

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 63-15

TO: President Rick Zirk
Village Board of Trustees

FROM: Ray Keller, Village Administrator

DATE: June 12, 2015

RE: Village Board Meeting – July 7, 2015

The following summary discusses the agenda items for the Village Board meeting scheduled for July 7, 2015:

1. CALL TO ORDER

2. ROLL CALL / ESTABLISH QUORUM

3. PUBLIC COMMENT

4. CONSENT AGENDA

A. Motion to approve Minutes from the June 16, 2015 Village Board Meeting

Please review the enclosed minutes from the June 16 Board meeting. Please contact Village Clerk Debra Meadows prior to the meeting with any corrections or questions. Staff recommend approval.

B. Motion to approve Bills & Salaries dated July 7, 2015

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.

C. Motion to Resolution 28-2015, a Resolution approving the executive session minutes

Staff recommend approval of this resolution to approve the release of the executive session minutes for the March 10, 2015 meeting; approve but not release the minutes from four other executive sessions, and affirm the confidentiality of the minutes from 17 other executive sessions. Please contact Village Clerk Debra Meadows with any questions about the executive session minutes.

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

5. ITEMS FOR APPROVAL

A. Motion to approve Ordinance 16-2015, an Ordinance Abating Special Service Area Taxes for Village of Gilberts, Kane County, Illinois Special Service Area Number Nine Special Tax Refunding Bonds (Big Timber Project) Series 2015

Staff recommend approval of this ordinance permanently abating the special service area taxes for the recently retired bonds for SSA #9. On June 23, 2015 the Village approved Ordinance 07-2015 authorizing the new "Series 2015" bonds, which restructured the debt to reduce the interest owed and the corresponding payments owed by homeowners within SSA #15. That ordinance established a new levy schedule for the Series 2015 bonds and required the Village to adopt an ordinance permanently abating the Series 2005 schedule for tax years 2015-2028.

Bond Counsel Laura Bilas prepared the ordinance for the Board's approval, noting that this is a housekeeping item that prevents the possibility of double taxation by the old and the new levy schedules. Please contact me prior to the meeting if additional information or legal guidance will be needed at the meeting.

B. Motion to approve Ordinance 17-2015, an Ordinance approving a variance from the Unified Development Ordinance, Chapter 10 "Nonconformities" for the property located at 214 Galligan Road

Mr. Demitiri Stavropoulos 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. 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. Over the years, the use of the property evolved to become a contractor's office/yard, but the use was abandoned in 2014 and 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" states 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.

At their June 17 meeting, the Plan Commission/Zoning Board of Appeals conducted the public hearing and recommended approval of the variance from UDO Chapter 10-10-2, Paragraph I "Termination by Abandonment," by a vote of 5-0 (2 absent), subject to the following conditions.

1. The 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," as of the date of adoption of this ordinance granting the variance.
2. 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.
3. 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.

Staff concur with their recommendation. Please contact me with any questions or if additional documentation will be needed at the meeting.

D. Motion to approve Ordinance 18-2015, an Ordinance approving a special use permit for the operation of an auto sales business within the I-1 General Industrial Zoning District located at 211 W. Higgins Road

B Square Inc. has requested approval of a special use permit to allow automobile sales at 211 W. Higgins Road, which is required for all auto sales businesses in the I-1 Industrial zoning district. 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.

At their June 17 meeting, the Plan Commission conducted the public hearing and recommended approval of the special use permit by a vote of 5-0 (2 absent). Staff concur with their recommendation. Please contact me with any questions or if additional documentation will be needed at the meeting.

D. Motion to approve Resolution 29-2015, a Resolution authorizing an agreement between the Village of Gilberts and Illinois Department of Transportation to allow for the construction on Illinois State Highways

Staff recommend approval of this biannual housekeeping resolution committing the Village to follow IDOT's permitting and maintenance requirements for work performed in IDOT's rights of way, such as water main and storm sewer maintenance and repairs. It also reaffirms the State's requirement that the Village not issue any local permits for work within an IDOT right of way without proof of an IDOT permit. Please contact me or Village Clerk Debra Meadows with any questions.

6. ITEMS FOR DISCUSSION

Please contact me or Village President Rick Zirk to add any items for discussion at the meeting.

7. STAFF REPORTS

Staff will provide any updates at the meeting.

8. BOARD OF TRUSTEES REPORTS

9. PRESIDENT'S REPORT

10. EXECUTIVE SESSION

Staff request an executive session to discuss ongoing litigation. Please let me know if you have any questions about other executive session topics.

11. ADJOURNMENT

**Village Board of Trustees
Meeting Agenda
Village of Gilberts
87 GALLIGAN ROAD,
GILBERTS, ILLINOIS 60136
July 7, 2015
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 June 16, 2015 Village Board Meeting
- B. A Motion to approve Bills & Salaries dated July 7, 2015
- C. A Motion to approve Resolution 28-2015, a Resolution approving the Executive Session Minutes

5. ITEMS FOR APPROVAL

- A. A Motion to approve Ordinance 16-2015, an Ordinance Abating Special Service Area Taxes for Village of Gilberts, Kane County, Illinois Special Service Area Number Nine Special Tax Refunding Bonds (Big Timber Project) Series 2015
- B. A Motion to approve Ordinance 17-2015, an Ordinance approving a variance from the Unified Development Ordinance, Chapter 10 "Nonconformities" for the property located at 214 Galligan Road
- C. A Motion to approve Ordinance 18-2015, an Ordinance approving a special use permit for the operation of an auto sales business within the I-1 General Industrial Zoning District located at 211 W. Higgins Road
- D. A Motion to approve Resolution 29-2015, a Resolution authorizing an agreement between the Village of Gilberts and Illinois Department of Transportation to allow for the construction on Illinois State Highways

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 portion of the Village Board Meeting will be acknowledged by the Village President. 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 other negative 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 Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number is 847-428-2861". Assistive services will be provided upon request.

**Village of Gilberts
87 Galligan Road
Gilberts, IL 60136
Village Board
Meeting Minutes
June 16, 2015**

NOT APPROVED MINUTES

Call to Order/Pledge of Allegiance

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

Roll Call/ Establish Quorum

Village Clerk Meadows called the roll. Roll call: Members present: Trustees Kojzarek, Corbett, Zambetti, Farrell, Hacker and President Zirk. 1-absent: Trustee LeClercq. Others present: Administrator Keller and Village Clerk Meadows. For members of the audience please see the attached copy of the sign-in sheet.

Presentations

Bernardi Securities-Refunding SSA #9 Bonds

Vice President of Bernardi Securities Mr. Robert Vail addressed the Board Members. He provided the Board Members with an overview of the final pricing summary for the SSA # 9, Special Tax Refunding Bonds.

Vice President Vail reported that recently Moody's Investor's Service had dropped Chicago's bond rating two more notches due to the pension crisis. This down grading effected local governments' bond rating throughout the State of Illinois. However the Village had entered into the bond refunding process at the right time.

Vice President Vail commented on the final price summary handout he had provided to the Board Members and Staff. He discussed the current market conditions and the graphic that depicted the rise in interest rates. He anticipates the interest rates will continue to rise. In addition, he anticipates the Federal Government also will raise the interest rates in the upcoming fall and winter months.

Vice President Vail discussed the current bond amortization rate of 4.62% prior to the bond refunding. Vice President Vail reported that he was able to secure on behalf of the Village an insured interest rate of 4.24%. Which saves the SSA # 9 property owners over 1 million dollars over the course of the loan. This amount presents a savings on average of \$780.00 a year to single family homeowners and \$476.00 savings for duplex and townhome owners.

Vice President Vail thanked the Board Members for their ongoing relationship with his firm. The Board Members along with Staff thanked Vice President Vail for his service and his time.

Northern Kane County Chamber of Commerce-Community Service Award

President of the Northern Kane County Chamber of Commerce, Melissa Hernandez addressed the Board. She stated that the NKCC is committed to providing opportunities to highlight the strengths of the five communities they represent. The Chamber is once again beginning the planning process for the Third Annual Community Service Awards Celebration which is to be held on Wednesday, November 18th at the Randall Oaks Golf Club.

The Chamber is seeking support from the five communities they represent. They would like for each community to choose an individual that works diligently behind the scenes to help and support the community. She asked that each community choose their individual to be recognized at the event by no later than October 8th. President Hernandez inquired if Deb Meadows would once again be the Village's contact person. The Board Members concurred that Clerk Meadows would once again be in charge of coordinating the Village's portion of the event. President Zirk recommended that the Board Members send Clerk Meadows their candidate's name and she will draft a worksheet listing the nominees for further Board consideration.

President Hernandez thanked the Board Members for once again participating in the event. The Board Members thanked President Hernandez for her time and efforts.

Public Comment

President Zirk asked if anyone in the audience had any questions or concerns they wished to share with the Board Members. There was no comments provided by anyone in the audience.

Consent Agenda

- A. A Motion to approve Minutes from the June 2, 2015 Village Board Meeting**
- B. A Motion to approve Minutes from the June 9, 2015 Committee of the Whole Meeting**
- C. A Motion to approve the May 2015 Treasurer's Report**
- D. A Motion to approve the Bills & Salaries dated June 16, 2015 as follows: General Fund \$146,232.79, Performance Bonds and Escrows \$19,155.85, Water Fund \$77,459.65 and Payroll \$135,280.07**
- E. A Motion to approve Ordinance 15-2015, an Ordinance adopting Prevailing Wage Rates to be Paid to Laborers, Mechanics, and other Workers Performing Construction of Public Works in the Village of Gilberts, Kane County Illinois**

President Zirk asked if any of Board Members wished to remove any items listed on the consent agenda for separate consideration. The Board Members provided no comments.

A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve the consent agenda items A-E as presented. Roll call: Vote: 5-ayes: Trustees Kojzarek, Corbett, Zambetti, Farrell and Hacker. 0-nays, 0-abstained. Motion carried.

Items for Approval

There were no items listed under "Items for Approval".

Items for Discussion

There were no items listed under "Items for Discussion".

Staff Reports

Administrator Keller reported that as in years past NIMEC has researched the electric aggregation rates and the electric supplier market has shifted. This year it appears that ComEd's rate will be lower or equal to the other electric service providers. ComEd will be sending out a letter on the Village's behalf announcing the change in the Village's supplier. Administrator Keller noted that Staff will revisit the electric aggregation program in the fall.

Trustee Corbett questioned if Staff will be placing a comparison on the electric aggregation rates vs. the new ComEd rates on the Village's Facebook page and the website. Administrator Keller reported that the comparison might confuse the residents due to the flex in the delivery charge. However, Staff will post the provider and new electric rates on the Village's Facebook page and the website.

Administrator Keller reported that the Plan Commission/ZBA will be conducting 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. In addition, they will conduct a 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. Both matters will come back to the Village Board for consideration.

Board of Trustee Reports

Trustee Hacker commented on what a great job Phoenix & Associates and Staff has done addressing drainage concerns. The areas in the past that had historically flooded remained dry during the last major rain event.

President's Report

President Zirk asked Staff to research methods in which residents could recycle their unwanted electronics. He directed Staff to place the information on the Village's Facebook page and website.

President Zirk also commended Phoenix & Associates and Staff for alleviating the Village's long time drainage issues.

President Zirk reported that Administrator Keller had requested a brief executive session to discuss personnel with no business to follow. A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to recess in to executive session with no business to follow to discuss personnel matters as permitted by 5ILCS120/2 (C) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village. Roll call: Vote: 5-ayes: Trustees Kojzarek, Corbett, Zambetti, Farrell and Hacker. 0-nays, 0-abstained. Motion carried.

The Board Members along with Administrator Keller and Village Clerk Meadows entered into executive session at 7:21 p.m. and returned to the public meeting at 7:25 p.m.

Reconvene/Roll Call

Village Clerk Meadows called the roll. Roll call: Members present: Trustees Kojzarek, Corbett, Zambetti, Farrell, Hacker and President Zirk. Others present: Administrator Keller and Village Clerk Meadows.

Adjournment

There being no further public business to discuss, A Motion was made by Trustee Corbett and seconded by Trustee Zambetti to adjourn from the public meeting at 7:26 p.m. Roll call: Vote: 5-ayes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

Debra Meadows

Village of Gilberts
87 Galligan Road
Gilberts, Illinois 60136
Village Board Meeting
June 16, 2015
7:00 p.m.
Sign-in-Sheet

Name

Contact Information (Optional)

Tom WATLA

VENDOR	GRAND TOTAL	GENERAL FUND	DEVELOPER DONATIONS	PERMIT PASS THRUS	PERFORMANCE BONDS AND ESCROWS	WATER FUND	PAYROLL
	267,309.74	105,949.29	-	-	46,933.35	54,435.95	59,991.15
Payroll 6/1 - 6/24	59,991.15						59,991.15
Gallagher Bassett	21,812.64	17,390.65				4,421.99	
ALEXANDER CHEMICAL CORPORATION	2,092.79					2,092.79	
ANCEL, GLINK, DIAMOND, BUSH,	4,315.00				4,315.00		
ASPEN VALLEY LANDSCAPE, INC.	249.50	249.50					
AT&T U-VERSE	75.00	75.00					
B&F CONSTRUCTION CODE SVC, INC	360.00	360.00					
BAXTER & WOODMAN, INC.	7,468.85	2,287.50			5,096.35	85.00	
BARCO PRODUCTS COMPANY	774.32	774.32					
BENEFIT PLANNING CONSULTANTS,	100.00	100.00					
THE BUG MAN, INC	33.00	33.00					
INTEGRATED PURCHSING OPTIONS	156.83	149.10				7.73	
CDW GOVERNMENT, INC.	30.00	30.00					
COMMONWEALTH EDISON	994.26	994.26					
T. J. CONEVERA'S, INC.	912.00	912.00					
COMMUNITY UNIT SCHOOL	27,757.00				27,757.00		
JOHN DEERE LANDSCAPES	291.64	291.64					
DIXON ENGINEERING, INC	8,752.00					8,752.00	
DYNEGY ENERGY SERVICES	6,558.90					6,558.90	
ECONO SIGNS LLC	132.10	132.10					
ELGIN KEY & LOCK CO., INC.	22.10	22.10					
ELGIN PAPER COMPANY	105.31	105.31					
WRIGHT EXPRESS FSC	3,813.47	3,627.24				186.23	
FOX VALLEY FIRE AND SAFETY	442.00	257.85				184.15	
GILBERTS POLICE PENSION FUND	51,834.44	51,834.44					
HACH COMPANY	568.80					568.80	
ILLINOIS EPA - DWPC	18,500.00	1,000.00				17,500.00	
IL DEPT OF EMPLOYMENT SECURITY	504.23	504.23					
LABOR READY MIDWEST INC	892.00	892.00					
MCHENRY ANALYTICAL WATER	665.00					665.00	
MENARDS - CARPENTERSVILLE	353.90	222.02				131.88	
MMD	78.00					78.00	

DRAFT 7/07/15

VENDOR	GRAND TOTAL	GENERAL FUND	DEVELOPER DONATIONS	PERMIT PASS THRUS	PERFORMANCE BONDS AND ESCROWS	WATER FUND	PAYROLL
MORTON SALT, INC	2,301.00					2,301.00	
DUNDEE NAPA AUTO PARTS	194.53	194.53					
NEXUS OFFICE SYSTEMS, INC.	157.17	157.17					
NORTHWEST POLICE ACADEMY	25.00	25.00					
OEI PRODUCTS, INC	368.30	368.30					
ORION LWS, INC.	5,583.00	5,583.00					
PHOENIX & ASSOCIATES, INC.	10,765.00	4,500.00			6,265.00		
PRAIRIE ANALYTICAL SYSTEMS	370.00					370.00	
RAY O'HERRONS	214.94	214.94					
RUTLAND-DUNDEE FPD	3,500.00				3,500.00		
RICHARD SPINKER	834.45	834.45					
SHERWIN INDUSTRIES, INC.	7,312.50	7,312.50					

**RESOLUTION
VILLAGE OF GILBERTS
APPROVE EXECUTIVE SESSION MEETING MINUTES**

WHEREAS, the Village Board of the Village of Gilberts, has met from time to time in executive session for purposes authorized by the Illinois Open Meetings Act; and

WHEREAS, pursuant to 5 ILCS 120/2.06, the Village Board recently conducted its quarterly review of executive session meeting minutes and has determined that certain executive session minutes should be released to the public; and

WHEREAS, the Village Board has determined that the executive session minutes not yet released should remain confidential, subject to further review and determination as to their appropriateness for release at a future date.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES, OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS AS FOLLOWS:

Section 1: The Village Board has determined that the following approved executive session meeting minutes should now be released to the public:

RELEASED TO PUBLIC
March 10, 2015

Section 2:

The Village Board has determined that the following approved executive session minutes should remain confidential at this time, subject to further review and determination as to their appropriateness for release at a future date:

REMAIN CONFIDENTIAL
December 11, 2001
December 17, 2001
January 22, 2002
February 17, 2004
December 21, 2004
November 14, 2006
December 12, 2006
June 23, 2009 (Part 2)
July 14, 2009 (Part 2)
July 28, 2009
September 1, 2009
May 18, 2010
September 2, 2014
October 7, 2014
January 13, 2015
February 10, 2015
February 24, 2015

Section 3:

The Village Board hereby initially approves the following executive session minutes, which minutes will be scheduled for future review and determination as to whether to release to the public or keep confidential. Until such review, these meeting minutes shall remain confidential.

INITIAL APPROVAL – REMAIN CONFIDENTIAL
April 7, 2015
June 2, 2015
June 9, 2015
June 16, 2015

Section 4:

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

Passed this _____ day of _____, 2015 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 Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

Rick Zirk
Village President

(SEAL)

ATTEST:

Debra Meadows
Village Clerk

VILLAGE OF GILBERTS

KANE COUNTY

STATE OF ILLINOIS

ORDINANCE NUMBER 16-2015

An Ordinance Abating Special Service Area Taxes for Village of Gilberts, Kane County, Illinois Special Service Area Number Nine Special Tax Refunding Bonds (Big Timber Project) Series 2015

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

_____, 2015

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois this ____ day of _____, 2015.

**VILLAGE OF GILBERTS
KANE COUNTY, ILLINOIS**

ORDINANCE NO. _____

**AN ORDINANCE ABATING SPECIAL SERVICE AREA TAXES
FOR VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS
SPECIAL SERVICE AREA NUMBER NINE SPECIAL TAX REFUNDING BONDS
(BIG TIMBER PROJECT) SERIES 2015**

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE
VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. It is found and declared by the President and Board of Trustees of the
Village of Gilberts, Kane County, Illinois (the “Village”), as follows:

(a) The President and Board of Trustees of the Village adopted Ordinance No. 05-29 on September 6, 2005, as supplemented by a written Determination dated September 19, 2005 (the “Series 2005 Bond Ordinance”) which: (i) provided for the issuance of \$27,525,000 of Special Service Area Number Nine Special Tax Refunding Bonds, Series 2005 (Big Timber Project) (the “Series 2005 Bonds”) of the Village of Gilberts; and (ii) provided for the levy of Special Taxes upon all taxable property within the Special Service Area sufficient to pay the principal of the Series 2005 Bonds for each year at maturity or mandatory sinking fund redemption dates and to pay interest and administrative expenses of the Special Service Area for each such year.

(b) On June 23, 2015 the Village issued its Special Service Area Number Nine Special Tax Refunding Bonds, Series 2015 (the “Series 2015 Bonds”) pursuant to which the Village refunded the outstanding principal amount of the Series 2005 Bonds. Ordinance No. 07-2015 of the Village adopted on April 7, 2015, pursuant to which the Series 2015 Bonds were issued, provided for a separate levy for payment of debt service on the Series 2015 Bonds and

directed the Village to adopt and file an abatement ordinance abating the levy of taxes for the Series 2005 Bonds, upon the issuance of the Series 2015 Bonds. The Village has issued the Series 2015 Bonds.

Section 2. Abatement of the Levy of the Special Taxes. There is hereby abated all taxes levied pursuant to Ordinance No. 05-29 for levy years 2015 through and including levy year 2028.

Section 3. Duty of County Clerk to Abate. It is the duty of the County Clerk of Kane County to abate those taxes as provided in Section 2 of this Ordinance.

Section 4. Repealer; Effect of Ordinance; Filing with County Clerk. All ordinances, resolutions and orders or parts of ordinances, resolutions and orders in conflict with this ordinance are repealed to the extent of such conflict. The Village Clerk shall cause this Ordinance to be published in pamphlet form. The Village Clerk is hereby directed to file a certified copy of this Ordinance with the County Clerk of Kane County and the Recorder of Deeds of Kane County.

Passed this 7th day of July, 2015

AYES: _____

NAYS _____

ABSTAIN: _____

ABSENT: _____

NOT VOTING: _____

Approved this 7th day of July, 2015.

Village President

ATTEST:

Village Clerk

AN ORDINANCE APPROVING A VARIANCE FROM THE UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 10 "NONCONFORMITIES" FOR THE PROPERTY LOCATED AT 214 GALLIGAN ROAD

WHEREAS, Mr. Demitiri Stavropoulos has filed a petition with the Village Clerk of the Village of Gilberts, Illinois, for a variance from UDO Chapter 10 "Nonconformities," to reinstate the nonconforming use of the property at 214 Galligan Road, Gilberts, IL as a contractor's office/yard under the property's "P" Conservancy (1971 Zoning Code) zoning classification; and,

WHEREAS, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the request on June 17, 2015 and recommended approval of the variance, 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. That a variance from UDO Chapter 10-10-2, Paragraph I "Termination by Abandonment," is hereby granted, 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), subject to the following conditions:

1. The 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," as of the date of adoption of this ordinance granting the variance.
2. 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.
3. 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.

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 _____, 2015.

	<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 Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED this _____ day of _____, 2015

(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 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.

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

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. Dimitri 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.

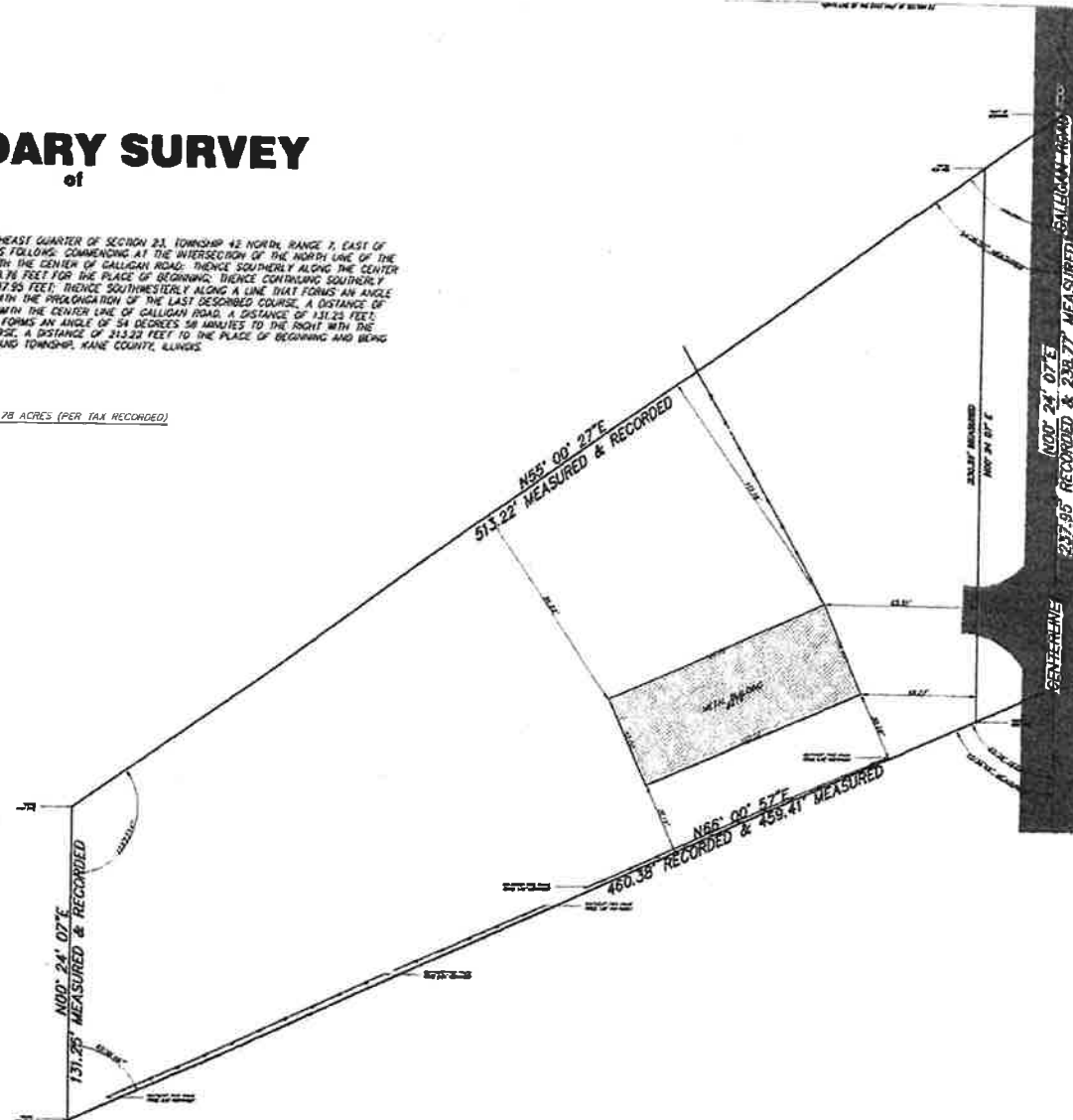
Randy Mills, Chairman
Gilberts Plan Commission/Zoning Board of Appeals
Village of Gilberts

BOUNDARY SURVEY

of

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER WITH THE CENTER OF GALLIGAN ROAD; THENCE SOUTHERLY ALONG THE CENTER LINE OF GALLIGAN ROAD, A DISTANCE OF 358.76 FEET FOR THE PLACE OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID CENTER LINE, A DISTANCE OF 237.55 FEET; THENCE SOUTHWESTERLY ALONG A LINE THAT FORMS AN ANGLE OF 65 DEGREES 38 MINUTES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 450.38 FEET; THENCE NORTHERLY PARALLEL WITH THE CENTER LINE OF GALLIGAN ROAD, A DISTANCE OF 131.23 FEET; THENCE NORTHEASTERLY ALONG A LINE THAT FORMS AN ANGLE OF 54 DEGREES 58 MINUTES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 215.23 FEET TO THE PLACE OF BEGINNING AND BEING SITUATED IN THE VILLAGE OF OLBERTS, RUTLAND TOWNSHIP, KANE COUNTY, ILLINOIS.

±1.78 ACRES (PER TAX RECORDED)



ORDERED BY	VICINITY MAP	IMAGE	STATE OF ILLINOIS } C.C. COUNTY OF COOK }
EDMUND P. WANDERLING ATTORNEY AT LAW			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.
ADDRESS: 214 GALLIGAN ROAD	PI# 02-23-227-003-0000	FIELD WORK COMPLETED: JAN. 24, 2015 DRAWN BY: G.V.S. SCALE: 1"=30' BOOK NUMBER: 1501-25 DRAWING NUMBER: 117-150199 pyramidspl@yahoo.com	GENE SCOLA PLS #035-003384 EXPIRES 11-30-2018

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): 02-23-2277003-0000

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 1st 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]

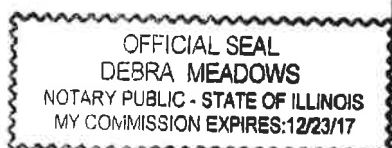
[Type in title or nature of individual (i.e. applicant)]

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

Ordinance 18-2015

AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR THE OPERATION OF AN AUTO SALES BUSINESS WITHIN THE I-1 GENERAL INDUSTRIAL ZONING DISTRICT LOCATED AT 211 W. HIGGINS ROAD

WHEREAS, B Square Inc. has filed a petition with the Village Clerk of the Village of Gilberts, Illinois, for a special use permit for the operation of an auto sales business within the I-1 General Industrial zoning district on property located at 211 W. Higgins Road, Gilberts, IL: and,

WHEREAS, the Gilberts Plan Commission held a public hearing and reviewed the request on June 17, 2015 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. That a special use permit for the operation of an auto sales business be granted for the subject property within the I-1 General Industrial zoning district located at 211 W. Higgins Road, subject to the following conditions:

1. The subject property and its uses shall continue to operate in compliance with the requirements set forth in the Unified Development Ordinance.

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 _____, 2015.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClerc	_____	_____	_____	_____
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Louis Hacker	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED this _____ day of _____, 2015

(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
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.

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

VA52-15

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

PAGE 1 OF 3

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 BONUMOT B SQUARE
Name Corporation

183 TOLLVIEW TERR
Street

GILBERT'S IL 60136
City State Zip Code

ROBERT DELGRENIER 847/845/6739
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~~ 02-24-300-106

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 DESPLAINES	FL 60018 49%
b.	CYNTHIA BORHARDT	183 TOLLVIEW TERR	GILBERTS 51%
c.	_____	_____	_____
d.	_____	_____	_____

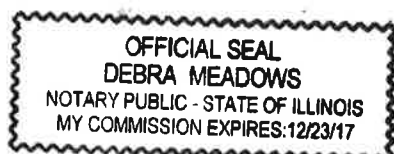
6) Name, address and capacity of person making this disclosure on behalf of the applicant: _____

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

RESOLUTION NO 29-2015

A Resolution Authorizing an Agreement between the Village of Gilberts and Illinois Department of Transportation to allow for the Construction on Illinois State Highways

WHEREAS, the Village of Gilberts, hereinafter referred to as Municipality, located in the County of Kane, State of Illinois, desires to undertake, in the calendar years 2015 and 2016, the location, construction, operation and maintenance of driveways and street returns, watermains, sanitary and storm sewers, street lights, traffic signals, sidewalks, landscaping, etc., on State highways, within said Municipality, which by law and/or agreement come under the jurisdiction and control of the Department of Transportation of the State of Illinois hereinafter referred to as Department, and;

WHEARAS, an individual working permit must be obtained from the Department prior to any of the aforesaid installations being constructed either by the Municipality or by a private person or firm under contract and supervision of the Municipality; and

THEREFORE, be it resolved by the Municipality:

First: That the Municipality hereby pledges its good faith and guarantees that all work shall be performed in accordance with the conditions of the permit to be granted by the Department, and Municipality shall hold the State of Illinois harmless during the prosecution of such work, and shall assume all liability for damages to person or property due to accidents or otherwise by reason of the work which is to be performed under the provisions of said permit.

Second: That all authorized officials of the Municipality are hereby instructed and authorized to sign said working permit on behalf of the Municipality.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ____ day of _____, 2015.

	<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 Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED this _____ day of _____, 2015

(SEAL)

Village President Rick Zirk

ATTEST:

Village Clerk, Debra Meadows

I, Debra Meadows, hereby certify the above to be a true copy of the resolution passed by the Municipality. Dated this ____ day of _____, 2015



Illinois Department of Transportation

Division of Highways / Region 1 / District 1
201 West Center Court / Schaumburg, Illinois 60196-1096

PERMITS

Resolution for Construction on State Highway

June 4, 2015

The Honorable Rick Zirk
Village President
Village of Gilberts
87 Galligan Road
Gilberts, IL 60136-9015

Dear Village President Zirk:

Chapter 605 ILCS 5/4-208 and 5/9-113 of the Illinois Revised Statutes requires that any person, firm or corporation desiring to do work on State maintained right of way must first obtain a written permit from the Illinois Department of Transportation. This includes any emergency work on broken watermains or sewers.

A surety bond is required with each permit application to insure that all work is completed in accordance with State specifications and that the right of way is properly restored.

For permit work to be performed by employees of a municipality a resolution is acceptable in lieu of the surety bond. This resolution does not relieve contractors hired by the municipality from conforming with the normal bonding requirements nor from obtaining permits.

The resolution should be enacted for a period of two years. This procedure will save time and effort as well as reduce the annual paperwork associated with an annual resolution.

In order to expedite the issuance of permits to your municipality during the next two calendar years, as appropriate, the attached sample resolution should be adopted and a signed and certified copy thereof returned to this office. This resolution does not constitute a blanket permit for work in the State system. A separate application must be made in each instance. In case of an emergency, verbal authority may be given prior to receipt of the written application. After normal working hours or weekends, this authority can be obtained from our Communications Center at (847) 705-4612.


Village President Zirk
June 4, 2015
Page two

We would appreciate the cooperation of your community in withholding the issuance of building permits along State highways until the builder shows evidence of a State highway permit having been obtained. Our permit staff would be willing to answer any questions that you may have regarding current policies or practices and to work with your planning commission on any new developments within your municipality.

If you have any questions or need additional information, please contact the undersigned, at (847) 705-4131.

Very truly yours,

John Fortmann, P.E.
Deputy Director of Highways,
Region One Engineer

By: 
Thomas G. Gallenbach, P.E.
Traffic Permits Engineer