

MIAMIBEACH

PLANNING DEPARTMENT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139
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May 22, 2023

Zone0423-1086

Mr. Michael Muskat (applicant)
MICHAELMEET@AOL.COM

Mr. Lorenzo Borghese (contact)
borghesel@southbeachbrew.com

Subject: **Request for Zoning Interpretation**
1255 West Avenue
Miami Beach, Florida
Folio No. 02-3233-018-0090, 02-3233-018-0100, 02-3233-018-0110

Dear Mr. Muskat,

This letter is in response to a request for a zoning determination for the property at 1255 West Avenue (the "Property"). The Property is currently zoned **RM-2, Residential Multifamily, Medium Intensity**, and has a future land use designation of **Medium Density Multifamily Residential (RM-2)**, under the City's 2040 Comprehensive Plan.

You have requested a formal determination regarding the applicability of City Code Section 138-5(m), as to the proposed installation of outdoor televisions that are intended to 'entertain' patrons. Further, you have indicated that such televisions would be in the outdoor areas of the premises, as part of the restaurant's outdoor seating areas.

City Code Section 138-5, entitled "General advertising, prohibited signs and sign devices," is set forth in Chapter 138 of the Land Development Regulations, entitled "Signs," at Article 1, "In general." Chapter 138 is also known as the City's Sign Code. Subsection 138-5(m), which governs televisions that are used as signs, provides as follows:

Chapter 138 – SIGNS

ARTICLE I. - IN GENERAL

Sec. 138-5. - General advertising, prohibited signs and sign devices.

(m) Televisions or similar devices, displaying images of any kind are not permitted to be located within the first ten feet of a storefront.

Under this code provision, televisions used as signs may only be installed indoors when associated with a commercial use. This provision regulates the placement of televisions as signage when 'displaying images of any kind.' However, this section of the code does NOT govern the use of a television for purposes other than signage, e.g., to broadcast a network feed. In this instance, a television is NOT treated as a sign and therefore not subject to the restriction in Sec. 138-5(m).

The installation or placement of a television as part of a commercial use, in this case within the

outdoor seating / dining area of a restaurant, would not contravene Section 138-5(m) of the City Code, provided the use of the television (i) is limited to broadcasting a television network feed, and (ii) does not include general advertising or other signage. However, this does not mean that the use of a television is without restriction. Any use of televisions on the Property shall at all times comply with all applicable requirements of the City Code including, without limitation, the Noise Ordinance (set forth in Chapter 46, Article IV).

Additionally, in order to install televisions anywhere in the outdoor areas of the premises, the review and approval of the Design Review Board (“DRB”) will be required, in accordance with City Code Section 118-252. In the event that the DRB approves the installation of televisions within outdoor areas, a separate Building Permit or a Planning Permit (“PZ Permit”) shall also be required and would need to be issued prior to the installation or placement of any televisions.

Based upon the foregoing, the following is noted regarding the requested determination:

1. The installation or placement of televisions as part of a commercial use, in this case within the outdoor seating / dining area of a restaurant, would not contravene Section 138-5(m) of the City Code, provided the use of the televisions is limited to broadcasting a television network feed, and provided the televisions are not used to display general advertisements or other signage.
2. In order to install televisions anywhere in the outdoor areas of the premises, the review and approval of the DRB will be required, in accordance with City Code Section 118-252.

In accordance with City Code Section 118-9, this administrative determination will be published on the City’s website for a period of at least 30 days. An eligible party, as defined in Section 118-9 of the City Code, shall have up to 30 days from the posting on the web page to appeal this administrative determination.

Sincerely,



Thomas R. Mooney, AICP
Planning Director