

RARE HOSPITALITY INTERNATIONAL INC

Form S-3

March 29, 2007

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As filed with the Securities and Exchange Commission on March 29, 2007

Registration No. 333-_____

**SECURITIES AND EXCHANGE COMMISSION
Washington D.C. 20549**

**FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

RARE Hospitality International, Inc.

(Exact name of Registrant as specified in its charter)

**Georgia
(State or Other Jurisdiction of
Incorporate or Organization)**

**58-1498312
(I.R.S. Employer
Identification No.)**

**8215 Roswell Road, Bldg. 600
Atlanta, GA 30350
Telephone: (770) 399-9595**

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

**W. Douglas Benn
Chief Financial Officer and Corporate Secretary
Rare Hospitality International, Inc.**

**8215 Roswell Road, Bldg. 600
Atlanta, GA 30350
Telephone: (770) 399-9595**

(Name, address, including zip code, and telephone number, including area code of agent for service)

With copies to:

**Mark F. McElreath
Alston & Bird LLP
90 Park Avenue
New York, New York 10016
Telephone: (212) 210-9400
Facsimile: (212) 210-9444**

Approximate Date of Commencement of Proposed Sale to the Public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective

registration statement for the same offering. o

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. o

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. o

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities	Amount To Be Registered	Proposed Maximum Offering Price Per Unit (1)	Proposed Maximum Aggregate Offering Price	Amount Of Registration Fee
To Be Registered				
2.50% Convertible Senior Notes due November 15, 2026	\$ 125,000,000 (2)	100%	\$ 125,000,000	\$ 3,837.50
Common stock, no par value per share	2,871,125 shares (3)			(4)

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457.

(2) Represents the aggregate principal amount of the notes issued by the registrant.

(3) This number represents the number of shares of common stock that are initially issuable upon conversion of the 2.50% convertible senior notes due 2026 registered

hereby. For purposes of estimating the number of shares of common stock to be included in the registration statement upon the conversion of the notes, the Company calculated the number of shares issuable upon conversion of the notes based on a conversion rate of 22.9690 shares of common stock per each \$1,000 principal amount of the notes, which is equivalent to an initial conversion price of approximately \$43.53 per share of common stock. In addition to the shares set forth in the table, pursuant to Rule 416 under the Securities Act of 1933, as amended, the amount to be registered includes an indeterminable number of additional shares of common stock that may be

issued to prevent dilution resulting from stock splits, stock dividends or similar transactions affecting the shares to be offered by the selling securityholders.

- (4) No filing fee is payable with respect to the common stock issuable upon conversion of the notes under Rule 457(i), because no additional consideration will be received in connection with the conversion privilege.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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STRICTLY CONFIDENTIAL

\$125,000,000

**RARE Hospitality International, Inc.
2.50% Convertible Senior Notes due 2026**

THE COMPANY

We own, operate, and franchise restaurants under the names LongHorn Steakhouse, The Capital Grille and Bugaboo Creek Steak House.

THE NOTES

We issued the notes offered by this prospectus in a private placement on November 22, 2006. This prospectus will be used by selling securityholders to resell their notes and the common stock issuable upon conversion of the notes. We will not receive any proceeds from the sale of the notes or the shares of common stock offered by the selling securityholders pursuant to this prospectus. The selling securityholders, and the maximum amount of securities that they may offer, are identified beginning on page 61 of this prospectus.

The notes bear interest at the rate of 2.50% per year, payable on May 15 and November 15 of each year, beginning May 15, 2007. The notes will mature on November 15, 2026.

The notes are senior unsecured obligations of RARE Hospitality International, Inc., and rank equally with all of our other senior unsecured indebtedness and are effectively subordinated to our secured indebtedness and to all liabilities of our subsidiaries.

Holder may convert their notes prior to the close of business on the second business day prior to the stated maturity date at any time after November 15, 2025 and also under the following circumstances: (i) if the closing sale price of our common stock reaches a specified threshold over a specified time period; (ii) if the trading price of the notes is below a specified threshold for a specified time period; (iii) if the notes have been called for redemption; (iv) upon the occurrence of the specified transactions described in this prospectus; or (v) if our common stock ceases to be listed on a U.S. national or regional securities exchange. Subject to the exceptions described under *Description of Notes* in this prospectus, upon conversion of notes we will deliver cash and common stock, if any, with an aggregate value, which we refer to as the *conversion value*, equal to the applicable conversion rate multiplied by the average price (as defined in this prospectus) of our common stock as follows: (i) an amount in cash, which we refer to as the *principal return*, equal to the lesser of (a) the principal amount of the converted notes and (b) the *conversion value*; and (ii) if the *conversion value* is greater than the *principal return*, an amount with a value equal to the difference between the *conversion value* and the *principal return*, which we refer to as the *net amount*. We may pay the *net amount*, at our option, in cash, common stock or a combination of cash and common stock.

The initial conversion rate for each \$1,000 principal amount of notes will be 22.9690 shares. This is equivalent to an initial conversion price of approximately \$43.54 per share of common stock. For a discussion of the circumstances in which the conversion rate will be subject to adjustment, see *Description of Notes Conversion Rate Adjustments* in this prospectus. In addition, if certain fundamental change transactions occur prior to November 21, 2013 and a holder elects to convert notes in connection with any such transaction, we will increase the conversion rate in connection with such conversion.

On or after November 21, 2013, we may redeem the notes in whole or in part for cash at 100% of the principal amount of the notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date. We may not redeem the notes prior to November 21, 2013.

On November 15, 2013, November 15, 2016, and November 15, 2021, as well as following the occurrence of certain fundamental change transactions, holders may require us to repurchase notes in whole or in part for cash at 100% of the principal amount of the notes to be repurchased plus accrued and unpaid interest.

REGISTRATION AND TRADING

Our common stock is listed on the NASDAQ Global Select Market under the symbol, RARE. On March 28, 2007, the last reported sales price for our common stock was \$29.54 per share.

We do not intend to list the notes on any securities exchange or to include the notes in any automated quotation system. The notes are eligible for trading in The PORTAL Market™ of the National Association of Securities Dealers, Inc.

NOTICE TO INVESTORS

You should consider carefully the risk factors beginning on page 5 of this prospectus as well as the risk factors relating to our business that are incorporated by reference in this prospectus before investing in the notes.

No securities commission or similar regulatory authority has reviewed or in any way passed upon this prospectus or the merits of the securities offered herein and any representation to the contrary is a criminal offense.

The date of this prospectus is March 29, 2007.

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SUMMARY

The following summary is qualified in its entirety by the more detailed information and historical consolidated financial statements, including the notes to those financial statements, incorporated by reference in this prospectus. Investors should carefully consider the information set forth under Risk Factors. Unless the context otherwise requires, the terms RARE, Company, we, us and our refer to RARE Hospitality International, Inc., and its consolidated subsidiaries.

Our Company

We operate and franchise 333 restaurants as of February 20, 2007, including 274 LongHorn Steakhouse restaurants, 26 The Capital Grille restaurants and two specialty restaurants, Hemenway's Seafood Grille & Oyster Bar and The Old Grist Mill Tavern. We were incorporated in Georgia in December 1982.

The number of restaurants we operate as of February 20, 2007 includes 31 Bugaboo Creek Steak House restaurants. On September 21, 2006, we announced that our Board of Directors had approved exiting the Bugaboo Creek Steak House business through the probable sale of the restaurants and brand. Financial results in future financial statements relating to the operations to be divested will be presented as discontinued operations and prior period financial statements have been restated to reflect this presentation. Accordingly, information presented in this prospectus will be related only to our continuing operations.

Restaurant Concepts

LongHorn Steakhouse restaurants are casual dining, full-service establishments serving both lunch and dinner in an attractive and inviting atmosphere. With locations spread throughout 25 states primarily in the Eastern half of the United States, LongHorn Steakhouse restaurants feature a variety of top quality menu items including signature steaks, as well as salmon, shrimp, chicken, ribs, pork chops, burgers and prime rib. Designed with an inviting décor reminiscent of the classic American West, LongHorn Steakhouse restaurants appeal to all ages with a unique combination of hospitable, attentive service, moderate prices, high quality menu items and a comfortable atmosphere.

The Capital Grille, with locations in major metropolitan cities in the United States, features relaxed elegance and style. Nationally acclaimed for dry aging steaks on premises, Capital Grille is also known for fresh seafood flown in daily and culinary specials created by its chefs. The restaurants offer an award-winning wine list offering over 300 selections, personalized service, comfortable club-like atmosphere and premiere private dining rooms. The Capital Grille is the ideal dining choice for business meetings and social occasions.

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The Offering

*This summary is not a complete description of the notes. You should read the full text of and more specific details contained elsewhere in this prospectus. For a more detailed description of the notes, see the section entitled **Description of Notes** in this prospectus.*

*In this portion of the summary, the terms **we**, **us**, **our** and **RARE Hospitality International, Inc.**, refer only to **RARE Hospitality International, Inc.** and not to any of its subsidiaries.*

Issuer of Notes	RARE Hospitality International, Inc.
Notes Offered	\$125,000,000 principal amount of 2.50% Convertible Senior Notes due 2026.
Ranking of Notes	The notes are our senior unsecured obligations and rank equally in right of payment with all other existing and future senior unsecured indebtedness. However, the notes are effectively subordinated in right of payment to all of our secured indebtedness and to all liabilities of our subsidiaries.
Interest	The notes bear interest at a rate of 2.50% per year. Interest will be payable semi-annually in arrears in cash on November 15 and May 15 of each year, beginning on May 15, 2007.
Maturity Date	The notes will mature on November 15, 2026 unless previously redeemed, repurchased or converted.
Redemption of Notes at our Option	Prior to November 21, 2013, we may not redeem the notes. However, on or after November 21, 2013, we may redeem the notes in whole or in part, upon not less than 30 nor more than 60 days, prior written notice to holders of the notes, for cash equal to 100% of the principal amount of the notes to be redeemed plus any unpaid interest (including additional interest, if any) accrued to, but excluding, the redemption date.
Repurchase of Notes at Each Holder's Option on Certain Dates	Holders of notes may require us to repurchase their notes in whole or in part on November 15, 2013, November 15, 2016, and November 15, 2021 for cash equal to 100% of the principal amount of the notes to be repurchased plus any unpaid interest (including additional interest, if any) accrued and to, but excluding, the repurchase date.
Repurchase of Notes at Each Holder's Option Upon Certain Fundamental Change Transactions	If we undergo certain fundamental change transactions, holders of notes may require us to repurchase their notes in whole or in part for cash equal to 100% of the principal amount of the notes to be repurchased plus any unpaid interest (including additional interest, if any) accrued and to, but excluding, the repurchase date.
Conversion Rights	Holders may convert their notes based on the applicable

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conversion rate (described below), at any time after November 15, 2025, but prior to the close of business on the second business day immediately preceding the stated maturity date, and also under any of the following circumstances:

during any calendar quarter beginning after December 31, 2006 (and only during such calendar quarter), if, and only if, the closing sale price of our common stock for at least 20 trading days (whether or not consecutive) in the period of 30 consecutive trading days ending on the last trading day of the preceding calendar quarter is greater than 125% of the conversion price per share of common stock in effect on the applicable trading day;

during the five consecutive trading day period following any five consecutive trading day period in which the trading price of the notes was less than 98% of the product of the closing sale price of our common stock multiplied by the applicable conversion rate;

if the notes have been called for redemption;

upon the occurrence of specified transactions described under Description of Notes Conversion Rights Conversion upon Specified Transactions in this prospectus; or

if our common stock ceases to be listed on a U.S. national or regional securities exchange.

By delivering to the holder cash and shares of our common stock, if any, we will satisfy all of our obligations with respect to the notes tendered for conversion. Accordingly, upon conversion of a note, accrued and unpaid interest will be deemed to be paid in full, rather than cancelled, extinguished or forfeited.

Conversion Rate

The initial conversion rate for each \$1,000 principal amount of notes is 22.9690 shares of our common stock, payable in cash and, at our election, shares of our common stock, as described under Description of Notes Conversion Settlement in this prospectus. In addition, if certain fundamental change transactions occur prior to November 21, 2013 and a holder elects to convert notes in connection with any such transaction, we will increase the conversion rate in connection with such conversion by a number of additional shares of our common stock based on the date such transaction becomes effective and the price paid per share of common stock in such transaction, subject to adjustment, as described herein under Description of Notes Conversion Rate Adjustments Make Whole upon Certain Fundamental Change Transactions in this prospectus. The conversion rate may also be adjusted under certain other circumstances, including the payment of cash dividends, but will not be adjusted for accrued and unpaid interest on the notes. See Description of the Notes Common Rate Adjustments in this prospectus.

Conversion Settlement

Upon conversion, we will deliver cash and, at our election, shares of our common stock, with an aggregate value, which is referred to as the conversion value, equal to the conversion rate

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multiplied by the average price of our common shares as follows: (i) an amount in cash, which will be referred to as the principal return, equal to the lesser of (a) the principal amount of the converted notes and (b) the conversion value, and (ii) if the conversion value is greater than the principal return, an amount with a value equal to the difference between the conversion value and the principal return, which is referred to as the net amount. The net amount may be paid, at our option, in cash, our common shares, or a combination of cash and our common shares.

No Shareholder Rights for Holders of Notes

Holders of notes, as such, will not have any rights as shareholders of RARE Hospitality International, Inc. (including, without limitation, voting rights and rights to receive dividends or other distributions on our common stock).

Trading

The notes are a new issue of securities, and there is currently no established trading market for the notes. An active or liquid market may not develop for the notes or, if developed, be maintained. We have not applied, and do not intend to apply, for the listing of the notes on any securities exchange or for quotation on any automated dealer quotation system. Our common stock is listed on The NASDAQ Global Select Market under the symbol RARE.

Use of Proceeds

We will not receive any proceeds from the sale by any selling securityholder of the notes or the shares of our common stock issuable upon conversion of the notes.

Book-Entry Form

The notes were initially issued in book-entry only form and are represented by one or more permanent global certificates deposited with a custodian for, and registered in the name of a nominee of, The Depository Trust Company, commonly known as DTC. Beneficial interests in a global certificate representing the notes are shown on, and transfers will be effected only through, records maintained by DTC and its direct and indirect participants and such interests may not be exchanged for certificated notes, except in limited circumstances described in Description of Notes Book-Entry System.

Risk Factors

You should read carefully the information under Risk Factors and all other information included or incorporated by reference in this prospectus, for risks related to an investment in the notes and the common stock into which the notes may be convertible.

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RISK FACTORS

You should carefully consider the risks described below before making an investment decision. The risks and uncertainties described below are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations. If any of the following risks actually occurs, our business, financial condition and results of operations could be materially adversely affected. In that case, the trading price of the notes and our common stock could decline substantially.

Risks Related To Our Business

Fluctuations in our operating results may result in decreases in our stock price.

Our operating results may fluctuate significantly because of several factors, including the timing of new restaurant openings and related expenses, profitability of new restaurants, increases or decreases in same store sales, increases in food and other costs not offset by menu price increases, weather conditions, availability of adequate sources of supply or distribution, changes in consumer preferences, consumer concern over food quality or health issues, competitive factors, war, insurrection and/or terrorist attacks on United States soil. As a result, our operating results may fall below the expectations of public market analysts and investors. In such event, the price of our common stock would likely decrease.

In the past, our pre-opening costs have varied significantly from quarter to quarter primarily due to the timing of restaurant openings. We typically incur most pre-opening costs for a new restaurant within the two months immediately preceding, and the month of, its opening. In addition, our labor and operating costs for a newly opened restaurant during the first three to six months of operation are materially greater than what can be expected after that time, both in aggregate dollars and as a percentage of restaurant sales. Accordingly, the volume and timing of new restaurant openings in any quarter has had, and is expected to continue to have, a significant impact on quarterly pre-opening costs, labor, direct and occupancy costs. Due to these factors, results for a quarter may not indicate results to be expected for any other quarter or for a full fiscal year.

We may not be able to successfully complete the divestiture of the Bugaboo Creek Steak House restaurants and brand.

On September 21, 2006, we announced that our Board of Directors had approved exiting the Bugaboo Creek Steak House business through the possible sale of the restaurants and brand. On February 27, 2007, we announced that we had signed a definitive agreement for the sale of the Bugaboo Creek Steak House business for \$28.0 million. This closing, which is expected to occur in the third quarter of fiscal 2007, is subject to the closing of the purchasers financing, obtaining necessary consents and other, customary closing conditions. We cannot assure you that we will be able to complete the divestiture of the Bugaboo Creek Steak House business. If we are unable to close on the sale of the Bugaboo Creek Steak House business, we will be required to alter our current business strategy to determine how to proceed with this business segment. As a result, we may be required to engage in further restructuring activities or cease operating some or all of the Bugaboo Creek Steak House restaurants. In any such case, we may incur additional expenses and management's attention may be diverted from our current business strategy, which could have a material adverse effect on our business.

We may experience volatility in our stock price due to factors other than our operating results.

The market price of our common stock may experience significant volatility from time to time. Such volatility may be affected by factors other than our operating results such as changes in the economy, financial markets, consumer confidence, and the operating results of our competitors or the restaurant industry in general. In recent years, the stock market has experienced extreme price and volume fluctuations, which have had a significant effect on the market prices of the securities issued by a company, which may be unrelated to the operational performance of the company. In addition, we may be subject to securities class action litigation if the market price of our stock experiences significant volatility. Our management's attention and resources may be diverted from normal operations if we would become subject to any securities class action, which may have a material adverse effect on our business.

We may experience higher operating costs due to increased food prices, wages and other costs which will reduce our profits if we cannot increase menu prices to cover them.

If we have to pay higher prices for food, supplies, energy, or other items, or increase the compensation or benefits to our employees, we will have an increase in operating costs. If we are unable or unwilling to increase our menu

prices or take other actions to offset our increased operating costs, our profits will decrease. Many factors affect the prices that we have to pay for the various food and other items that we need to operate our restaurants, including seasonal fluctuations, longer term cycles and other fluctuations in livestock markets, changes in weather or demand and inflation. Factors that may affect the salaries and

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benefits that we pay to our employees include the local unemployment rates and changes in minimum wage and employee benefits laws. For example, during 2006, the District of Columbia along with the states of Connecticut, Florida, Maine, Maryland, Michigan, Nevada, New Jersey, New York, Rhode Island, West Virginia, Wisconsin and Vermont increased the minimum wage of workers in the respective states, resulting in higher operating costs for us in those states. In addition to the above factors over which we have no control, we may introduce new menu items and operating procedures, which may either temporarily or permanently result in increased food or labor costs.

We may incur additional costs or liabilities and lose revenue as the result of government regulation.

Our restaurants are subject to extensive federal, state and local government regulation, including regulations related to the preparation and sale of food, the sale of alcoholic beverages, zoning and building codes, and other health, sanitation and safety matters. Our restaurants may lose revenue if they are unable to maintain liquor or other licenses required to serve alcoholic beverages or food. If one or more of our restaurants was unable to serve alcohol or food for even a short time period, we could experience a reduction in our overall revenue.

Our restaurants are subject to dram shop laws which allow a person to sue us if that person was injured by a legally intoxicated person who was wrongfully served alcoholic beverages at one of our restaurants. A lawsuit under a dram shop law may result in a verdict in excess of our liability insurance policy limits which could result in substantial liability for us and which may have a material adverse effect on our profitability.

The costs of operating our restaurants may increase if there are changes in laws governing minimum hourly wages, mandatory healthcare coverage for employees, workers compensation insurance rates, unemployment tax rates, sales taxes or other laws and regulations such as those governing access for the disabled, such as the Federal Americans with Disabilities Act. If any of the above costs increased and we were unable to offset such increase by increasing our menu prices or by other means, we would experience an increase in our operating expenses and a reduction in our profitability.

The food service industry is affected by publicity concerning food quality, health and other issues. Such publicity, which could be publicity of a national or industry nature or litigation or publicity specific to us, could cause customers to avoid our restaurants and products.

The food service business can be affected by adverse publicity concerning food quality, health and other issues. That publicity has the potential to affect consumer and employee behavior and may lead consumers and employees to avoid public places, including restaurants. This behavior would have a negative impact on our restaurant sales and profitability.

The food service businesses can also be adversely affected by litigation and complaints from customers or government authorities resulting from food quality, illness, injury or other health concerns, guest service patterns or other operating issues stemming from one store or a limited number of stores, including stores operated by our franchisees or other food service operators. Adverse publicity about these allegations may negatively affect us, regardless of whether the allegations are true, by discouraging customers from buying our products. Because one of our competitive strengths is the taste and quality of our food, adverse publicity relating to food quality or other similar concerns affects us more than it would food service businesses that compete primarily on other factors. We could also incur significant liabilities if a lawsuit or claim resulted in a decision against us, or in significant litigation costs, regardless of the result.

Changing consumer preferences and discretionary spending patterns could force us to modify our restaurant s concept and menu and could result in a reduction in our revenues.

Even if we are able to successfully compete with other restaurant companies with similar concepts, we may be forced to make changes in one or more of our concepts in order to respond to changes in consumer tastes or dining patterns. Consumer preferences could be affected by health concerns about the consumption of beef, the primary item on our LongHorn Steakhouse and Capital Grille menus, or by specific events such as the outbreak of mad cow disease. If we change a restaurant concept, we may lose customers who do not prefer the new concept and menu, and may not be able to attract a sufficient new customer base to produce the revenue needed to make the restaurant profitable. We may have different or additional competitors for our intended customers as a result of such a concept change and may not be able to successfully compete against such competitors. In addition, consumer preferences could be affected by a public concern over health issues, such as the avian flu, causing fear about the consumption of

chicken, eggs and other products derived from poultry. The inability to serve poultry-based products would greatly restrict our ability to provide a variety of menu items to our guests. Our success also depends on numerous factors affecting discretionary consumer spending, including economic conditions, disposable consumer income, consumer confidence and the United States participation in war activities. Adverse changes in

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these factors could reduce guest traffic or impose practical limits on pricing, either of which could reduce revenues and operating income.

Our restaurants may not be able to continue to compete successfully with other restaurants or restaurant concepts, which could lead to a reduction in our revenues.

If our restaurants are unable to continue to compete successfully with other restaurants in new and existing markets, we may lose significant revenue. Our industry is intensely competitive with respect to price, service, location, type and quality of food. We compete with other restaurants for customers, restaurant locations and qualified management and other restaurant staff. Our LongHorn Steakhouse restaurants compete with other mid-priced, full service, casual dining restaurants, including steakhouses such as Outback Steakhouse, Lone Star Steakhouse, Texas Roadhouse and Logan's Roadhouse and other casual dining restaurants such as Red Lobster, Olive Garden and Chili's. Our Capital Grille restaurants compete with other upscale restaurants, including steakhouses, such as Morton's of Chicago, Ruth's Chris Steakhouse, Fleming's Prime Steakhouse and Wine Bar and The Palm, as well as independent operators. Some of our competitors have greater financial resources than we have, have been in business longer or are better established in the markets where our restaurants are located or are planned to be located.

Even if we do not incur substantial opening and promotion costs in opening a new restaurant that we would not otherwise usually incur, we may not be able to profitably operate a new restaurant in new markets. If we open restaurants in areas where we did not previously have a restaurant, we may not be able to attract enough customers to operate those restaurants at a profit because potential customers may be unfamiliar with our restaurants or the atmosphere or the menu of our restaurants might not appeal to them. Part of our expansion plans includes opening restaurants in markets in which we already have existing restaurants. We may be unable to attract enough customers to the new restaurants for them to operate at a profit. Even if we are able to attract enough customers to the new restaurants to operate them at a profit, those customers may be former customers of one of our existing restaurants in that market and the opening of a new restaurant in the existing market could reduce the revenue and profitability of our existing restaurants in that market.

We could face shortages of qualified labor, which could slow our growth or otherwise strain our infrastructure.

Our success depends in part upon our ability to attract, motivate and retain a sufficient number of qualified employees, including restaurant managers, kitchen staff and servers, necessary to keep pace with our expansion schedule. Qualified individuals of the requisite caliber and a number needed to fill these positions are in short supply in some areas. Any future inability to recruit and retain sufficient individuals may delay the planned openings of new restaurants. Any such delays, any material increases in employee turnover rates in existing restaurants, or any wide spread employee dissatisfaction resulting in a class action lawsuit could have a material adverse effect on our business, financial condition, operating results or cash flows. Additionally, competition for qualified employees could require us to pay higher wages to attract sufficient employees, which could result in higher labor costs.

We may not be able to successfully manage growth.

We may also face the risk that our existing systems and procedures, restaurant management systems, financial controls and information systems will be inadequate to support our planned expansion. We cannot predict whether we will be able to respond on a timely basis to all of the changing demands that our planned expansion will impose on management and this infrastructure. If we fail to continue to improve our information systems and financial controls or to manage other factors necessary for us to achieve our expansion objectives our operating results or cash flows could be materially adversely affected.

Unanticipated expenses and market acceptance could affect the profitability of restaurants we open in new markets.

As part of our expansion plans, we may open new restaurants in areas in which we have little or no operating experience and in which potential customers may not be familiar with our restaurants. As a result, we may have to incur costs related to the opening, operation and promotion of those new restaurants that are substantially greater than those incurred in other areas. Even though we may incur substantial additional opening and promotion costs with these new restaurants, they may fail to attract the number of customers that our more established restaurants in existing markets attract. As a result, the revenue and profit generated at new restaurants may not equal the revenue and profit generated by our existing restaurants. The new restaurants may even operate at a loss. Because of our limited

number of existing restaurants, if we open one or more new restaurants that we are unable to operate at a profit, this could have a significant adverse effect on our overall profits.

We may incur additional costs and reduced profits by failing to open or by delaying the opening of planned restaurants.

We currently plan to open approximately 36 to 38 new restaurants in 2007. If we are unable to open new restaurants or have to delay the opening of new restaurants, we may incur substantial costs we would not otherwise incur, which may directly

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decrease our profits. We may be unable to open such restaurants, or unable to open them on time, due to weather and acts of God or factors such as our inability to:

find quality locations to open new restaurants;

reach acceptable agreements regarding the lease or purchase of locations on which to open new restaurants;

raise or have available an adequate amount of money to construct and open new restaurants;

hire, train and retain the skilled management and other employees necessary to staff new restaurants when they are scheduled to open;

obtain, for an acceptable cost, the permits and approvals required to open new restaurants; and

efficiently manage the amount of time and money used to build and open each new restaurant.

In addition, if we believe that we will be unable to open a new restaurant because of one of the above factors, we may have to stop construction of the restaurant or terminate any lease or purchase contract that we entered into regarding such restaurant and pay accelerated rent, damages and/or a termination fee to the other party to the contract. All of these factors could lead to an increase in our operating expenses and result in a decrease in our profits. The failure to open new restaurants on a timely basis will also reduce the sales those restaurants would have contributed to our projected revenues.

We may incur additional costs or liabilities due to changes in our income tax provision.

Our income tax provision is sensitive to expected earnings and, as expectations change, our income tax provisions may vary from quarter-to-quarter and year-to-year. In addition, from time to time, we may take positions for filing our tax returns that differ from the treatment for financial reporting purposes. The ultimate outcome of such positions could cause our effective tax rate to fluctuate from quarter to quarter.

Our future performance depends on our senior management who are experienced in restaurant management and who could not easily be replaced with executives of equal experience and capabilities.

We believe that we depend significantly on the services of Philip J. Hickey, Jr., our Chairman of the Board of Directors and Chief Executive Officer, and Eugene I. Lee, Jr., our President and Chief Operating Officer. If we lost the services of either Messrs. Hickey or Lee, for any reason, we may be unable to replace them quickly with qualified personnel, which could have a material adverse effect on our business and development. Although we have employment agreements with Messrs. Hickey and Lee, we could not prevent them from terminating their employment with us. Also, we do not carry key person life insurance on Messrs. Hickey or Lee.

Our operating results could be negatively affected by our inability to acquire the proper supply of our products.

Our business is dependent upon our ability to purchase high-quality food products in sufficient quantity. Economic conditions affecting our suppliers, or animal or plant disease could adversely affect our ability to obtain an adequate supply of products of the proper quality. In the event that we are unable to obtain an adequate supply of food products of the proper quality, our revenues and operating income would decrease.

We may lose revenue or incur increased costs if our restaurants do not receive frequent deliveries of food and other supplies.

We have a contract with a single distributor for the distribution of most meat, food and other supplies for our LongHorn Steakhouse and Capital Grille restaurants. If this distributor does not perform adequately or otherwise fails to distribute product or supplies to our restaurants, our inability to replace this distributor in a short period of time on acceptable terms could increase our costs or could cause shortages at our restaurants of food and other items which may cause us to remove certain items from a restaurant's menu or temporarily close a restaurant. If we temporarily close a restaurant or remove popular items from a restaurant's menu, that restaurant may experience a significant reduction in revenue during the time affected by the shortage or thereafter as a result of our customers changing their dining habits.

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Our anti-takeover provisions may limit shareholder value.

We have provisions in our articles of incorporation and in our shareholder protection rights agreement that may discourage or prevent a person or group from acquiring us without our approval. A shareholder may not receive as much in exchange for their shares of common stock as they could without these provisions. The following is a description of the above provisions that may reduce the market value of our shares of common stock. Under our shareholder protection rights agreement, we distributed one preferred stock purchase right for each outstanding share of our common stock to the shareholders of record on November 20, 1997. Each right entitles holders of a share of our common stock to purchase one one-hundredth of a share of our junior participating preferred stock at an exercise price initially equal to \$48.00 and currently \$21.33 after giving effect to two 3 for 2 stock splits. Each one one-hundredth of a share of our junior participating preferred stock (1) has the same voting rights as one share of our common stock and (2) would be paid dividends at least equal to the dividends paid on each share of our common stock. Our preferred stock purchase rights are exercisable only if a person or group acquires beneficial ownership of 15% or more of our common stock, or announces a tender or exchange offer upon completion of which such person or group would beneficially own 15% or more of our common stock. If a person or group becomes a beneficial owner of 15% or more of our common stock, then each right not owned by the person or group entitles its holder to purchase, for an amount of cash equal to the right's then-current exercise price, shares of our common stock having a value equal to twice the right's exercise price. We may redeem the rights at a price of \$.01 per right at any time until the close of business on the tenth business day following our announcement that a person or group has become the beneficial owner of 15% or more of our common stock.

Our articles of incorporation contain a provision, which provides that our board of directors consists of three classes of directors. Each class has the same number of directors or as close to equal as possible. The directors of each class serve for a term of three years with each class' term expiring in different successive years. For example, the term of the first class may expire in 2007 and each director elected in the first class in 2007 would serve until 2010, the term of the second class would expire in 2008 and each director elected in the second class in 2008 would serve until 2011, and the term of the third class would expire in 2009 and each director elected in 2009 would serve until 2012. As a result, shareholders with sufficient shares to determine the election of directors would have to vote for their nominees at two successive annual meetings of shareholders in order to elect a majority of the directors.

Risks Related to the Notes

The effective subordination of the notes may limit our ability to satisfy our obligations under the notes.

The notes are our senior unsecured obligations and rank equally in right of payment with any of our other senior unsecured indebtedness. However, the notes are effectively subordinated in right of payment to all of our secured indebtedness, including any amounts we borrow under our revolving credit facility or any secured indebtedness we may incur in the future, to the extent of the value of the collateral securing such indebtedness. The revolving credit facility is secured by the common stock of entities that own substantially all of the Bugaboo Creek Steak House and The Capital Grille restaurants. As of December 31, 2006, there were no amounts outstanding under our revolving credit facility, however, the revolving credit facility allows us to borrow up to \$100.0 million through its maturity in July 2010. The indenture governing the notes does not prohibit us from incurring additional secured indebtedness in the future. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to us, the holders of any secured indebtedness will be entitled to proceed directly against the collateral that secures such indebtedness. Therefore, such collateral will not be available for satisfaction of any amounts owed under our unsecured indebtedness, including the notes, until such secured indebtedness is satisfied in full.

We will use a portion of our cash flow from operations to make payments (primarily interest and principal) on our debt. This will reduce the funds available for our operations and capital expenditures. Also, the overall amount of debt we have outstanding and the restrictive covenants contained in the terms of that debt, including our revolving credit facility, may make us vulnerable to economic downturns and competitive pressures, and may hinder our ability to accomplish our strategic objectives.

The notes are effectively subordinated in right of payment to the liabilities and preferred equity of our subsidiaries.

The notes are exclusively our obligations and are not guaranteed by any of our subsidiaries. The notes are effectively subordinated in right of payment to all unsecured and secured liabilities of our subsidiaries, including capital lease obligations. In the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to any such subsidiary, we, as an equity owner of such subsidiary, and therefore holders of our debt, including the notes, will be subject to the prior claims of such subsidiary's creditors, including trade creditors. As of December 31, 2006, the total liabilities (including capital lease obligations, trade payables and other current and long-term liabilities, but exclusive of intercompany debt) of our

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consolidated subsidiaries were approximately \$92.4 million. The indenture governing the notes does not prohibit our subsidiaries from incurring additional indebtedness or issuing preferred equity in the future.

We may depend on the cash flows from our subsidiaries in order to satisfy our obligations under the notes.

We are an operating entity that also conducts a significant portion of our business through our subsidiaries. Our operating cash flows and consequently our ability to service our debt, including the notes, is therefore partially dependent upon our subsidiaries' earnings and their distributions of those earnings to us and may also be dependent upon loans, advances or other payments of funds to us by those subsidiaries. Our subsidiaries are separate legal entities and have no obligation, contingent or otherwise, to pay any amount due pursuant to the notes or to make any funds available for that purpose. Our subsidiaries' ability to make payments may be subject to the availability of sufficient surplus funds, the terms of such subsidiaries' indebtedness, applicable laws and other factors.

Our stock price, and therefore the price of the notes, may be subject to significant fluctuations and volatility.

The market price of the notes is expected to be significantly affected by the market price of our common stock. This may result in greater volatility in the trading value of the notes than would be expected for non-convertible debt securities. Additionally, holders who receive common stock upon conversion of the notes will also be subject to the risk of volatility and depressed prices of our common stock. Among the factors that could affect our common stock price are those discussed above under **Risks Related to Our Business** as well as:

our operating and financial performance and prospects;

quarterly variations in our operating results;

federal or state legislative, licensing or regulatory changes with respect to our industry;

changes in revenue or earnings estimates or publication of research reports by analysts;

speculation in the press or investment community;

strategic actions by us or our competitors;

general market conditions; and

domestic and international economic factors unrelated to our performance.

In addition, the stock markets have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. These broad market fluctuations may adversely affect the trading price of our common stock and of the notes.

Additionally, the price of our common stock could be affected by possible sales of our common stock by investors who view the notes as a more attractive means of equity participation in our company and by hedging or arbitrage trading activity that may develop involving our common stock. The hedging or arbitrage could, in turn, affect the trading prices of the notes.

The conditional conversion feature of the notes could result in you not receiving the value of the common stock into which the notes are convertible.

The notes are convertible after November 15, 2025 but prior to the close of business on the second business day prior to the stated maturity date and also if certain conditions are met. For example, the ability of holders of the notes to convert the notes is conditioned on the closing price of our common stock reaching specified thresholds. If the closing price threshold for conversion of the notes as described under **Description of the Notes – Conversion Rights – Conversion Upon Satisfaction of Market Price Condition** is satisfied during a calendar quarter, holders may convert their notes only during the subsequent calendar quarter. The notes are also convertible if the trading price of the notes is below a specified threshold for a specified time period or if certain specified transactions or events occur, such as a fundamental change, and then only at prescribed times. See **Description of Notes – Conversion Rights**. If none of the foregoing conditions are met, holders of notes will not be able to convert their notes prior to November 15, 2025 and

therefore may not be able to receive the value of the consideration for which the notes would otherwise be convertible.

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We may not have the cash necessary to pay the principal return and any net amount upon a conversion of notes or to repurchase the notes on specified dates or following certain fundamental change transactions.

Upon a conversion of notes in accordance with their terms, we will be required to pay the principal return of such notes in cash. Holders of notes also have the right to require us to repurchase the notes for cash on November 15, 2013, November 15, 2016 and November 15, 2021, or upon the occurrence of certain fundamental change transactions. Any of our future debt agreements or securities may contain similar provisions. We may not have sufficient funds to pay the principal return and any such net cash amount or make the required repurchase of notes, as the case may be, in cash at the applicable time and, in such circumstances, may not be able to arrange the necessary financing on favorable terms. In addition, our ability to pay the principal return and any such net cash amount or make the required repurchase, as the case may be, may be limited by law or the terms of other debt agreements or securities. However, our failure to pay the principal return and any such net cash amount or make the required repurchase, as the case may be, would constitute an event of default under the indenture governing the notes which, in turn, could constitute an event of default under other debt agreements or securities, thereby resulting in their acceleration and required prepayment and further restrict our ability to make such payments and repurchases.

We have a right to deliver all cash upon conversion of notes and holders may not receive any of our common stock upon conversion.

We may elect to pay the entire net amount due under the notes in cash. As a result, we are not required to deliver any of our common stock upon a conversion of notes. Therefore, holders may not be able to obtain any benefits of future ownership of our common stock upon any such conversion and would be required to incur the related transaction costs to purchase our common stock with the cash consideration received upon such conversion, including our common stock that holders may require in order to cover short positions.

An active trading market for the notes may not develop.

The notes are a new issue of securities, and there is currently no existing trading market for the notes. We do not intend to apply for listing of the notes on any securities exchange or for quotation of the notes on any automated dealer quotation system. Although the initial purchasers have advised us that they currently intend to make a market in the notes, they are not obligated to do so and may discontinue any market-making activities at any time without notice. Accordingly, an active public trading market may not develop for the notes and, even if one develops, may not be maintained. If an active public trading market for the notes does not develop or is not maintained, the market price and liquidity of the notes is likely to be adversely affected and holders may not be able to sell their notes at desired times and prices or at all. If any of the notes are traded after their purchase, they may trade at a discount from their purchase price.

The liquidity of the trading market, if any, and future trading prices of the notes will depend on many factors, including, among other things, the market price of our common stock, the number of potential buyers, prevailing interest rates, the time remaining to the maturity of your notes, the financial condition, results of operations, business, prospects and credit quality of us and our subsidiaries, and other comparable entities, the market for similar securities and the overall securities market, and may be adversely affected by unfavorable changes in any of these factors, some of which are beyond our control and others of which would not affect debt that is not convertible or exchangeable into capital stock. Historically, the market for convertible debt has been volatile. Market volatility could materially and adversely affect the notes, regardless of the financial condition, results of operations, business, prospects or credit quality of us and our subsidiaries.

The notes have a number of features that may adversely affect the value and trading prices of the notes, including conversion conditions and the lack of financial covenants. Furthermore, even if the conversion conditions are met, since the conversion value of the notes is dependent on the closing sale price of our common stock, volatile or depressed market prices for our common stock is likely to have a similar effect on the trading prices of the notes. It is impossible to assure holders of notes that the closing sale price of our common stock in the future will not have an adverse effect on the trading prices of the notes.

Transfers of the notes and any shares of our common stock that may be issued upon conversion of the notes will be restricted.

The notes were issued and any shares of our common stock that may be issued upon conversion of the notes will be issued in reliance upon exemptions from registration under the Securities Act and applicable state securities laws. As a result, you may transfer or resell the notes and any shares of our common stock that may be issued upon conversion of the notes only in transactions registered in accordance with, or exempt from or not subject to, these registration requirements. Selling securityholders who sell notes or any shares of our common stock issued upon conversion of the notes pursuant to a shelf

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registration statement may be subject to restrictions and potential liability under the Securities Act. See Description of Notes Registration Rights; Additional Interest in this prospectus.

The applicable conversion rate of the notes may not exceed 29.8597 shares of our common stock per \$1,000 principal amount of notes and may not be adjusted for all dilutive events.

The applicable conversion rate of the notes may not exceed 29.8597 shares of our common stock per \$1,000 principal amount of notes, subject to adjustment in certain cases. As a result, holders of the notes will not realize the benefits of an increase to the conversion rate otherwise described in this prospectus if such increase, together with previous increases, would result in the issuance of a number of shares of our common stock upon conversion in excess of such specified maximum amount.

The conversion rate of the notes is subject to adjustment for certain events, including, but not limited to, the issuance of stock or cash dividends on our common stock, the issuance of certain rights, options or warrants to holders of our common stock to acquire shares of our common stock or securities convertible into shares of our common stock, subdivisions or combinations of our common stock, certain distributions of assets, debt securities, capital stock or cash to holders of shares of our common stock and certain tender or exchange offers as described under Description of the Notes Conversion Rights Conversion Rate Adjustments. The conversion rate will not be adjusted for other events, such as an issuance of common stock for cash, that may adversely affect the trading price of the notes or our common stock. There can be no assurance that an event that adversely affects the value of the notes, but does not result in an adjustment to the conversion rate, will not occur.

The make whole premium that may be payable upon conversion in connection with a fundamental change may not adequately compensate you for the lost option time value of your notes as a result of such fundamental change.

If you convert notes in connection with a fundamental change prior to November 21, 2013, we may be required to pay a make whole premium by increasing the conversion rate applicable to your notes, as described under Description of the Notes Conversion Rate Adjustments Make Whole Upon Certain Fundamental Change Transactions. While these increases in the applicable conversion rate are designed to compensate you for the lost option time value of your notes as a result of a fundamental change, such increases are only an approximation of such lost value and may not adequately compensate you for such loss. In addition, even if a fundamental change occurs, in some cases described under Description of the Notes Conversion Rate Adjustments Make Whole Upon Certain Fundamental Change Transactions, there will be no such increase in the conversion rate.

The definition of a fundamental change requiring us to repurchase notes is limited and therefore the market price of the notes may decline if we enter into a transaction that is not a fundamental change under the indenture.

The term fundamental change is limited and may not include every event that might cause the market price of the notes to decline or result in a downgrade of the credit rating of the notes. The term fundamental change does not apply to transactions in which at least 90% of the consideration paid for our common stock in a merger or similar transaction is publicly traded common stock. The term fundamental change also excludes transactions that occur when the closing sale price of our common stock for any five trading days within (1) the period of 10 consecutive trading days ending immediately after the later of the fundamental change or the public announcement of the fundamental change, in the case of a fundamental change relating to the acquisition of capital stock, or (2) the period of 10 consecutive trading days ending immediately after the fundamental change, in the case of a fundamental change relating to a merger, consolidation or asset sale, equals or exceeds 105% of the conversion price applicable to the notes on each of those trading days. Our obligation to repurchase the notes upon a fundamental change may not preserve the value of the notes in the event of a highly leveraged transaction, reorganization, merger or similar transaction. See Description of Notes Repurchase at Option of Holders upon a Fundamental Change.

Upon conversion of the notes, holders may receive less consideration than expected because the value of our common stock may decline between the day that the conversion right is exercised and the day the value of our common stock is determined.

The conversion value that holders will receive upon conversion of notes will be determined on the basis of the closing sale price of our common stock on the NASDAQ Global Select Market for each of the 10 consecutive trading

days beginning on the third trading day following the date the notes are tendered for conversion. Accordingly, if the price of our common stock decreases after the conversion right is exercised, the conversion value will be adversely affected.

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Our level of indebtedness could adversely affect our financial performance and impact our ability to make payments on the notes.

As of December 31, 2006, after giving effect to this offering, we had total debt of approximately \$166.6 million (including capital lease obligations). In addition, our revolving credit facility allows us to borrow up to \$100.0 million through its maturity in July 2010. Our level of indebtedness could have important consequences to the holders of the notes. For example, it:

may limit our ability to obtain additional financing for working capital, capital expenditures or general corporate purposes;

will require us to dedicate a substantial portion of our cash from operations to the payment of principal and interest on our debt, reducing the funds available to us for other purposes, including expansion through acquisitions, capital expenditures, marketing spending and restaurant openings;

may limit our flexibility to adjust to changing business and market conditions and make us more vulnerable to a downturn in general economic conditions as compared to our competitors; and

may place us at a possible competitive disadvantage relative to less leveraged competitors and competitors that have better access to capital.

Our ability to make scheduled payments or to refinance our obligations with respect to our indebtedness will depend on our financial and operating performance, which, in turn, is subject to prevailing economic conditions and to financial, business and other factors beyond our control.

In addition, our revolving credit facility contains various covenants that limit our discretion in the operation of our business and could prohibit us from engaging in transactions we believe to be beneficial. In particular, the revolving credit facility contains certain financial covenants, including leverage and interest coverage ratios, as well as maximum capital expenditure covenants.

The notes do not restrict our ability to incur additional debt or to take other action that could negatively impact holders of the notes.

We are not restricted under the terms of the indenture and the notes from incurring additional indebtedness or securing indebtedness other than the notes. We therefore may incur additional debt, including secured indebtedness that would be effectively senior to the notes to the extent of the value of the assets securing such debt, or indebtedness at the subsidiary level to which the notes would be structurally subordinated. In addition, the notes do not require us to achieve or maintain any minimum financial results relating to our financial position or results of operations. Our ability to recapitalize, incur additional debt, secure existing or future debt and take a number of other actions that are not limited by the terms of the indenture and the notes could have the effect of diminishing our ability to make payments on the notes when due. In addition, we are not restricted from repurchasing subordinated indebtedness or common stock by the terms of the indenture and the notes.

Conversion of the notes may dilute the ownership interest of existing shareholders, including holders who had previously converted their notes.

The conversion of some or all of the notes may dilute the ownership interests of existing shareholders. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the notes may encourage short selling by market participants because the conversion of the notes could depress the price of our common stock.

If you hold notes, you will not be entitled to any rights with respect to our common stock, but you will be subject to all changes made with respect to our common stock.

If you hold notes, you will not be entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock), but you will be subject to all changes affecting the common stock. You will have rights with respect to our common stock only if and when we deliver shares of common stock to you upon conversion of your notes and, in limited cases, under the conversion rate adjustments applicable to the notes. For example, in the event that an amendment is proposed to our

certificate of incorporation or bylaws requiring shareholder approval and the record date for determining the shareholders of record entitled to vote on the

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amendment occurs prior to delivery of common stock to you, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes in the powers, preferences or special rights of our common stock.

You should consider the United States federal income tax consequences of owning the notes.

The United States federal income tax treatment of the conversion of the notes into a combination of our common stock and cash is uncertain. You are urged to consult your tax advisors with respect to the United States federal income tax consequences resulting from the conversion of notes into a combination of cash and common stock. A discussion of the United States federal income tax consequences of ownership of the notes is contained in this prospectus under the heading Certain U.S. Federal Income Tax Considerations.

If we pay a cash dividend on our common stock or certain other events occur, you may be deemed to have received a taxable dividend without the receipt of any cash.

If we pay a cash dividend on our common stock, or under certain other events set forth in Description of the Notes Conversion Rate Adjustments below, an adjustment to the conversion rate may result, and you may be deemed to have received a taxable dividend subject to U.S. federal income tax without the receipt of any cash. If you are a Non-U.S. Holder (as defined in Certain U.S. Federal Income Tax Considerations), such deemed dividend generally will be subject to U.S. federal withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. See Certain U.S. Federal Income Tax Considerations.

Provisions of the notes, our corporate documents and Georgia law could discourage an acquisition of us by a third party.

Certain provisions of the notes could make it more difficult or more expensive for a third party to acquire us. Upon the occurrence of certain transactions constituting a fundamental change, holders of the notes will have the right, at their option, to require us to repurchase all of their notes or any portion of the principal amount of such notes in integral multiples of \$1,000. We may also be required to issue additional shares upon conversion or provide for conversion into the acquirer's capital stock in the event of certain fundamental changes. In addition, our articles of incorporation, bylaws and shareholder protection rights agreement, as well as Georgia law, contain provisions that may discourage or delay the acquisition of us by a third party. See Risks Related To Our Business Our Anti-takeover provisions may limit shareholder value.

An adverse rating of the notes may cause their trading prices to fall.

If a rating agency rates the notes, it may assign a rating that is lower than investors' expectations. Rating agencies also may lower ratings on the notes in the future. If a rating agency assigns a lower-than-expected rating or reduces, or indicates that it may reduce, its rating in the future, the trading price of the notes could significantly decline.

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FORWARD-LOOKING STATEMENTS

Some of the statements in this prospectus and the documents incorporated by reference herein constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. These statements include statements regarding the intent, belief or current expectations of us and members of our management team, as well as assumptions on which such statements are based. Forward-looking statements generally can be identified by the use of terms such as anticipate, believe, continue, could, estimate, expect, intend, plan, potential, predict, seek, should, or will, or the negative thereof or other variations thereon or comparable terminology. All forward-looking statements in this prospectus and the documents incorporated by reference herein are based upon information available to us on the date of this prospectus or the documents incorporated by reference herein, as the case may be. Forward-looking statements involve a number of risks and uncertainties, and in addition to the risk factors discussed under the section entitled Risk Factors in this prospectus and the documents incorporated by reference herein, other factors that could cause actual results, performance or developments to differ materially from those expressed or implied by those forward-looking statements include the following:

our ability to execute capital structure and other initiatives intended to enhance long-term shareholder value;

our ability to obtain financing on terms acceptable to us and maintain compliance with the covenants included in such financing;

our ability to repurchase our shares in the expected number and at prices that would be accretive to our financial results;

our ability to complete the sale of our Bugaboo Creek Steak House restaurants successfully;

failure of facts to conform to necessary management estimates and assumptions regarding financial and operating matters;

our ability to identify and secure suitable locations for new restaurants on acceptable terms, open the anticipated number of new restaurants on time and within budget, achieve anticipated rates of same store sales, hire and train additional restaurant personnel and integrate new restaurants into our operations;

the continued implementation of our business discipline over a large and growing restaurant base;

increases in the cost of construction of new restaurants;

unexpected increases in cost of sales or employee, pre-opening or other expenses;

the economic conditions in the new markets into which we expand and possible uncertainties in the customer base in these areas;

fluctuations in quarterly operating results;

seasonality;

unusual weather patterns or events;

changes in customer dining patterns;

the impact of any negative publicity or public attitudes related to the consumption of beef or other products we sell