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VIA HAND DELIVERY

Mr. Thomas Mooney
Director
City of Miami Beach
Planning Department
1700 Convention Center Drive
Miami Beach, FL 33139

RE: Application before the Board of Adjustment (the "Application") for modification of a Variance granted to Indochine Miami, LLC, on October 3, 2013, for 1334 Washington Avenue, Miami Beach, Florida (the "Property")

Dear Tom:

I represent Biscayne Cowboys 305, LLC, (hereinafter "Applicant"), tenant of the subject Property, in connection with the various land use and zoning matters relating to the subject Application. Please accept this combined Letter of Intent and Hardship Letter detailing our request for a modification of the Use Variance (the "Variance") granted to Indochine Miami, LLC, on October 3, 2013, pursuant thereto and to Sections 118-353 and 133-50 of the City of Miami Beach (the "City") Land Development Regulations (the "Regulations").

I. The Property

The Property has a street address of 1334 Washington Avenue, and is assessed under folio # 02-3234-011-0020. It is located on the west side of Washington Avenue between 13th and 14th Streets, in the center of the block just north of the U.S. Post Office. The property is also located just south of the Feinberg Fisher Elementary School ("School").

II. Non-Use Variance, Use Variance, and Prior Zoning Approval

As detailed in the enclosed plans, the Applicant has refurbished the restaurant space of the hotel landlord into a high end American & Caribbean Barbecue restaurant serving beer, wine and liquor for consumption on premises.

In 1996, a prior tenant, VTA, Inc. d/b/a La Mystere obtained a variance from the Board of Adjustment for a similar use because the Property is located within 300 feet of a school which precludes the sale of alcoholic beverages pursuant to Code Section 6-4(a)(1). The Property is located only 228.4 feet from the School, so a variance of 71.6 feet was granted (the "VTA Variance").

The VTA Variance became null and void by its own terms on April 1, 2013, when six months passed without operations. However, Indochine Miami, LLC, applied for and was granted the same variance on October 3, 2013. It is unclear if that use was established or continued, and as a result, the Applicant is requesting a modification of the variance allowing Applicant to operate a restaurant serving beer, wine, and liquor.

III. Variance Criteria

As detailed below, the Variance satisfies all seven (7) of the criteria contained in Section 118-353 (d) of the Regulations and all ten (10) of the criteria contained in Section 133-50 of the Regulations:

- A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;

Satisfied: The structure is built and outfitted as a restaurant, including a large, code compliant kitchen, and the use of the Property as a restaurant without alcoholic beverages is not commercially viable.

- B. That the special conditions and circumstances do not result from the action of the applicant;

Satisfied: The special conditions relating to the Property have existed for at least twenty years. The Applicant has not taken any action that has changed, expanded, or otherwise addressed the special conditions.

- C. That granting the variance requested will not confer on the applicant any special privilege that is denied by these Land Development Regulations to other lands, buildings or structures in the same zoning district;

Satisfied: The Code allows for the placement of an alcoholic beverage license in the Property's zoning district, CD-2.

- D. That literal interpretation of the provisions of the Land Development Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these Land Development Regulations and would work unnecessary and undue hardship on the applicant;

Satisfied: The literal interpretation of the provisions of the City's Land Development Regulations would prevent the use the Property in a manner commonly enjoyed by other properties zoned CD-2. If the prior variance is not modified to allow the new tenant to take advantage thereof, the Applicant will not be able to operate a commercially viable restaurant and the Landlord of the Property will not be able to lease the Property for its highest and best purpose.

- E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Satisfied: The Variance is 100% consistent with the scope of the variances approved in 1996 and 2013 and the uses granted to the prior tenants of the Property.

- F. That the granting of the variance will be in harmony with the general intent and purpose of these Land Development Regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

Satisfied: Just as the Board ruled in 1996 and 2013, granting the Variance is consistent with the Regulations, and specifically the requirements in the CD-2 zoning district. Granting the Variance will have no negative impact whatsoever on the surrounding area, and will simultaneously permit the Applicant to use the Property in a positive fashion similar to all of their neighbors.

- G. That the granting of this request is consistent with the comprehensive Plan and does not reduce the levels of service as set forth in the plan.

Satisfied: Upon request we will supplement the Application with any materials needed by the City to confirm satisfaction with these criteria.

1. That a recycling or salvage plan for the partial or total demolition shall be provided.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

2. That the windows that are proposed to be replaced shall be hurricane proof impact windows.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

3. That where feasible and appropriate, passive cooling systems, such as operable windows shall be provided.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time to time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

6. That the ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

7. That where feasible and appropriate, all critical mechanical and electrical systems shall be located above flood elevation.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

8. That existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

9. That when habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry floodproofing systems will be provided in accordance with chapter 54 of the City Code.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

10. That where feasible and appropriate, water retention systems shall be provided.

Satisfied: This criterion is not applicable as there is no development occurring and this application applies only to a variance for a use in an existing structure.

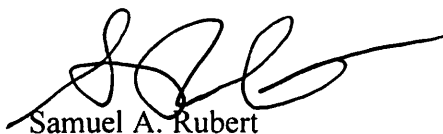
IV. Conclusion

As detailed in the enclosed plans, drawings and photographs, the proposed use will improve the current condition of the Property, harmonize with the existing uses in the neighborhood, and add a valuable new option to the City's vibrant dining scene. Due to the uniqueness of the Property, the City's interpretation of the Regulations necessitates the filing of this Application. As discussed above, the modification of the variance Variance is consistent with the similar variance approved by the Board in 1996 and merely extends the rights granted in 2013 to a

new tenant of the same space and is the minimum amount needed; the Variance satisfies each of the criteria contained in the Regulations. We look forward to your favorable review and recommendation on our Application.

Please do not hesitate to contact me in the event you have any questions or require any further information to process the Application.

Regards,



Samuel A. Rubert

cc: client