

June 22, 2020

By Email to MichaelBelush@miamibeachfl.gov

Chairman and Members of the Planning Board
c/o Michael Belush, Chief of Planning & Zoning
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Request for Continuance of the June 23, 2020 hearing on the Application for Conditional Use approval for “Pink Taco” located at 1200 Ocean Drive, Miami Beach, Florida (Planning Board File No. 20-0345)

Dear Chairman and Members of the Planning Board,

I represent S&M Airplane Enterprises, LLC, the owner of the property located at 1144 Ocean Drive, Miami Beach, Florida (the “Victor Hotel”) concerning the above referenced matter. The Victor Hotel is within a 375’ radius of and directly impacted by, the Applicant, PT Opco, LLC’s development project at 1200 Ocean Drive, Miami Beach, Florida.

The Victor Hotel is requesting a continuance of the hearing scheduled for 9:00am Tuesday, June 23, 2020 because the starting time of the hearing was changed without sufficient notice. The Victor Hotel, its expert, and the undersigned attorney relied on the 1:00pm start time.

The hearing is on an application for a Conditional Use approval for entertainment on the outdoor portion of the Restaurant which fronts Ocean Drive, including amplified music, which entertainment and amplified music will directly and adversely impact the Victor Hotel. The Victor Hotel has hired a sound expert, Arno Bommer, to present on its behalf at the Planning Board hearing. Unfortunately, Mr. Bommer, the Victor Hotel’s sound expert, is unavailable to appear prior to 1:00pm on June 23, 2020 to testify on behalf of the Victor Hotel. See expert report from Mr. Bommer at page 1, attached hereto as Exhibit A.

The City of Miami Beach Planning Board hearings have for many years started at 1:00pm. In fact, the last in-person Planning Board hearing which took place in February, before the Coronavirus epidemic, started at 1:00pm. Further, the March and April hearing agendas, which hearings were eventually cancelled, also started at 1:00pm. After receiving the June 19, 2020 emailed notice of the agenda, the new 9:00am starting time was discovered on the City’s online agenda. See June 19, 2020 email attached hereto as Exhibit B. No Revised Schedule of Land Use Meetings noting the changing of the long

held 1:00pm start time for the Planning Board hearings had been circulated by the City's email notification system.

The Victor Hotel, its expert, and the undersigned attorney was relying on the 1:00pm start time and the last minute change in time is unduly prejudicial.

Consequently, I respectfully request that this matter be continued to the next available Planning Board hearing in order for the Victor Hotel's sound expert, Mr. Bommer, to be available to present on its behalf.

Sincerely,

Kent Harrison Robbins

Kent Harrison Robbins
Attorney for S&M Airplane Enterprises, LLC, owners of the Victor Hotel

cc: Tom Mooney, Planning Director: ThomasMooney@miamibeachfl.gov
Nick Kallergis, First Assistant City Attorney: NickKallergis@miamibeachfl.gov

June 21, 2020

Chairman and Members of the Planning Board
c/o Michael Belush, Chief of Planning & Zoning
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Expert Letter Concerning the Application for Conditional Use approval for
“Pink Taco” located at 1200 Ocean Drive, Miami Beach, Florida
(Planning Board File No. 20-0345)

Dear Chairman and Members of the Planning Board,

I have been retained by Kent Harrison Robbins the attorney for S&M Airplane Enterprises, LLC, the owner of the property located at 1144 Ocean Drive, Miami Beach, Florida (the “Victor Hotel”) concerning the above referenced matter.

I am unable to attend the meeting by Zoom at 9:00 am on Tuesday, June 23, 2020 as I will be on a flight all morning.

I have reviewed the acoustical engineering study conducted by Acoustic Sonic Inc. evaluating potential sound emissions from proposed outdoor speakers to be located at the Pink Taco Restaurant. I also reviewed the Peer Review of that report prepared by Arpeggio. The Acoustic Sonic recommendations are insufficient for the following reasons:

- They propose to limit sound from outdoor speakers to a level that **would** interfere with normal conversations on the public sidewalks,
- They propose **no** limits on the indoor sound system and don’t address sound projected outdoors through open doors or windows.
- They don’t address sound projection to the adjacent hotels and don’t include any analysis of sound propagation into the guest rooms of these hotels.
- As mentioned in the Peer Review, they don’t include any limits on low-frequency music that is the most frequent cause of noise complaints and is best addressed with a dBC limit.

Sound Sources of Concern for Pink Taco Restaurant:

There are two main issues of sound that have to be addressed:

- The addition of outdoor loudspeakers
- A DJ operating indoors with doors/windows open (Section 3.a.iii in the Conditional Use Permit)

The main areas of concern are:

- Nearby public sidewalks
- Adjacent properties such as the Victor Hotel and Tides Hotel

Criteria:

For residences and guest rooms, the Acoustic Sonic report proposes to limit music sounds below the interior ambient baseline sound levels. They measured 35 dBA and 40 dBC inside Apartment Unit 210 but did not measure ambient sound levels inside any other residences or guest rooms. These ambient levels are reasonable to use for other residences and guest rooms.

The Arpeggio Peer Review recommends a dBC limit since most complaints are likely to be from low-frequency sound, and the dBC level is a good measure of low-frequency sound.

For the public sidewalk area, sound levels should not interfere with normal conversations. The Peer Review from Arpeggio gives normal voice levels at 1 m as 58 dBA for men and 55 dBA for women. Any music sounds above this will cause people to have to raise their voices.

Sound Reduction through Exterior Partitions:

To determine an exterior noise limit based on a criterion inside, the sound reduction through the partition must be determined. At the bottom of Page 4 of the Acoustic Sonic report, they present a reduction of 25 dBA through the balcony doors of Unit 210 based on the difference in their sound measurements on the balcony and in the unit for different test conditions. For low-frequency sounds, their typical measured difference from the balcony to within the unit was about 18 dBC.

Based on the interior ambient sound levels and the reduction from outdoors to indoors in the Acoustic Sonic Report, an appropriate noise limit outside the residences and guest rooms is:

- 35 dBA (interior ambient) + 25 dBA (reduction) = 60 dBA (exterior criterion)
- 40 dBC (interior ambient) + 18 dBC (reduction) = 58 dBC (exterior criterion)

Acoustic Sonic Recommendations:

The only recommendation of the Acoustic Sonic report is a limiter for the exterior speakers set for a maximum of 70 dBA. This is slightly louder than the column for "Speaker out 50%" in Table 1 of their report, which has 73 dBA at the property line at Ocean Drive (Site 1) and 72 dBA at the property line at 12th and Ocean (Site 3). With this speaker setting,

- Sound levels at the property line on the sidewalks greatly exceed the levels of “normal conversation.”
- Sound levels at the property line with the Victor Motel and Tides Hotel exceed the outdoor criteria of 60 dBA and 58 dBC based on the interior noise goals.

In addition, there are no recommendations for limiting sound from the indoor speakers. Only the outdoor speakers are limited. The issue of the indoor sound system is not addressed at all in the Acoustic Sonic report. For the sound measurements made with the inside speakers presented in the report, there isn't even any information on whether the doors were open or closed.

For these reasons, the Acoustic Sonic recommendations are not appropriate. To solve all of the potential noise problems, the following must be addressed:

- Sound levels at the sidewalk property line must be limited to below the sound levels of normal conversational speech (about 55 dBA).
- dBC levels outside and inside residences and guest rooms must be limited as well as dBA levels.
- Sound levels outside residences and guest rooms must result in interior sound levels below the interior ambient sound levels (an exterior limit of 58 dBC would ensure this)
- The interior speakers must also be limited to meet the exterior dBA and dBC noise limits whenever doors or windows are open.

Thank you for the opportunity to assist you on this project.

Sincerely,

COLLABORATION IN SCIENCE AND TECHNOLOGY INC.



Arno S. Bommer, *INCE.Bd.Cert.*

From: [City of Miami Beach](#)
To: [Ernesto Reyes - KHR Law Offices](#)
Subject: PB Virtual Agenda - Tuesday, June 23, 2020
Date: Friday, June 19, 2020 4:48:10 PM



Planning Board Agenda

Tuesday, June 23, 2020

Date: Tuesday, June 23, 2020

Time: 9:00 a.m.

Location: Miami Beach Convention Center Or Virtual Meeting (see details below)

[Agenda more>](#)

PUBLIC NOTICE IS HEREBY GIVEN that the regularly-scheduled public meetings

EXHIBIT B

identified below will now be held as virtual meetings (i.e. as meetings using “communications media technology” pursuant to Executive Order 20-69 issued by the Governor on March 20, 2020), as provided below. Members of the public wishing to speak on an item during the meeting, must click the “raise hand” icon if using the Zoom app or press *9 on the telephone to “raise hand”.

Members of the public who do not have access to a computer and wish to provide testimony and/or submit evidence in support of or in opposition to an item scheduled to be heard may appear in-person, at the Miami Beach Convention Center, 1901 Convention Center Drive, **Washington Avenue Entrance, Art Deco Room 229** Miami Beach, FL 33139, at which location access to a computer will be provided.

Members of the public wishing to submit audio visual materials are requested to submit such materials via email to Communications@miamibeachfl.gov, no less than 24 hours prior to the meeting. Materials must clearly reference the applicable file number and should be formatted as Power Point or PDF, and shall not exceed 15 MB in size. Members of the public will be given two minutes each to speak during public hearing items, unless additional time is granted by the Board. At this meeting, the board may also discuss or hold public hearings on applications that were previously advertised and continued. Items may not necessarily be heard in the same order as previously listed.

Public meeting of the Planning Board of June 23, 2020, scheduled for 9:00 a.m., in the City Commission Chambers, Third Floor of City Hall, located at 1700 Convention Center Drive, Miami Beach, Florida will be now be held via Zoom.

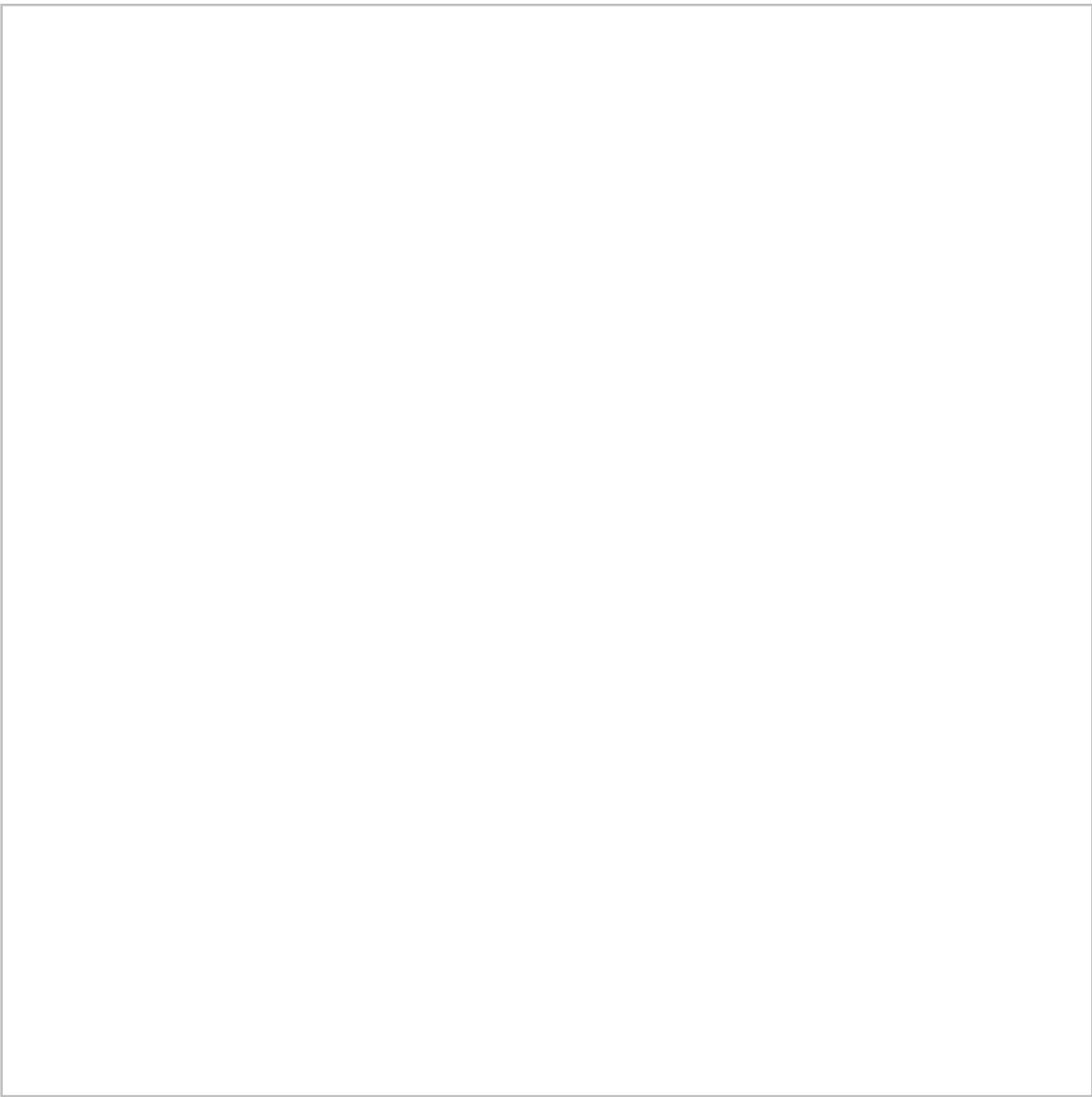
Please use the following link to join the webinar:

<https://us02web.zoom.us/j/83808172247> , or via telephone: US: +1-312-626-6799,83808172247# or 1 888 475 4499 (toll free), webinar ID: 838 0817 2247#

Contacts:

305.673.7550 | PB@miamibeachfl.gov



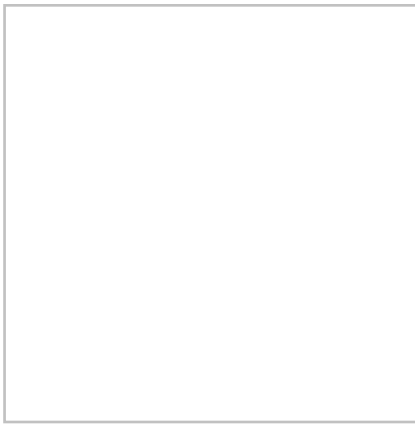


City of Miami Beach | 1700 Convention Center Drive, Miami Beach, FL 33139

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