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Doc#: 0701734094 Fee: \$44.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/17/2007 03:17 PM Pg: 1 of 11

THIS INSTRUMENT PREPARED
BY AND AFTER RECORDING

RETURN TO:

Jessica Marie Boudreau
Schain, Burney, Ross & Citron, Ltd.
222 North LaSalle St, #1910
Chicago, Illinois 60601
(312) 332-0200

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT ("Declaration") is made this 16th day of January, 2007 by Addison Ashland THC, LLC (sometimes hereinafter referred to as "Owner" or "Declarant").

RECITALS:

WHEREAS, Declarant is the Owner and legal titleholder of certain parcels of real estate in Chicago, Cook County, Illinois commonly known as 3535 North Ashland Avenue, Chicago, Illinois, and legally described on Exhibit "A", attached hereto and made a part hereof ("Premises");

WHEREAS, Declarant intends that the Premises be redeveloped with a 5-story building providing at 3535 North Ashland Avenue, 25 residential units, 4,300 square feet of commercial space and 34 parking spaces (the "Declarant's Intended Use");

WHEREAS, the present zoning of 3535 North Ashland Avenue is C1-2;

WHEREAS, in order to accommodate Declarant's Intended Use, Declarant intends to file and present to the City Council of the City of Chicago an application to rezone the said parcel to B2-3 (the "Requested Relief");

WHEREAS, if the proposed zoning map amendment application is approved by the City Council of the City of Chicago, the Premises shall be subject to a restrictive covenant being recorded against it restricting it to the construction of a mixed-use development in substantial conformance with the Site Plan dated December 20, 2006, Elevations and Landscape Plan, dated November 30, 2006, prepared by Hartshorne & Plunkard Architects.

WHEREAS, Declarant, in consideration of consent to the Requested Relief for the Premises, shall encumber the Premises with a restrictive covenant setting forth the aforesaid restrictions, all as more specifically set forth below.

DECLARATIONS:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purposes stated herein, Declarant declares as follows:

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1. The recitals set forth hereinabove are fully incorporated herein by this reference.
2. All of the Premises are and shall be held, sold and conveyed subject to the covenants, conditions and restrictions herein stated, all of which shall run with the land and be binding upon all parties now or hereinafter having any right, title or interest in the Premises or in any part thereof, and upon those claiming under them, with such limitations or exceptions as are herein expressed.
3. The Premises, or any portion thereof, shall be used solely for the purpose of the construction, development and subsequent sale of the Intended Use as set forth herein.
4. The construction of the development shall substantially conform to the Site Plan, dated December 20, 2006, Elevations and Landscape Plan, dated November 30, 2006, prepared by Hartshorne & Plunkard Architects, attached hereto as Exhibit "B".
5. Declarant agrees to provide at a minimum an average of 1.49 parking spaces per residential unit, averaged between the three (3) buildings proposed at 3519, 3535 and 3547 North Ashland Avenue, in accordance with the Site Plan dated December 20, 2006, prepared by Hartshorne & Plunkard Architects. The parking spaces include those required by the City of Chicago Zoning Ordinance and tandem parking spaces.
6. Declarant agrees to participate in the Chicago Partnership for Affordable Neighborhoods Program (CPAN) as administered by the City's Department of Housing ("DOH"); and shall make six (6) residential units, in total, available within any one (1), two (2) or all the buildings proposed at 3519, 3535 and 3547 North Ashland Avenue to income eligible home buyers at an affordable sales price, subject to DOH's administration of the program and acceptance of the designated units.
7. Declarant agrees to install landscaping at the second floor at the rear of the building, which is to be provided by the Declarant and maintained by the homeowners association, in accordance with the Landscape Plan, dated November 30, 2006, prepared by Hartshorne & Plunkard Architects; and to provide terraces on the fifth floor at the front of the building which may be utilized, installed, and maintained by the individual unit owners as planting areas.
8. Declarant agrees to seek approval of the use of the public right-of-way for purposes of constructing within the pedestrian right-of-way along North Ashland Avenue, from West Cornelia Avenue to the north property line of 3547 North Ashland Avenue, raised planters to the maximum dimensions of width and length as allowed by the Chicago Landscape Ordinance and to plant parkway trees therein subject to the approval of the Department Construction and Permits. Declarant

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agrees to require in the subsequent Homeowners Declaration that the homeowners association shall maintain said landscaping.

9. Declarant agrees to restrict signage to flush and blade signage designs, as defined by City of Chicago-Signage Ordinance. Additionally, Declarant shall control the type, style, pattern, design, coloration, and placement of the signage to the extent necessary to ensure signage affixed to or associated with the three (3) buildings proposed at 3519, 3535 and 3547 North Ashland Avenue is consistent, conforms, and relates to one another and to the building to be located at the northeast corner of North Ashland Avenue and West Cornelia Avenue. Notwithstanding the foregoing, signage for purposes of advertising the business contained therein and greater than 50 square feet shall be prohibited within the lower, seven-foot windows located on the ground floor; and all signage for purposes of commercial advertising shall be prohibited above the ground floor.
10. Declarant agrees to offer for lease or rent for a term of not less than one (1) year parking spaces within any one (1), two (2) or all the buildings proposed at 3519, 3535 and 3547 North Ashland Avenue to car sharing programs for use of any person residing within any one (1) of the three (3) buildings proposed at 3519, 3535 and 3547 North Ashland Avenue.
11. No buildings shall be erected on the Premises, nor shall construction begin on any building, unless the plans and specifications of any building proposed to be erected have been submitted to the City and written approval therefrom has been secured. Issuance of a building permit by the City for the Premises shall constitute the City's approval of the submitted plans and specifications.
12. Breach of any of the covenants or violation of any other portions of this Declaration shall not defeat or render invalid the lien of any mortgage or trust deed made in good faith and for value as to any portion of the Premises, but all provisions of this Declaration shall be binding and effective against any owner of any portion of the Premises whose title thereto is acquired by foreclosure, trustee sale or otherwise under such mortgage or trust deed, and shall remain effective as to each portion of the Premises so acquired.
13. Enforcement of the provisions of Paragraphs 3-4 of this Declaration shall be by any proceeding at law or in equity, brought by the Declarant, its successors or assigns, or the City, or the Office of the Alderman which has jurisdiction over the Premises, against any person or persons violating or attempting to violate any covenant, restriction or other provision hereof, either to restrain or prevent such violation or attempted violation or to recover damages, or both. Failure by the Declarant, its successors or assigns, or the City, or the Office of the Alderman, to promptly enforce any covenant, restriction or other provision of this Declaration shall in no event be a bar to enforcement thereafter and shall not waive any rights of the Declarant, its successors or assigns, the City, or the Office of the Alderman, to so enforce any covenant, restriction or other provision of this Declaration.


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14. In the event the owner desires to amend this Declaration or to modify the exhibits in any fashion, the amendment shall be agreed to and acknowledged by the Alderman who has jurisdiction over the Premises.
15. In the event of any litigation arising out of this Declaration, the prevailing party shall be entitled to payment of court costs and reasonable attorneys' fees.
16. Invalidation of any covenant, restriction or other provision of this Declaration by judgment or court order shall in no way affect any of the other provisions of this Declaration and such other provisions shall remain in full force and effect.
17. All covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding upon all parties and all persons owning any portions of the Premises and all persons claiming under them until the earlier of: (i) ten (10) years from the date hereof; or (ii) three months from the date of the completion of the construction of the building, or until the zoning of the property is amended from the B2-3 District to another district. Notwithstanding the foregoing, the covenants, conditions and restrictions related to the maintenance of landscaping by the homeowners association shall run with the land and shall be binding upon all future homeowners associations and their successors and assigns.
18. This Declaration is executed by Paul McHugh as the 100% Member of PM Ashland Addison Development, LLC, which is a 49% Member of Addison Ashland Investors, LLC, which is a 100% Member of Addison Ashland THC, LLC, and as Manager of Addison Ashland THC, LLC, not personally, but solely in the exercise of the power and authority conferred upon and vested in him as a Member and Manager of the respective entities disclosed herein. No personal liability shall be asserted or be enforceable against the Manager because or in respect to this Declaration or its making, issue or transfer, and all such liability, if any, is expressly waived by each taker and holder hereof; except that the Manager in his personal and individual capacity warrants that he as a Member and Manager of the respective entities disclosed herein possesses full power and authority to execute this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

Addison Ashland THC, LLC

By: 
 Name: Paul McHugh

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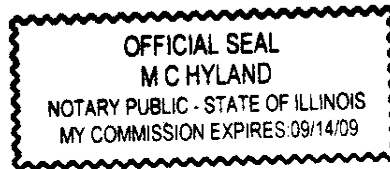
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, M.C. Hyland a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Paul McHugh of Addison Ashland THC, LLC, personally known to me to be the same person whose name is subscribed to the foregoing **DECLARATION OF RESTRICTIVE COVENANT**, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 10th day of JANUARY, 2007.

MCH

Notary Public



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EXHIBIT "A"

THE SOUTH 142.0 FEET OF THE NORTH 284.0 FEET OF THE FOLLOWING DESCRIBED PROPERTY TAKEN AS A SINGLE TRACT OF LAND: LOTS 3 THROUGH 19 BOTH INCLUSIVE (EXCEPT THAT PART OF SAID LOTS LYING WEST OF A LINE 50.0 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SECTION 20 TAKEN FOR WIDENING NORTH ASHLAND AVENUE), TOGETHER WITH THAT PART OF LOT 20 (EXCEPT THAT PART OF SAID LOT 20 WHICH LIES WEST OF A LINE 50.0 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 20 TAKEN FOR WIDENING NORTH ASHLAND AVENUE), BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT 20 WITH THE EAST LINE OF NORTH ASHLAND AVENUE AS WIDENED; THENCE SOUTH ALONG THE EAST LINE OF NORTH ASHLAND AVENUE AS WIDENED, A DISTANCE OF 4.62 FEET; THENCE EAST 77.38 FEET TO A POINT WHICH IS 4.56 FEET SOUTH OF THE NORTH LINE OF SAID LOT 20; THENCE NORTH 4.08 FEET; THENCE EAST 29.40 FEET TO A POINT ON THE EAST LINE OF SAID LOT 20; WHICH IS 0.45 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE NORTH ALONG THE EAST LINE OF THE NORTH LINE OF SAID LOT 20; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 20 TO THE PLACE OF BEGINNING, ALL IN BLOCK 4 IN LAKE PARK ADDITION TO LAKE VIEW IN THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 3535 North Ashland Avenue, Chicago, Illinois

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EXHIBIT "B"

Site Plan, dated December 20, 2006, Elevation and Landscape Plan, dated November 11, 2006, prepared by Hartshorne & Plunkard Architects.

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OVERSIZE

**EXHIBIT
FORWARD
TO PLAT COUNTER
FOR SCANNING**

RECORDED DATE _____

CASHIER # / NAME _____