

**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.

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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

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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 staff, 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, 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.
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 and waste collection hours shall be from 6:00 AM to 8:00 AM, 9:30 AM to 4:30 PM, and 6:00 PM to 9:00 PM on weekdays and 9:00 AM to 9:00 PM on weekends. Additionally, a dockmaster shall be present to coordinate the logistics of all deliveries and loading of the facilities at all times during 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

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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

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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.

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20. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated this 2nd day of March, 2021.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

Rogelio Madan

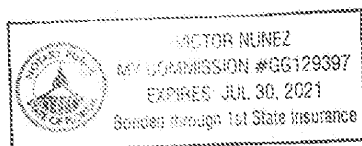
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Rogelio Madan, AICP
Chief of Planning and Sustainability
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 3 day of March, 2021, by Rogelio Madan, Chief of Community Planning and Sustainability of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[Signature]

Notary:

Print Name

Notary Public, State of Florida

My Commission Expires:

Commission Number:

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Approved As To Form:
Legal Department

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Jessica Gonzalez

Filed with the Clerk of the Planning Board on 3/3/2021 | 9:13 AM EST

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