



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

July 13, 2025

Michael Belush, Planning and Design Officer
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: Modification of Conditional Use Permit for 801 South Pointe Drive, CU-2A and CU-2B2

Dear Mr. Belush:

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"). Please accept this letter of intent in connection with a modification request to the existing 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.

Approved 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 is in the process of developing 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 has been 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. With respect to outdoor music, the Applicant voluntarily relinquished any rights to play outdoor music at any level.

For music in the interior, the Applicant is installing an advanced sound system with an automatic noise level limiter to ensure music is played only at ambient background levels, and does not impact units located above the restaurant in the Marea Condominium or adjacent residential uses. In addition, the Applicant is utilizing construction techniques that mitigate sound transmission. The Applicant 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 Lastly, 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.

Modifications to CUP. The Applicant seeks to modify Condition 6.A.v. to allow for alternative sound proofing materials that will provide equivalent protection for the residents within the units above the Property for music played at ambient levels. The Applicant has engaged an acoustic consultant that has made recommendations as to alternative noise mitigation treatments that can provide equivalent protection. It has become clear throughout the development and construction of the restaurant space that the level of sound isolation construction originally proposed far exceeds the amount necessary to appropriately isolate the sound that will be generated by the restaurant. Specifically, the Applicant will utilize an installed sound system for background (ambient) music playback at an estimated sound level of 75 dBA / 80 dBC. The sound isolating construction proposed previously and included in Condition 6.A.v. is appropriate for much higher sound levels, approximately 85 dBA / 95 dBC. The revised plan is well suited to prevent noise impacts for a typical or common sound level expected for ambient music in a dining setting. The proposed revisions to the CUP reflect these changes and are described herein.

Current Condition 6.A.v. The existing CUP currently requires the following sound isolation and construction methods:

- 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.

Proposed Revision. The Applicant proposes to modify Condition 6.A.v. to the following:

- a. A (1) layer 5/8" type X gypsum board (GWB) ceiling on metal framing (minimum 12" depth) with either 3" sound attenuating batts infilled in the cavity or K-13 spray-applied to the slab.
- b. The ceiling shall not be penetrated by loudspeakers or light fixtures.
- c. Existing structural walls and columns shall be covered with one (1) layer of 5/8" GWB (with insulation) connected via metal furring.
- d. The storefront glazing does will not additional treatment.
- e. The plumbing penetrating the second level slab may need to be wrapped with a sound isolation lagging in addition to the acoustic ceiling.
- f. A storage room shall been utilized along the demising wall between the Bar and the Kosushi restaurant.

The revised conditions delete a layer of type X gypsum board and the 1" deflection spring isolation hangers with the 6" sound attenuating batts infilled with airspace. Instead, the revised conditions would allow 1 layer of type X gypsum board, rather than 2, with attenuating batts half the size infilling in the cavity with the possibility of utilizing K-13 spray-applied to the slab. The revisions remove the possibility of increasing the ceiling to four (4) layers of type X gypsum board. The revision removes the requirement that the ceiling can only be penetrated by sprinklers. The requirement that the ceiling not be penetrated by loudspeakers or light fixtures remains. Rather the requiring structural walls to be covered with two layers of type X gypsum board connected via a non-rigid system, the revision proposes only one (1) layer of type x gypsum board on the structural walls with metal furring. The revision maintains the plumbing sound isolation. Lastly, rather than requiring a corridor or secondary wall separating the Lounge Bar and Kosushi, the revision proposes a storage room between the two.

With the appropriately designed sound isolation construction and audio reinforcement systems proposed herein, GAIA will not impact adjacent residential units, either within the Marea Condominium or within surrounding buildings. While the impact of restaurant operations (ambient music) on the dwellings above the restaurant is the greatest acoustical challenge for the project, additional proposed changes include that will facilitate sound isolation include:

- An Audio Reinforcement System that will be a permanently installed "distributed" system.
- The loudspeakers will be wall-mounted on isolated mounts; ceiling mounted loudspeakers and speakers close to the ceiling have been eliminated.

- i. The wall-mounted loudspeakers will be small, and will not produce significant bass. Bass sound reproduction will be outsourced to small subwoofers installed on the floor, eliminating any concerns that bass sounds will permeate into the upstairs dwellings.
- ii. The tuning will be balanced to avoid excessive bass sound.
 - Audio coverage in egress points will be eliminated or limited.
 - Audio sound levels will not exceed 75 dBA.
 - A sound level commissioning will occur after construction has been completed to determine operating levels and to set system limiters.

Satisfaction of CUP Criteria. The Applicant's request satisfies the CUP Standards in Section 2.5.2.2 of the Resiliency 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 revisions to the CUP conditions are consistent with Policy RLU 1.1.257 as they would still result in 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 conditions do not result in an impact that will exceed the thresholds for the levels of service required by the Comprehensive Plan. The Property is an existing commercial unit within the Marea Condominium that was reviewed and approved in 2014 and the previous conditions were premised on an assumed level of sound isolation that far exceeds what it has been determined is required after further expert analysis.

(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 condition revisions remains 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 CUP condition revisions do not adversely affect the public health, safety morals, or general welfare. The ambient music levels will be adequately isolated to the restaurant space alone. 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’s proven track record of successfully operating restaurants in high-end communities similar to the South of Fifth neighborhood, such as Monte-Carlo and Dubai provide further support that the public health, safety, morals, and general welfare will be maintained.

(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 that will not be impacted by the proposed CUP condition revisions. Numerous nearby parking lots, garages, and metered self-parking exist on surrounding streets. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi. Lastly, the Applicant’s trip generation analysis and valet analysis that ensure that its valet facilities are adequately staffed and are implementing best practices for safe and efficient valet operations will be unaffected by the proposed CUP condition revisions.

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

CONSISTENT – The proposed CUP condition revisions and associated operational plan contain 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. The proposed revisions are specifically tailored to safeguard the surrounding property, persons, and neighborhood values.

- (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 the previously approved CUP programmed a space that is intended for commercial uses in a zoning district that permits such uses, the revisions considered after further sound analysis will not create 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 7.5.5.4(b) of the Resiliency Code 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 previously 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. The proposed revisions to the CUP conditions have no impact on the approved operations plan.

- (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 valet plan and circulation analysis to facilitate parking for the proposed restaurant. Neither will be affected by the proposed revisions to the CUP conditions.

- (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 operations plan addresses crowd control. The Applicant will utilize well-trained staff to ensure patrons enter and exit Gaia Miami Beach in a safe and efficient manner. The proposed revisions to the CUP conditions align with the goals of the operations plan.

(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. The proposed revisions to the CUP conditions causes no modifications to the operations plan.

(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. The traffic and valet operations will remain unchanged as a result of the proposed revisions to the CUP conditions.

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

The operations plan addresses sanitation, such as trash pick-up procedures, as well as daily sanitation and cleaning practices. The proposed revisions to the CUP conditions will have no impact on the sanitation plan.

(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. The proposed revisions to the CUP conditions are specifically tailored with noise attenuation in mind. 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 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 and the proposed revisions to the CUP conditions. Gaia Miami Beach will be limiting outdoor seating and has engaged 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. The proposed revisions to the CUP conditions will have no impact on the cumulative effect on the adjacent pre-existing uses.

Sea Level Rise and Resiliency Criteria. The restaurant 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 new 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 previously approved CUP conditions were based on an assumed level of acoustic impact that is no longer applicable. It has become clear during construction and upon further analysis that the ceiling enhancements incorporated into the CUP conditions are far more than necessary to protect upstairs neighbors from ambient music, and prohibitively expensive. The Applicant has contracted with sound professionals who have provided further guidance that has formed the basis of these proposed revisions. Overall, 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,

A handwritten signature in blue ink, appearing to read 'Michael Larkin', with a long horizontal line extending to the right.

Michael Larkin

cc: Alexey Polyakov
Ryan Lloyd
Nicholas Rodriguez, Esq.