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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 03/30/2016 09:14 AM Pg: 1 of 35

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

OFFICE OF RECORDER OF DEEDS
COOK COUNTY, ILLINOIS

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CITY OF DES PLAINES

ORDINANCE Z - 18 - 15

**AN ORDINANCE AMENDING A CONDITIONAL USE PERMIT FOR
THE OPERATION OF A CONVENIENCE MART FUELING STATION
AT 885-911 TOUHY AVENUE, DES PLAINES, ILLINOIS. (CASE #14-024-
CU-V).**

PINs: 09-32-100-008-0000, 09-32-100-018-0900

Box 266

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GROUP EXHIBIT B

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Des Plaines, Illinois ("*City*");

WHEREAS, Speedway, LLC ("*Petitioner*"), is the record owner of that certain property commonly known as 885-911 Touhy Avenue, Des Plaines, Illinois ("*Subject Property*"); and

WHEREAS, on July 21, 2014, the City Council passed Ordinance Z-16-14 ("*Conditional Use Ordinance*"), granting Petitioner's application for, among other things, a conditional use permit ("*Conditional Use Permit*") to permit, pursuant to Section 7.3-6.C of the City of Des Plaines Zoning Ordinance of 1998, as amended, the construction and operation of a Convenience Mart Fueling Station on the Subject Property; and

WHEREAS, Petitioner applied to the City of Des Plaines to amend the Conditional Use Permit to allow for the construction and operation of the Convenience Mart Fueling Station in accordance with certain amended plans ("*Amended Conditional Use Permit*"); and

WHEREAS, on July 12, 2015, the City Council adopted Ordinance Z-18-15 ("*Amended CUP Ordinance*"), which grants approval of the Amended Conditional Use Permit by amending the Conditional Use Ordinance, subject to certain conditions; and

WHEREAS, Petitioner desires to evidence to the City its unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in the Amended CUP Ordinance, and to recording the Amended CUP Ordinance against the Subject Property;

NOW, THEREFORE, Petitioner does hereby agree and covenant as follows:

1. Petitioner shall, and does hereby, unconditionally agree to, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance Z-18-15, adopted by the City Council on July 12, 2015.
2. Petitioner acknowledges and agrees that the City is not and shall not be, in any way, liable for any damages, injuries, or other liabilities that may be sustained as a result of the City's review and approval of any plans for the Subject Property, or the issuance of any permits for the use and development of the Subject Property, and that the City's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure Petitioner against damage, injury, or liability of any kind and at any time. The damages, injuries, and liabilities referred to in this Section 2 include, without limitation, any damages, injuries, or other liabilities that may arise from claims that the development and use of the Subject Property in accordance with the Conditional Use Ordinance and the Amended CUP Ordinance impair an interest in the Subject Property that is held or claimed by a third party.

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3. Petitioner acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the procedures required by Section 4.7 of the City's Zoning Ordinance are followed.
4. Petitioner agrees to and does hereby hold harmless and indemnify the City, the City's corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the City's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Subject Property, and (d) the performance by Petitioner of its obligations under this Unconditional Agreement and Consent. The claims referred to in this Section 4 include, without limitation, claims that the development and use of the Subject Property in accordance with the Conditional Use Ordinance and the Amended CUP Ordinance impair an interest in the Subject Property that is held or claimed by a third party.
5. Petitioner shall, and does hereby agree to, pay all expenses incurred by the City in defending itself with regard to any and all of the claims mentioned in this Unconditional Consent and Agreement. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the City.

ATTEST:

SPEEDWAY, LLC

By: Julie M. Triphahn

By: Cheryl Jones

SUBSCRIBED and SWORN to
before me this 10th day of
AUGUST, 2015.

Notary Public



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CITY OF DES PLAINES

ORDINANCE NO. Z-18-15

AN ORDINANCE AMENDING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A CONVENIENCE MART FUELING STATION AT 885-911 TOUHY AVENUE, DES PLAINES, ILLINOIS (CASE #14-024-CU-V)

ADOPTED ON JULY 6, 2015
BY THE CITY COUNCIL
OF THE
CITY OF DES PLAINES

Published in pamphlet form by authority of the City Council of the City of Des Plaines, Cook County, Illinois, this 7th day of July, 2015.

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

CERTIFICATE

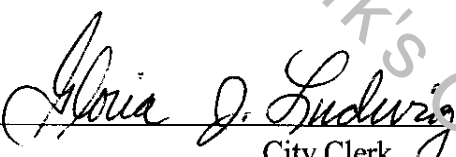
I, Gloria J. Ludwig, certify that I am the duly elected and acting Municipal Clerk of the City of Des Plaines, Cook County, Illinois.

I further certify that on July 6, 2015, the Corporate Authorities of such municipality passed and approved Ordinance No. Z-18-15 entitled AN ORDINANCE AMENDING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A CONVENIENCE MART FUELING STATION AT 885-911 TOUHY AVENUE, DES PLAINES, ILLINOIS (CASE #14-024-CU-V) which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. Z-18-15, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on July 7, 2015 and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Des Plaines, Illinois, this 7th day of July, 2015.

(SEAL)


City Clerk

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CITY OF DES PLAINES

ORDINANCE Z - 18 - 15

AN ORDINANCE AMENDING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A CONVENIENCE MART FUELING STATION AT 885-911 TOUHY AVENUE, DES PLAINES, ILLINOIS. (CASE #14-024-CU-V).

WHEREAS, Speedway, LLC ("**Petitioner**"), is the record owner of that certain property commonly known as 885-911 Touhy Avenue, Des Plaines, Illinois ("**Subject Property**"); and

WHEREAS, the Subject Property is located in the C-3, General Commercial District ("**C-3 District**"); and

WHEREAS, Petitioner desires to construct and operate on the Subject Property a Convenience Mart Fueling Station; and

WHEREAS, pursuant to Section 7.3-6.C of the Zoning Ordinance, the operation of a Convenience Mart Fueling Station in the C-3 District is not permitted without a conditional use permit; and

WHEREAS, on July 21, 2014, the City Council passed Ordinance Z-16-14 ("**Conditional Use Ordinance**"), granting, among other things, a conditional use permit ("**Conditional Use Permit**") to permit, pursuant to Section 7.3-6.C of the City of Des Plaines Zoning Ordinance of 1998, as amended ("**Zoning Ordinance**"), the construction and operation of a Convenience Mart Fueling Station on the Subject Property; and

WHEREAS, pursuant to Section 5 of the Conditional Use Ordinance, the Conditional Use Permit was granted subject to and contingent upon certain conditions, including, without limitation, that the Subject Property must be developed, used, and maintained in accordance with certain plans attached to the Conditional Use Ordinance as Group Exhibit B (collectively, the "**Plans**"); and

WHEREAS, Petitioner now desires to: (i) amend the Plans to, among other things: (a) add a vehicular cross-access driveway located on the southeast corner of the Subject Property; and (b) provide 12 additional parking spaces located on the northwest portion of the Subject Property (collectively, the "**Amended Plans**"); and (ii) use, develop, and maintain the Convenience Mart Fueling Station on the Subject Property in accordance with the Amended Plans; and

WHEREAS, Petitioner submitted an application to the City of Des Plaines Department of Community and Economic Development ("**Department**") to amend the Conditional Use Permit to allow for construction and operation of the Convenience Mart Fueling Station on the Subject Property in accordance with the Amended Plans; and

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WHEREAS, the Petitioner's application was referred by the Department to the Zoning Board of Appeals of the City of Des Plaines ("**Board**") within 15 days after the receipt thereof; and

WHEREAS, within 90 days after the date of the Petitioner's application, a public hearing was opened by the Board on April 14, 2015, pursuant to notice published in the *Journal* on March 27, 2015, and continued to April 28, 2015; and

WHEREAS, during the public hearing, the Board heard competent testimony and received evidence with respect to how the Petitioner intended to satisfy and comply with the applicable provisions of the Zoning Ordinance. The Board filed a written report with the City Council on April 28, 2015, summarizing the testimony and evidence received by the Board and stating the Board's recommendation, by a vote of 5-2, to approve the Petitioner's application; and

WHEREAS, the Petitioner made certain representations to the Board with respect to the proposed amended Conditional Use Permit, which representations are hereby found by the City Council to be material and upon which the City Council relies in granting this request for the amended Conditional Use Permit subject to certain terms and conditions; and

WHEREAS, the City Council has considered the written report of the Zoning Board of Appeals, together with the applicable standards for conditional use permits set forth in the Zoning Ordinance, and the Community and Economic Development Staff Memorandum dated April 29, 2015, including the attachments and exhibits thereto, and has determined that it is in the best interest of the City and the public to grant the Petitioner's application in accordance with the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Des Plaines, Cook County Illinois, in the exercise of its Home Rule powers, as follows:

SECTION 1. RECITALS. The recitals set forth above are incorporated herein by reference and made a part hereof, the same constituting the factual basis for this Ordinance.

SECTION 2. LEGAL DESCRIPTION OF SUBJECT PROPERTY.

The Subject Property is legally described as follows:

PARCEL 1

THAT PART OF THE WEST 1/2 OF THE EAST 2/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 32, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED TRACT OF LAND: BEGINNING AT A POINT ON THE WEST LINE OF THE WEST 1/2 OF THE EAST 2/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 32, SAID POINT BEING 97.2 FEET SOUTH OF A CROSS IN THE PAVEMENT AT THE NORTHWEST CORNER OF THE WEST 1/2 OF THE EAST 2/3 OF THE

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NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 32; THENCE SOUTH 265.8 FEET ALONG WEST LINE OF THE WEST 1/2 OF THE EAST 2/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32; THENCE SOUTHEASTERLY 470.7 FEET ALONG A LINE MAKING A LEFT DEFLECTION OF 70 DEGREES 07 MINUTES 00 SECONDS WITH THE PREVIOUSLY DESCRIBED COURSE TO THE EAST LINE OF THE WEST 1/2 OF THE EAST 2/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32; THENCE NORTH 265.8 FEET ALONG SAID EAST LINE, WHICH MAKES A LEFT DEFLECTION OF 109 DEGREES 50 MINUTES 30 SECONDS, WITH THE LAST DESCRIBED COURSE; THENCE NORTHWESTERLY 470.9 FEET TO THE PLACE OF BEGINNING (EXCEPTING THEREFROM THAT PART THEREOF LYING NORTH OF THE FOLLOWING DESCRIBED LINE; COMMENCING AT A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 32, WHICH IS 201.3 FEET EAST OF THE NORTHWEST CORNER OF SECTION 32; THENCE SOUTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 22 DEGREES 14 MINUTES, MEASURED SOUTHEASTERLY FROM SAID NORTH LINE OF NORTHWEST 1/4 OF SECTION 32 TO A POINT DISTANT 60 FEET SOUTH, MEASURED AT RIGHT ANGLES, FROM SAID NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 32, SAID POINT BEING THE POINT OF BEGINNING OF THE LINE HEREIN BEING DESCRIBED; THENCE NORTHEASTERLY IN A STRAIGHT LINE A DISTANCE OF 537.04 FEET TO A POINT IN THE WEST LINE OF THE EAST 1/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32, DISTANT 50 FEET SOUTH, MEASURED AT RIGHT ANGLES, FROM SAID NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 32.

PARCEL 2

THAT PART OF THE WEST 1/3 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT A STEEL PLATE AT THE NORTHWEST CORNER OF SAID SECTION 32; THENCE EAST 201.8 FEET ALONG THE NORTH LINE OF SAID SECTION 32, TO THE POINT OF BEGINNING OF THE LINE HEREIN BEING DESCRIBED; THENCE SOUTHEASTERLY 256.7 FEET ALONG A LINE MAKING A RIGHT DEFLECTION OF 22 DEGREES 14 MINUTES 00 SECONDS WITH THE LAST DESCRIBED COURSE TO THE EAST LINE OF THE WEST 1/3 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 32.

PARCEL 3

LOT 5 IN O'HARE NORTHWEST OFFICE PARK SUBDIVISION IN THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 09-32-100-008-0000, 09-32-100-018-0000

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Commonly known as 885-911 Touhy Avenue, Des Plaines, Illinois

SECTION 3. AMENDMENT TO CONDITIONAL USE ORDINANCE. The City

Council hereby amends Section 5 of the Conditional Use Ordinance as follows:

A. The text of Section 5.A.2 of the Conditional Use Ordinance is hereby deleted in its entirety and replaced with the following text: “Those certain Proposed Speedway Plans, prepared by Corporate Design + Development Group, LLC, consisting of 12 sheets, and with a latest revision date of March 13, 2015 (as to Cover Sheet, Site Plan, Landscape Plan, Signage Plan, Circulation Plan), May 13, 2011 (as to the Goal Post Sign Details), November 28, 2006 (as to the Dumpster Enclosure), March 5, 2014 (as to the Small Storage Shed), October 23, 2013 (as to the Color Elevation), and June 2, 2014 (as to the Exterior Elevations), attached to and, by this reference, made a part of this Ordinance as **Group Exhibit B.**”

B. Group Exhibit B attached to the Conditional Use Ordinance is hereby deleted in its entirety and replaced with the Amended Plans, which are more fully described as those certain Proposed Speedway Plans, prepared by Corporate Design + Development Group, LLC, consisting of 12 sheets, and with a latest revision date of March 13, 2015 (as to Cover Sheet, Site Plan, Landscape Plan, Signage Plan, Circulation Plan), May 13, 2011 (as to the Goal Post Sign Details), November 28, 2006 (as to the Dumpster Enclosure), March 5, 2014 (as to the Small Storage Shed), October 23, 2013 (as to the Color Elevation), and June 2, 2014 (as to the Exterior Elevations), attached to and, by this reference, made a part of this Ordinance as **Group Exhibit A.**

C. Section 5.B.1 of the Conditional Use Ordinance is hereby amended to read as follows: “Prior to occupancy, the applicant shall complete site improvements in accordance with the Proposed Speedway Plans, including without limitation the Site and Landscape Plans set forth

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in Group Exhibit B. **Trees along the east property line shall be a minimum of eight feet in height at the time of planting.**” [Additions are bold and double-underlined.]

SECTION 4. EFFECT OF AMENDMENT. Except as expressly modified by this Ordinance, the Conditional Use Permit and the Conditional Use Ordinance remain in full force and effect, and Petitioner must comply with all of the conditions, restrictions, limitations, and provisions of the Conditional Use Permit and the Conditional Use Ordinance, as amended by this Ordinance.

SECTION 5. EFFECTIVE DATE.

A. This Ordinance shall be in full force and effect only after the occurrence of the following events:

1. its passage and approval by the City Council in the manner provided by law;
2. its publication in pamphlet form in the manner provided by law;
3. the filing with the City Clerk by the Petitioner, not less than 60 days after the passage and approval of this Ordinance, of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance, and demonstrating the Petitioner's consent to its recordation. Said unconditional agreement and consent shall be in substantially the form attached to, and by this reference made a part of, this Ordinance as **Exhibit B**; and
4. at the Petitioner's sole cost and expense, the recordation of this Ordinance together with such exhibits as the City Clerk deems appropriate, with the Office of the Cook County Recorder.

B. In the event that the Petitioner does not file with the City Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 5.A.3 of this Ordinance, within 60 days after the date of passage of this Ordinance by the City Council, the City Council

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shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

[SIGNATURE PAGE FOLLOWS]

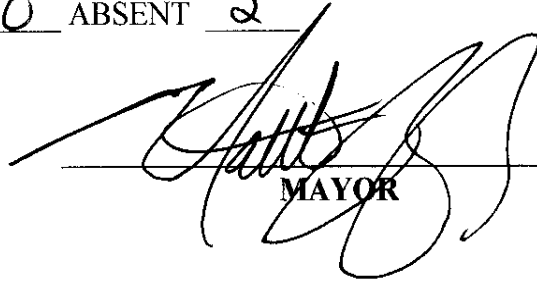
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PASSED this 6th day of July, 2015.

APPROVED this 6th day of July, 2015.

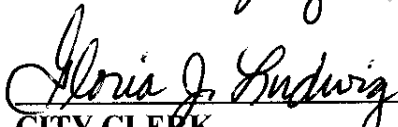
VOTE: AYES 6 NAYS 0 ABSENT 2


MAYOR


ATTEST:


CITY CLERK

Published in pamphlet form this 7th day of July, 2015.


CITY CLERK

Approved as to form:


Peter M. Friedman, General Counsel

I, _____, being the owner or other party in interest of the property legally described within this Ordinance, having read a copy of the Ordinance, do hereby accept, concur and agree to develop and use the Subject Property in accordance with the terms of this Ordinance.

Dated: _____

(Signature)

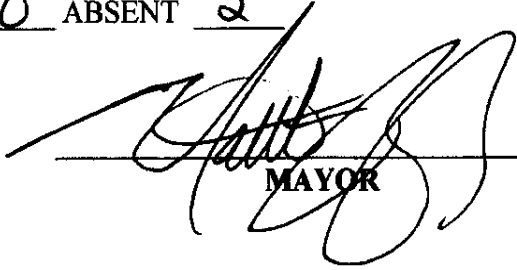
DP-Ordinance Approving an Amendment to the Conditional Use Permit (CUP) for Construction for a New Convenience Mart Fueling Station at 885-911 Touhy Avenue

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PASSED this 6th day of July, 2015.

APPROVED this 6th day of July, 2015.

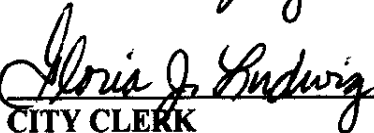
VOTE: AYES 6 NAYS 0 ABSENT 2


MAYOR

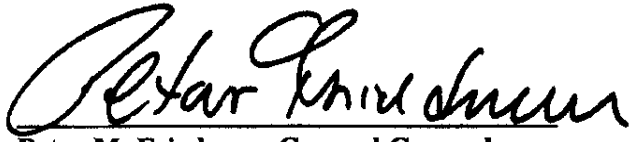
ATTEST:


CITY CLERK

Published in pamphlet form this 7th day of July, 2015.


CITY CLERK

Approved as to form:


Peter M. Friedman, General Counsel

I, CHERYL JONES, being the owner or other party in interest of the property legally described within this Ordinance, having read a copy of the Ordinance, do hereby accept, concur and agree to develop and use the Subject Property in accordance with the terms of this Ordinance.

Dated: 8/10/15


(Signature)

DP-Ordinance Approving an Amendment to the Conditional Use Permit (CUP) for Construction for a New Convenience Mart Fueling Station at 885-911 Touhy Avenue

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OVERSIZE EXHIBIT

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**FORWARD ORIGINAL
DOCUMENT TO FLAT
COUNTER IMMEDIATELY
AFTER RECORDING FOR
SCANNING**

*11 Doubles
13 pages
106 oo*