

RESOLUTION NO. 2022-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING REGULAR COASTAL PERMIT (CP-22-0015), DESIGN REVIEW CASE (DRC-22-0028), SITE PLAN REVIEW (SPR-22-0029), CONDITIONAL USE PERMIT (CUP-22-0012), AND A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES 15303 CLASS 3E (NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES) FOR THE CONSTRUCTION OF A 527 SQUARE FOOT PATIO EXPANSION TO THE EXISTING IB FORUM RESTAURANT AT 1079 SEACOAST DRIVE (APN 625-392-23-00). USE-22-0092.

DEVELOPER: MATT MORGAN, IB FORUM

WHEREAS, on September 21, 2022, the City Council of the City of Imperial Beach held a duly advertised and noticed public hearing to consider the merits of approving or denying an application for a Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures) for the proposed attached 527 square foot exterior covered patio addition to the existing IB Forum restaurant at 1079 Seacoast Drive (APN 625-392-23-00) in the C/MU-2 (Seacoast Commercial & Mixed-Use) Zone.

WHEREAS, on August 25, 2022, the Design Review Board recommended approval of the project with a vote of 4-1; and

WHEREAS, the project design is compatible with the community and would be consistent with Policy D-8 (Project Design) of the Design Element of the General Plan; and

WHEREAS, the City Council finds that the project is in compliance with the Land Use Element of the General Plan; and

WHEREAS, the City Council finds that the project complies with the requirements of the California Environmental Quality (CEQA) as the project is categorically exempt pursuant to CEQA Guidelines 15303 Class 3e (New Construction or Conversion of Small Structures); and

WHEREAS, the City Council further offers the following findings in support of its decision to conditionally approve the project:

REGULAR COASTAL PERMIT (IBMC § 19.87.050):

- 1. The proposed development conforms to the certified local coastal plan including coastal land use policies.**

The General Plan/Local Coastal Plan designates the site as Seacoast Commercial & Mixed-Use (C/MU-2 Zone). The purpose of the C/MU-2 Zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in the C/MU-2 Zone will be visitor-serving retail such as specialty stores, surf shops, restaurants, and hotels and motels. Mixed-use and multiple family residences are also permitted in the C/MU-2 Zone and in the Seacoast Mixed Use/Residential Overlay Zone. The development standards of the C/MU-2 Zone encourage pedestrian activity through the design and location of building frontages and parking provisions (IBMC Section 19.27.010). The proposed patio expansion meets the

purpose and intent of the land use designation because restaurants are permitted in the C/MU-2 Zone and the project would increase the available seating area for the business encouraging further pedestrian activity and enhancing available services required by the tourist population and local residents.

2. For all development seaward of the nearest public highway to the shoreline, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.

The project site is located between the seaward of the first public road. The General Plan/Local Coastal Plan designates the site as Seacoast Commercial & Mixed-Use (C/MU-2 Zone). The purpose of the C/MU-2 Zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. The proposed project meets the intent of the zone and offers additional services to residents and tourists in the coastal zone. As such, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.

3. The proposed development meets the minimum criteria set forth in the City of Imperial Beach Zoning Ordinance, the City's Minimum Landscape Planting and Irrigation Standards, and the City's Design Guidelines, as applicable.

The proposed development has been designed to meet the minimum criteria set forth in the City of Imperial Beach Zoning Ordinance, City's Minimum Landscape Planting and Irrigation Standards, and the City's Design Guidelines as further specified within the findings of this Resolution. The proposed project will comply with all of the regulations and conditions for the Zoning Ordinance.

With regards to parking, a reduction in parking is proposed because the project is intended to enhance the pedestrian corridor and the existing active commercial use. The applicant completed an assessment of the existing parking and provided findings to address the parking needs for the IB Forum restaurant with regard to the proposed exterior patio. The findings state that the existing net floor area for the building is approximately 1,025 sq. ft., and there would be eight employees on the largest work shift which would typically require 18 parking spaces at a ratio of one required parking space per seventy-five square feet of net floor area (Imperial Beach Municipal Code 19.48.050(F)), plus one space per two employees at the largest work shift. The applicant has stated that the existing property provides 12 parking spaces, including one (1) ADA accessible space, and loading zone. With the proposed patio addition, the parking layout will be revised to provide nine (9) parking spaces that shall meet the minimum size requirements, including an ADA compliant parking space and ADA compliant access to the entry area located off of the parking lot. The applicant is proposing to use off-site parking within one thousand feet of the project site to satisfy the additional off-street parking requirements with the approval of a conditional use permit and implementation of one or more transportation demand management strategies, which is permissible subject to Imperial Beach Municipal Code Section 19.48.050(J). The ability to reduce parking requirements was provided within the Municipal Code in an effort to encourage reduction of greenhouse gas emissions and reduce the demand for vehicular uses/parking.

The applicant states that the IB Forum has been a reputable business in Imperial Beach for almost 30 years at 1079 Seacoast Drive, and the new 527 square foot exterior patio would provide the business an additional 35 seats. There is a public parking lot located within one thousand feet of the project site (650-feet to the north). Therefore, reduction

of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage. The applicant provides eight bicycle parking spaces with an existing bike rack. Additional proposed transportation demand management strategies include public transportation passes for employees and providing bus route and bus schedule signage with directions to the public transportation.

The Municipal Code specifically allows for a reduction of parking for projects within 1,000 feet of off-site parking with implementation of transportation demand management strategies to reduce the demand for vehicle usage. Further, the General Plan and Local Coastal Plan encourages off-site or shared parking in the Seacoast Drive and commercial/mixed-use areas to improve the pedestrian atmosphere and/or improved design, particularly near the beach and develop properties near the ocean with commercial and recreational uses rather than parking lots (Policy C-22). The applicant is proposing bicycle parking off of Seacoast Drive. Additional transportation demand management strategies include public transportation passes for employees and providing bus route and bus schedule signage with directions to the public transportation. Implementing these transportation demand strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation. Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions.

Parking is a consistent area of concern within the community and a condition has been added to the resolution noting that the transportation demand management strategies for the project shall be revisited and revised at the expense of the property owner if determined necessary by the City. In addition, the City has conducted a coastal parking analysis and will implement short and long-term strategies to maintain parking.

4. **The proposed development meets minimum criteria set forth in Sections 19.81.060, 19.82.050., 19.83.120., 19.84.050., and 19.86.100., of this title for site plans, conditional use permits, design review, variances, zoning classification and rezonings.**

The proposed development meets the minimum criteria set forth in Sections 19.81.060, 19.82.050, and 19.83.110 (Section 19.83.120 is no longer applicable) for a site plan review, conditional use permit, and design review subject to the findings provided within this Resolution. Sections 19.84.050 and 19.86.100 are not applicable because the project does not require a variance or zoning classification/rezoning.

5. **For all development involving the construction of a shoreline protective device, a mitigation fee shall be collected which shall be used for each sand replenishment purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the Executive Director of the California Coastal Commission and the city manager of Imperial Beach in lieu of providing sand to replace the sand a beach area that would be lost due to the impacts of any proposed protective structure.**

The subject site is located approximately .04 miles from the beach, .03 miles from the estuary, .93 miles from Pond 10A, and 1.2 miles from San Diego Bay and is already developed with an existing commercial building and surface parking. The proposed exterior patio expansion with approximately an addition of 527 square feet does not necessitate the construction of a shoreline protection device and would not have an

impact on the sand in any beach area. Therefore, a mitigation fee is not required for the project.

6. This project complies with the California Environmental Quality Act.

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15303 Class 3e (New Construction or Conversion of Small Structures). The City has prepared a Categorical Exemption per the CEQA requirements for this project and the Notice of Exemption will be filed with the County Clerk in compliance with CEQA.

7. Public Notice requirements, pursuant to Zoning Ordinance Section 19.87.090, of the Coastal Development Project have been satisfied.

The project description and the date of the City Council public hearing were sent to property owners within 300 feet and occupants within 100 feet of the subject site on September 7, 2022, and a public hearing notice was published in the Imperial Beach Eagle & Times newspaper on September 8, 2022.

CONDITIONAL USE PERMIT (IBMC § 19.82.040):

8. That the proposed use is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;

The purpose of the C/MU-2 Zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in the C/MU-2 Zone will be visitor-serving retail such as specialty stores, surf shops, restaurants, and hotels and motels. The development standards of the C/MU-2 Zone encourage pedestrian activity through the design and location of building frontages and parking provisions (IBMC Section 19.27.010). The project would provide an additional seating area for the existing restaurant. The exterior patio addition would aid the existing business in continuing to provide enhanced services to both local residents and the tourist population, contributing to the general well-being of the neighborhood and community and meeting the intent of the land use designation. The General Plan and Local Coastal Plan encourages off-site or shared parking in the Seacoast Drive and commercial/mixed-use areas to improve the pedestrian atmosphere and/or improved design, particularly near the beach and develop properties near the ocean with commercial and recreational uses rather than parking lots (Policy C-22). Imperial Beach Municipal Code Section 19.48.050.J, reduction of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage, which are being provided by the project. The project has incorporated the following transportation demand management strategies: bicycle parking, public transportation passes for employees, and providing bus route maps and bus schedule signage with directions to the nearby public transportation. There is a public parking lot located within one thousand feet of the project site (650-feet to the north). Implementing these transportation demand strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation. Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions. In addition, a condition has been added to the resolution noting that the transportation demand management strategies for the project shall be revisited and revised at the expense of the property owner if determined necessary by the City. The proposed commercial use is

necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community.

9. **That the use will not, under the circumstances of the particular use, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;**

The proposed use will not be detrimental to the public, as there will be no hazardous materials, fumes, or operations at the facility, nor will there be any noxious odors, loud noises, or excessive traffic generated at the site. The proposed use is compatible with other uses in the neighborhood and would function in a similar manner as other nearby uses. Applicable conditions of approval and transportation demand management strategies have been included with the Resolution to further ensure compatibility with the vicinity.

10. **That the proposed use will comply with the regulations and conditions specified in this title for the use and for other permitted uses in the same zone; and**

Restaurants with exterior patio seating areas are permitted in the C/MU-2 Zone. The proposed project is consistent with the zoning for this area and will comply with all of the regulations and conditions for these uses.

A conditional use permit is required to allow for off-site parking associated with the exterior patio addition that would reduce parking for the site. The project is located on an existing 9,533 square foot lot that is occupied by a restaurant. The existing net floor area for the restaurant is approximately 1,025 sq. ft., and there would be eight employees on the largest work shift which would require 18 parking spaces at a ratio of one required parking space per seventy-five square feet of net floor area (Imperial Beach Municipal Code 19.48.050(F)), plus one space per two employees at the largest work shift. The applicant has stated that the existing property provides 12 parking spaces, including one (1) ADA accessible space, and loading zone. With the proposed patio addition, the parking layout will be revised to provide nine (9) parking spaces that shall meet the minimum size requirements, including an ADA compliant parking space and ADA compliant access to the entry area located off of the parking lot.

The reduction in parking is proposed for the project because the project is intended to enhance the pedestrian corridor by increasing the available seating for an existing restaurant improving the commercial services provided to the local community and tourists alike. The inclusion of exterior patio addition meets the purpose of the C/MU-2 Zone (IBMC Section 19.27.020), which is to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. Additionally, one public parking lot is located within one thousand feet of the project site (650-feet to the north). Therefore, reduction of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage (IBMC 19.48.050.J). The applicant is proposing the following transportation demand management strategies: 1) Provide bicycle racks to encourage use of bicycles; 2) Provide bus or ride-hailing vouchers to employees; and 3) Provide a poster display with local bus routes and schedules to inform the employees and public. Implementing the above strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation. Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions. Parking is a consistent area of concern within the community and a condition has been added to the resolution noting that the transportation demand management strategies for the project

shall be revisited and revised at the expense of the property owner if determined necessary by the City.

11. That the granting of the conditional use permit will be in harmony with the purpose and intent of the zoning code, the adopted General Plan and the adopted Local Coastal Program.

A restaurant with an outdoor covered patio is permitted in the C/MU-2 Zone. The proposed project is consistent with the zoning for this area and will comply with all of the regulations and conditions for these uses. The applicable findings and conditions of approval have been included with the Resolution to ensure compliance with the use and other permitted uses in the vicinity.

A conditional use permit is required to allow for off-site parking associated with the exterior patio addition that would reduce parking for the site. The project is located on an existing 9,533 square foot lot that is occupied by a restaurant. The existing net floor area for the restaurant is approximately 1,025 sq. ft., and there would be eight employees on the largest work shift which would require 18 parking spaces at a ratio of one required parking space per seventy-five square feet of net floor area (Imperial Beach Municipal Code 19.48.050(F)), plus one space per two employees at the largest work shift. The applicant has stated that the existing property provides 12 parking spaces, including one (1) ADA accessible space, and loading zone. With the proposed patio addition, the parking layout will be revised to provide nine (9) parking spaces that shall meet the minimum size requirements, including an ADA compliant parking space and ADA compliant access to the entry area located off of the parking lot.

The reduction in parking is proposed for the project because the project is intended to enhance the pedestrian corridor by increasing the available seating for an existing restaurant improving the commercial services provided to the local community and tourists alike. The inclusion of exterior patio addition meets the purpose of the C/MU-2 Zone (IBMC Section 19.27.020), which is to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. Additionally, one public parking lot is located within one thousand feet of the project site (650-feet to the north). Therefore, reduction of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage (IBMC 19.48.050.J). The applicant is proposing the following transportation demand management strategies: 1) Provide bicycle racks to encourage use of bicycles; 2) Provide bus or ride-hailing vouchers to employees; and 3) Provide a poster display with local bus routes and schedules to inform the employees and public. Implementing the above strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation. Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions. Parking is a consistent area of concern within the community and a condition has been added to the resolution noting that the transportation demand management strategies for the project shall be revisited and revised at the expense of the property owner if determined necessary by the City.

Applicable conditions of approval for the project have been included with the Resolution to further ensure compatibility with the vicinity, which includes the ability for the Community Development Director to modify conditions if necessity warrants. As such, the granting of the conditional use permit will be in harmony with the purpose and intent of the zoning code, the adopted General Plan and the adopted Local Coastal Program.

DESIGN REVIEW/SITE PLAN REVIEW (IBMC § 19.81.060):

- 12. The proposed use does not have any detrimental effect upon the general health, safety and convenience of persons residing or working in the neighborhood, or is not detrimental or injurious to the value of the property and improvements in the neighborhood.**

The project proposes the construction of a 527 square foot exterior patio addition to the existing restaurant. The project would not have a detrimental effect on the general health, welfare, safety and convenience of persons residing or working in the neighborhood because it is consistent with the development standards and zoning designations. The development would not be injurious to the value of the property and improvements in the neighborhood because the project represents an improvement of the existing conditions and the project could improve property values and stimulate growth in the area.

- 13. The proposed use does not adversely affect the General Plan or the Local Coastal Plan.**

The General Plan/Local Coastal Plan designates the site as Seacoast Commercial & Mixed-Use (C/MU-2 Zone). The purpose of the C/MU-2 Zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in the C/MU-2 Zone will be visitor-serving retail such as specialty stores, surf shops, restaurants, and hotels and motels. The development standards of the C/MU-2 Zone encourage pedestrian activity through the design and location of building frontages and parking provisions (IBMC Section 19.27.010). The proposed project would provide a 527 square foot exterior patio addition to an existing restaurant that would service local residents and the tourist population, meeting the intent of the land use designation. In addition, the project would encourage pedestrian activity through the design and location and alternative methods of transportation reducing the demand for vehicle uses. Therefore, the proposed project meets the purpose and intent of the General Plan and Local Coastal Plan.

- 14. The proposed use is compatible with other existing and proposed uses in the neighborhood.**

The proposed development is subject to C/MU-2 (Seacoast Commercial & Mixed-Use) zoning requirements. The purpose of the C/MU-2 zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in the C/MU-2 zone will be visitor-serving retail such as specialty stores, surf shops, restaurants, and hotels and motels. The proposed project would provide restaurant services that would service local residents and the tourist population, meeting the intent of the land use designation. The properties to the north are located in the C/MU-2 Zone, the properties to the south are located in the R-1500 (High Density Residential) Zone, the properties to the east are located in the R-2000 (Medium Density Residential) Zone, and the property to the west of the project is in the SMU/RO (Seacoast Commercial Mixed-Use/Residential Overlay) Zone. The surrounding properties are comprised of residential uses. Conditions of approval are incorporated into the project to mitigate potential impacts to the residential uses. As such, the proposed use is compatible with other existing and proposed uses in the neighborhood.

- 15. The location, site layout and design of the proposed use orients the proposed structures to streets, driveways, sunlight, wind and other adjacent structures and uses in a harmonious manner.**

The proposed outdoor patio will locate on the west elevation in a similar manner as other outdoor seating areas for other businesses in the C/MU-2 Zone and is accessible through the existing commercial building. The orientation of the proposed patio is consistent and harmonious with adjacent developments. The surrounding properties are comprised of residential uses. Conditions of approval are incorporated into the project to mitigate potential impacts to the residential uses. As such, the proposed use is compatible with other existing and proposed uses in the neighborhood.

- 16. The combination and relationship of one proposed use to another on the site is properly integrated.**

The project proposes a commercial use that is properly integrated. The cohesive design style and the choice of building materials properly integrate the buildings.

- 17. Access to and parking for the proposed use does not create any undue traffic problem.**

Vehicular ingress and egress to and from the site would be provided from the existing curb cut on Imperial Beach Boulevard as well as from the alley and pedestrian access would be provided from Seacoast Drive. Access and ingress and egress for the project should not create undue traffic problems.

With regards to parking, a reduction in parking is proposed because the project is intended to enhance the pedestrian corridor and the existing active commercial use. The applicant completed an assessment of the existing parking and provided findings to address the parking needs for the IB Forum restaurant with regards to the proposed exterior patio. The findings provided state that the existing net floor area for the building is approximately 1,025 sq. ft., and there would be eight employees on the largest work shift which would require 18 parking spaces at a ratio of one required parking space per seventy-five square feet of net floor area (Imperial Beach Municipal Code 19.48.050(F)), plus one space per two employees at the largest work shift. The applicant has stated that the existing property provides 12 parking spaces, including one (1) ADA accessible space, and loading zone. With the proposed patio addition, the parking layout will be revised to provide nine (9) parking spaces that shall meet the minimum size requirements, including an ADA compliant parking space and ADA compliant access to the entry area located off of the parking lot. The applicant is proposing to use off-site parking within one thousand feet of the project site to satisfy the additional off-street parking requirements with the approval of a conditional use permit and implementation of one or more transportation demand management strategies (IBMC Section 19.48.050(J)). The ability to reduce parking requirements was provided within the Municipal Code in an effort to encourage reduction of greenhouse gas emissions and reduce the demand for vehicular uses/parking.

The applicant states that the IB Forum has been a reputable business in Imperial Beach for almost 30 years at 1079 Seacoast Drive, and the new 527 square foot exterior patio would provide the business an additional 35 seats. There is a public parking lot located within one thousand feet of the project site (650-feet to the north). Therefore, reduction of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage. The applicant provides eight bicycle parking spaces with an existing bike rack. Additional proposed transportation demand

management strategies include public transportation passes for employees and providing bus route and bus schedule signage with directions to the public transportation.

The Municipal Code specifically allows for a reduction of parking for projects within 1,000 feet of off-site parking with implementation of transportation demand management strategies to reduce the demand for vehicle usage. Further, the General Plan and Local Coastal Plan encourages off-site or shared parking in the Seacoast Drive and commercial/mixed-use areas to improve the pedestrian atmosphere and/or improved design, particularly near the beach and develop properties near the ocean with commercial and recreational uses rather than parking lots (Policy C-22). The applicant is proposing bicycle parking off of Seacoast Drive. Additional transportation demand management strategies include public transportation passes for employees and providing bus route and bus schedule signage with directions to the public transportation. Implementing these transportation demand strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation. Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions. Parking is a consistent area of concern within the community and a condition has been added to the resolution noting that the transportation demand management strategies for the project shall be revisited and revised at the expense of the property owner if determined necessary by the City.

18. All other applicable provisions of the Zoning Code are complied with.

A conditional use permit is required to allow for off-site parking associated with the exterior patio addition that would reduce parking for the site. The project is located on an existing 9,533 square foot lot that is occupied by a restaurant. The existing net floor area for the restaurant is approximately 1,025 sq. ft., and there would be eight employees on the largest work shift which would require 18 parking spaces at a ratio of one required parking space per seventy-five square feet of net floor area (Imperial Beach Municipal Code 19.48.050(F)), plus one space per two employees at the largest work shift. The applicant has stated that the existing property provides 12 parking spaces, including one (1) ADA accessible space, and loading zone. With the proposed patio addition, the parking layout will be revised to provide nine (9) parking spaces that shall meet the minimum size requirements, including an ADA compliant parking space and ADA compliant access to the entry area located off of the parking lot.

The reduction in parking is proposed for the project because the project is intended to enhance the pedestrian corridor by increasing the available seating for an existing restaurant improving the commercial services provided to the local community and tourists alike. The inclusion of exterior patio addition meets the purpose of the C/MU-2 Zone (IBMC Section 19.27.020), which is to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. Additionally, one public parking lot is located within one thousand feet of the project site (650-feet to the north). Therefore, reduction of parking may be proposed with implementation of transportation demand management strategies to reduce the demand for vehicle usage (IBMC 19.48.050.J). The applicant is proposing the following transportation demand management strategies: 1) Provide bicycle racks to encourage use of bicycles; 2) Provide bus or ride-hailing vouchers to employees; and 3) Provide a poster display with local bus routes and schedules to inform the employees and public. Implementing the above strategies should encourage the use of alternate methods of transportation, including bicycles, walking, ride-hailing, and public transportation.

Application of transportation demand management strategies also emphasizes the City's ongoing effort to reduce carbon footprints and greenhouse gas emissions. Parking is a consistent area of concern within the community and a condition has been added to the resolution noting that the transportation demand management strategies for the project shall be revisited and revised at the expense of the property owner if determined necessary by the City.

Applicable conditions of approval for the project have been included with the Resolution to further ensure compatibility with the vicinity, which includes the ability for the Community Development Director to modify conditions if necessity warrants. As such, the proposed use will comply with the regulations and conditions specified in this title for the use and for other permitted uses in the same zone.

19. Any other considerations as the Community Development Department deem necessary to preserve the health, safety and convenience of the City in general.

Standard and applicable conditions of approval have been included with the Resolution to further ensure that the health, safety, welfare, and convenience of the City in general is preserved.

20. Public Notice requirements, pursuant to Zoning Ordinance Section 19.81.050, have been satisfied.

The project description and the date of the City Council public hearing were sent to property owners within 300 feet and occupants within 100 feet of the subject site on September 7, 2022, and a public hearing notice was published in the Imperial Beach Eagle & Times newspaper on September 8, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach that the above-listed findings and recitals are true and correct and are incorporated by reference; and

BE IT FURTHER RESOLVED by the City Council of the City of Imperial Beach that Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures) for the proposed attached 527 square foot exterior covered patio addition to the existing IB Forum restaurant at 1079 Seacoast Drive (APN 625-392-23-00) in the C/MU-2 (Seacoast Commercial & Mixed-Use) Zone are hereby approved subject to the following:

CONDITIONS OF APPROVAL:

- Approval** of Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures) is valid for one year from the effective date following final action by the City Council (10 working days following final action) and **shall expire at the end of business on October 6, 2023**, unless vested with substantial construction pursuant to an approved building permit. Approvals of the Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to

California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures) shall run coterminous.

2. The site shall be developed in substantial compliance with the plans dated July 7, 2022, on file at the Community Development Department, or as otherwise amended and approved, and the conditions contained herein.
3. Noise shall not have a negative effect on the existing neighborhood. If the property receives any noise complaints, the Developer shall investigate said complaint and mitigate any issues to meet Imperial Beach Municipal Code noise requirements (Imperial Beach Municipal Code 9.32 – Noise).
4. Lighting shall not have a negative effect on the existing neighborhood. All lighting shall be situated and adjusted to shine only on the subject property. If the property receives complaints related to lighting, the applicant shall investigate said complaint and mitigate any issues (adjustment, shades, removal of light, etc.).
5. Transportation demand management strategies shall be provided and permanently maintained by the applicant and/or property owner to encourage multiple methods of transportation, including the following: provide bike racks; provide a reasonable amount of public transportation cost reimbursement to employees who elect to use public transportation; provide poster display with local bus routes and bus schedule. The transportation demand management strategies shall be revisited and revised at the expense of the property owner if determined reasonably necessary by the City.
6. Hours of operation and service for outdoor patio shall be no later than 10 pm Sunday through Thursday, and not later than 11 pm on Fridays and Saturdays subject to active participation in the Responsible Retailer Program. Extension of hours of operation and service may be requested after a period of six months from the date of final approval. Hours of operation in the outdoor patio will be subject to review and modification by the Community Development Department and Public Safety Department. Community Development and Public Safety shall determine whether hours of operation may be extended, or whether the hours of operation shall be restricted further.
7. As part of the Responsible Retailer Program, the establishment shall: (1) Know and comply with the law; (2) Have written policies to prevent sales to underage and intoxicated persons; (3) Train employees in responsible sales and service to include attending LEAD (Licensee Education on Alcohol and Drugs) classes and RBSS (Responsible Beverage Sales and Service) Training; (4) Actively participate in your establishment inspections by Sheriff's and ABC personnel; (5) Support alcohol policies and insure they are put into practice.
8. No live entertainment shall be provided in the patio. Any proposed live entertainment inside of the building shall require a live entertainment permit.
9. With the exception of TV speakers, no speakers, amplified music or any other amplified devices, shall be allowed in the patio. Any deviation from this condition is subject to a noise permit that shall be applied for in the Public Safety department.
10. If necessity warrants, the conditions of this permit may be reviewed and revised by the Community Development Director. Failure to comply with all conditions of approval shall be subject to revocation of all permits.
11. Building materials should be sound attenuating.
12. Outdoor patio and dining area shall never exceed Fire Department or Building Department assessed occupancy.

13. If the applicant obtains a license from the Alcoholic Beverage Control for the outdoor patio, the conditions of this permit may be reviewed and revised to be consistent with said license. Business must comply with any requirement from the Alcoholic Beverage Control.
14. All stormwater requirements must comply with the most recent Municipal Storm Water Permit.
15. Drought tolerant landscaping shall be provided throughout the site.
16. All landscaping and bio-filtration areas shall be maintained by the Developer. All landscaped areas shall be permanently maintained in a healthy condition, free from weeds, trash, and debris.
17. A permanent irrigation system shall be installed and permanently maintained to serve all landscaped areas. The Developer shall comply with all State requirements for the Model Water Efficient Landscape Ordinance.
18. Obtain all required building permits (Building, Plumbing, Mechanical, Electrical, Grading etc.) for this project. All construction shall comply with the adopted 2019 California Building Standards Codes; Residential, Building, Electrical, Mechanical, Plumbing, Energy, Fire, Green Building, Historic Building, Existing Building, as amended by City Ordinance 2019-1190 and other applicable Municipal Codes in effect at the time of plan submittal for building permits.
19. Prior to Foundation Inspection a survey of the property shall be conducted from a California Licensed Surveyor or Engineer and survey pins shall be in placed to identify the corners.

A setback certification prepared by the responsible licensed Land Surveyor or Engineer shall be submitted to the City Building Inspector prior to inspection or approval of the foundation.
20. All projects greater than or equal to twenty-five thousand dollars (\$25,000), or which involve the construction and/or demolition of two-hundred-fifty (250) square feet or more of floor space shall comply with Imperial Beach Municipal Code Chapter 8.38. A completed Waste Management Plan shall be submitted with the building permit application.
21. Plans deviating from conventional wood frame construction shall have the structural portions signed and sealed by the California state licensed engineer or architect responsible for their preparation, along with structural calculations. (California Business and Professions Code).
22. No work for which a building permit is required shall be performed within the hours of 7:00 P.M. - 7:00 A.M. Monday - Friday, nor prior to 8:00 A.M. or after 5:00 P.M. on Saturday nor anytime on Sundays. A sign shall be posted at a conspicuous location near the main entry to the site, prominently displaying these hour restrictions.
23. A soils report must be provided with the building permit application. The report shall include foundation design recommendations based on the engineer's findings and shall comply with Section R401.4.
24. Should the soils engineer recommend that he/she review the foundation excavations, provide a note on the foundation plan that "Prior to the contractor requesting a Building Department foundation inspection, the soils engineer shall advise the building official in writing that:

- a. The building pad was prepared in accordance with the soils report,
- b. The utility trenches have been properly backfilled and compacted, and
- c. The foundation excavations, the soils expansive characteristics and bearing capacity conform to the soils report."

A letter will need to be provided from the soils engineer confirming that the foundation plan, grading plan and specifications have been reviewed and that it has been determined that the recommendations in the soils report are properly incorporated into the construction documents (when required by the soil report).

25. This project will be required to provide an energy design detailing compliance with the Mandatory Measures and either the Performance or Prescriptive methods of compliance.
26. The mandatory Green Building requirements for non-residential construction may need to be included on your plans. Green Building Standards are applicable to newly constructed buildings, additions over 1,000 square feet and/or alterations with a valuation exceeding \$200,000. California Green Building Standards Mandatory Measures checklist plan sheets are available from the following website:
<https://aiacalifornia.org/calgreen-checklists/>
27. Should the project include the installation of an additional or upgrading of an existing electrical meter, please contact the San Diego Gas & Electric Project Planning Team (Metro Service Order Team) at 619-230-7800 to confirm that the proposed service locations detailed on your site plan are in compliance with their service standards.
28. When applying for a building permit, the applicant will need to provide documentation that the County Health Department has approved the proposed alterations.
29. The relocated van accessible space must comply with California Building Code section 11B-502.3.4, which requires the access aisle to be located on the passenger side of the of the parking space.
30. When submitting for a building permit, the plans will need to demonstrate that the existing exits can accommodate the increased occupant load from the proposed patio. Otherwise, alterations or additional exits may be required.
31. No building roof or landscape water drains may be piped to the street or onto impervious surfaces that lead to the street. A design that has these water discharges directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit - Order R9-2013-0001.
32. Building foundation elevations shall be at least one (1) foot above gutter line to minimize flooding during storm conditions.
33. For alley, sidewalk or curb & gutter replacement ensure compliance with San Diego Regional Standard Drawing G-11 (Concrete Curb, Gutter, Sidewalk & Pavement Removal and Replacement) in that, the "Area to be removed [must be] 5' or from joint to joint in panel, whichever is less." The distance between joints or score marks must be a minimum of 5-feet. Where the distance from "Area to be removed", to existing joint, edge or score mark is less than the minimum shown, "Area to be removed" shall be extended to that joint, edge or score mark.
34. For any work to be performed in the street or alley, submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street

- work. Traffic control plan is to be per Regional Standard Drawings or CALTRANS Traffic Control Manual.
35. The applicant shall be responsible for informing the public of the traffic conditions existing within the construction area at all times by placement of appropriate warning and advisory signs. The applicant shall also provide and maintain all traffic control and safety items. Barricades and any other delineation in the right of way shall be required and maintained by applicant for the duration of the right of way improvements. Applicant assumes sole and complete responsibility for the job and site conditions during the course of construction, including safety of all persons and property. This requirement shall apply continuously twenty-four (24) hours per day and shall not be limited to normal work hours.
 36. For any project that proposes work within the public right-of-way (i.e., driveway removal/construction, sidewalk removal/construction, street or alley demolition/reconstruction, sewer lateral trenching and installation, landscaping and irrigation, fences, walls within the public right-of-way, etc.), a Temporary Encroachment Permit (TEP) shall be applied for and approved either prior to or concurrent with issuance of the building permit required for the project. Application for a Temporary Encroachment Permit shall be made on forms available at the Community Development Department.
 37. Permittee shall schedule inspections with the Public Works Department (619) 423-8311 at least 24 hours prior to need as follows:
 - a. Sidewalk, Driveway, Curb and Gutter and other Concrete Work Pre-pour and Final
 - b. Street Excavation T-Cut and Final
 - c. Sewer Lateral Capping during Demolition and New Lateral Connection to Main
 - d. All Other Encroachment Activity Final
 38. All alley, driveway, sidewalk, or curb & gutter construction within the City right-of-way shall require either a "CLASS A" or "C-8" Contractor's license. All sewer lateral installations and trenching work within the City right-of-way shall require a "CLASS A" Contractor's license.
 39. Along the public right-of-way, the applicant shall eliminate any existing tripping hazard caused by the condition of the existing public sidewalk along the property frontage. The remedial work required herein shall be performed to the satisfaction of the Public Works Inspector
 40. Any disposal/transportation of solid/construction waste in roll off containers must be contracted through EDCO Disposal Corporation unless the hauling capability exists integral to the prime contractor performing the work.
 41. The parcel impervious surfaces are not to increase beyond that proposed in the project review drawings. This will be as a post-construction condition in order to maximize the water runoff infiltration area on the parcel in compliance with Municipal Storm Water Permit – Order R9-2013-0001.
 42. Applicant required to provide verification of post construction Best Management Practice (BMP) maintenance provisions through a legal agreement, covenant, CEQA mitigation requirement, and / or Conditional Use Permit. Agreement is provided through the Community Development Department.

43. Property owner must institute “Best Management Practices” to prevent contamination of storm drains, ground water and receiving waters during both construction and post construction. The property owner or applicant BMP practices shall include but are not limited to:
 - a. Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State, and City statutes, regulations and ordinances.
 - b. All recyclable construction waste must be properly recycled and not disposed in the landfill.
 - c. Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches, storm drain pipes).
 - d. All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
 - e. Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system. Applicant is to cover disturbed and exposed soil areas of the project with plastic-like material (or equivalent product) to prevent sediment removal into the storm drain system. See CASQA’s (California Stormwater Quality Association) Construction Best Management Practices Handbook for other alternative erosion and sediment control BMPs.
44. Two days prior to any excavation, “Dig-Alert” (800) 227-2600 shall be notified to locate all known underground utilities.
45. Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney’s fees and costs incurred by the City and any claim for private attorney general fees and costs claimed by or awarded to any party against the City or its agents officers or employees against the City or its agents, officers, or employees, relating to the approval of the project (USE-22-0092) including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision (Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures)), including any claims for violation of the Public Records Act or discovery law arising from and with respect to litigation involving these approvals (collectively “Development Approvals”). The City will promptly notify applicant of any claim, action or proceeding concerning the Development Approvals. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all the costs related thereto, including without limitation reasonable attorney’s fees and costs. In the event of such election applicant shall pay all the costs related thereto including without limitation attorney’s fees and costs incurred by the City. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other

disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is first approved by applicant.

- 46. The Developer or Developer’s representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed statement to the Community Development Department accepting said conditions.
- 47. The Developer shall pay off any deficits in his project account (22-0092-DEP) prior to building permit issuance and prior to final inspection.

Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PROTEST PROVISION: The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

- 1. That the foregoing recitals are true and correct.
- 2. That Regular Coastal Development Permit (CP-22-0015), Conditional Use Permit (CUP-22-0012), Design Review Case (DRC-22-0028), Site Plan Review (SPR-22-0023) and Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3e (New Construction or Conversion of Small Structures) is approved for the proposed attached 527 square foot exterior covered patio addition to the existing IB Forum restaurant at 1079 Seacoast Drive (APN 625-392-23-00) in the C/MU-2 (Seacoast Commercial & Mixed-Use) Zone subject to the conditions set forth in this Resolution.
- 3. The City Manager or his designee shall provide notice to the California Coastal Commission of the City Council’s approval of the Coastal Permit pursuant to IBMC Section 19.87.160(A)(2).

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 21st day of September 2022, by the following vote:

AYES: **COUNCILMEMBERS:**
NOES: **COUNCILMEMBERS:**
ABSENT: **COUNCILMEMBERS:**

SERGE DEDINA, MAYOR

ATTEST:

JACQUELINE M. KELLY, MMC
CITY CLERK