

**VILLAGE OF GILBERTS**

**ORDINANCE NO. 01-2023**

**AN ORDINANCE APPROVING  
AN AMENDED SPECIAL USE PERMIT AND VARIANCES**

***(St. Peter Evangelical Lutheran Church of Gilberts – 18N377 Galligan Road)***

**WHEREAS**, St. Peter Evangelical Lutheran Church of Gilberts (“**Owner**”), the owner of the property located at 18N377 Galligan Road, Dundee, Illinois 60118, which property is more specifically described on ***Exhibit A (“Property”)***, desires to erect an LED sign on the Property; and

**WHEREAS**, the Property is currently zoned in the R-1 Estate Residence District, which allows assembly uses, including religious facility uses, pursuant to the issuance of a special use permit; and

**WHEREAS**, the Owner previously received a special use permit to allow for the operation of a religious facility on the Property pursuant to Ordinance No. 06-17, approved by the Village Board of Trustees on April 20, 2006 (“***Special Use Permit***”); and

**WHEREAS**, the Gilberts Unified Development Ordinance (“***UDO***”) allows LED signs to be operated in non-residential zoning districts pursuant to the issuance of a special use permit; and

**WHEREAS**, the Owner filed an application to amend the Special Use Permit to allow for the construction and operation of an LED institutional attraction board sign on the Property as an additional special use; and

**WHEREAS**, in addition to the amended Special Use Permit to allow for an LED sign, the Owner also requests approval of variances from the following sections of the UDO: (1) a variance from section 9-2(L)(7)(a) of the UDO to allow for an LED sign in a residential zoning district; and (2) a variance from Section 9-2(M)(4)(c) of the UDO to allow for an institutional attraction board sign with a gross square footage of 192 feet instead of the maximum 100 square feet; and

**WHEREAS**, pursuant to notice duly published, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing on March 8, 2023, for the purpose of hearing and considering testimony on the Owner’s request for approval of an Amended Special Use Permit and variances (collectively, the “***Zoning Relief***”); and

**WHEREAS**, at the conclusion of the public hearing, the Gilberts Plan Commission/Zoning Board of Appeals recommended approval of the Owner’s requested Zoning Relief, subject to certain conditions; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the application for approval to amend the Special Use Permit to allow for the construction and operation of an LED sign as an additional special use on the Property:

1. The proposed special use complies with all provisions of the applicable district

regulations, excluding the requested variances.

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

**WHEREAS**, based on the findings of fact detailed above, the Village Board has determined that the Owner's request to amend the Special Use Permit meets the standards of both state statute and the UDO for construction and operation of an LED sign on the Property as an additional special use, subject to the conditions set forth in this Ordinance; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the Owner's application for approval of the variances for the LED sign:

1. 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;
2. The extraordinary or exceptional conditions of the Property requiring the request for the variances were not caused by the Owners;
3. The proposed variances will alleviate a peculiar, exceptional or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship;
4. The denial of the proposed variances will deprive the Owners of the use permitted to be made by the owners of property in the immediate area;
5. The proposed variances will result in structures that are appropriate to and compatible with the character and scale of structures in the area in which the variances are being requested, and

6. There is no other means other than the requested variations by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the Property.

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

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

**Section 2.**     **Special Use Permit Amendment.** Subject to the conditions set forth in Section 4 of this Ordinance, the Village Board of Trustees hereby approves an amendment to the Special Use Permit pursuant to Section 9-2(L)(7)(a) and Section 11-11 of the UDO to allow for the construction and operation of an LED institutional attraction board sign on the Property as an additional special use.

**Section 3.**     **Variances.** Subject to the conditions set forth in Section 4 of this Ordinance, the Village Board of Trustees hereby approves the following variances for the Property:

- A.           A variance from Section 9-2(L)(7)(a) of the UDO to allow for an LED sign in a residential zoning district.
- B.           A variance from Section 9-2(M)(4)(c) of the UDO to allow for an institutional attraction board sign with a gross square footage of 192 feet instead of the maximum 100 square feet; and

**Section 4.**     **Conditions.** The approvals granted pursuant to Section 2 and Section 3 of this Ordinance are conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approvals granted by this Ordinance in accordance with applicable law. In addition, any violation of this Ordinance will be deemed a violation of the UDO and subject the Owner to enforcement proceedings accordingly.

- A. **Hours of Operation.** The electronic messages displayed on the LED sign on the Property must be turned off between the hours of 9:00 p.m. and 6:00 a.m.
- B. **Location of the LED Sign.** The LED sign on the Property must be located 25 feet back from the front property line, as measured from the widest point of the LED sign. The Owner must submit revised plans showing this sign location prior to the issuance of any permits for construction of the LED sign.
- C. **Compliance with Plans.** The development, maintenance, and use of the Property will be in substantial conformance with the plans attached hereto as ***Exhibit B.***
- D. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to

the approvals granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits, approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law.

- E. Compliance with Laws. The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

**Section 5. Failure to Comply.** Upon failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the approvals in Section 2 and Section 3 this Ordinance for the Property (“*Conditioned Approval*”), will, at the sole discretion of the Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Board of Trustees will not revoke the Conditioned Approval unless it first provides the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees regarding the revocation. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the R-1 Zoning District, as the same may, from time to time, be amended. Further, in the event of revocation, the Village Administrator and Village Attorney are authorized and directed to bring all zoning enforcement actions as may be appropriate under the circumstances. The Owner acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, have considered the possibility of the revocation provided for in this Section 5, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Owner required by this Section 5 is given.

**Section 6. Binding Effect; Non-Transferability.** The privileges, obligations, and provisions of each and every section of this Ordinance are for the sole benefit of, and shall be binding on, the Owner. Nothing in this Ordinance will be deemed to allow the Special Use Permit granted pursuant to this Ordinance, or pursuant to Ordinance No. 06-17, to be transferred to any person or entity without a new application for approval for any person or entity other than the Owner.

**Section 7. 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 8. Repeal and Saving Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

**Section 9. Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however,

that this Ordinance shall be of no force or effect unless and until the Owner has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit C**, within 30 days following the passage of this Ordinance.

**PASSED BY VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this 21<sup>st</sup> day of March, 2023.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	<u>X</u>	_____	_____	_____
Trustee Dan Corbett	<u>X</u>	_____	_____	_____
Trustee Lou Hacker	<u>X</u>	_____	_____	_____
Trustee Brandon Coats	_____	_____	<u>X</u>	_____
Trustee Justin Redfield	<u>X</u>	_____	_____	_____
Trustee David LeClerc Sr.	<u>X</u>	_____	_____	_____
President Guy Zambetti	_____	_____	_____	_____

APPROVED this 21<sup>st</sup> day of March, 2023.

  
 \_\_\_\_\_  
 Guy Zambetti, Village President



ATTEST:   
 \_\_\_\_\_  
 Kelly Mastera, Village Clerk

**Exhibit A**

*Description of the Property*

*Common Address:* 18N377 Galligan Road, Dundee, IL 60118

*PINs:* 02-12-300-014

**Exhibit B**

*Plans*



David F. Schultz Associates Ltd.

202 South Cook Street  
 Suite 201  
 Barrington, Illinois 60010  
 Phone (847)381-8808



ENGINEERING RESOURCE ASSOCIATES, INC.  
 CONSULTING ENGINEERS & SURVEYORS

214 WEST WILLOW AVENUE  
 WHEATON, ILLINOIS 60157  
 PHONE: (708) 688-5855 FAX: (708) 688-0692

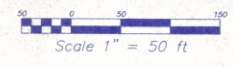
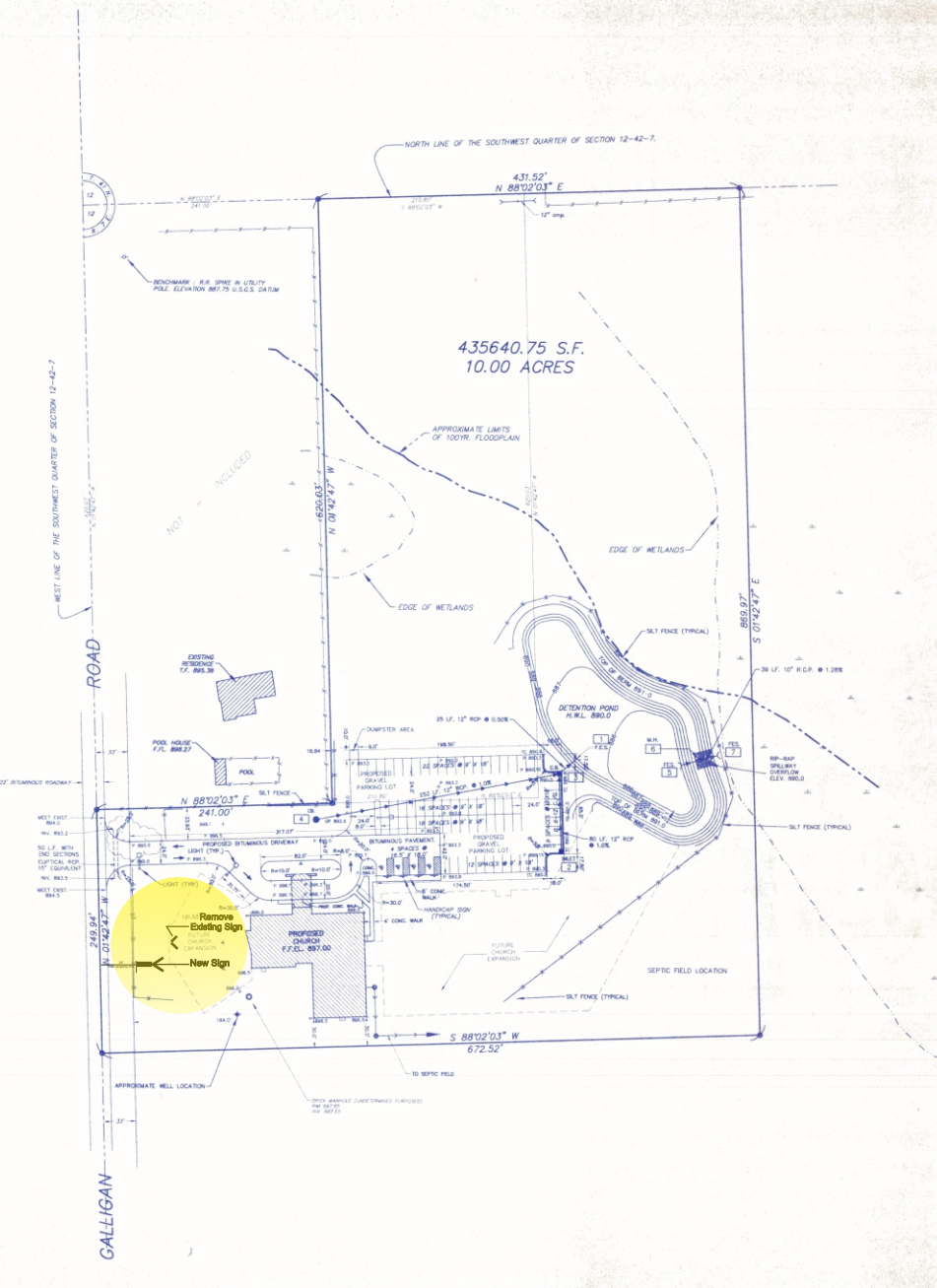
ST. PETER EVANGELICAL LUTHERAN CHURCH

GILBERTS, ILLINOIS

REVISIONS

NOT FOR CONSTRUCTION!!	
DATE	JUNE 21, 1996
PROJECT NUMBER	9801
SHEET NUMBER	C-1

PARKING SUMMARY	
9' X 18' SPACES	75
HANDICAP SPACES	4
TOTAL SPACES	79



LEGEND	EXISTING	PROPOSED
CURB & GUTTER	—	—
WATER	—	—
GAS	—	—
SANITARY SEWER	—	—
STORM SEWER	—	—
SANITARY MANHOLE	○	○
CATCH BASIN	○	○
CURB WALK	—	—
VALVE WELLY	—	—
VALVE & BOX	—	—
BUFFALO BOX	—	—
GAS VALVE	—	—
HYDRANT	—	—
HANDICAPED RAMP	—	—
FULL STRUCTURE	—	—
ADJUST STRUCTURE	—	—

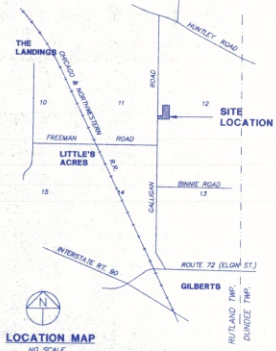
PROPERTY DESCRIPTION:  
 THAT PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 12, APPROXIMATE POINT BEARING S69° 50' 30" E, DISTANCE 28 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER APPROXIMATE 684.67 FEET TO THE POINT OF BEGINNING OF THE PARCELS DESCRIPTION; THENCE CONTAINING 300° 00' 00" TO A POINT ON THE NORTH LINE OF THE PREVIOUSLY DESCRIBED WEST LINE; S25.00 FEET; THENCE S69° 50' 30" E, DISTANCE 14 FEET TO AN EAST PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST QUARTER; 672.52 FEET; THENCE NORTH 00° 00' 00" TO 35 MINUTES EAST PARALLEL WITH THE WEST LINE SOUTHWEST QUARTER; 889.17 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER; THENCE NORTH 89° 50' 30" E, DISTANCE 14 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER; 242.27 FEET; THENCE SOUTH 89° 50' 30" E, DISTANCE 28 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER; 451.87 FEET TO THE POINT OF BEGINNING.  
 TOGETHER WITH:  
 THE EAST 215.80 FEET OF THE WEST 451.80 FEET OF THE NORTH 615.87 FEET OF SAID NORTH HALF OF THE SOUTHWEST QUARTER, IN KANE COUNTY, ILLINOIS.

Warren D. Johnson, P.E.  
 I.L. P.E. NO. 40472  
 Expires November 30, 1996

SOURCE BENCHMARK: R.R. SPIKE IN PAVEMENT ● THE INTERSECTION OF GALLIGAN AND FREEMAN ROADS (0.45' BELOW SURFACE) ELEVATION 893.93 U.S.G.S. DATUM

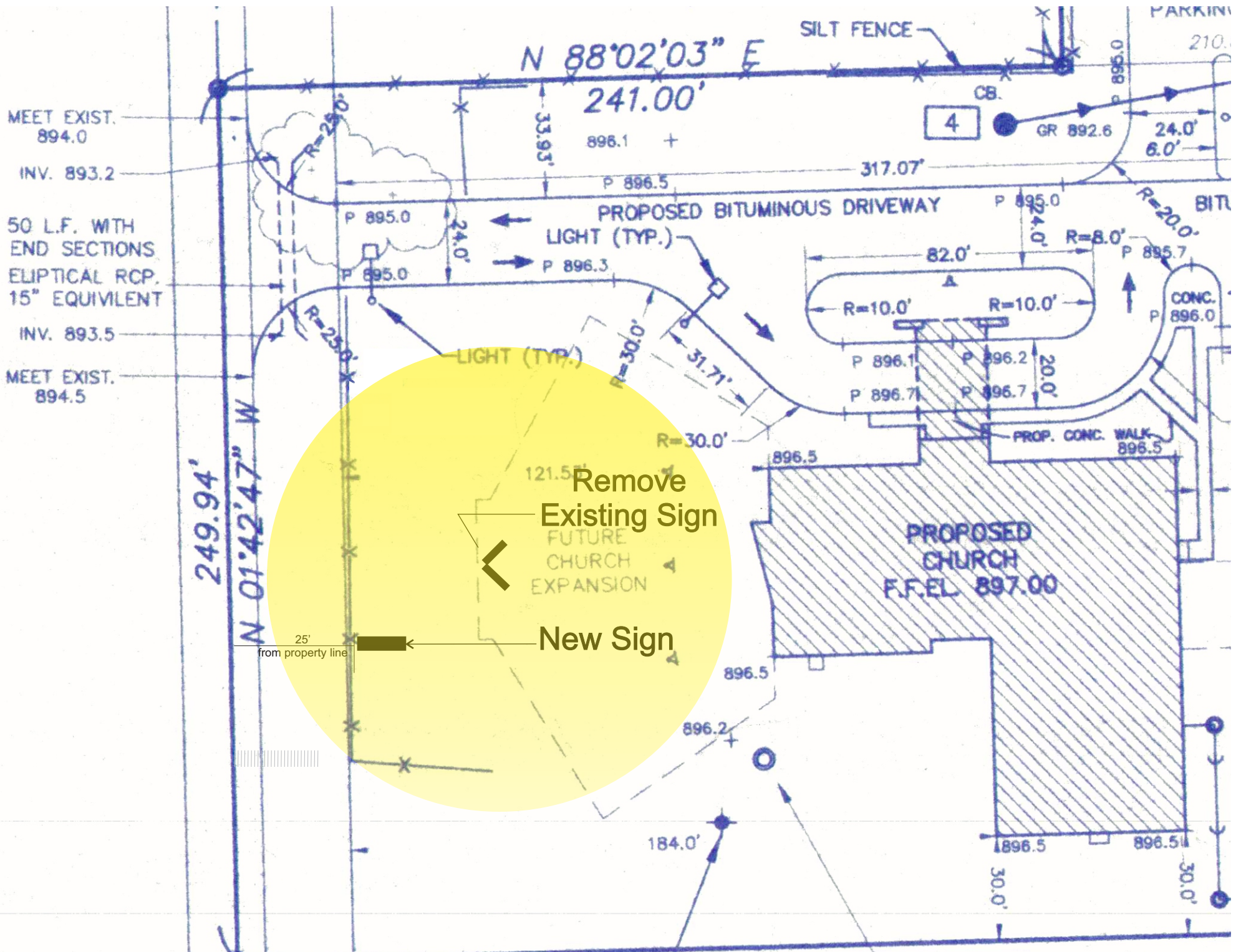
1" = 50' GEOMETRY AND UTILITY PLAN

TWP 42N, R. 7E, S. 12E, GALLIGAN/GALLO



NOTE: BOUNDARY, WETLAND DELINEATION, FLOODPLAIN, AND TOPOGRAPHICAL INFORMATION SHOWN HEREON IS BASED ON THE TOPOGRAPHICAL AND BOUNDARY SURVEYS PREPARED BY ALAN W. CHAMBERLAIN, P.E., JOB NUMBERS C40,356E AND B40,360L, DATED NOVEMBER 22, 1995.





Remove Existing Sign  
 Future Church Expansion  
 New Sign





**Plavalco, LLC**  
DESIGN GROUP

Artwork and design created by:  
Plavalco, LLC  
847.571-6135  
plavalco@gmail.com

SCOPE OF WORK:

Remove existing sign and brick base.

Relocate new sign with new concrete foundation and pole cover or masonry base

New LED lighted sign with full color message center.

Existing electrical feed will be used.

All signs are UL listed.



St. Peter Evangelical Lutheran Church of Gilberts  
18N377 Galligan Rd.  
Dundee, IL. 60118

square feet

approved by: \_\_\_\_\_  
 layout at discretion of art department  
 please do not alter layout



Artwork and design created by:  
Plavalco, LLC  
847.571-6135  
plavalco@gmail.com



SCOPE OF WORK:

Remove existing sign and brick base.


Relocate new sign with new concrete foundation and pole cover or masonry base

New LED lighted sign with full color message center.

Existing electrical feed will be used.

All signs are UL listed.

Proposed setback for new sign at 25 FEET to **EDGE** of sign from property line.

 square feet

approved by: \_\_\_\_\_  
 layout at discretion of art department  
 please do not alter layout



Artwork and design created by:  
Plavalco, LLC  
847.571-6135  
plavalco@gmail.com

SCOPE OF WORK:

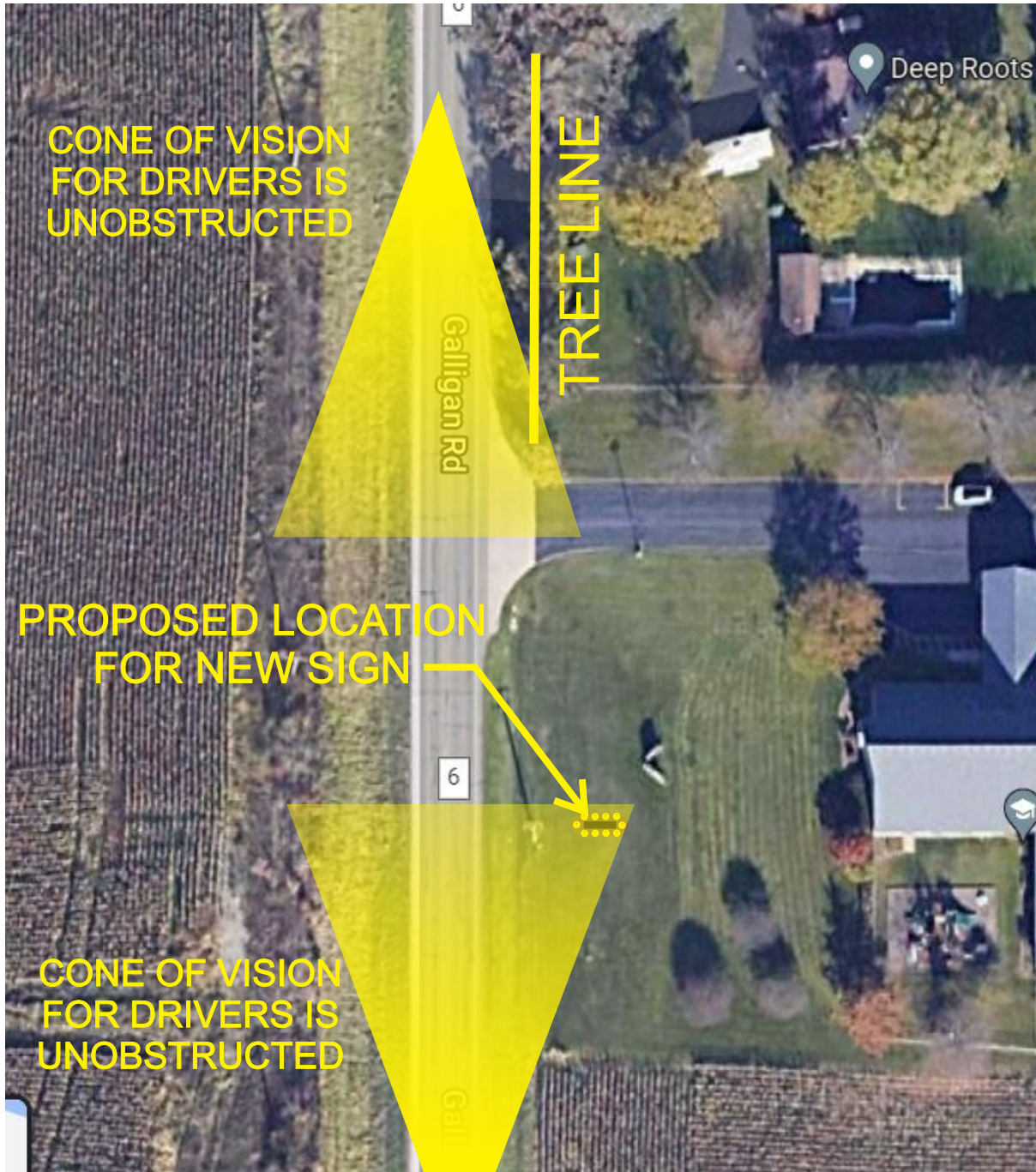
Remove existing sign and brick base.

Relocate new sign with new concrete foundation and pole cover or masonry base


New LED lighted sign with full color message center.

Existing electrical feed will be used.

All signs are UL listed.



Sign viewing angles for motorist

 square feet

approved by: \_\_\_\_\_  
 layout at discretion of art department  
 please do not alter layout

**Exhibit C**

*Unconditional Agreement and Consent*

Pursuant to Section 9 of Ordinance No. 01-2023, and to induce the Village to grant the approvals provided for in that Ordinance, the undersigned acknowledges for itself and its successors and assigns in title to the Property that it:

1. has read and understand all of the terms and provisions of Ordinance No. 01-2023;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the owner or lessee against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Owner.

**St. Peter Evangelical Lutheran Church of Gilberts**

By: David Decken

Its: DAVID DECKEN

Date: 3-23-23