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Eugene "Gene" Moore Fee: \$50.50
Cook County Recorder of Deeds
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This instrument was prepared by and
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VILLAGE OF LINCOLNWOOD

ORDINANCE NO. Z2004-236

AN ORDINANCE APPROVING AN EXTENSION OF DOMINICK'S
STORE HOURS AND AMENDING ORDINANCE Z2000-064 WHICH
PREVIOUSLY GRANTED FINAL PLAT APPROVAL FOR A PLANNED
UNIT DEVELOPMENT AT PRATT AVENUE AND MCCORMICK BOULEVARD
IN THE VILLAGE OF LINCOLNWOOD, COOK COUNTY ILLINOIS

ADOPTED BY THE
PRESIDENT AND BOARD OF
TRUSTEES OF THE
VILLAGE OF LINCOLNWOOD
THIS FIFTH DAY OF FEBRUARY, 2004.

Published in pamphlet form by
the authority of the President
and Board of Trustees of the
Village of Lincolnwood, Cook
County, Illinois, this 19th
day of February, 2004.

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AN ORDINANCE APPROVING AN EXTENSION OF DOMINICK'S STORE HOURS AND AMENDING ORDINANCE Z2000-064 WHICH PREVIOUSLY GRANTED FINAL PLAT APPROVAL FOR A PLANNED UNIT DEVELOPMENT AT PRATT AVENUE AND MCCORMICK BOULEVARD IN THE VILLAGE OF LINCOLNWOOD, COOK COUNTY ILLINOIS

WHEREAS, the Village of Lincolnwood ("**Village**"), as a home rule municipality, in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, is enacting this Ordinance pursuant to its authority as a home rule unit and pursuant to the Village of Lincolnwood Code of Ordinances ("**Code**") including the Lincolnwood Zoning Ordinance ("**Zoning Ordinance**") which is Chapter 16 of the Code; and

WHEREAS, on March 16, 2000, the Board of Trustees of the Village of Lincolnwood ("**Village Board**") adopted an Ordinance granting final plat approval for a Planned Unit Development (the "**PUD**") entitled *An Ordinance Granting Final Plat Approval For a Planned Unit Development upon Application of TDC Lincolnwood, L.L.C. For Approximately 8.53 Acres At Pratt Avenue and McCormick Boulevard in the Village of Lincolnwood, Cook County, Illinois* ("**Ordinance Z2000-064**" or the "**Final Plat Ordinance**"), a copy of which is attached hereto as **Exhibit "A"** and made a part hereof, for the property described in Exhibit B of Ordinance Z2000-064 and in **Exhibit "B"** attached hereto and made a part hereof; and

WHEREAS, the Final Plat Ordinance authorized the development of a Dominick's Finer Foods ("**Dominick's**") supermarket ("**Supermarket**") located at 6850 McCormick Boulevard ("**Subject Property**") within the boundaries of the PUD Property, and set the hours of operation of the Supermarket to begin no earlier than 7:00 a.m. and to cease at 11:00 p.m., to wit:

SECTION SIX. That Applicant and Dominick's shall develop, own, operate and maintain the PUD in accordance with the following terms and conditions:

5. Neither the Supermarket, nor the bank or other Board approved use to be located on the Outlot, shall be open to the public on a 24 hour-a-day basis. The Supermarket shall not be open to the public from 11:00 p.m. to 7:00 a.m. There shall be no deliveries to the Supermarket before 7:00 a.m. or after 10:00 p.m. The hours of the bank, excluding any self-contained or outdoor ATM, or other Board approved use established on the Outlot, shall not exceed the hours for the Supermarket.

WHEREAS, Michael Mallon, Dominick's Vice-President of Real Estate, on behalf of Dominick's ("**Applicant**"), filed an application ("**Application**") seeking approval of an amendment to the PUD for the purpose of extending the Supermarket's store hours; and

WHEREAS, Applicant requests that the Supermarket be permitted to open for business at 6:00 a.m. instead of the currently required 7:00 a.m., and to close at 11:00 p.m., to enable customers to shop earlier in the day and patronize the Starbuck's Coffee Shop located inside the Supermarket; and

WHEREAS, the Subject Property is owned by Safeway, Inc., a Delaware corporation; and

WHEREAS, a duly noticed public hearing (said "**Notice**" being attached hereto as **Exhibit "C"** and made a part hereof) was held on January 14, 2004 on the Applicant's application before the Village Plan Commission and Zoning Board of Appeals ("**PC/ZBA**"), all in conformance with the ordinances of the Village and all applicable statutes of the State of Illinois; and

WHEREAS, no persons spoke in opposition to the Application; and

WHEREAS, after the close of the public hearing, the PC/ZBA unanimously recommended approval of the requested amendment to the Final Plat Ordinance, and issued recommendations (the "**PC/ZBA Recommendations**"), a copy of which is attached hereto as **Exhibit "D"** and made a part hereof; and

WHEREAS, the PC/ZBA recommended that the change in hours apply only to the hours that the Supermarket is open to the public and not apply to delivery hours. The PC/ZBA recommended that delivery hours remain as set forth in the Final Plat Ordinance Section Six, Condition No. 5, with no deliveries to the Supermarket before 7:00 a.m. or after 10:00 p.m.; and

WHEREAS, the Village Board has considered the PC/ZBA Report, the recommendations of Village staff, and Applicant's representations at the public hearing and finds that the change in hours of the Supermarket described herein is in conformance with the intent of Ordinance Z2000-064, and has determined that opening one hour earlier will not have an adverse impact on the neighboring residential neighborhoods and has the potential to increase business for the Supermarket; and

WHEREAS, the Village Board finds that amendment of the Final Plat Ordinance and development of the Subject Property, subject to the conditions, stipulations and limitations stated herein, will further the health, safety, and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LINCOLNWOOD, COOK COUNTY, ILLINOIS, as follows:

SECTION ONE. That the Preambles to this Ordinance are incorporated by reference into this Section One as if fully set forth herein.

SECTION TWO. That the zoning of the Subject Property shall be further subject to the specific terms, conditions and limitations set forth herein.

- a. The Supermarket shall be permitted to open for business at 6:00 a.m. instead of the currently required 7:00 a.m. and to close at 11:00 p.m. following the adoption, publication, execution and acceptance of this Ordinance amending the Final Plat Ordinance.
- b. Delivery hours for the Supermarket shall remain as required in the Final Plat Ordinance, Section Six, Condition No. 5, with no deliveries to the Supermarket before 7:00 a.m. or after 10:00 p.m.

SECTION THREE. That the provisions of Ordinance Z2000-064 remain in effect except as superseded herein. Except for the foregoing limitation, the development and use of the Subject Property shall remain subject to all terms and conditions of all applicable existing ordinances and regulations of the Village and as they may be amended from time-to-time, without limitation, all ordinances related to the PUD, zoning ordinances, building codes, subdivision regulations and regulations for the construction and design of public improvements.

SECTION FOUR. That any person (person here includes, without limitation, any legal entity such as a corporation, partnership, limited liability company or other entity) who having first been provided notice, and is found to be violating the terms and conditions of this Ordinance, shall be subject to a penalty in an amount not to exceed One Thousand Dollars (\$1,000.00), with each and every day that the violation of this Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. That any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees incurred by the Village in bringing any enforcement action.

SECTION FIVE. That, if any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be stricken from this Ordinance and shall not affect any other provision of this Ordinance.

SECTION SIX. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law, provided a true and correct copy of this Ordinance is executed by Applicant consenting and agreeing to be bound by the terms and conditions of this Ordinance and such executed copy is delivered to the Village within thirty (30) days of the passage and approval of this Ordinance, or within such extension of time as may be granted by the Corporate Authorities by motion.

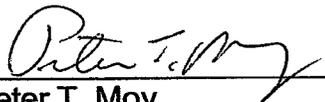
PASSED this 5th day of February, 2004.

AYES: Trustees Leborits, Leptakes, Turry, Sprogis -

NAYS: None Marshon and Elster

ABSENT: Trustee Daltz

APPROVED this 19th day of February, 2004.


Peter T. Moy
Village President

ATTEST:


Carol Krikorian
Village Clerk