


MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: **PB20-0410, a.k.a. PB19-0303. 6948-6988 Abbott Avenue & 6957-6965 Byron Avenue – Target. Modification to a conditional use permit.**

DATE: January 26, 2021

An application has been filed requesting modifications to a previously issued conditional use permit for a retail establishment over 25,000 SF, which is part of a new proposed 12-story mixed-use development in the TC-C zoning district. Specifically, the applicant is requesting modifications to the previously approved operational plan regarding hours of operation for loading and deliveries, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

RECOMMENDATION

Approval with conditions.

BACKGROUND

On February 25, 2020 the Planning Board approved a conditional use permit for this retail establishment, which is over 25,000 SF. On October 10, 2020 the Design Review Board approved an application for the project (DRB19-0424).

ZONING / SITE DATA

Legal Description:

Lots 3, 4, 5, 6, 7, 8, 9, 10, Block 13, and lots 11 and 12, less the west 50 feet thereof, Block 13 of Normandy Beach South, according to the plat thereof, as recorded in Plat Book 21, page 54, of the public records of Miami-Dade County, Florida.

Zoning:

TCC Town Center- Central Core

Future Land Use Designation:

TCC Town Center- Central Core

Retail establishment area:

30,089 SF

Surrounding Uses:

North: Parking lot and commercial uses
West: Commercial, Multifamily residential
Apartments and a parking lot

South: Multifamily residential apartments
and Commercial uses
East: Commercial and, Multifamily residential
Apartments

(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant has submitted a revised operational plan that includes new hours for loading and deliveries in order to operate a retail establishment over 25,000 SF, which is part of a new building that will also contain residential uses.

The proposed retail use has an area of 30,089 SF and is primarily located on the ground floor facing 71st Street, Abbott Avenue, and the 70th Street pedestrian paseo. There is also a proposed café component located on the second floor at the northeast side of the project. Parking access is from Byron Avenue and parking for the retail use will also be located on the second floor.

All back of house, delivery and trash operations are located on the ground floor with access from Byron Avenue.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Section 118, Article IV, Sec. 118-191 and Sec. 118-192 (a):

1. **The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent.

2. **The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.**

Consistent.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

Consistent – The proposed 12-story mixed-use development is an allowable use and the retail establishment over 25,000 SF is permitted as a conditional use in the TC-C Zoning District and is consistent with the Land Development Regulations. These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Certificate of Use (CU).

4. **Public health, safety, morals and general welfare will not be adversely affected.**

Partially Consistent – The proposed project may adversely affect the general welfare of nearby residents and businesses if sound, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative

impacts. The facility will have to comply with all applicable laws and regulations prior to the issuance of a Certificate of Use (CU).

5. Adequate off-street parking facilities will be provided.

Consistent.

See the attached memorandum from the Transportation and Mobility Department.

6. Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

Partially Consistent – Staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

7. The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Consistent.

As there is no specific conditional use criteria listed for retail establishments over 25,000 square feet, staff has reviewed the application for consistency with the Conditional Use Criteria for new structures over 50,000 square feet.

COMPLIANCE WITH REVIEW GUIDELINES CRITERIA FOR NEW STRUCTURES 50,000 SQUARE FEET AND OVER

Pursuant to Section 118-192(b), in reviewing an application for conditional use for new structures 50,000 square feet and over, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines:

1. Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.

Partially Consistent – The applicant submitted a revised business operations plan.

2. Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan shall mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.

Partially Consistent– Per the previously approved conditional use permit, the plans indicated that loading will take place from the required six (6) loading spaces contained within the building; three (3) of these spaces are located on the ground floor and are associated with the proposed retail space. The previously approved operational plan

included hours of operation for deliveries consistent with the TC-C regulations in City Code Section 142-745.a.12.

The proposed hours of operation differ from the TC-C regulations, and the proposed hours can only be approved by Planning Board.

See Delivery and Sanitation Analysis.

3. **Whether the scale of the proposed use is compatible with the urban character of the surrounding area and creates adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.**

Consistent.

4. **Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.**

Consistent. – Per the previously approved conditional use permit and pursuant to the regulations for Parking District No. 8, no parking is required for retail uses; however, required parking can be provided up to the level required in Parking District No. 1 without counting against the project's maximum FAR. The proposed 54 spaces satisfy the parking requirements for the proposed commercial space, and do not count towards the project's FAR. Additionally, a retailer such as Target will draw customers from beyond the local area, so staff recommends that parking be provided.

As proposed, Byron Avenue includes two (2) curb cuts; one provides access to the ground level trash room and commercial loading area, and the second provides vehicular access to parking on the second and third levels and residential loading areas on the second level.

5. **Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.**

Consistent.

6. **Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.**

Partially Consistent.

7. **Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.**

Consistent – Per previously approved conditional use, David Plummer and Associates was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review.

See the Memorandum from the Transportation Department for additional information related to the proposed change on the hours of deliveries and loading operations.

8. **Whether a noise attenuation plan has been provided that addresses how noise shall be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.**

Consistent.

9. **Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.**

Consistent.

10. **Whether the proximity of the proposed structure to similar size structures and to residential uses create adverse impacts and how such impacts are mitigated.**

Partially Consistent – Per the previously approved conditional use permit, the proposed project, which includes a 149-foot tall, twelve (12) story building with ground floor commercial uses, is consistent with the intent of the Town Center Ordinance, which encourages this type of development. However, there are residential multifamily buildings located to the south and west of the site and there may be adverse impacts from the proposed project due to this close proximity. Staff recommended conditions to minimize potential adverse impacts.

11. **Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect shall be addressed.**

Consistent.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) **A recycling or salvage plan for partial or total demolition shall be provided.**

Consistent.

- (2) **Windows that are proposed to be replaced shall be hurricane proof impact windows.**

Consistent.

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Consistent.

- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Consistent.

- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Partially Consistent- Per the previously approved conditional use permit, the applicant indicated that sea level rise projections were considered.

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

Consistent.

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

Consistent.

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

Not Applicable- The subject site currently consists of surface parking lots.

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Consistent.

- (10) Where feasible and appropriate, water retention systems shall be provided.

Partially Consistent- Per the LOI for the previously approved conditional use permit, the applicant will study various water retention systems for the Project.

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Consistent.

(12) The design of each project shall minimize the potential for heat island effects on-site.

Not Consistent- Consistent with the previously approved conditional use permit, the applicant has not provided information regarding any efforts to minimize heat island effects.

ANALYSIS

The Proposal

The applicant is requesting modifications to the previously approved operational plan regarding hours of operation for loading and deliveries.

Operations

Loading, deliveries and sanitation

The previously approved operational plan includes hours of operation for deliveries consistent with the TC-C regulations in City Code Section 142-745.a.12. These hours can only be waived by the Planning Board as part of a conditional use approval.

Per condition 8 (c) of the Conditional Use Permit, the approved hours of operation are:

8. *Deliveries and waste collections may occur daily between 9:00 AM and 3:00 PM and 6:00 PM to 8:00 PM on Monday to Friday; and 9:00 AM to 4:00 PM Saturday and Sunday.*

The proposed hours for deliveries, per the Applicant's modified operational plan, are as follows:

Deliveries are proposed to be permitted between 7:00 AM and 8:00 PM seven days a week. Per the applicant's operational plan, the deliveries are divided into two categories:

- 1- 7:00 AM to 1:00 PM: Target trucks.
- 2- 1:00 PM to 8:00 PM: Vendor Deliveries (see proposed operational plan).

Per condition 7 on the Conditional Use Permit:

7. *A complete business operations plan shall be provided for the review and approval of the Planning Board, prior to the issuance of any building permit including a retail establishment in excess of 25,000 square feet. At a minimum such plan shall include the hours of operations, number of employees, mass plan for delivery of merchandise, including sizes of all delivery and trash vehicles utilized, frequency and management of vehicles, security for the site and parking.*

The revised operational plan states the proposed new hours for deliveries and includes general information about the request. Notably, the plan states that it will be difficult to completely eliminate trucks waiting on the street during vendor deliveries and that the trucks will often be larger than the typical WB-40 truck. There have been problems with larger trucks used for loading on this site, which have exceeded the limitations of the provided loading area. Staff recommends

that, if the new hours of operation are approved, a complete, detailed operational plan should be provided by the tenant (Target). Such plan should include all of the types of trucks required to service Target, as well as a plan to manage deliveries. The developer's statements alone do not sufficiently address staff's concerns relating to the impacts of loading and deliveries on the site.

In addition, staff recommends that a dockmaster be present to monitor and coordinate logistics for all deliveries and loading on the site, and to ensure the conditions of this MCUP are satisfied. Staff recommends that the Board add this requirement to conditions 7 and 8 (b) of the previously approved CUP (see attached draft Order).

Additionally, should a pharmacy be proposed on the property in the future, the project would be required to comply with the minimum distance separation between pharmacies. (Note: there is an existing pharmacy in operation at the corner of 71st Street and Indian Creek Drive).

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application for a modification to the Conditional Use Permit to modify the hours of operation for loading and deliveries be approved, subject to the conditions enumerated in the attached draft Order.

ZONING/SITE PLAN



**PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA**

PROPERTY: 6948-6988 Abbott Avenue & 6957-6965 Byron Avenue

FILE NO. PB20-0410 , a.k.a. PB 19-0303

IN RE: An application has been filed requesting modifications to a previously issued conditional use permit for a retail establishment over 25,000 SF, which is part of a new proposed 12-story mixed-use development in the TC-C zoning district. Specifically, the applicant is requesting modifications to the previously approved operational plan regarding loading and deliveries hours of operation, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

LEGAL DESCRIPTION: Lots 3, 4, 5, 6, 7, 8, 9,10, Block 13, and lots 11 and 12, less the west 50 feet thereof, Block 13 of Normandy Beach South, according to the plat thereof, as recorded in Plat Book 21, page 54, of the public records of Miami-Dade County, Florida.

MEETING DATE: February 25, 2020. January 26, 2021.

MODIFIED CONDITIONAL USE PERMIT

The applicant, North Beach Town Center Development, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a retail establishment over 25,000 SF. Pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

That the property in question is located in the TC-C Town Center- Central Core Zoning District;

That the use is consistent with the Comprehensive Plan for the area in which the property is located;

That the intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and uses associated with the request are consistent with the Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification to the hours of operation, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to North Beach Town Center Development, LLC, any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
4. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. As part of the Building Permit plans for the project, the applicant shall submit revised architectural drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
 - a. The location of the proposed loading bays on the second floor shall be revised by relocating and reconfiguring the adjacent parking spaces; loading spaces shall have enough space for loading and unloading without encroaching into the drive isles, subject to the review and approval of staff.
 - b. Detailed elevations and section drawings of the mechanical equipment area located on the second floor shall be provided. This area shall be screened from view from the adjacent building and from the pedestrian paseo, and an additional wall with sound attenuating material shall be provided, subject to the review and approval of staff.
 - c. Additional details shall be provided for the south and west wall abutting the existing residential building. The garage structure shall be enclosed along these elevations

to ensure that lighting and vehicular noise is contained within the building, in a manner to be reviewed and approved by staff.

7. A complete business operations plan for the project shall be provided ~~for the review and approval of the Planning Board~~, prior to the issuance of any building permit ~~including a retail establishment in excess of 25,000 square feet~~. At a minimum such plan, which shall be subject to the review and approval of staff, shall include the hours of operations, number of employees, ~~mass a master plan~~ for delivery of merchandise, including sizes of all delivery and trash vehicles utilized, frequency and management of vehicles, security for the site and parking.
8. A separate, detailed operations plan shall be provided by the tenant of any retail establishment in excess of 25,000 square feet, which shall be subject to the review and approval of the Planning Board, prior to the issuance of any building permit for the build out of the space. At a minimum such plan shall include the hours of operations, number of employees, mass plan for delivery of merchandise, including sizes of all delivery and trash vehicles utilized, frequency and management of vehicles, security for the site and parking.
9. The Applicant agrees to the following operational conditions for the entire facility:
 - a. The maximum length of any delivery vehicle shall not exceed 47 feet, and the operational plans shall include provisions to ensure that no more than one vehicle over 20 feet in length is servicing the retail establishment at any given time.
 - b. All deliveries shall be accommodated within the site. No backing in or backing out of the loading area onto the street shall be permitted at any time.
 - c. Delivery hours shall be from 7:00 am to 8:00 pm, 7 days a week. Additionally, a dockmaster shall be present coordinating the logistics of all deliveries and loading of the facilities during all delivery hours, to ensure all of the applicable delivery and operational conditions of this MCUP are met.
 - d. Stacking, idling or loading shall not be permitted on the street at any time.
 - e. Vehicular regulating signage shall be provided in the garage in a manner to be reviewed and approved by staff.
 - f. The garage shall be in operation 24 hours per day, seven days a week, as proposed by the applicant. There shall be security personnel of at least one person on-site monitoring the garage operation 24 hours a day, seven days a week.
 - g. Warning signs prohibiting horn honking, tire-screaching, or car alarm sounding shall be posted prominently by the applicant or valet operator, and valet attendants shall be instructed to observe them strictly.
 - h. A delivery and refuse plan, including all delivery access points and routes, as well as the location of all trash and refuse areas, shall be provided and shall be subject

to the review and approval of staff.

- i. Deliveries and trash collection shall take place only at the designated areas proposed by the applicant as shown in the plans.
 - j. Delivery trucks shall not be allowed to idle in the loading zone.
 - k. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - l. Deliveries and waste collections may occur daily between 7:00 AM to 8:00 PM ~~9:00 AM and 3:00 PM and 6:00 PM to 8:00 PM on Monday to Friday; and 9:00 AM to 4:00 PM Saturday and Sunday.~~
 - m. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - n. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
 - o. An air conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one pick up of garbage per day will be necessary.
 - p. Garbage dumpster covers shall be closed at all times except when in active use.
 - q. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.
 - r. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
10. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first.
11. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Planning Board concurrent with the submission of the business plan details as required in condition no. 10 above. The following shall also be reviewed as part of the TDM plan:
- a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed

development. The applicant shall provide the location of short-term and long-term bicycle parking, consistent with the requirements for each type of bicycle parking, as defined in Section 114-1 of the City Code. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.

- b. The applicant may be required to coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
12. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license with entertainment.
13. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
14. The Planning Board shall retain the right to call the owner or operator back before the Board and modify the hours of operation or the occupant load should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
15. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
16. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
17. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
18. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.
19. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

PB20-0410 a.k.a. PB 19-0303
6948-6988 Abbott Avenue & 6957-6965 Byron Avenue
Page 6 of 6

- Dated this _____ day of _____, 2021.

BY: _____
 Rogelio Madan, AICP
 Chief of Planning and Zoning
 For Chairman

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department _____ ()

Filed with the Clerk of the Planning Board on _____ (