

May 5, 2021
 By Email to deborah.tackett@miamibeachfl.gov

Chairman and Members of the Historic Preservation Board
 c/o Debbie Tackett, Chief of Historic Preservation
 City of Miami Beach
 1700 Convention Center Drive
 Miami Beach, Florida 33139

Re: Request for Deferral or Continuance of the May 11, 2021 hearing on the Application for Certificate of Appropriateness for Partial Demolition and Design and Variances for the property located at 1501 Collins Avenue, Miami Beach, Florida (Historic Preservation Board File No. 20-0444)

Dear Chairman and Members of the Planning Board,

I represent Albert Lepage, the owner of the properties located at 1500 Ocean Drive, Units 801, 802 and 909, Miami Beach, Florida (“Lepage”) concerning the above referenced matter.

Because of subject matter jurisdiction conflicts, Mr. Lepage is requesting a deferral or continuance of the hearing on Historic Preservation Board File No. 20-0444 scheduled for Tuesday, May 11, 2021, as matters precedent must be reviewed and considered by the Planning Board prior to any consideration by the Historic Preservation Board or, alternatively, the HPB should defer and not consider matters that are particular to the jurisdiction of the Planning Board.

At the request of Staff, the April 27, 2021 Planning Board hearing on an application for a Conditional Use Permit for 1501 Collins Avenue was continued to the May 25, 2021 Planning Board Hearing. The Planning Board was to consider the use and occupancy of the following at 1501 Collins Avenue:

	<u>Occupancy</u>	<u>Indoor Seating</u>	<u>Outdoor Seating</u>	<u>Total Seats</u>
Four Public Restaurants:	1048	395	247	642
Limited Access Food and Alcohol Beverage “Amenities” for Offices:	<u>865</u>	<u>80</u>	<u>301</u>	<u>381</u>
TOTAL:	1913	475	548	1023

Since that time, the seat count has changed. The reason that the application was continued by the Planning Board was that the City was not prepared to consider additional language that was proposed for the Conditional Use Permit order.

A continuance of the Historic Preservation Board hearing is legally necessary because matters impacting issues essential to the Planning Board review are being presented to this HPB for its review. Historic Preservation Board plans submitted by the Applicant specify speaker placement, type and sound systems as well as food, beverage, and restaurant seats, tables and counters. The plans submitted for HPB consideration affect the use of the premises, and that use impacts the immediately adjoining residential property. Those uses and their impacts are the substance of the Conditional Use Permit review process exclusively reserved for consideration by the Planning Board. Because Conditional Use Permit review is in the exclusive jurisdiction of the Planning Board, the Historic Preservation Board matter should be continued until after the request for a Conditional Use Permit is considered by the Planning Board, as is the usual and customary procedure of HPB Staff under such circumstances.

Without the speaker placement, type and system as well as food, beverage, and restaurant seats, tables and counters first being reviewed by the Planning Board as part of its Conditional Use Permit review process, and its determination of whether those proposals are consistent with the requirements of Conditional Use Permit approval, this Board does not have sufficient factual and legal information to determine whether there is competent substantial evidence to support the proposed Certificate of Appropriateness and variances and to determine whether the issuance of such Certificate of Appropriateness and variances meet the essential requirements of the law.

Further, by considering the application for a Certificate of Appropriateness and variances prior to the Planning Board's review of the speaker placement and type as well as food, beverage, and restaurant seats, tables and counters as part of the Planning Board's Conditional Use Permit review and the entering of any order, it denies the Affected Parties due process.

Sincerely,

Kent Harrison Robbins

Kent Harrison Robbins
Attorney for Albert Lepage

cc: Tom Mooney, Planning Director: ThomasMooney@miamibeachfl.gov
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