

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission

Date: September 11, 2019

cc: Jimmy L. Morales, City Manager
Rafael E. Granado, City Clerk

From: Raul J. Aguila, City Attorney



Subject: International Inn – Development Agreement: Supplemental Memorandum

Following a telephone conference on September 4, 2019, which included representatives of the City of Miami Beach ("City") and Tsay International, Inc. ("Owner"), this Supplemental Memorandum has been prepared to update the City Commission on the status of the proposed Development Agreement, including an update on newly-agreed terms, and issues that remain outstanding.

Following our discussions, the parties have agreed to the following terms:

1. Increase the radius to one (1) mile for any off-site parking provided outside City limits;
2. Shorten the term of the Development Agreement from 30 years to 20 years;
3. Confirm that the Property would be vested as to the land development regulations in effect as of the date of the Development Agreement (including the Proposed Amendments, if adopted);
4. Revise the proposed Comprehensive Plan amendment to conform to terms used in the City Code, relative to permitted uses.

The following issues remain outstanding:

1. Outdoor and open-air ambient entertainment

The Administration recommends requiring that outdoor ambient entertainment be subject to conditional use approval, and limiting the hours for outdoor ambient entertainment to 10:00 a.m. - 10:00 p.m. Currently, this type of outdoor performance is not allowed anywhere in the City without a conditional use permit ("CUP"). Planning Board review of a CUP is the most effective enforcement mechanism for outdoor ambient entertainment. This is even more important as the subject property is within an RM-1 district and surrounded by RM-1 properties. The Owner is requesting that outdoor entertainment and open-air entertainment be listed as permitted uses and does not agree to the City's proposed hours of operation.

2. **Stand-alone and outdoor bars**

The Administration recommends that any bar on the property be permitted **ONLY** as an accessory use to a restaurant, and that the hours of operation for any accessory outdoor bar counter be limited to the hours of operation for the associated restaurant. Under the terms of the City's draft, a restaurant with an accessory indoor bar counter would not require a CUP, unless the occupant load exceeds 300 persons. However, an accessory outdoor bar counter (as part of a restaurant) *would* require a CUP. The Owner is requesting that a stand-alone bar counter be permitted as an accessory use to the hotel.

3. **Distance separation from religious institutions**

If the City Commission agrees to allow a stand-alone bar counter as a permitted use, the Owner is requesting that the bar counter be exempt from distance separation requirements from houses of worship. The City's current draft includes an exemption to the distance separation requirements from schools, but not from houses of worship.

The Administration and City Attorney's Office will be seeking direction from the City Commission as to how to proceed on First Reading of the Development Agreement. Any amendments agreed to by the City Commission will be incorporated in the draft Development Agreement for Second Reading.

Should you have any questions regarding this matter, please do not hesitate to contact me.