BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES
ZONING, LAND USE AND
ENVIRONMENTAL LAW

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office
305.377.6222 fax
MLarkin@brzoninglaw.com

VIA E-MAIL AND HAND DELIVERY

March 6, 2023

Rogelio Madan, Chief of Community Planning & Sustainability
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: **Amended Letter of Intent** – PB22-0563 –Conditional Use Permit for 801 South Pointe Drive, CU-2A and CU-2B2

Dear Mr. Madan:

This law firm represents Gaia Miami Beach, LLC (the "Applicant") with regard to the above-referenced property within the South of Fifth Neighborhood in the City of Miami Beach (the "City"). This letter serves as the required letter of intent for a Conditional Use Permit ("CUP") for a restaurant classified as a neighborhood impact establishment.

Description of the Property. The subject property is a portion of commercial unit number 2 ("CU2") located at 801 South Pointe Drive, within the existing Marea Condominium building. The Miami-Dade County Property Appraiser's Office identifies CU-2 with Folio No. 02-4203-368-0320. CU2 has been subdivided into three commercial units identified as follows: CU2-A, CU2-B1, and CU2-B2. Currently, CU2-B1 is occupied by a small restaurant known as Kosushi Miami. The portion of CU-2 that is the subject of this Application consists of CU2-A and CU2-B2 (the "Property"). The Property is approximately 9,534 square feet in size and is currently vacant retail/restaurant/commercial space. The Property is within the Limited Mixed Use Commercial Performance Standard 1 (CPS-1) district, which permits neighborhood impact establishments without entertainment as a conditional use.

Proposed Restaurant. The Applicant is an internationally celebrated fine dining restaurant concept that serves innovative Greek-Mediterranean style dishes at its Dubai, Doha, Monte-Carlo, and London locations. The Applicant intends to bring its renowned concept to Miami Beach as its first location in the western hemisphere ("Gaia Miami Beach"). Owing its name to the Greek Goddess of Earth, every aspect of Gaia Miami Beach's menu, décor, and atmosphere is inspired by the Earth and its fundamental components. Although consistent with respect to theme and programming, each of the Applicant's restaurants is tailored to its specific location and neighborhood. Gaia Miami Beach will be no different, as the design and programming will tailored to serve the residents and visitors to the South of Fifth neighborhood. The Applicant's concept includes a traditional upscale dining, as well as an exclusive member only or VIP dining area for an elevated experience. For Gaia Miami Beach, the Property represents the perfect space to implement this concept in a way that is adapted to fit the character of the South of Fifth Neighborhood due to the Property's unique shape and location on a prominent corner at the intersection of Washington Avenue and South Pointe Drive.

The Proposed Restaurant will have five components: 1) the interior dining room and bar with approximately 162 seats; 2) the sidewalk seating area with approximately 30 seats; and 3) the VIP dining area with approximately 45 seats; 4) an exclusive 10-seat Chef's Table dining area; and 5) a display pastry/desert kitchen facing the corner of South Pointe Drive and Washington Avenue. The hours of operation of the interior dining room and VIP dining area will be until 2AM, and the outdoor seating area will operate until 12AM.

The Applicant intends to utilize an advanced directional sound system to play ambient background level music in the interior in a manner that does not cause sound to spill from the Property to the surrounding area, or the residential units of the Marea Condominium above. Gaia Miami Beach is going to unprecedented lengths to mitigate any potential impacts from patron noise or music to the residents within the Marea Condominium, including utilizing sound mitigation construction techniques to eliminate potential noise spillover into the residential units above Further, the Applicant intends to implement best practices to reduce noise from patrons leaving Gaia Miami Beach by, for example., asking patrons to wait for their vehicles inside the restaurant lounge area while valet attendants retrieve the vehicles. With respect to the outdoor seating area, the Applicant is voluntarily prohibiting outdoor speakers to avoid any potential impacts to neighbors. Further, the Applicant intends to include lush landscaping and umbrellas to contain patron noise within the outdoor seating area and prevent impacts to residential neighbors.

Overall, the Applicant intends to operate Gaia Miami Beach in a manner that is consistent with the residential character of the South of Fifth Neighborhood, while providing an upscale option for Greek-Mediterranean food that is currently missing from the area. As a result, the Marea Condominium Association supports the proposed CUP. See Exhibit A, Support Letter.

Modifications to Plan. In response to staff's concerns with the Applicant's initially proposed floor plan's impact on the sidewalk and pedestrian context of the area, the Applicant has submitted a substantially revised floor plan that successfully activates the prominent corner of South Pointe Drive and Washington Avenue. Specifically, the Applicant has made the following modifications to the proposed plan:

- Relocated the restrooms to the north side of the Property;
- Reduced the area of the back of house kitchen and created a display pastry kitchen; and
- Modified the location of the private VIP dining room to be at the corner of South Pointe Drive and Washington Avenue and eliminated demising walls to create transparency into the VIP dining area.

Overall, the revised plan activates the entire perimeter of the Property to respect the pedestrian context of the neighborhood. The Applicant proposes high quality materials, finishes, and decorative elements within the display kitchen to create an interesting and exciting atmosphere on Washington Avenue. The Applicant intends to utilize the display kitchen for demonstrations that activate the public realm and invite patrons to Gaia. On South Pointe Drive, the restaurant bar serves to activate the South Pointe Drive frontage while also providing internalized area for patrons to wait for their tables or vehicles while being retrieved by valet attendants.

Satisfaction of CUP Criteria. The Applicant's request satisfies the CUP Standards in Section 118-192(a)(1)-(7) of the Code of the City of Miami Beach (the "Code") as follows:

(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 – Policy RLU 1.1.27 provides that the C-PS-1 Future Land Use Designation permits accessory uses and conditional uses approved at public hearings as permitted by the Land Development Regulations. The

proposed use is consistent with Policy RLU 1.1.257 as it is a conditional use authorized by the City's Land Development Regulations.

(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 – The proposed CUP does not result in an impact that will exceed the thresholds for the levels of service required by the Comprehensive Plan, as the Property is an existing commercial unit within the Marea Condominium that was reviewed and approved in 2014.

(3) Structures and uses associated with the request are consistent with these land development regulations.

CONSISTENT – The structure and use associated with the Applicant's proposed CUP is consistent with the Land Development Regulations. The Property is zoned CPS-1, which permits commercial uses and neighborhood impact establishment restaurants.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

CONSISTENT – The proposed restaurant does not adversely affect the public health, safety morals, or general welfare. The uses, hours of operation, and operational characteristics proposed are generally consistent with the uses, hours of operation, and characteristics of other similar restaurant venues in the City. The Applicant has a proven track record of successfully operating restaurants in high-end communities similar to the South of Fifth neighborhood, such as Monte-Carlo and Dubai.

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

CONSISTENT – The Property will use a valet parking vendor to park vehicles at the on-site parking garage for the Marea Condominium. There are numerous nearby parking lots and garages, and metered self-parking on surrounding streets. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi. Further, the Applicant has conducted a trip generation analysis and valet analysis to ensure that its valet facilities are

adequately staffed and implementing best practices for safe and efficient valet operations.

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

CONSISTENT – The proposed CUP and associated operational plan contains safeguards for protection of the surrounding property, persons, and neighborhood values that are being retained, such as limitations on hours of operation, noise levels, and prohibitions on special events and outdoor bar counters.

(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 this proposed CUP will program a space that is intended for commercial uses in a zoning district that permits such uses, there will not be a negative impact on the surrounding neighborhood.

Review Criteria for Neighborhood Impact Establishments and Outdoor Entertainment Establishments. The proposed modification complies with the review criteria under Section 142-1362(a)(1)-(9) as follows:

(1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

The Applicant has submitted an operations plan that addresses hours of operation, valet operations, goals of the new operator, and other pertinent operational characteristics of the proposed use.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.

The Applicant has submitted a proposed valet plan and circulation analysis to facilitate parking for the proposed restaurant.

(3) An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.

The Applicant's proposed operations plan addresses crowd control. The Applicant will utilized well-trained staff to ensure patrons enter and exit Gaia Miami Beach in a safe and efficient manner.

(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.

The Applicant's operations plan provides for security and patron-age restriction enforcement. All employees will be trained to check identification to ensure patron age restrictions are followed and Gaia Miami Beach will employ trained security professionals to ensure patron safety.

(5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

The Applicant has submitted a detailed traffic and valet operations analysis based on recent data collection. Based on these analyses, the Applicant has committed to implement best practices with its valet operations to ensure minimal impacts, as well as other traffic mitigation strategies.

(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.

The proposed modified operations plan addresses sanitation, such as trash pick-up procedures, as well as daily sanitation and cleaning practices.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.

The Applicant has submitted a sound study and proposes to implement the detailed recommendations from the sound consultant to ensure there are no sound-related impacts to neighboring properties. In addition, the Applicant will implement policies to ensure that noise is controlled and in compliance with the noise ordinance. For example, to the greatest extent possible the Applicant will reduce queuing times for patrons waiting for

valeted vehicles, as well as ask patrons to wait indoors for their vehicles, in order to reduce potential crowd noise.

(8) Proximity of proposed establishment to residential uses.

The Applicant has carefully considered its residential neighbors in developing the layout for Gaia Miami Beach, including limiting outdoor seating and engaging an acoustic consultant to ensure that Gaia Miami Beach does not impact adjacent residential uses.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

The Property is within a mixed-use commercial zoning district intended for restaurant uses. Further, the Property is a pre-existing commercial space that was developed in 2014.

Sea Level Rise and Resiliency Criteria. The new home advances the sea level rise and resiliency criteria in Section 133-50(a) of the Code, as follows:

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

   To the extent required, a recycling or salvage plan shall be provided.

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

   To the extent new windows are proposed, new windows will be hurricane proof impact windows.

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

   The Applicant will provide, where feasible, passive cooling systems.

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

   All landscaping will be Florida friendly and resilient.

5. **Whether 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, including a study of land elevation and elevation of surrounding properties were considered.**

   Sea level rise projections were considered and informed design decisions to increase permeable open space and improve stormwater drainage.

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.**

   Any news ground floor driveways or ramping shall be adaptable to the raising of public rights of way and adjacent land.

7. **Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.**

   To the extent possible, all mechanical and electrical systems will be located above base flood elevation.

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

   The building is existing and was developed in 2014 in accordance with applicable floodplain regulations.

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.**

   Habitable spaces below base flood elevation plus freeboard will use flood proofing system in accordance with the Code.

10. **Where feasible and appropriate, water retention systems shall be provided.**

    Where feasible, water retention systems will be provided.

11. **Cool pavement materials or porous pavement materials shall be utilized.**

Cool pavement materials or porous pavement materials will be utilized where possible.

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

    Not Applicable.

Conclusion. Gaia Miami Beach will be a welcomed addition to the South of Fifth community. The Applicant is making efficient use of a large space that has sat vacant for several years, and is taking every step possible to ensure any potential impacts are mitigated or eliminated. In light of the foregoing, we respectfully request your favorable review of this application. Should you have any questions, please do not hesitate to contact my office.

Sincerely,



Michael Larkin

cc: Alexey Polyakov
Ryan Lloyd
Nicholas Rodriguez, Esq.

Exhibit A

MAREA

February 28, 2023

City of Miami Beach Planning Board
c/o Rogelio Madan
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor.
Miami Beach, Florida 33139

RE: Letter of Support – Proposed Conditional Use Permit for GAIA, 801 South Pointe Drive, Miami Beach (Marea Condominium)

Dear Honorable Members of the Planning Board:

We are the Board of Directors of the Marea Condominium Association located at 801 South Pointe Drive, Miami Beach. We have met with the owners of the unit and representatives of the restaurant group GAIA in connection with its proposed Conditional Use Permit for a commercial unit space located at the Condominium Association property. We are impressed by the plans and presentation provided to us for the new restaurant and, based upon our review and understanding of the materials and plans provided, we are writing to provide our support for GAIA's application and welcome them to the building. Please note that, while the Board of Directors hopes the members of the Condominium Association similarly support GAIA's application, this letter of support represents the opinions of the Board of Directors and does not necessarily represent the opinions of non-Board member unit owners and/or the majority opinion of the Condominium Association membership as no vote or consensus of the membership was sought.

Sincerely,

_____

Print Name:

ANGELA TESSELAAR

Print Name:

_____

Print Name:

_____