

**VILLAGE OF GILBERTS**

**KANE COUNTY**

**STATE OF ILLINOIS**

**ORDINANCE NUMBER 12-2017**

**An Ordinance approving a Special Use Permit and Sign Variations for the  
Installation of LED Monument Signs at 315 East Higgins Road**

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

*April 18* 2017

Published in pamphlet form by authority of the President and Board of Trustees of  
the Village of Gilberts, Kane County, Illinois this 18<sup>th</sup> day of April 2017

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ORDINANCE NO. 12-2017

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT  
AND SIGN VARIATIONS FOR THE INSTALLATION OF LED MONUMENT SIGNS  
AT 315 EAST HIGGINS ROAD**

**WHEREAS**, Anantavirya LLC, the owner of the property located at 315 East Higgins Road, and described on **Exhibit A** ("**Property**"), desires to install two Light Emitting Diode ("**LED**") monument signs on the Property; and

**WHEREAS**, the Property is currently zoned in the C-1 zoning district, which allows for the installation of LED signs as a special use; and

**WHEREAS**, pursuant to Section 10-9-2(L)(7)(b) of the Gilberts Unified Development Ordinance ("**UDO**"), only one LED sign is permitted on each zoning or shopping center lot; and

**WHEREAS**, pursuant to Section 10-9-2(L)(1)(b)(2) of the UDO, only one monument sign is permitted for each principal building; and

**WHEREAS**, Meyer Signs, Inc., on behalf of the owner of the property (collectively, the "**Applicant**"), has filed an application for a special use permit to install the LED signs on the Property, and for variations from Section 10-9-2(L)(7)(b) and Section 10-9-2(L)(1)(b)(2) of the UDO to allow for the installation of more than one LED monument sign on the Property; and

**WHEREAS**, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the Applicant's request for a special use permit on April 12, 2017, and at the conclusion of the public hearing voted to recommend approval of the special use permit to allow for the installation of the LED signs on the Property, subject to the condition that the electronic message center in the LED monument sign for the Dunkin Donuts/Baskin Robbins restaurant be no larger than 35 inches in height and no more than 10 inches in width; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the application for approval of the special use permit for the installation of two LED signs on the Property:

1. The proposed special use complies with all provisions of the applicable district regulations.
2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large.
3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

4. Adequate utility, drainage, and other necessary facilities have been or will be provided.
5. The proposed special use, where such developments and uses are deemed consistent with good planning practice, can be operated in a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall conform to the applicable regulations of the district; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the Village.

**WHEREAS**, on April 18, 2017, the Gilberts Village Board of Trustees held a public hearing and reviewed the Applicant's request for variations from Section 10-9-2(L)(7)(b) and Section 10-9-2(L)(b)(2) of the UDO to allow for the installation of two LED monument signs on the Property; and

**WHEREAS**, the Village Board hereby finds that the variations from Section 10-9-2(L)(7)(b) and Section 10-9-2(L)(1)(b)(2) of the UDO will not merely serve as a convenience to the Applicant, but are necessary to alleviate a demonstrable hardship and unusual practical difficulty, and that the granting of the variations will not in any way be inconsistent with the intent, purpose, and objectives of Title 10-9-2 of the UDO.

**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.** Subject to the conditions set forth in Section 4 of this Ordinance, the Village Board of Trustees hereby approves a special use permit pursuant to Section 10-9-2(L)(7)(a) of the UDO to allow for the installation of two LED monument signs on the Property.

**Section 3.**     **Variations.** Subject to the conditions set forth in Section 4 of this Ordinance, the Village Board of Trustees hereby approves variations from Section 10-9-2(L)(7)(b) and Section 10-9-2(L)(1)(b)(2) of the UDO to allow for the installation of two LED monument signs on the Property.

**Section 4.**     **Conditions.** The approvals granted pursuant to Sections 2 and 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 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 to enforcement proceedings accordingly.

- A. **Electronic Message Center Restriction.** The electronic message in the LED monument sign for the Dunkin Donuts/Baskin Robbins restaurant on the Property shall be no larger than 35 inches in height and no more than 10 inches in width.

- B. No Off Premises Advertising. No advertisements for a business, profession, activity, commodity, service, or entertainment other than those conducted, sold, or offered upon the Property shall be permitted on the two LED monument signs on the Property. This condition shall not apply to the display of public service announcements.
- C. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to the approval granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits, approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law, including, without limitation, approval of final engineering plans and issuance of required permits.
- D. 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.
- E. No Transfer of Special Use Permit. The special use permit granted by this Ordinance is specifically granted to the Applicant for use on the Property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than the Applicant without an amendment to the special use permit approved by the Village of Gilberts.

**Section 5. 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 6. 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 7. Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the Applicant has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit B**, within 30 days following the passage of this Ordinance.

**PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this 18<sup>th</sup> day of April 2017.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	✓	_____	_____	_____

Trustee Elissa Kojzarek	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Dave LeClercq	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Lou Hacker	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	_____	_____	_____
President Rick Zirk	<input type="checkbox"/>	_____	_____	_____

APPROVED THIS 18<sup>th</sup> DAY OF April, 2017



[Signature]  
 Village President, Rick Zirk

ATTEST: [Signature]  
 Village Clerk, Debra Meadows

Published: April 19, 2017

**Exhibit A**

**Legal Description of the Property**

**Lots 22,23,24,25 and 26 Of Prairie Business Park, being a Resubdivision of part of Riemer Centre Industrial Park & Office Research Centre Subdivision , being Subdivision of part of the East half of the Southwest Quarter, and the West Half of the Southeast Quarter of Section 24, Township 42 North, Range 7 East of the Third Principal Meridian According to the Plat thereof recorded May 7, 2013, as Document 2013K033874, in the Village of Gilberts, Kane County IL**

**Exhibit B**

**Unconditional Agreement and Consent**

Pursuant to Section 7 of Ordinance No. \_\_\_\_\_, 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. \_\_\_\_\_;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the owner or lessee against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant.

Anantavirya LLC

By: \_\_\_\_\_

Its \_\_\_\_\_

Meyer Signs, Inc.

By: \_\_\_\_\_

Its \_\_\_\_\_