MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 28, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB22-0563. 801 South Pointe Drive – Gaia Restaurant**

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment for a restaurant located at two of the existing ground floor commercial spaces of this building, (CU-2A and CU-2B2), pursuant to Section 118, Article IV and Chapter 142, Article V of the City Code.

RECOMMENDATION
Approval with conditions.

BACKGROUND

May 22, 2012:	The Planning Board approved a Conditional Use Permit for a 320-space mechanical parking garage to satisfy the required parking for the residential tower and accessory uses within the structure, and other parking needs contractually required. (File Number 2067).
July 3, 2012	The Design Review Board approved a modification for a previously issued DRB approval for the construction of a new 7-story mixed-use project on a vacant lot. Specifically, the applicant requested substantial design modifications to the previously approved project, including the construction of a mechanical parking garage.
February 28, 2023	The applicant requested to continue the Planning Board application PB22-0563 to the March 28, 2023 hearing in order to submit revised plans.

ZONING/SITE DATA

Legal Description:	See exhibit "A"
Zoning District:	C-PS-1 Commercial Performance Standard limited mixed use
Future Land Use Designation:	C-PS-1 (limited Mixed Use Commercial Performance Standard)
Surrounding Uses:	North: Commercial Establishments South: Residential Multifamily West: Residential Multifamily East: Commercial Establishments

THE PROJECT

The applicant, Gaia Miami Beach LLC, has submitted plans entitled "GAIA MIAMI BEACH", prepared by Beilinson Gomez Architects dated December 22, 2023. The proposal is for a restaurant, with alcohol service, to occupy two of the existing commercial spaces of this building, (CU-2A and CU-2B2) located at the ground floor with an area of 9,655 SF.

The proposed restaurant fronts South Pointe Drive and Washington Avenue and would surround an existing commercial space that is currently occupied by a small restaurant (Kosushi Miami). The plans depict a restaurant area with 237 seats, and an occupancy load of 388 persons. Of the 237 total seats there are 30 outdoor seats on the private terrace located on the west side of the restaurant facing South Pointe Drive.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

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 – The request is consistent with the permissible uses in the limited Mixed Use Commercial Performance Standard Category (C-PS-1) as designated on the Future Land Use Map within the Comprehensive Plan.

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

   Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

3. **Structures and uses associated with the request are consistent with these Land Development Regulations.**

   Consistent –Neighborhood Impact Establishments are permitted as conditional uses in this zoning district. This comment shall not be considered final zoning review or approval. This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

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

   Consistent – The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. The facility would have to comply with all applicable laws and regulations for licensure.

5. **Adequate off-street parking facilities would be provided.**

   Consistent – The applicant will utilize valet parking services to park vehicles on-site parking garage at the Marea Condominium. Additionally, there are public parking facilities and street parking adjacent to the site.

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

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighborhood.

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

   Partially Consistent – There are other restaurants within the vicinity, neighborhood impact establishments are permitted in the C-PS-1 Zoning District as a conditional use. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood.

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

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 operational plan was submitted with the application including details of hours for deliveries, hours of operation, number of employees, and other procedures.

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

   There are no parking spaces on site and the applicant will utilize valet parking services. Additionally, there are adequate public parking facilities and street parking adjacent to the site.

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 would be controlled.**

   A crowd control plan was not included with the application. Staff is proposing conditions to mitigate any potential issues with crowd control and queuing in the outdoor areas and sidewalk.

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

   The applicant has indicated that there will be cameras to monitor the facility. The operational plan is silent on patron age limitations.

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.**

   A valet operations analysis was provided as part of the operational plan. Based on the

analysis, 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.**

   Staff has included recommended conditions to mitigate any potential issues related sanitation operations.

7. **A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.**

   A sound study was submitted.

8. **Proximity of proposed establishment to residential uses.**

   The project is surrounded by commercial and residential uses. There are residential units above on the same building where the venue is proposed (Marea Condominium), The Murano at Portofino and the Apogee are the closest buildings with residential uses.

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

   There are other restaurants within the vicinity in this district. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood.

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.

   Satisfied. The applicant shall provide a recycling or salvage plan as part of any building permit.

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

   Satisfied. Windows are hurricane impact windows.

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

   Per letter of intent, 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.

   Satisfied. Per letter of intent, 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.

Satisfied.

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.

Not Applicable.

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

Satisfied. All critical mechanical and electrical systems will be located above BFE.

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

Satisfied. Per letter of intent**,** 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.
Not Applicable.

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

Not Applicable.

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

Satisfied. Per letter of intent**,** 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.

ANALYSIS

Project Description and Operations

The proposal is for the renovation of an existing commercial space and the applicant is proposing to operate a restaurant serving alcoholic beverages with a total projected occupancy load of 388 persons. As per the plans, letter of intent, and operational plan, the following is a breakdown of the areas of the venue, the occupancy content, and the proposed hours:

Ground floor:

Interior Seats:	207
Exterior Seats:	30
Total Occupancy Load:	388
Proposed Hours:	Monday-Sunday: 11:00 AM to 2:00 AM
	Outdoor seating: 11:00 AM. to 12:00 AM

The restaurant is divided into two areas. The area on the west side has an outdoor terrace, main restaurant, lounge, bar, storage rooms, BOH space, restrooms and a reception area that provides access to the restaurant fronting South Pointe Drive. The east area of the restaurant provides space for VIP dinning, service bar, display kitchen, chef's table area and a kitchen.

Subsequent to the February 23, 2023, Planning Board meeting, the applicant submitted a revised floorplan that addressed most of the concerns that staff identified related to transparency and the negative impact to the sidewalk and pedestrian context of the surrounding areas. This commercial space anchors a very significant corner intersection of South Pointe Drive and Washington Avenue, and the importance of activating this corner cannot be underscored strongly enough.

Staff is recommending the following condition to ensure that transparency is maintained in the future and that the entirety of the sidewalk is fully activated.

- No new window treatments of any kind, including decorative panels, opaque glass and lighting against the glass shall be permitted along Washington Avenue and South Pointe Drive unless approved by the Design Review Board.

Sound
The applicant is proposing to play ambient background music, played at a level that does not interfere with normal conversation. The applicant submitted a sound study prepared by Criterion Acoustics; the sound study indicates that the challenge for this project will be the restaurant operation with background music vertically adjacent with a dwelling. For these reason CA proposed a list of recommendations, including the following:

a. A (2) layer 5/8" type X gypsum board (GWB) ceiling on 1" deflection spring isolation hangers with 6" sound attenuating batts infilled in the cavity with a minimum 12" airspace.

b. The ceiling may be increased from (2) layers of 5/8" type X gypsum board to (4) layers if the structural loading and budget permits.

c. The acoustic ceiling cannot be penetrated in any manner except for sprinklers. A secondary "finish" ceiling would need to be installed below to conceal the MEP and incorporate interior design.

d. The ceiling should not be penetrated by loudspeakers or light fixtures (minimize and seal penetrations).

e. Existing structural walls and columns shall be covered with two layers of 5/8" GWB (with insulation) connected via an approved, non-rigid mounting system such as:
    i. Stud wall connected via isolated sway brace
    ii. Isolated hat channel clip such as Kinetics ISOMAX

f. The plumbing penetrating the second level slab may need to be wrapped with a sound isolation lagging in addition to the acoustic ceiling.

g. A corridor or secondary wall shall be utilized along the demising wall between the Lounge Bar and Kosushi.

The sound study was peer reviewed by the City's consultant, Arpeggio Acoustic Consulting, LLC. The peer review had the following conclusion and suggestions:

> *"we feel that the recommendations proposed by CA concerning the design and construction of a resiliently suspended ceiling with at least two layers of gypsum board on springs with insulation, the covering of structural walls and columns with furred walls, installation of a supplemental wall between the lounge bar and Kosushi, the treatment of plumbing penetrations, and the design and resilient mounting of loudspeakers within interior dining areas are sound and should be followed. However, we recommend that all preliminary sound level limits (85 dBA inside and 75 dBA outside) be revised downward to reflect the city's definition of background levels as being conducive to normal conversation. To further promote successful coexistence with residents at Apogee, we also suggest that consideration be given to closing the sidewalk dining area at 11 pm to avoid violation of the Miami Beach noise code with respect to music and patron-generated noise."*

In response to the peer review comments, the applicant voluntarily proffered a condition prohibiting outdoor speakers.

Staff agrees with the peer reviewer's findings to revise sound level limits downward in order to comply with background music and to limit the outdoor hours operations until 11 p.m. to prevent patron-generated noise on this quiet block surrounded by residential buildings (South Pointe Drive between Alton Road and Washington Avenue). Staff has recommended conditions in the attached draft order to ensure that the impact of the sound related operations are minimized.

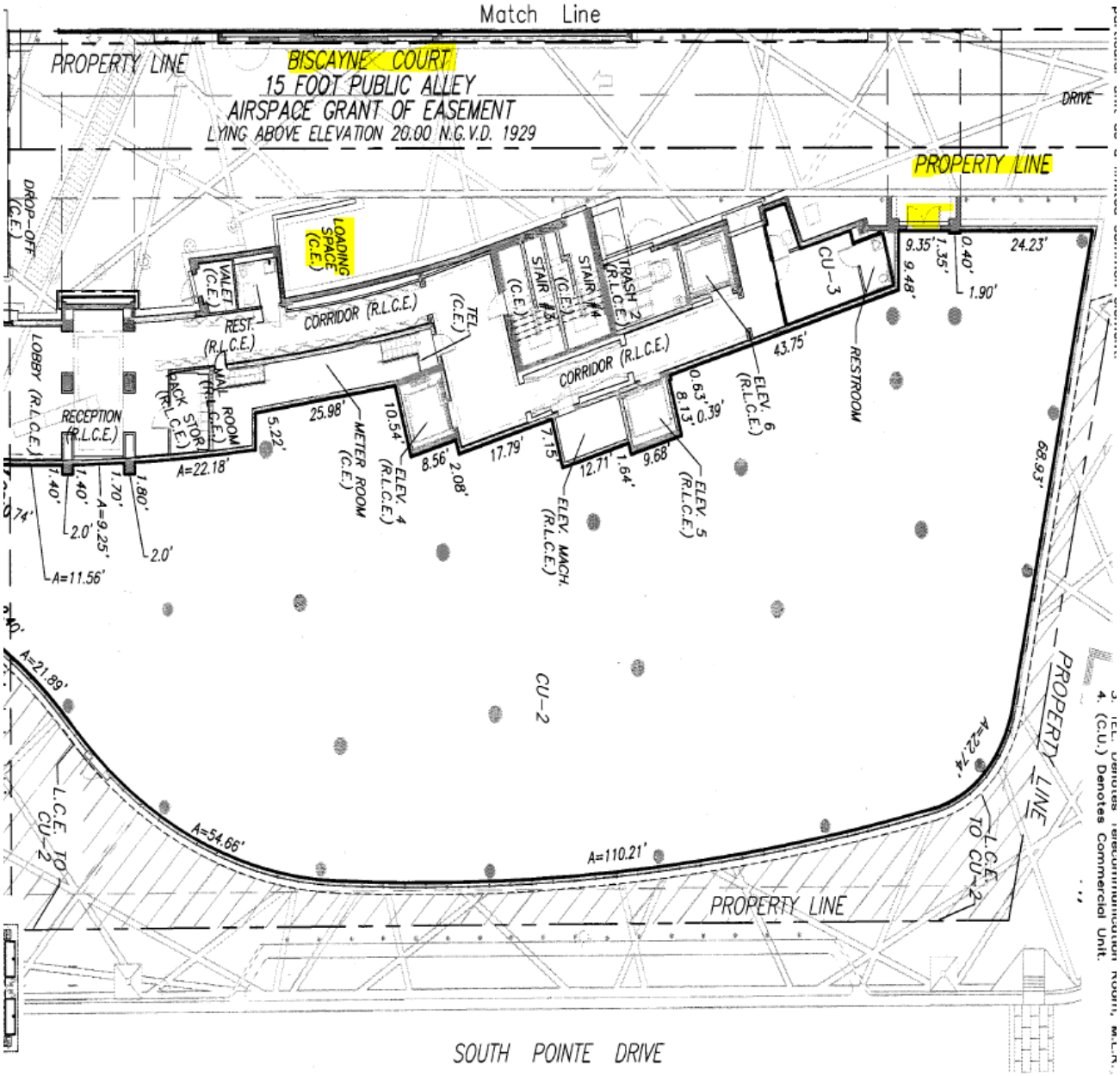
Hours of Operation
The applicant is requesting to operate as follows:

- Indoor Monday-Sunday: 11:00 AM to 2:00 AM
- Outdoor Monday-Sunday: 11:00 AM to 12:00 AM

Staff is concerned that the establishment is located within a building that contains residential units and is adjacent to residential buildings. Additionally, staff is concerned with potential negative impacts from the outdoor operations and from patrons congregating after leaving the establishment late in the evening to wait for transportation. As a result, staff is proposing that the outdoor hours of operation be limited to 11:00 PM, in order to minimize the impacts to nearby residents.

Deliveries and Sanitation
The operations plan indicates that all deliveries will be made from the existing service entrance on the private driveway of the Marea Condominium. There were no times provided for this on the operational plan.

The Operations Plan indicates that loading would take place via existing doors located along a private driveway on the north side of the property. Staff would like to clarify that the driveway is an alley (Biscayne Court) that is part of the public right of way. The building has a loading area adjacent to the alley as depicted on the survey provided by the applicant (see excerpt from the survey below).



Refuse collection will take place from the refuse bins located on the private area at the east side of the Marea Condominium. The only time indicated on the operational plan is that weekend collections will not occur before 9:00 a.m. to prevent neighborhood disturbance.

Staff has been made aware of issues associated with the current loading operation for the building, which occurs on Washington Avenue, South Pointe Drive, and Jefferson Avenue/Alton Road. This loading activity often blocks the right of way and bicycle lanes. To prevent future problems related to loading activities at the proposed venue, staff has recommended the following condition in the attached draft order to ensure that the impacts of the operations are minimized:

- Deliveries must be conducted via designated loading zones or loading areas on private property. No deliveries shall be made from undesignated loading areas on Alton Road, South Pointe Drive, Jefferson Avenue or Washington Avenue. Additionally, at no time shall delivery or service vehicles block any portion of the public right-of-way, including, but not

limited to the bicycle lanes on Alton Road and South Pointe Drive, and the bus stop on Washington Avenue.

Valet Parking and Access
Patrons arriving as passengers in automobiles or for valet drop off will use the valet station located on South Pointe Drive. Access to the property for all costumers is from the main entrance located on South Pointe Drive. In order to address potential impacts of the valet operations, staff has incorporated the following condition in the attached draft order:

- All valet parking operations shall be conducted within the rented on-street parking space(s) for the valet ramp and shall not block, at any time, the bicycle lanes on South Pointe Drive.

Staff has also identified a conflict with the pedestrian path on South Pointe Drive and the planters for the outdoor seating of the existing restaurant (Red Steakhouse). Although these planters are located on private property, the public sidewalk is narrow at this point, in addition to containing light poles, trees and bike racks. In order to ensure that the outdoor portions of the proposed venue do not create the same types of conflicts with the limited sidewalk area, staff is recommending the following condition:

- The proposed outdoor seats and planters shall be setback a minimum of five (5') feet from the property line.

Security and Crowd Control
The applicant is proposing to have a main reception area on South Pointe Drive, at this entrance there will be a hostess to greet guests arrive. The applicant did not indicate if security personnel is proposed during operating hours but there will be cameras to monitor the facilities.

The operational plan is silent on patron age limitations, queueing and crowd control on the premises. Staff has recommended conditions in the attached draft order to address this.

STAFF RECOMMENDATION
In view of the foregoing, staff recommends the application be approved, subject to the conditions in the attached draft order.

ZONING/SITE MAP

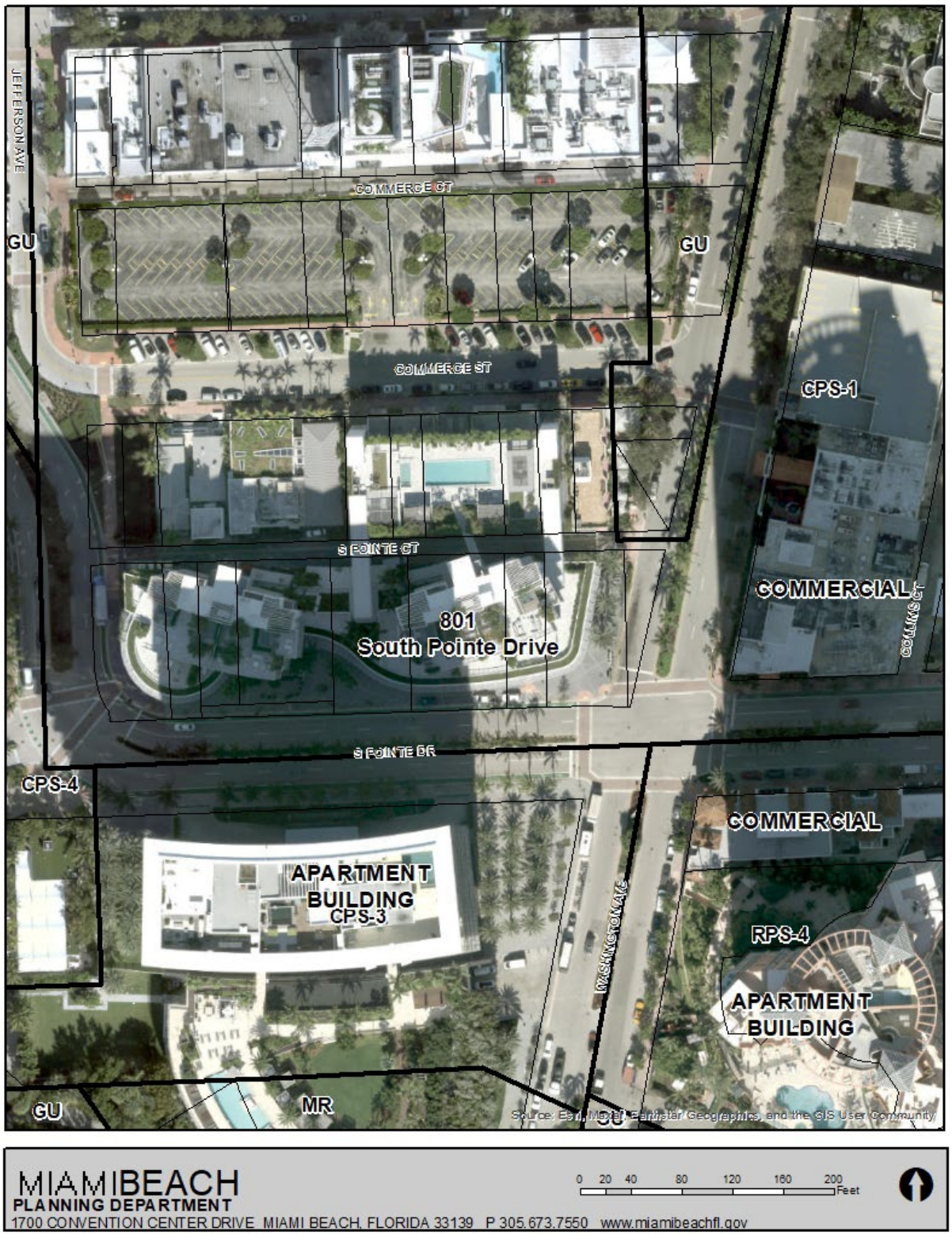


EXHIBIT "A" – Legal description

Address: 801 S Pointe Drive, Unit CU-2

Folio No. 02-4203-368-0320

Legal Description

Condominium Parcel No CU-2 of MAREA, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 29810, page 2526, of the Public Records of Miami-Dade County, Florida and all amendments thereto, together with its undivided share in the common elements.

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 801 South Pointe Drive – Gaia Restaurant

FILE NO. PB22-0563

IN RE: An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment for a restaurant located at two of the existing ground floor commercial spaces of this building, (CU-2A and CU-2B2), pursuant to Section 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: See exhibit "A"

MEETING DATE: March 28, 2023

CONDITIONAL USE PERMIT

The applicant, Gaia Miami Beach, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment pursuant to Chapter 118, Article IV, and Chapter 142, Article V 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 C-PS-1 Commercial Performance Standard limited mixed use.

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, 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 Gaia Miami Beach, LLC, as tenants and operators of the Neighborhood Impact Establishment consisting of a restaurant and bar. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days following the applicant's submission and staff's approval of the affidavit.

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. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:

   A. The project authorized by this Conditional Use Permit includes the creation and operation of the proposed 228 seat Neighborhood Impact Establishment, subject to the criteria listed below:

      i. The restaurant and bar subject to this CUP shall have a maximum occupant content of 370 persons or any lesser such occupant content as determined by the Fire Marshal.

      ii. The indoor portions of the establishment may operate from 11:00 AM until 2:00 AM and the outdoor seating areas shall close by 11:00 PM. These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic beverage and/or entertainment establishments.

      iii. Entertainment, as defined in City Code Section 114-1, shall be strictly prohibited in all indoor and outdoor areas. except that recorded background music, played at a level that does not interfere with normal conversation, may be permitted,

provided that a sound system with directional speakers and a digital tamper-resistant sound level limiter is used to minimize impacts to adjacent properties.

iv. Plans shall be modified to ensure that the entirety of the sidewalk is fully activated, the floor plans must comply with the following conditions subject to the review and approval from the Planning Department.

a. No new window treatments of any kind, including decorative panels, opaque glass and lighting against the glass shall be permitted along Washington Avenue and South Pointe Drive unless approved by the Design Review Board.

b. The proposed outdoor seats and planters shall be setback a minimum of five (5') feet from the property line.

v. The venue shall comply with the following sound isolation and construction methods related conditions:

a. A (2) layer 5/8" type X gypsum board (GWB) ceiling on 1" deflection spring isolation hangers with 6" sound attenuating batts infilled in the cavity with a minimum 12" airspace.

b. The ceiling may be increased from (2) layers of 5/8" type X gypsum board to (4) layers if the structural loading and budget permits.

c. The acoustic ceiling cannot be penetrated in any manner except for sprinklers. A secondary "finish" ceiling would need to be installed below to conceal the MEP and incorporate interior design.

d. The ceiling should not be penetrated by loudspeakers or light fixtures (minimize and seal penetrations).

e. Existing structural walls and columns shall be covered with two layers of 5/8" GWB (with insulation) connected via an approved, non-rigid mounting system such as:
   i. Stud wall connected via isolated sway brace
   ii. Isolated hat channel clip such as Kinetics ISOMAX

f. The plumbing penetrating the second level slab may need to be wrapped with a sound isolation lagging in addition to the acoustic ceiling.

g. A corridor or secondary wall shall be utilized along the demising wall between the Lounge Bar and Kosushi.

vi. Sound generated from the venue, including, but not limited to, recorded music and patron conversations or entertainment, shall not be plainly audible from or beyond any public rights of way adjacent to the subject property. Public rights of way shall include, but not be limited to, South Pointe Drive and Washington Avenue.

vii. No exterior speakers shall be permitted except those necessary for fire and life

safety purposes.

viii. Televisions and projectors shall not be located anywhere in the exterior areas of the property.

ix. No dancehall shall be permitted on the site.

x. Special event permits shall be prohibited.

xi. After normal operating hours, the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 8:00 AM.

B. Deliveries may only occur between 8:00 AM and 12:00 PM each day.

C. Deliveries must be conducted via designated loading zones or loading areas on private property. No deliveries shall be made from undesignated loading areas on Alton Road, South Pointe Drive, Jefferson Avenue or Washington Avenue. Additionally, at no time shall delivery or service vehicles block any portion of the public right-of-way, including, but not limited to the bicycle lanes on Alton Road and South Pointe Drive, and the bus stop on Washington Avenue.

D. Delivery trucks shall not be allowed to idle in the loading zone.

E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

F. Deliveries and waste collections may occur daily between 9:00 AM and 5:00 PM, or as specified by the City approved loading zones in the vicinity.

G. 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.

H. 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.

I. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary.

J. Garbage dumpster covers shall be closed at all times except when in active use.

K. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.

L. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.

M. 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

N. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

7. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:

A. 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, and any other fair share cost that may be due and owing.

B. The applicant shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management (TDM) Plan, prior to the issuance of a building permit.

C. The applicant shall coordinate with the Parking Department to provide valet parking at existing valet parking ramps. The applicant will provide text-to-order valet parking services to limit crowding on the exterior of the venue.

D. All valet parking operations shall be conducted within the rented on-street parking space(s) for the valet ramp and shall not block, at any time, the bicycle lanes on South Pointe Drive.

8. 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 to operate this entertainment establishment.

9. 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.

10. The Planning Board shall retain the right to call the owner or operator back before them 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.

11. 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.

12. 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.

13. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

14. 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.

15. 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.

16. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Rogelio A. Madan, AICP
Development and Resiliency Officer
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

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

_____
Notary:
Print Name:
[NOTARIAL SEAL] 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 _____ ( )

EXHIBIT "A" – Legal description

Address: 801 S Pointe Drive, Unit CU-2

Folio No. 02-4203-368-0320

Legal Description

Condominium Parcel No CU-2 of MAREA, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 29810, page 2526, of the Public Records of Miami-Dade County, Florida and all amendments thereto, together with its undivided share in the common elements.