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**THE VILLAGE OF HOMER GLEN  
WILL COUNTY, ILLINOIS**

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**ORDINANCE  
NUMBER 17-040**

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**AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A  
PLANNED UNIT DEVELOPMENT IN THE C-3 GENERAL  
BUSINESS DISTRICT; AND A SPECIAL USE PERMIT FOR (A)  
AUTOMOBILE SERVICE STATION, (B) MINI-MART  
ASSOCIATED WITH THE GAS STATION, (C) CAR WASH, (D)  
ASSOCIATED DRIVE-THROUGH, (E) PACKAGED LIQUOR  
SALES, (F) OUTDOOR SALES AND STORAGE, AND (G) HOURS  
OF OPERATION FOR CERTAIN REAL PROPERTY THAT IS  
LOCATED AT THE NORTHEAST CORNER OF 159TH STREET  
AND S. GOUGAR ROAD AND KNOWN AS PIN 16-05-17-300-013-  
0000 (Leonard McEnery, Case No. HG-1706-PS)**

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**GEORGE YUKICH, Village President  
ANN HOLTZ, Village Clerk**

**BRIAN BURIAN  
CARLO CAPRIO  
KEITH GRAY  
CHRISTINA NEITZKE-TROIKE  
BETH RODGERS  
SHARON SWEAS**

**Trustees**

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AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT IN THE C-3 GENERAL BUSINESS DISTRICT; AND A SPECIAL USE PERMIT FOR (A) AUTOMOBILE SERVICE STATION, (B) MINI-MART ASSOCIATED WITH THE GAS STATION, (C) CAR WASH, (D) ASSOCIATED DRIVE-THROUGH, (E) PACKAGED LIQUOR SALES, (F) OUTDOOR SALES AND STORAGE, AND (G) HOURS OF OPERATION FOR CERTAIN REAL PROPERTY THAT IS LOCATED AT THE NORTHEAST CORNER OF 159TH STREET AND S. GOUGAR ROAD AND KNOWN AS PIN 16-05-17-300-013-0000 (Leonard McEnery, Case No. HG-1706-PS)

**WHEREAS**, the Village of Homer Glen, Will County, Illinois (the "*Village*") is a home rule municipality pursuant to Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs (the "*Home Rule Powers*"); and,

**WHEREAS**, Leonard McEnery filed an application for approval of a Special Use Permit for a Planned Unit Development in the C-3 General Business District; and a Special Use Permit for (a) automobile service station, (b) mini-mart associated with the gas station, (c) car wash, (d) associated drive-through, (e) packaged liquor sales, (f) outdoor sales and storage, and (g) hours of operation for certain real property located at the northeast corner of 159th Street and S. Gougar Road and known as PIN 16-05-17-300-013-0000; and

**WHEREAS**, the property that is the subject of the aforesaid application and of this ordinance ("Subject Property") is legally described in "Exhibit A"; and,

**WHEREAS**, pursuant to a public notice published in a newspaper of general circulation within the Village as required by the Village's Zoning Code, the Plan Commission of the Village held a public hearing with regard to said application and rendered its findings of fact and recommendations to the Board of Trustees of the Village; and

**WHEREAS**, the Plan Commission after due consideration of the issues, exhibits and testimony, made findings of fact and a recommendation to the Board of Trustees of the Village which are incorporated into the record of its proceedings attached hereto as Exhibit "B"; and

**WHEREAS**, the Village President and Board of Trustees of the Village, after due consideration have determined that the Special Use Permits for certain real property located at the northeast corner of 159th Street and S. Gougar Road and known as PIN 16-05-17-300-013-0000, is in conformance with the Village's Comprehensive Plan and in the best interests of the public health, safety and welfare of the Village's residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Village President and Village Board of Trustees of the Village of Homer Glen, Will County, Illinois, by and through its Home Rule Powers, as follows:

**Section 1. Incorporation of Recitals.** That the recitals and findings set forth above and in the recommendation of the Plan Commission, attached hereto as Exhibit "B" are incorporated herein by reference the same as if they were fully set forth herein verbatim and they are adopted as the findings of the Board of Trustees of the Village.

**Section 2. Special Use Permit for a Planned Development.** The Village hereby grants a Special Use Permit for Planned Development in the C-3 General Business District for certain real property legally described in Exhibit "A", to be developed in general conformance with the plans prepared by M. Gingerich, Gereaux & Associates and attached hereto as Exhibit "C."

**Section 3. Other Special Use Permits.** The Village hereby approves Special Use Permits for (a) automobile service station, (b) mini-mart associated with the gas station, (c) car wash, (d) associated drive-through, (e) packaged liquor sales, (f) outdoor sales and storage, and (g) hours of operation for the subject property, subject to the following conditions:

1. That any seasonal merchandise display areas should be limited to only under the canopy and adjacent to the retail building.
2. That the petitioner will either install or reimburse the Village of Homer Glen for the installation of the steel mast arm and pole with 'No Truck Route' sign as indicated on the site geometric plan.
3. The proposed three (3) semi-truck fueling dispensers/two (2) lanes are eliminated from the site plan.

**Section 4. Other Conditions.** The Village hereby approves the Special Use Permit for a Planned Development in the C-3 General Business District for certain real property legally described in Exhibit "A" subject to the following condition:

1. Further enhancements shall be made to the building elevations, similar to the Shorewood location, subject to Village Board approval.

**Section 5. Compliance With All Codes.** That all requirements set forth in the Zoning and other applicable Codes of the Village of Homer Glen, shall be complied with.

**Section 6. Revocation.** That the Special Use Permits, for certain real property legally described in Exhibit "A" as hereby authorized, may be revoked by the Village Board of the Village of Homer Glen upon application being made to the Village Board upon a finding by the Village Board that any of the regulations and conditions herein established have not been complied within the 30 day noticed Village Board cure period.

**Section 7. Severability.** The various portions of this ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this ordinance shall not affect the validity of any other portions of this ordinance, which shall be enforced to the fullest extent possible.

**Section 8. Repealer.** All ordinances or portions of ordinances previously passed or adopted by the Village of Homer Glen that conflict with or are inconsistent with the provisions of this ordinance are hereby repealed.

**Section 9. Effective Date.** This ordinance shall be in full force and effect from and after its passage and approval.

**Section 10. Notice to Applicant.** That the Village Clerk is further directed to forward a copy of this ordinance to the applicant as notification of the passage and approval of this ordinance.

Adopted this 28<sup>th</sup> day of June, 2017 pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Burian	X			
Caprio	X			
Gray	X			
Neitzke-Troiike	X			
Rodgers	X			
Sweas	X			
Yukich (Village President)				
TOTAL	6			

**APPROVED** by the Village President on June 28, 2017.

George Yukich  
Village President

ATTEST:

Ann Holtz  
Village Clerk



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**Legal Description – “Exhibit A”**

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 01 DEGREE 41 MINUTES 42 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 540.21 FEET; THENCE NORTH 88 DEGREES 17 MINUTES 43 SECONDS EAST 42.34 FEET TO THE EAST RIGHT OF WAY OF GOUGAR ROAD PER DOCUMENT R99-056052 TO THE POINT OF BEGINNING; THENCE SOUTH 9 DEGREES 23 MINUTES 00 SECONDS EAST ALONG SAID RIGHT OF WAY 131.97 FEET; THENCE SOUTH 5 DEGREES 07 MINUTES 43 SECONDS EAST ALONG SAID RIGHT OF WAY 100.18 FEET; THENCE SOUTH 01 DEGREE 41 MINUTES 42 SECONDS EAST ALONG SAID RIGHT OF WAY 205.00 FEET; THENCE SOUTH 41 DEGREES 02 MINUTES 33 SECONDS EAST ALONG SAID RIGHT OF WAY 27.07 FEET; THENCE SOUTH 89 DEGREES 10 SECONDS 26 SECONDS EAST ALONG THE NORTH RIGHT OF WAY OF 159TH STREET PER DOCUMENT R99-056052 300.37 FEET; THENCE NORTH 87 DEGREES 57 MINUTES 49 SECONDS EAST ALONG SAID RIGHT OF WAY 148.43 FEET; THENCE NORTH 01 DEGREES 42 MINUTES 17 SECONDS WEST 469.13 FEET; THENCE SOUTH 88 DEGREES 17 MINUTES 43 SECONDS WEST 489.25 FEET TO THE POINT OF BEGINNING. CONTAINING 5.01 ACRES MORE OR LESS.

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**Findings of Fact - "Exhibit B"**

The Plan Commission shall not vary the provisions of this Ordinance as authorized unless it has made findings based upon the evidence presented to it in the following cases. The Plan Commission makes the following findings (*in bold italics*):

1. That the establishment, maintenance or operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort or general welfare. *The establishment, maintenance and operation of the requested special uses will not be detrimental to, or endanger, the public health, safety, morals, comfort or general welfare because the subject property is located at the southwest corner of a 44-acre undeveloped parcel zoned C-3 General Business District.*
2. The proposed use at the proposed location will not have an undue or substantial adverse effect, above and beyond that inherently associated with such use, irrespective of the location in the particular zoning district, upon adjacent property, the character of the neighborhood, or other matters affecting the public health, safety and welfare of the community. *The requested special uses will not have an undue or adverse effect upon adjacent property, the character of the neighborhood, or other matters affecting the public health, safety and welfare of the community because all of the requested uses are typical uses requested by gas station facilities.*
3. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. *The requested special uses will not be injurious to the use and enjoyment of other property in the area because the property is located at the southwest corner of a 44-acre undeveloped parcel zoned C-3 General Business District.*
4. The proposed use at the particular location is desirable to provide a service or facility in the interest of public convenience and the gain to the public and all or a part of the community exceeds the hardship imposed upon the property owner. *The location for the special uses are desirable to provide a service or facility in the interest of public convenience and the gain to the public and all or a part of the community exceeds the hardship imposed on the property owner because the existing gas station is at a convenient location for drivers in need of gasoline and is located within a main commercial corridor.*
5. The proposed use is generally suitable for the particular zoning district and will not adversely affect development of adjacent properties in accord with the applicable district regulations. *The requested special uses are suitable for the C-3 Zoning District and will not adversely affect development of adjacent properties in accordance with the applicable district regulations.*
6. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

***The requested special uses will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district because the surrounding parcels to the north and east are undeveloped.***

6. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed, or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood. ***The exterior architectural appeal and functional plan of the existing location for the requested special uses will not be so at variance with other structures or in the immediate neighborhood because the surrounding parcels to the north and east are undeveloped.***
7. That the adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. ***The location for the requested special uses has utilities, access roads, drainage, and/or necessary facilities under planning.***
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. ***The location for the requested special uses already have adequate measures of ingress and egress to minimize traffic congestion and the petitioner has submitted an alternate site plan indicating right-in and right-out entrance onto 159<sup>th</sup> Street in the event IDOT requires a restricted access.***
9. The proposed use has been considered in relation to the location, goals and objectives of the Village's Comprehensive Plan and is in general accord with the guidelines of the plan. ***The requested special uses have been considered in relation to the location, goals, and objectives of the Village's Comprehensive Plan, which designated the subject property as a Business Park. However, the subject property is already zoned C-3 General Business District.***

#### **Plan Commission Recommendation**

Following the public hearing held on May 4, 2017, the Plan Commission voted 4-0 to deny staff's recommended findings as the findings of the Plan Commission, and to recommend to the Village Board denial of (1) a Preliminary and Final Plat of Subdivision, and (2) Special Use Permits for a Planned Unit Development in the C-3 General Business District, and for (a) automobile service station, (b) mini-mart associated with the gas station, (c) car wash, (d) associated drive-through, (e) packaged liquor sales, (f) outdoor sales and storage, and (g) hours of operation. Seven members of the public spoke against the requests citing truck traffic, site drainage, noise, and lighting as concerns.