



City of Coral Gables
CITY COMMISSION MEETING
March 15, 2016

ITEM TITLE:

A Resolution of the City of Coral Gables reviewing proposed settlement related to application by Tinta y Café at 1315 Ponce de Leon Boulevard, Coral Gables, Florida, for walk up window and outdoor seating conducting a quasi-judicial public hearing, and either approving, or approving with conditions/modifications, denying, or continuing the proposed settlement.

DEPARTMENT HEAD RECOMMENDATION:

Hold the quasi-judicial hearing and consider a settlement agreement, pursuant to Sec. 3-1804 of the Zoning Code.

BACKGROUND:

Tinta y Café is a proposed restaurant in an existing building at the northeast corner of Ponce de Leon Boulevard and Salamanca Avenue. The applicant has requested a walk-up window service on the Salamanca Avenue side with related outdoor seating located on the café's property adjacent to the sidewalk along Salamanca Avenue. It is important to note that there is no provision in the Zoning Code or the Building Code that precludes the installation of an operable window at this location. However, the Zoning Code does not allow walk-up windows for purposes of providing a service at this location, which is supported by a legal opinion issued by the City Attorney's Office dated July 31, 2015 (CAO 2015-081).

As a result, a set of drawings was reviewed and approved which included a note that stated that a proposed window along Salamanca Avenue would not be used for serving food or beverages (see Exhibit A). That project is currently under construction which entails the interior renovation of the restaurant and some exterior improvements. The applicant, Ms. Neli Santamarina, however contends that the walk-up window for service is critical to the operation of her café.

In the meantime, staff has assisted the applicant with the design of the outdoor seating and landscaping in an effort to minimize impacts on the neighborhood. Outdoor seating is allowed upon review and approval by the Board of Architects and Zoning. The applicant has accepted the proposed site plan provided as Exhibit B. Further, the applicant has proffered the following conditions for consideration:




1. no live music outside;
2. no outdoor speakers;
3. no outdoor signage except for business identification signage on the Ponce de Leon Boulevard elevation;
4. window service and outdoor seating to end at 8:00 PM;
5. covered outdoor trash receptacles; and,
6. preference for neighborhood residents for employment.

Staff is also keenly aware that a number of area neighbors strongly object to outdoor seating and a walk-up window at this location. At this point there is no consensus between the applicant and the objecting neighbors. It is the position of Ms. Rachel Lauzurique, one of the lead opposing neighbors, that there should be no food service window and no outside seating anywhere on the property, with complete demolition of the current window to be replaced with a regular window without a counter.

A letter regarding the applicant's request from Attorney Laura Russo is provided as Exhibit D and the various communications on this issue as Exhibit E. Staff's PowerPoint Presentation is provided as Exhibit F.

Sec. 2-201(e)(6) of the City Code grants the City Attorney certain authority to enter into settlements resolving disputes. In considering this particular settlement proposal, which includes competing claims of estoppel, the City Attorney determined that it would be best to hold a quasi-judicial hearing where each side could present evidence supporting their positions to the City Commission, with the Commission determining by resolution.

APPROVED BY:

Asst. Department Director	City Attorney	City Manager
		

EXHIBIT(S):

- A. Approved Plans.
- B. Site Plan.
- C. Legal Opinion Dated July 31, 2015.
- D. March 2, 2016 Letter from Laura L. Russo, Esq. regarding Tinta y Café Zoning.
- E. Emails from Applicant and Neighbors. (Electronic Format)
- F. Staff's PowerPoint Presentation.