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Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 12/22/2008 02:40 PM Pg: 1 of 10

**VILLAGE OF LINCOLNWOOD**

**ORDINANCE NO. 2008-2824**

**AN ORDINANCE AMENDING A PLANNED UNIT DEVELOPMENT  
AND GRANTING VARIATIONS FROM THE VILLAGE SIGN ORDINANCE  
FOR DOMINICK'S FINER FOODS, LLC  
(6850 McCormick Boulevard)**

ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LINCOLNWOOD  
THIS 4TH DAY OF DECEMBER, 2008

**AN ORDINANCE AMENDING A PLANNED UNIT DEVELOPMENT  
AND GRANTING VARIATIONS FROM THE VILLAGE SIGN ORDINANCE  
FOR DOMINICK'S FINER FOODS, LLC  
(6850 McCormick Boulevard)**

WHEREAS, Dominick's Finer Foods, LLC, an Delaware limited liability company, ("**Owner**") is the record title owner of that certain property consisting of approximately 8.53 acres, located in the PUD Planned Unit Development District, commonly known as 6850 McCormick Boulevard, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("**Property**"); and

WHEREAS, the Property is currently improved with a retail building ("**Building**"), the primary use of which is a Dominick's supermarket; and

WHEREAS, pursuant to Ordinance Nos. Z99-044 and Z2000-064 (collectively, the "**PUD Ordinances**"), the Village approved a special use permit for a planned unit development for the Property ("**PUD**"); and

WHEREAS, pursuant to Ordinance No. 2008-2824, the Village granted variations from Chapter 12, Article 2 of the "Municipal Code of Lincolnwood" as amended ("**Sign Ordinance**"), to permit the installation of three wall signs on the east face of the Building, including, without limitation, variations from Sections 12-2-9(B)2 and 12-2-9(B)3 of the Sign Ordinance to permit the installation of a "Dominick's" wall sign ("**Dominick's Sign**") in excess of 100 square feet and with a vertical dimension in excess of 6 feet (collectively, the "**Dominick's Sign Variations**") and

WHEREAS, Section 12-2-9(B)1 of the Sign Ordinance prohibits the installation of more than one wall sign on each street frontage of the Building; and

WHEREAS, the Owner desires to relocate and replace the Dominick's Sign and the two other existing wall signs on the east face of the Building, and to install two additional wall signs on the east face of the Building, for a total of five wall signs (collectively, the "**Wall Signs**"), in violation of Section 12-2-9(B)1 of the Sign Ordinance; and

WHEREAS, pursuant to Section 8.05(5)a of "The Village of Lincolnwood Zoning Ordinance," as amended ("**Zoning Ordinance**"), the installation and maintenance of the Wall Signs constitutes a Major Change to the PUD; and

WHEREAS, in order to install and maintain the Wall Signs on the east face of the Building, the Owner has filed an application for: (i) approval of a major change to the PUD, pursuant to Sections 8.05(4) and 8.05(5)a of the Zoning Ordinance; (ii) an amendment of the Dominick's Sign Variations to permit the proposed replacement of the Dominick's Sign; and (iii) a variation from Section 12-2-9(B)1 of the Sign Ordinance (collectively, the "**Requested Relief**"); and

WHEREAS, a joint public hearing of the Village Plan Commission/Zoning Board of Appeals ("**PC/ZBA**") and the Village Sign Appearance Review Board ("**SARB**") of the Village

to consider approval of the Requested Relief was duly advertised in the Lincolnwood Review on October 2, 2008, and held on October 20, 2008; and

WHEREAS, on October 20, 2008, the PC/ZBA made findings and recommendations in support of the proposed amendments to the PUD, subject to specified conditions; and

WHEREAS, on October 20, 2008, the SARB voted 3-1 in favor of amending the Dominick's Sign Variations and granting the requested variation from Section 12-2-9(B)1 of the Sign Ordinance, which vote constitutes a negative recommendation pursuant to Section 3-10-6(A)5 of the "Municipal Code of Lincolnwood", as amended; and

WHEREAS, the Village President and Board of Trustees have determined that the Requested Relief meets the required standards for amendments to planned unit developments as set forth in Article VIII, Part A of the Zoning Ordinance, and meets the required standards for variations from the Sign Ordinance as set forth in Section 12-2-12(C) of the Sign Ordinance; and

WHEREAS, the Village President and Board of Trustees have determined that it will serve and be in the best interests of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

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

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. APPROVAL OF PUD AMENDMENT. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section Four of this Ordinance, and in accordance with, and pursuant to, Sections 8.05(4) and 8.05(5)a of the Zoning Ordinance and the home rule powers of the Village, the Village shall, and does hereby, approve an amendment to the PUD to permit the installation and maintenance of the Wall Signs on the Building.

SECTION 3. SIGN ORDINANCE VARIATIONS. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section Four of this Ordinance, and in accordance with, and pursuant to, Section 12-2-12(C) of the Sign Ordinance and the home rule powers of the Village, the Village shall, and does hereby:

- A. Amend the Dominick's Sign Variations to permit the replacement of the Dominick's Sign in accordance with those certain plans consisting of three sheets and prepared by Doyle General Sign Contractors with a latest revision date of September 29, 2008, copies of which are attached to and, by this reference, made a part of this Ordinance as **Group Exhibit B** (collectively, the "**2008 Sign Plans**"); and
- B. Grant a variation from Section 12-2-9(B)1 of the Sign Ordinance, and all variations from the sign location requirements set forth in Section 12-2-9(B)2 of the Sign Ordinance as may be necessary, to permit the installation and

maintenance of the five Wall Signs on the east face of the Building, in accordance with the 2008 Sign Plans.

SECTION 4. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Ordinance or of the Sign Ordinance, the approvals granted pursuant to Sections Two and Three of this Ordinance shall be, and are hereby, expressly subject to, and contingent upon, the development, use, and maintenance of the Property, the Building, and the Wall Signs in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Property, the Building, and the Wall Signs shall comply at all times with all applicable Village codes and ordinances, as the same have been or may be amended from time to time.
  
- B. Compliance with Plans.
  - 1. Except for minor changes and site work approved by the Village Building Commissioner or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards, the installation, use, operation, and maintenance of the Wall Signs shall comply with the 2008 Sign Plans.
  
  - 2. In the event that the 2008 Sign Plans conflict with any plans set forth in the PUD Ordinances, the 2008 Sign Plans shall control.
  
- C. Reimbursement of Village Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Owner shall pay to the Village, promptly upon presentation of a written demand or demands therefor, all legal fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made shall be made by a certified or cashier's check. Further, the Owner shall be liable for, and shall pay upon demand, all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

SECTION 5. CONTINUED EFFECT. Except as expressly modified by this Ordinance, the PUD Ordinances shall remain in full force and effect, and the Owner shall comply with all requirements, conditions, and restrictions in the PUD Ordinances. Any violation of this Ordinance shall be deemed a violation of the PUD Ordinances, the Zoning Ordinance, and the Sign Ordinance.

SECTION 6. REPEAL OF SIGN VARIATION ORDINANCE. The Sign Variation Ordinance shall be, and is hereby, repealed in its entirety.

SECTION 7. RECORDATION; BINDING EFFECT. A copy of this Ordinance shall be recorded with the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein shall inure solely to the benefit of, and be binding upon, the Owner, and each of its heirs, representatives, successors, and assigns.

SECTION 8. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Sections Two and Three of this Ordinance shall, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Sections Two and Three of this Ordinance unless it shall first provide the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the PUD Planned Unit Development District and the applicable provisions of the Zoning Ordinance and the Sign Ordinance, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Administrator and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 9. AMENDMENTS. Any amendments to the approvals granted in Sections Two and Three of this Ordinance that may be requested by the Owner after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance and the Sign Ordinance, as may be applicable.

SECTION 10. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 11. EFFECTIVE DATE.

- A. This Ordinance shall be effective only upon the occurrence of all of the following events:
1. Passage by the Village President and Board of Trustees in the manner required by law;
  2. Publication in pamphlet form in the manner required by law; and
  3. The filing by the Owner with the Village Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance; and

- B. In the event the Owner does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 11.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

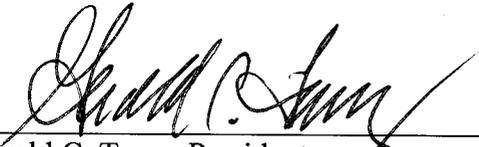
PASSED this 4<sup>th</sup> day of December, 2008

AYES: Trustees Froman, Heidtke, Lebovits, Elster, Sprogis-Marohn, Patel

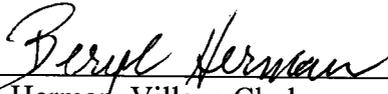
NAYS: None

ABSTENTION: None

APPROVED by me this 4<sup>th</sup> day of December, 2008

  
\_\_\_\_\_  
Gerald C. Turry, President  
Village of Lincolnwood, Cook County, Illinois

ATTESTED and FILED in my office this  
4<sup>th</sup> day of December, 2008

  
\_\_\_\_\_  
Beryl Herman, Village Clerk  
Village of Lincolnwood, Cook County, Illinois

# 5811929\_v2

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

A PARCEL OF LAND IN THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, BEING PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 41, RANGE 13 EAST, THENCE NORTHWESTERLY ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION, N 00 DEGREES 14' 59" W FOR A DISTANCE OF 658.58 FEET; THENCE N 88 DEGREES 10' 15" e FOR A DISTANCE OF 572.35 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE N 88 DEGREES 10' 15" FOR A DISTANCE OF 941.62 FEET' THENCE S 01 DEGREES 54' 22" E FOR A DISTANCE OF 617.48 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF PRATT AVENUE; THENCE S 88 DEGREES 07' 30" W FOR A DISTANCE OF 941.95 FEET ALONG THE NORTH RIGHT-OF-WAY OF PRATT AVENUE; THENCE LEAVING SAID RIGHT-OF-WAY N 01 DEGREES 52' 30" W FOR A DISTANCE OF 618.23 FEET TO THE POINT OF BEGINNING.

**PIN: 10-35-203-009**

**Commonly Known As: 6850 McCormick Boulevard, Lincolnwood, Illinois.**

**GROUP EXHIBIT B**

**2008 SIGN PLANS**

## EXHIBIT C

### UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Lincolnwood, Illinois ("*Village*");

**WHEREAS**, Dominick's Finer Foods, LLC ("*Owner*") is the record title owner of that certain property commonly known as 6850 McCormick Boulevard in the Village ("*Property*"); and

**WHEREAS**, pursuant to Ordinance Nos. Z99-044 and Z2000-064 (collectively, the "*PUD Ordinances*"), the Village approved a special use permit for a planned unit development for the Property ("*PUD*"); and

**WHEREAS**, Ordinance No. 2008-2824, adopted by the Village President and Board of Trustees on December 4, 2008 ("*Ordinance*"), amends the PUD and grants certain variations from the Village Sign Ordinance to permit the installation and maintenance of five wall signs on the Property; and

**WHEREAS**, Section Eleven of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner shall have filed, within 30 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

**NOW, THEREFORE**, the Owner does hereby agree and covenant as follows:

1. The Owner shall, and does hereby unconditionally agree to, accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner acknowledges that 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 a denial of any procedural right.
3. The Owner 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 grant of an amendment to the PUD and of variations for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time.

4. The Owner shall, and does hereby agree to, hold harmless and indemnify the Village, the Village's corporate authorities, and all Village 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 the Village's adoption of the Ordinance granting the amendments to the PUD and variations for the Property.

Dated: 12, 1, 2008

ATTEST:

By:  
Its:

Steven M. Gordi  
Dominick's Project Designer

**DOMINICK'S FINER FOODS, LLC**

By:  
Its:

James D. Orr  
Project Manager - Dominick's