppie Drive, Village of Gilberts, Illinois ("**Property**"); and

**WHEREAS**, in June of this year, the Village discovered that the Property was being used to stockpile and pulverize soil and asphalt grindings; and

**WHEREAS**, the Village notified the owner that the use of the Property for pulverizing soil and asphalt grindings is not a permitted use in the I-1 General Industrial zoning district in which the Property is zoned; and

**WHEREAS**, subsequently, Copenhaver ("**Applicant**") filed a petition with the Village Clerk for a special use permit to allow a recycling business on the Property; and

**WHEREAS**, the Gilberts Plan Commission held a public hearing on August 13, 2014, and continued the hearing on October 8, 2014 to consider the Applicant's request, and recommended approval of the special use permit, subject to 13 conditions, by a vote of 5-0 (2 absent), as detailed on the findings of fact and recommendations attached as **Exhibit A**; and

**WHEREAS**, on October 14, 2014, the Committee of the Whole of the Village Board of Gilberts reviewed the Plan Commission's recommendations and the Applicant's special use permit application; and

**WHEREAS**, section 10-10-11E of the Village's Unified Development Ordinance contains a number of standards that an applicant must establish in order to be granted a special use permit; and

**WHEREAS**, during the Committee of the Whole meeting, the Village Board members analyzed and applied the special use permit standards of the UDO in connection with the Applicant's application for a special use permit for the Property; and

**WHEREAS**, based on the discussions at the Committee of the Whole meeting, and pursuant to its authority under state statute and the UDO, the Village Board of Trustees has determined that the Applicant has failed to establish that its proposed special use permit for the Property meets all of the standards required by section 10-11-11E, and, therefore, it is in the best interests of the Village and its residents that the special use permit be denied;

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

**Section 1.**     **Recitals.** The above-stated recitals are incorporated into this Ordinance by reference.

**Section 2.**     **Findings of Fact.** The Village Board makes the following findings of fact in reference to the Applicant's application for a special use permit for the Property:

1.     The Applicant failed to establish that the proposed special use permit complies with district zoning regulations. Specifically, the Village Board finds that the Applicant's request to pulverize soil and asphalt grindings on the Property is not consistent with the type of recycling uses that have been previously approved in the I-1 district and, therefore, is not an appropriate use on the Property.
2.     The Applicant failed to establish that the proposed special use will not be unreasonably detrimental to the value of neighborhood property. The Village Board finds that the proposed pulverizing use is not the type of recycling use that the Village desires in that location, and that its proximity to nearby residential, open space, and other uses could impact property values in that neighborhood.
3.     The Applicant failed to establish that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property. Specifically, the Village Board finds that the proposed pulverizing use would, in fact, dominate the immediate area of the Property and could prevent future uses on neighboring properties that are appropriate and desirable to the Village, and that are more consistent with the Village's vision for this area and industrially zoned properties in the Village.
4.     The Applicant failed to establish that there are adequate utility and drainage facilities. In fact, evidence presented to the Village Board demonstrated that no additional drainage facilities will be provided as part of the special use permit application, and that the proposed use has the potential to alter the grade of the Property in a manner that could adversely impact drainage patterns in the area.
5.     The Applicant failed to establish that the proposed special use will not be detrimental to other uses in the district, is visually compatible with the surrounding area, and is deemed essential or desirable to preserve and promote the public health, safety, and welfare of the Village. The Village Board finds that the proposed use could have adverse noise and dust impacts on neighboring properties. The Board also finds that the proposed pulverizing use is not visually consistent with the type of future uses as contemplated by the Village in its comprehensive plan. The Board finds that the pulverizing use would increase truck traffic in the area. The Board also finds that a pulverizing use is not essential to preserve and promote the public health, safety, and welfare of the Village, a finding that the Plan Commission also made. In fact, the Board finds that there is a potential for harm to the neighboring area and the Village from the proposed pulverizing use, including the potential for migration of materials, alteration of grade on the Property, and contamination from the pulverization of asphalt grindings on the Property. Finally, the village Board finds that even if all 13 conditions recommended by the Plan Commission are imposed and met, that would still not be enough to mitigate the impact the proposed use would have on neighboring properties.

**Section 3. Decision.** Based on the Board's findings of fact set forth in section 2 of this Ordinance, as well as the discussions at the Committee of the Whole and Village Board meetings, the Village Board hereby denies the Applicant's request for a special use permit to allow a recycling business at the Property.

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

**Section 5. Repeal and Savings Clause.** All ordinances or parts of ordinances in conflict with this Ordinance 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.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect from and after its approval in the manner provided by law.

**PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2014.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<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)

\_\_\_\_\_  
Village President Rick Zirk

ATTEST: \_\_\_\_\_  
Village Clerk, Debra Meadows

Published: \_\_\_\_\_

RESOLUTION

VILLAGE OF GILBERTS

Authorizing the purchase agreement between the Village of Gilberts and Biggers Chevrolet, Elgin, Illinois for one 2015 Chevrolet Colorado Truck

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 authorizes the Village President and Village Clerk to execute a purchase agreement between the Village of Gilberts and Biggers Chevrolet, Elgin, Illinois and such documents as are necessary and convenient to effectuate the purchase of one 2015 Chevrolet Colorado truck in the amount not to exceed \$21,117.00 as attached hereto and made a part hereof as Exhibit A as approved.

Section 2:

This Resolution shall take full force and effect upon its passage and approval as provided by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	_____	_____	_____	_____
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Louis Hacker	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Patricia Mierisch	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

\_\_\_\_\_  
Rick Zirk  
Village President

(SEAL)

ATTEST:

\_\_\_\_\_  
Debra Meadows  
Village Clerk



Exhibit "A"

**RETAIL ORDER FOR A MOTOR VEHICLE**

10/13/14

DEAL# N/A

**BIGGERS CHEVROLET**

1385 E. CHICAGO ST. • ELGIN, ILLINOIS 60120  
847-742-9000 • www.biggerschevy.com



VILLAGE OF GIBBERTS

DATE

73 INDUSTRIAL DRIVE

DEALER'S NAME

GILBERTS IL 60136

STREET ADDRESS

CITY

STATE

(847) 428-4167

COUNTY

FLEET DEPARTMENT

"We'll Beat any Chevrolet Deal"

SALESMAN'S NAME

RES. PHONE

BUS. PHONE

SOURCE:  NEWSPAPER  T.V.  NEW  CAR  
 RADIO  REPEAT CUSTOMER  USED  TRUCK YEAR 15 MAKE CHEVROLET TRUCK MODEL COLORADO  
 BODY MVI OR  
 TYPE EXT CAB COLOR RED TRIM BLK SERIAL NO.

MILEAGE AT SALE

STOCK NO.

CASH DELIVERED PRICE OF UNIT \$ 21117.00

**USED CAR TRADE-IN AND/OR OTHER CREDITS**

DEALER INSTALLED OPTIONS

ALL STANDARD EQUIPMENT N/A  
 PLUS OPTIONS  
 6 SPEED AUTO TRANS

WE ~~CHARGE~~ CHARGES \$ N/A

WT CONVINERWER PICK  
 RIAN SIA DILASTE  
 FLOOR COVERING BAYL

MAKE OF TRADE-IN	
YEAR	MODEL BODY
MVI OR SERIAL NO.	
MAKE OF TRADE-IN	
YEAR	MODEL BODY
MVI OR SERIAL NO.	
BALANCE OWED TO	
ADDRESS	
USED TRADE-IN ALLOWANCE	\$ N/A
BALANCE OWED ON TRADE-IN	N/A
NET ALLOWANCE ON USED TRADE-IN	\$ N/A
DEPOSIT OR CREDIT BALANCE	N/A
DOWN PAYMENT (Trans. to Left Col.)	\$ N/A

LIC. NO. EXPIRES

STICKER NO.

DRIVER'S LIC. NO.

SOC. SEC. NO.

**CUSTOMER GUARANTEES TRADE TITLE(S) ARE NOT SALVAGED OR REBUILT TITLE(S).**

DOCUMENTARY FEE, A DOCUMENT SERVICE FEE IS NOT AN OFFICIAL FEE, A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATED TO CLOSING OF A SALE. THE BASE DOCUMENTARY FEE BEGINNING JANUARY 1, 2008, WAS \$150. THE MAXIMUM AMOUNT THAT MAY BE CHARGED FOR A DOCUMENTARY FEE IS THE BASE DOCUMENTARY FEE OF \$166.27 WHICH SHALL BE SUBJECT TO AN ANNUAL RATE ADJUSTMENT EQUAL TO THE PERCENTAGE OF CHANGE IN THE BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX. THIS NOTICE IS REQUIRED BY LAW.

**DISCLAIMER OF IMPLIED WARRANTY:** Unless prohibited by law, such as when a service contract or warranty is provided by dealer, this vehicle is sold "AS IS" and dealer hereby expressly disclaims all warranties, either express or implied, including any IMPLIED WARRANTY OF MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE.

**CONSEQUENTIAL AND INCIDENTAL DAMAGES -** Purchaser shall not be entitled to receive from dealer any consequential and incidental damages, including but not limited to damages to property, damages for loss of use, loss of profits or income or any other consequential or incidental damages whether liability is based on breach of warranty, contract or tort, strict liability or any other statutory or common law theory of liability.

**LIMITED DURATION OF IMPLIED WARRANTIES -** Where the Disclaimer of Implied Warranties is prohibited by law, the maximum duration of implied warranties is limited to the duration of the service contract or written warranties provided by dealer.

**USED VEHICLES:** THE INFORMATION YOU SEE ON THE WINDOW FORM (E.T.C. BUYER'S GUIDE) FOR THIS VEHICLE IS PART OF THE CONTRACT. E.T.C. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT.

CASH SALE PRICE OF DESCRIBED MOTOR VEHICLE \$ 21117.00

DOCUMENTARY FEE

STATE AND LOCAL TAXES N/A

COOK COUNTY TAX N/A

OPTIONAL ERT FEE

LICENSE, LICENSE TRANSFER, TITLE, REGISTRATION FEE 105.00

1. TOTAL PRICE OF UNIT \$ 21222.00

2. DOWN PAYMENT consisting of \$ N/A in cash and/or \$ N/A net trade-in allowance on trade-in; see statement in right hand column for details.

3. UNPAID CASH BALANCE DUE ON DELIVERY (difference between items 1 and 2) \$ 21222.00

Except as provided herein, this contract is non-cancelable once it is accepted by the signature of an authorized representative of dealer. In the case of a purchase wherein dealer is being requested to obtain financing, dealer is not obligated to sell UNTIL A THIRD PARTY FINANCE SOURCE agrees to purchase the retail installment contract executed by Purchaser and dealer, based on this transaction. Purchaser certifies that he/she is of majority age and has received a true copy of this order. This statement is to verify that all identifying numbers contained in this bill of sale agree with the numbers in the certificate of title. Purchaser certifies that the information about my trade-in is correct including odometer information and the year of the vehicle and that the trade-in is not now and never has had a "rebuilt" or "salvage" title. Any discrepancies in the mileage, salvage title or year will result in Biggers Chevrolet reappraising the vehicle and I will pay the difference. Purchaser further certifies that he/she will pay the difference in cash within three days of demand if the payoff information is incorrect, and all outstanding liens are satisfied. THIS BILL OF SALE IS NOT A RECEIPT FOR YOUR MONEY. A SEPARATE, NUMBERED RECEIPT IS GIVEN FOR ALL MONIES PAID. PRICE INCLUDES ALL DISCOUNTS SUCH AS SPECIAL AD CHECKS, REBATES AND ANY DEALER PROMOTIONS.

DISPUTE RESOLUTION: The parties agree that any and all disputes and controversies of any kind and nature between Buyer(s) and Biggers Chevrolet arising out of or in connection with the purchase or financing of the vehicle shall be submitted to binding arbitration pursuant to the Federal Arbitration Act, Title 9, U.S.C. Section 1 et seq. and/or the Illinois Alternative Dispute Resolution Uniform Arbitration Act, 710 ILCS 5/1 et seq. and in accordance with the procedures set forth on the reverse side of this Buyer's order. The parties further waive any right to a trial by jury concerning such dispute.

**PURCHASER AGREES THAT THIS ORDER INCLUDES ALL OF THE TERMS AND CONDITIONS ON BOTH THE FRONT AND BACK SIDE HEREOF AND THAT THIS CONTRACT CANCELS AND SUPERSEDES ANY PRIOR AGREEMENT INCLUDING ORAL AGREEMENTS.**

10/13/14

ACCEPTED BY:

PURCHASER'S SIGNATURE

DATE

DEALER OR HIS AUTHORIZED REPRESENTATIVE

