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August 2, 2016

I have on many occasions written, regarding a relationship, ongoing for more than six years. The relationship has been one, of Madeira government officials, including City Manager, Thomas Moeller, previous Law Director, Robert Malloy, Graydon Head & Ritchey Attorneys, Steven P. Goodin, and Brian Fox, (also serves as our current Law Director), former Madeira Mayors, and Council Members, our current Mayor, current Council Members, Developer Thomas Powers, and various Attorneys from the Law firm, Wood & Lamping.

In the letter that follows, Mr. James R. Tepe, has completed a meticulous, study and review of the relationship described, and has determined that our city government is guilty of collusion, and what appears to be, purposeful violation of our zoning and building codes, for the benefit of one specific Madeira Developer, Mr. Thomas Powers. It is inconceivable, that Mr. Moeller, his staff the aforementioned Attorneys, nor Mr. David Ballweg, Architect, Madeira ARO, (recently rewarded, with a higher paying Madeira position), have been blissed in ignorance, to the contrary. Our city officials, and their devious deeds favoring Mr. Powers, are described, point by point, in the nine pages authored by Mr. Tepe.

If the facts, and accusations, in Mr. Tepes letter, and supporting documents cannot be repudiated immediately, than it is suggested, that there should be resignations, beginning with Mr. Moeller, his staff, Mr. Ballweg, and Law Director, Brian Fox, Attorney with the Law Firm, Graydon Head & Ritchey. Any further City involvement in the Thomas Powers project, must be stopped, while an investigation is completed regarding the content, and accusations found in the nine page letter, presented by Mr. Tepe, dated August 1, 2016. Mr. Tepes letter was addressed to all of our Planning Commission members, our City Council members, our Mayor, our City Manager, and our Law Director, Mr. Brian Fox, of the Law Firm, Grayson Head & Ritchey. This matter may require, an inquisition from outside the community.

Please Scroll Down to Read Mr. Tepes Letter...

James R. Tepe
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HAND DELIVERED

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Mr. Thomas Moeller, Madeira City Manager,
and,
Members of City Council of Madeira,
and,
Members of the Madeira Planning Commission
City of Madeira
7141 Miami Road
Madeira, Ohio 45243

Subject: Resolution #17-16, B & B Mower Property (Railroad Ave.), Swing Line Grill, City Parking Lot

Dear Mr. Moeller, and, Ladies and Gentlemen of the Madeira City Council and the Madeira Planning Commission:

I'm sure Mr. Moeller will recall that during the June 20, 2016 Planning Commission "Public Hearing & Variance Request" regarding the subject Swing Line Grill, I personally asked Mr. Moeller **how** he or his "Staff" had determined that the Madeira Zoning Code required Swing Line Grill / Mr. Thomas Powers to provide 68 parking spaces for the proposed 148 seat restaurant / bar. The Staff Report (Please see Exhibit "A") interestingly does not even state that 68 parking spaces are required. Mr. Moeller verbally announced that 68 parking spaces were required during the Public Hearing. Mr. Moeller stated he was unable to tell me (and others in attendance) what zoning procedure the Staff used to determine the 68 space requirement. Mr. Moeller verbally stated that Staff's calculation included:

- A) 1 parking space for each of 13 employees,
- B) 5 parking spaces for "carry-out" parking,
- C) Consideration for the 48 "outside dining seats" were included at the same rate as "inside dining seats" but Mr. Moeller didn't know how the parking space requirement was calculated, and,
- D) The approximate 2,000 square feet of "customer area", which includes 84 "inside dining seats" and 18 "inside bar seats", was also included in the calculation but again Mr. Moeller didn't know how the parking space requirement was determined.

I'm sure Mr. Moeller, as well as others in attendance, will recall that I openly disputed the accuracy of the 68 parking space requirement defined by Staff and advised Mr. Moeller that my interpretation of the Madeira Zoning Code generated a much higher parking requirement. (The minutes of this Public Hearing will validate the credibility of the above discussions and statements.)

I fully expected that Mr. Moeller would follow-up with me on this dispute and somehow inform me as to **how** the 68 parking space requirement was determined by Staff. Mr. Moeller has not attempted to contact me or follow-up on this disagreement. I attended the July 18, 2016 Planning Commission meeting and he made no effort to bring up the topic even during a small 4 or 5 person discussion group after the meeting. I was one of the 4 or 5 in the discussion.

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In comparison, I calculate that 108 parking spaces are required, 58% higher than the 68 spaces Mr. Moeller or his Staff have determined. Here is my calculation. The procedure is defined in Section #150.24 "Parking" of the 2014 updated Madeira Zoning Code, and, Section #166 of the Main Street Core District Zoning Regulations. (Please see Exhibit #1, page #1 attached). The Swing Line Grill / Mr. Thomas Powers proposal most certainly intends to "serve alcoholic beverages". (Please see Exhibit #1, page #2 attached which covers "Contingencies" on page 4 of the proposed "Contract For Purchase" which is included in Resolution #17-16.) The "Nightclubs, Saloons, Cocktail Lounges and other operations which serve alcoholic beverages" is the proper zoning classification.

The correct parking space calculation for the Swing Line Grill proposal is as follows: (Please see Exhibit #1, page 1)

- A) 1 parking space for each employee, 13 employees are estimated, **+ 13 spaces,**
 - B) 5 parking spaces for "carry-out parking", **+5 spaces,**
 - C) 1 parking space for every 2 of the 46 "outside dining seats" in accordance with Section #150.16 (D)(3) "Outdoor Dining Plan" of the Madeira Land Usage Plan. (Please see Exhibit #2 attached), **+ 23 spaces,**
 - D) **Only ONE** of the two following procedures, "whichever provides the greatest number of spaces", is applicable to the final calculation:
 - 1) 1 parking space for every 30 square feet of "customer occupied area", 2,000 sq. ft. area, **+ 67 spaces,**
 - OR,**
 - 2) 1 parking space for every 2 of the 102 "inside dining seats", **+ 51 spaces.** (this is smaller, disregard)
- The CORRECT parking requirement for the Swing Line Grill is: +13, +5, +23, +67 = **TOTAL = 108 spaces.**

Mr. Moeller's calculation or Staff's calculation of 68 parking spaces is 37% lower than it should be. This calculation is 40 spaces short of the 108 required spaces. This glaring error made me want to dig deeper into the Staff Report and Mr. David Ballweg's Architectural Review Office (ARO) Report.

It is perfectly clear that all final decisions of the very powerful City Planning Commission are heavily based on the information and analysis contained in the Staff Report and the ARO Report. The accuracy and full analysis disclosure of these two specific Reports are critical to properly inform the members of the Planning Commission. In this particular case, the Staff Report states; "City Council has approved an agreement with the Applicant (Mr. Thomas Powers) to purchase the residual property contingent on Planning Commission's approval." This situation brings a higher requirement for accurate information and analysis input.

After a close look at the Madeira Zoning Code, it is clearly obvious that it expects, in some Sections even mandates, that "some" specific and dedicated parking area is to be provided – particularly when a new building is proposed to be constructed. The second sentence of the second paragraph of the Staff Report (Case ZA-2016-28) reads: "The applicant is requesting a variance from the parking requirements and for a sign height variance." This sentence would be much more accurate if it read: The applicant is requesting multiple variances from multiple sections of the zoning code, all parking requirements of the zoning code, and for a sign height variance. Here are some examples of specific zoning requirements ignored or not addressed by the Staff Report:

- A) Section #150.24 (B) (Please see Exhibit #3, Page #2 attached) reads: "Before any building hereafter erected within any Business District or Manufacturing District, or, any part of such building is put to any use that customarily requires the receiving or distributing of material or merchandise by vehicle, at least one off-street space, suitable for truck use, not less than 10 feet in width and 25 feet in length shall be

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provided within or contiguous to such building.” The Staff Report only mentions: “The applicant is requesting a variance from parking requirements.” The Staff Report should read,= “The applicant is requesting a 100% absolution from 100% of all parking requirements defined in the zoning code.”

B) Section #150.16 (D)(3) (Please see Exhibit #2, Page #2 attached) reads: “No Outdoor Dining Plan shall be approved if it proposes a reduction in any existing parking.” Construction of the proposed Swing Line Grill building will eliminate 6 existing parking spaces located on the west side of the B & B property. Absolutely no replacement parking is being provided on the proposed Swing Line Grill property to replace the 6 spaces being lost. The Staff Report makes no mention of this requirement of Section #150.16 and no request for relief by variance from its requirements.

C) The Staff Report on page 2, Section #166.57 (1) “Frontage” (Also please see Exhibit #4 attached) states: “Seventy percent of all lots along Miami Ave., Laurel Ave., or Camargo Road shall be occupied by a building façade or a decorative solid wall or opaque hedge a minimum of three feet in height set to the sidewalk or set-to-line.” The Staff Report states: “The applicant is proposing an open air tower at the south-western portion of the (lot), and an approximate 20 foot long wall at the south-east portion of the lot at the 5 foot build-to line.” First let’s correct the Staff Report’s statement.

1) 25 feet of the wall at the south-eastern portion of the lot is shown to be built at less than one foot from the build-to line – not five feet as the Staff Report states.

2) Section #166.56 (A) reads: “Front Yards – A build-to line shall be established five feet from and parallel to the front yard lot line.”

I suppose the Staff missed these two items as Staff makes no requirements for request for relief by variance from these requirements.

3) Further in Section #166.57 (2) reads: “The City may allow up to 50% of a building’s front façade surface to be set-back further than five feet to create façade articulation or provide a plaza or another useful outdoor pedestrian space along the frontage.” The Staff Report reads: “The applicant is also proposing plantings along the outdoor dining area.” Again, let’s try to connect or disconnect the Staff Report statement.

a) This Staff Report comment has absolutely no relevance to the issue at hand. The drawing shows a 15 foot long building wall at the south-east front building corner. Its set-back ranges from 5 feet back from the south-east build-to lot line, to, 12 feet back at the west end of the 15 foot long building wall. The drawing shows a 19 foot deep set-back wall to the north, and then, a 29 foot long wall to the west which becomes the south-west building corner. Section #166.57 (2) says the city may allow up to 50% of this 44 foot wide building to be set-back for façade articulation etc. This drawing shows the building contains a 29 foot building front façade set-back which exceeds the 50% limitation - or 22 foot limitation. The Staff Report makes no mention of this issue and makes no request for relief by variance from these requirements.

b) This Staff Report makes no mention about the 2 foot high “wrought iron fence above the low 1-1/2 foot high brick wall” shown on the May 23, 2016 drawing of the building front elevation facing Railroad Ave. This 25 foot long 3-1/2 foot high brick wall and fence will be set-back less than one foot from the property line. As the zoning code (Section #166.56 (A), Exhibit #4) requires a 5 foot set-back from the front yard lot-line, another zoning variance request and approval is required on this issue but not mentioned in the Staff Report.

c) The Staff Report states: “The applicant is also proposing plantings along the front of the outdoor dining area.” The Staff Report fails to mention that 8 of the 11 plantings are shown being planted within the Railroad Ave Right-of-way. Surely this is an encroachment of a

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public right-of-way. This situation is also in conflict with the Staff Report's misleading statement, the 4th sentence on the first page under History, "The entire building including the patio is now located on the B & B Mower property." Where is the request for variance to address this issue?

- d) Staying with the "Set-back" issues, relative to the east side yard, the Staff Report states: "The plan indicates that the building will be --- roughly 60 feet from the east property line" and "no variance will be required." While the east side of the building measures 57 feet (not 60 feet) west of the eastern-most B & B property line, it appears that 52 feet of the 57 foot wide space will be sold to the City of Madeira for the proposed parking lot. The applicants drawing shows a "5 foot building set-back" immediately east of the east building wall, and, this same 5 foot by approximately 110 foot long area is shown as an integral part of the proposed city parking lot. This configuration does not comply with the zoning code which requires a minimum of 2 feet from any side lot line for "parking". As the code reads (see Exhibit #4): "The Planning Commission may waive set-back requirements for partial modifications to existing structures", it seems clear that the Planning Commission is unable to waive these set-back requirements when a new building is being built. Again, this Staff Report fails to mention any reference to this zoning requirement. I find it very strange that a considerable number of these set-back items were not listed with the other set-back requirement analysis in the Staff Report.
- e) Another set-back issue deals with the rear yard "minimum 5 foot set-back from the rear lot line" in the area where a portion of the "private dumpster enclosure" will be located less than 2 feet from the rear property lines of both properties. Again, this issue is not mentioned in the Staff Report. A variance is required here again. Just as with the previous issue, I don't believe the Planning Commission has the authority to waive these set-back requirements when a new structure is being built.
- f) Having a "Private Dumpster Enclosure" on 2 different properties is potentially another can of worms. Who is liable if the enclosure gets damaged? Who is responsible to maintain it? Who cleans up the mess and debris when it is filled beyond capacity? Who cleans up the mess after it is dumped? (Many more questions here – let your imagination wander.)
- g) While we are looking at the parking lot area,
 - 1) Is the city going to issue a "Special License" to Thomas Powers to allow his private dumpster to permanently occupy a portion of the city parking lot property?
 - 2) Is Thomas Powers going to grant an easement to the city for 3 feet of the 5 foot by 110 foot-long area just west of the common north-south property lines for the City parking lot?
 - 3) With the total 57 foot wide area being sold to the city for a parking lot, and, deducting 2 feet from each side to comply with the side yard set-backs per Section #166.56 (A), please see Exhibit #4, it is obvious the remaining 53 foot wide area cannot accommodate a 90 degree – 2 sided perpendicular parking lot layout or design as shown on the drawing. (Please see Section #160.60 (3) Exhibit #5, Page #2) As an example: 2 - 12 foot wide drive aisles = 24 feet, plus 2 – 18 foot long parking spaces = 36 feet -- 24 + 36 = 60 feet. You only have 53 feet to work with. You are 7 feet short. Now what do you do? Make it one-way with diagonal parking? You will most certainly lose substantial parking space capacity. What will be the new City's cost per parking space with the reduced quantity diagonal parking design?
 - 4) What do you do when the dumpster company comes? What if access to the dumpster is blocked by a parked vehicle or a delivery truck? What do you do when a delivery truck tries to unload supplies for Thomas Powers? What does the public do when their car is

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5) blocked-in by a delivery truck? What if the public can't get through the lot because a delivery truck is blocking traffic? Does this "sound" like a "Functional Parking Lot"???

D) Now let's address the other parking and "Shared Parking" issues. In addition to the "Mandated Parking Requirements" defined in section #150.16 (Exhibit #2) and Section #150.24 (Exhibit #3) mentioned earlier in this letter:

- 1) The Staff Report states: "The applicant has provided a site plan with the set-backs shown. It is at a scale of 1 inch equals 20 feet. Drive ingress and egress are shown. Public parking is shown on the plan but no designated parking." This means the Swing Line Grill / Mr. Thomas Powers has no power to dictate or control any portion of the public parking lot for any purpose; parking, delivery, dumpster service, no control whatsoever. Although the parking lot is contiguous to Mr. Powers property, Mr. Powers cannot claim ownership or control of even one legitimate parking space so to begin to comply with Sections #150.24 and #150.16 of the zoning code.
- 2) The Staff Report states that Mr. Powers has a "Shared Parking Agreement" with 5/3rd Bank located at 7101 Miami Ave. (at Laurel Ave.) to share the Bank's entire parking lot which contains 48 parking spaces. (The shortest practical and legal walking distance between the 5/3rd Bank's corner and the proposed entrance to the Swing Line Grill is actually 462 feet, not 128.01 feet as represented in the Staff Report.) Zoning Code Section #166.60 (2) (Exhibit #5, page #1) states: "A portion of the required spaces per #150.24 and #150.25 may be located on adjacent or nearby property in the district **IF** the parking area complies with the following standards:" Then items (e) and (3) (Please see Exhibit #5, page #2) read: "Shared or off-street parking **may be approved IF**" see (3) "Shared or off-street parking shall not account for more than 75% of the required parking spaces established in Section #150.24." Here are my conclusions:
 - a) Required parking for Swing Line Grill / Mr. Thomas Powers proposed plan is 108 spaces.
 - b) 25% of the 108 required parking spaces **must be provided** in the development's property or contiguous property owned or controlled by the developer. In other words, 27 parking spaces must be provided and controlled by the development.
 - c) If the 27 required spaces have been provided, then and only then a "shared parking agreement" could be approved providing a shared agreement with another nearby property owner, providing 75% or less of the 108 required spaces, is certified by the city as acceptable.
 - d) As 46 of the 81 maximum shared spaces are being provided by 5/3rd Bank, and, Zero of the 27 required on-site spaces are being provided by the developer, this shared parking agreement would be obviously unacceptable in meeting the intent and written words of the zoning code. As written in Section 160.60, **a portion does not mean 100%**.
 - e) In addressing this requirement that off-site parking shall not account for more than 75% of the required spaces, the Staff Report writes the comment: "Please see ARO Report". (Exhibit #7) There is absolutely nothing written or mentioned in the ARO Memo / Report that addresses or relates to this 75% maximum off-site shared parking issue. Why would Staff make this comment here? What could be the purpose of their comment? I don't get it.
 - f) How would you "grade" the Staff Report at this point?

The ARO Report. I now ask you to closely read the entire 1 page June 16, 2016 ARO Report /Memo (Please see Exhibit #7) written by Mr. David Ballweg, the Architect Review Officer for the City of Madeira. Does this ARO Report address or call attention to anything I have called to your attention to or addressed in this letter? The answer is an emphatic NO.

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From: James R. Tepe

Let's take a hard look at Section #161.02 (Please see Exhibit #8, Page #1) the "Powers and Duties" of the Architectural Review Office. The ARO Report is, without question, the most important and impacting professional analysis required within the Madeira Zoning Code. Literally, every aspect of every proposed project must be considered and approved by the ARO Officer.

- A) Section #161.02 (A) reads: "The ARO shall review all proposed exterior construction and alteration plans in the City Business Districts". The code is very specific where it states; "No building permit will be granted by the City Manager without the written approval of the ARO Review."
- B) Section #161.02 (B) is again very specific where it states: "The ARO shall assist and advise the Planning Commission on the design, amenities, quality, relationship to natural features, existing buildings and all other aspects of a site development plan being considered by the Planning Commission which relate to the appearance of an entire project and all its parts and surroundings. All standards, regulations and criteria contained in the ordinances of the City shall be considered by the ARO in its review." Please read these requirements of the Zoning Code again. These requirements are extremely demanding - and - all for the purpose of properly informing and guiding the Planning Commission members so to accomplish the whole purpose of the Zoning Code.
- C) Section #166.03 (B) (Please see Exhibit #9, Page #1) reads: "The regulations will guide development and redevelopment and provide the basis for consistency and objective decision making for (the) Planning Commission Staff when evaluating proposed development." Again, without question, the ARO Report is the most important and impacting professional analysis required within the Zoning Code.
- 1) Does this ARO Report provide or accomplish any of the "important objectives" defined in the zoning code?
 - 2) Does the ARO Report mention or address ANY of the multiple deficiencies and issues I have exposed so far in this letter?
 - 3) Does the ARO Report "assist and advise the Planning Commission on all aspects of this site development plan including all its parts and surroundings as it is obligated to do?"
 - 4) Does this ARO Report satisfy the requirement that "all standards, regulations and criteria contained in the ordinances of the City shall be considered by the ARO in its review?"
- D) The most important question to ask is: Does this ARO Report assist, as the code requires, in "providing the basis for consistency and objective decision making for the Planning Commission and Staff " when evaluating this proposed development? As I have no way of knowing what "behind the scenes directives, conversations and or documents between Mr. Moeller the City Manager, the Staff, Mr. Ballweg the ARO, and Thomas Powers have taken place, I cannot define the factual evolution of this calamity. However, I would suggest that this proposed project contains a substantial quantity of "unprecedented attributes" and should have generated very detailed and informative reports from both Staff and Mr. Ballweg the ARO. The Staff and ARO Reports referred to in this letter are certainly less than acceptable, maybe they even represent collusion, and certainly do not "assist and advise the Planning Commission" or "provide the basis for consistency and objective decision making."
How would you "grade" Mr. Ballweg's ARO Report?

The "Application for Commercial Variance" corresponding to this Swing Line Grill proposal is yet another interesting document and situation. (Please see Exhibit "B" attached). It appears that Mr. Thomas Powers filled out the "Application" but I can't tell for sure from the signature. It appears that "Section #150.20 Parking" and "Section #150.24 Lot Requirements", are the only two Madeira Code Ordinances Referenced to be considered by the Planning Commission when they consider this "request for variance.

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Having been in attendance at only 2 Planning Commission meetings, I have concluded that the Planning Commission is only permitted to consider the items specifically listed on the "Application for Commercial (or Residential) Variance" form and the "Variance Request Work Sheet".

It appears that Thomas Powers also filled out the Variance Request Work Sheet as the printing style is the same on both the Application for Commercial Variance form and the Variance Request Work Sheet.(see Exhibit "B", Page #5)

- A) Question #2 reads: "Is the variance necessary to preserve a substantial property right (the reasonable enjoyment and use of the property) which is already possessed by the owners of other properties in the same area?" The applicant answers YES. There is no further explanation. What is implied here? What rights need to be preserved here? Has the applicant answered this question correctly?
- B) Question #3 reads; "Are there exceptional or extraordinary conditions which apply to the subject property that do not apply generally to other properties in the same area?" The applicant answers "YES". Again, there is no further explanation. What is implied here? What "exceptional or extraordinary conditions" are to be considered here? Has the applicant answered the question correctly?
- C) Question #6 reads: "Were the applicable zoning restrictions in place when the property was purchased or acquired by the applicant? Did the applicant have a reasonable means of determining what zoning restrictions were in effect at the time the property was acquired?"
The applicant answers the following: "We have not acquired the property yet." This is an honest answer.
- D) Question #7 reads: "Can the property owner's predicament feasibly be obviated through some method other than a variance (such as a zoning change or redesign of the proposed plan/)"
The applicant answers; "Possibly". There is no further explanation. What is the real "predicament" here that qualifies this property owner (or this buyer) to request a multitude of zoning variances?
- E) Question #8 reads: "Can the spirit and intent of the zoning code be observed and justice done if **THE VARIANCE** is granted?" The applicant answers "YES" IS THIS APPLICANT "KIDDING ME?"
The applicant could not have pondered the words in this question. I have 3 questions here:
 - 1) How many specific Zoning Section variances can the word "THE" really include – 5, 15, 25???
 - 2) How can the applicant really believe "the spirit and intent of the zoning code would be observed and justice done" by granting THE variance???
 - 3) Has the applicant honestly answered this question???

Now let's look at the word "Consistency" for a moment. When was the last time a project was proposed in the Main Street Core District of The City of Madeira where the project owner has designed the project so that:

- A) 108 parking spaces were required and did not provide for even one space on the owner's property,
- B) The proposed building will occupy more than 80 % of the property owner's land,
- C) Will provide absolutely NO curb-cut or vehicle access to the owner's property,
- D) Will provide NO parking space for deliveries which will be delivered to the rear of the building,
- E) Will provide NO access to service the project's private dumpster which is partially located on the owners property and partially located on the City of Madeira's property next door.
- F) The City of Madeira must provide, by way of a City owned and maintained proposed parking lot next door to the owner, access to the developers private dumpster and access for supplies being regularly delivered to the owners business. If anyone else owned the proposed parking lot property, the developer's building would be all but unusable as vehicle access would be non-existent.

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Without question, these “Unpresented Attributes” can have no basis in “CONSISTANCY”. By the way, considering the objective of “Consistency In Zoning”, would the City of Madeira intend to build another new parking lot for every new proposed development or redevelopment in the Main Street Core District consisting of a 3,250 square foot Bar & Grill that requests approval and a complementary parking lot??? (Good question?)

Now let's connect the “Unprecedented Circumstance” that the City of Madeira just happens to decide to build a City owned parking lot right next to this proposed project that could, at that time, accommodate 18 or 19 parking spaces. (Now it will only accommodate 13 or 14 on a one-way diagonal design.) This \$543,000.00 parking lot was “Determined to be a public purpose for certain long-term strategic economic development and planning efforts” as specified in the “Contract For Purchase” which is part of City of Madeira Resolution #17-16 dated April 25, 2016. (Please see Exhibit #10, Item A.)

The “Recitals” further state: in item “C” of Exhibit #10, : “Purchaser (City of Madeira) has determined that the agreements and transactions provided for in this Contract will facilitate positive long-term development planning and encourage development that will benefit the people of the City of Madeira, Ohio by increasing opportunities for employment and strengthening the economic welfare of the City of Madeira, Ohio.” Without becoming overly technical or cynical, I am having a difficult time agreeing that the Swing Line Grill / Thomas Powers will “strengthen the economic welfare of the City of Madeira, Ohio.” Here are a few quick facts:

- A) The proposed building will cost about \$745,000.00 and generate about \$7,000.00 in Real Estate Taxes annually- 70% or so will go to the Madeira School District. Thus, not a lot of money would be coming to the City of Madeira.
- B) The proposed Swing Line Grill will employ 15 to 20 “part time – minimum wage personnel plus 2 or 3 higher paid managers and bar-tenders. Madeira Income Tax collected from these employees will not be a substantial amount. Sales Tax is another consideration but I don't know how to estimate it.
- C) The proposed Swing Line Grill operation requires, by code, that the owner provide parking spaces for 108 cars plus a 10 foot by 25 foot delivery vehicle parking space.
- D) Code also limits “shared parking” allocation to not more than 75% of the 108 spaces, or 81 spaces, which means the owner must provide 27 on-site spaces and 81 off-site spaces.
- E) The project owner is actually providing Zero parking spaces. Actually, his proposed building will cause the deletion of 6 private spaces which presently exist, and the proposed City lot will only provide 13 - 14 spaces unless the proposed building is reduced by 7 feet (from 44 feet wide to 37 feet wide).
- F) This project expects to bring 108 vehicles to the specific area with potential Swing Line Grill patrons where a net addition in parking capacity of 7 to 8 spaces are to be located – including the proposed City parking lot. Doesn't this equate to programed excessive congestion of cars and people that is certain to bring a parking shortage frenzy to an area already over-parked on Thursday, Friday, and Saturday nights??? People generally don't behave very well under these circumstances.
- G) Does this paint a picture that supports the City's criteria for “certain long-term strategic economic development and panning efforts”??? I certainly don't think so.
- H) The “Value” of the proposed \$543,000.00 City parking lot would not be subject to Real Estate Taxes as it would be owned and maintained by the City of Madeira. Therefore, the Madeira School District would not receive any revenue from this parcel of improved real estate.
- I) If Mr. Thomas Powers owned all the property and constructed a private parking lot on the property, He would have to reduce the size of his building so to comply with the minimum 25% on-site parking zoning requirement. Mr. Powers would be required to pay the appropriate Real Estate Taxes each and every year for decades to come and the School District would receive their fair share each and every year for decades to come.

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J) I hate to think about how much the City has already spent in legal fees to bring this project to this point.

Now that you have been made aware of the genuine facts surrounding this proposed project, you are responsible to take the appropriate action to stop this proposed disaster at once. It is one thing to “make a mistake” when you don’t know or you don’t understand the “whole story”. It is quite another thing to ignore or disregard the “genuine facts” you are obligated to consider and act on as Elected or Appointed Government Officials.

The long-term impact of total disregard of “the basic unwritten rules of a free, competitive, and independent business society without a government body selecting winners and losers via political favors”, combined with “total abandonment of the wisdom, integrity, and intended consistency of the Madeira Zoning Code” are vulnerably in your hands. The Honorable Reputation of the City of Madeira is also vulnerably in your hands. Please do the honorable job you were elected or appointed to do.

The powers of “Political Favors” always bring cultural deterioration – just take a look at Washington, D. C.

Honesty and integrity are always the best policies because God is always watching. He has His hands in things in mysterious ways.

If you have read this entire letter and verified the statements in the attached Exhibits, I commend you for your concern and dedication to the commitment you made to the City of Madeira citizens when you were elected or appointed. I personally thank you for your service to the community.

On June 27, 2016, I wrote a letter to the members of the Madeira City Council. (Please see Exhibit #11). On July 8, 2016, I sent a copy of this letter to the members of the Planning Commission. I ask you again to read and consider the content of that letter.

On July 25, 2016, I attended the City Council Meeting and must tell you I was very impressed to experience the Mayor of Madeira “open” the meeting with a prayer. That is absolutely a “Touch of Class” and very refreshing to experience in this “strange society” we live in today. The Council’s open appreciation of the Dedication and Service of the Madeira Police Officers is also commendable.

However, when I saw that Resolution #29-16 was Passed 6-0 by the Council, I got a big lump in my throat. I have never met Mr. David Ballweg, Architect, and have never seen or talked to him. The one thing I do know is that his ARO Report addressing the Swing Line Grill was an extremely poor piece of work as I fully described and validated in this letter. He was obligated to comply with the requirements of Section #161 of the City Code – he did not.

Respectfully submitted,



James R. Tepe
Encl. Exhibits

PLANNING COMMISSION STAFF REPORT

Public Hearing No. 4, Case ZA-2016-28

Address: 7710 Railroad Avenue

Applicant: Tom Powers

Property Owner: B&B Mower Company

Zone: MSC

Request for a Swing Line Grill Initial Development Plan and request for a Parking and Sign Height Variance

Cincinnati Enquirer June 10, 2016



Overview:

The subject site is in the Main Street Core and is surrounded by the MSC to the south, east, west and north. The Madeira Historic District is located to the west and north of the subject property.

The site is the now vacant B&B Mower Company. The applicant is proposing to tear down the existing structures and erect a new 3,250sq ft restaurant. The applicant is requesting a variance from the parking requirements and for a sign height variance.

The proposed sign will be 15 feet from grade and sit upon the open air tower proposed by the plan. Code allows for the sign to be 12 feet from ground level necessitating the need for a 3ft height variance.

Please see the ARO report for the architectural design review.

History:

The applicant presented a plan to the Historical Preservation Commission for a preliminary review on May 23 and May 25. The original plan proposed a patio and awning projecting into the Madeira Historic District. While the application was not formal and no Certificate of Appropriateness was filed, the conversation during the meetings led the applicant to redesign the building. The entire building including the patio is now located completely on the B&B Mower property.

Per section 166.06(3)(a) the City Manager's office has deemed that this application is not essentially minor and will require the approval of the Planning Commission.

166.06 (5) *Submission requirements.* The following materials should be submitted with each application.

(a) *Initial application.* Applicants shall provide the following information and materials:

1. A conceptual site plan at a minimum scale of one inch equals 50 feet showing the size and location of all existing and proposed structures, indicating dimensions and square footage. The site plan shall also show the location of access and drive aisles, and the number of parking spaces; The applicant has provided a site plan with the setbacks shown. It is at a scale of 1in=20ft. Drive ingress and egress are shown. Public parking is shown on the plan but no designated parking. An agreement between the applicant and 5/3 Bank 7101 Miami Avenue providing for the designated use by Swing Line Grill after hours has been provided.
2. Photographs or illustrations showing all four elevations of existing and proposed

buildings; The applicant has provided conceptual drawings for all four elevations on the proposed site.

3. A hard cost estimate for the new construction or alterations; A cost estimate has been provided.

4. An external finish building materials and colors list, with samples or examples. Materials have been shown on the conceptual plans.

§166.21 Permitted Uses.

The applicant has requested to utilize this site for a restaurant. This is a permitted use in the Main Street Core.

§166.57 FRONTAGE.

(1) Seventy percent of the frontage of all lots along Miami Avenue, Laurel Avenue or Camargo Road shall be occupied by a building facade or a decorative solid wall or opaque hedge a minimum of three feet in height set to the sidewalk or set-to-line.

The applicant is proposing an open air tower at the south western portion of the lot and an approximate 20ft long wall at the south eastern portion of the lot at the 5' build to line. The applicant is proposing a portion of covered outdoor dining and open air dining that abuts the 5ft build to line. The City may allow up to 50% of a building's front facade surface to be setback further than five feet to create articulation per section 166.57(2). The applicant is also proposing plantings along the front of the outdoor dining area.

§ 166.60 PARKING.

(A) Parking garages and surface parking lots shall be designed in a way to reduce the visual impact

from Miami Avenue, Laurel Avenue or Camargo Road and accommodate parking for local businesses. The applicant has proposed to sell the land surrounding the building to the city to create a public parking lot. City Council has approved an agreement with the applicant to purchase the residual property contingent on Planning Commission's approval. The site plans show 17 parking space to the east of the Swing Line Grill. Combined with the other public parking owned by the City in the area it would create a public parking lot with 41 parking spaces.

(B) These standards shall also promote shared parking to reduce the necessary area needed to accommodate parking in the District. The applicant has submitted a letter indicating an agreement between the Swing Line Grill and 5/3 Bank for the use of the bank parking lot for Swing Line Grill parking after banking hours.

(1) *Location.*

(a) Parking lots shall be located to the side or rear of buildings. (See Figure 26.) No designated parking for the proposed site is shown. The shared City lot is shown to the east (side) of the building.

(b) No surface parking shall be permitted between the front of the building and the right-of-way. No parking is shown.

(c) Access drives and pavement for vehicular movement shall be prohibited between the front of the building and the right-of-way. No drives are shown between the front of the building and the right of way.

(d) Parking structures may be located at the minimum front yard setback but shall generally meet the architectural standards of this chapter. No Parking structures shown

(e) Setbacks as established in § 166.56.

Setbacks and Build-to Lines Per § 166.56 Building (15,000 sq.ft. or less)				
		Existing *	Proposed	Variance
Front Yard	A build-to line shall be established five ft. from and parallel to the front yard lot line	Extends into the ROW	Plan indicates patio and façade will be 5ft from the Railroad ROW	No
Side Yard	Minimum 0 ft. from side lot line; or Minimum 10 ft. from residential zone	Meets standard	The Plan indicates that the building will be 4' from the west property line and roughly 60' from the east property line	No
Rear Yard	Minimum 5 ft. from rear lot line; or Minimum 10 ft. from a single-family residential zone	Meets Standard	The plan indicates that the building will be 5 feet from the rear property line with a landscaped buffer.	No

(2) *Shared parking provision.* Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. A portion of the required parking spaces per §§ 150.24 and 150.25 may be located on an adjacent or nearby property in the District if the parking area complies with the following standards:

- (a) Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the Planning Commission as part of site plan approval; N/A
- (b) Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served; 5/3 Bank is in the same zoning district as the subject site.
- (c) In the event that a shared or off-site parking area is not under the same ownership as the principal use served, a written parking agreement shall be required and put on file with the city; Letter from 5/3 Bank indicating a shared Parking agreement submitted.
- (d) No shared or off-site parking space shall be located more than 600 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way, provided it uses a legal crosswalk. This distance may be waived by the Planning Commission; CAGIS indicates that the parking lot at 5/3 Bank is 128.01 feet from the subject site.
- (e) The applicant shall have the burden of proof for reduction of the total number of

parking spaces and shall document and submit information substantiating their request.

Shared or off-site parking may be approved if:

1. A sufficient number of spaces is provided to meet the highest demand of the participating uses;
2. Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the city, documenting the nature of uses and the times when the individual uses will operate to demonstrate the lack of potential conflict between them; Letter from 5/3 Bank has been submitted.
3. Shared or off-site parking shall not account for more than 75% of the required parking spaces as established in § 150.24; Variance Required. Please see ARO Report
4. The Planning Commission shall review and approve all shared or off-site parking facility plans and may place such conditions upon such plans as it deems necessary to ensure that adequate off-street parking spaces will be provided for all involved uses. Violations of these conditions may nullify the approved shared parking facilities plan and shall be deemed a violation of this chapter; and
5. Any change in use of the activities served by a shared or off-site parking facility will be deemed an amendment to the shared or off-site parking facility plan and will require Planning Commission review and approval.

(3) Parking standards.

The applicant is proposing to have no designated parking for this site. The applicant proposes to utilize a shared parking agreement with 5/3 Bank at 7101 Miami Avenue and a proposed public parking lot owned by the City. The proposed City owned parking lot would have 41 public spaces. The subject site would also be able to utilize on street parking in the area.

§ 166.61 VEHICULAR ACCESS.

The applicant is not proposing to build a parking lot for this site and is requesting a variance. The applicant does indicate that there is a proposed parking entry to the east and west of the building off Railroad Ave.

§ 166.62 LANDSCAPING AND SCREENING.

The applicant has not submitted a landscape plan with this preliminary application. However, the applicant does show landscaping along the rear and west of the building along with the front of the building.

§ 166.63 LIGHTING.

The applicant has not yet submitted a lighting plan for review but will do so at the final application.

David Ballweg, Architect

5837 Kenwood Road
Madeira, Ohio 45243
(513)-271-0679

ARO MEMO

Swing Line Grill
Railroad Avenue
Madeira, Ohio 45243

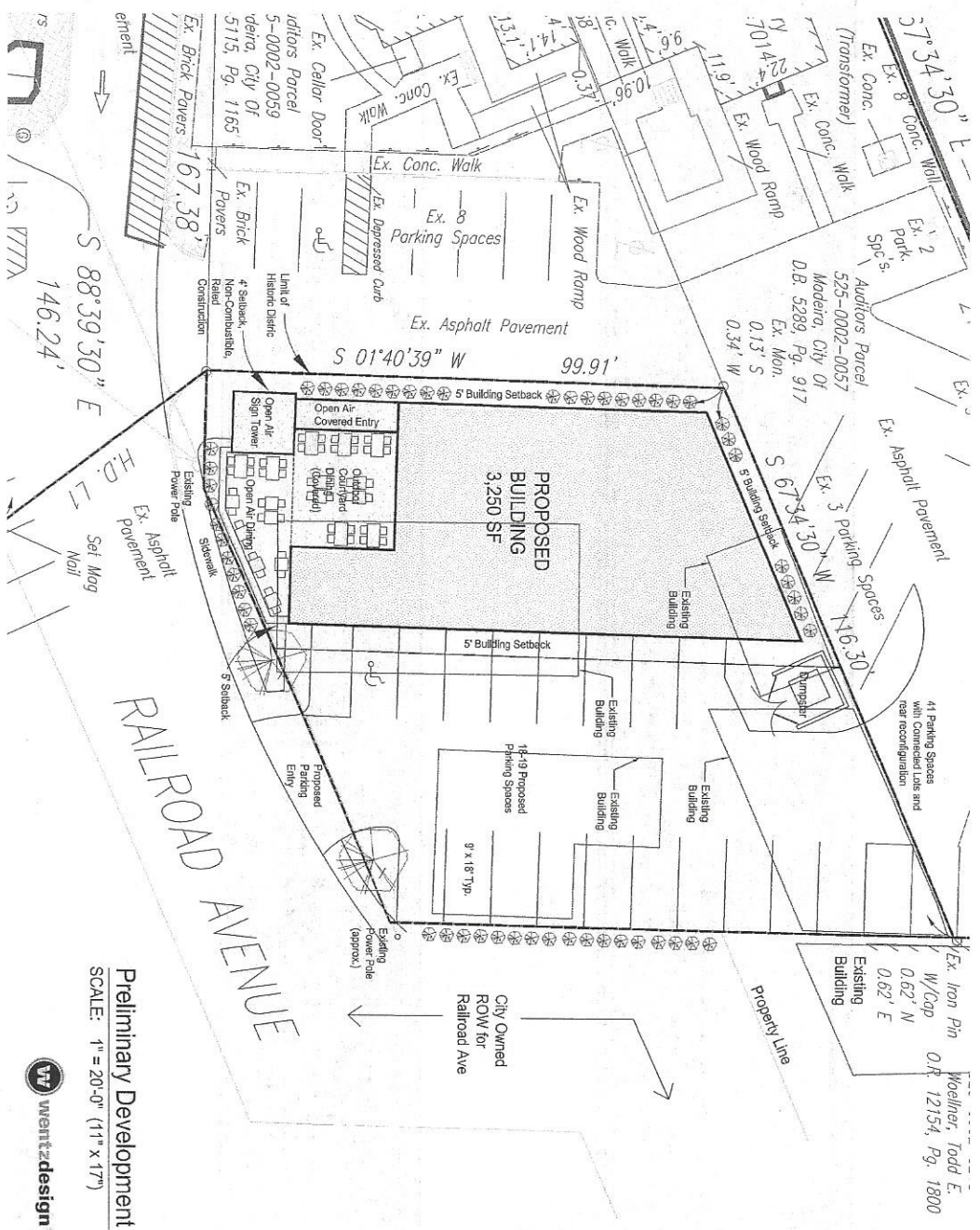
June 16, 2016

The purpose of this memo is review a proposal for a 3250 s.f. restaurant to be located on the former B & B Mower property.

Upon review of the preliminary design drawings dated May 26, 2016 I have the following recommendations and comments:

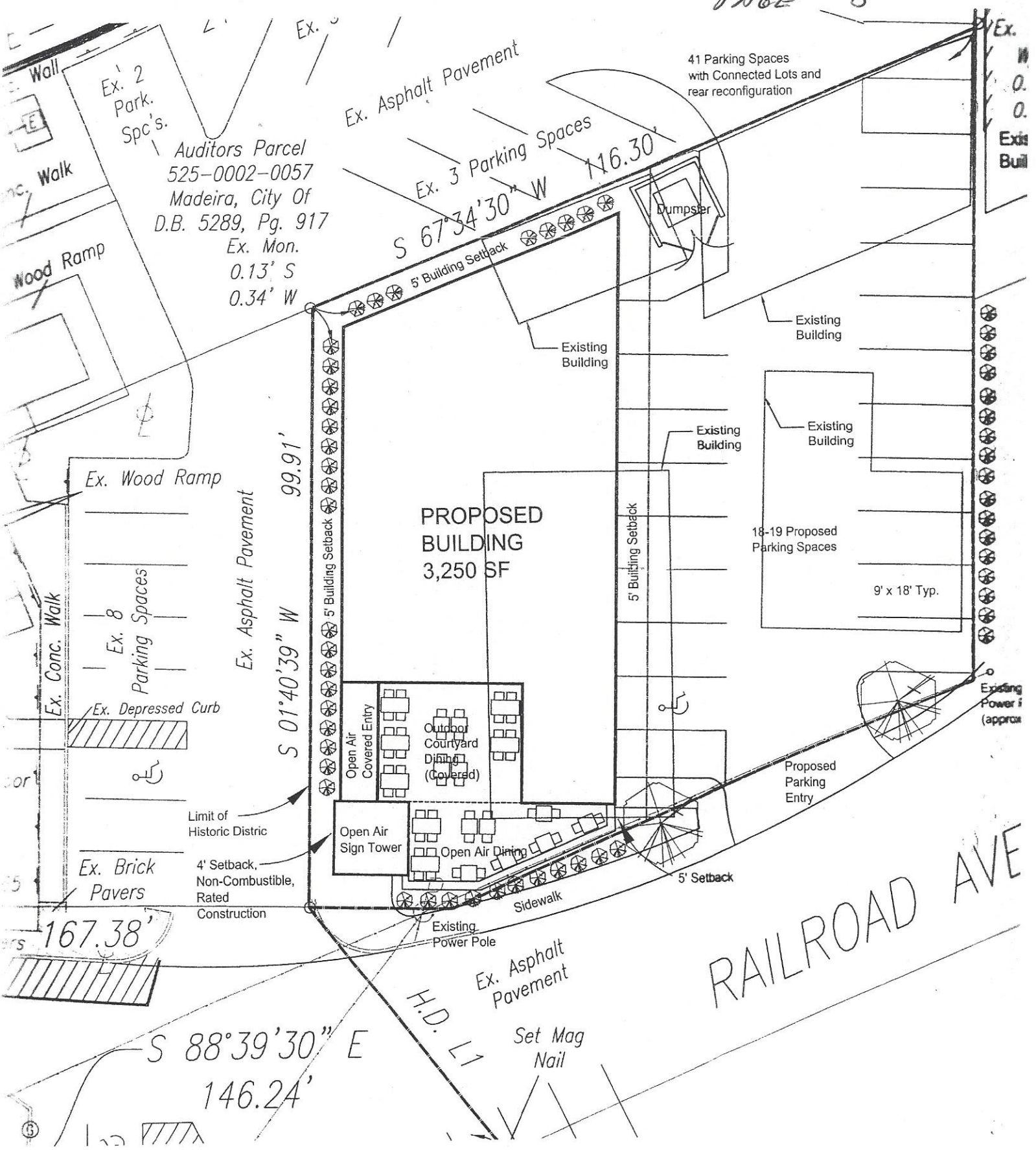
- 1) It would be helpful for the applicant to submit for review a floor plan of the proposed building.
- 2) The stone base and water table be continued around the base of the building on both the East and West elevations.
- 3) Submit pictures and/or cut sheets of the type and coursing of the stone material to be selected.
- 4) Replace the rough sawn timber lintels over the windows and doors with a precast or cut stone to provide a finished appearance and match the color and material of the cornice.
- 5) Continue the parapet detail on the East elevations and install leader boxes with downspouts.
- 6) Provide an additional roof top screen around the equipment if required.
- 7) Provide detailed plans of the proposed walks, curbs and landscape planters around the building, at the right-of-ways and parking lots.
- 8) Indicate the overall building heights of both the building and the sign tower.
- 9) Submit the fabric color and pattern for the awning.
- 10) Landscape plans to indicate type of plant material, location, spacing and size.
- 11) Parking lot lighting design, type of fixtures, location, height and overall lot photo metrics.
- 12) Elevations and details of the proposed dumpster enclosure.
- 13) Submit any additional site or building signage.
- 14) The applicant needs to submit locations of all mechanical units, both mounted on the building and on the ground. This will include HVAC units, gas, electric, water, sewer and sprinkler appurtenances including how the applicant intends to screen these units.
- 15) Submit for review and approval the following information:
 - Brick color
 - Stone color and pattern
 - Trim Colors- downspouts, window frames, flashing and coping.
 - Window frame colors
 - Cedar wood stain color
 - Color and style of the decorative metal fencing
 - Cut sheets of the decorative wall mounted lighting fixtures.

David Ballweg
Architectural Review Officer for the City of Madeira



Preliminary Development Plan
 SCALE: 1" = 20'-0" (11" x 17")
 May 26, 2016





Auditors Parcel
525-0002-0057
Madeira, City Of
D.B. 5289, Pg. 917
Ex. Mon.
0.13' S
0.34' W

PROPOSED
BUILDING
3,250 SF

18-19 Proposed
Parking Spaces
9' x 18' Typ.

RAILROAD AVE

Ex. Asphalt Pavement

Ex. 3 Parking Spaces
S 67°34'30" W 116.30'

41 Parking Spaces
with Connected Lots and
rear reconfiguration

Ex. Asphalt Pavement
S 01°40'39" W 99.91'

Limit of
Historic District
4' Setback,
Non-Combustible,
Rated
Construction

167.38'

S 88°39'30" E
146.24'

Ex. Asphalt
Pavement

Set Mag
Nail

H.D.

5' Setback

Sidewalk

Existing
Power Pole

Open Air
Covered Entry
Outdoor
Courtyard
Dining
(Covered)

Open Air
Sign Tower

Open Air Dining

Proposed
Parking
Entry

5' Building
Setback

5' Building
Setback

Existing
Building

Existing
Building

Existing
Building

Existing
Building

Existing
Power i
(approx

Exis
Buil

W
0.
0.

Wall

Ex. 2
Park.
Spc's.

nc. Walk

Wood Ramp

Ex. Wood Ramp

Ex. Conc. Walk

Ex. 8
Parking
Spaces

Ex. Depressed Curb

Handicap symbol

Ex. Brick
Pavers

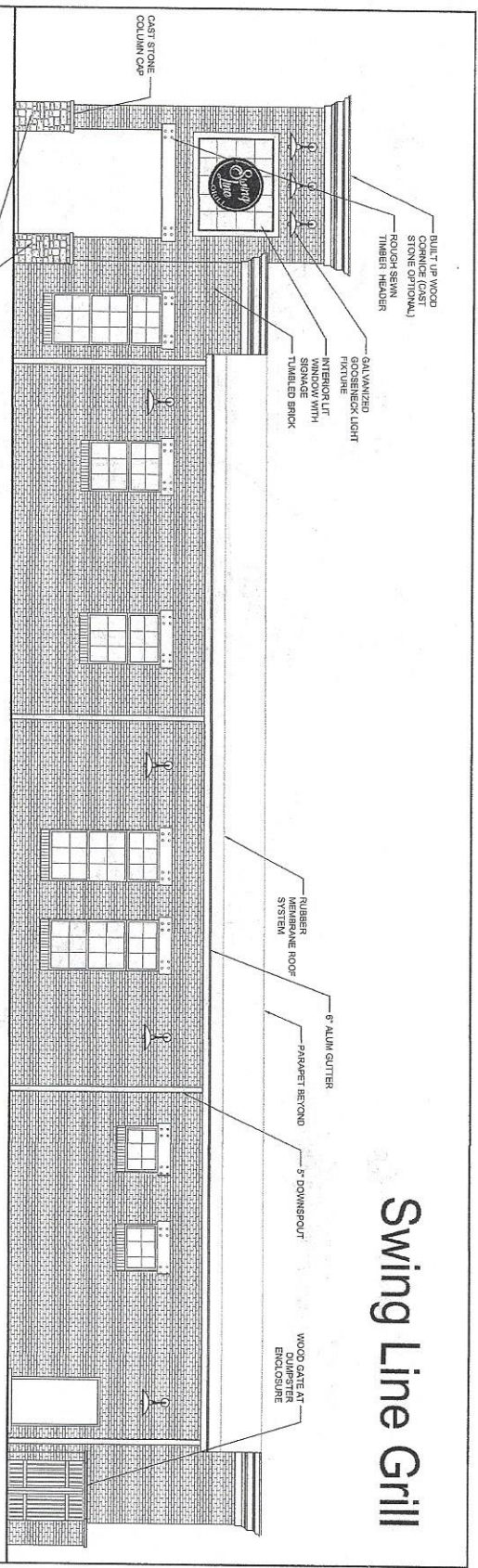
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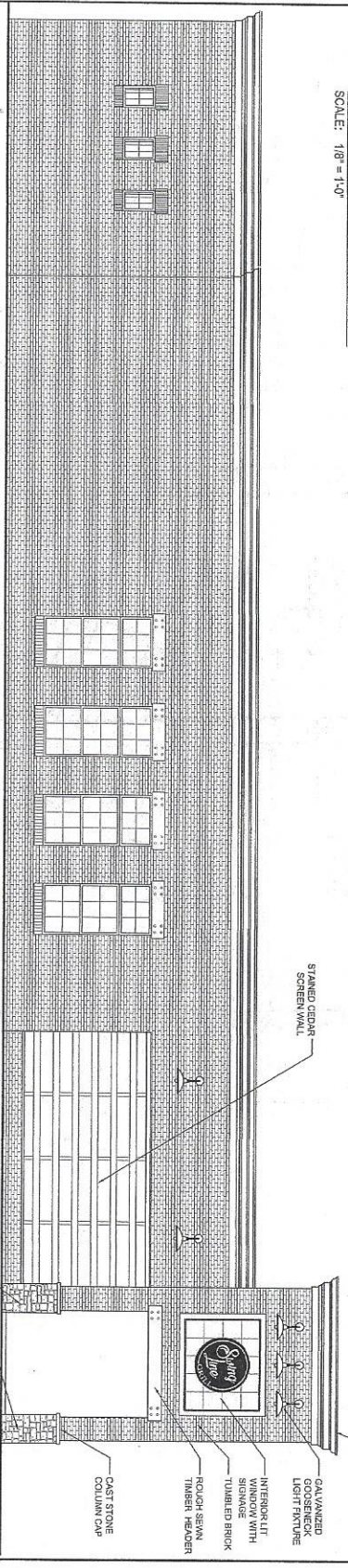
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Swing Line Grill

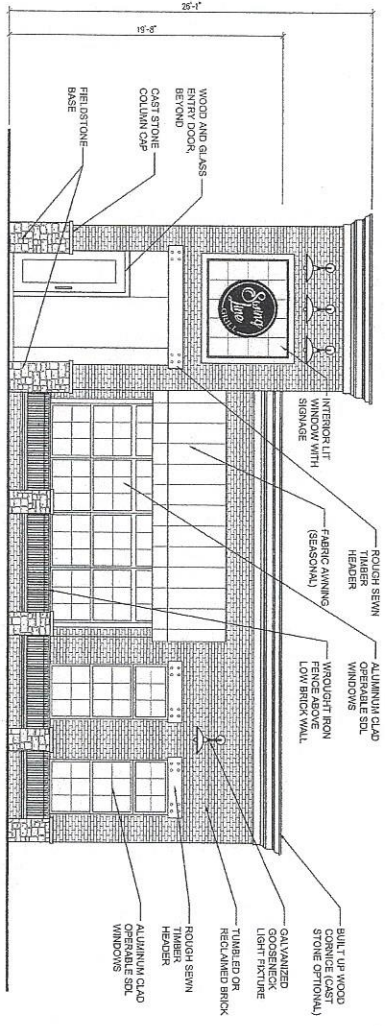


Preliminary Side Elevation (East)
SCALE: 1/8" = 1'-0"

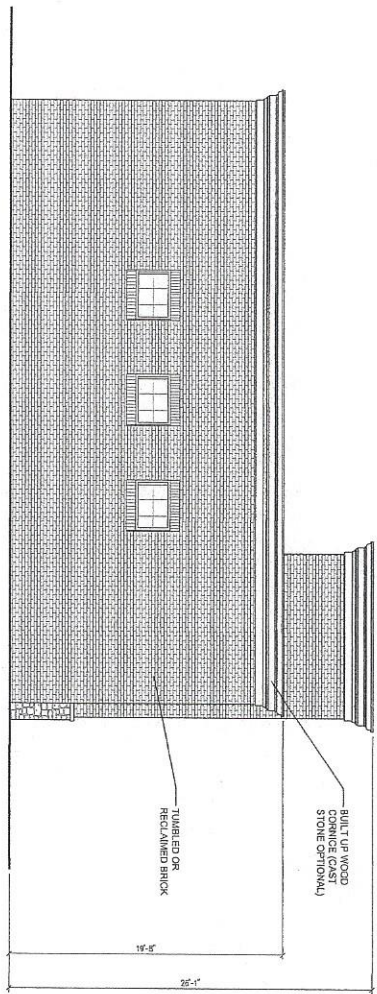


Preliminary Side Elevation (West)
SCALE: 1/8" = 1'-0"

Swing Line Grill



Preliminary Front Elevation (Facing Railroad Ave)
 SCALE: 1/8" = 1'-0"



Preliminary Rear Elevation (North)
 SCALE: 1/8" = 1'-0"

EXHIBIT "B"
PAGE # 1 5-23-16

***Disclaimer: All information on this form will become public record



CITY OF MADEIRA, OHIO
APPLICATION FOR COMMERCIAL VARIANCE
Revised February 2013

To: Madeira City Planning Commission Hearing Date:
7141 Miami Avenue
Madeira, Ohio 45243-2699

* You are encouraged to contact staff to assist you in preparing this application. The Planning Commission reserves the right to delay a decision if it determines that the application does not provide all relevant information.

Estimated Project Cost: \$ 745,000 (Attach estimate/quote)

A Variance from the Planning Commission does not supersede a deed restriction and/or covenant. As a property owner, you should be aware of any restrictions to your property in the form of deed restrictions and/or covenants.

1. Subject Property Information:

- A. Address: 7710-7720 RAILROAD
- B. Plat book, page and parcel number: S25-0002 - 0060 : 0061
Property Information can be obtained from the Hamilton County Auditor's Office
<http://www.hamiltoncountyauditor.org>.
- C. Zoning designation of subject property:
MAIN STREET CORE
(All zoning information can be obtained from the City of Madeira.)
- D. Adjacent property zoning designation:
Property to the north MAIN STREET CORE Property to the south MAIN ST. CORE
Property to the east MAIN ST. CORE Property to the west MAIN ST. CORE

2. Applicant Information:

- A. Name (Please print) THOMAS M. POWERS
- B. Mailing Address: (Street) 7608 Euclid Ave
(City) MADEIRA (State) OHIO (Zip) 45243
- C. Phone Number: (Day) 513 702 1341 (Evening) _____
- D. Email Address: tom.powers@cushwake.com

3. Property Owner(s) (if other than applicant):

- A. Name(s) (Please print): B: B BROWER SERVICES, INC.
- B. Mailing Address: (Street) RURAL ROUTE #1 Box 532
(City) SUGAR GROVE (State) Ohio (Zip) 43155
- C. Phone Number: (Day) 513-702-1769 (Evening) _____
- D. Email Address: gjb 538.2@gmail.com

4. Variance Request:

- A. Briefly explain what the variance is being requested for.
Parking and setback
- B. Site the specific Section of the Madeira Code that pertains to your variance request (see list below).

Madeira Code of Ordinances Reference:
 Chapter 150.20 Parking
 Chapter 150.24: Lot Requirements
 Other: _____

5. Past Variances:

- A. Are you aware of any variances requested or granted on the subject property?
(yes) _____ (no)
- B. If yes, give dates and complete details on a separate page.

6. Submission Requirements

16 copies of this application and all materials listed in the table below must be submitted at **least 21 days** prior to the Planning Commission meeting in order for the application to be placed on the agenda (see attached list with dates).

All materials must be assembled in separate packets. Please fold rolled drawings.

Fill in the table below to verify that this information was submitted. Write "submitted" where it is not asking for number of feet. Please use decimals. **Any blanks or incorrect information on the table will be considered an incomplete application.**

1.	A variance fee of \$150.00 plus \$1.50 per each \$1,000.00 of the total cost	
2.	A list of property owners within 200 ft. of the subject property	SEE ATTACHED
3.	Site plan based on survey including items 4 through 12 below	Surveyor Name:
4.	Complete property line	
5.	Street names	
6.	Title, scale, and north arrow	
7.	Existing and proposed structures on subject property	
8.	Setback line shown as dashed line on plan (See Section 150.24 of the Code)	Front _____ ft. Rear _____ ft. Side _____ ft. Side _____ ft.
9.	Distance from existing structures on subject property to property line in feet – include all projections outside foundation walls	Front _____ ft. Rear _____ ft. Side _____ ft. Side _____ ft.
10.	Distance from proposed structures on subject property to property line in feet – include all projections outside foundation walls	Front _____ ft. Rear _____ ft. Side _____ ft. Side _____ ft.
11.	Existing structures on adjacent property	
12.	Distance from existing structures on adjacent property to property line nearest subject property How was this measured?	(A TABLE) North <u>30</u> ft. East <u>3'</u> ft. South <u>70</u> ft. West <u>60</u> ft. L TRAIN DEPOT
13.	Elevations of front left, right and rear of the proposed structure including items 14 through 16	
14.	Label and describe all relevant materials (siding, paving, decking, etc.) and colors	
15.	Distance from finished grade to finished floor(s) (e.g. deck)	_____ ft.
16.	Distance from finished grade to top of highest point on structure	_____ ft.
17.	Proposed % of lot coverage (footprint of proposed compared to lot size within r-o-w)	
18.	Topographic site plan, drawn to scale depicting existing and proposed changes	
19.	Will the proposed variance result in any change in surface water drainage in either direction or volume from the subject site? Explain how this was determined. Explain how it will be mitigated.	N/A
20.	The completed variance request worksheet	
21.	Landscape Plan (This requirement may be waived by staff.)	N/A
22.	Renderings illustrating the proposed project (This requirement may be waived by staff.)	
23.	Photos of the site (optional)	
24.	Letters in support of project (optional)	

7. Signatures:

I certify that the information contained in this application and its supplements is true and correct. Applicant hereby grants permission to the City of Madeira Planning Commission and City staff to make visits to the subject property to review variance requests.

Applicant Signature: [Signature] Date: 5/23/16

Authorization of Owner (if applicant is other than owner):

As the owner(s) of the property located at 7710-7720 Railroad Ave

I/we do hereby authorize to file and proceed with this application for a variance concerning my property as stated in the Application for Variance request form. It is the applicant's responsibility to notify the property owner(s) of the Planning Commission's decision.

Owner Signature: [Signature] Date: 5-23-16

Owner Signature: _____ Date: _____

MADEIRA CITY PLANNING COMMISSION
VARIANCE REQUEST WORK SHEET

Date of Planning Commission Hearing:

Applicant Name: THOMAS M. POWERS Property location: 7710-7720 Railroad Ave

Variance requested for: Set back : Parking

- (1) Will the property in question yield a reasonable return or can there be any beneficial use of the property without the variance? YES : YES
- (2) Is the variance necessary to preserve a substantial property right (the reasonable enjoyment and use of the property) which is already possessed by the owners of other properties in the same area? YES
- (3) Are there exceptional or extraordinary conditions which apply to the subject property that do not apply generally to other properties in the same area? YES
- (4) Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance?
YES, the character will be enhanced. No, the adjoining properties will not suffer.
- (5) Would the variance adversely affect the delivery of governmental services (e.g. water, sewer, garbage)? NO
- (6) Were the applicable zoning restrictions in place when the property was purchased or acquired by the applicant? Did the applicant have a reasonable means of determining what zoning restrictions were in effect at the time the property was acquired? WE HAVE NOT ACQUIRED THE PROPERTY YET.
- (7) Can the property owner's predicament feasibly be obviated through some method other than a variance (such as a zoning change or redesign of the proposed plan)?
Possibly
- (8) Can the spirit and intent behind the zoning requirement be observed and substantial justice done if the variance is granted? YES

TO BE COMPLETED BY THE CITY OF MADEIRA

A. Legal Notice Published:

Date: _____

Newspaper: _____

B. Filing Fee Paid:

Amount: _____

Check Number: _____

Date: _____

C. FINDINGS:

1. Architectural Review Office Review Dates: _____

A copy of all Conference Memorandum generated from these meetings is included in the information packet presented to the Planning Commission.

2. Decision of Planning Commission:

VOTE: AYES _____ NAYS _____ ABSTENTIONS _____

DATE OF DISPOSITION: _____

Was property owner present at the Planning Commission meeting hearing?

(yes) ____ (no) ____

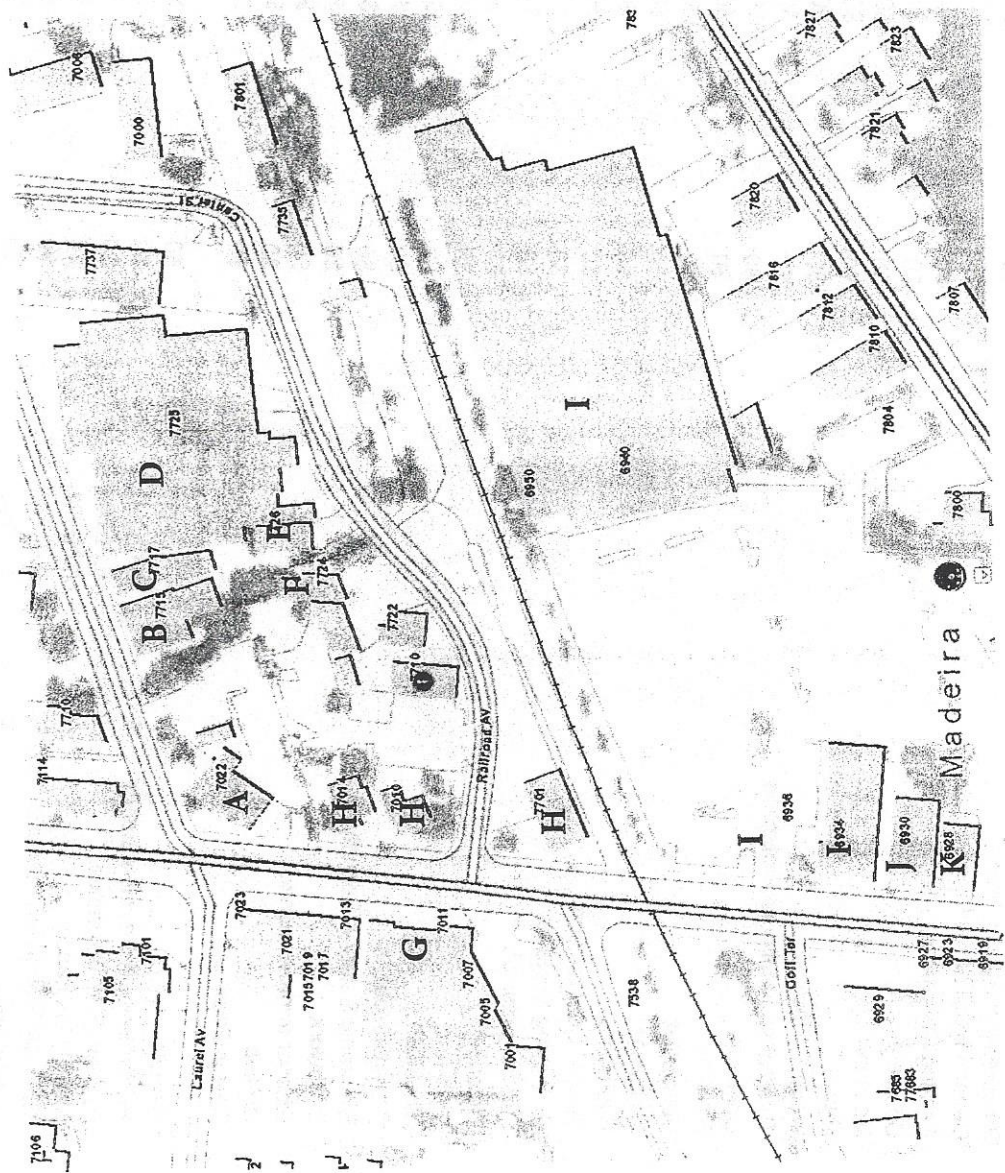
Was applicant present at the Planning Commission meeting hearing?

(yes) ____ (no) ____

Planning Commission Secretary Date Date Applicant Notified

Adjoining Owners

- A HWS Commercial Properties
- B Thomas & Mary Estell
- C Melanie Brandt
- D Robert McCabe Real Estate
- E Matthew Torborg
- F Woellner Enterprises
- G Milgo Madeira Properties
- H City of Madeira
- I Edgewood Investment LLC
- J Diane Pointer & Judith Hardin
- K 6928 Miami LLC



Zoning Code

<i>Use</i>	<i>Spaces Required</i>
Libraries, museums, art galleries and educational research centers	1 for each 500 square feet of floor area
Schools; public, parochial and other	
Elementary and junior high	1 for each 3 seats in an auditorium, or 1 for every 20 classroom seats, whichever is greater
Senior high	1 for each 3 seats in an auditorium, or 1 for each 10 classroom seats in all grades

(2) For permitted business, commercial, manufacturing, industrial, recreational uses:

<i>Use</i>	<i>Space Required</i>
Banquet halls	1 for each 50 square feet of floor area used for assembly or recreation
Bowling alleys	5 for each lane
General retail, wholesale and service establishments of all kinds, other than retail food stores	5 for the first 2,000 square feet or less of floor area and 1 for each 300 square feet of floor area in excess of 2,000
Greenhouses, nurseries and truck gardens	1 for each 500 square feet of selling area
Manufacturing plants, laboratories, food products industries and other industrial uses (except public utility buildings)	1 for each 500 square feet of floor area or 2 for each 3 employees on the maximum shift, whichever is greater
* Nightclubs, saloons, cocktail lounges and other operations which serve alcoholic beverages	1 for each employee plus 1 space for every 30 square feet of customer occupied area, or 1 for every 2 seats, whichever provides the greatest number of spaces, plus 5 additional spaces for carry-out services when provided
Public utility buildings primarily devoted to storage or mechanical equipment, gas and electric stations, dial exchange buildings and water pumping stations	1 for each 5,000 square feet of floor area
Restaurants, cafes, lunch rooms and cafeterias and other eating places	1 for each employee plus 1 space for each 50 square feet of customer occupied area, or 1 for every 3 seats, whichever provides the greatest number of spaces, plus 5 additional spaces for carry-out service when provided
Retail food stores, including delicatessens, grocery stores, meat-fruit-vegetable markets and supermarkets	5 for the first 2,000 square feet or less of floor area and 1 for each 150 square feet of floor area in excess of 2,000
Tennis courts	3 for each court
Theaters and similar uses, including commercial arenas	1 for each 4 seats

(L) Every parcel of land hereafter used as a public or private parking lot, regardless of whether or not the parking spaces provided therein are required by this Zoning Code, shall be developed and

RESOLUTION #17-16
PAGE 4, 4-25-16

D. The Purchase Price will be payable by Purchaser to Seller by wire transfer/cashier's check at Closing.

5. **Due Diligence.** Purchaser shall have a period of up to ___ (____) days after the Effective Date to:

A. Obtain, a current commitment for title insurance issued with respect to the Property in the amount of the Purchase Price (the "Title Commitment").

B. Review and approve the cut-up survey and Legal Description of the Property, as more fully described in Section 6. The cut-up survey and Legal Description shall also be reviewed and approved by Seller.

6. **Cut-up Survey; Legal Description.** Seller and Purchaser shall obtain, and shall equally share the expense of a metes and bounds legal description for the cut up of the Property to be sold and purchased, so that the Property can be conveyed to Purchaser and be subject to a separate tax bill. Seller and Purchaser shall have the right to approve the survey and legal descriptions, which approval shall not be unreasonably withheld or delayed. Seller may select the engineer/surveyor that will prepare the cut up survey, metes and bounds description, and easement plat. Seller shall be solely responsible for, and shall bear all expenses related to, any approvals required to sub-divide the Property and for recording all sub-division plats necessary to carry out the intent of this Contract.

* 7. **Contingencies.** Purchaser's obligation to buy the Property from Seller, and Seller's obligation to sell the Property to Purchaser shall be subject to the following Contingencies the satisfaction of which must be to the determining party's sole discretion:

A. Review and approval by the City of Madeira Planning Commission of the sub-division of the Property, site plan, design concept, character, building materials, and construction quality of the Seller's proposed Project, zoning, proposed setbacks; parking areas, as shown on Exhibit "D," and

B. Issuance of building permits acceptable to the Seller by the City of Madeira, Ohio for the Project; and

C. Approval of the legal descriptions of the Property by Seller and Purchaser; and

D. Location of easement(s) for any access deemed necessary by Seller and Purchaser acceptable to Seller and Purchaser; and

E. Review and approval of Seller and Purchaser of any easements required between the parties; and

* F. Approval of Seller of its liquor license to be issued to Seller as required by the State of Ohio and City of Madeira, Ohio; and

EXHIBIT #2
PAGE #1

Madeira - Land Usage

(c) The outdoor dining area shall not be unreasonably distracting to vehicular traffic. The ARO shall consider lighting, proximity to roadways, color schemes and desirability of screening or fencing the outdoor dining area;

(d) The type of activity that will occur in the outdoor dining area;

(e) The ARO shall not approve any lighting of the outdoor dining area that is distracting or unnecessarily impacts on adjoining properties or roadways;

(f) The ARO shall consider the zoning setback requirements of the district and evaluate the proposed outdoor dining facility to insure that there are no encroachments of permanent improvements in the required setbacks. The ARO shall also consider the visual and aesthetic impact of chairs, tables, umbrellas and other items placed within a required setback area, including the aesthetic elements set forth in the existing CBD regulations;

(g) The ARO shall not approve any plan that will cause any public sidewalk to be unreasonably impeded by the proposed plan. Any permit which approves the use of any public right-of-way (including sidewalks) shall be revocable at any time, without cause, by the city;

(h) The ARO shall consult, as appropriate, with the Fire Chief, Police Chief, Building Inspector or City Manager for advice and recommendations; and

(i) The ARO shall determine that the plan provides for sufficient screening of lights, noise and other activity in outdoor dining area from nearby residences. Consultation with affected residents is encouraged.



(D) *Outdoor dining plan.*

(1) Each application for an outdoor dining area must be specifically approved in writing by the ARO and City Manager. The approval of the City Manager shall signify that the plan has been approved by the ARO and that it meets the criteria set forth in divisions (C)(1) through (C)(14) above. The approval of the ARO shall signify approval of those items listed under (C)(14) above. No final approval shall be granted for any plan that does not comply with the City Zoning Code. No variances shall be permitted except by appeal to the Planning Commission.

(2) An outdoor dining plan must be submitted as part of the application for the permit approval. The plan shall include the following items:

(a) A sketch to scale of the premises clearly defining the area proposed for outdoor dining including any encroachment into a public right-of-way and/or sidewalks. The sketch must depict the proposed location of each item to be placed within the area, such as chairs, tables and umbrellas;

(b) Pictures or other adequate description of chairs, tables, umbrellas, fencing, screening, plantings and other changes proposed for the area;

OUTDOOR DINING REGULATIONS

SECTION # 150.16
(PAGE 4)

EXHIBIT # 2
PAGE # 2

Zoning Code

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(c) Description of service to be provided in the outdoor dining area, including the proposed hours of operation; whether alcoholic beverages will be served, consumed or mixed in the area; and the type of food to be served or brought into the area;

(d) Explanation of availability of parking, any agreements to share parking between property owners, and any proposed changes to traffic patterns (pedestrian and/or vehicular); and

(e) If the applicant is not the owner of the premises, an authorization of the owner of premises to apply for the outdoor dining permit is required.

(3) The City Manager shall cause each outdoor dining plan to be investigated regarding the adequacy of parking in the vicinity for serving any increased parking need generated by the outdoor dining area. This investigation shall include an evaluation of the existing needs of other businesses in the vicinity. Additional parking, up to the same ratio required for the indoor dining facility, may be required. No outdoor dining plan shall be approved if it proposes a reduction in any existing parking. A permit need not be renewed if outdoor dining creates unreasonable parking problems during a previous permit period.

(E) *Permit.* Application for a permit shall be made to the City Manager with the proposed outdoor dining plan.

(1) No outdoor dining area shall be allowed without a permit, or as otherwise approved by variance.

(2) A permit shall be issued only if the application complies with this chapter, and the required fee has been paid.

(3) Each permit shall be annual and shall expire on December 31 of the calendar year in which it is issued.

(4) The fee for the initial outdoor dining permit shall be \$25. Annual renewals of the permit shall be \$10 unless modifications to the plan have been made, in which case the permit fee shall be \$25.

(F) *Violation and enforcement.* The permit may be revoked upon written notice if the outdoor dining area is determined to violate the regulations of this chapter or the terms and criteria approved by the ARO and/or City Manager. The permit holder will have ten days to correct the specified violations unless there is determined to be a public hazard which will require the immediate removal or correction of the violation. Failure to correct the violations shall cause the permit to be revoked.

(G) *Appeal.* If application for a permit for an outdoor dining area is denied by ARO and/or City Manager, the applicant may appeal the decision to the City Planning Commission within 30 days from the denial. Such appeal shall be filed in writing with the City Manager.

(1985 Code, § 150.131) (Ord. 97-03, passed 2-10-1997) Penalty, see § 150.99

PARKING & SETBACKS MADEIRA ZONING CODE
#150.21 TO 150.29
UPDATED 2014 (THIS IS IT)

§ 150.21 SETBACKS.

(A) In any business district which borders on a federal highway or a state highway, there is required a setback of 30 feet from the street or highway right-of-way. Within this 30-foot setback there shall also be provided a ten-foot-wide planting strip.

(B) In any business or manufacturing district, which borders a county highway, there is hereby required a setback of 18 feet from the street or highway right-of-way. Within said 18-foot setback, there shall also be provided a ten-foot wide planting strip.
(1985 Code, § 150.17) (Ord. 1084, passed 1-17-1972; Ord. 88-12, passed 5-2-1988; Ord. 88-61, passed 1-3-1989; Ord. 10-16, passed 9-13-2010)

§ 150.22 LOT AREA REDUCTION LIMIT.

No lot shall be hereafter so reduced in area as to make its width or the area of any open space thereof less than the minimum width, area, and open space requirements then prescribed by this Zoning Code relative to the type of structure constructed thereon (or the type of structure for the construction of which thereon any valid building permit is then issued and outstanding) in the zone in which such lot is then located.
(1985 Code, § 150.18) (Ord. 1084, passed 1-17-1972)

§ 150.23 RESIDENCE ZONE FENCING.

Within the limits of a front or side yard in any residence district, no fence or wall shall be more than four feet high or occupy more than one-fourth of the air space through which it passes. Within the limits of a rear yard in any residence district, no fence or wall shall be more than six and one-half feet high. These provisions do not apply, however, to retaining walls. Any and all fences and/or walls shall be of commonly accepted type and construction for such applications and the type and construction shall be subject to approval of the City Manager. Appeals from the City Manager's decision in this regard shall be to the Planning Commission and the Planning Commission's decision shall be final. Fences and walls shall be maintained in good condition and the decorative side of such fence shall face away from the residence on such lot.
(1985 Code, § 150.19) (Ord. 1084, passed 1-17-1972) Penalty, see § 150.99

§ 150.24 PARKING.

For the purposes of this Zoning Code, a **PARKING LOT** shall be deemed to be and mean a parcel of land devoted to the unenclosed multiple parking of motor vehicles, and a **PARKING SPACE** shall be deemed to be and mean a permanently surfaced driveway permitting the satisfactory ingress and egress of a standard automobile.

X
SEE
"B"

Zoning Code

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(A) Parking space or spaces shall be provided on each lot on which a residence structure is hereafter erected, and the number of such spaces that shall be so provided shall be at least two in the case of a single-family dwelling. No driveway entrance, in any district, shall hereafter be constructed with, or altered to, a width of less than ten feet or more than 26 feet at the curb or roadway, and no driveway shall hereafter be constructed with, or widened to, a width greater at the property line than at the curb or roadway. Driveway entrances shall not hereafter on any lot be constructed or widened to occupy more than an aggregate of 26 feet of such lot's frontage on the same street. On any lot that has or shall have more than one driveway entrance from all abutting streets combined, no such entrance or part thereof shall hereafter be provided within ten feet from the adjacent side line of the nearest such entrance on the same lot. However, in districts other than residential the limit of 26 feet may be increased upon approval of the City Manager, if, in his or her judgment, such increase is necessary or desirable to provide easy and safe entrance and exit of motor vehicular traffic.

* (B) Before any building hereafter erected within any business district or manufacturing district, or any part of such building, is put to any use that customarily requires the receiving or distributing of material or merchandise by vehicle, at least one off-street space, suitable for truck use, not less than ten feet in width and 25 feet in length, shall be provided within or contiguous to such building.

(C) There shall be provided, at the time any building or structure or addition thereto, is erected, or at the time any use is extended or changed, off-street parking spaces for motor vehicles in accordance with the requirements hereinafter specified. Each such space shall contain an area of not less than 160 square feet, exclusive of access drives and aisles, shall be of usable shape and condition, and shall be provided with an access drive not less than ten feet in width. Such requirements shall apply whether or not such building, structure, addition or use is nonconforming and whether or not such requirements have been, or were required to be, met with regard to any prior use of the premises. Where any such structure is an addition to an existing structure, or where any such building, structure or use is on the same premises with an existing building, structure or use, and where such requirements do not apply to such existing building, structure or use, such requirements shall be calculated in terms of the area, facilities or population as the case may be, of such additional building, structure or use, in and of itself, but where such requirements do apply with regard to such existing building, structure or use, such requirements shall be additive and no such additional building, structure or use shall be permitted unless the total of such requirement, as applicable both to such existing and such additional building, structure or use, has been or is met.

(D) The required off-street parking spaces shall in each case be located on the same premises as the principal building in connection with which they are required, or on adjoining premises, or, in any manufacturing district, on premises within 300 feet from such building. Such distance shall be measured from the nearest point of the parking facility to the nearest point of the premises occupied by such building.

(E) For the purpose of determining off-street parking requirements under this Zoning Code, **FLOOR AREA** shall mean gross floor area, excluding any area used for parking within the principal building and any area in such building used for incidental service storage, mechanical equipment, ventilators and heating systems and similar uses.

Main Street Core District Zoning Regulations

§ 166.56 SETBACKS AND BUILD-TO LINES.

(A) Setbacks and build-to lines are established to provide adequate access to various parts of individual properties, to provide adequate space for ingress and egress, and to establish a consistent street wall within the District.

<i>Table II: Setbacks and Build-to Lines</i>			
	* <i>Front Yard</i>	* <i>Side Yard</i>	<i>Rear Yard</i>
Building (15,000 sq. ft. or less)	A build-to line shall be established five ft. from and parallel to the front yard lot line	Minimum 0 ft. from side lot line; or Minimum 10 ft. from residential zone	Minimum 5 ft. from rear lot line; or Minimum 10 ft. from a single-family residential zone
* Parking	Prohibited in front yard	* Minimum 2 ft. from any side lot line	* Minimum 2 ft. from any rear lot line

(B) The Planning Commission may waive setback requirements for partial modifications to existing structures.
(Ord. 10-23, passed 2-14-2011)

§ 166.57 FRONTAGE.

* (1) Seventy percent of the frontage of all lots along Miami Avenue, Laurel Avenue or Camargo Road shall be occupied by a building facade or a decorative solid wall or opaque hedge a minimum of three feet in height set to the sidewalk or set-to-line.

* (2) The city may allow up to 50% of a building's front facade surface to be set back further than five feet to create facade articulation or provide a plaza or another useful outdoor pedestrian space along the frontage.
(Ord. 10-23, passed 2-14-2011)

§ 166.58 LARGE BUILDING EXCEPTION.

Buildings with a footprint in excess of 15,000 square feet may be permitted in the District provided that the site and building meet the following criteria:

- (A) The large building is located on a site in excess of one acre;
- (B) The building's footprint does not exceed 45,000 square feet;
- (C) The building is appropriately articulated per the requirements of this chapter;

166.60 PARKING
MAIN STREET CORE DIST.
SHARED PARKING

Main Street Core District Zoning Regulations

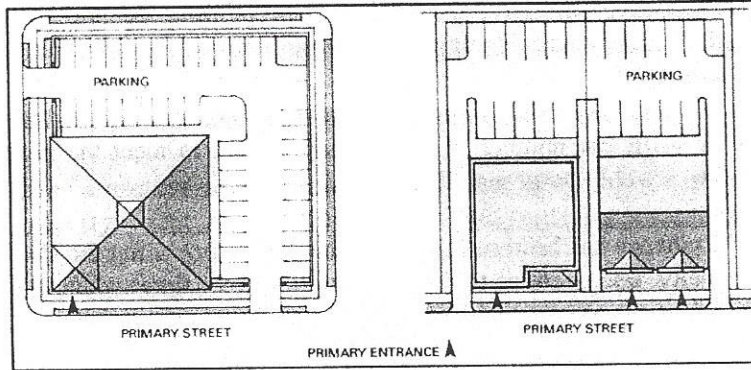


Figure 26: These diagrams show the preferred lot configurations for drives, parking and buildings.

- (b) No surface parking shall be permitted between the front of the building and the right-of-way.
- (c) Access drives and pavement for vehicular movement shall be prohibited between the front of the building and the right-of-way.
- (d) Parking structures may be located at the minimum front yard setback but shall generally meet the architectural standards of this chapter.
- (e) Setbacks as established in § 166.56.

X

(2) *Shared parking provision.* Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. A portion of the required parking spaces per §§ 150.24 and 150.25 may be located on an adjacent or nearby property in the District if the parking area complies with the following standards:

- (a) Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the Planning Commission as part of site plan approval;
- (b) Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served;
- (c) In the event that a shared or off-site parking area is not under the same ownership as the principal use served, a written parking agreement shall be required and put on file with the city;
- (d) No shared or off-site parking space shall be located more than 600 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way, provided it uses a legal crosswalk. This distance may be waived by the Planning Commission; and

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SECTION 166, 60 PARKING
IN MAIN STREET COAE DISTRICT.

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* (e) The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if:

1. A sufficient number of spaces is provided to meet the highest demand of the participating uses;

2. Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the city, documenting the nature of uses and the times when the individual uses will operate to demonstrate the lack of potential conflict between them;

* 3. Shared or off-site parking shall not account for more than 75% of the required parking spaces as established in § 150.24;

4. The Planning Commission shall review and approve all shared or off-site parking facility plans and may place such conditions upon such plans as it deems necessary to ensure that adequate off-street parking spaces will be provided for all involved uses. Violations of these conditions may nullify the approved shared parking facilities plan and shall be deemed a violation of this chapter; and

5. Any change in use of the activities served by a shared or off-site parking facility will be deemed an amendment to the shared or off-site parking facility plan and will require Planning Commission review and approval.

* (3) *Parking standards.*

(a) Minimum number of required parking spaces by use shall be as established in § 150.24.

(b) Minimum size for a standard perpendicular parking stall shall be 162 square feet with a width of nine feet and a length of 18 feet.

(c) Designated drive aisles shall be a minimum of 12 feet in width.

(d) All parking spaces shall be clearly marked with white pavement markings, and markings shall be maintained.
(Ord. 10-23, passed 2-14-2011)

§ 166.61 VEHICULAR ACCESS.

(A) One vehicular access point not to exceed 24 feet in width shall be permitted on each lot of record regardless of total width.

David Ballweg, Architect

5837 Kenwood Road
Madeira, Ohio 45243
(513)-271-0679

ARO MEMO

Swing Line Grill
Railroad Avenue
Madeira, Ohio 45243

June 16, 2016

The purpose of this memo is review a proposal for a 3250 s.f. restaurant to be located on the former B & B Mower property.

Upon review of the preliminary design drawings dated May 26, 2016 I have the following recommendations and comments:

- 1) It would be helpful for the applicant to submit for review a floor plan of the proposed building.
- 2) The stone base and water table be continued around the base of the building on both the East and West elevations.
- 3) Submit pictures and/or cut sheets of the type and coursing of the stone material to be selected.
- 4) Replace the rough sawn timber lintels over the windows and doors with a precast or cut stone to provide a finished appearance and match the color and material of the cornice.
- 5) Continue the parapet detail on the East elevations and install leader boxes with downspouts.
- 6) Provide an additional roof top screen around the equipment if required.
- 7) Provide detailed plans of the proposed walks, curbs and landscape planters around the building, at the right-of-ways and parking lots.
- 8) Indicate the overall building heights of both the building and the sign tower.
- 9) Submit the fabric color and pattern for the awning.
- 10) Landscape plans to indicate type of plant material, location, spacing and size.
- 11) Parking lot lighting design, type of fixtures, location, height and overall lot photo metrics.
- 12) Elevations and details of the proposed dumpster enclosure.
- 13) Submit any additional site or building signage.
- 14) The applicant needs to submit locations of all mechanical units, both mounted on the building and on the ground. This will include HVAC units, gas, electric, water, sewer and sprinkler appurtenances including how the applicant intends to screen these units.
- 15) Submit for review and approval the following information:
 - Brick color
 - Stone color and pattern
 - Trim Colors- downspouts, window frames, flashing and coping.
 - Window frame colors
 - Cedar wood stain color
 - Color and style of the decorative metal fencing
 - Cut sheets of the decorative wall mounted lighting fixtures.

David Ballweg
Architectural Review Officer for the City of Madeira

CHAPTER 161: ARCHITECTURAL REVIEW OFFICE

Section

- 161.01 Establishment
- 161.02 Powers and duties
- 161.03 Terms and qualifications
- 161.04 Appeal
- 161.05 Conflict of interest
- 161.06 Compensation
- 161.07 Review procedures of applications
- 161.08 Standards and criteria
- 161.09 Variances

§ 161.01 ESTABLISHMENT.

There is established an Architectural Review Office (ARO) consisting of one person to be appointed by the City Manager with the approval of Council.
(1985 Code, § 161.01) (Ord. 85-21, passed 9-23-1985)

§ 161.02 POWERS AND DUTIES.

The Architectural Review Office shall have the following powers and duties.

(A) The ARO shall review all proposed exterior construction and alteration plans in the city Business Districts "A," "B," "O" Manufacturing Districts, any parcels granted a variance for business use in any nonconforming areas utilized for business or manufacturing uses, subdivision development and double letter zoning districts now in effect or hereinafter created. No building permit will be granted by the City Manager without the written approval of the ARO after such review. The ARO shall also review all proposed signs or sign changes in all zoning districts in the city.

(B) The ARO shall assist and advise the Planning Commission on the design, amenities, quality, relationships to natural features, existing buildings and all other aspects of a site development plan being considered by the Planning Commission which relate to the appearance of an entire project, and all of its parts and surroundings. All standards, regulations and criteria contained in the ordinances of the city shall be considered by the ARO in its review.
(1985 Code, § 161.02) (Ord. 85-21, passed 9-23-1985; Ord. 88-58, passed 1-25-1989)

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§ 161.03 TERMS AND QUALIFICATIONS.

The Architectural Review Officer shall be appointed for a term of two years and shall be a registered architect skilled in the field of aesthetics and design.
(1985 Code, § 161.03) (Ord. 85-21, passed 9-23-1985)

§ 161.04 APPEAL.

A building permit denied based upon input from the Architectural Review Office may be appealed to the Planning Commission for an administrative hearing. The decision of the Planning Commission shall be final.
(1985 Code, § 161.04) (Ord. 85-21, passed 9-23-1985)

§ 161.05 CONFLICT OF INTEREST.

The person appointed to the Architectural Review Office shall not participate in the review of, or give advice upon, any work in which a partner or professional associate or associates has any direct or indirect interest. In the event that such a conflict of interest may arise, or the ARO is unable to participate in the review, a temporary ARO shall be appointed for such work in the same manner as the ARO is appointed.
(1985 Code, § 161.05) (Ord. 85-21, passed 9-23-1985)

§ 161.06 COMPENSATION.

Compensation shall be paid the Architectural Review Officer as is established by the City Manager for professional services. With the submission of each application the City Manager shall require a deposit to be made to cover a review expense equal to at least 25% of the fee charged for the applicable building permit.
(1985 Code, § 161.06) (Ord. 85-21, passed 9-23-1985)

§ 161.07 REVIEW PROCEDURES OF APPLICATIONS.

(A) A preliminary review may be scheduled with the City Manager and the Architectural Review Office to establish the intent and scope of the proposed application and to review the proposal as evidenced schematically by sketch plans. The City Manager and ARO may furnish the applicant written comments regarding such conference including appropriate recommendations to inform and assist prior to the preparation of the formal plan.

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Architectural Review Office

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(B) After receipt of a complete submission of an application for a building permit for construction or alteration in the districts designated in § 161.02(A), the City Manager shall refer such submission to the ARO.

(C) Within 30 days following receipt of such submission, the ARO shall advise the City Manager in writing of the approval or disapproval. If disapproved, such writing shall set forth the findings as to the basis for the determination. Such writing shall be open to public inspection.
(1985 Code, § 161.07) (Ord. 85-21, passed 9-23-1985)

* § 161.08 STANDARDS AND CRITERIA.

* (A) An application or a building permit shall be reviewed by the Architectural Review Officer who shall consider the following:

(1) *Materials.* Materials shall be appropriate for the use of building, for weathering and for relationship to other materials including those used on buildings in surrounding areas;

(2) *Colors and textures.* Colors and textures shall be appropriate for the size and scale of the building, for weathering and for relationship to the site and surrounding buildings;

(3) *Architectural details and ornaments.* Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the building and for weathering;

(4) *Mechanical equipment.* Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects. Also, mechanical equipment shall be considered as it relates to overhead wires, gas and electric meter stations and any other visible appurtenances;

* (5) *Approaches, drives and parking areas.* Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as safety, drainage and landscaping;

* (6) *Landscaping.* Landscaping shall be appropriate for the size and use of the area, and for its relationship to building, street, parking area, walks, buildings and surrounding areas. An adequate plan for the maintenance of such landscaping shall be submitted;

* (7) *Lighting.* Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas, the building and its effect upon surrounding areas;

(8) *Signs.* Signs shall be considered for appropriateness of size, scale, shape, color, content, text and illumination in relation to building site;

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* (9) *Utilities*. Adequate utilities, parking, access roads, drainage, landscape planting and other essential facilities and amenities will be provided;

* (10) *Ingress and egress*. Adequate measures will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public streets; and

* (11) *Service*. All service, loading and shipping areas of commercial and industrial buildings shall be screened by fences or walls and located so as not to create pedestrian or traffic congestion.

(B) The application shall otherwise comply with the standards and criteria of all appropriate and applicable ordinances of the city.

(1985 Code, § 161.08) (Ord. 85-21, passed 9-23-1985)

§ 161.09 VARIANCES.

In the event a zoning variance is required by an applicant to comply with the requirements established by the Architectural Review Office, the ARO may recommend to the Planning Commission as to the nature and extent of said zoning variance request. The Planning Commission may consider the recommendation as constituting a hardship sufficient to comply with the City Charter.

(1985 Code, § 161.09) (Ord. 85-21, passed 9-23-1985)

Cross-reference:

Zoning variances based on hardship, see § 151.125

Main Street Core District Zoning Regulations

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GENERAL PROVISIONS

§ 166.01 ZONING DISTRICT BOUNDARIES.

The Main Street Core District is shown on the official zoning map.
(Ord. 10-23, passed 2-14-2011)

§ 166.02 STANDARD APPLICABILITY.

All properties in the Main Street Core District ("the District") on the official zoning map of the city shall be subject to the regulations of this chapter. Where the standards in this chapter are in conflict with other sections of the code, the standards in this Chapter 166 shall apply.
(Ord. 10-23, passed 2-14-2011)

§ 166.03 PURPOSE.

(A) The District will maintain a "small town" character and provide an aesthetically cohesive and pedestrian friendly environment. It will be the commercial and cultural heart of the city and will be considered a destination spot for residents and visitors, where a mix of businesses can thrive.

X (B) The regulations will guide development and redevelopment and provide the basis for consistency and objective decision making for Planning Commission and staff when evaluating proposed development. The regulations will also protect neighboring residential areas adjacent to the Main Street Core so that these areas can maintain their character. To achieve the purpose, measures will be taken to:

- (1) Create a cohesive street view by setting buildings consistently close to the street and without major gaps;
- (2) De-emphasize the impact of surface parking by locating on-site parking to the side or rear of buildings and by screening from Miami Avenue;
- (3) Create visual interest with real and not faux, well articulated facades, including fenestration and floor demarcation;
- (4) Reflect human scale through small and medium sized elements;
- (5) Provide aesthetically pleasing lot-to-building proportions by addressing lot coverage and floor area ratios and minimum building frontage requirements for lots and blocks;

(6) Create a visually attractive color scheme with a palette of building materials and finishes including traditional and modern high-quality sustainable materials;

(7) Create pedestrian friendly and attractive signage; and

(8) Support private development improvements with high quality streetscaping, including landscaping where appropriate, outdoor dining, pedestrian scale furniture and lighting.
(Ord. 10-23, passed 2-14-2011)

§ 166.04 REVIEW PROCEDURES.

The Main Street Core District regulations are intended to provide guidance to property owners and city officials in the general aesthetic and functional improvement of the city's Central Business District. These regulations are intended to promote community investment while not posing a financial burden on property owners or the city. The following review procedure is established to identify the extent to which a project must comply with the Main Street Core District regulations.
(Ord. 10-23, passed 2-14-2011)

§ 166.05 ZONING PERMIT REQUIRED.

The City Manager or his or her designee has sole discretion to require that a zoning permit be obtained before conducting any exterior work.
(Ord. 10-23, passed 2-14-2011)

§ 166.06 APPLICATION PROCESS.

(A) Any modification, alteration or enhancement of a site or structure exterior within the District shall require a zoning and building permit.

(B) Projects identified by the City Manager or his or her designee as "essentially minor" shall be granted a zoning and building permit with administrative approval, whereas more extensive projects shall be subject to review and approval of the Planning Commission.

(C) Projects identified in the initial application stage as simple repairs and ordinary maintenance shall be deemed "essentially minor."

(1) *Stage 1: initial application.* The purpose of Stage 1 is for the City Manager or his or her designee to determine whether proposed construction (including renovation, repair, maintenance or other similar activities) shall be reviewed administratively as an "essentially minor" application or by Planning Commission. A pre-application meeting is recommended with the City Manager or his or her designee to determine the submission requirements.

Main Street Core District Zoning Regulations

(a) The City Manager or his or her designee shall review the proposed construction and may consult with the Architectural Review Officer (ARO) or the Chair of the Planning Commission before he or she makes the decision whether the proposed construction is essentially minor.

(b) Construction shall be deemed (designated) essentially minor if it, when completed, will have primarily preserved the use, function, form, scale and accessory uses that existed prior to the construction.

(c) Construction deemed essentially minor shall be granted an essentially minor certificate, and applicants shall submit application for a building permit under administrative review. All other projects shall require Planning Commission review and approval prior to the issuance of a building permit.

(d) Stage 1A: determination of modification type. The following factors shall be weighed and considered in determining whether the construction is essentially minor.

1. Will the proposed construction significantly alter the exterior appearance of the existing building or site design in one or more of the following ways?
 - a. Height;
 - b. Setbacks;
 - c. Footprint;
 - d. Entrance;
 - e. Fenestration;
 - f. Envelope (volume);
 - g. Exterior materials or colors; and
 - h. Landscaping or parking.
2. Will the construction essentially preserve the form and use of the existing building and site?
3. Is the estimated cost of the construction to the exterior of the building and site sufficient to justify that the modifications be compatible with the aesthetic vision of the Main Street Core District regulations?

(e) Stage 1B: determination of modification magnitude.

1. For the City Manager or his or her designee to determine that a project is essentially minor, management must find that:

a. The construction will not increase the dimensions of a building or structure by more than 10% of the square footage of the existing building or structure, exclusive of the alteration or expansion;

b. The project will not involve additional land other than the lot of record;

c. The cost of the exterior renovation of the structure does not exceed 25% of the assessed value of the building or structure to be altered, prior to the renovations; and

d. The alterations do not require dimensional variances from the regulations of this chapter.

2. If the City Manager or his or her designee determines that the construction is essentially minor, he or she shall so certify in writing. A file containing the certification, copies of the proposed construction and staff comments and recommendations shall be assembled and retained for not less than five years after completion of the proposed construction.

3. For the purposes of this chapter, it shall be presumed that any additional construction proposed within five years of an essentially minor certification will not qualify as essentially minor. The intent of this presumption is to prevent or discourage circumvention of ultimate design guidelines of this chapter through the cumulative effect of multiple minor improvements.

(f) Stage 1C: administrative review application. Once a project has been certified essentially minor, the applicant may apply for a zoning and building permit without requesting approval of the Planning Commission. However, the application shall be reviewed for specific compliance with applicable sections of the Main Street Core District regulations and deemed in compliance by the City Manager or his or her designee, prior to the issuance of a building permit.

(2) *Stage 2: Planning Commission review application.* In the event the City Manager or his or her designee does not find an application to be essentially minor or in conformance with the standards of this Chapter 166, the City Manager or his or her designee shall make the determination that the application must be reviewed and approved by Planning Commission. The Planning Commission shall review the application for appropriateness and equivalency to the intent and purpose of this chapter. The Planning Commission may grant an equivalency or modification of a requirement if it makes a finding that the effect of the proposed submission is consistent with the intent and purpose of this chapter. The equivalency finding shall be part of the official record of approval and issuance of the certificate of appropriateness and the zoning permit.

(a) Prior to the issuance of a building permit, the Planning Commission must approve proposed construction or modification of buildings within the Main Street Core District that has not been

Main Street Core District Zoning Regulations

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certified as essentially minor by the City Manager or his or her designee. Implicit in such an application is that an essentially minor certification has not been issued. Application to and review by the Planning Commission shall be evaluated in the same manner whether or not an essentially minor certification has been sought (and denied).

(b) As they are form based, the regulations for the Main Street Core District include both dimensional and flexible aesthetic standards. Review for substantial or equivalent compliance with both types of standards shall be required for zoning approval and issuance of a building permit.

(3) *Stage 3: dimensional review.*

(a) Upon receipt of an application for proposed construction within the Main Street Core District, the City Manager or his or her designee shall review and determine dimensional compliance with these standards. This shall include identification of any proposed reconstruction of existing buildings that are dimensionally nonconforming. Variances that are identified shall be set forth in a report to Planning Commission. The notice and process of review shall be the same as required for other dimensional variances.

(b) The Planning Commission shall weigh and consider the "Duncan" factors for each dimensional variance identified.

(4) *Stage 4: design review of aesthetic standards.*

(a) The Planning Commission shall serve as a Design Review Board and evaluate the proposal for reasonable compliance with the overall aesthetic guidelines.

(b) The standard of compliance is intended to be "reasonable" rather than "strict" to allow for design review that is flexible for both the applicant and city to achieve a product that is appropriate for the district.

(c) The standard of compliance with the aesthetic guidelines should be the determination of the Planning Commission stating that the proposed construction achieves a significant compatibility with the aesthetic guidelines set forth in the Main Street Core District regulations.

(d) The Planning Commission should find that the proposed construction avoids a direct conflict with the overall images, impressions and net impact of buildings and accessory structures, including parking, landscaping and lighting described in the Main Street Core District regulations.

(e) The Planning Commission shall refrain from imposing additional aesthetic requirements if the proposed construction does substantially resemble the examples set forth in the Main Street Core District regulations. Aesthetic guidelines are inherently subjective and, therefore, the Planning Commission shall endeavor to adhere to the guidelines as they are substantially expressed in these regulations.

EXHIBIT # 9
PAGE # 6

Madeira - Land Usage

(f) It is recognized that it is unlikely and unreasonable to require a building to comply with all examples in the regulations because the regulations anticipate variation in final appearances (eclectic) from building to building.

(g) The Planning Commission shall make findings that the application:

1. Conforms in all pertinent respects to the requirements contained in this chapter;
2. Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
3. The development has adequate public services and open spaces;
4. The development provides adequate lighting for safe and convenient use of the streets, walkways, driveways and parking areas without unnecessarily spilling or emitting light into adjacent properties; and
5. The landscape plan will enhance the principal building and site and maintain existing trees where appropriate; buffer adjacent incompatible uses; break up large expanses of pavement with natural material; and provide appropriate plant materials for the buildings, site and climate.

(h) The approval by Planning Commission shall not be construed to imply compliance with all other local, state and federal laws and regulations.

(i) An affirmative vote of approval of the majority of the Planning Commission members may determine whether the proposed construction complies with the aesthetic guidelines of the district or has been found to be equivalent by Planning Commission.

(5) *Submission requirements.* The following materials should be submitted with each application.

(a) *Initial application.* Applicants shall provide the following information and materials:

1. A conceptual site plan at a minimum scale of one inch equals 50 feet showing the size and location of all existing and proposed structures, indicating dimensions and square footage. The site plan shall also show the location of access and drive aisles, and the number of parking spaces;
2. Photographs or illustrations showing all four elevations of existing and proposed buildings;
3. A hard cost estimate for the new construction or alterations; and
4. An external finish building materials and colors list, with samples or examples.

Main Street Core District Zoning Regulations

(b) *Final application.*

1. All applications for Planning Commission or administrative review for zoning approval or building permits shall include:

- a. A land survey;
- b. A site plan depicting the exact dimensions of the site and all buildings, structures and parking areas;
- c. A landscaping plan showing the location and type of all proposed landscape areas, plantings and screening/buffering;
- d. A signage plan showing the location, size and type of all signs, illustrations or elevations showing the proposed appearance of all signs;
- e. A lighting plan showing the location, type, height and intensity and photometric of all lighting;
- f. Building plans showing general dimensions, materials and uses;
- g. Exterior building elevations showing the proposed appearance of the building, including a proposed materials list; and
- h. Any other information deemed necessary by the City Manager or his or her designee, Architectural Review Officer or Planning Commission to determine compliance with this chapter.

2. In the case of a project with an essentially minor certificate, the City Manager or his or her designee may waive any of the above submission requirements that he or she deems unnecessary for the comprehensive review of the proposed project.
(Ord. 10-23, passed 2-14-2011)

§ 166.07 DEFINITIONS.

(A) *Purpose.* For the purpose of this chapter, certain terms are defined as follows. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular; the word "structure" includes buildings; the word "shall" is always mandatory and not merely directive; the word "should" is directive; the word "may" is permissive; and the word "lot" includes plot, parcel or site.

(B) *Definitions.* Other words and terms shall have the following respective meanings.

ACCESSORY USE. A use of land, or building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ARCHITECTURAL REVIEW OFFICER. The professional architect responsible for the review and approval of architectural elements of submitted permit applications, appointed by the City Manager and approved by City Council. See Chapter 161.

ARTICULATION. To divide a building's facade into distinct and significant parts.

AWNING. A non-load bearing roof-like cover of canvas, similar fabric or standing seam metal roof over a frame, designed and intended for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walk or door, and is supported entirely by attachment to a building wall. (See Figure 1.)

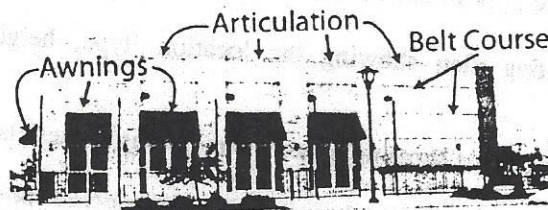


Figure 1: Building shows articulation, awnings and belt courses.

BELT COURSE. A slight recess or projection of masonry or similar material running horizontally through a facade. See also **STRING COURSE**.

BRICK VENEER. An exterior cladding of traditional brick materials of less than one inch in thickness, applied to an underlying structural support wall such as one of concrete masonry units using a mortar or float technique, which results in the appearance of a traditional brick finish.

BUILDING HEIGHT. The height of a building when measured from the finished grade at the center point of the front facade to the average point between the eaves and peak or ridge of the roofline on pitched roof structures and finished grade to the top of the exterior wall or parapet on flat roofed structures. (See Figure 3.)

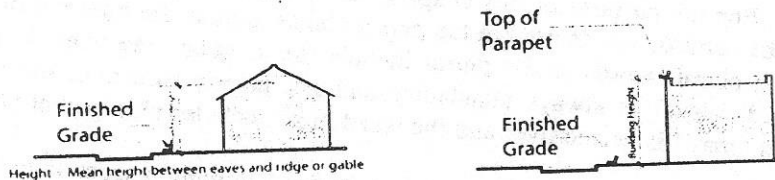


Figure 3: This illustration shows the appropriate way to measure building height for both pitched and flat roofed structures.

CONTRACT FOR PURCHASE

This Contract for Purchase ("Contract") is entered into as of this ____ day of _____, 2016 ("Effective Date") and made by and between **Thomas M. Powers**, having an address of _____, (hereafter, "Seller" and upon the Closing of the purchase under this Contract between Seller and Purchaser, the "Company,") and **City of Madeira, Ohio, an Ohio municipal corporation**, 7141 Miami Avenue, Madeira, Ohio 45243 (hereafter, "Purchaser" under the following terms and conditions:

RECITALS:

*

A. Purchaser has determined it to be a public purpose for certain long-term strategic economic development and planning efforts to enter into this Contract with Seller and Company and to provide additional public parking spaces in the Central Business District, as generally depicted in Exhibit "A". Seller intends to make a good faith effort to preserve or create jobs and employment opportunities within the City Of Madeira, Ohio.

B. Seller will own certain real property (for which he is in negotiations to purchase, as more fully described below) consisting of approximately ~~11,500~~ square footage of land, (or that which is found to be the actual square footage by survey pursuant to Section 4), as set forth in Exhibit "B", being a portion of the land located at 7710 Railroad Avenue, Madeira, Ohio 45243, but shall, in no event, exceed ~~8,000~~ square feet, as more fully described in Section 4 below. The land is located in Hamilton County, Ohio and is generally described in Exhibit "C" attached hereto. Said land and all appurtenant rights, privileges, and easements thereto are sometimes hereinafter referred to separately and collectively as the "Property" and the "B & B Mower Service, Inc. ("B&B") Property."

*

C. Purchaser has determined that the agreements and transactions provided for in this Contract will facilitate positive long-term development planning and encourage development that will benefit the people of the City of Madeira, Ohio by increasing opportunities for employment and strengthening the economic welfare of the City of Madeira, Ohio.

D. Seller has been in negotiations with B&B to purchase the B&B Property, located at 7710 Railroad Avenue, Madeira, Ohio 45243 (the "B&B Property").

E. A lawsuit has been filed in the Court of Common Pleas, Hamilton County, Ohio, Case No. A-15-06891 captioned "City of Madeira Ex Rel. Douglas Oppenheimer, Relator, v. City of Madeira, et al," (the "Lawsuit") which attempts to prevent the Seller hereunder and the Purchaser hereunder to enter into another contract captioned the "First Contract For Sale And Purchase" for the purchase and sale of an adjoining piece of property (the "First Contract"). The parties hereto intended to enter into the First Contract, but based upon the filing of the Lawsuit the parties were temporarily prevented from doing so, pursuant to the Agreed Preliminary Injunction. If the Lawsuit is dismissed or decided in favor of the Purchaser hereunder, the parties intend to enter into the First Contract.

F. Seller and Purchaser acknowledge that Seller has committed to construct a restaurant on the B & B Property and that subject to Section 3 b below, Purchaser reserves the right to maintain flexibility in the future use of the Property.

EXHIBIT #11
PAGE #1

James R. Tepe
7450 Baywind Drive
Cincinnati, Ohio 45242
513-791-0378

June 27, 2016

Members of City Council
City of Madeira
7141 Miami Ave.
Madeira, Ohio 45243

Page 1 of 3

Subject: Resolution #17-16, B & B Mower Property (Railroad Ave.), Swing Line Grill, City Parking Lot

Dear Ladies and Gentlemen of the City Council of Madeira:

After addressing the City Planning Commission as to my opposition regarding their possible "Total Disregard" of certain important aspects of the Madeira Main Street Core Zoning Code at their June 20th Public Hearing Variance Request regarding the subject proposal, and, hearing the City Manager attest to the multitude of received emails favoring the proposal, and, witnessing the "parade" of residents who spoke in favor of the proposal, it was obvious that my analysis and resulting opposition to the proposal was in the minority to say the least. After the Hearing, I immediately went home and proceeded to take a "Full Blown Conscience Check". I asked: if there are that many people favoring this development, why am I so wrong? I concluded that— either I don't fully understand the facts here- or- the other people favoring the project don't understand them.

Here is the short list of the important facts as I understand them:

- 1) Owners of the B & B Mower property on Railroad Ave. wish to sell their 11,500 square feet of property.
- 2) The apparently agreed Selling Price is \$42.00 per sq.ft. for 11,500 sq.ft. = \$ 483,000.00 (this equates to \$1,829,520.00 per acre which is quite excessive based on sales in this business area.)
- 3) Mr. Tom Powers, developer of the proposed Swing Line Grill Restaurant will require at least 68 parking spaces to comply with Zoning Regulations. (I understand Mr. Powers also owns Paxton's Restaurant in Loveland, which indicates he is not a "new-comer" to the independent restaurant business.)
- 4) Mr. Powers has or intends to:
 - A) exercise his option to purchase the 11,500 sq.ft. at \$42.00 per sq.ft. from the B & B owners,
 - B) use 3,250 sq.ft. for his Swing Line Grill proposed building per the Preliminary Development Plan,
 - C) use 250 sq.ft. for minor landscaping and to somewhat comply with zoning set-back requirements, (Mr. Powers would own and consume 3,500 sq.ft. at \$42.00 per sq.ft. = \$147,000.00 in land cost. Please note that Mr. Powers's 3,500 sq.ft. development plan provides absolutely zero parking spaces, no street curb-cut whatsoever, no delivery truck access for food & supplies deliveries, no vehicle access to his exclusive use dumpster located near his building's rear delivery door.)
 - D) sell the remaining 8,000 sq.ft. to the City of Madeira at \$38.00 per sq.ft.= \$ 304,000.00 in land cost, **provided** the City of Madeira builds, at the city's sole expense, (estimated by the city to cost about \$239,000.00 for the "improvements" plus \$304,000.00 cost of the land, thus equaling a total city cost of \$543,000.00) a City owned, operated, and maintained so called "Public Parking Lot" containing 18 or 19 parking spaces, so to give Mr. Powers a perceived 18 space parking lot, access for Swing Grill food and supplies delivery trucks, and, access to the private dumpster for Swing Grill's exclusive use.

June 27, 2016

Page 2 of 3

To: Members of Madeira City Council
From: James R. Tepe

- 5) The City of Madeira has agreed, among other things in their (not yet executed but "Approved" "CONTRACT FOR PURCHASE" between Mr. Thomas Powers and the city, to purchase the 8,000 sq.ft. of land at a cost of \$38.00 per sq.ft. and build the 18 or 19 space adjacent perceived "Public Parking Lot", provided Mr. Powers was able to secure the "Review and approval by the City of Madeira Planning Commission of the subdivision of the property, site plan, design concept, character, building materials, and construction quality of the Seller's proposed Project, zoning, proposed setbacks: parking areas as shown on Exhibit "D" (Exhibit "D" is blank and marked "to be determined")
- 6) Mr. Powers secured the required Zoning Variances and the "Planning Commission Approval" at the June 20th Public Hearing I spoke at.

I PASSED my "Full Blown Conscience Check" - I again concluded to oppose this project.

Here's why:

- 1) I totally support "Independent Business" and "Free Enterprise". I would be in line to welcome Mr. Powers to the "Free Enterprise Club" of the City of Madeira if these "conditions" were different.
- 2) I totally detest "Political Favors" and "Subsidies" that inevitably cause - unequal and unfair advantages being "gifted" to some businesses but not others. The level playing field is no longer level or fair.
- 3) Every citizen of this city and every business operator in this city should be yelling "**Foul - Foul**" because the Planning Commission has totally ignored these Zoning Code requirements:
 - A) Section 160.60 of the Madeira Main Street Core District Zoning Code - specifically item "2" reads Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. A portion of the required parking spaces per Sect. 150.24 and 150.25 may be located on an adjacent or nearby property in the District if the parking area complies with the following standards. (A PORTION does not mean ALL)
 - B) Section 166.60 of the Madeira Main Core District Zoning Code - specifically item "(e) 3" of the Shared Parking Provision" reads; "Shared or off-site parking shall not account for more than 75% of the required parking spaces established in Sect 150.24". (75% does not mean 100%)
- 4) The effective results of the "Political Favors" and "Subsidies" granted to Mr. Powers would be:
 - A) Mr. Powers will not have to invest \$543,000.00 of his money for a "Private Parking Lot" to properly satisfy the Zoning Code requirements. Every other business operator has had to supply at least some "reasonable" parking space quantity. (The City will spend the Taxpayer's money.)
 - B) Mr. Powers will not have to maintain the "Free" Public Parking Lot - like snow removal, routine asphalt sealing and line painting, maintenance of the parking lot lights, clean-up as required. Every other business operator has to do this type of maintenance or pay to have it done. (I'm sure this is another substantial gift as the City Taxpayers will have to pay these costs.)
 - C) Annually, each and every future year for decades to come, Mr. Powers will not have to pay Real Estate Taxes on the value of the \$543,000.00 Parking Lot. Every other business operator would love to "pass-off" paying a portion of their rightful tax. (This is a \$5,000.00 or \$6,000.00 annual gift to Mr. Powers, and, because the City would own the perceived "Public Parking Lot", the General Fund and School District will never receive any revenue from this parcel of ground.)
 - D) Within the perceived "Public Parking Lot", citizens trying to come - or - go - or - go through the lot may encounter 1) unable to enter the lot because of a delivery vehicle or a dumpster truck, 2) unable to get your car out and be "penned-in" by a delivery truck, 3) unable to go through the lot because of a delivery truck. (None of these situations would occur in an "Authentic" Public Lot)

EXHIBIT #11
PAGE #3

June 27, 2016

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To: Members of Madeira City Council
From: James R. Tepe

Can anyone really visualize the far-reaching effects of the "Approval" of this project as it is?

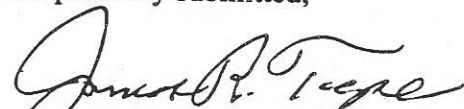
- 1) Some residents report that this immediate area is already "overparked" on Thursday, Friday, and Saturday nights. How will it be then if 68 more cars try to park "right here" to patronize the Swing Grill. (6 to 8 existing parking spaces are being lost in the re-development and 18 parking spaces are being added. Parking availability is certain to be much worse.)
- 2) What about the total disregard for the obvious wisdom of previous City Council members who labored to provide their belief that the current Zoning Regulations were the result of their "best knowledge after substantial research". Totally discarding the wisdom of these Zoning Regulations will surely have very detrimental results. The honorable reputation of the City of Madeira is on the line - new precedents will be established. (These results are simply not good any way you look at them.)

I conclude that only one purchaser and owner of the B & B property can bring a legitimate result. Either,

- 1) Mr. Powers purchase the entire 11,500 sq.ft. of property, build and own his legitimate restaurant - and - build and own his legitimate private parking lot for parking, deliveries, and dumpsters as he may see fit,
- OR
- 2) The City of Madeira purchase the entire 11,500 sq.ft. of property and build a Public Parking Lot or any other legitimate purpose the city may aspire to do.

In conclusion, I respectfully ask that the members of this City Council do a "Full Blown Conscience Check" before you proceed to vote on this convoluted project. Your conscience is a terrible thing when you want to do something very wrong. God made us this way for a reason. "Let your conscience be your guide."

Respectfully submitted,


James R. Tepe

P.S. IN MY ABSENCE, I HAVE ASKED DAVE OPPENHEIMER
TO DELIVER THIS LETTER TO THE MADEIRA CITY COUNCIL
OR PRESENT.



EXHIBIT # ~~11~~
12

James R. Tepe
7450 Baywind Drive
Cincinnati, Ohio 45242
Home: 513-791-0378

HAND DELIVERED

July 8, 2016

Members of the Madeira Planning Commission
City of Madeira
7141 Miami Road
Madeira, Ohio 45243

Subject: Resolution #17-16, B & B Mower Property (Railroad Ave.), Swing Line Grill, City Parking Lot

Dear Ladies and Gentlemen of the Madeira Planning Commission:

On June 27, 2016 the attached letter was presented to the Members of the City Council of Madeira.

I hereby respectfully ask each of you to spend a few minutes of your valuable time and read the attached letter. Please ponder the importance and far reaching effects of the information contained herein before you vote to consummate or reject the final terms of the subject Resolution and Variance Requests.

Thank you for your respect and consideration.

Sincerely,



James R. Tepe

3 page letter of June 27, 2016 to City Council of Madeira attached.