

**Plan Commission/Zoning Board of Appeals Meeting
Village of Gilberts
87 Galligan Road
Gilberts, IL 60136
June 17, 2015
7:00 p.m.**

AGENDA

1. CALL TO ORDER

2. ROLL CALL/ESTABLISH QUORUM

3. APPROVAL OF MINUTES

A. April 22, 2015

4. NEW BUSINESS

- A. Public hearing on a petition by Mr. Demitri Stavropoulos for a variance from the Unified Development Ordinance, Chapter 10 "Nonconformities" for his property at 214 Galligan Road.
- B. Public hearing on a petition by B Square Inc. for a special use permit at 211 W. Higgins Road to allow an indoor car sales business in the I-1 zoning district.

5. OLD BUSINESS

6. COMMUNICATIONS

7. ADJOURNMENT

NOT APPROVED MINUTES

**Village of Gilberts
87 Galligan Road
Gilberts, Illinois 60136
Plan Commission Meeting Minutes
April 22, 2015
7:00 p.m.**

Call to Order

Vice Chairperson Davidowski called the meeting to order at 7:00 p.m.

Roll Call/Establish Quorum

Present were Commissioners Borgardt, del Vecchio, Sullivan, and Vice Chairperson Davidowski. Also present was Village Administrator Keller. Not present was Chairman Mills.

Commissioner McHone arrived at 7:11 pm.

Approval of Minutes

A motion was made by Commissioner Sullivan and seconded by Commissioner Mills to approve the minutes of October 8, 2014. Roll Call. Unanimous Voice Vote: all ayes. (Commissioners Borgardt, del Vecchio, Knudsen, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

New Business

Public hearing on a petition by Mr. Demitri Stavropoulos to rezone property commonly known as 214 Galligan Road from P Conservancy to I-1 General Industrial Zoning District

Administrator Keller gave a brief description of the property. The property is unpaved and undeveloped, except for a 4,000 square foot metal building. He added that the P Conservancy zoning dates back from the 1971 Zoning Ordinance.

A motion was made by Commissioner Borgardt and seconded by Commissioner Sullivan to open the public hearing. Roll Call: Unanimous Voice Vote: all ayes. (Commissioners Borgardt, del Vecchio, Knudsen, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Due to some concern from those in attendance, petitioner Demitri Stavropoulos stated that he believes nine to twelve years ago batteries may have been buried on the property. However, they have been cleaned up according to the EAP regulations.

He added that his company purchased the property and is looking for a potential buyer which will suit the zoning he is requesting, such as a landscaping or trucking company.

Resident Darlene Schuman questioned the location of the property. Administrator Keller located the property on a map for her.

Mr. Stavropolous informed those in attendance that the property was not a formal junk yard as suggested by some.

Ms. Barb Davis stated that she recently inherited her mother's house and stated her concern for truck traffic. Administrator Keller explained that an ordinance would prohibit truck traffic from entering Old Town.

Commissioner McHone arrived at 7:11 pm.

Administrator Keller distributed 2 letters submitted by residents who could not attend the meeting which are attached for the record.

Vice Chairperson Davidowski raised concerns for a trucking depot and possible noise, dust and fumes. She asked if there would be restrictions applied. Administrator Keller stated that the motion for rezoning would either have to be approved or denied. It could not be approved with conditions.

Resident Mike Doherty asked if the zoning distinguished between light or heavy manufacturing. The village's zoning does not. However, certain trucking would require a special use.

The Plan Commission members read the letters entered into the record.

A motion was made by Commissioner del Vecchio and seconded by Commissioner McHone to close the public hearing. Roll Call: Vote: 6 ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Commissioner Sullivan questioned whether the property was on well and septic, which it is. Commissioner McHone questioned if there were regulations on having a septic tank to ensure that illegal dumping isn't occurring. Administrator Keller explained how that issue would be monitored by the Kane County Health Department.

Commissioner Knudsen questioned the distance the property is from Old Town. It is approximately 800 feet from the Old Town residential area and 600 feet south of Koppie Drive.

Commissioner del Vecchio asked whether there was any property within the village limits zoned P Conservancy.

Vice Chairperson Davidowski questioned if the business would have to comply with the current building codes. Administrator Keller explained that if the building were to be used as it exists, at this time it would be a legal nonconforming structure. Once changes would be made to the building, the business would have to comply with the Village code, such as adding a trash enclosure, etc. Commissioner Knudsen gave an explanation as well.

Commissioner del Vecchio referred to the first letter entered into the record and whether the property could be rezoned as residential. Administrator Keller stated that the property is 800 feet from Old Town. There is agricultural zoning to the west. It is in between residential and industrial. He added that he doesn't foresee it being rezoned as residential.

Commissioner Sullivan questioned what were to happen if they were to deny the petition. Administrator Keller stated that the Village Board would make the final decision and added that the property would not have any valid uses if it was voted down.

A motion was made by Commissioner Borgardt and seconded by Commissioner del Vecchio to recommend approval to the Village Board to rezone property commonly known as 214 Galligan Road from P Conservancy to I-1 General Industrial Zoning District. Roll Call: Vote: 6 ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

This matter will be placed on the Committee of the Whole Agenda for Tuesday, May 12.

Public hearing to rezone property along Galligan Road, Railroad Street, Higgins Road, Turner Street, Jackson Street, Matteson Street, Willey Street and Union Street from R-3 Urban Residence Zoning District to the OT Old Town Zoning District

Administrator Keller explained how the UDO (Unified Development Ordinance) had been adopted to replace the 1985 Zoning Code. The application of the Old Town zoning would decrease the minimum lot size requirement as well as the setback requirements. The current R3 zoning code would be nonconforming. Anytime a resident would want to make a change, he or she would have to get a variance.

He went on to add that retail business and service uses were added to the Old Town zoning district. These professional services would generate low noise, low traffic and have a low impact on the residences. The Drift Inn and Advance Design were not included in the Old Town zoning district because they are strictly commercial. They will remain R-3 until a separate public hearing can be held in the future.

A motion was made by Commissioner McHone and seconded by Commissioner Knudsen to open the public hearing. Roll Call: Unanimous Voice Vote: all ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Resident Patty Clark questioned the small business uses and what it meant to homeowners. Administrator Keller explained that if someone would want to sell their house, they have a wider range of potential buyers.

The list of retail and service uses was provided in the mailing notice.

Resident Barb Davis stated her concern for the lack of parking if small businesses came to Old Town. She added that Advance Design has been a wonderful neighbor. Administrator Keller explained how there may be the possibility for on-street parking.

Ms. Davis then stated her concern for the lack of code enforcement. She stated that one of her neighbors has “junk” in their yard. Administrator Keller informed her that she could speak to him about the matter after the meeting.

Resident Mike Doherty asked if a Bed and Breakfast was allowed. It currently is not listed as one of the possible uses. He added his concern of having a club or dance hall in Old Town. However, that would be considered a special use and require coming before the Plan Commission.

A motion was made by Commissioner McHone and seconded by Commissioner Borgardt to close the public hearing. Roll Call: Vote: 6 ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Commissioner McHone stated that he enjoys living in Gilberts and added his concern for the lack of businesses in town. He feels it is a great idea and may generate additional tax dollars. He stated that Algonquin and East Dundee have done something similar to this.

For those who were concerned with property maintenance, Commissioner del Vecchio feels a small business would maintain their property well.

Commissioner Knudsen agrees with Commissioner McHone as long as there is proper parking. He stated that Geneva had turned houses into shops, and they look nice.

A motion was made by Commissioner Borgardt and seconded by Commissioner McHone to recommend approval to the Village Board the rezoning of property along Galligan Road, Railroad Street, Higgins Road, Turner Street, Jackson Street, Matteson Street, Willey Street and Union Street from R-3 Urban Residence Zoning District to the OT Old Town Zoning District. Roll Call: Vote: 6 ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Some residents in the audience were upset with the outcome of the vote. Lighting and signage were discussed.

This item will be placed on the Committee of the Whole agenda on May 12. Action will be taken at the Board Meeting on May 19.

Vice Chairperson Davidowski assured the residents that the Plan Commission members put a lot of thought and consideration in determining which businesses should be allowed in Old Town.

Old Business - none

Communications - none

Adjournment

A motion was made by Commissioner Borgardt and seconded by Commissioner McHone to adjourn from the meeting at 8:06 p.m. Roll Call: Unanimous Voice Vote: all ayes. (Commissioners Borgardt, del Vecchio, Knudsen, McHone, Sullivan, and Vice Chairperson Davidowski). 0-nays. 0-abstain. Motion carried.

Respectfully Submitted,
Karen Danca

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

June 12, 2015

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

RE: Variance – 214 Galligan Road

I. GENERAL INFORMATION

- | | | |
|----|----------------------------------|--|
| A. | Purpose | To approve a variance from UDO Chapter 10
“Nonconformities” |
| B. | Location | 214 Galligan Road |
| C. | Access | Galligan Road |
| D. | Size | 1.78 acres |
| E. | Existing Zoning | P Conservancy (1971 Code) |
| F. | Existing Land Use | Contractor office/yard (discontinued) |
| G. | Surrounding Zoning and Land Uses | North: I-1, agricultural
South: A-1, agricultural
East: I-1, agricultural
West: Kane County Forest Preserve |
| H. | Floodplain | Not applicable |
| I. | Comprehensive Plan Designation | Old Town Center |

II. APPLICANT'S REQUEST

Mr. Demitiri Stavropoulos, petitioner, has requested a variance from UDO Chapter 10 “Nonconformities,” to reinstate the nonconforming use of the subject property as a contractor’s office/yard under the property’s Conservancy zoning classification.

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

The subject property is 1.78 acres in size and is located on the west side Galligan Road, about one-quarter mile south of Koppie Drive and about 800 feet north of Willey Street. The property is currently zoned P Park-Conservancy, a zoning classification from the 1971 Zoning Ordinance that has since been repealed by later zoning regulations. The property is unpaved and undeveloped, except for a 4,000 square foot (100x40) metal building. The property is surrounded on all sides by undeveloped property, including long-standing retention/detention area to the south and wetlands and retention areas the east.

IV. DISCUSSION

The property is currently zoned “P” Conservancy, an archaic zoning classification that was established by the 1971 Zoning Code, but was not included in the subsequent 1985 Zoning Code or the Unified Development Ordinance adopted in 2014. According to the 1971 Zoning Code, the P zoning district intended to “preserve scenic and natural areas in the Village and to regulate development of marginal lands so as to prevent potential hazards to public and private property.” Over the years, the use of the property evolved to become a contractor’s office/yard. In 2014, the site had become a de facto scrap/junk yard and was the subject of an intense cleanup effort due to the Village’s code enforcement efforts. At that time, the contractor’s office/yard use was discontinued. The property was subsequently sold to the petitioner, who in turn intends to resell the property for use as a contractor’s office/yard for a trucking company.

UDO Chapter 10-10-2, Paragraph I “Termination by Abandonment” specifies that a nonconforming use loses its status six months after the use is discontinued. Because the property is zoned for a classification that was not included in the 1985 Zoning Code or the UDO adopted in 2014, there are currently no permitted or special uses allowed for the property. The applicant had requested rezoning the property to I-1 General Industrial to reestablish the use of the property as a contractor’s office/yard. However, the I-1 zoning would have allowed other permitted and special uses that might generate externalities that would negatively affect nearby properties.

Instead of rezoning the property, the applicant now requests the variance from Chapter 10-10-12 to reestablish the use of the property as a contractor’s office/yard. The variance seeks to reset the six-month window for a discontinued nonconforming use, effectively reinstating the contractor’s office/yard as the sole allowed use of the property. The UDO would otherwise apply in all other regards, which would prevent the use of the property for anything but a contractor’s office and yard. Any changes to the site would be required to comply with all applicable UDO standards, such as fencing and screening around parking areas and site coverage limitations. The existing metal building would retain its nonconforming status and would not be required to upgrade its facade to comply with the UDO, but any changes to the building (e.g. expansion or replacement) would require an amendment to the variance and would trigger the applicable UDO and building code requirements.

Should the nonconforming contractor's office/yard use be discontinued for more than six months, Chapter 10-10-12, Paragraph I "Termination by Abandonment" would again apply. In that instance, the property owner would be required to seek approval of another variance or the rezoning of the property to an appropriate classification.

V. STANDARDS FOR VARIANCES

The following information addresses the "Standards for Variances" as set forth by UDO Section 10-11-10, Paragraph F:

- a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district.**

The subject property is currently zoned P Conservancy, an archaic classification that was instituted by the 1971 Zoning Code. Though the Conservancy district was discontinued by the 1985 Zoning Code and not included in the UDO adopted in 2014, the Zoning Map still identifies the property as zoned Conservancy. As the current zoning classification is no longer valid, there are no permitted or special uses currently allowed by the UDO on the property. In the absence of a variance to reinstate an expired nonconforming use or a rezoning of the property to a current zoning classification, the property cannot be used in a manner that would yield a reasonable return to the property owner. The requested variance would allow a reasonable return on the owner's investment through the reinstatement of the property's sole use as a contractor's office/yard.

- b. The extraordinary or exceptional conditions of the property requiring the request for the variance were not caused by the applicant.**

The nonconforming use of the property as a contractor's office/yard was discontinued prior to the purchase of the property by the applicant. Over the course of the property's cleanup and subsequent sale, the nonconforming use expired pursuant to UDO Chapter 10-10-2, Paragraph I "Termination by Abandonment." The property owner unsuccessfully petitioned to rezone the property to a current zoning classification. He was then advised to apply for a variance to reinstate the expired nonconforming use instead. Approval of the variance would allow the applicant to resume the use of the property in a manner that long predated his ownership.

- c. The proposed variance will alleviate a peculiar, exceptional or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship.**

Approval of the variance would allow the sole use of the property as a contractor's office/yard, reinstating the sole nonconforming use of the property given its outdated Conservancy zoning classification. Without the requested variance, the property UDO Chapter 10-10-2, Paragraph I, would leave the property without any permitted or special uses that would be currently allowed by the UDO. The absence of any permitted use would elevate the hardship experienced by the property beyond "inconvenience" and would effectively deny the owner a reasonable use of and/or return on his property.

- d. The denial of the proposed variance will deprive the applicant the use permitted to be made by the owners of property in the immediate area.**

The adjacent properties that are currently zoned P Conservancy and A-1 Agricultural have not been developed since the property's first use as a contractor's office/yard or the property's Conservancy zoning. Denial of the proposed variance would deprive the applicant of the previously-allowed use of the property, rather than deprive him of a use that permitted on neighboring properties.

- e. The proposed variance will result in a structure that is appropriate to and compatible with the character and scale of structures in the area in which the variance is being requested.**

The proposed variance would have no impact on the existing structure or site, except to reinstate their previous use as a contractor's office/yard. Other than the reinstated nonconforming use, the UDO would otherwise apply in all other regards. Any changes to the site would be required to comply with all applicable UDO standards, such as fencing and screening around parking areas and site coverage limitations. The existing metal building would retain its nonconforming status and would not be required to upgrade its facade to comply with the UDO, but any changes to the building (e.g. expansion or replacement) would require an amendment to the variance and would trigger the applicable UDO and building code requirements.

- f. There is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.**

The property has been intermittently used as a contractor office/yard as a nonconforming use, particularly as the property has been zoned for a classification that has not been in effect since 1985. Claims to any preexisting legal nonconforming use(s) have expired as set forth by UDO Section 10-10-2, Paragraph I, leaving the property undevelopable or unusable until a new zoning classification or variance is approved for the property. Rezoning the property to I-1 General Industrial would allow other permitted and special uses that might generate externalities that would negatively affect nearby properties. The requested variance would reinstate the sole nonconforming use of the property as a contractor's office/yard, without allowing the possibility of more intense uses appearing and affecting the surrounding area that might occur if the property were rezoned to I-1.

VI. CITIZEN INPUT

To date, the Village has not received any written comments specifically about the proposed variance. The Village had previously received comments about the proposed rezoning of the property to I-1 General Industrial, which were previously shared with the Plan Commission/Zoning Board of Appeals.

VII. CONCLUSIONS AND RECOMMENDATIONS

Mr. Demitiri Stavropoulos, petitioner, has requested a variance from UDO Chapter 10 “Nonconformities,” to reinstate the nonconforming use of the subject property as a contractor’s office/yard under the property’s Conservancy zoning classification.

Under the property’s archaic Conservancy zoning classification, there are currently no permitted or special uses allowed for the property, effectively denying the owner any reasonable use of or return on his property. Claims to any preexisting legal nonconforming use(s) have expired pursuant to UDO Chapter 10-10-2, Paragraph I “Termination by Abandonment,” leaving the property undevelopable or unusable until a new zoning classification or variance is approved for the property. Rezoning the property to I-1 General Industrial would allow other permitted and special uses that might generate externalities that would negatively affect nearby properties. The requested variance would reinstate the sole nonconforming use of the property as a contractor’s office/yard, without allowing the possibility of more intense uses appearing and affecting the surrounding area that might occur if the property were rezoned to I-1.

Therefore, Staff recommend approval of the requested variance from UDO Chapter 10-10-2, Paragraph I “Termination by Abandonment,” allowing the resumption of the sole nonconforming use of the property at 214 Galligan Road, Gilberts, IL, as a contractor’s office/yard under the existing “P” Conservancy district (1971 Zoning Code). This recommendation is subject to the following conditions:

1. This variance grants a one-time reset of the six-month window for a discontinued nonconforming use, as specified by UDO Chapter 10-10-2, Paragraph I “Termination by Abandonment.” Should the nonconforming use be again “abandoned” or “discontinued” as defined by the UDO, further use of the property may only occur in accordance with the property’s current zoning classification and/or a variance that may be granted by the Village Board.
2. Except for the one-time exception from UDO Chapter 10-10-2, Paragraph I “Termination by Abandonment,” all other requirements set forth by UDO apply to the subject property and the reinstated nonconforming use. Any changes to the site would be required to comply with all applicable UDO standards, such as fencing and screening around parking areas and site coverage limitations. The existing metal building retains its nonconforming status and would not be required to upgrade its facade to comply with the UDO, but any changes to the building (e.g. expansion or replacement) would require an amendment to the variance and would trigger the applicable UDO and building code requirements.

Respectfully Submitted,

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



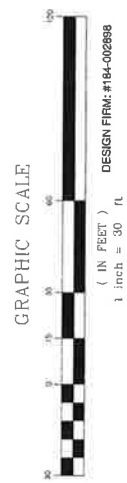
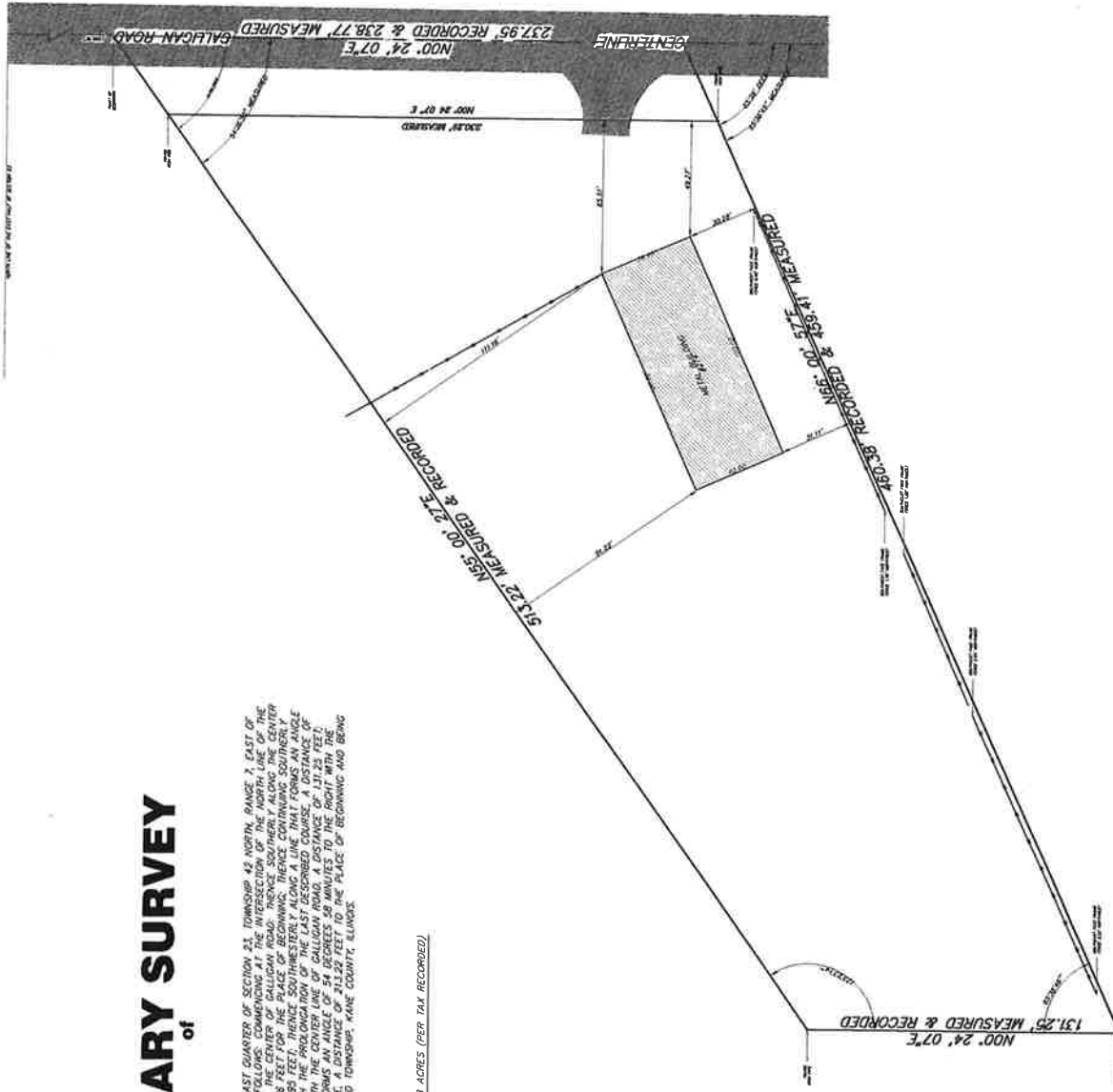
LEGAL NOTICE

NOTICE is hereby given that a public hearing will be held before the Gilberts Plan Commission/Zoning Board of Appeals at their meeting on June 17, 2015, at 7:00 p.m. at the Gilberts Village Hall, 87 Galligan Road, Gilberts, Illinois, on a request by Mr. Demitri Stavropoulos for a variance from the Unified Development Ordinance, Chapter 10 "Nonconformities," for the property commonly known as 214 Galligan Road, Gilberts, Illinois. PIN: 02-23-227-003.

All interested persons are invited to appear and be heard at the time and place listed above. Additional information about the proposed rezoning and the public hearing are available from the Village of Gilberts at (847) 428-2861. The hearing may be continued by the Plan Commission without further publication of notice.

Randy Mills, Chairman
Gilberts Plan Commission/Zoning Board of Appeals
Village of Gilberts

±1.78 ACRES (PER TAX RECORDED)



EDMUND P. WANDERLING
ATTORNEY AT LAW

1 inch = 30 ft

ADDRESS: 214 GALLIGAN ROAD

PIN# 02-23-227-003-0000

PYRAMID LAND SURVEYORS, INC. AS ILLINOIS LICENSED
 PROFESSIONAL LAND SURVEYORS, HEREBY STATE THAT WE HAVE
 SURVEYED THE PROPERTY DESCRIBED ABOVE AND THIS
 PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS
 MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
 GIVEN UNDER MY HAND AND SEAL THIS 28TH DAY OF
 JANUARY 2015

GENE SCOLA PLS #035-003364 EXPIRES 11-30-2016

**VARIANCE
APPLICATION FOR
REZONING**

Case #: 201-2015
Revision #1: _____
Revision #2: _____
Revision #3: _____
For office use only

Development Name: 214 GALLIGAN RD Date of Submission: 3/16/2015

I. APPLICANT:

Demitri Stavropoulos 123 Properties Inc.
Name Corporation

123 Twin Oaks Drive
Street

Oak Brook IL 60523
City State Zip Code

DEMITRI STAVROPOULOS (708) 705-0066 demitristav@msn.
Contact Person Telephone Number ~~Fax Number~~ email com

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

II. ACTION REQUESTED (Check applicable boxes):

- ☐ Rezoning from PCONSERVANCY to I-1 Industrial
☐ Special Use for _____

Any additional requests, which are being processed with the Rezoning (i.e. variances, subdivision, etc.):

* VARIANCE - UDO Section 10-10-2, ¶ I
"Termination by Abandonment"

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: _____ Telephone Number: _____ Fax Number _____

Builder: _____ Telephone Number: _____ Fax Number _____

Developer: _____ Telephone Number: _____ Fax Number _____

Engineer: _____ Telephone Number: _____ Fax Number _____

IV. PROJECT DATA:

1. General Location: 214 GALLIGAN RD.

a. County: KANE

b. Township: ~~GILBERT~~ RUTLAND

c. PIN#(s): 02-23-227-003-0000

2. General description of the site: Approx 1.78 Acres. Fenced in lot with 4,000 sf pole barn.

3. Existing zoning on the site: Pconservancy

4. Acreage of the site: 1.78

5. Character of surrounding area:

	Zoning	Jurisdiction	Existing Land Use	Adopted Village Plan
North				
South				
East				
West				

6. List Controlling Ordinances (zoning, annexation agreements, site plans, etc.): _____

DISCLOSURE OF BENEFICIARIES

Name _____

Address _____

2) Nature of Benefit sought: _____

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:

	Name	Address	Interest
a.	_____	_____	_____
b.	_____	_____	_____
c.	_____	_____	_____
d.	_____	_____	_____

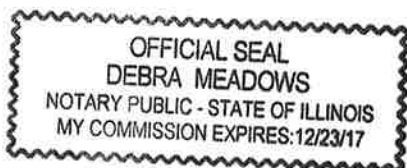
6) Name, address and capacity of person making this disclosure on behalf of the applicant:

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, _____ 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.

Subscribed and Sworn to before me this) 6th day of March, 2015



Debora Meadows
Notary Public

- 5) The proposed Rezoning meets the requirements for granting a Rezoning because:
- (a) The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and Official Land Use Plan and other official plans of the Village.
 - (b) The trend of development in the area of the subject property is consistent with the requested amendment.
 - (c) The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification.
 - (d) The property cannot yield a reasonable return if permitted to be used only under the conditions allowed under the existing zoning classification.
 - (e) The subject property has not been utilized under the existing zoning classification for a substantial period of time.
 - (f) The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.
- 6) Granting the Rezoning described above is appropriate because:

[List factors that demonstrate why the Rezoning is appropriate]

WHEREFORE, the Petitioner requests that with respect to the Subject Property, the Village Board and the Zoning Board take action in accordance the Gilberts Municipal Code to approve an ordinance granting a Rezoning in accordance with Exhibit "-" to Rezone the Subject property to the:

[repeat the description of the zoning designation as requested in the Recital Section]

Respectfully Submitted,

By: 

[Type in name of signatory under signature block]

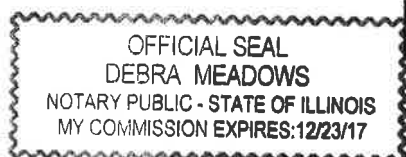
[Type in title or nature of individual (i.e. applicant)]

STATE OF ILLINOIS
COUNTY OF)


The foregoing petition was acknowledged before me by _____
on the 16th day of March, 2015 A.D.

By: 

[Type in name of signatory under signature block]
[Type in title of person notarizing] and Notary Public



When any such structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of not more than 50 percent of the cost of replacement of the structure new, repair or restoration of such structure may be made and the nonconforming use may continue subject to the regulations of this section 10-10-2; provided, however, that no repairs or restorations shall be made that would create any new parking, bulk, yard, or space nonconformity or increase the degree of any parking, bulk, yard, or space nonconformity existing prior to such damage or destruction, nor shall any repairs or restoration except in conformity with the applicable zoning district regulations be made unless restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion. In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with subsections B, C, and D of this section.

- I.  Termination by Abandonment. When a nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or when a nonconforming use of part or all of a structure that was designed for a use that is permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of six consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

Any period of such discontinuance caused by government action, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this paragraph.

10-10-3 **NONCONFORMING USES IN STRUCTURES NOT DESIGNED FOR A PERMITTED USE**

- A. Authority to Continue. Except as provided in subsection I of this section, any lawfully existing nonconforming use located in a structure not designed or intended, in whole or in part, for a use permitted in the district in which it is located may be continued so long as it remains otherwise lawful, subject to the regulations contained in subsections B through H of this section and in subsections D and E of section 10-10-1 of this code.
- B. Ordinary Repair and Maintenance. Normal maintenance and incidental repair or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring, or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use and not designed or intended, in whole or in part, for a use permitted in the district in which such structure is located; provided, however, that this subsection shall not be deemed to authorize any violation of subsections C through I of this section.
- C. Structural Alteration. No structure devoted in whole or in part to a nonconforming use and not designed or intended, in whole or in part, for a use permitted in the district in which such structure is located shall be structurally altered unless the

Village of Gilberts

Village Hall
87 Galligan Road, Gilberts, Illinois 60136
Ph. 847-428-2861 Fax: 847-428-2955
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VILLAGE OF GILBERTS STAFF REPORT June 12, 2015

TO: Village of Gilberts Plan Commission

RE: Special Use Permit – 211 W. Higgins Road

I. GENERAL INFORMATION

- | | | |
|----|---------------------------------|---|
| A. | Purpose | To approve a special use permit to allow auto sales in the I-1 General Industrial zoning district |
| B. | Location | 211 W. Higgins Road |
| C. | Access | East End Drive |
| D. | Size | 1.8 acres |
| E. | Existing Zoning | I-1 General Industrial |
| F. | Existing Land Use | Mixed commercial/office/industrial |
| G. | Proposed Land Use | indoor auto sales office |
| H. | Surrounding Zoning and Land Use | North: A-1, agricultural
South: I-1, industrial
East: P (Conservancy), industrial
West: I-1, industrial/commercial |
| I. | Floodplain | Not applicable |
| J. | Comprehensive Plan Designation | Office-Research-Industrial |

II. APPLICANT'S REQUEST

B Square Inc., petitioner, has requested approval of a special use permit to allow automobile sales within the I-1 General Industrial zoning district on property at 211 W. Higgins Road.

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

The property is approximately 1.8 acres in size and located at the southwest corner of East End Drive and Higgins Road. The property is zoned I-1 General Industrial and is surrounded by other I-1 zoned properties with mixed commercial and industrial uses on the east, west and south sides. The subject property includes two multi-tenant buildings that house mixed commercial, office and industrial uses.

The petitioner would lease a 2,000 square foot area to serve as an office and indoor showroom within the building, along with six parking stalls within the existing parking lot. The petitioner's business would focus on the sale of used cars, trucks and SUVs with customers viewing the vehicles between 10:00 am and 4:00 pm on weekdays and Saturdays by appointment. The business will be conducted within the building and would be indistinguishable from surrounding businesses.

V. STANDARDS OF SPECIAL USE

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

The proposed special use permit complies with the I-1 zoning district regulations and does not require any waivers or variances to operate on the subject property, as the use will be contained by the existing building. The proposed use and the subject property would otherwise be subject to the terms set forth in the Unified Development Ordinance, particularly those applicable to properties with I-1 General Industrial zoning.

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 use will be indistinguishable from other commercial, industrial and office uses in the area.

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.

The proposed use will not be detrimental to property values in the immediate area nor to the public welfare at large as use will be indistinguishable from other commercial, industrial and office uses in the area. As the business will be operated within the building, the use is not expected to generate a noticeable increase in auto traffic or any other negative externalities.

4. Adequate utility, drainage and other such necessary facilities have been or will be provided.

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

5. **The proposed special use is consistent with good planning practice; can be developed and operated in a manner that is not detrimental to and is visually compatible with the permitted developments and uses in the district, and is essential or desirable to preserve and promote the public health, safety and general welfare of the citizens of Gilberts.**

The proposed use is consistent with good planning practice as it encourages continued use of an existing commercial/industrial/office facility. The use is not essential to the preservation and promotion of public health and safety, though the proposed auto sales business provides another commercial service use to the community.

VI. CITIZEN INPUT

The Village has received no comments regarding the proposed special use permit.

VII. CONCLUSIONS AND RECOMMENDATIONS

The Unified Development Ordinance requires a special use permit for auto sales businesses in the I-1 district because they typically have significant parking, lighting, traffic and security considerations. The UDO does not differentiate between "typical" auto dealerships and indoor auto sales businesses that have few, if any, externalities. The petitioner proposes to operate his business within an existing mixed use commercial/industrial building, with minimal vehicle storage within an existing parking area. As a result, Staff view the requested petition as a procedural requirement rather an extensive deliberation about the merits and impacts of the proposed use.

Staff recommend approval of the special use permit to allow the indoor auto sales business to be operated within the I-1 General Industrial zoning district on the property at 211 Higgins Road. This recommendation is conditional upon the business and property continues to comply with the terms set forth in the UDO.

Respectfully Submitted,

BY: Ray Keller, AICP, Village Administrator



LEGAL NOTICE

NOTICE is hereby given that a public hearing will be held before the Gilberts Plan Commission/Zoning Board of Appeals at their meeting on June 17, 2015, at 7:00 p.m. at the Gilberts Village Hall, 87 Galligan Road, Gilberts, Illinois, on a request by B Square Inc. for a special use permit to allow an indoor auto sales business in the I-1 General Industrial zoning district. The subject property is commonly known as 211 W. Higgins Road, Gilberts, Illinois. PIN: 02-24-300-106.

All interested persons are invited to appear and be heard at the time and place listed above. Additional information about the proposed rezoning and the public hearing are available from the Village of Gilberts at (847) 428-2861. The hearing may be continued by the Plan Commission without further publication of notice.

Randy Mills, Chairman
Gilberts Plan Commission/Zoning Board of Appeals
Village of Gilberts

211 W. Higgins Road, Gilberts, IL



APPLICATION FOR
SPECIAL USE

CASE# SP01-2015
Revision #1: _____
Revision #2: _____
Revision #3: _____
For office use only

Development Name: B Square Inc. Date of Submission: 4/30/2015

I. APPLICANT:

ROBERT DELGRENIER/CYNTHIA BENARDT B SQUARE
Name Corporation

183 TOLLVIEW TERR
Street

GILBERT'S IL 60136
City State Zip Code

ROBERT DELGRENIER 847/845/6139
Contact Person Telephone Number Fax Number

CONTRACT PURCHASER
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 ~~USED CAR~~ INDOOR USED CAR SALES

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

N/A

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: N/A Telephone Number: _____ Fax Number _____
 Builder: N/A Telephone Number: _____ Fax Number _____
 Developer: N/A Telephone Number: _____ Fax Number _____
 Engineer: N/A Telephone Number: _____ Fax Number _____

IV. PROJECT DATA:

1. General Location: 211 W HIGGIN UNIT I

a. County: KANE

b. Township: _____

c. PIN#(s): ~~00-200-3262000~~ 02-24-300-104

2. General description of the site: ~~WHA~~ WAREHOUSE

3. Existing zoning on the site: _____

4. Acreage of the site: 2000 SQ FT

5. Character of surrounding area:

	Zoning	Jurisdiction	Existing Land Use	Adopted Village Plan
North				
South				
East				
West				

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

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: SALE OF USED CARS, TRUCKS, SUV FOR
INDOOR SHOW ROOM

2000 SQ FT UNIT

6 PARKING SPOTS

10 AM TO 4 PM MONDAY THUR FRI

SOME SATURDAY

DISCLOSURE OF BENEFICIARIES

Name _____

Address _____

2) Nature of Benefit sought: _____

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:

Name	Address	Interest
a. ROBERT DELANEY	2718 WHITE DESPLAIN WEST L GOV #8	49%
b. CYNTHIA BORLANDT	183 TOLLVIEW TERR GILBERTS	51%
c. _____	_____	_____
d. _____	_____	_____

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

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, Debra Meadows 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.

Subscribed and Sworn to before me this 30 day of April 2015



Debra Meadows
Notary Public