

# City of Ballwin

## Memo

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To: Ballwin Planning and Zoning Commission.

From: Thomas H. Aiken, AICP, Assistant City Administrator/City Planner



Date: 9/28/15

Re: Sno-cone stand petition SUE15-05

The attached documents were in my in box on the morning of 9/28/15. Mr. and Mrs. Hilbert are attempting to clear up some of the open ended issues and associated questions that arose during the public hearing on 9/7/15. In his brief and on the associated revised site development plan the Hilberts explain that the business will be family oriented with the primary focus being shaved ice/sno-cones with a complementary menu of "concession stand items" such as soda, beer, hot dogs, nachos and snacks.

Hours of Operation: The restaurant will be open form 11 am - 10 pm Sunday through Thursday and 11 am - 11 pm on Friday and Saturday.

Seating: The seating has been expanded from 4 to 8 picnic tables. Eight picnic tables will typically accommodate a maximum of about 48 customers at a time. This is twice as much seating as had been proposed in the original petition.

Parking: Seating for 48 corresponds to a minimum of 12 parking spaces for the restaurant. Adding that to the 2 spaces required for the office use in the other portion of the building makes a minimum parking requirement for the site of 14 spaces. The revised site development plan proposed 22 parking spaces, so the proposed parking is well in excess of the ordinance's minimum requirement. This may very well be adequate, but the actual parking demand for this proposed business is still unknown and is not covered in any parking guide that I have found.

Landscaping and screening: The proposed landscaping and screening for the site have not changed from the original submittal.

Site illumination: the proposed site illumination has not changed from the original submittal.

Refuse disposal: The location and nature of the dumpster has not been altered from the original submission.

Outdoor recreation facility: The Hilberts have determined that the outdoor recreation equipment will be only a playground for children under 12. No sand volleyball or similar competitive recreational facility will be installed. I do not believe that a SUE is required for a playground of this nature.

Outdoor display and sales: The Hilberts want to extend the season of this business by incorporating the outdoor sales of seasonal merchandise. This is envisioned as nursery plants in the spring and summer and pumpkins in the fall. There is no mention of Christmas trees, a Farmer's Market or any other such endeavor.

Other documents: The other enclosed documents show that the Hilberts have formed a corporation to run this business and quit claimed the properties of the petition to a Micalleb LLC. This makes no difference to the petition other than the petitioner will be the new entity.

# Ballwin Sno Cone Company

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151 Ries Road, Ballwin MO 63021

## **Brief for Planning and Zoning Commission-**

Thank you for considering the Special Use Exception(s) necessary to further our development. Our C-1 zoned site at 151 Ries Rd is currently used as real estate office space.

We propose to modify the back half of the existing structure to create a family oriented walk-up snack shop. The service window will face north, with seating comprised of 8 picnic tables on and around the concrete patio. Clear space to the north of the seating area will be developed specifically for children (12 and under) oriented playground use. (No sand volleyball or older crowd league style recreation is being proposed. )

The focus, per the name, will be shaved-ice/ sno-cone but we will compliment the menu with various other concession stand items; fountain soda, draft beer, hot dogs, nachos, snacks. Being an outdoor walk-up facility, business will be seasonal with 80% of sales occurring between the months of April and October. Our hours of operation will be 11am-10pm Sun-Thurs, 11am-11pm Fri-Sat.

To compliment the primary business, we are seeking approval for the outdoor display and sale of seasonal merchandise. This will include flowers throughout the profitable operation time as well as pumpkins in October to prolong patron interest into fall. We consider this additional facet as small scale with inventory limited to what can be attractively displayed as well as effectively secured during non-business hours; the 300 sq ft outbuilding behind the main business will be utilized for locked storage at closing time.

Planned improvements to the existing property include the parking lot, restaurant/kitchen modification, service area windows, new metal roofs for structures, landscaping, and playground..

At the previous meeting there was concern about the increase in traffic. Due to the nature of this business we anticipate that up to 50% of traffic will be foot/pedestrian traffic. There will be little activity to our business during inclement weather and we anticipate down time at rush hour as well. What we have seen, living about a block from a similar snow cone stand in Manchester, is increase in business during evening hours after six o'clock. Available parking at the site will consist of 22 spaces, but we also plan to install a bike rack on property to encourage pedestrian traffic and younger patrons. There is ample room to expand parking on the North-East portion on the lot should it prove to become necessary in the future. We would welcome the need as a sign of success! Renewal of business licensing could perhaps trigger a requirement if we failed to accommodate such a need on our own.

Thanks for consideration! - Bret and Megan Hilbert 314-630-9384 /314-605-9384



Ballwin Sno Cone Company

25' wide Landscaped Border Legend:

- Outside - Emerald Green Arborvitae 4ft spacing
- Middle - Ornamental Flowering Crabtree 6 ft spacing
- Inside - Leather Leaf Viburnum 6 ft interspaced with Middle
- NOTE- Rear yard (N) is already inhabited by various 40ft deciduous trees providing dense screening on both sides of property line. Overgrowth will be removed within the 25 ft area and filled in with plants identified above to provide some state of uniformity with side lot and 100% landscape screen. (Fence is intentionally omitted on East line at this time)

N 04°17'17" W 31.55'

Ries Rd

Ries Rd

Ries Rd

S 76°21'31" E 86.61'  
 0.05 ACRE±

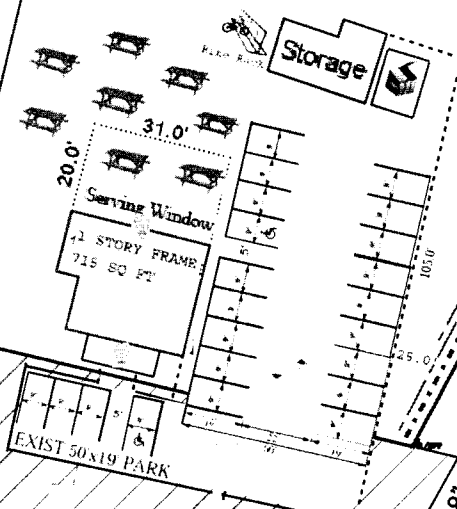
Ballwin Manor Dr

0.90 ACRE



PARCEL 2

Future Parking Potential



Refuse area to include 6' wood picket screening with gate front.



Site Illumination: existing front and rear exterior shielded 'Colonial Type' fixtures provide adequate downward lighting to promote safety in the service area without glare trespass over property lines.

S 04°17'17" E 42.87'

N 28°44'19" E 35.09'

5'

# STATE OF MISSOURI



Jason Kander  
Secretary of State

## CERTIFICATE OF INCORPORATION

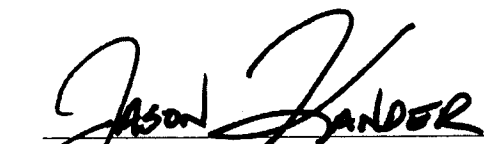
WHEREAS, Articles of Incorporation of

*BALLWIN SNO CONE COMPANY*  
*CC001410136*

have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of General and Business Corporation Law.

NOW, THEREFORE, I, JASON KANDER, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under the General and Business Corporation Law.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 24th day of September, 2015.

  
Secretary of State





# State of Missouri

Jason Kander, Secretary of State

Corporations Division  
PO Box 778 / 600 W. Main St., Rm. 322  
Jefferson City, MO 65102

## Articles of Incorporation For A Close Corporation

The undersigned natural person(s) of the age of eighteen years or more for the purpose of forming a statutory close corporation under The General and Business Corporation Law of Missouri adopt the following Articles of Incorporation:

### Article One

The name of the corporation is BALLWIN SNO CONE COMPANY and it is a statutory close corporation.

### Article Two

The registered agent's name is THE EQUITY COMPANY

The address, including street and number for the registered agent's office in the state of Missouri is  
*(PO Box may only be used in addition to a physical street address)*

<u>1980 CONCOURSE DRIVE</u>	<u>ST. LOUIS</u>	<u>MO, 63146</u>
<i>Street Address</i>	<i>City</i>	<i>State/Zip</i>

### Article Three

*(Must complete 1 or 2)*

1. If the aggregate number of shares in which the corporation shall have authority to issue DOES NOT exceed 30,000 shares or the par valued DOES NOT exceed \$30,000 please check this box:

or

2. If the aggregate number of shares in which the corporation shall have authority to issue exceeds 30,000 shares or the par value exceeds \$30,000 dollars please indicate the number of shares of each class and the par value of each share. Also, indicate a statement of the preferences, qualifications, limitations, restrictions and the special or relative rights including convertible right, is any, in respect of the shares of each class:

\_\_\_\_\_  
\_\_\_\_\_

*(Please see next page)*

Name and address to return filed document:	
Name:	<u>THE EQUITY COMPANY</u>
Address:	<u>1980 CONCOURSE DRIVE</u>
City, State, and Zip Code:	<u>ST. LOUIS, MO 63146</u>

**Article Four**

The name and physical business or residence address of each incorporator:

Name	Address	City/State/Zip
Megan K. Hilbert	360 Old Meramec Station Road	Manchester, MO 63021

**Article Five**

The number of years the corporation is to continue or perpetual: (Please select one)

Perpetual (check box) or State number of years \_\_\_\_\_

**Article Six**

The corporation is formed for the following lawful purpose(s):

The transaction of any lawful business for which an entity may be formed and to do all things allowed by law under the laws of the State of Missouri.

**Article Seven**

(Any additional optional statements)

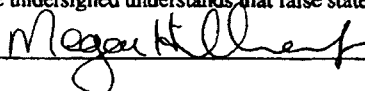
**INDEMNIFICATION.** The Corporation shall indemnify its officers and directors for any and all acts or matters done or not done to the fullest extent allowed by the revised statutes of the State of Missouri.

The effective date of this document is the date it is filed by the Secretary of State of Missouri unless a future date is otherwise indicated:

*(Date may not be more than 90 days after the filing date in this office)*

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

 Megan K. Hilbert

Signature of Incorporator(s)

Printed or Typed  
Name of Incorporator(s)

Date of Signature



**State of Missouri**  
Jason Kander, Secretary of State

Corporations Division  
PO Box 778 / 600 W. Main St., Rm. 322  
Jefferson City, MO 65102

**CC001410136**  
**Date Filed: 9/24/2015**  
**Jason Kander**  
**Missouri Secretary of State**

**Articles of Incorporation For  
A Close Corporation**

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*(PO Box may only be used in addition to a physical street address)*

<u>1980 CONCOURSE DRIVE</u>	<u>ST. LOUIS</u>	<u>MO, 63146</u>
<i>Street Address</i>	<i>City</i>	<i>State/Zip</i>

**Article Three**  
*(Must complete 1 or 2)*

1. If the aggregate number of shares in which the corporation shall have authority to issue DOES NOT exceed 30,000 shares or the par valued DOES NOT exceed \$30,000 please check this box:

or

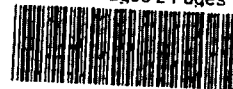
2. If the aggregate number of shares in which the corporation shall have authority to issue exceeds 30,000 shares or the par value exceeds \$30,000 dollars please indicate the number of shares of each class and the par value of each share. Also, indicate a statement of the preferences, qualifications, limitations, restrictions and the special or relative rights including convertible right, is any, in respect of the shares of each class:

\_\_\_\_\_  
\_\_\_\_\_

*(Please see next page)*

Name and address to return filed document:  
Name: THE EQUITY COMPANY  
Address: 1980 CONCOURSE DRIVE  
City, State, and Zip Code: ST. LOUIS, MO 63146

ORI-09242015-2083 State of Missouri  
No of Pages 2 Pages



Creation - For Profit (D)  
Corp. #10 (11/2000)





Jason Kander  
 Secretary of State  
 State of Missouri

**ORDER SUMMARY**  
 September 24, 2015

**Order No:** 10524401

**Order Date:** 09/24/2015 04:13 PM

**Primary Filer:** MEGAN HILBERT  
 360 OLD MERAMEC STATION RD  
 MANCHESTER MO 63021

**TOTAL DUE:** \$0.00

Product Description	Ship Via	Qty	Pgs	Unit	Extended	Amt Due
Creation - For Profit (D)	Mail	1	2	\$58.00	\$58.00	\$0.00

Regarding Entity: BALLWIN SNO CONE COMPANY  
 Item No: ORI-09242015-2083

Convenience Fee				\$1.75	\$1.75	\$0.00
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**Order Total:** \$59.75 \$0.00

Payer	Type	Method	Reference	Amount
Hilbert, Megan	Payment	Credit Card	8205 / Y863858Y	\$58.00
	Payment	Convenience Fees Collected by Payment Processor	8205	\$1.75
<b>Total Payments:</b>				\$59.75

Convenience fees are not assessed, collected or retained by the state.  
 Any questions about your order? Please visit [www.sos.mo.gov/business](http://www.sos.mo.gov/business) or call toll free (866) 223-6535.



JAMES C. KIRKPATRICK  
STATE INFORMATION CENTER  
(573) 751-4936

JASON KANDER  
SECRETARY OF STATE  
STATE OF MISSOURI

CORPORATIONS  
(573) 751-4153

Dear Corporation:

Congratulations! We wish you every success in your new business enterprise, and stand ready to assist you with any questions that you may have regarding your corporate registration and filing your annual or biennial registration reports.

By law, **your initial Registration Report is due within thirty days from the date of incorporation or qualification.** A notice providing additional information on when and how to file this report will be mailed to your corporation's registered agent within the next few weeks.

You may file this initial annual or biennial report online at [www.sos.mo.gov](http://www.sos.mo.gov) for a fee of \$20 for an annual report or \$40 for a biennial report; you may also file the report in person or by mail for a fee of \$45 for an annual report or \$90 for a biennial report. This registration report must be filed within three months after your incorporation/qualification date to avoid late fees. *Failure to file this report will result in administrative dissolution of your corporation, and the inability to legally conduct business in Missouri.*

After filing the initial annual or biennial registration report, you must file an annual or biennial registration report every year or every two years based on your incorporated /qualified month. You may file your report and access other services and information 24 hours a day from our website at [www.sos.mo.gov](http://www.sos.mo.gov).

Questions regarding your corporate information or filing should be directed to (866) 223-6535.

Sincerely,

Secretary of State  
Business Services Division  
P. O. Box 778  
Jefferson City, MO 65102  
(866) 223-6535  
[www.sos.mo.gov](http://www.sos.mo.gov)

JAMES C. KIRKPATRICK STATE INFORMATION CENTER  
600 W. MAIN STREET • JEFFERSON CITY 65101

ADMINISTRATIVE RULES • BUSINESS SERVICES • ELECTIONS • PUBLICATIONS • SECURITIES • STATE ARCHIVES • STATE LIBRARY • WOLFNER LIBRARY

## QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this 24th day of September, 2015  
by Grantor , Bret Hilbert and Megan Hilbert, whose address is  
360 Old Meramec Station Rd Manchester MO 63021. to Grantee, Micaleb LLC,  
whose post office address is 151 Ries Rd Ballwin MO 63021.

WITNESSETH, That the said first party, for good consideration and for the sum of  
\$ 1.00 paid by the said second party, the receipt whereof is hereby acknowledged, does  
hereby remise, release and quitclaim unto the said second party forever, all the right, title,  
interest and claim which the said first party has in and to the following described parcel of land,  
and improvements and appurtenances thereto in the County of St. Louis, State of Missouri to  
wit:

Parcel 1: A tract of land in Lot 20 of Block No. 1 of the Town of Ballwin Plat, as recorded in Plat Book 1,  
Page 72 of the St. Louis County Records, and described as follows:

Beginning at an iron pipe being the Southeast corner of Lot 20 and the Northeast corner  
of Lot 1 of Block 1 of said Town of Ballwin Plat and also being on the West line  
of a tract conveyed to Cindy Elkins as recorded in Deed Book 9154, Page 2441 of said St. Louis  
County Records; thence North 76 degrees 09 minutes 09 seconds West, 39.66 feet, along the  
South line of said Lot 20; thence North 4 degrees 09 minutes 31 seconds West 82.35 feet to a  
point on the North line of said Lot 20, also being the South line of Main Street (30.00 feet wide);  
thence South 76 degrees 09 minutes 09 seconds East along said South line of Main Street, 90.75  
feet, to a point being the Northwest corner of said Cindy Elkins tract; thence South 14 degrees 14  
minutes 18 seconds West, along the West line of said Cindy Elkins tract, 104.50 feet to the Point  
of Beginning, containing 6,813.92 square feet (0.16 Acre).

Parcel 2: A tract of land in Lot 1 of Block No. 1 of the Town of Ballwin Plat and described as follows:

Beginning at a point being the Southeast corner of Lot 1 of Block No. 1 of said Town of  
Ballwin Plat, said point also being on the North right-of-way line of Ries Road (19.82m wide)  
and on the west line of a tract conveyed to Cindy Elkins as recorded in Deed Book 9154, Page  
2441; thence along the South line of said Lot 1 and said North right-of-way line of Ries Road  
North 76 degrees 09 minutes 09 seconds West, 4.98 feet to a point; thence North 4 degrees 09  
minutes 31 seconds West, 109.88 feet, to a point on the North line of said Lot 1; thence South 76  
degrees 09 minutes 09 seconds East, 39.66 feet to a point, said point being the Northeast corner  
of said Lot 1 and a point of the West line of said Cindy Elkins tract; thence along the East line of  
said Lot 1 and the said West line of the said Cindy Elkins tract South 14 degrees 14 minutes 18  
seconds West, 104.50 feet to the point of beginning, containing 2,332.44 square feet (0.05 Acre).

Address: 149 Ries Road Ballwin Missouri 63021

APN#: 23R440907

**Subject to building lines, easements, conditions, liens, encumbrances and  
restrictions of record, and to any zoning laws or ordinances affecting this  
property, if any.**

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the  
same belonging, unto the Grantee, and to the heirs and assigns of the Grantee forever; so that  
neither the Grantor, nor their successors and assigns, nor any other person or persons for them  
or in their names or behalf, shall or will hereafter claim or demand any right or title to the  
aforesaid premises, or any part thereof, but the and every one of them shall, by these presents,  
be excluded and forever barred.

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

Bret Hilbert  
Megan Hilbert  
Grantor's Signature

Bret Hilbert  
Megan Hilbert  
Name

Bret Hilbert  
Megan Hilbert  
Grantee's Signature

Bret Hilbert - manager  
Megan Hilbert member  
Name

STATE OF Missouri

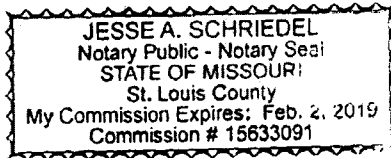
COUNTY OF St. Louis

On September 24, 2015 before me, Jesse Schriedel personally appeared Bret Hilbert Megan Hilbert, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jesse A. Schriedel

Affiant Known Produced ID  
Type of ID Drivers License



## QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this 24th day of September, 2015  
by Grantor , Bret Hilbert and Megan Hilbert, whose address is  
360 Old Meramec Station Rd Manchester MO 63021, to **Grantee**, Micaleb LLC,  
whose post office address is 151 Ries Rd Ballwin MO 63021.

WITNESSETH, That the said first party, for good consideration and for the sum of  
\$ 1.00 paid by the said second party, the receipt whereof is hereby acknowledged, does  
hereby remise, release and quitclaim unto the said second party forever, all the right, title,  
interest and claim which the said first party has in and to the following described parcel of land,  
and improvements and appurtenances thereto in the County of St. Louis, State of Missouri to

wit: Parcel #1: A tract of land in U.S. Survey 1908, Township 45 North, Range 4 East, in St. Louis  
County, Missouri, bounded South by Front Street in the Town of Ballwin, West by property  
devised to Dory Strauch by Will of George Bernges, East by property now or formerly of  
Christopher Rasch and North by property now or formerly of Christopher Rasch.

Parcel #2: A tract of land in United States Survey 1908, Township 45 North, Range 4 East, bounded  
South by Front Street in the Town of Ballwin, West by Block one of said Town, East by tract now  
or formerly owned by William Bernges and North by property now or formerly of August H.  
Kleinsorge.

Address: 151 Ries Road, Ballwin, Missouri 63021

APN#: 23R440053

Subject to building lines, easements, conditions, liens, encumbrances and  
restrictions of record, and to any zoning laws or ordinances affecting this  
property, if any.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the  
same belonging, unto the Grantee, and to the heirs and assigns of the Grantee forever; so that  
neither the Grantor, nor their successors and assigns, nor any other person or persons for them  
or in their names or behalf, shall or will hereafter claim or demand any right or title to the  
aforesaid premises, or any part thereof, but the and every one of them shall, by these presents,  
be excluded and forever barred.

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

Bret Hilbert  
Megan Hilbert  
Grantor's Signature

Bret Hilbert  
Megan Hilbert  
Name

Bret Hilbert  
Megan Hilbert  
Grantee's Signature

Bret Hilbert - manager  
Megan Hilbert member  
Name

STATE OF Missouri

COUNTY OF St. Louis

On September 24, 2015 before me, Jesse Schriedel personally appeared Bret Hilbert Megan Hilbert, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jesse A. Schriedel

Affiant Known Produced ID  
Type of ID Drivers License

