

**RESOLUTION NO. 2025-007**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING REGULAR COASTAL PERMIT (CP-24-0003); CONDITIONAL USE PERMIT (CUP-24-0002); AND CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION 15301 CLASS 1 (EXISTING FACILITIES) FOR PROPOSING LIVE ENTERTAINMENT AT AN EXISTING TWO-STORY COMMERCIAL BUILDING (ONLY ON THE ROOF DECK AREA) AT 951 SEACOAST DRIVE (APN 625-352-23-00). USE-24-0029/MF 1622**

**DEVELOPER: RC COMMERCIAL HOLDINGS, LLC.**

**WHEREAS**, February 19, 2025 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 Permit (CP-24-0003), Conditional Use Permit (CUP-24-0002), and Categorical Exemption pursuant to CEQA Guidelines 15301 Class 1 (Existing Facilities) for proposing live entertainment at an existing two-story commercial building (only on the roof deck area only) at 951 Seacoast Drive (APN 625-352-23-00) in the C/MU-2 (Seacoast Commercial and Mixed Use) Zone (Proposed Use); and

**WHEREAS**, on April 21, 2021, the City Council of the City of Imperial Beach adopted Resolution No. 2021-21, approving Regular Coastal Permit (CP 200060), Conditional Use Permit (CUP 200061), Design Review Case (DRC 200062), Site Plan Review (SPR 200063), Variance (VAR 200064) and Categorical Exemption pursuant to CEQA Guidelines 15332 Class 32 (In-Fill Development) for 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) in the C/MU-2 (Seacoast Commercial and Mixed Use) Zone.

**WHEREAS**, the City Council finds that the Proposed Use is an allowable use because it is compatible with the zone pursuant to Imperial Beach Municipal Code Section 19.23.010;

**WHEREAS**, the City Council finds that the Proposed Use is exempt pursuant to Imperial Beach Municipal Code Section 19.72.040 (G) because it is a business that normally conducts all or part of its business outside of a building on the patio at this specific location; and

**WHEREAS**, the City Council finds that the Proposed Use complies with the requirements of the California Environmental Quality (CEQA) as Proposed Use is categorically exempt pursuant to CEQA Guidelines 15301 Class 1 (Existing Facilities); and

**WHEREAS**, the City Council further offers the following additional findings in support of its decision to conditionally approve the Proposed Use:

**REGULAR COASTAL PERMIT (IBMC § 19.87.050):**

- 1. The proposed development/use 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. The Proposed Use is live entertainment at an existing two-story commercial building (only on the roof deck area). The existing two-story commercial building continues to provide multiple commercial tenant spaces and a roof

deck that would continue to service local residents and the tourist population, meeting the intent of the land use designation. The Proposed Use would have no impact to existing shore processes, public access, coastal views, or scenic views because the Proposed Use complies with the Municipal Code and no significant alterations to the building or property are proposed beyond what exists today.

- 2. For all development seaward of the nearest public highway to the shoreline, the proposed development/use 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 Use meets the intent of the zone and offers additional services to residents and tourists in the coastal zone. As such, the proposed development/use meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.

- 3. The proposed development/use 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 Use is live entertainment at an existing two-story commercial building (only on the roof deck area). The Proposed Use continues to comply with 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 because no significant alterations to the building or property are proposed beyond what exists today.

- 4. The proposed development/use 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 Use meets the minimum criteria set forth in Sections 19.82.050. subject to the findings provided within this Resolution. Section 19.81.060 and 19.83.120 are not applicable as the applicant has applied for a waiver to waive Site Plan Review and Design Review. Section 19.84.050 are not applicable because the Proposed Use does not require a variance. Section 19.86.100 is not applicable because the Proposed Use does not require a 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 not located near an area that would require shoreline protection. As such, the Proposed Use 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 Proposed Use.

- 6. This Proposed Use complies with the California Environmental Quality Act.**

This Proposed Use is categorically exempted from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 Class 1 (Existing Facilities). The City has prepared a Categorical Exemption per the CEQA requirements for this Proposed Use 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 Proposed Use 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 January 31, 2025, and February 5, 2025, and a public hearing notice was published in the South County Eagle & Times newspaper on February 6, 2025.

**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 Proposed Use is live entertainment at an existing two-story commercial building (only on the roof deck area). Live entertainment 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. The existing commercial building has four retail spaces, one of which is currently occupied by a Real Estate business, one soon to be Coffee business, and the remaining two spaces are vacant.

The intended use of the roof deck is for private events (with and without live entertainment) and semi-public events, subject to IBMC Section 19.23.010, 19.72.040 (G), and any other conditions noted in this Resolution. The Proposed Use would service local residents and the tourist population, contributing to the general well-being of the neighborhood and community and meeting the intent of the designation of land use. The Proposed Use is a commercial use and it 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 Proposed 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 noise mitigation requirements 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**

The Proposed Use 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 can be 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 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 determines 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).

Applicable conditions of approval for the Proposed Use have been included in this 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.

**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.**

The Proposed Use 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.

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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."

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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 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 determines 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).

Applicable conditions of approval for the Proposed Use have been included in this 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.

**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 as findings; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Imperial Beach that Regular Coastal Permit (CP-24-0003), Conditional Use Permit (CUP-24-0002, and Categorical Exemption pursuant to CEQA Guidelines 15301 Class 1 (Existing Facilities) for live entertainment at an existing two-story commercial building (only on the roof deck area) at 951 Seacoast Drive (APN 625-352-23-00) are hereby approved subject to the following conditions of approval set forth in this Resolution:

**CONDITIONS OF APPROVAL:**

1. **Approval** of Regular Coastal Permit (CP-24-0003), Conditional Use Permit (CUP-24-0002), and Categorical Exemption pursuant to CEQA Guidelines 15301 Class 1 (Existing Facilities) 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 February 19, 2026**, unless the use of the property in reliance on such conditional use permit approval has commenced prior to its expiration. Approvals of the Regular Coastal Permit (CP-24-0003), Conditional Use Permit (CUP 200061), and Categorical Exemption pursuant to CEQA Guidelines 15301 Class 1 (Existing Facilities) shall run coterminous.

2. **Allowable Number of Events:**

(a) Live Entertainment: 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 day time of the summer season. The remaining four may take place throughout the calendar year. The applicant will adjust the speaker volume to 65 dB so that all sound which runs through the sound system/speakers is limited to 65 dB output, with no bass/low frequency; however, some sound originating directly from musical instruments or vocalists not using speakers might exceed this level. To help mitigate sound originating directly from musical instruments or vocalists, additional sound attenuation such as temporary sound absorbing panels shall be required for any event qualified in Category A (Live Entertainment or amplified music events). Building will comply with the acoustical study made by Acentech in order to mitigate noise disturbances and will provide a glass or glass-like clear parapet on west side of the building. Hours for outdoor amplified live entertainment are subject to modification and require prior notification to the surrounding residents within 100 feet. The applicant shall provide the surrounding residents ample notice prior to any live entertainment or amplified music event.

(b) Events with Solely Recorded Music at Controlled/Limited Volume (Music Inaudible Beyond Property Line): 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 must be controlled/limited at 65 decibels within the property lines, and the announcements/speeches must not be audible beyond the property line. These events (inaudible beyond the property lines) may not occur more often than a maximum 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 events defined in Section 2(a) above shall be counted towards this 3-day per week maximum.

(c) Events with Low-Volume Restaurant-Style Ambient Music (Music Inaudible Beyond Property Line): Any events utilizing Low-Volume Restaurant-Style Ambient Music shall not exceed the level of music typically played in a restaurant setting, 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. These events (inaudible beyond the property lines) may take place daily during the building's approved hours of operation.

(d) Events Without Music: Events without music do not require a live entertainment conditional use permit, and may take place daily during the building's approved hours of operation under the existing previously-approved resolution.

**3. Allowable Event Times:**

(a) Live Entertainment: Live entertainment (inclusive of events with an MC, live musical instruments and/or vocalists)) and amplified music may only take place from 10:00 am to 8:00 pm Tuesday to Friday; 10:00 am to 9:00 pm Saturday; and 10:00 am to 7:00 pm Sunday.

(b) Events with Solely Recorded Music at Controlled/Limited Volume (Music Inaudible Beyond Property Line): These may only take place from 10:00 am to 8:00 pm Tuesday to Friday; 10:00 am to 9:00 pm Saturday; and 10:00 am to 7:00 pm Sunday.

(c) Events with Low-Volume Restaurant-Style Ambient Music (Music Inaudible Beyond Property Line): These may only take place between 7:00 am to 10:00 pm.

(d) Events Without Music: These may only take place between 7:00 am to 10:00 pm.

Hours and operation will be subject to review and modification by the Community Development Department, Public Safety Department, City Manager, and City Council as necessary.

4. Applicant may request an extension of hours of operation and service after a period of six months from the date of final approval. Hours of operation will be subject to review and modification by the City Manager, Community Development Department, Public Safety Department, and may be subject to the City Council. The City shall determine whether hours of operation may be extended, or whether the hours of operation shall be restricted further.
5. During category 2(a) live entertainment events (inclusive of events with an MC, live musical instruments and/or vocalists)) and amplified music, Applicant shall post a sign that says an event is in progress with the duration of the event, and any manager contact information.
6. Applicant shall ensure the location and volume of any speaker system shall be compliant with the Acoustical Analysis performed by Acentech dated October 30, 2024. Speakers must be at or near floor level and may not be elevated.
7. Applicant shall provide signage indicating location of off-site parking facilities.
8. Applicant shall ensure any user of the space or vendor at the facility who provides alcoholic beverages must participate in the Responsible Retailer Program. 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 or RBSS (Responsible Beverage Sales and Service) Training (or equivalent); (4) Actively participate in your establishment inspections by Sheriff's and Alcoholic Beverage Control (ABC) personnel; (5) Support alcohol policies and ensure they are put into practice.
9. Applicant shall provide a minimum of two (30 gallon) trash & and two (30 gallon) recycling receptacles within the property during events.



10. Applicant shall provide at least one onsite event manager for all events while events are in progress (“Onsite Event Manager”), and an on-call property manager (onsite or offsite) (“Building Manager”). Building Manager information must be clearly posted and available 24/7. Onsite Event Manager name and contact information must be clearly posted during each event (including during setup and cleanup). The Onsite Event Manager must return any calls within 15 minutes and resolve any issues within 30 minutes. As a secondary contact point, the Building Manager must be available to address any issues as soon as possible after being contacted. All managers must comply with any and all conditions.
11. After events, applicant will ensure wait staff picks up any trash and/or debris. Vendors will have one hour for cleanup after each event finalizes.
12. Applicant shall ensure breakdown of equipment and/or furniture and supplies after any event must occur immediately after the conclusion of the event. Breakdown of equipment may take place the morning after to minimize disturbances. Equipment and/or furniture will be gathered, secured, and stored in such a manner that it is protected from wind damage and from movement due to wind.
13. Applicant shall ensure that security guard or onsite manager will monitor music levels frequently during events and adjust accordingly to ensure there are no neighborhood disturbances; if the music level is exceeded, the music volume must be lowered.
14. Applicant shall require a security guard or onsite manager during events and must ensure guests and sound/low-frequency effects are not impacting adjacent businesses or residential neighborhoods.
15. Applicant shall ensure all vendors and catering companies shall understand and sign rules and regulations stating that they are responsible for all cleanup relating to anything that they serve and any areas that they use, and any and all noise city regulations.
16. Applicant shall ensure beverage service providers understand and sign rules and regulations and be responsible for the cleanup of their area and for the consumption of alcoholic beverages and maintaining their license to serve, and any and all noise and city regulations.
17. Applicant shall ensure rules and regulations state that decibels of any live entertainment must not exceed 65 decibel for clients and vendors. Any non-live entertainment event or other use of the roof deck, inclusive of ambient music or otherwise may not be perceptible beyond the property line. As an additional mitigation measure, applicant will add a 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 will not have gaps unless structurally necessary for wind shear load, and if there are gaps, such gaps will be covered during Category A (Live Entertainment or amplified music events) with materials approved from a state licensed structural engineer . To help mitigate sound originating directly from musical instruments or vocalists, additional sound attenuation such as temporary sound absorbing panels shall be required for any event qualified in Category A (Live Entertainment or amplified music events).
18. Any and all low frequency noise (i.e. bass) in recorded music is prohibited. Applicant shall ensure low frequency noise in recorded music will be controlled with sound equipment. Glass (or glass-like) parapet will aid with noise mitigation to neighboring properties.
19. Applicant shall ensure all noise (i.e., speakers, low frequency vibrations, amplification, events, or otherwise) must be minimized to the maximum extent practicable so as to not negatively impact the neighborhood. Any speakers and other amplification shall be

compliant with the recommendations in the Acoustical Analysis performed by Acentech dated October 30, 2024. Speakers must be at or near floor level and may not be elevated. As an additional mitigation measure, applicant will add a 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 will not have gaps unless structurally necessary for wind shear load, and if there are gaps, such gaps will be covered during Category A (Live Entertainment or amplified music events) with materials approved from a state licensed structural engineer. To help mitigate sound originating directly from musical instruments or vocalists, additional sound attenuation such as temporary sound absorbing panels shall be required for any event qualified in Category A (Live Entertainment or amplified music events).

If any noise complaints are received for uses at the property, the City will 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 shall also investigate said complaint and mitigate any issues to the satisfaction of the City. The project must also meet Imperial Beach Municipal Code noise requirements (Imperial Beach Municipal Code 9.32 - Noise) at all times.

20. Applicant shall ensure 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 or be low intensity lighting such as string lights or dim mood lights. If the property receives complaints related to lighting, the applicant shall investigate said complaint and mitigate any issues (adjustment, shades, removal of light, etc.) to the satisfaction of the City.
21. Applicant shall ensure emergency exits and exit lighting are installed and maintained in good working condition.
22. Applicant shall ensure the maximum allowable occupant load is not exceeded at any time. The maximum allowable occupant load shall be calculated using the California Fire Code, as adopted by the Imperial Beach municipal code, and is subject to modification by the Fire Marshal if deemed necessary to preserve life safety.
23. Applicant shall ensure the access to the business/building/site is ADA compliant.
24. Applicant shall ensure that there are no tripping or other health/safety hazards in the patio area, or any other area available to the public.
25. Applicant shall ensure any user of the space or vendor at the facility who provides alcoholic beverages is required to be consistent with the Alcoholic Beverage Control license.
26. 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-24-0029) including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision (including Regular Coastal Permit (CP-24-0003) and Conditional Use Permit (CUP-24-0002), and CEQA Categorical Exemption), 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. ("Notification of Claim"). 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 of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of such election applicant shall pay all of 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. The owner or owner's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return the signed Affidavit accepting said conditions.

27. Applicant/business, at Applicant/business's own cost and expense, shall procure and maintain, for the duration of the business license/operation, public liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. The insurance policy shall be with a reputable insurer subject to approval by the City and shall be endorsed with the following specific language: "The City of Imperial Beach, their elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of the operation of the business."
28. If reasonable necessity warrants, the conditions of this permit may be reviewed by the Community Development Director, who will suggest proposed revisions with a reasonable cure period dependent on the necessary modifications. The applicant may appeal any decisions by the Community Development Director to the City Manager, who will have final administrative decision-making authority.
29. In addition to all local requirements, as applicable, all businesses serving alcohol must always comply with any requirements from the Alcoholic Beverage Control.
30. Prior to tenant occupancy, the applicant must coordinate and create a plan with City safety staff for all proposed deliveries to the site. City safety staff approval 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.

**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.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 19<sup>th</sup> day of February 2025, by the following vote:

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

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**PALOMA AGUIRRE, MAYOR**

**ATTEST:**

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**JACQUELINE M. KELLY, MMC**  
**CITY CLERK**