madeiramessenger.com

September 1, 2016

Allegations of Collusion and Political Favors.....

One Appraisal, completed by the White Appraisal Firm, was used by our city, in 2012, in an effort to acquire the B&B property, at the lowest price possible, before the city of Madeira contracted in 2015, with the Pillar Valuation Group, to have a second appraisal completed, justifying a "New" value nearly triple the value, previously determined in the appraisal completed by the White firm. The difference is that in 2015 our city had concocted, a "New" plan. The "New" plan voted on by our city council members, would give local developer Powers, tax payer dollars, for his acquisition of the B&B property based on the Pillar Appraisal, nearly triple, the value of the White Appraisal. Collusion, Political Favors? The Tepe allegations, are not without merit.

Second Tepe Letter, Dated, September 6, 2016, Scroll Down....

THIS IS ABSOLUTELY TRUE – IT MAY QUALIFY FOR RIPLEY'S BELIEVE-IT-OR-NOT

September 1, 2016 HAND DELIVERED
To: Madeira City Council, Madeira Planning Commission, and, All City of Madeira Residents
From: James R. Tepe, 7450 Baywind Drive, Cincinnati, Oho

The City of Madeira has agreed to buy a piece of property from a "Broker" who is buying it from the current property owners. In Sept., 2015, Pillar Valuation Group, at the request of – and I assume paid for by - the City of Madeira, stated in their "Appraisal Report" on page 13, that "The Buyer" ("Broker") "is paying $675,000. plus an estimated $16,000. in demolition for a total purchase of $691,000." The Pillar statement continues; "The total site size being purchased is 10,542 sq.ft., indicating a purchase price of $65.55 per sq.ft.." The Pillar statement continues; "The developer" ("Broker") "will sell the City of Madeira his land with the exception of the building footprint to help the City create a public parking lot to facilitate the businesses in the area." Further, the Piller Report states, relative to the "Broker" and the current property owners,; "<u>There is not a formal Purchase Contract</u>."

The Hamilton County valuation of this 10,542 sq.ft. of property is currently $146,170. which equates to $13.87 per sq.ft. . The "Broker", back in Sept., 2015, one year ago, had agreed to pay almost 5 times more for the 10,542 sq.ft. than what Hamilton County said it was worth. This "Broker" commitment is taken directly from the Pillar Appraisal Report the City ordered.

Just for comparison, this same property was analyzed by White Appraisal, Inc., again at the request of, and I assume paid for, by the City of Madeira, in Nov. 2012. White Appraisal estimated the same 10,542 sq.ft. parcel of property was worth $250,000. or $23.71 per sq.ft.. In this comparison, at $691,000., the "Broker" would be paying almost 3 times more than what White Appraisal, Inc. says it's worth.

Let's move the calendar ahead two months from Sept 2015 to Nov. 2015. Only 2 months after the Piller Appraisal was completed, the City passed an Ordinance and agreed, among other things, to pay "Broker" $43.00 per sq.ft. for an undetermined amount of the same 10,542 sq.ft. property, and sell (or trade) a substantial area of the "Madeira Historic District" to the "Broker". The $43.00 per sq.ft. value was defined within the same Sept. 2015 Pillar Appraisal. It is worth noting that this Appraisal carried the notation on page 12 which reads; "It should be noted <u>the subject property **will be part of a tax increment financing (TIF) district---"**</u>. In the future, I may wish to write about this "convoluted Appraisal" as it brings a vast quantity of controversial findings to support the $43.00 per sq.ft. appraised valuation. It is also interesting to note that the Nov. 2015 City Ordinance above got "Hung up" in a Lawsuit filed by Doug Oppenheimer in Hamilton County Court in January, 2016 (and is still there) because of an

"Injunction" restricting the City from proceeding with the sale of any "Madeira Historic District Property" until the Lawsuit is settled. That City Ordinance was "Repealed" on April 25, 2016.

Here are a few legitimate questions at this point:

1) How much is the "Broker" paying the current property owners for this 10,542 sq.ft?
2) In the Sept. 2015 Pillar Appraisal, it was stated that the current property owners were being paid $675,000. from the "Broker" for the 10,542 sq.ft.. This equates to $64.03 per sq.ft. or $2,787,750. per acre. Does this seem a bit high? This is not Dallas, Texas.
3) In Nov. 2015, 2 months after the Pillar Appraisal was authored, the "Broker" and the City agreed that $43.00 per sq.ft. would be the Buy & Sell price. Does anyone know, other than the "Broker", if the current property owners have agreed to the $43.00 per sq.ft. price, or, because "There is not a formal Purchase Contract", is the actual selling price lower, maybe even "much lower', than the $43.00 per sq.ft. price?
4) If the current owners have agreed to accept a price lower than $43.00 per sq.ft., how would the City know this? Does this have any impact on the price the "Broker" is charging the City? I would think all commissions, cuts, and, side deals should also be considered. Are they? Remember, there is not, to my knowledge or to Pillar Appraisals', any formal Purchase Contract involved here between the "Broker" and the property owners. The City has not acknowledged any such Formal Purchase Contract.

The $43.00 per sq.ft. price for 10,542 sq.ft. = $453,306. which equates to $1,873,080. per acre. This is more than 3 times higher than Hamilton County's valuation which is $604,177. per acre. The County's price is less than 1/3rd of the price the City has agreed to pay to the "Broker". Remember, we have no idea whatsoever what price the "Broker" is paying to the owners. **It looks like somebody just lost $221,694. during those 2 months. Can this be right? REALLY?**

Now let's move the calendar ahead 5 months from Nov. 2015 to April, 2016. While the November , 2015 "Broker"– City agreement is "hung-up" in Court because it agrees to sell "Historic District" property to the "Broker", in April 2016, confirmed by another City Resolution, the "Broker" and the City make another "Agreement" to replace the Nov. 2015 agreement. This new agreement is much the same as the Nov. 2015 agreement except, 1) The City no longer agrees to sell any property within the "Madeira Historic District" to the "Broker", 2) the agreed price has been reduced from $43.00 per sq.ft. down to $38.00 per sq.ft., and, 3) the City limited the quantity of area they are required to buy - "not to exceed" 8,000 sq.ft of the same 10,542 sq.ft parcel of property, and, 4) this new "Second Contract" Resolution includes this statement; "If the Lawsuit is dismissed or decided in favor of the Purchaser (the City), the parties intend to enter into the First Contract", the Agreement that

sells a substantial portion of the "Madeira Historic District". It appears, the City, if it has it's own way, will sell a substantial portion of the "Voter Created Historic District" to the "Broker" with the possible long range intent of tearing down the historic houses in the "District" and effectively eliminating the "Voter Created Historic District" – all without "Voter Approval".

Back on the April 2016 "Broker" – City Agreement, by way of an Official Madeira Memorandum dated April 22, 2016, the City also agrees to "potentially" sell, if the "Broker" wishes to buy, approximately 1,000 sq.ft. of dedicated Railroad Ave. Right-of-way. The selling price to the "Broker" for this Road Right-of way would also be $38.00 per sq.ft. per the "Memo". So, the City "prefers" to sell a substantial portion of the "Historic District" in the "First Contract" deal with the "Broker", but if it can't because of the Lawsuit, it will sell up to 1,000 sq.ft. of Railroad Ave. Right-of-way. Both of these actions seem to be intended to somehow give, sell, trade, or otherwise see to it the "Broker" gets a bigger area of property to work with for his proposed restaurant business and the City gets their "Public Parking Lot" .

Still, at this time, nobody knows exactly how much the "Broker" is paying the property owner because "There is not a formal Purchase Contract." Again, what is the actual price the current owners have agreed to accept from the "Broker"? The "Broker" knows but nobody else does. Could a "sliding scale price deal" being incorporated here? How would the City know?

Again, the Hamilton County valuation of this 10,542 sq.ft. parcel is $13.87 per sq.ft. or a total of $146,170. The $38.00 per sq.ft. "Broker" and City "revised" agreed price equates to $400,170. This amount to 2.7 times higher than Hamilton County's valuation of $146,170.

Does the City think it is making a "reasonably wise" purchase here?
Does anyone else think the City is making a "reasonably wise" purchase here?
Do you think the City should be offering to sell/trade a substantial portion of the "Madeira Historic District" - or - sell/trade up to 1,000 sq.ft. of Railroad Ave. Public Right-of-way to the "Broker" under the circumstances and conditions explained in this letter? I THINK NOT

This is all true people. I don't think I'm creative enough to make this stuff up. It's really true.

It is so very obvious that the City really wants a piece of this particular property. Why?
So the City can spend more than $500,000. of Taxpayer's money to own, build, and operate a Public Parking Lot next to the "Broker's" new business -- so the "Broker" will not have to spend his own money to provide his own parking lot. The Madeira Zoning Code has already been all but "shredded" in order to make this happen.
THE CITY REALLY SHOULD PROMPTLY ANSWER THESE QUESTIONS IN SOME PUBLIC FORUM.

Discussion about the "Validity" and "Credibility" of the Hamilton County Valuation Process is certainly in order here. The County uses very defined processes and controls. Briefly, they are:

1) If the County's Valuation on a piece of property is lower than it should be, the County will not be collecting the "Appropriate" amount of "Fair" real estate tax dollars for the County Treasury. They go through the "Re-evaluation Process" every three years recalculating and updating valuations using comparable sales of properties in the area. This procedure is intended to keep the valuations accurate and the Taxes "Fair".
2) If the County's calculation of valuation is higher than a property owner thinks it should be, the owner has the right to file a complaint with the County's Board of Revisions and petition the Board to reduce the contested valuation based on valid information the property owner submits to the Board for consideration. If the Board agrees with the property owner, the valuation will be reduced and the related taxes reduced. With all due respect, this procedure works pretty well considering the massive number of recalculations done every three years. Give credit where credit is due.

For your consideration, a recent sale of property within 200 feet of the 10,542 sq.ft. subject property analyzed above, took place in Sept. 2015, one year ago. The County valued this property at $843,560. The property sold, in an "Arm's Length Transaction", for $800,000. which was $43,560. Lower than the County valuation. The property consisted of 51,052 sq.ft. and the $800,000. sale price equates to $15.67 per sq.ft.

Do you think the "Broker" or the City are making a wise or sensible purchase of the 10,542 sq.ft. at the $38.00 per sq.ft. price? Think about it. What would you do about it?

I would shut this deal down right now until the current property owners entered a legitimate "Sales Contract" with a reputable Realtor, or some neutral responsible entity, so everybody can know how much the owners want for the property. After the owners have established the price they want, then, and only then as a responsible City, decide if you want to buy it after you determine why you want to buy it. Maybe the "Broker" and the City want to make yet another deal. If you do, I would strongly recommend you do not "shred" the Zoning Code like you have done recently with this project. You seem to have "Respect" for Madeira's Building Code but absolutely "No Respect" for the Zoning Code. Why is that?

Respectfully submitted,

James R. Tepe
(no exhibits this time)

September 6. 2016

Resolution number 17-16, B&B Mower Property, Swing Line Grill, City Parking Lot.

Is it a restaurant, or is it a Sports Bar? Makes a big difference, parking requirements are not the same.

Can our City Manager be trusted? Mr. Moeller claims that reducing the 41 spaces in "the public parking lot" by 5 spaces is still 41. Some think that the answer is 36.

Mr. Powers, tells us that it will be "a family restaurant" Frisch's, Steak & Shake, McDonalds. Swing Line Grill is not a family restaurant, as portrayed by Mr. Powers.

Our City Council members and City Manager know that the concurrent use of the two existing eateries, Depot Barbecue, A Tavola, and the addition of the "Swingline Grill", with -0- parking will be a disaster.

Read the following letter from Mr. James R. Tepe, for his well-founded insight.

SCROLL DOWN PLEASE.....

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

HAND DELIVERED

September 6, 2016

Mr. Thomas Moeller, City Manager, and,
Madeira City Council, and,
Madeira Planning Commission
7141 Miami Ave.
Cincinnati, Ohio 45243

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

Dear Ladies & Gentlemen:

As I was out of town on August 8, 2016 and was not able to attend the City Council meeting that evening, I must rely on the "minutes" of the Aug.8th Council Meeting which were included in the 35 page City Council Packet Dated Aug. 22nd.

I have not received any correspondence from the City responding to my Aug. 1, 2016 letter, or any of the many letters I have addressed to them except the Aug. 8th comments made by Mr. Moeller contained in the minutes of the August 8th City Council meeting and the two letters from Mr. Ballweg, the City ARO, dated Aug. 8, 2016. Mr. Ballweg's Aug. 8th letters were included with the Aug. 15th Swing Line Grill "Staff Report and Public Hearing Agenda". I now wish to reply to Mr. Moeller's Aug. 8th comments and Mr. Ballweg's letters..

The "minutes" of Aug.8th, at the bottom of page 4, (Please see the 2 page Exhibit "C" attached), reads;

> "Correspondence – Letter from James Tepe Re: Swing Line Grill: - Mr. Moeller referred to a letter submitted by the ARO Officer David Ballweg, who at the request of Mr. Moeller, reviewed the parking calculation that Mr. Tepe had outlined in his (Aug. 1st) letter". "Mr. Moeller stated that there is a significant discrepancy that Mr. Tepe used versus what the city used to interpret the code." "Mr. Tepe used the calculations for a "night club / saloon bar"; **it actually is a restaurant**, which changes the parking count significantly."

I have a question: How or what process do you use to make this "Restaurant" determination? How is the Swing Line Grill "determined" to be a "Restaurant" and not a "Night Club / Saloon Bar"? Does the "Staff" make this decision? Does the ARO make this determination? Does the Zoning Code define it? Does it mean anything where the Zoning Code reads "and other operations which serve alcoholic beverages". These words, printed in the text of the Madeira Zoning Code, make it perfectly clear that Swing Line Grill fully qualifies to be defined as a "Nightclub, saloon, cocktail lounge and other operations which serve alcoholic beverages." These printed words in the Madeira Zoning Code simply cannot be ignored. Swing Line Grill cannot be classified as a "Restaurant". Authentic "parking requirement calculations" must originate from the "Nightclubs, saloons, cocktail lounges and other operations which serve alcoholic beverages" category only. The parking requirement calculation process is clearly defined. (Please see Sect. #150.24, Exhibit #1, page 1 attached which is copied from the Madeira Zoning Code.)

Now I have another question: Why is this so difficult to understand or comprehend? Swing Line Grill has apparently applied for a liquor license, and, fully intends to "serve alcoholic beverages" as a portion of their business, and, has made this "Liquor License Approval Issue" a key Contingency in their obligation to "Close" on the proposed "Contract For Purchase" which is part of Resolution #17-16. (Please see Exhibit #1, page 2 attached). Can there be any doubt that Swing Line Grill, if it receives state approval and is granted a "Liquor License", and , if it is actually built and opened for "business", will most certainly "serve alcoholic beverages"? NO, NO. NO. – there can be no doubt whatsoever. It is so very obvious here, - the Zoning Code spells out the simple and precise answer: "and other operations which serve alcoholic beverages." is clearly the proper classification. Just follow the precise procedure printed in the Zoning Code for calculating the required parking spaces which is clearly spelled out. Please try to work with me on this unless you really don't want to. This is really not that difficult unless you really want it to be. All of this is fully explained and documented on pages 1 and 2 in my Aug. 1st letter to Mr. Moeller, City Council and the City Planning Commission, and , also well defined in the Madeira Zoning Code Sect. 150.24. (Please see Exhibit "D" and Exhibit "1, page 1" attached)

Continuing with Mr. Moeller's comments in the Aug. 8th minutes (Exhibit "C") where he states:
"Mr. Tepe alleged that the City underestimated the parking spaces by 37%, which is not the case."
Please refer to the two previous paragraphs immediately above. The City did substantially underestimate the actual parking requirements because they used the incorrect "Restaurant" classification rather than the correct "Nightclub, saloon, cocktail lounges and other operations which serve alcoholic beverages" classification. Why is the City continuing to claim "it is a restaurant" even after being fully informed about the true governing facts? Why???

Continuing with Mr. Moeller's comments in the Aug. 8th minutes (Exhibit "C") where he states:
"The Planning Commission was provided with the number of parking spaces related to a restaurant with outdoor dining, and the number of parking spaces calculated was 68."
As absolutely no parking space requirement is listed, mentioned or addressed anywhere in the June 20th "Case #ZA-2016-0028 Staff Report and / or Public Hearing Agenda", I am unaware of how, prior to the June 20th hearing, Mr. Moeller accomplished "providing the Planning Commission with the number of parking spaces related to a restaurant with outdoor dining." as he has stated here. I recall that Mr. Moeller verbally announced, during the Public Hearing, that 68 parking spaces were required. I believe this was the first time the Planning Commission was made aware of the Staff defined parking requirement.

I'm sure Mr. Moeller will recall that, during the Public Hearing, I confirmed that Mr. Moeller had verbally stated that 68 spaces were required, and I openly disputed his claim that, according to "Staff", 68 spaces were required. (Please see Exhibit "D" page 1 attached.) I suspect that the parking requirements for this project were totally overlooked or ignored, maybe even intentionally so not to bring undue attention to the "Radical Deficiency Of Available Parking", prior to the day of the June 20th Public Hearing. Certainly my questions to Mr. Moeller during the Public Hearing regarding the Swing Line Grill's parking requirements caught him unprepared to respond with any credible answers to my legitimate questions. (Again, please see Exhibit "D" page 1 attached.)

Continuing with Mr. Moeller's comments in the Aug 8th minutes (Exhibit "C") where he states:
"This information will be provided to Mr. Tepe." "It is a matter of interpretation."

I have received absolutely no correspondence whatsoever responding to my Aug. 1st letter from the City Council, the City Planning Commission, or, the City Law director who was instructed by the Council to "Review" my Aug. 1st letter. I did receive an e-mail from Mr. Moeller the morning of Aug. 8th (please see Exhibit "B-1" attached). I suppose Mr. Moeller is referring to his statement that Mr. David Ballweg's Aug. 8th letters where he states "This information will be provided to Mr. Tepe". Mr. Moeller did not provide me with any information directly. I would have totally missed both of Mr. Ballweg's ARO Memos unless I hadn't searched the City's Website and found the 13 page "Planning Commission Staff Report / Public Hearing Agenda" dated August 15, 2016. Please Mr. Moeller, if you state in a Public Forum that you will "do something" or "provide information to someone", don't you think you should do it? You have my e-mail address – you sent me an e-mail on Aug.8th.

On Aug. 15th, after verbally complaining about the absence of a "Land Survey" and other issues to the Planning Commission during their Public Hearing on this Swing Line Grill case, I presented the Planning Commission my 13 pages of written notations in "notation format" which included my written comments / response to some of the pertinent items contained in Mr. Ballweg's two letters.

By the way, only 11 pages of my "13 pages of "Notations"", presented to the Planning Commission on Aug. 15th were included in the 35 page "Council Packet" dated Aug. 22nd which included the minutes of the Aug. 15th Planning Commission Hearing. The 2 missing pages are Mr. Ballweg's 2 page, 12 item letter dated Aug. 8th. (Please see the 2 page Exhibit "E" attached which are the 2 missing pages with my notations of 8-15-16.) Would you please see that the City Council receives copies of this 2 page - Mr. Ballweg's Aug. 8th - 12 item letter with my 8-15-16 notations so they can match them up with the 11 pages they received in the 35 page "Packet". Council members may wish to review my "notations."

Continuing with Mr. Moeller's comments in the Aug. 8th minutes (Exhibit "C") where he states:
"It is a matter of interpretation." "If there is a need to do additional research as to why it is a restaurant versus a saloon, that will be done."
My letter of Aug. 1st well explains and documents <u>why I believe the Swing Line Grill is not a restaurant in the eyes of the Zoning Code.</u> I would strongly suggest that both Mr. Moeller and Mr. Ballweg, in as much as they both have "independently" stated that the Swing Line Grill is a "Restaurant" in their eyes and the eyes of the Zoning Code, give me some credible explanation and / or certification and / or verification as to how they reach this conclusion. I do wonder if this result is "happen-stance" or "collusion". There is certainly a "Need" for this verification effort in case Mr. Moeller has not noticed. So, when Mr. Moeller and / or Mr. Ballweg "perform the additional research" and generate a "Credible Explanation", please share it with me so we can all put this "conflict of interpretation" to rest.

It is interesting to note that both Mr. Moeller and Mr. Ballweg "independently" also agree that 68 required parking spaces is correct for the Swing Line Grill proposal. Mr. Ballweg, who states in his other Aug. 8th ARO memo in response to my Aug. 1st letter (Please see the 2 page Exhibit "F" attached) that : "My original ARO memo did not address the parking requirements, deficiencies or other issues surrounding the parking requirements." Why not?

I totally disagree with Mr. Ballweg's statement in Exhibit "F" where he states: "Sect. 161.08(A)(5) which state "Approaches, Drives and Parking Area shall be considered as they affect the appearance from the street and from the site as well." Mr. Ballweg is apparently suggesting that this "(A)(5)" verbiage limits his "Review Requirements" to appearance of the parking area only. In the first place, Sect. 161.08(A) (Please see Exhibit "H") reads: "An application or a building permit shall be reviewed by an Architectural Review Officer who shall consider the following:". Then, Sect. 161.08(A) specifies and includes 11 different sub-titles, (5) being only one of them. Sub-title (9) states: "Utilities. Adequate utilities, parking, access roads, drainage, landscape planting and other essential facilities and amenities will be provided". Further, Sect. 161.08(B) states: "The application shall otherwise comply with the standards and criteria of all appropriate and applicable ordinances of the city." What is also very important and being ignored here, is Sect. 161.09 VARIANCES. which reads; "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." Did someone instruct Mr. Ballweg not to review the Swing Line Grill parking requirements?

So, Mr. Ballweg did not address the Swing Line Grill parking requirement prior to this Aug. 8th letter of his, which he was clearly obligated to do under the directives of Sect. 161.08 & 9, but did not do, Does this "Omission" by Mr. Ballweg, whether intentional or unintentional, "Disqualify" the Planning Commission's June 20th "Approval of Variances" per the May 23rd and May 26, 2016 Drawings, and, their Aug. 8th "Approval of the Preliminary Development Plan" per the Aug. 5, 2016 drawings? This is a very interesting legal question. This will be a good question for the City Law Director.

Let's move on. In the other Aug. 8th letter by Mr. Ballweg, (Please see Exhibit "E") Mr. Ballweg states that; "I have calculated the interior dining area square footage minus the back bar, toilet rooms and kitchen and have come up with approximately 1400 s.f. which would require 28 parking spaces." Mr. Ballweg does not complete his calculation procedure so to get to 68 here. Without question, there is more "Customer Occupied Area" square footage in the proposed building than the 1400 sq. ft. Mr. Ballweg has calculated. Please see the Aug. 5th "Revised Drawing" (Exhibit "G, page #1" attached) which shows a few subtle but impacting changes.

A) Looking at the proposed interior, you will see the 20' x 20' = 400 sq. ft. area identified as "Covered Dining - 24 Seats" area that has the following attributes; 1) 16 foot wide Glass Slider Doors on the north, 2) One 16 foot wide Optional Glass Overhead Door on the south, and, 3) Three Optional Operating Windows on the west. Considering these attributes, this 400 sq.ft. area can no longer be considered "Outside Dining". It must now be classified as "Customer Occupied Area" and included in the square footage count.
B) Looking at the proposed exterior (Please see Exhibit "G, page #2), you will see that, compared to previous drawings, there is a new substantial encroachment of the Swing Line Grill proposal well into the Railroad Ave. Right-Of-Way. This substantial encroachment is in major conflict with Mr. Moeller's June 20th statement that "The entire building including the patio is now located completely on the B&B Mower property." Looking at the Aug. 5th Revised Drawing, Mr. Moeller's statement is simply not true. Also, how about the addition of a "New Location of Support Power Pole" in the south side of the Railroad Ave. Right-Of-Way. The roadway is dramatically narrowing.
C) I am not sure how many other changes were made to the Revised Aug. 5th Plans. Staff, as well as the Planning Commission, have an obligation to the Public to look closely at these "Revised Plans" BEFORE THEY APPROVE THEM. They failed in this responsibility prior to Aug. 15th Public Hearing. This is not much different than the absence of the Land Survey situation.

My "Up-Dated" parking analysis for Swing Line Grill, considering some information contained and relied upon from Mr. Ballweg's Aug. 8th letters, is as follows:

1) There is no dispute about 13 parking places for "Employees", = = = = = = = = = = = = = 13

2) There is no dispute about the 5 parking places for "Carry-out", = = = = = = = = = = = = = = 5

3) Mr. Moeller stated on June 20th during the Public Hearing, that "Outside Dining Seats" were included in his total 68 required parking place calculation at the same rate as the inside dining seats". Mr. Ballweg's Aug. 8th conflicting letter states that "Typically the city has not required them (owners) to provide additional parking because of the seasonal nature of these areas." I really don't know who to believe here. The use of the word "Typically" by Mr. Ballweg doesn't really mean anything. The word "May" in the Zoning Code suggests that the City of Madeira can "choose" to enforce the additional parking requirement if they want to, or, choose not to enforce it if they don't want to. This is a bad circumstance for the Madeira business operators. As the Zoning Code does use the words "Additional parking <u>may</u> be required" for outside dining seats (Sect. 150.16 page 4), I will assume Mr. Ballweg is correct and agree that no parking spaces are required for outside dining seats, as long as the outside dining area is <u>truly</u> "Outside Dining", = = = = = = = 0
(I would like to know the names of other "operations" within the City of Madeira that have 22 or more "permanent" outside dining seats. Would someone please let me know?)

4) <u>I do not agree</u> with Mr. Ballweg's calculation of 1400 sq.ft. of "Inside" "Customer Occupied Area". (the term "Customer Occupied Area" is used in the Zoning Code rather than the term "Interior Dining Area" used by Mr. Ballweg.) My measurement of the "Customer Occupied Area", excluding the toilet rooms and kitchen, consists of 2 specific areas:
A) I measure 1607 sq.ft. of area in the "Main" "Customer Occupied Area", plus,
B) 400 sq.ft. of area within the "Enclosed" Inside/Outside Covered Dining Seats" containing 24 seats which has – an Optional Glass Overhead Door on the south side, 16 foot Glass Slider Door(s) on the north side, and, three Optional Operative Windows on the west side. Therefore, the total calculation is 2007 sq.ft. of" Customer Occupied Area", calculating one parking space for every 30 sq.ft. of "Customer Occupied Area", equals "Customer Occupied Area" parking spaces required in according with Sect. 150.24 of the Code = = = = 67

My calculations show the "Updated" TOTAL parking spaces required for Swing Line Grill = = **85**

Something this discussion does is call everyone's attention to the interior seating layout of the proposed Swing Line Grill. According to the Aug. 5th Drawings, out of the total 146 "Customer Seats" shown on the plan, 18 are Bar Seats, 36 are High-Top Table Seats near the Bar, 46 are Inside Dining Seats, 24 (in the 20' X 20' area) are "Enclosed" Inside / Outside Covered Dining Seats, and, 22 are Open Terrace Dining Seats. With 37% of the Seats at the Bar or at High-Top Tables, you would not classify this facility as a "Family Style Restaurant". It is much more like a "Sports Bar" or a something like that.

Another comment that is appropriate here is that Mr. Ballweg reviewed and commented on the **WRONG DRAWINGS** in his Aug. 8th - 12 item letter. (Please see Exhibit "E") Mr. Ballweg's letter states: "Upon review of the revised preliminary design site plan drawings dated June 17, 2016, building elevations dated July 27, 2016, and first floor plan dated June 1, 2016 I have the following recommendations and comments;". His Aug. 8th "Wrong Drawings" recommendations and comments were presented to, used and relied upon by the Planning Commission in their "Preliminary / Final Development Plan Analysis" on Aug. 15 th during their Public Hearing. Please note that Mr. Ballweg stated in his Aug 8th letter that: "I recommend tentative approval of the development contingent upon ——". His recommendation was based on reviewing the wrong drawings. Prior to Aug. 8th, Mr. Ballweg apparently had not seen the Aug. 5th "Revised" Drawings nor the Land Survey for this project.

I would suggest that someone in the Staff's Office probably "dropped the ball" by not seeing that Mr. Ballweg received the "Revised Aug. 5th Swing Line Grill Drawings" well before the Aug. 15th Public Hearing so he had adequate time to review and comment on the new "revised" drawings. Considering the multitude of other errors, complications, and, "apparent oversights" that have occurred with this Swing Line Grill project, I just wonder if this was an intentional "oversight". Eventually we will all find out.

IS THIS A REAL MESS OR WHAT??? – AND IT SEEMS TO GET MORE "UNBELIEVABLE" AS IT CONTINUES

Continuing with Mr. Moeller's comments in the Aug. 8th minutes (Exhibit "C") where he states:

> "Mr. Moeller also briefly reviewed the Planning Commission meeting in regard to this matter and how they came to their decision."

As I was not in attendance at the Aug. 8th meeting, I cannot make any comments regarding what Mr. Moeller did or did not say in his review of "how they came to their decision". I suppose the official Minutes and Recording of the Aug. 8th Council Meeting will eventually be available for review.

George Washington said, the "Truth will ultimately prevail where there are pains taken to bring it to light"

Respectfully submitted,

James R. Tepe
17 Pages of Exhibits attached