

**ORDINANCE NO. 1-16**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT WITH FOUR BROTHERS HOLDING COMPANY, LLC (PJ MARLEY'S RESTAURANT) FOR THE USE OF PUBLIC OWNED LAND ON PARCEL #028-19B-20136.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

**SEC. 1:** That the Mayor is hereby authorized and directed to execute a License Agreement with Four Brothers Holding Company, LLC (PJ Marley's Restaurant), located at 119 E. Liberty Street, to use approximately 300 sq. ft. of City owned land (Parcel No. 028-19B-20136) for an outdoor dining deck.

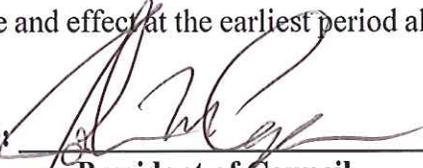
**SEC. 2:** That a copy of the License Agreement is marked Exhibit A, attached hereto and incorporated herein.

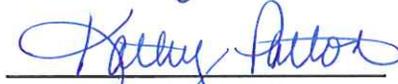
**SEC. 3:** That the Clerk of Council is hereby directed to file the License Agreement with the Medina County Recorder.

**SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

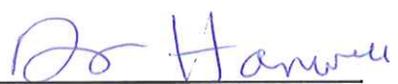
**SEC. 5:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

**PASSED:** January 11, 2016

**SIGNED:**   
President of Council

**ATTEST:**   
Clerk of Council

**APPROVED:** January 12, 2015

**SIGNED:**   
Mayor

Effective date – February 10, 2016



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Tx:8094654

2016OR005103

COLLEEN M. SWEDYK  
MEDINA COUNTY RECORDER  
MEDINA, OH  
RECORDED ON  
03/15/2016 2:12 PM

REC FEE: 76.00  
PAGES: 9  
DOC TYPE: LICNSE

DRD.1-16

MEDINA COUNTY RECORDER

COLLEEN M. SWEDYK

(DO NOT REMOVE THIS COVER SHEET.  
THIS IS THE FIRST PAGE OF THIS DOCUMENT)

ORD 1-16  
Exh. A

LICENSE AGREEMENT

This License Agreement is entered into this 12th day of January, 2016, by and between the **City of Medina**, an Ohio municipal corporation, whose mailing address is 132 North Elmwood Avenue, Medina, Ohio 44256 (hereinafter "City"), and **Four Brothers Holding Company, LLC**, an Ohio limited liability company, whose mailing address is 4114 Beck Road, Medina, Ohio 44256 (hereinafter "Tenant" and/or "Owner," and collectively referred to as the "Licensee").

**WITNESSETH:**

**WHEREAS**, Tenant Licensee is an operator of a retail dining and beverage establishment in the downtown area of the City of Medina; and

**WHEREAS**, as used in this Agreement, the term "Licensee" shall also include the Owner of the premises upon which the Tenant Licensee occupies and operates its business, and the Owner is included as a party to this Agreement for enforcement and other purposes; and

**WHEREAS**, Licensee has requested permission from the City to construct and install an above-grade deck, built in accordance with plans provided by the Licensee and approved by the City Building Department, on that portion of property owned by the City and described more fully on "Exhibits A and B," attached hereto and incorporated herein, adjacent to the retail dining and beverage establishment at P.J. Marley's, 119 West Liberty Street, in the City in order to offer outdoor dining; and

**WHEREAS**, the City has determined by City Council Ordinance No. 1-16 that it would be in the best interest of the City and its residents to enter into such an agreement with the Licensee to provide the aforesaid outdoor area for dining and beverage seating and service.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. Dining and Beverage Area License. In consideration of the covenants and agreements hereinafter set forth, City does hereby grant to Licensee a license for the use and occupancy of the real property described more fully in "Exhibits A and B," attached hereto and incorporated herein, immediately adjacent to the

building located at P.J. Marley's, 119 West Liberty Street, Medina, Ohio, for the purpose of providing space for outdoor seating for dining and beverage consumption for Licensee's retail dining and beverage establishment (the "Licensed Dining Area"). It is understood as between the parties that the Licensee shall construct and install an above-grade deck in accordance with plans approved by the City of Medina and the Medina City Building Department. The license for outdoor dining is supplemental to, and contingent upon, the operation of Licensee's retail dining establishment in the indoor premises located at the aforementioned address, and the outdoor dining shall not be allowed if the retail dining establishment ceases operation.

2. Area of Enclosure. Licensee shall configure the Licensed Dining Area in a manner approved by the Medina City Planning Director.
3. Term. The initial term of this Agreement shall be for a period of five (5) years commencing the date of signing this Agreement. This Agreement shall automatically renew for one (1) year terms during subsequent years unless the City terminates the Agreement pursuant to paragraph 4 below, or prior to the expiration of any of the one-year terms, the City proposes amendments to this Agreement that are to be effective in subsequent terms of the Agreement.
4. Termination.
  - a. The City may terminate this Agreement at any time for any reason upon six (6) months' written notice to the Licensee.
  - b. The City may terminate this Agreement at any time during the License Term, or any renewal term, for violation of the terms of this Agreement by giving Licensee thirty (30) days' written notice. Any cost of repairs to the Licensed Dining Area upon such termination shall be at the sole expense of Licensee.
  - c. The City may terminate this Agreement upon twenty-four (24) hours' notice to Licensee for good cause as determined by the City, which may include, but is not limited to: the sale of alcoholic beverages to minors or intoxicated persons (whether or not any criminal charges are ever brought or successfully prosecuted); failure to keep the tables, chairs, and surrounding area in a clean and neat condition; loud noise or other persistent misbehavior by patrons; impairment of pedestrian traffic; or the causing of a nuisance.

5. Insurance. Licensee shall maintain and keep in full force throughout the term of this Agreement comprehensive general liability insurance against all claims for personal injury, death, or property damage occurring on the Licensed Dining Area with minimum limits of liability of One Million Dollars (\$1,000,000) per person, Three Million Dollars (\$3,000,000) per occurrence and Five Hundred Thousand Dollars (\$500,000) for property damage. Licensee shall furnish certificates of insurance evidencing payment therefor to the City prior to the commencement of the License Term and at such additional times as may be requested by the City. Such policies shall name the City as an additional insured and shall be non-cancelable for any cause without first giving the City fifteen (15) days' prior written notice. Licensee may satisfy this insurance requirement by maintaining such coverage under chain-wide umbrella policies, provided that the City is named as an additional insured.
  
6. Indemnification. Licensee shall indemnify, defend, keep, and hold the City and its officers, agents, and employees free and harmless from liability for any and all damages, loss, or penalties of any kind whatsoever incurred as a result of Licensee's conduct or performance under this Agreement or exercise of the Agreement. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omission, theft, fire, and all other damages arising out of Licensee's exercise of this Agreement, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Agreement; such indemnification shall include, but not be limited to, reasonable attorney's fees and costs.
  
7. Improvement and Equipment.
  - a. Licensee shall not make any temporary or permanent improvements to the Licensed Dining Area other than the construction and installation of the above-grade deck, or block off sections of the Licensed Dining Area without the prior written consent of the City.
  
  - b. After the conclusion of the License Term, Licensee shall remove the above-grade deck and remove any improvements it has made to the Licensed Dining Area or items of personal property it has placed on the Licensed Dining Area, and repair and restore any and all areas to their previous condition. The City may, however, consent in writing that an improvement may remain if it is approved by the City Council.

- c. Licensee shall provide all fencing, tables, chairs, and other necessary equipment for use in the Licensed Dining Area, which shall be approved by the City Planning Director. Licensee shall limit the equipment to a reasonable amount so as to ensure the safety of the public in the Licensed Dining Area.
8. Maintenance and Repair.
  - a. Licensee shall be responsible for cleaning and routine maintenance of the above-grade deck and equipment in the Licensed Dining Area, including but not limited to: cleaning the tables and chairs; maintaining the above-grade deck; maintaining the equipment in good and reasonable repair; and immediately replacing any and all broken, cracked, bent, or otherwise defective equipment.
  - b. Licensee shall be responsible for cleaning and routine maintenance of the above-grade deck and the Licensed Dining Area, including but not limited to: ensuring that the entire area is free of litter and refuse; sweeping the deck area as needed; removing debris from the tables and chairs immediately upon exit of patrons; washing down tables and chairs and the above-grade deck as needed.
9. Permits and Approvals. Licensee shall be responsible for obtaining all permits, licenses, and/or approvals pertaining to occupancy, zoning, environmental controls, and any other relevant governmental issues which are necessary to permit Licensee to operate outdoor dining on the Licensed Dining Area. In the event Licensee intends to serve liquor on the Licensed Dining Area, Licensee shall be required to obtain the necessary permits from the Ohio Department of Liquor Control.
10. Use and Occupancy.
  - a. Licensee shall use and occupy the Licensed Dining Area in a careful, safe, and proper manner and in compliance with all relevant federal, state, and local ordinances, laws, rules, and regulations. In the event Licensee intends to serve alcohol in the Licensed Dining Area, Licensee shall use and occupy the Licensed Dining Area in compliance with all applicable liquor control statutes, regulations, and ordinances.
  - b. Licensee shall not occupy or use the Licensed Dining Area or permit the same to be occupied or used for any purpose or business which is unlawful, contrary to this Agreement, or in the City's reasonable judgment, is disreputable, immoral, or inappropriate.

- c. Licensee shall not allow said Licensed Dining Area to be used for any purpose or in any way which will increase the rate of insurance on the Licensed Dining Area nor for any purpose other than that specified in this Agreement.
  - d. Licensee shall not permit the Licensed Dining Area to be occupied, in whole or in part, by any persons other than those specified in this Agreement.
  - e. Licensee shall not use any substance or force that will increase the hazard of fire in the Licensed Dining Area.
  - f. Licensee shall not allow the Licensed Dining Area to be used for any unlawful purpose or in any way that will injure the reputation of the downtown district or disturb the neighborhood.
  - g. No musical instruments, stereos, or other amplified sound shall be allowed in the Licensed Dining Area without the prior consent of the City.
  - h. Licensee shall make appropriate provision for disposal of all trash, garbage, or debris that is generated from Licensee's use of its premises and of the Licensed Dining Area, and the same shall not be disposed of in any receptacles owned and/or controlled by the City.
11. Seasonal Removal of Equipment. Licensee shall remove all furniture before November 1 of each year of this Agreement or renewal term. Licensee may begin installing furniture and equipment on March 31 of each year of this Agreement or renewal term. Between November 1 and March 31, Licensee may install the furniture and fencing for special occasions such as holiday shopping or sidewalk sales, if the weather is permitting. During special occasions, all furniture and fencing in the Licensed Dining Area must be removed from the Licensed Dining Area at the close of the business day, and all furniture and fencing must be immediately removed from the Licensed Dining Area when the weather no longer permits outdoor dining.
12. Times of Operation. Outdoor dining will be permitted only between the hours of 6:30 a.m. through 11:00 p.m., Sunday through Thursday, and 7:30 a.m. through 1:00 a.m., Friday and Saturday.
13. Signs. No signs shall be permitted in the described area.
14. Public Property. Licensee acknowledges that the Licensed Dining Area is public property, and the area immediately adjacent to the Licensed Dining Area will continue to be used as a publicly accessible property.

15. Assignment. Licensee's interest hereunder is a personal interest which may not be assigned to any other party without the written consent of the City. Neither the license interest, nor any interest of Licensee in the Licensed Dining Area or any implements or personal property thereon, shall be subject to involuntary assignment, transfer, or sale by operation of law in any manner whatsoever, and any such attempted involuntary assignment, transfer, or sale shall be void and of no effect, and shall, at the option of the City, terminate this Agreement.
16. Non-waiver. The failure of the City to enforce any of the rights given to it under this Agreement by reason of a violation by Licensee of any of the terms of this Agreement shall not be construed as a waiver of the power of the City to exercise any such rights as to any subsequent or different violation.
17. Severability. In the event any term of this Agreement shall be held invalid, illegal, or unenforceable, in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term of this Agreement shall in any way be affected thereby.
18. Survival of Covenants. All promises made in this Agreement, including but not limited to indemnification and insurance provisions, shall survive the termination or expiration of this Agreement.
19. Entire Agreement. This written License Agreement constitutes the entire understanding between the parties, superseding all previous negotiations and discussions, and no modification or alteration of this Agreement shall be binding unless it is in writing and signed by both parties.
20. Service. Service of any communication required or permitted in this Agreement shall be made by personal service or certified mail, return receipt requested, at the addresses listed in the heading or at such other addresses as either party may provide in writing from time to time.
21. Authorization. Each person executing this Agreement warrants and represent that he or she is authorized to execute this Agreement on behalf of his or her legal entity.

*Situated in the State of Ohio, County of Medina*

MEDINA CITY LOT NO.: 9147 (NEW PPN 028-19B-20-136),

**CITY OF MEDINA, OHIO**  
**An Ohio Municipal Corporation**

By: *Dennis Hanwell*  
Dennis Hanwell, Mayor

STATE OF OHIO            )  
  ) SS:  
COUNTY OF MEDINA    )

**BEFORE ME**, a Notary Public in and for said county and state, personally appeared **DENNIS HANWELL**, Mayor of the **CITY OF MEDINA**, who acknowledged that he did execute the foregoing instrument on behalf of said City, and that the same is his free act and deed, individually and as such officer.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and seal as of this 14<sup>th</sup> day of March, 2016.

*Kimberly A. Walter*  
NOTARY PUBLIC  
Kimberly A. Walter  
Notary Public  
State of Ohio  
My Comm Expires Aug. 3, 2018



TENANT, OWNER & LICENSEE

FOUR BROTHERS HOLDING  
COMPANY, LLC,  
An Ohio Limited Liability Company

By: *Jonathan E Stahl*  
Jonathan E Stahl  
(Printed Name)

Its: Owner

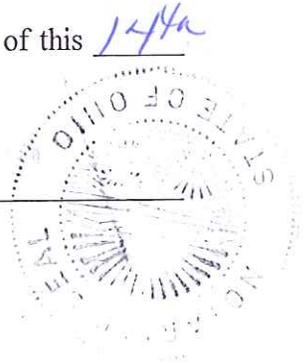
STATE OF OHIO )  
 ) SS:  
COUNTY OF MEDINA )

Jonathan Stahl BEFORE ME, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, as owner of FOUR BROTHERS HOLDING COMPANY, LLC, who acknowledged that he did execute the foregoing instrument on behalf of said LLC, and that the same is his free act and deed, individually and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal as of this 14th day of March, 2016.

*Kimberly A. Walter*  
NOTARY PUBLIC

Kimberly A. Walter  
Notary Public  
State of Ohio  
My Comm Expires Aug. 3, 2018



This instrument prepared by and approved as to legal form:

*Greg A. Huber*  
GREGORY A. HUBER, Law Director  
City of Medina  
132 North Elmwood Avenue  
Medina, OH 44256  
Tel: 330-722-9070



Engineering and Surveying  
257 S. Court St. • Suite 6  
Medina, Ohio 44256  
Phone: 330-723-1828 • 800-723-1870  
Fax: 330-723-6637  
E-mail: info@rh-inc.com

Legal Description for a 14.87' x 21.00' Revocable Use Area  
Project No. 31,524  
September 17, 2015

Situated in the City of Medina, County of Medina and State of Ohio, known as being part of lands conveyed to the City of Medina by deed recorded on January 24, 2014 as recorded in Document No. 2014OR001515 of Medina County Recorders Records, also being a part of Medina City Lot No. 9147 as shown by the plat recorded in Plat Document No. 2013PL000045 of Medina County Recorders Records further bound and described as follows:

Commencing at the Northwest corner of lands conveyed to Four Brothers Holding Company LLC by deed recorded on April 1, 2014 as recorded in Document No. 2014OR006030 of Medina County Recorders Records, also being the Northwest corner of Medina City Lot No. 9148 as shown by the plat recorded in Plat Document No. 2013PL000045 of Medina County Recorders Records;

Thence along the Western line of said lands conveyed to Four Brothers Holding Company Inc. and the Western line of Medina City Lot No. 9148, bearing South 00°09'30" East, a distance of 19.00 feet to a point thereon and the TRUE PLACE OF BEGINNING of the Revocable Use Area herein described;

Thence continuing along the Western line of said lands conveyed to Four Brothers Holding Company Inc. and the Western line of Medina City Lot No. 9148, bearing South 00°09'30" East, a distance of 21.00 feet to an angle point;

Thence at a right angle along an Interior line of said lands conveyed to Four Brothers Holding Company Inc. and an Interior line of Medina City Lot No. 9148, bearing South 89°50'30" West, a distance of 14.87 feet to an angle point;

Thence at a right angle, bearing North 00°09'30" West, a distance of 21.00 feet to an angle point;

Thence at a right angle, bearing North 89°50'30" East, a distance of 14.87 feet to the TRUE PLACE OF BEGINNING, intending to be a 14.87' x 21.00' Revocable Use Area, containing 0.0072 acres (312 square feet) of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey under the supervision of Andrew G. Planet, P.S. No. S-7802 by Rolling & Hocevar, Inc. in September 2015.

EXHIBIT A

NORTH COURT STREET (U.S. 42) 66'

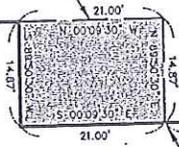
MCL 9149  
CITY OF MEDINA  
Doc. No. 2014OR001515  
01/24/2014

MCL 9147  
CITY OF MEDINA  
Doc. No. 2014OR001515  
01/24/2014

Part of M.C.L. 85  
Gowe Leasing Limited  
Doc. No. 2012OR019108  
08/07/2012

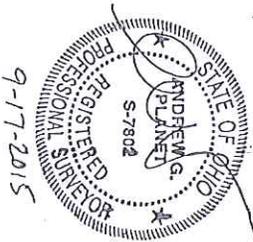
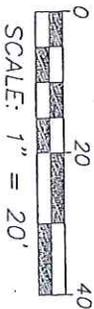
MCL 9148  
FOUR BROTHERS HOLDING CO. INC.  
Doc. No. 2014OR006030  
04/01/2014

14.87' X 21.00' REVOCABLE USE  
AREA FOR A DECK AREA  
(312 S.F. - 0.0072 ACRES)



SKETCH OF SURVEY  
REVOCABLE USE AREA FOR  
A DECK AREA  
SITUATED IN THE CITY OF MEDINA, COUNTY OF  
MEDINA AND STATE OF OHIO, BEING A PART OF  
MEDINA CITY LOT NO. 9147  
AS RECORDED IN PLAT DOC. NO. 2013PL000045

NOTE: BEARINGS ARE BASED ON AN  
ASSUMED MERIDIAN AND ARE USED  
TO DENOTE ANGLES ONLY.

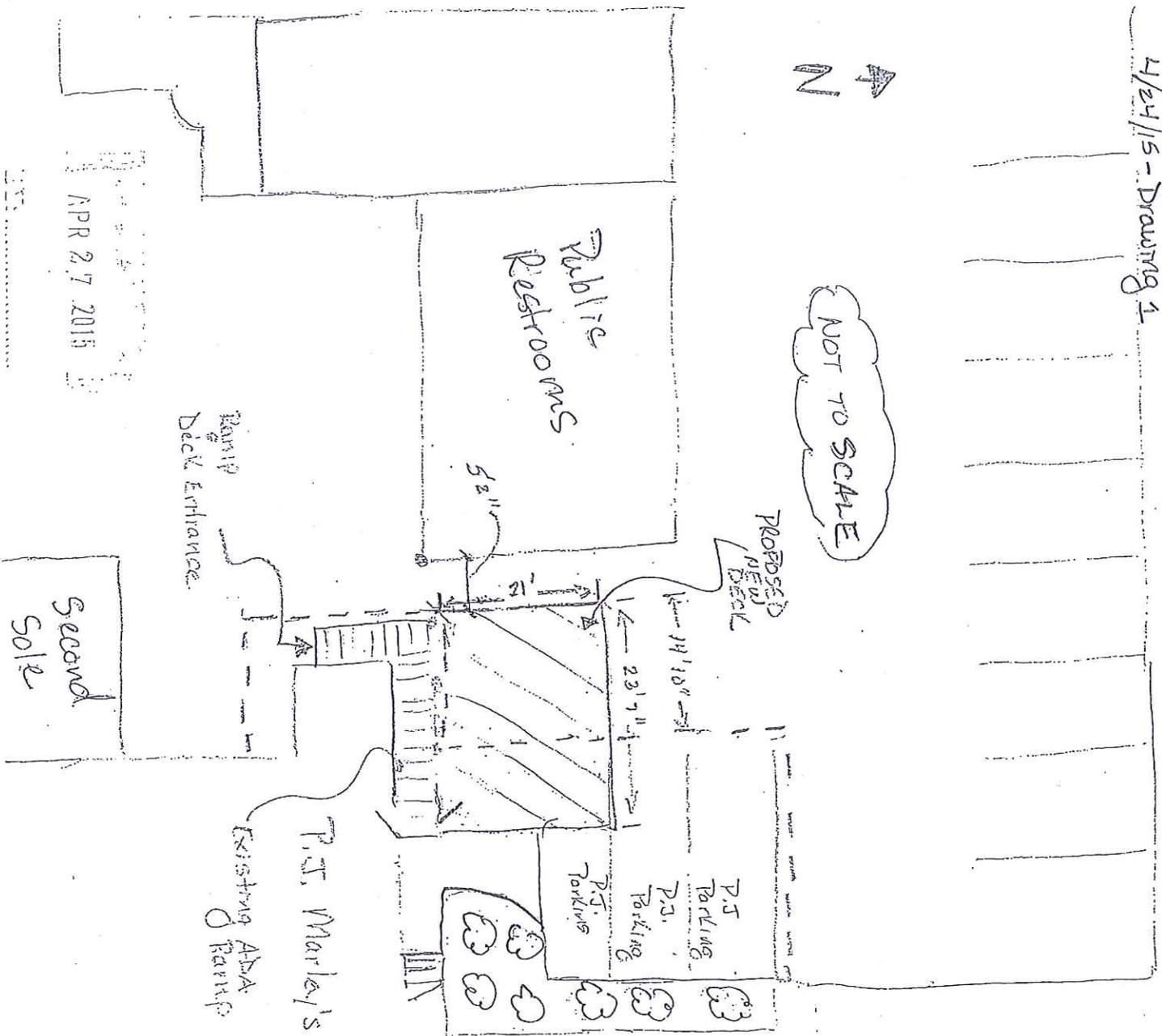


ONE ENGINEERING & SURVEYING  
SUITE 8  
MEDINA, OHIO 44256  
PHONE (330)723-1229  
FAX (330)723-1237  
PROJECT No. 111524  
A 10/12/2014/View/3/2014 Prod.dwg

EXHIBIT B

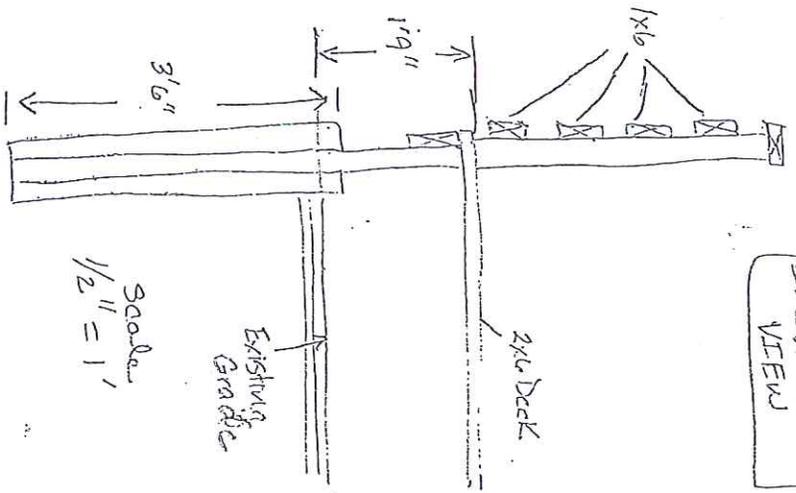
# NORTH COURT STREET

Proposed Outdoor Seating  
for P.T. Marley's Restaurant & Pub  
4/24/15 - Drawing 1



APR 27 2015

## ELEVATION VIEW



### NOTES

- ① The proposed deck will be 493 sq ft
  - ② The location of the deck will require the use of city owned property.
  - ③ One entrance to deck via ADA Ramp for safety.
  - ④ All other property over drawing is City owned
- Existing P.T.'s Property/Lin  
--- Proposed Deck