

**VILLAGE OF GILBERTS**

**KANE COUNTY**

**STATE OF ILLINOIS**

**ORDINANCE NUMBER 01-2017**

**An Ordinance Approving a Special Use Permit to Allow for a School Building  
Expansion at Gilberts Elementary School, 729 Paperbark Lane**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE  
VILLAGE OF GILBERTS  
KANE COUNTY  
STATE OF ILLINOIS**

Jan. 17 2017

Published in pamphlet form by authority of the President and Board of Trustees of  
the Village of Gilberts, Kane County, Illinois this 17<sup>th</sup> day of Jan, 2017

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ORDINANCE NO. 01-2017

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT  
TO ALLOW FOR A SCHOOL BUILDING EXPANSION AT GILBERTS  
ELEMENTARY SCHOOL, 729 PAPERBARK LANE**

**WHEREAS**, Community Unit School District 300 ("**Applicant**"), the owner of the property consisting of approximately fifteen acres, located at 729 Paperbark Lane, and described on **Exhibit A** ("**Property**"), desires to expand the existing public elementary school on the Property; and

**WHEREAS**, the Property is currently zoned in the R-3 zoning district, which allows for assembly uses, which includes school uses, as a special use; and

**WHEREAS**, the Applicant has filed an application for a special use permit to expand the existing school use through the construction of a two-story building addition to Gilberts Elementary School; and

**WHEREAS**, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the request on January 11, 2017, and at the conclusion of the public hearing voted unanimously to recommend approval of the special use permit to allow for the expansion of the existing school use through the construction of a two-story building addition to Gilberts Elementary School of approximately 4,700 square feet; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the application for approval of the special use permit for the expansion of the existing public elementary school on the Property:

1. The proposed special use complies with all provisions of the applicable district regulations.
2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large.
3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
4. Adequate utility, drainage, and other necessary facilities have been or will be provided.
5. The proposed special use, where such developments and uses are deemed consistent with good planning practice, can be operated in a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted

uses in the surrounding area; shall conform to the applicable regulations of the district; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the Village.

**WHEREAS**, based on the findings of fact detailed above, the Village Board has determined that the Applicant's request meets the standards of both state statute and the Gilberts Unified Development Ordinance ("UDO") for approval of the special use permit for the Property, subject to the conditions set forth in this Ordinance.

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

**Section 1. Recitals.** The recitals are incorporated into this Section 1 as if fully set forth.

**Section 2. Special Use Permit.** Subject to the conditions set forth in Section 3 of this Ordinance, the Village Board of Trustees hereby approves a special use permit pursuant to Section 10-3-3(3) of the UDO to allow for the expansion of the existing school use on the Property through the construction of a two-story building addition to Gilberts Elementary School.

**Section 3. Conditions.** The approval granted pursuant to Sections 2 of this Ordinance is conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approval granted by this Ordinance in accordance with applicable law. In addition, any violation of this Ordinance will be deemed a violation of the UDO and subject the Owner to enforcement proceedings accordingly.

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to the approval granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits, approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law, including, without limitation, approval of final engineering plans and issuance of required permits.
- B. **Compliance with Laws.** The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. **No Transfer of Special Use Permit.** The special use permit granted by this Ordinance is specifically granted to the Applicant for use on the Property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than the Applicant without an amendment to the special use permit approved by the Village of Gilberts.

**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 Saving Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

**Section 6. Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the Applicant has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit B**, within 30 days following the passage of this Ordinance.

ADOPTED THIS 17<sup>th</sup> DAY OF January, 2017, pursuant to roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee David LeClercq	✓	_____	_____	_____
Trustee Dan Corbett	✓	_____	_____	_____
Trustee Nancy Farrell	✓	_____	_____	_____
Trustee Louis Hacker	_____	_____	✓	_____
Trustee Elissa Kojzarek	✓	_____	_____	_____
Trustee Guy Zambetti	✓	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS 17<sup>th</sup> DAY OF January, 2017



[Signature]  
Village President, Rick Zirk

[Signature]  
Village Clerk, Debra Meadows

Published: 1/18/2018

**Exhibit A**

**Property Description**

Permanent Index Number (PIN): 02-13-100-004

Commonly known as: 729 Paperbark Lane, Gilberts, IL 60136

**Legal Description:**

Lot 1013 in proposed clublands of Gilberts POD 2, being a subdivision of part of the southwest quarter of Section 12 and the northwest quarter of Section 13, Township 42 North, Range 7 East of the Third Principal Median, in Kane County, Illinois.

**Exhibit B**  
**Unconditional Agreement and Consent**

Pursuant to Section 6 of Ordinance No. 01-2017, and to induce the Village to grant the approvals provided for in that Ordinance, the undersigned acknowledges for itself and its successors and assigns in title to the Property that it:

1. Has read and understand all of the terms and provisions of Ordinance No. 01-2017;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the owner or lessee against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. Represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant.

**Community Unit School District 300**

By: Surd. Harbi

Its COO