

Boone County, Missouri



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Nora Dietzel
Nora Dietzel, Recorder of Deeds



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Nora Dietzel
Recorder of Deeds
801 E. Walnut, Room 132
Columbia, Missouri 65201
573-886-4345

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Nora Dietzel, Recorder of Deeds

Boone County, Missouri

BOONE COUNTY MO JUL 21 2016

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DECLARATION OF COVENANTS RUNNING WITH THE LAND/AGREEMENTS

RUNNING WITH THE LAND

Res. 97-16

Declarant/Grantor: Seventh Street Properties of Columbia LLC, Hulett Descendants LLC, and Rader Hospitality Company, L.L.C., all Missouri limited liability companies [address: c/o John Daniel Rader, 119 S. Seventh Street, Columbia, MO 65201 and c/o George Hulett, 501 West Rock Creek Drive, Columbia, MO 65203]

Benefitted Party/

Grantee:

City of Columbia, Missouri, a municipal corporation of the State of Missouri [address: City of Columbia, Attn: City Manager, PO Box 6015, Columbia, MO 65205-6015]

Legal Description: The following described real estate situated in Boone County, Missouri:

Parcel 1: The North Sixty-five (65) feet of Lot Number Eighty-two (82) in the original town and the North Sixty-five (65) feet of the West Sixty (60) feet of Lot Eighty-three (83), both in the original town, now City of Columbia, Boone County, Missouri

Parcel 2: The North Fifty (50) feet of Lot Eighty-four (84) and the North Fifty (50) feet of the East Twenty (20) feet of Lot Eighty-three (83), both in the original town, now City of Columbia, Boone County, Missouri

Date:

Jun 21, 2016

Nora Dietzel, Recorder of Deeds

~~DECLARATION OF COVENANTS RUNNING WITH THE LAND~~
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DECLARATION OF COVENANTS RUNNING WITH THE LAND
RUNNING WITH THE LAND

THIS DECLARATION OF COVENANTS RUNNING WITH THE LAND/THIS AGREEMENT RUNNING WITH THE LAND ("this Declaration" or "this Agreement") is made, executed and entered into this 21st day of June, 2016, by, between and among the Declarants as follows:

- **Seventh Street Properties of Columbia LLC**, a Missouri limited liability company ("Seventh Street Properties");
- **Rader Hospitality Company, L.L.C.**, a Missouri limited liability company ("Rader Hospitality");
- **Hulett Descendants LLC**, a Missouri limited liability company ("Hulett Descendants"),

all of whom (and each of whom) are referred to herein, jointly and severally, individually and collectively, as "Declarants," and individually as a "Declarant," with this Declaration of Covenants, this Declaration's, being made by Declarants in favor of Grantee, **the City of Columbia, Missouri**, a municipal corporation of the State of Missouri ("City"), pursuant to agreements with City, and with **John Daniel Rader** (who has personally guaranteed payment and performance by the Tenant under that Hulett Descendants/Seventh Street Properties Lease hereinafter described, and who hereby personally guarantees payment and performance by Seventh Street Properties and Rader Hospitality of their duties and obligations under this Declaration, and who is referred to herein as "Guarantor") also entering into this Agreement as a Guarantor, and with Declarants and Guarantor entering into this Declaration and this Agreement in favor of the City, in view of the following facts, matters and circumstances:

BACKGROUND RECITALS
[“Recitals”]

Declarants, Guarantor and City, who may hereinafter be collectively referred to as "the Parties" and individually as a "Party," enter into, and agree to the provisions of, this Declaration (sometimes "this Agreement") in view of the following facts, matters and circumstances:

Hulett Descendants is the owner of the following described real estate situated in Boone County, Missouri, sometimes referred to herein as "Parcel 1" or "Hulett's Property":

The North Sixty-five (65) feet of Lot Number Eighty-two (82) in the original town and the North Sixty-five (65) feet of the West Sixty (60) feet of Lot Eighty-three (83), both in the original town, now City of Columbia, Boone County, Missouri

Seventh Street Properties is the owner of the following described real estate situated in Boone County, Missouri, sometimes referred to herein as "Parcel 2" or "Seventh Street's Property":

The North Fifty (50) feet of Lot Eighty-four (84) and the North Fifty (50) feet of the East Twenty (20) feet of Lot Eighty-three (83), both in the original town, now City of Columbia, Boone County, Missouri

Parcel 2, Seventh Street's Property, contains a building commonly known as 119 South Seventh Street, Columbia, MO 65201 ("the Existing Building"). Seventh Street Properties, therefore, owns Parcel 2 and the Existing Building.

Seventh Street Properties, as Tenant, and Hulett Descendants, as Landlord, have entered into a Lease Agreement ("the Hulett Descendants/Seventh Street Properties Lease"), for the leasing by Seventh Street Properties, as Tenant, from Hulett Descendants, as Landlord, of the above described Parcel 1, Hulett's Property. Such Hulett Descendants/Seventh Street Properties Lease is entitled "Lease Agreement with Right of First Refusal," and it is dated the 13th day of May, 2016, and it is the subject matter of a "Short Form Lease and Right of First Refusal" dated May 13, 2016, between Hulett Descendants, as Landlord/Grantor, and Seventh Street Properties, as Tenant/Grantee, recorded in Book 4591 at Page 161 of the Real Estate Records of Boone County, Missouri. Copies of the Hulett Descendants/Seventh Street Properties Lease can be obtained from each of the Declarants, and is incorporated into these Recitals by reference the same as though fully set forth herein verbatim. Such copies are available from Declarants as follows:

From Seventh Street Properties of Columbia LLC:

Attn: Dan Rader, Member and Manager
119 South Seventh Street
Columbia, MO 65201

From Rader Hospitality Company, L.L.C.:

Attn: Dan Rader, Member and Manager
119 South Seventh Street
Columbia, MO 65201

From Hulett Descendants LLC:

Attn: George Hulett
501 West Rock Creek Drive
Columbia, MO 65203

Attn: Alan Hulett
400 Big Bear Boulevard
Columbia, MO 65202

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Guarantor has, together with Rader Hospitality and other guarantors, personally guaranteed payment and performance by Seventh Street Properties of its duties and obligations as Tenant under such Hulett Descendants/Seventh Street Properties Lease, and Guarantor, therefore, enters into this Declaration in order to personally guarantee unto City payment and performance by Declarants of their duties and obligations to City as provided for by this Declaration.

Seventh Street Properties has, in turn, leased Seventh Street's Property hereinabove described, meaning Parcel 2 and the Existing Building thereon, and subleased the Hulett's Property hereinabove described (meaning Parcel 1), to Rader Hospitality as Tenant, pursuant to a Lease/Sublease between Seventh Street Properties as Landlord, and Rader Hospitality, as Tenant, dated the 1st day of June, 2016, which is the subject matter of a Short Form Lease between Seventh Street Properties as Landlord/Grantor and Rader Hospitality as Tenant/Grantee, dated the 1st day of June, 2016, and recorded in Book 4591 at Page 161 of the Real Estate Records of Boone County, Missouri. Copies of such Lease/ Sublease, which is referred to herein as the "Seventh Street Properties/Rader Hospitality Lease" are available from each of the Declarants to this Declaration, at the addresses and locations hereinabove stated in these Recitals, such Seventh Street Properties/Rader Hospitality Lease being incorporated into these Recitals by reference.

Rader Hospitality and Seventh Street Properties desire to engage in a Project ("the Project"), to make certain improvements of the Existing Building, and to place certain improvements (both temporary and permanent) upon Parcel 1, Hulett's Property, which will serve the bar and restaurant business to be placed in the Existing Building and to be operated by Rader Hospitality. The Project will include certain temporary or permanent improvements to be placed on Parcel 1, Hulett's Property, as follows (together with, possibly, in the future, additional improvements to be used in connection with the business to be operated by Rader Hospitality from the Existing Building, which is located on Parcel 2), with such improvements to include the following:

- a. An uncovered patio, which will extend across the property line between Parcel 1 and Parcel 2;
- b. An exterior stairway and entranceway/exit way, which will serve a patio, a roof deck patio, to be placed on the roof of the Existing Building, and which such exterior stairway and an entranceway/exit way extend or will extend across the property line between Parcel 1 and Parcel 2, and which such exterior stairway, entranceway and exit way is required by the City pursuant to the City's Codes and Regulations, for use of such deck ("the Deck") and for public safety purposes;
- c. A walk-in freezer/cooler for the storage of beverages and foodstuffs;
- d. Other improvements which are a part of the Project, and which are described on Exhibit A to this Declaration, such Exhibits being attached to this Declaration and being incorporated into this Declaration by reference;

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e. Possibly, in the future (subject to the issuance by the City of City's Permits therefor, as hereinafter described), additional improvements which will serve the bar and restaurant business to be placed within the Existing Building.

All of those improvements or parts of those improvements for the Project, which are hereinabove described in paragraphs a through d above, and on Exhibit A attached to this Declaration, and any possibly future improvements as described in paragraph e above, which will be placed on Parcel 1, Hulett's Property, in order to serve the Existing Building and a bar, restaurant and food service establishment to be operated from the Existing Building, are collectively referred to herein as "the Parcel 1 Improvements."

In order for Seventh Street Properties and Rader Hospitality, or either of them, to go forward with the Project, or to place any future improvements on the Hulett Property, Parcel 1, as described above, they have obtained, or must in the future obtain from the City building permits and occupancy permits for the remodeling of, the construction of, and the occupancy of, and use of the Existing Building (including the Deck described above), and for the construction, use and occupancy of improvements on Parcel 1, the Parcel 1 Improvements. All of such building permits and other permits and occupancy permits which they are required by law to obtain, or has obtained, from the City pursuant to the City's Ordinances, Codes and Regulations, are collectively referred to herein as "the City's Permits" and individually as a "City Permit." It is understood that the Project, or parts of the Project, could not go forward without the City's Permits and that at least some of the City's Permits would not be issued by the City in the absence of the provisions of this Declaration.

Parcel 1 and Parcel 2 do not, collectively, constitute a single "Legal Lot," meaning a single platted lot, as provided for by the City's Zoning and Subdivision Regulations.

The City, therefore, recognizes, and the Parties recognize, the possibility that while Parcel 1 and Parcel 2 are currently under common control and occupancy pursuant to the Hulett Descendants/Seventh Street Properties Lease, the following circumstances could arise or will arise:

- a. The Lease Term of such Lease will eventually expire;
- b. Such Lease or the Lease Term might be terminated pursuant to the provisions of such Lease, by reason of the Tenant's defaults or otherwise.

Certain of the Parcel 1 Improvements (particularly the exterior stairway which is essential to the Deck and the use of the Deck) are absolutely essential to public safety, health and welfare, and the City would not and could not issue the City's Permits for certain of the uses of the Existing Building (including but not limited to the Deck) in the absence of the location of such Parcel 1 Improvements upon Parcel 1.

The City is, therefore, willing to issue the City's Permits or certain of same if and only if the Lease and Lease Term of the Hulett Descendants/Seventh Street Properties Lease remains in full

force and effect, or there is otherwise a single common right of ownership to, or right to possession, occupancy and control over each of Parcel 1 and Parcel 2, in order that City will be continuously assured and guaranteed that the occupant of the Existing Building and any other building or improvement on Parcel 2 has the right to keep the Parcel 1 Improvements on Parcel 1 and to use the Parcel 1 Improvements, some of which are essential to public safety and to compliance with the City's applicable Ordinances, Codes and Regulations.

It is, therefore, the requirement of the City for the issuance of any currently issued or future issued City's Permits that should the Lease Term of such Lease or such Lease expire or be terminated, and/or should there be or occur at any time, for any reason, a loss of common rights to the ownership of, or possession, occupancy and control over Parcel 1 and Parcel 2 (meaning such ownership or such rights do not continue to be vested in a single party or parties (whether Seventh Street Properties, Rader Hospitality, Hulett Descendants or any other person or party)), with the rights to the possession and occupancy of each of Parcel 1 and Parcel 2 becoming separately held or controlled, then all of the Parcel 1 Improvements shall be immediately removed from Parcel 1 (with Declarants to jointly and severally have the burden and expense of such removal), and all of the City's Permits previously issued, at any time, with respect to the Project, or any of the Parcel 1 Improvements, or any use of the Existing Building, shall be automatically, without further act or action, rescinded, revoked, terminated, and rendered of no further force or effect, and any use of the Existing Building which is, under the City's Codes, Ordinances and Regulations, dependent on any of the Parcel 1 Improvements, shall immediately cease and terminate and such use of such Existing Building shall be vacated.

The City, therefore, requires that the Parties establish covenants, running with the Land of each of Parcel 1 and Parcel 2, and the Existing Building and any replacement for the Existing Building, which assure the City that the tenant, occupant or owner of Parcel 2 (Seventh Street's Property) will also have the ownership of or right of possession and occupancy of Parcel 1, and the right to keep the Parcel 1 Improvements on Parcel 1 and to use such Improvements (whether under the Hulett Descendants/Seventh Street Properties Lease or otherwise), and that if, in the future, the owner or tenant of Seventh Street's Property shall cease, under a lease or otherwise, to have the right of possession and occupancy and use of (or the ownership of) Parcel 1, or shall not have the right to keep and maintain the Parcel 1 Improvements on Parcel 1, then, in such event, the Parcel 1 Improvements shall be immediately removed from Parcel 1 by Declarants and their successors, at the joint and several burden and expense of Declarants and such successors, and all City Permits then in effect with respect to the Existing Building or any other building or improvement placed on Parcel 2, and any Parcel 1 Improvements, shall be automatically rescinded, revoked, terminated and rendered of absolutely no further force or effect, and the Existing Building and other buildings or improvements placed on Parcel 2 and all Parcel 1 Improvements shall be immediately vacated and shall cease to be used, until all of the then existing City Codes and Regulations and requirements of the City for the use of the Existing Building or Improvements placed on Parcel 2 have been satisfied to the City's reasonable satisfaction.

City further requires that Guarantor personally guarantee performance by Declarants of all of Declarants' duties and obligations to City as provided for by this Declaration.

DECLARATION OF COVENANTS

NOW, THEREFORE, in view of the foregoing Recitals, Declarants, Guarantor and City (collectively referred to herein as "the Parties" and individually as a "Party"), do, hereby, mutually promise, declare, covenant, state and agree as follows (with these agreements to run in favor of City):

1. City's Reliance. It is agreed that any issuance by the City, now or at any time in the future, of the City's Permits, including any Building Permit, and other Permits or Occupancy Permit for the Project, or for the placement on Parcel 1 of any Parcel 1 Improvements for the use of the business to be operated from the Existing Building, or for any improvements of or modifications of, or for the use or occupancy of the Existing Building on Parcel 2 (or any building or improvement hereafter placed on Parcel 2), or for allowing the use of such Existing Building or for any improvement on Parcel 2, or for the construction or placement on Parcel 1 of any Parcel 1 Improvements or for the use of any Parcel 1 Improvements in connection with the Existing Building or the uses or business operated from the Existing Building, shall have been issued by the City, in reliance upon the provisions and covenants of this Declaration, and it is further agreed that the City would not have issued any of such Permits in the absence of such reliance. It is further agreed that the issuance by the City of each of such City's Permits in reliance upon the matters described in this paragraph 1 and the covenants of this Declaration, shall be full, complete, substantial, adequate and more than adequate consideration for the declarations and agreements and covenants of the Parties set forth in this Declaration.

2. Covenants Running with the Land. The provisions of this Declaration shall constitute covenants running with the land of each of Parcel 1 and Parcel 2, and each and every part of such Parcels. Each of the covenants, agreements and provisions of this Declaration shall be binding upon and shall obligate Declarants, and each of them (jointly and severally, individually and collectively) and each of their successors in ownership of or rights to occupancy of, all of, each of and each and every part of Parcel 1 and Parcel 2. All obligations of Declarants as provided for by this Declaration shall be binding upon Declarants and each of them, jointly and severally, individually and collectively, and each of their respective successors in ownership of and rights to occupancy of Parcel 1 and Parcel 2 and each of such Parcels and any parts or portions thereof.

3. Benefitted Parties/Burdened Parties. The City, and all members of the public, shall be the beneficiaries of all of the covenants and agreements established by way of this Declaration, and shall be entitled to enforce each and all of the provisions of this Declaration by such legal or equitable proceedings, as the City or any member of the public shall find to be appropriate. Declarants, and each of them, and Guarantor, and each of them and all of them, jointly and severally, individually and collectively, together with their respective successors in any rights to ownership of, or occupancy of, Parcel 1 or Parcel 2, the Existing Building, and any of the Parcel 1 Improvements, shall be, jointly and severally, burdened with all of the duties and obligations to the City which are

provided for by way of this Declaration, and the City may look to them or any of them for performance of the duties and obligations imposed by way of this Declaration.

4. Termination of Right of Joint Occupancy of Parcel 1 and Parcel 2. If any of the following circumstances shall arise at any time:

a. The Hulett Descendants/Seventh Street Properties Lease or its Lease Term shall cease and terminate, or expire, and the rights of the owners or occupants of the Existing Building or any other building placed on Parcel 2 to keep and use the Parcel 1 Improvements upon Parcel 1 shall cease and terminate, and not be immediately reinstated; or

b. The owner or occupant of the Existing Building or any other building or improvement placed on Parcel 2 shall cease to have the right of possession and occupancy of Parcel 1, under the Existing Hulett Descendants/Seventh Street Properties Lease or otherwise, or the right to keep and maintain and use and occupy the Parcel 1 Improvements on Parcel 1; or

c. There shall arise any other cause, event or circumstance which shall result in the termination or expiration of the rights of the owner, tenant, occupant, user or business occupying or using the Existing Building or other building or improvement on Parcel 2, to continue to keep, maintain, use and occupy the Parcel 1 Improvements on Parcel 1,

then the following shall automatically occur, without any need for further act, action, process or proceedings on the part of the City:

i. Declarants and Guarantor and each of them shall be required to and shall immediately notify City of the occurrence of any of the circumstances hereinabove described in subparagraphs a through c of this paragraph 4; and

ii. All previously issued City's Permits shall be immediately rescinded, revoked and rendered of no further force or effect; and

iii. Declarants, or their respective successors (jointly and severally, individually and collectively), as owners and occupants of Parcel 1 and Parcel 2, and Guarantor, shall, jointly and severally, be obligated to City, and to members of the public, to immediately remove from Parcel 1 the Parcel 1 Improvements then located upon Parcel 1, as hereinabove described; and

iv. Occupancy of (and any City Occupancy Permit for and right to occupy) the Existing Building and any other building or improvement then located on Parcel 2, shall immediately cease and terminate, and such Existing Building shall be immediately vacated and all uses of such Existing Building shall be terminated, and the City shall be entitled to enforce the vacation and cessation of use of such Existing Building or any other buildings or improvements on Parcel 2, until such time as all requirements of the City for use or occupancy of the Existing Building or any other

building or improvement then located on Parcel 2 shall have been completely satisfied to the City's satisfaction; and

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v. If the Parcel 1 Improvements are not promptly removed as required by the provisions of this paragraph 4, then the City may immediately enter upon Parcel 1 and Parcel 2 (and shall have an irrevocable, unconditional, right and easement and right of entry upon both Parcel 1 and Parcel 2, and the Existing Building or any other building or improvement then located on Parcel 2, which may be exercised without notice or demand), and may remove all Parcel 1 Improvements, and shall have the right to recover from Declarants and each of them, jointly and severally, and their successors, all of City's costs of removal of the Parcel 1 Improvements, and all other costs, expenses and attorney's fees incurred by the City in enforcing the City's right of payment, together with interest at the "Interest Rate" hereinafter described, upon the City's said costs and expenses; and

vi. In no event shall there be any occupancy of or use of the Existing Building or any other building or improvements then located on Parcel 2, until all requirements of the City for use of such Existing Building, and any other building or improvements on Parcel 2, have been completely satisfied.

5. Enforcement/Interest/Attorney's Fees. All requirements of this Declaration may be enforced by the City and any member of the public ("the Enforcing Party") against the Declarants and Guarantor, or any of them, and their respective successors in ownership of and rights to occupancy of Parcel 1 or Parcel 2, or any building or improvement on Parcel 1 or Parcel 2, by such legal or equitable remedies as such Enforcing Party shall find to be appropriate. Included within the available remedies available to the Enforcing Party shall be the remedy of specific performance, and all other equitable remedies (including remedies by way of injunctive relief or temporary restraining order), including:

a. Issuance of an injunction prohibiting the continued use or occupancy of the Existing Building or any other building or improvements located on Parcel 2 or Parcel 1;

b. Mandatory injunction requiring removal of the Parcel 1 Improvements.

In addition to all other relief to which the City or any member of the public would otherwise be entitled, the City or such member of the public ("the Enforcing Party") shall be entitled to recover, jointly and severally, from Declarants and each of them, and their respective successors in ownership of and rights to occupancy of Parcel 1 or Parcel 2, and each such Parcel and any building or improvement located thereon, and from Guarantor, all of such Enforcing Party's costs, expenses and attorney's fees incurred in enforcing the provisions of this Declaration, and/or in the preparation of or prosecution of any proceedings for the enforcement of the provisions of this Declaration, together with Interest (at an "Interest Rate") upon each of the Enforcing Party's costs and expenses of removal of any Parcel 1 Improvements, and upon the Enforcing Party's other costs and expenses and attorney's fees, and costs of enforcement of the obligations provided for by this Declaration. Interest

shall be charged and paid at an ~~Interest Rate~~ ^{Unofficial Document} which shall equal the "Prime Rate" as from time to time in effect (adjusted with each adjustment in the Prime Interest Rate), plus two percent (2%) per annum. For example, if the Prime Interest Rate is 4% per annum, then the Interest Rate shall be 6% per annum. All references to the "Prime Interest Rate" or "Prime" shall mean and refer to that rate of interest referred to as the "Prime Interest Rate" or "Prime," in the Money Rates column of *The Wall Street Journal*, as from time to time published, and shall further mean that rate of Interest charged by seventy percent (70%) of the nation's thirty largest money center banks to their most favored corporate borrowers, as so published. The Interest Rate shall be adjusted, up or down, with each adjustment in the Prime Interest Rate, but shall never be less than six percent (6%) per annum. Interest shall begin to accrue upon each payment paid by the Enforcing Party of any cost or expense, and shall continue to accrue until the sum due the Enforcing Party is paid to the Enforcing Party. If any Enforcing Party, other than the City, seeks to enforce any of the provisions of this Declaration, then all rights of the City to recover its costs, expenses, attorney's fees and Interest shall accrue to such other Enforcing Party.

The Enforcing Party may, without posting any bond (any requirement of bond being hereby waived), seek any temporary restraining order, mandatory injunction, preliminary injunction, temporary injunction, or other temporary or permanent injunctive relief. All requirements for the posting of any bond to obtain any such injunctive relief, temporary or permanent, shall be and the same are hereby waived and shall be of no force or effect. It is understood that the Parcel 1 Improvements, or certain of the Parcel 1 Improvements, are essential to public safety and health, and to the use of the Existing Building or any other building or improvement on Parcel 2 in conformity with the City's Codes and Regulations and requirements, which such Codes, Regulations and requirements are intended to preserve public health and safety and that, therefore, any termination of the right in the owner, occupant, tenant or user of the Existing Building or any other building or improvement placed on Parcel 2 to use the Parcel 1 Improvements and to keep, maintain, use and keep the Parcel 1 Improvements on Parcel 1 can result in an immediate danger to the health and safety of the public and that, therefore, it is right and proper that any court of competent jurisdiction provide such temporary restraining order, temporary injunction or other temporary relief (without posting bond) which shall be required to cause the immediate cessation of the use of the Existing Building or any other building or improvement on Parcel 2, so that public health and safety can be preserved.

6. CD to Assure City of Payment and Performance. In order to assure the City of performance by Declarants of their duties and obligations under this Agreement, Declarant, Seventh Street Properties, provides to the City, in lieu of a performance bond, a certificate of deposit issued in the name of Declarant, Seventh Street Properties, and City as follows:

Name of Issuing Bank: Central Bank of Boone County
 Certificate of Deposit No. 000608531
 Face Amount of Certificate of Deposit: \$20,000
 Name of Owners/Depositors: City of Columbia and Seventh Street Properties
 of Columbia LLC

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Such certificate of deposit ("the CD") shall stand in the lieu, place and stead of a performance bond. If any of the circumstances described in paragraph 4 of this Declaration shall arise, and Declarants shall fail to remove the Parcel 1 Improvements from Parcel 1, or City is otherwise required to resort to any legal or equitable procedures, or other processes or procedures for purposes of enforcing this Declaration or its provisions or the duties or obligations of the Declarants under this Declaration, including but not limited to the duties and obligations to make any payment to the City required by this Declaration, then, in such event, City shall be entitled to collect and receive all proceeds of the CD, and to apply same to sums due City pursuant to the provisions of this Agreement, with Declarants to remain jointly and severally liable and obligated to City for payment of any deficiency. City and City's Finance Director and City Manager, and each of them, shall be and they are hereby constituted as the Attorney-In-Fact for Declarant, Seventh Street Properties, pursuant to a Power of Attorney, coupled with an interest, which shall be irrevocable, and unconditional, under every circumstance, empowering City if any of those circumstances described in paragraph 4 of this Declaration shall arise (and City shall become entitled to receive payment from Declarants or Declarants' successors of any sums, and such sums are not paid when due), and City, its Finance Director and/or its City Manager, as the Attorney-In-Fact for Declarant Seventh Street Properties, to present the CD to the issuing bank, for payment and collection, with the proceeds to be applied as described in this Agreement. Seventh Street Properties or its member, John Daniel Rader, shall present to City the social security number or taxpayer identification number of Seventh Street Properties or its member, John Daniel Rader, and all while all interest upon the CD shall be accrued to and become a part of the principal sum of the CD, all income tax responsibility for interest earned upon the CD shall be the responsibility of Seventh Street Properties or John Daniel Rader, as the case may be. City, its Finance Director and its City Manager, and each of them, as the Attorney-In-Fact for Seventh Street Properties, shall also be authorized to take all actions which are required to cause the CD and the term of the CD to be renewed and extended, so long as any of the Parcel 1 Improvements remain on Parcel 1.

7. Guaranty. Guarantor hereby, permanently, irrevocably and continuously, guarantees to City and each Enforcing Party, timely payment and performance by Declarants and each of Declarants of Declarant's duties and obligations provided for by this Agreement. Guarantor's Guaranty ("Guaranty") shall be binding upon Guarantor, and Guarantor's heirs, personal representatives and successors, including any trustee of any trust established by Guarantor to which Guarantor shall transfer any assets, and such trust and all successors in trust. This Guaranty shall extend to all duties and obligations of Declarants and each of them to City and any Enforcing Party provided for by way of this Agreement, all of which such duties and obligations are referred to herein, collectively, as "the Indebtedness." This Guaranty shall be subject to the following additional terms, covenants, conditions and agreements to which Guarantor hereby agrees:

a. This is a **CONTINUING GUARANTY** relating to any Indebtedness as hereinabove described in this Guaranty, including any duties and obligations and Indebtedness of Declarants or any of them to City or any enforcing Party provided for by way of the foregoing provisions of this Declaration.

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b. It is understood and agreed that City would not have accepted this Declaration nor issued the City's Permits in the absence of this Guaranty and that the issuance by City, now or at any time in the future, of any of the City's Permits is substantial and adequate consideration for making and delivery of this Guaranty by Guarantor.

c. Guarantor expressly waives notice of acceptance of this Guaranty.

d. City, may, with or without notice of any kind to Guarantor, modify or extend or amend any of the provisions of this Declaration.

e. City may release Declarants or any of Declarants, without affecting the liabilities of Guarantor under this Guaranty. The liabilities of Guarantor and Declarants and each of them under this Declaration shall be joint and several. The liabilities of any Declarant under this Declaration shall be the liability of Guarantor. The liability of Guarantor hereunder shall accrue to Guarantor and Guarantor's respective legal heirs and personal representatives and trustees of any trust to which Guarantor shall transfer any assets or properties held by Guarantor.

f. The obligations of Guarantor hereunder are independent of the obligations of Declarants and each of them. A separate action may be brought or prosecuted against Guarantor, whether or not an action is brought against Declarants or any of Declarants.

g. Guarantor agrees to pay, in addition to all of the Indebtednesses guaranteed by Guarantor hereunder, all costs and expenses and costs of litigation and reasonable attorney's fees, and other costs and expenses which may be incurred by any Enforcing Party in the enforcement of this Declaration or the enforcement of Guarantor's obligations under this Guaranty.

h. It shall not be a condition to the obligations of the Guarantor hereunder that any Enforcing Party pursue or preserve any remedies against Declarants or any of Declarants.

i. All notices required to be given to Guarantor hereunder may be either personally delivered or may be mailed by certified or registered mail, return receipt requested. Any notice so mailed shall be deemed to have been received as of the date of mailing, even though not actually received. Notices may be mailed to the Guarantor at his address as follows:

John Daniel Rader
6106 Ivory Lane
Columbia, MO 65201

John Daniel Rader
c/o Rader Hospitality Company, L.L.C.
119 South Seventh Street
Columbia, MO 65201

8. ~~Termination of Effects of this Declaration/this Agreement.~~ **Unofficial Document** This Declaration shall cease and terminate and be rendered of absolutely no force or effect, and shall not thereafter burden Parcel 1 or Parcel 2, should any of the following occur:

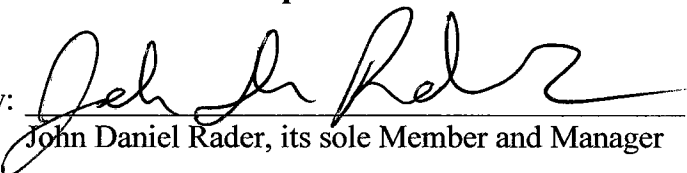
A. Platting as Common Lot and Common Ownership. If Parcel 1 and Parcel 2 shall be replatted into a single, legal Lot, as provided for by the City's Zoning and Subdivision Regulations, and shall be owned by a single, common lot owner.

B. All Parcel 1 Improvements are Removed. All rights in each of the owner of, any lessee or tenant of, and occupant of the Existing Building, and any other building or improvement located on Parcel 2, shall have been terminated or shall have expired, by virtue of the expiration of the Hulett Descendants/ Seventh Street Properties Lease hereinabove described, or otherwise, and the termination or expiration of such right shall have been established to City's reasonable satisfaction, and the Parcel 1 Improvements shall have been removed from Parcel 1, and any use of the Existing Building or any other building or improvement located on Parcel 2 (which such use is, under the City's then existing Ordinances, Codes and Regulations dependent on any of the Parcel 1 Improvements) has been terminated, and all of these facts are established to the City's reasonable satisfaction, and an Affidavit to such effect has, with City's consent, been recorded by a Declarant in the Real Estate Records of Boone County, Missouri.

9. No Oral Modification or Waiver. The provisions of this Declaration may not be modified or amended, orally. Oral modifications or amendments of this Declaration shall be of absolutely no force or effect. Any modification or amendment of this Declaration must be made by written agreement, executed by each of the Parties, or their respective successors. No provision of this Declaration may be waived, other than by a written document specifically providing for the nature or extent of the waiver of any provision of this Agreement, which such document is executed by the Party against which the waiver is sought to be charged. Oral waivers shall be of absolutely no force or effect. Any document of modification, amendment or waiver of any of the provisions of this Agreement must be recorded in the Real Estate Records of Boone County, Missouri, and shall otherwise be of no force or effect.

IN WITNESS WHEREOF, the Parties to this Declaration have executed this Declaration on the day and year first above written.

**DECLARANTS:
Seventh Street Properties of Columbia LLC**

By: 
John Daniel Rader, its sole Member and Manager

Unofficial Document Rader Hospitality Company, L.L.C.

By: [Signature] John Daniel Rader, its sole Member and Manager

Hulett Descendants LLC

By: [Signature] George Hulett, its Manager

GUARANTOR:

[Signature] John Daniel Rader

CITY: City of Columbia, Missouri

By: [Signature] Michael Matthes, City Manager

Approved as to legal form:

[Signature] Nancy Thompson, City Counselor

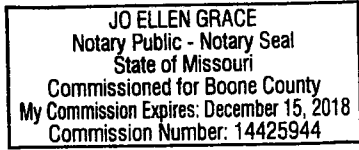
Exhibit A - Improvements

STATE OF MISSOURI)) SS) COUNTY OF BOONE)

On this 21st day of June, 2016, before me appeared John Daniel Rader, to me personally known, who, being by me duly sworn did say that he is the sole member and manager of Seventh Street Properties of Columbia LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said John Daniel Rader acknowledged said instrument to be the free act and deed of said limited liability company.

Unofficial Document

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.

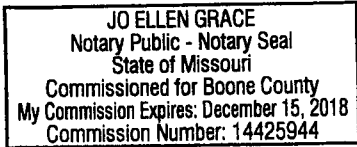


Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2018

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 21st day of June, 2016, before me appeared John Daniel Rader, to me personally known, who, being by me duly sworn did say that he is the sole member and manager of Rader Hospitality Company, L.L.C., a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said John Daniel Rader acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.

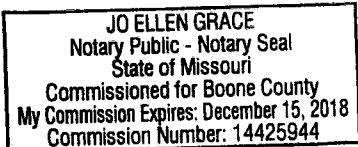


Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2018

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 21st day of June, 2016, before me appeared George Hulett, to me personally known, who, being by me duly sworn did say that he is the sole member and manager of Hulett Descendants LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said George Hulett acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.



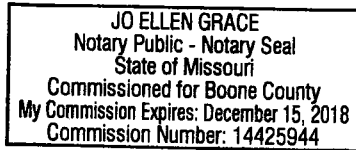
Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2018

Nora Dietzel, Recorder of Deeds

STATE OF MISSOURI Unofficial Document)
) SS.
COUNTY OF BOONE)

On this 21st day of June, 2016, before me personally appeared John Daniel Rader, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the State and County aforesaid, the day and year first above written.

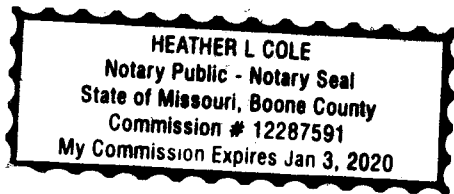


Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2018

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 20 day of July, 2016, before me appeared Michael Matthes, to me personally known, who, being by me duly sworn did say that he is the City Manager of the City of Columbia, a municipal corporation, and said Michael Matthes acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.



Heather L. Cole
Heather L. Cole, Notary Public
Boone County, State of Missouri
My commission expires: 1-3-20

~~Unofficial Document~~
Improvements to be Placed on Hulett Land

Description of Parcel 1 Improvements/Improvements to be Placed on Land Owned by
Hulett Descendants LLC

1. Phase 1. Construction of rooftop bar, and of accessible restrooms, on the rooftop of the Existing Building at 119 South Seventh Street, and the construction of a stairway (which will cross the property line) on the west side of the Existing Building, and a landing for such stairway, in order to provide for a means of access to and egress from such rooftop deck, bar and restroom facilities, all as shown on that drawing attached as Exhibit 1.

2. Phase 2. Construction of expanded landing for such stairway and a janitor closet for the rooftop patio, and construction of a storage room and installation of a walk-in cooler, with utility service coming from the Existing Building at 119 South Seventh Street, as shown on Exhibit 2 which is attached hereto.

3. Phase 3. Construction of accessible two story restroom facilities with utility services from the Existing Building at 119 South Seventh Street, to serve the exterior patio and related facilities, all as shown on that drawing attached hereto as Exhibit 3,

all collectively referred to herein as the "Parcel 1 Improvements," and all of same being, in whole or in part, improvements to be installed on the Hulett Descendants LLC Land, and all to be served by sewer and utility connections from 119 South Seventh Street (which such utilities shall, with the sewer connection being capped off and terminated, and being removed) upon the termination of the Lease Term of the Hulett Descendant/Seventh Street Properties Lease

"EXHIBIT A "



THIS DOCUMENT IS THE PROPERTY OF SIMON ASSOCIATES INC. AND MAY NOT BE REPRODUCED WITHOUT WRITTEN PERMISSION.

Simon Associates Inc.
 ARCHITECTS & INTERIORS
 1120 NORTH WASHINGTON STREET
 BOONE COUNTY, MISSOURI 64601
 (417) 261-1000
 WWW.SIMONASSOCIATESINC.COM

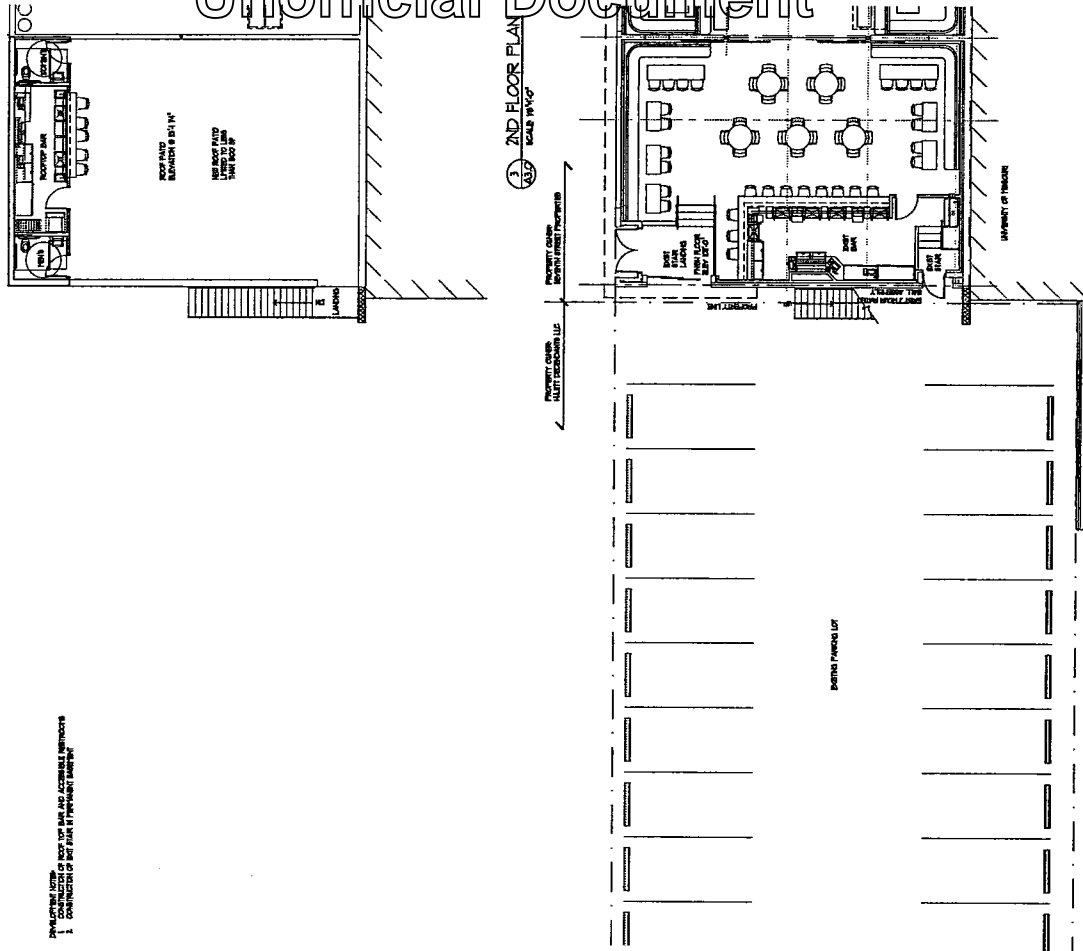
REVISIONS
 01
 02
 03

MY HOUSE

BOONE COUNTY MO JUL 21 2016



Unofficial Document



"EXHIBIT 1"

Nora Dietzel, Recorder of Deeds



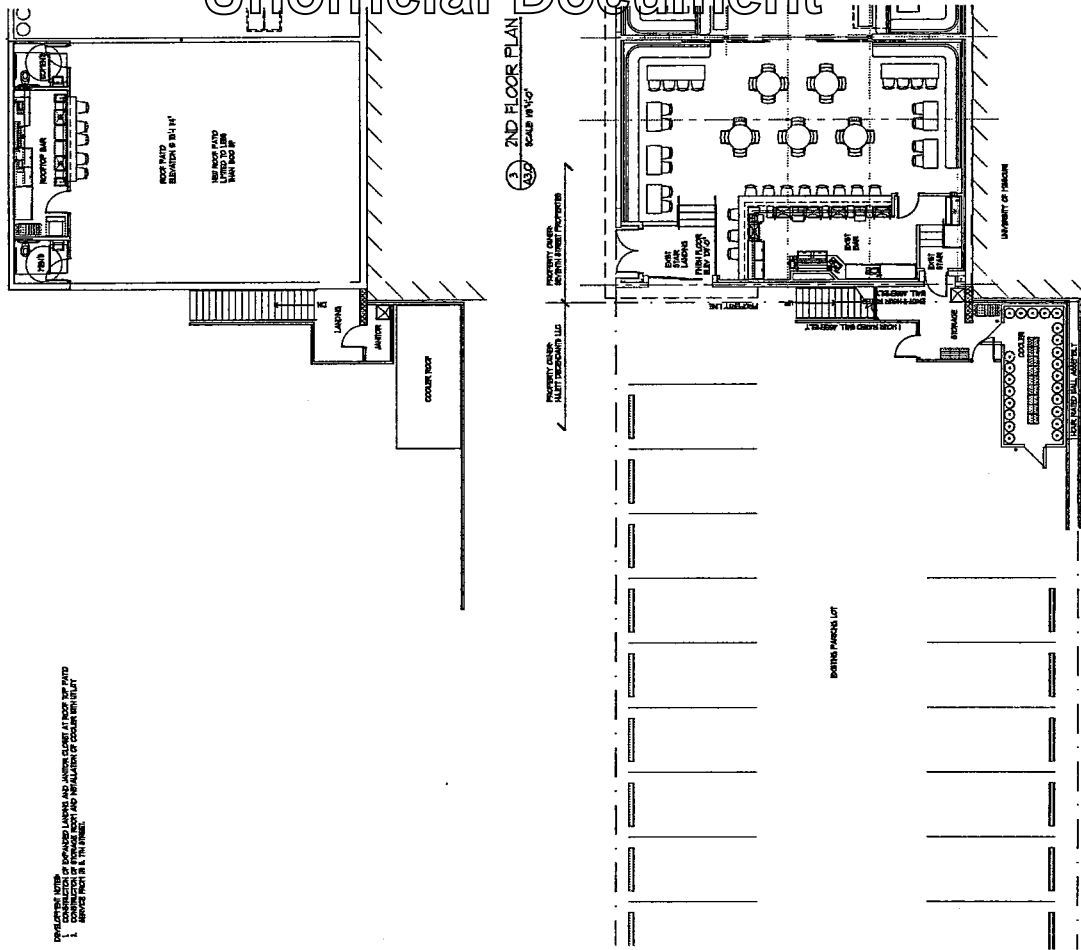
THIS DOCUMENT IS THE PROPERTY OF SIMON ASSOCIATES INC. AND MAY NOT BE REPRODUCED

MY HOUSE

REVISIONS



Unofficial Document



1. CONSULTOR OF EXPANDED LAYOUT AND ARCHITECTURE AT RISK FOR ANY CHANGES TO THE PLAN AND THE NUMBER OF COOKERS PER PLAN.

EXHIBIT 2



THE CONTENTS OF THIS DOCUMENT ARE THE PROPERTY OF SIMON ASSOCIATES INC. AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

Boone County, Missouri
SIMON ASSOCIATES INC.

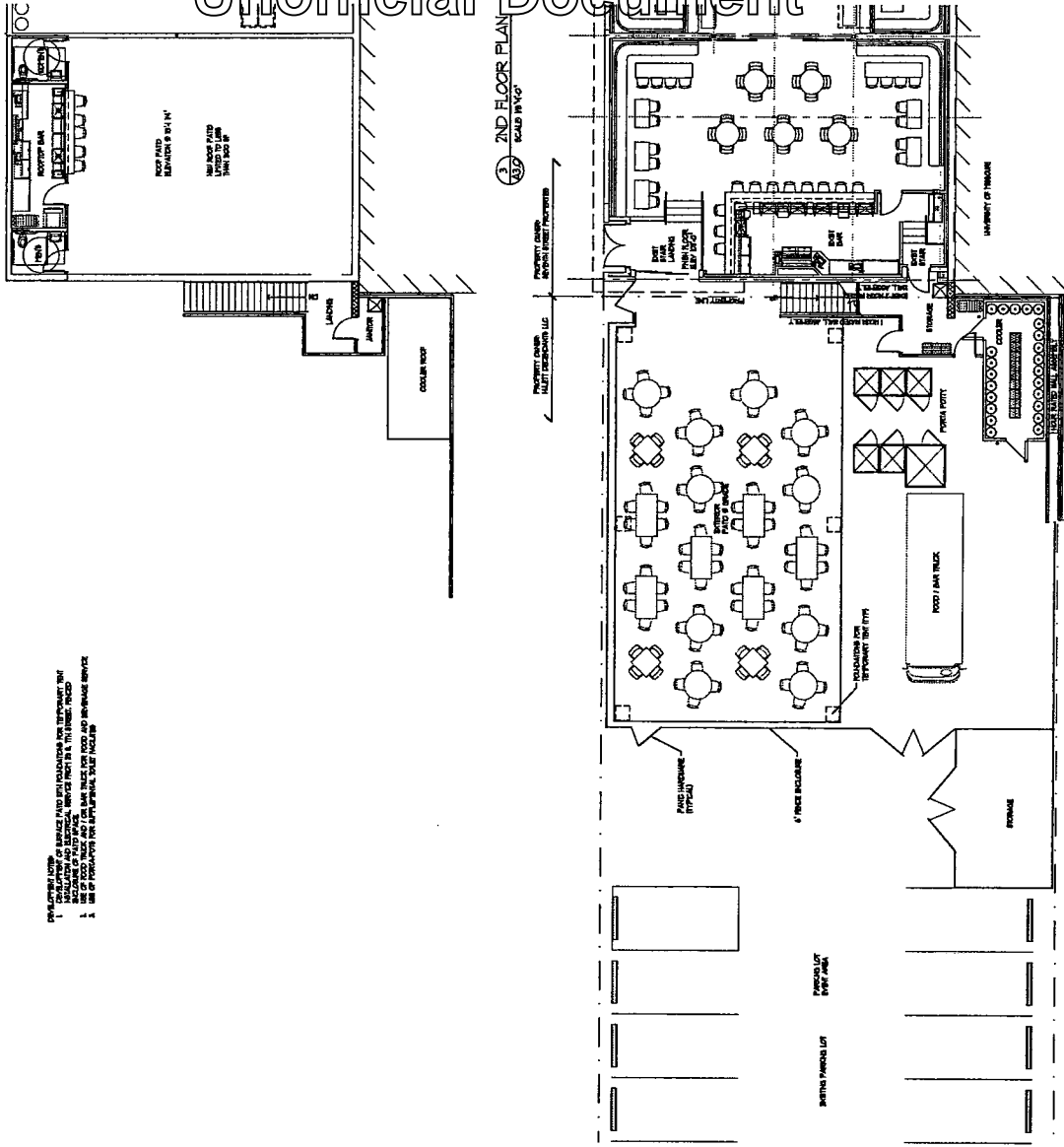
MY HOUSE

BOONE COUNTY MO

21 2016



Unofficial Document



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"EXHIBIT 3"