

To: HONORABLE MAYOR AND CITY COUNCIL.

FROM: Dave Maroney, Director of Economic Development and Planning.
SUBJECT: Encroachment Agreement – Tilion Brewing Company, LLC (“Tilion”)
DATE: March 15, 2017.

BACKGROUND.

Tilion requests permission to place a “chiller” immediately west of their building on property owned by the City of Cannon Falls – see the accompanying “Exhibit A” along with the floor plan drawing prepared by Wendel Companies. To facilitate this request, Attorney Knutson has prepared an *Encroachment Agreement* for your review and approval. Should “screening” of the chiller be determined to be necessary, Tilion will cooperate with the City to design and implement an acceptable plan.

If in the future Tilion desires further encroachment (landscaping, seating, etc.) within the City Property, a detailed plan will be prepared for review by the Public Works Commission and approval by the City Council.

REQUESTED COUNCIL ACTION.

Staff finds no reason to deny the request and the Public Works Commission recommends that the *Encroachment Agreement* be approved.

ENCROACHMENT AGREEMENT

AGREEMENT (“Agreement”) made this ____ day of _____, 2017, by and between the **CITY OF CANNON FALLS**, a Minnesota municipal corporation (“City”), and **TILION BREWING COMPANY, LLC**, a Delaware limited liability company (“Tilion”).

RECITALS

A. Tilion is the lessee of real property at 432 Mill Street in Cannon Falls, Minnesota, legally described as follows (“Private Property”):

Lot 1, Block 1, Carnel-Knox Addition, Goodhue County, Minnesota and That part of Mill Block 3 of the Town, now City of Cannon Falls, according to the recorded plat thereof, Goodhue County, Minnesota described as follows: Beginning at the northeast corner of Lot 1, Block 1, Carnel-Knox Addition, according to the recorded plat thereof; thence on a bearing of West along the north line of said Lot 1 a distance of 50.66 feet to a corner of said Lot 1; thence North 50° 23’ 10” East 32.93 feet to the westerly extension of the south line of the North 50.00 feet of Lot 3, Block 29, of the Town, now City of Cannon Falls; thence on a bearing of East along said westerly extension 25.29 feet to the northerly extension of the east line of said Lot 1; thence on a bearing of South along said northerly extension 21.00 feet to the point of beginning.

B. Tilion operates a brewing business on the Private Property and has requested permission from the City to encroach on a portion of Mill Block 3 of the Town, now City of Cannon Falls (“City Property”).

**NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL
COVENANTS, THE PARTIES AGREE AS FOLLOWS:**

1. The City hereby grants Tilion permission for a chiller to encroach on the City Property to the extent indicated on the diagram and legal description attached hereto as EXHIBIT "A".
2. Nothing in this Agreement shall be deemed an abandonment, vacation or waiver of the City interest in the City Property.
3. Tilion, for themselves, their heirs, successors and assigns, hereby agrees to defend, indemnify and hold the City harmless from all costs and expenses, claims and liability, including attorney fees, relating to or arising out of the grant to Tilion of permission to encroach into the City property. Tilion further agrees to indemnify and hold the City harmless from any damage caused to the Private Property as a result of maintenance of the City property, caused in whole or part by the encroachment into the City property.
4. The City does not warrant title or guarantee the continuing right of Tilion to maintain the chiller on the City Property.
5. The City may terminate this Agreement upon thirty (30) days written notice to Tilion if the brewery on the Private Property ceases operation for sixty (60) days.
6. This Agreement shall run with the land and shall be recorded against the title to the Private Property.

CITY OF CANNON FALLS

By: _____
Lyman M. Robinson, Mayor

By: _____
Ronald S. Johnson, City Administrator

STATE OF MINNESOTA)
)ss.
COUNTY OF GOODHUE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Lyman M. Robinson and Ronald S. Johnson, Mayor and City Administrator, respectively, of the City of Cannon Falls, a Minnesota municipal corporation.

Notary Public

TILION BREWING COMPANY, LLC

By: _____
Name: _____
Title: _____

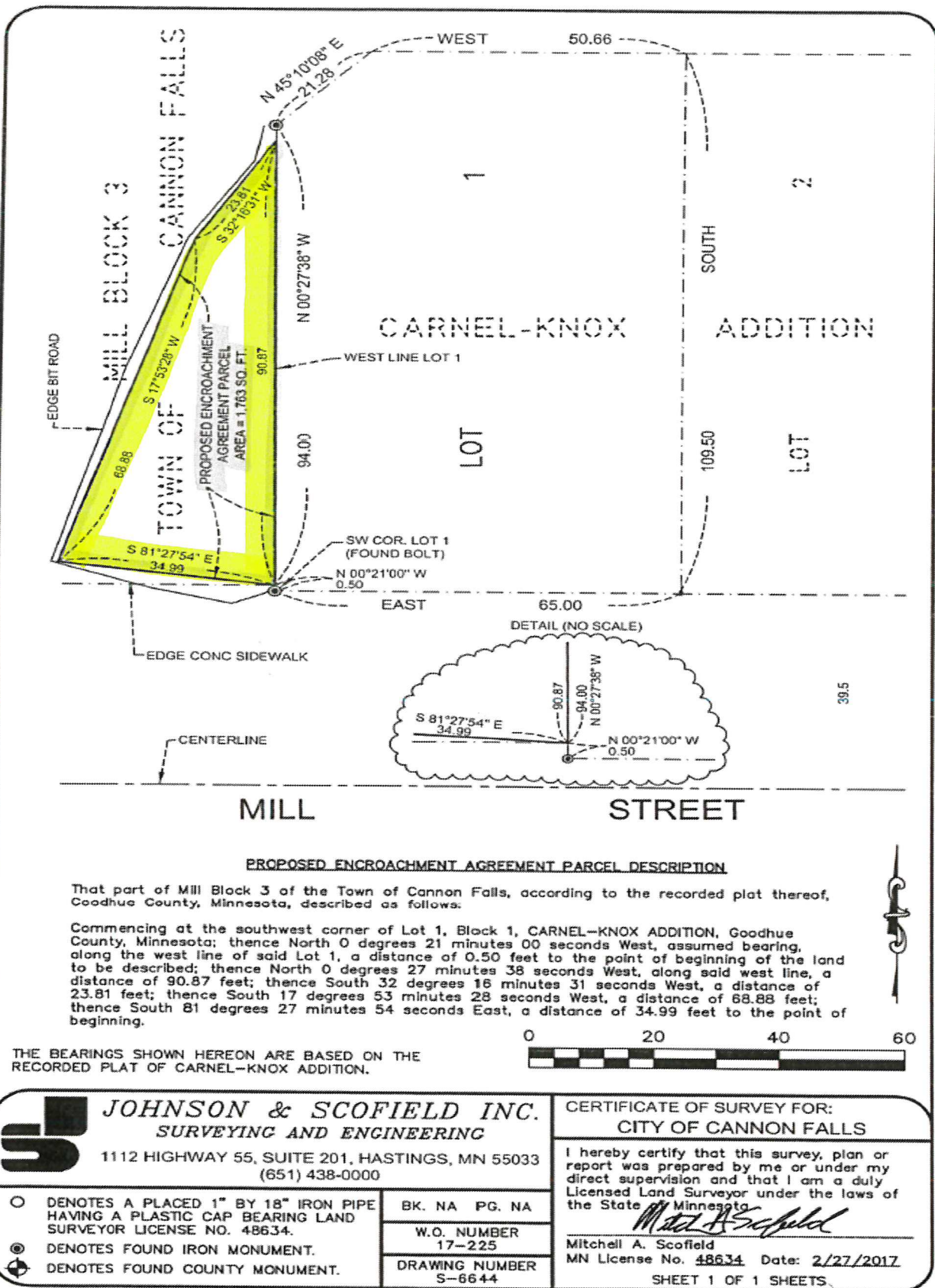
STATE OF MINNESOTA)
) ss.
COUNTY OF GOODHUE)

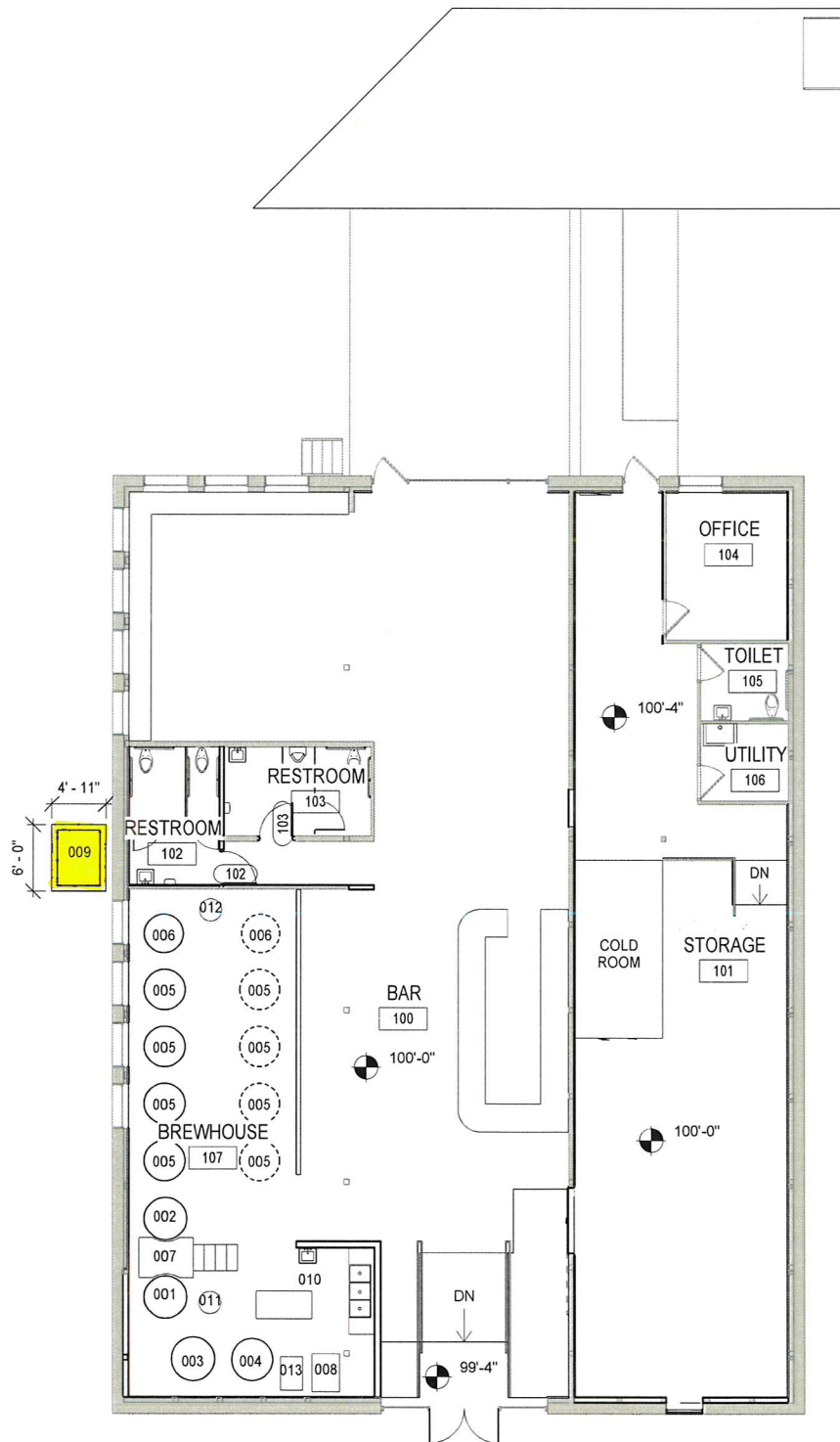
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, the _____ of Tilion Brewing Company, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public

DRAFTED BY AND RETURN TO:
CAMPBELL KNUTSON
Professional Association
860 Blue Gentian Road, Suite 260
Eagan, MN 55121
Telephone: (651) 452-5000
[RNK]

EXHIBIT "A"





1 FLOOR PLAN
3/32" = 1'-0"