



To: Laura Russo

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Tinta y Cafe – Settlement Proposal

Date: March 21, 2016

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As you know, the City Commission approved the proposed settlement with proffered conditions as part of a quasi-judicial hearing. This is a recognized procedure in the Code for resolving matters. Section 2-201(e)(6) of the City Code authorizes my office to enter into settlement agreements on behalf of the City based on applicable law or resolution of the City Commission. Here, I am authorized to enter into this settlement agreement based on the Commission's resolution of approval following a quasi-judicial hearing.

Accordingly, I am asking Miriam to work with you to formalize the settlement so that it can be signed by me early this upcoming week. I am also asking that all further administrative reviews related to Tinta y Cafe be expedited consistent with the Commission's will that this be fully resolved promptly and that Tinta y Cafe be able to open soon.

Please note, the settlement agreement need not be extensive, and is simply meant to formalize in writing what has already been approved. It should include language, as stated at the meeting, that this fully and finally resolves this matter.

Law Office  
of  
**LAURA L. RUSSO, ESQ.**  
2655 Le Jeune Road, Suite PH-1F  
Coral Gables, Florida 33134

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Via Hand Delivery

March 2, 2016

Mr. Craig E. Leen  
City Attorney  
The City of Coral Gables  
405 Biltmore Way  
Coral Gables, Florida 33134

Re: Tinta y Café – Zoning  
Property: 1315 Ponce de Leon Blvd., Coral Gables, FL  
File No.: 15L-188

Dear Mr. Leen,

On behalf of my client, Neli Santamarina, owner of Tinta y Cafe and the referenced property, I submit the attached proposal for open air dining and a walk up window.

As you are aware, there is ambiguity and confusion in the Zoning Code with respect to open air dining and walk up windows. Section 4-402 prohibits among other things, any business conducted outside a building and/or a restaurant on any lots or premises abutting Coral Way, Biltmore Way or lots abutting Ponce de Leon Boulevard between 8th Street and Bird Road. Exceptions must exist since business is conducted at numerous locations outside a building on Ponce. Some examples are: Aromas de Peru, Pardo's, Morton's, Sushi Samba, Sushi Maki, Starbucks, and Anthony's.

Section 4-403 allows for business outside a building, specifically:

4-403C allows open air cafes and/or restaurants when approved in accordance with the provisions of Article 5, Division 1.

4-403 E allows restaurant drive-in service windows and drive-in and/or walk up tellers when approved in accordance with the provisions of Article 5, Division 1.

**Article 5, Section 5-119 - Restaurants, Open Air**

A. Open air dining on private property as accessory to a restaurant provided that:

1. The operation of such business shall not interfere with circulation of pedestrian or vehicular traffic on adjoining streets, alleys or sidewalks.

2. Any open air dining at a retail food establishment shall be in compliance with all state and local regulations and the applicant shall be required to submit a maintenance plan for review and approval by the City and shall meet all requirements of this section.
3. That the open air dining area shall not occupy an area of more than 30 % of the public indoor area of the primary restaurant operation.
4. That the open air dining area shall be unenclosed and shall be open except it may be covered with a canvas cover or structural canopy of a building's arcade, loggia or overhang.
5. That all kitchen equipment used to service the open air dining area shall be located within the kitchen of the primary restaurant.
6. That the open air dining shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris.

#### **Section 5-115 Drive-thrus / Walk up windows and ATMs**

Drive-thrus, walk-up windows, and ATMs accessory to banks, restaurants and retail sales and service shall be permitted provided that:

- A. Such uses are designed so as to not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets, alleys or sidewalks.
- B. Three hundred and sixty (360) degree architectural treatment is utilized. Building design shall incorporate variation in building height, building mass, roof forms, and changes in wall planes so as to avoid large expanses of flat, uninterrupted building walls. Drive-through, ATMs and walk-up elements should be architecturally integrated into the building, rather than appearing to be applied. Or "stuck-on" to the building.

Ms. Santamarina submitted plans for renovation of an existing building (historically a restaurant with outdoor seating in its last reiteration) with a walk up window on private property. The Zoning Division approved the plans last July subject to the addition of hedges. After a complaint from an adjoining property owner, City staff advised Ms. Santamarina that the Zoning Code would not permit the walk up window citing Section 4-402.

Ms. Santamarina met numerous times with Planning and Zoning staff and resubmitted plans for open air dining and a walk up window. These plans were rejected based on setbacks and outdoor dining size. Ms. Santamarina then met with Ramon Trias, Carlos Mindreau and Elizabeth Gonzalez to find a workable solution that addressed Zoning Code requirements, the neighbors' concerns and my client's operational needs.

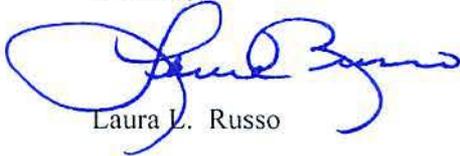
The attached proposal is not Ms. Santamarina's original submittal. It is a plan formulated hand in hand with City staff. Ms. Santamarina's use of the subject property is at its lowest density and intensity, well below the allowable footprint as per the City's code. Tinta y Cafe is a family

Mr. Craig E. Leen  
March 2, 2016  
Page 3

owned and operated cafe established in 2005 at its first location, in what is now called the Brickell Village area, and has been a neighborhood business catering to the residents of that neighborhood since its inception. Her purchase of this property in the North Ponce area was motivated by the understanding that there is a revitalization vision for a pedestrian friendly, urban type neighborhood in this area of Coral Gables. Tinta y Cafe will, hopefully, be the type of neighborhood establishment that will service the multi-family buildings in the North Ponce area. It will be an oasis for the neighbors, and will create a sense of place, a sense of neighborhood. Ms. Santamarina purchased this property over a year ago. She has been working on this project since January of 2015. Ms. Santamarina is looking forward to opening the doors of Tinta y Cafe and welcoming her neighbors.

We respectfully request your approval of the attached plan. We think the plan meets the requirements set forth in Division 5, Article 1 for both open air dining and a walk up window.

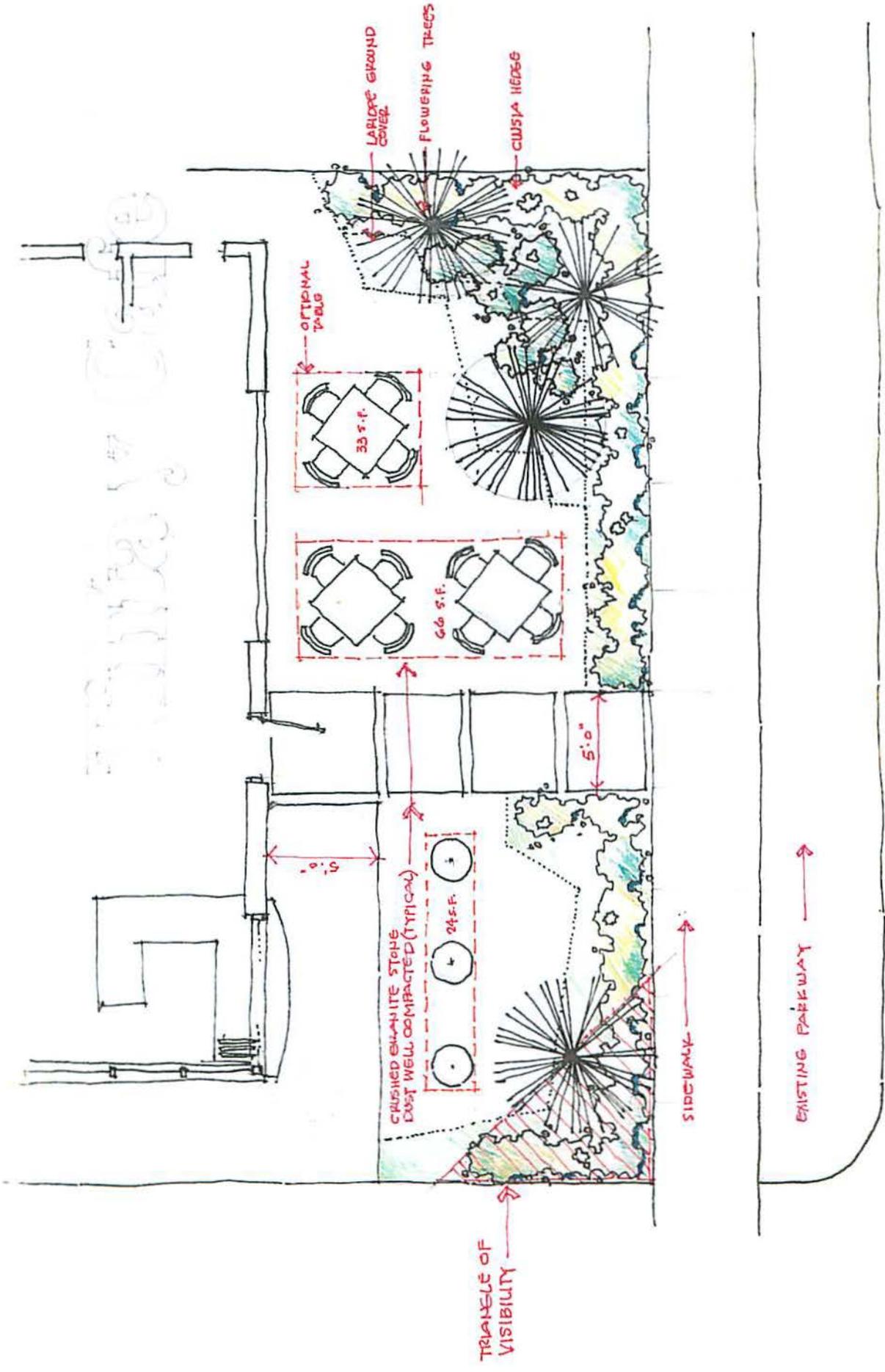
Sincerely,



Laura L. Russo

:ms  
enclosures

Cc: Catherine Swanson-Rivenbach, City Manager (via email only)  
Ramon Trias, Planning & Zoning Director (via email only)  
Yaneri Figueroa, Assistant City Attorney (via email only)  
Neli Santamarina (via email only)



PROPOSAL



**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** FW: Tinta y Cafe - proposal  
**Date:** Monday, March 21, 2016 12:54:32 AM  
**Attachments:** [Tinta y Cafe Settlement Proposal.pdf](#)  
[image001.png](#)  
**Importance:** High

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Please publish.

**Craig E. Leen, City Attorney**

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City, County and Local Government Law*  
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*Celebrating 90 years of a dream realized.*

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**From:** Leen, Craig  
**Sent:** Monday, March 21, 2016 12:54 AM  
**To:** 'Russo Laura'  
**Cc:** Ramos, Miriam; Figueroa, Yaneris; Chen, Brigitte; Paulk, Enga  
**Subject:** RE: Tinta y Cafe - proposal  
**Importance:** High

Laura,

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Thanks,  
Craig

**Craig E. Leen, City Attorney**

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*Celebrating 90 years of a dream realized.*

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**From:** Russo Laura [mailto:[laura@laurarussolaw.com](mailto:laura@laurarussolaw.com)]  
**Sent:** Wednesday, March 02, 2016 4:32 PM  
**To:** Leen, Craig  
**Cc:** Russo Laura Esq; Swanson-Rivenbark, Cathy; Trias, Ramon; Figueroa, Yaneris; Neli Santamarina; Pineda Jael; Chen, Brigette  
**Subject:** Tinta y Cafe - proposal

Dear Craig,

Enclosed is Ms. Santamarina's proposal for the walk up window and open air dining for her property at 1315 Ponce de Leon Blvd. Please let us know if this item will be heard at this coming Tuesday's Commission meeting or the following Commission meeting.

Best regards,

Laura

Laura L. Russo, Esq.

**2655 LeJeune Road. PH 1F**

**Coral Gables, Florida 33134**

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**Fax: 305-476-8383**

**Cell: 305-801-9002**

**[laura@laurarussolaw.com](mailto:laura@laurarussolaw.com)**

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