

**ORDINANCE NO. 13-2023**

**AN ORDINANCE APPROVING  
A VARIANCE FROM THE GILBERTS UNIFIED DEVELOPMENT ORDINANCE**

***(290 Burnett Drive – Sub Zero Group, Inc.)***

**WHEREAS**, Sub Zero Group, Inc. (“*Applicant*”), is the occupant of the property located 290 E. Burnett Drive, Gilberts, Illinois, which property is more specifically described in **Exhibit A** (“*Property*”); and

**WHEREAS**, the current owner of the Property is U.S. Core Logistics Operating Partnership (Cabot) (“*Owner*”); and

**WHEREAS**, the Property is zoned in the I-1 Industrial Zoning District, and is within the Prairie Business Park Planned Unit Development; and

**WHEREAS**, the Applicant currently maintains two wall signs on the building on the Property; and

**WHEREAS**, the Applicant desires to add a third wall sign to the building on the Property at a height of 45 feet; and

**WHEREAS**, Section 9-2(M)(1)(A)(4) of the Gilberts Unified Development Ordinance (“*UDO*”) provides that the maximum height of wall signs for industrial uses is 20 feet; and

**WHEREAS**, the Applicant, with the permission of the Owner, has filed an application for a variance from Section 9-2(M)(1)(A)(4) of the UDO to allow for the third wall sign on the building to exceed the 20-foot height limitation by 25 additional feet (“*Sign Variance*”); and

**WHEREAS**, pursuant to proper notice, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the Applicant’s request for the Sign Variance on July 12, 2023, and at the conclusion of the public hearing voted to recommend approval of the Sign Variance; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the Applicant’s request for approval of the Sign Variance for the Property:

- 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;
- b. The extraordinary or exceptional conditions of the Property requiring the request for the variance were not caused by the Applicant;
- c. The proposed variance will alleviate a peculiar, exceptional or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship;
- d. The denial of the proposed variance will deprive the Applicant of the use permitted to be made by the owners of property in the immediate area;

- e. The proposed variance will result in structures that are appropriate to and compatible with the character and scale of structures in the area in which the variance is being requested, and
- f. There is no other means other than the requested variance 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. Variance.** Subject to the conditions set forth in Section 3 of this Ordinance, the Village Board of Trustees hereby approves the following variance for the Property:

- A. A variance from Section 9-2(M)(1)(A)(4) of the UDO to allow for the third wall sign on the building on the Property to exceed the 20-foot height limitation by 25 additional feet.

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

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to the 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.
- B. **Compliance with Laws.** The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. **Compliance with Plans.** The development, maintenance, and use of the Property will be in substantial conformance with the plans attached hereto as ***Exhibit B***.

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

**Section 5. Repeal and Saving Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

**Section 6. Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the 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 18<sup>th</sup> day of July, 2023.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Robert Vanni	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Frank Marino	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Brandon Coats	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Robert Chapman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Justin Redfield	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 18<sup>th</sup> DAY OF JULY, 2023.

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



ATTEST:   
\_\_\_\_\_  
Deputy, Village Clerk

**Exhibit A**

*Description of the Property*

*Common Address: 290 Burnett Drive, Gilberts, IL 60136*

*PINs: 02-24-452-018, 02-24-452-019, 02-24-452-020, 02-24-452-021, 02-24-452-022, 02-24-452-023,  
02-24-452-024, 02-24-452-025, 02-24-452-041.*



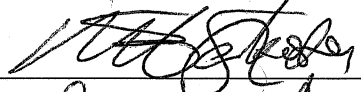
**EXHIBIT C**

**Unconditional Agreement and Consent**

Pursuant to Section 6 of Ordinance No. 13-2023, 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. 13-2023;
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 Applicant or Owner against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant and Owner.

**SUB ZERO GROUP INC.**

By: 

Its: SETIA ATTAKORA

Date: 07-27-2023

**EXHIBIT B**

*Plans*

10/1/2023

10/1/2023

10/1/2023

New configuration with additional sign and halo lit background panels which adds an additional 196 SF

Existing

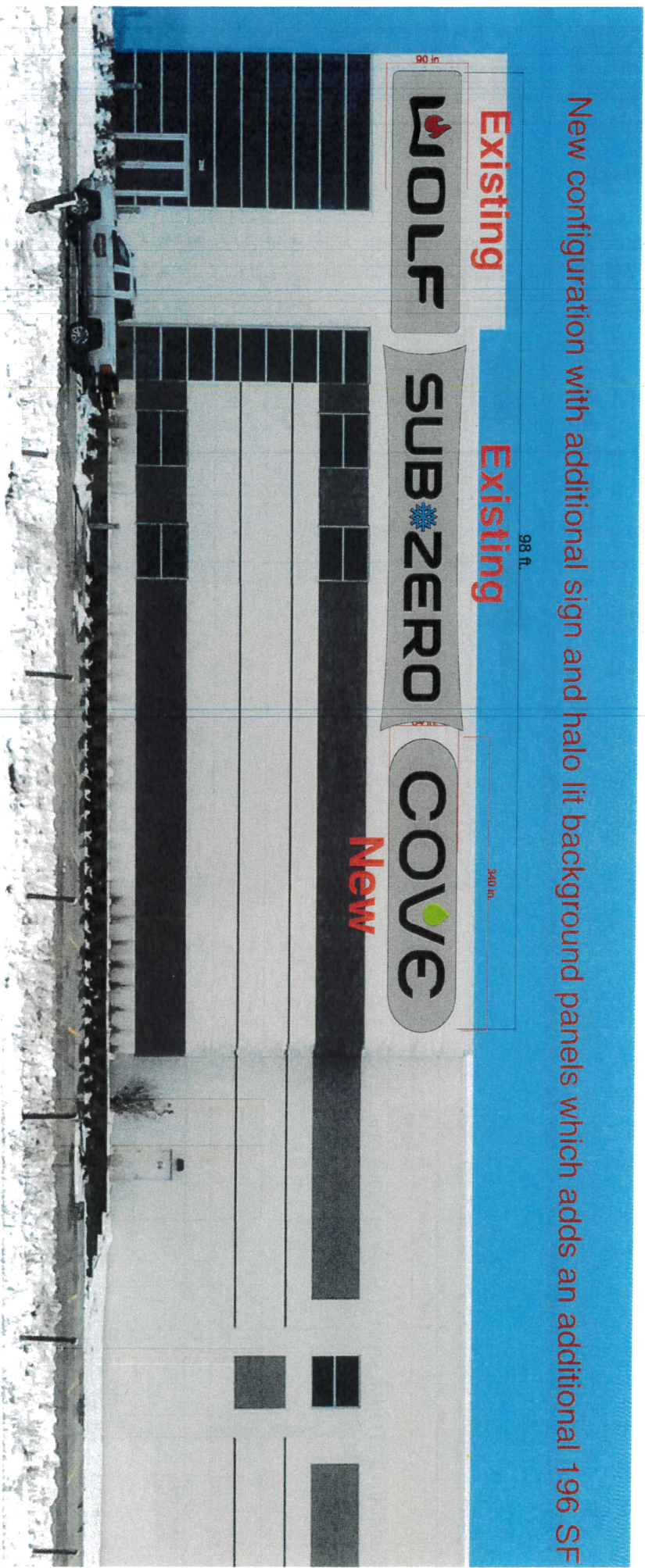
90 in  
WOLF

Existing

98 ft.  
SUBZERO

340 in

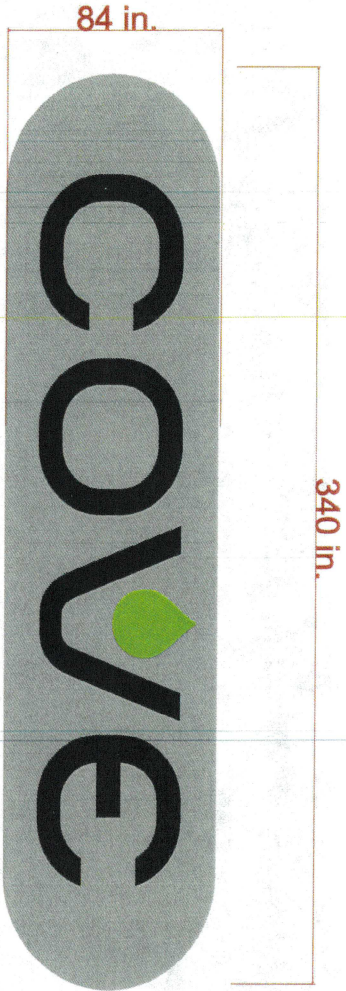
COVE  
New





LED illuminated Channel Letters with black perforated vinyl faces

Black during the day and white at night. 120-277V 20amp supplies per location specified



Colors/Finishes:

Painted Metallic Silver Aluminum 3" pan with channel letters mounted to face

Metallic Silver
  Black
  PMS 382

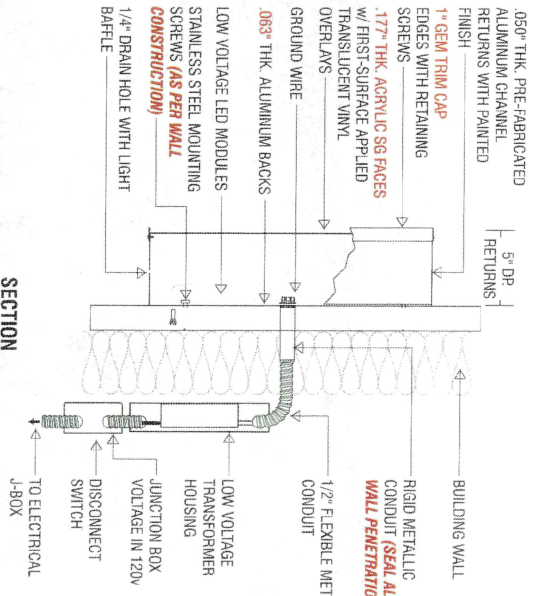
**MEYER SIGNS & GRAPHICS**

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SIGN TO BE UL APPROVED AND BEAR UL LABEL

**PLEX FACED CHANNEL LETTERS WITH LED ILLUMINATION**

**NOTE:** THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.