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**Subject:** [EXTERNAL] Topsy Rooster / 1325 Simonton St / Agenda Item 3.27.25 Planning Board Mtg  
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Dear Planning Dept,

I reviewed your complete approval of Southwinds plans. I believe special conditions need to be added to address the noise issue. A neighbor on Elizabeth St would like to be heard about this prior to the meeting if possible. If not, the meeting should be postponed to address these concerns regarding their quality of life, which every Commissioner and Mayor promises to protect. There are currently no conditions regarding the bar music or the potential for outside music at the pool. Per the plan, there may not need to be any conditions, but I suggest that it doesn't hurt to put all of the owner's promises as well as other conditions that haven't been addressed yet - in writing as Conditions so that it is clear cut, no one forgets, and the City can refer to them and save a lot of time, money and energy in the future, not to mention for peace of mind for these residents, who have endured a tremendous amount of excessive noise since 2021, with no protection from the City's Noise Ordinance. It is my understanding the owner is currently reviewing the residents' proposed conditions.

I grew up at 404 South St, what we all still call the quiet end of Duval St. I'm very familiar with the history of outside amplified music since the 1970s.

**Southwinds is in the HCT zone. Bars are conditional uses there. Per the City's code, conditional uses cannot adversely impact the neighbors,** immediate vicinity is how it is worded now.

There should be no outside amplified music really in HCT. Outside music with no mitigation whatsoever should be illegal unless it is once in a while and the music level, duration, and end time is reasonable, for example a few concerts and events 5x/ year at South Beach. Every business is allowed 5 special events permits/year, last time I checked.

If partially outside music is allowed daily, which is what the Topsy Rooster is proposing - to be partially inside, doors open with a roof and the hotel rooms blocking noise into Elizabeth St- then the property owner needs to work with the neighbors to satisfy them so their homes aren't ruined: quality of life, property values, etc. with conditions that put these promises in writing and blocking any more expansion of the noise. **The planning department should place special conditions on how many times/week, duration, and until what time, and make it site specific on the property, keeping in mind the properties across the street**

**where the music will be pointed at.**

Outside amplified music every day at the quiet end shouldn't be allowed because this is HCT. It is meant to be a quiet part of town for the hotel guests and residents. The hotels are supposed to blend in with the residents, not push out the residents.

From my understanding and you can correct me if I'm wrong - the Topsy Rooster owner started a conditional use business (a bar) without going through planning. The way he did it was asking to be a liquor store first. The good thing is, because he did that, now there is no question that this bar adversely affects the neighbors and is against City Code. It is my understanding of the Code that they are right now in violation and are illegal, even though they can't get a noise citation.

There has been no business in this part of town that has blasted outside amplified music in the past 40 years every single day for this many hours before the Topsy Rooster. They have completely made history with their business.

We're talking 10-11 hrs/day. That's excessive! The owner knows that the residents hear his music, he doesn't care. He feels completely entitled to do it. He doesn't live here either.

I just learned a few days ago that the residents complained several times and because of no protection from the sound ordinance, Code warned a resident - with another resident present as a witness - **that they could get cited from the police if they called any more**, which stopped the complaints back in 2021/2022. The music started in 2021.

The music and bass are plainly audible in their home but they are too far from the speaker to get the required reading. The type of complaint (the audible noise complaint or disturbing noise complaint) that requires no meter was removed from the sound ordinance on purpose so that businesses could hurt residents and be in compliance and have no incentive whatsoever to work with their neighbors to come up with a level that doesn't disturb them. One Human Family, right?

It looks like the City also changed HRO to commercial in order to expand the reach of the music, even though it has no C (Commercial) in it, but an R for Residential. These residents all live in what is really a residential zone, HRO.

This also affects affordable housing forcing that residential home to become a vacation rental because only a visitor could tolerate it. **So the City is right here hurting affordable housing units by ignoring their own City Code.**

Here we have residents who have been disturbed, no protection from the sound ordinance and another outside music venue has popped up in the area consequently and more may follow.

Meisel, the owner, is now saying that he has been a good neighbor and promises to contain his music after the construction of the new bar is complete, which could be another year or two, but he is not promising to do anything now with his sound levels because he is in compliance.

If he doesn't do something now, the only relief the residents can possibly get is if Planning writes special conditions for outside and partially outside music. Again, the meeting is this Thursday. I know that doesn't give much time but these neighbors have not known how to handle this situation given the fact that the sound ordinance failed them and they have been promised lower levels and a better noise situation with this new plan so they are scared to speak up and upset the owner, who has the power to affect their lives and properties. They are at the mercy of him. The City has turned their backs on them basically and they have been suffering in silence.

Another idea to help them get relief sooner: my parents and the Southernmost Beach Resort in 2009 did a sound test to determine what is a suitable sound level. That may or may not work because of the proximity but if he really wants to be a good neighbor, he should do that at least.

Also, this is not hurting his rights because it is the city law that no bar in this area of town is a permitted use and if it exists, it cannot adversely impact the neighborhood, and this bar clearly has and currently is still impacting them, excessively.

Here is the calendar so you can see for yourselves how many hours/day music is possibly infiltrating, with the night time music being the most disturbing when the streets get quieter.

<https://tipsyroosterkw.com/calendar/>

We need to keep the quiet end quiet because that's what the tourists count on when they book a hotel here with their families and that's how it is advertised almost every website.

I have copied some commissioners, the Planning Board members, the Mayor and the City Manager and a neighbor. Anyone can call me about this: 305.393.0245.

If Meisel can do it, so can the other, and the other, and the other and we have lost the balance that you party on that end, and you rest here. Just please think about it and I hope the Mayor and the Commissioners give you, the Planning Department, the support to honor the Code. **Treat others how you would want to be treated is the golden rule and I don't think anyone I know would want to live next to the Topsy Rooster. Let's work together to help this residential neighborhood.**

Thank you,

*Marcela M. Gregory*

