



CITY COUNCIL

STAFF REPORT

February 19, 2025

ITEM TITLE: RC COMMERCIAL HOLDINGS, LLC (APPLICANT); CONSIDERATION OF REGULAR COASTAL PERMIT AND CONDITIONAL USE PERMIT TO ALLOW LIVE ENTERTAINMENT AT AN EXISTING TWO-STORY COMMERCIAL BUILDING ON THE ROOF DECK AREA LOCATED AT 951 SEACOAST DRIVE. (0600-20)

ORIGINATING DEPARTMENT:

Community Development

EXECUTIVE SUMMARY:

The applicant of the property at 951 Seacoast Drive, which is located in the C/MU-2 (Seacoast Commercial & Mixed Use) Zone, has applied for a Regular Coastal Permit and Conditional Use Permit for live entertainment at an existing two-story commercial building (only on the roof deck area). No significant alterations to the building or property are proposed beyond what exists today.

RECOMMENDATION:

That the City Council consider adoption of Resolution 2025-007, approving Regular Coastal Permit (CP-24-0003), and Conditional Use Permit (CUP-24-0002), and categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 Class 1 (Existing Facilities) at 951 Seacoast Drive (APN 625-352-23-00) in the C/MU-2 (Seacoast Commercial & Mixed Use) Zone, subject to the conditions as specified in the attached resolution.

OPTIONS:

In addition to reviewing this report and adopting staff recommendations, the City Council can:

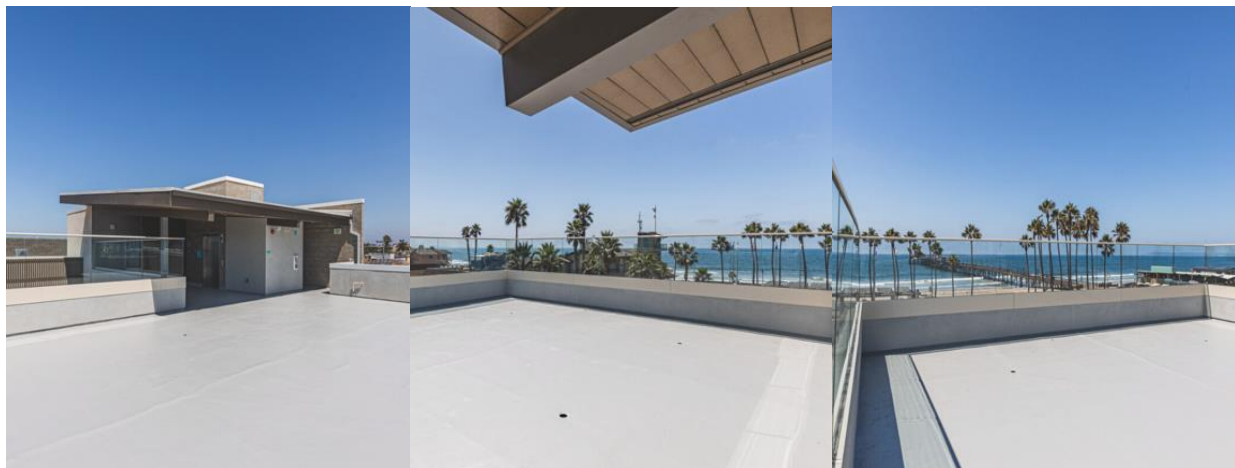
- Approve the resolution with modifications requested by the City Council; or
- Deny the requested permits by making specific findings for denial; or
- Continue the Public Hearing to a specific future meeting to allow staff to provide additional information upon which a decision can be rendered.

BACKGROUND/ANALYSIS:

On April 21, 2021, the City Council adopted Resolution No. 2021-21, approving the demolition of an existing single-family residence and construction of a new two-story commercial building with a roof deck at 951 Seacoast Drive (APN 625-352-23-00). After the construction of the building, the applicant submitted an application (USE-24-0029) to the City on April 30, 2024, for Regular Coastal Permit (CP-24-0003) and Conditional Use Permit (CUP-24-0002), proposing live entertainment at an existing two-story commercial building (only on the roof deck area) in the C/MU-2 (Seacoast Commercial & Mixed Use) Zone. The application was submitted per

Resolution No. 2021-21, condition of approval seven (7) which states, “Hours of operation and use for outdoor patio and roof deck areas are subject to separate authorization by the City, dependent on the tenant and operational use of the spaces. Hours and operation in the outdoor areas will be subject to review and modification by the Community Development Department and Public Safety Department, as necessary. Special events, live entertainment, or similar uses must obtain separate authorizations. City approvals and authorizations will not be unreasonably withheld, conditioned, or delayed, and any restrictions will be non-discriminatory and no more restrictive or onerous than restrictions placed on other retail uses in the City. Any and all live entertainment is subject to separate permitting and unique conditions of approval.” The applicant is proposing that the live entertainment would operate on the roof deck of the existing two-story commercial building.

The existing commercial building has four retail spaces: one space is currently occupied by a Real Estate business, one would soon be occupied by a coffee business, and the remaining two spaces are vacant. The applicant has proposed to offer live entertainment, which includes events with a Master of Ceremonies (MC), live instrumentals and/or vocalists, amplified music events, recorded music, and restaurant-style ambient music on the roof deck. No significant alterations to the building or property are proposed beyond what exists today.



Land Use

The applicant is proposing live entertainment on the roof deck of an existing commercial building. The live entertainment includes events with a Master of Ceremonies (MC), live instrumentals and/or vocalists, recorded music, and restaurant-style ambient music. The applicant is proposing that live entertainment be allowed to take place pursuant to Imperial Beach Municipal Code section 19.23.010 and 19.72.040(G) at the existing building (only on the roof deck area) as specified below:

1. Allowable Number of Events

- A. Live Music: Eight days per year (one max per day) (included in the three days per week maximum allotment in item 1.B. below)
 - Four of the eight shall only take place during the daytime hours of the summer season. The remaining four may take place throughout the calendar year.
- B. Recorded Music (inaudible beyond the property line): Up to three days per week maximum.
 - Microphones may not be used, except for announcements or speeches performed in a speaking voice (no yelling, shouting, or singing), the volume of any microphone must be controlled/limited at 65 decibels within the property lines, and the announcements/speeches must not be audible beyond the property line.
- C. Restaurant-Style Ambient Music (Inaudible Beyond Property Line): Daily
- D. Events without music.
 - Events without music do not require a conditional use permit and may take place daily during the building's approved hours of operation.

2. Allowable Event Times:

- A. Live Music (same times as shown in item 2.B. below)
- B. Recorded music (inaudible beyond the property line)
 - Tuesday to Friday: 10:00 am – 8:00 pm
 - Saturday: 10:00 am to 9:00 pm
 - Sunday: 10:00 am to 7:00 pm
- C. Restaurant-Style Ambient Music: 7:00 am to 10:00 pm
- D. Events without music: 7:00 am to 10:00 pm

* One additional hour to be used solely for cleanup, soundcheck no earlier than 09:30 am.

Pursuant to Imperial Beach Municipal Code Section 19.23.010 the City Council has the authority to determine whether a standalone “live entertainment” venue which is not listed in the Land Use Table is an allowable use.

Additionally, pursuant to Imperial Beach Municipal Code Section 19.72.040 (G), the City Council acting as the Planning Commission has the authority to determine if the standalone “live entertainment” venue business normally conducts all or part of their business outside of buildings exempting the business from the provisions of Chapter 19.72 Outdoor Uses.

The areas for live entertainment would occur only on the roof deck. Because every event is unique in character, the layout of each event would vary. The applicant has provided examples in the following figures below.

Figure 1

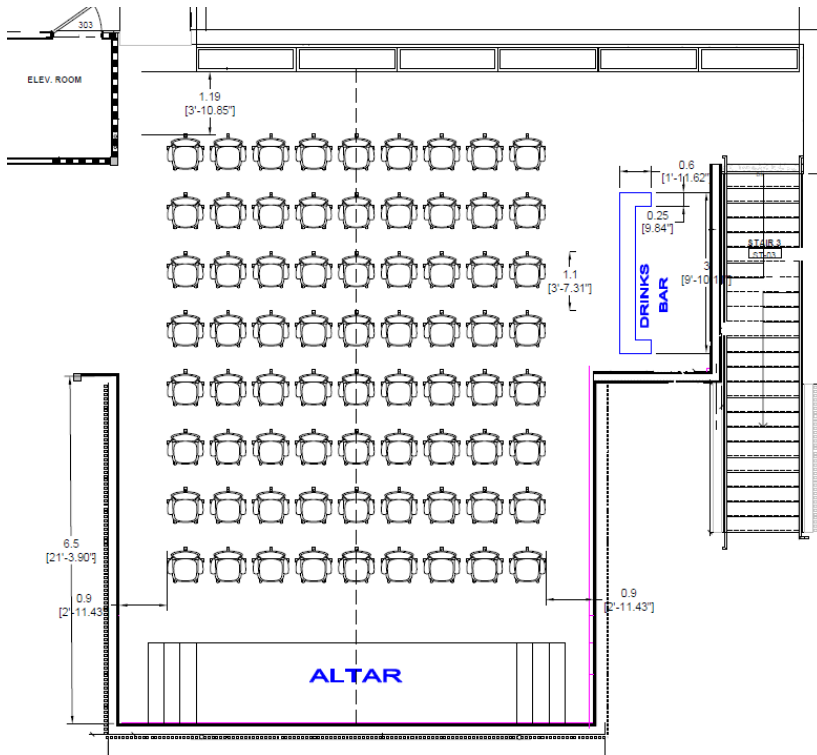


Figure 2

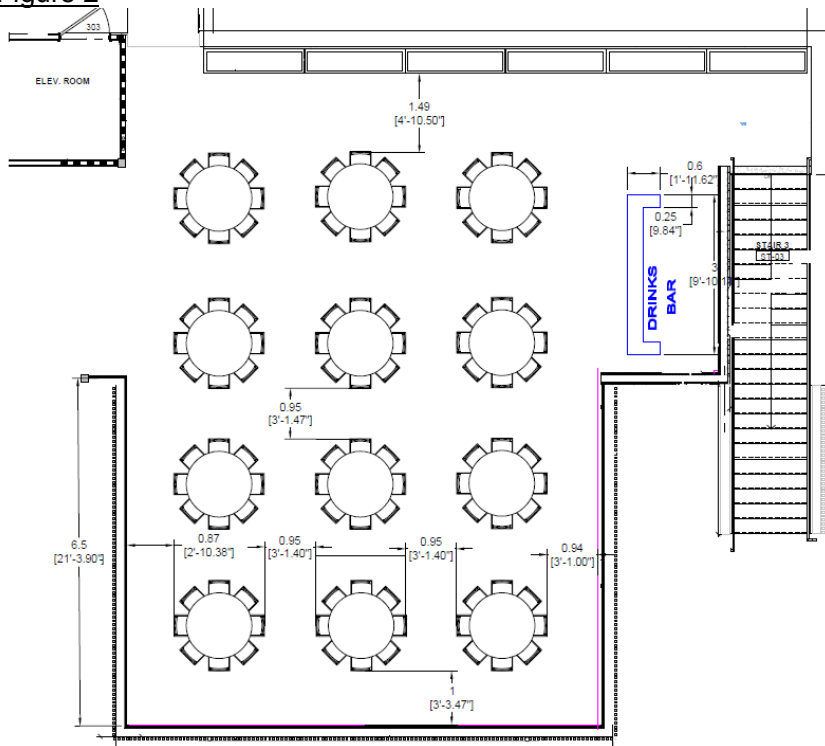
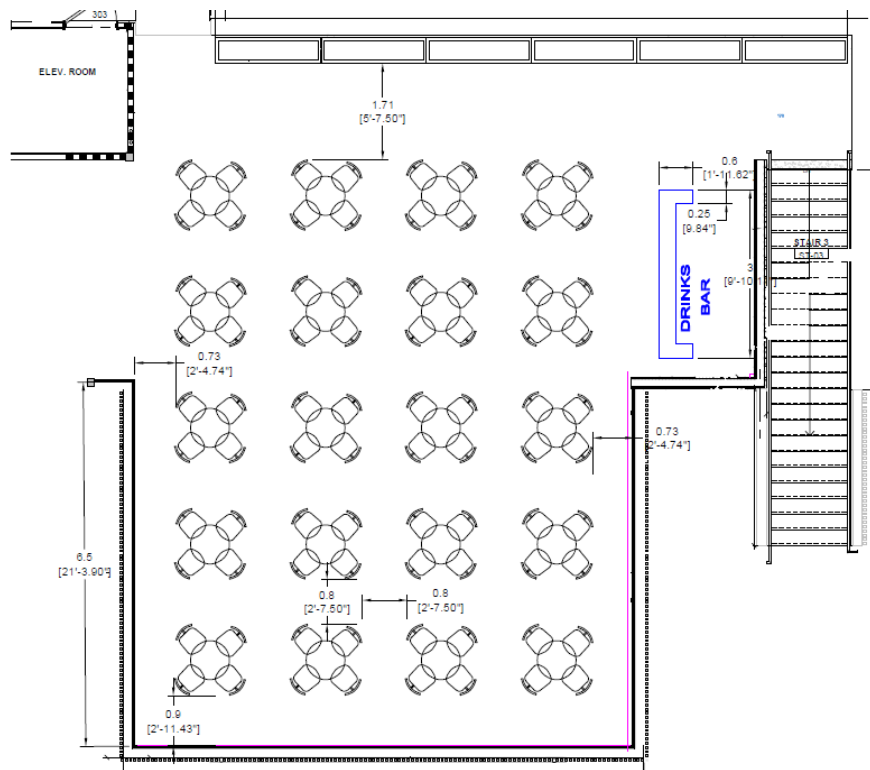


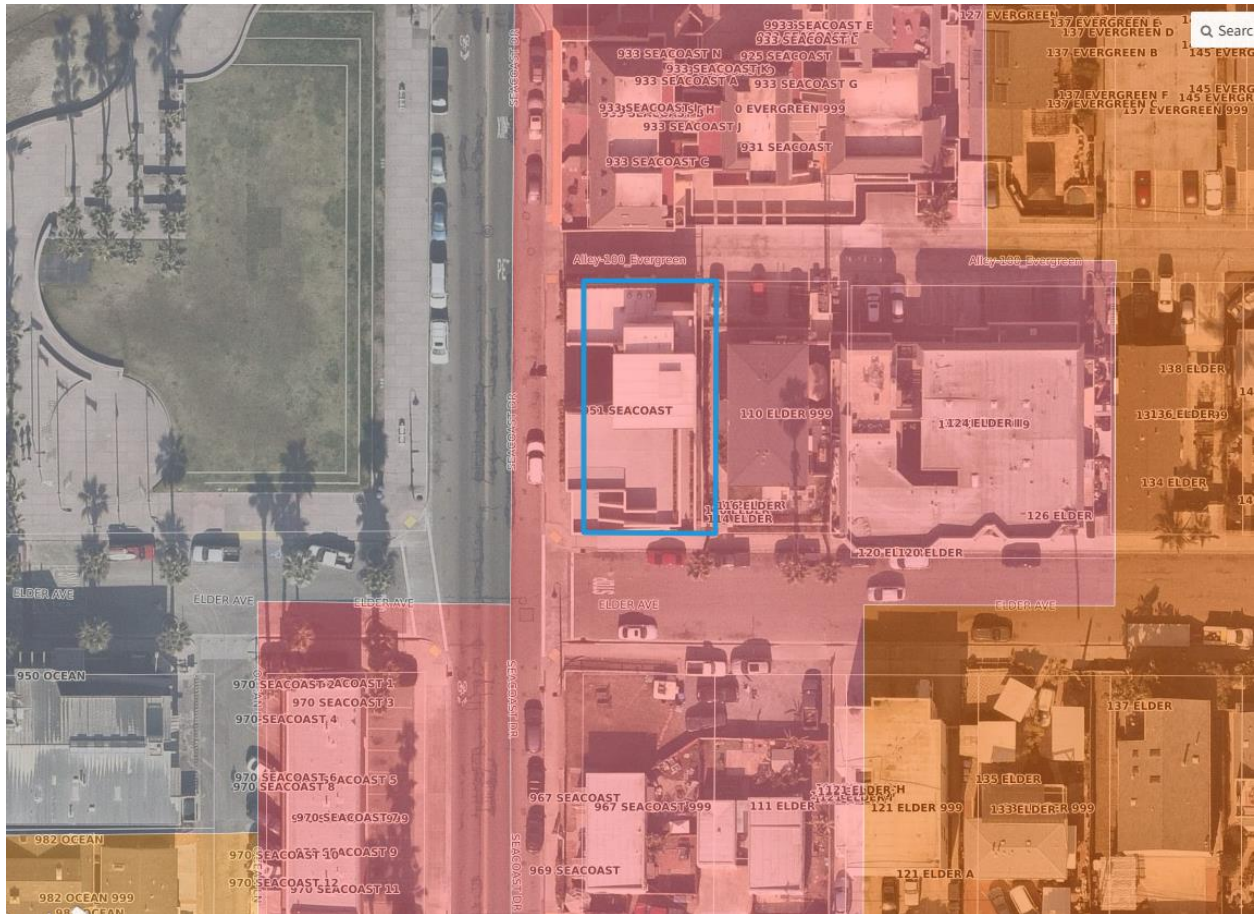
Figure 3



Compatibly with Surrounding Uses

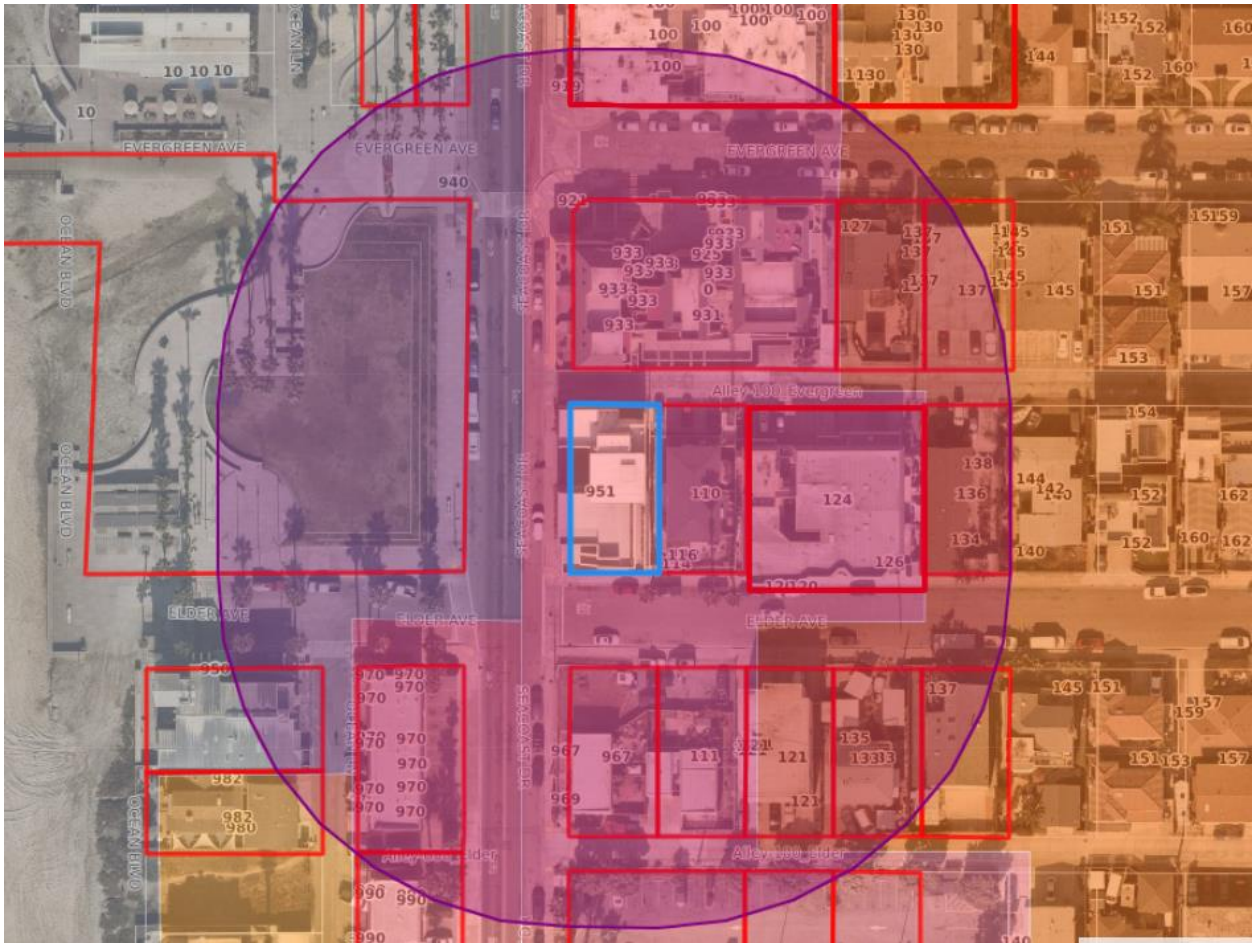
The property is located in the C/MU-2 (Seacoast Commercial & Mixed Use) Zone. The properties located north, east, and south of the project are zoned C/MU-2 (Seacoast Commercial & Mixed Use) Zone. The building located north of the project is mixed use which features a market, commercial offices, and residential units. The buildings located east south of the project are residential in character. The property to the west is zoned as the Public Facility Zone and is currently a public park. An overview of the zoning for the area surrounding the project site is provided in Figure 4 below.

Figure 4



Because of the unique character of the proposed use, the proximity of nearby uses should be considered. Figure 5, shown below, shows that the existing commercial building is located within two hundred feet of a residential zone and existing residential buildings. As such, conditions should be considered to mitigate for noise.

Figure 5



The applicant proposes neighborhood compatibility by implementing various noise mitigation measures. For all events while events are in progress, there will be one Onsite Event Manager, and an on-call Building Manager (onsite or offsite). The information for an on-call Building Manager would be clearly posted on the premises and the manager would be available 24/7. In addition, the information for the Onsite Event Manager would be clearly posted on the premises during each event (including during setup and clean up). The Onsite Event Manager would be responsible for ensuring that sound originating from the roof deck is not audible beyond the property lines and that the sound does not exceed 65 decibels. The Onsite Event Manager would return any calls within 15 minutes and resolve any issues within 30 minutes. As a secondary contact point, the Building Manager would be available to address any issues as soon as possible after being contacted.

Any live entertainment (inclusive of events with an MC, live musical instruments and/or vocalists) or amplified music events should not exceed eight (8) unique events (one per day) per year, subject to approval from the Community Development Director. Four of the eight shall only take place during the daytime of the summer season. The remaining four may take place throughout the calendar year. The hours for live entertainment (inclusive of events with an MC, live musical instruments and/or vocalists, or amplified music event) are subject to modification and require prior notification to the surrounding residents within 100 feet.

Any events utilizing solely recorded music shall not exceed 65 decibels within the property lines, and the music must not be audible beyond the property line. The music must be imperceptible to occupants of buildings neighboring the subject property. Microphones may not be used, except

for announcements or speeches performed in a speaking voice (no yelling, shouting, or singing), the volume of any microphone would be controlled/limited at 65 decibels within the property lines, and the announcements/speeches would not be audible beyond the property line. These events (inaudible beyond the property lines) may not occur more often than an average of three (3) days per week, and the music and any announcement or speeches must not be perceptible beyond the property line. For purposes of calculating the number of days, any live entertainment (inclusive of events with an MC, live musical instruments and/or vocalists, or amplified music event) would be counted towards this 3-day average.

Any events utilizing Restaurant-Style Ambient Music would not exceed the level of music typically played in a restaurant setting, and the music would not be audible beyond the property line. The music would be imperceptible to occupants of buildings neighboring the subject property. Microphones may not be used. These events (inaudible beyond the property lines) may take place daily during the building's approved hours of operation.

Subject to approval by the City Council (IBMC Section 19.72.040(G)), the proposed events without music do not require a conditional use permit and may take place daily during the building's approved hours of operation.

Any noise complaints that are received for uses at the property, the City would verify the validity of the complaint with evidence to support the complainant's claim (including verifiable facts such as volume and the source of any music), and applicant would also investigate said complaint and mitigate any issues to the satisfaction of the City. The project would also meet Imperial Beach Municipal Code noise requirements (Imperial Beach Municipal Code 9.32 - Noise) at all times. In addition, any user of the space or vendor at the facility that process alcoholic beverages would participate in the Responsible Retailer Program operated by the San Diego County Sheriff.

To dampen sound and reduce potential noise impacts to the surrounding neighboring areas, additional sound attenuation such as temporary sound absorbing panels would be required for live entertainment events (including events with an MC, live musical instruments and/or vocalists, or amplified music event). As an additional mitigation measure, the applicant has hired the consulting services of an Acoustical Engineer, Acentech, to perform an environmental sound measurements study to ensure compliance with the Imperial Beach Noise Ordinance. In order to be compliant with the recommendations of the environmental sound measurements study, all speakers would be at or near floor level and may not be elevated. Furthermore, the applicant would add sound-reduction clear/transparent glass or glass-like parapet on the east side of the roof deck that is similar to the glass parapet located on the west side of the roof deck. This parapet would not have gaps unless structurally necessary for wind shear load, and if there are gaps, such gaps would be covered during any live entertainment (inclusive of events with an MC, live musical instruments and/or vocalists, or amplified music event) with materials approved from a state licensed structural engineer. Examples of the speaker layout and sound wall are shown below in Figure 6 and 7.

Figure 6

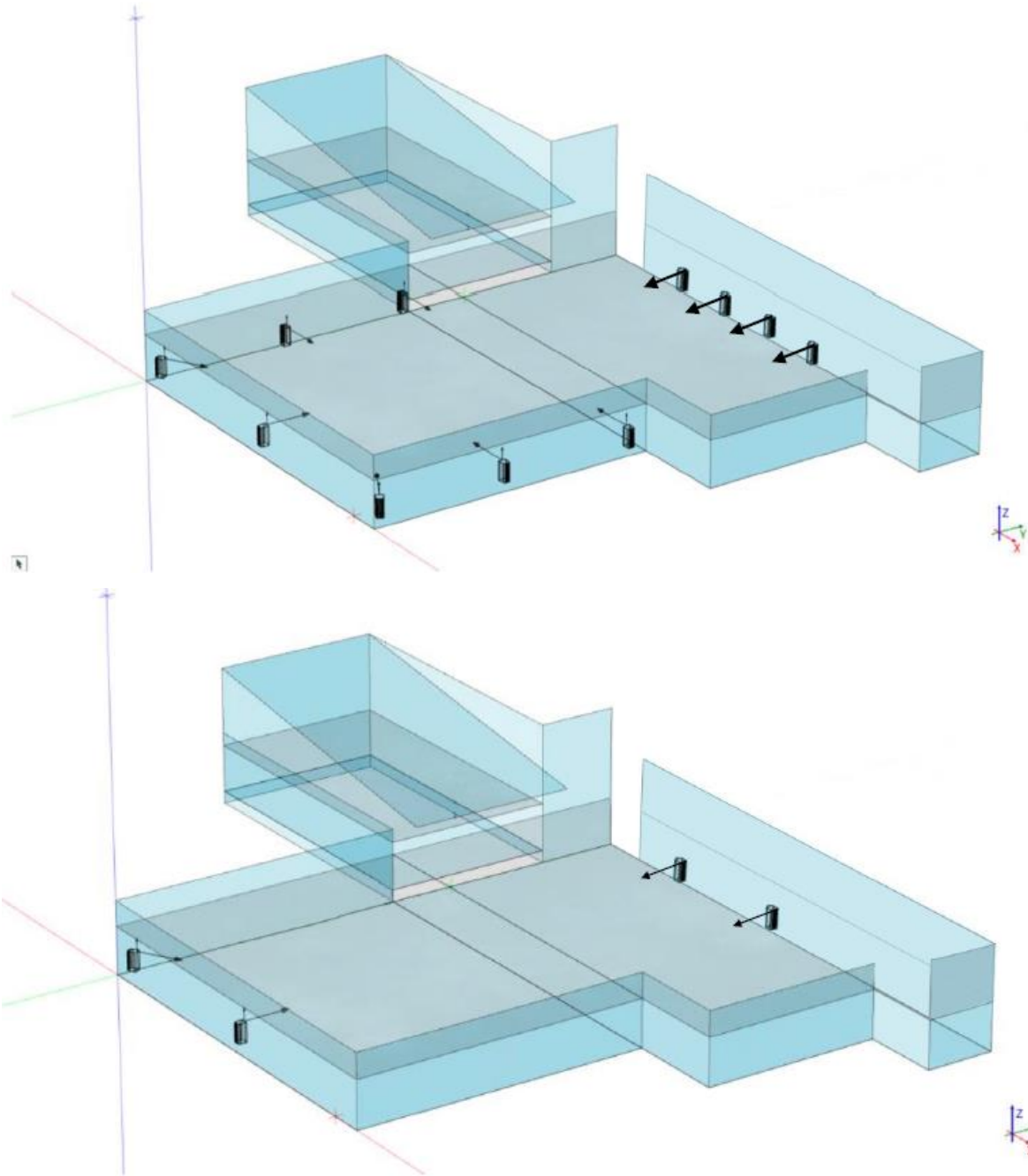
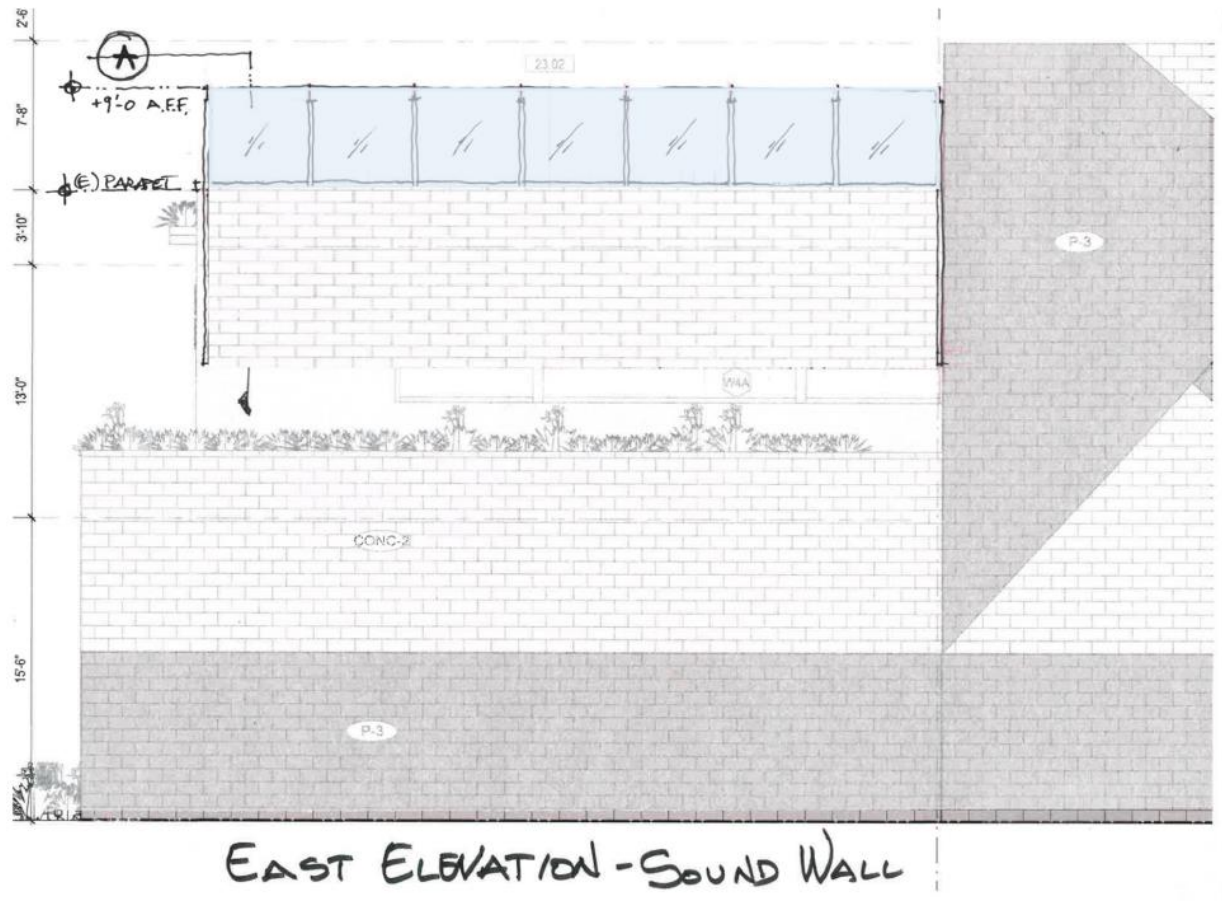


Figure 7



General Plan/Land Use Analysis:

The project is located in the C/MU-2 (Seacoast Commercial & Mixed Use) 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.

Imperial Beach Municipal Code (IBMC) Section 19.23.010 provides a table of the allowable uses in the General Commercial & Mixed-Use Zone (C/MU-1), Seacoast Commercial & Mixed-Use Zone (C/MU-2), and Neighborhood Commercial & Mixed-Use Zone (C/MU-3). This table specifies which uses are expressly permitted, which uses require a Conditional Use Permit, or which uses are permitted only if in compliance with specific location requirements. While the land use table does not explicitly list a standalone “live entertainment” venue as an allowable use, it vests the authority of the City Council to determine whether an unspecified use is allowed because it is compatible with the zone.

There are several similar uses that are specifically allowed in the zone. The land use table does allow restaurants with live entertainment with the approval of a Conditional Use Permit. Per IBMC Section 19.04.52, live entertainment is defined as “Live entertainment includes live music, recorded music, music played by a DJ, comedy, karaoke, readings, dancing, acting, or other entertainment performed on a site three or more days during a calendar year. This includes dancing by patrons to live music, recorded music, or music played by a DJ or disk jockey.”

Furthermore, hotels are a permitted use in the C/MU-2 (Seacoast Commercial & Mixed-Use Zone, which by definition may also include “entertainment” as an incidental service. Hotels are defined in Imperial Beach Municipal Code Section 19.04.410 as follows: "Hotel" means any establishment offering commercial transient lodging accommodation on a less than monthly basis to the general public, including any incidental services such as eating, drinking, meeting, banquet, entertainment, or recreational services intended primarily for the convenience of guests.

While the proposed use may not strictly fit the definition of a restaurant, cafe, or hotel, it shares the characteristic of providing a venue for social gatherings that often include “live entertainment” as defined by IBMC Section 19.04.452. These types of events, such as weddings and banquets, inherently involve elements of entertainment, often including music, dancing, and other performances. 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 event venue aligns with this intent by providing a space for events that contribute to the local economy and offer entertainment options for both visitors and residents. Similar to how hotels and restaurants offer banquet and private dining spaces for events, this venue provides a dedicated space for larger gatherings. The proposed land use can be interpreted as consistent with other permitted uses within the C/MU-2 zone as it provides a similar function of hosting events and providing entertainment, comparable to the incidental entertainment provided by restaurants, cafes, and hotels.

Additionally, Imperial Beach Municipal Code Chapter 19.72 provides the framework and regulations for outdoor uses in the City of Imperial Beach. Per the purview of this chapter, any business activity or use which is required to obtain a city business license shall conduct such business activity or use entirely inside a building. However, IBMC section 19.72.040 exempts certain uses from this Chapter and allows the City Council (in its role as the Planning Commission) to make a determination to exempt other business which normally conduct all or part of their business outside of buildings.

Based on the foregoing analysis, the City Council could determine that the proposed use which would allow events such as weddings, banquets, and private parties, functions similarly to permitted uses within the C/MU-2 zone, specifically restaurants, cafes, and hotels, by providing a space for gatherings and entertainment is an allowable use pursuant to IBMC Section 19.23.010 and is not bound to conduct all of its business inside the building because a standalone “live entertainment” venue is a business that conducts all or part of their business outside of buildings pursuant to IBMC Section 19.72.040(G).

Typically, a Design Review Case (DRC) and Site Plan Review (SPR) would be necessary for any proposed use requiring the approval of a conditional use permit. The intent of these permit reviews is to ensure orderly development, promote and enhance good site design, and to determine whether the site design would be detrimental or injurious to the neighborhood, value or property, or improvements of the neighborhood or city in general. The project, however, proposes no significant land use intensity or alterations to the existing building or property beyond on what exists today. As such, the City Council may determine that a DRC and SPR are not required since no significant alterations to the building or property are proposed. However, if found necessary, the City Council may request that a DRC and SPR be required subject to IBMC 19.27.020 (B)(3), 19.25.050, and 19.83.020 (A)(3). The project would then require review by the Design Review Board and return to the City Council at a future date so that findings for both a Design Review Case and Site Plan Review may be made.

Surrounding Land Use and Zoning

Surrounding Areas	Surrounding Zoning	Surrounding Land Use
North	C/MU-2 (Seacoast Comm. & Mixed-Use)	Mixed-Use
South	C/MU-2 (Seacoast Comm. & Mixed-Use)	Residential
East	C/MU-2 (Seacoast Comm. & Mixed-Use)	Residential
West	Public Facility	Public Park

ENVIRONMENTAL DETERMINATION:

This project may be categorically exempted from the requirements of the California Environmental Quality Act (CEQA) as a Class 1 project pursuant to CEQA Guidelines Section 15301 Class 1 (Existing Facilities).

COASTAL PERMIT JURISDICTION:

This project is located in the coastal zone as defined by the California Coastal Act of 1976. The City Council public hearing will serve as the required coastal permit hearing and the City Council will consider the findings under the California Coastal Act. Pursuant to the Imperial Beach Municipal Code Section 19.87.050, review of the proposal will consider whether the proposed development satisfies the required findings prior to the approval and issuance of a Coastal Development Permit. The project is located in the Appeal Jurisdiction of the California Coastal Commission as indicated on the Local Coastal Program Post Certification and Appeal Jurisdiction Map and, as such, is appealable to the California Coastal Commission under Section 30603(a) of the California Public Resources Code.

FISCAL IMPACT:

The applicant has paid a fee of \$11,614.00 to fund the processing of the application.

ATTACHMENTS:

- ATT 1 – Resolution 2025-007
- ATT 2 – Business Summary
- ATT 3 – Environmental Sound Measurement Study
- ATT 4 – Speaker Layout Diagram
- ATT 5 – Sound Wall Architectural Sketch
- ATT 6 – Live Entertainment Layout Examples