

MEMORANDUM

DATE: March 1, 2014
TO: Dewey Beach Town Commissioners
FROM: David King, Chair Dewey Beach Planning Commission
SUBJECT: Report of the Planning Commission re: Dewey Beer & Food Company's Conditional-Use Application

On January 11, 2014 you referred a conditional-use application from Dewey Beer & Food Company's (the "Applicant") for operation of a 110 seat restaurant with ABCC restaurant alcohol and brewery-pub licenses at 2100 Coastal Highway. The Planning Commission held a series of meetings and public hearings on February 1, February 22, and March 1, 2014 to gather information and public input and to render a finding regarding the appropriateness of such an operation at this location and conditions that should be imposed to protect the health, safety and welfare of the community. This memorandum is offered as the requested report and includes the Planning Commission's recommendations.

Based upon its discussions and public input received in response to this application prior to the end of its March 1st meeting, the Planning Commission considered a wide range of conditions to attempt to regulate operations in a manner consistent with RB-2 zoning requirements and the nature of this specific site. The final-draft conditional-use approval ordinance developed through this process is attached. This draft ordinance was put to a roll-call vote of the members of the Planning Commission. The vote was 5 in favor (Chair King and Commissioners Dedes, Gritti, Harmer, and Seitz) and 1 opposed (Commissioner Paraskewich) to recommending approval under this set of conditions. A list of stated pros and cons are included in the attached draft meeting minutes.

In bringing a favorable recommendation to the Town Commissioners, we wish to note:

- While not required by Town Zoning Code, the applicant should be encouraged to consider the addition of at least one more women's or uni-sex restroom for patron use;
- Our recommendation is based on preliminary site plans that were not certified as being accurate, and is therefore predicated on all renovation/redevelopment being contained in the existing commercial space as attested to earlier by the applicant and prohibit any additions to or modifications of the existing residential or exterior open spaces of uses;
- This approval is based on the assumption by the majority of the Planning Commission that the proposed "accessory use" as permitted by the DE ABCC is not in conflict with the International Building Code enforced by Sussex County and the Town of Dewey Beach (which has its own definition of "accessory use" for determining construction standards); and
- This approval is based on the Town's ability to enforce enumerated conditions regarding production and sale of alcohol more restrictive than permitted under ABCC regulations and therefore is conditioned upon a record statement from the applicant agreeing to operate within the more restrictive conditions enumerated within the conditional-use approval ordinance, as per amended Section 11 of the draft ordinance.

ADDENDUM – Planning Commission Pros and Cons

Commissioner Paraskewich. This is an RB-2 site. There are traffic control problems; no off street delivery pick up for barrels or buses; problems with truck traffic on heavily used Coastal Highway especially with bicycles, pedestrians and strollers; the delivery area on Saulsbury Street infringes on patron parking, cartways and traffic entering Rt 1; DelDoT doesn't control our traffic problems; doesn't believe the Town can control odors to ensure it is not going to be a nuisance; strongly concerned about the conflict with the definition of "accessory use" in the IBC; cited examples of brewery-pub operations all have off-street parking for deliveries and areas for storage, while this site doesn't; as a possible precedent setting case, the submitted site plans were incomplete and not certified; the application didn't address current floor plans and the apparent encroachment on the North side. This is a proto-type operation both for the applicants and the Town, which raises concerns about their ability to create a safe and successful business.

Commissioner Harmer. It is currently a restaurant and will be a restaurant in the end, albeit with a moderate amount of beer making; the tours are well planned and will not be a big issue in the off season; welcomes a year-round restaurant with good food in Dewey Beach; the applicant said they would adhere to agency rules and regulations and have no contest letters from DelDoT and DNREC; the owners are full time residents of the Town and are likely to have a non-intrusive operation; although public input was more opposed than in support, it only represented input from some a very small number of Town citizens.

Jim Dedes. The applicants have done a good job to address the concerns of members of the commission; doesn't believe this is going to be an unsafe operation or that it will create anymore difficulties in terms of parking and getting people in and out than any other restaurant in town; with the conditions contained in the draft ordinance we can trust the applicants to work with the town to make this a success and be an asset to the town.

Marty Seitz. Impressed with the new information on brand development and marketing outlets, and that growth will be at an industrial site out of town for increased production.

Don Gritti. Came to the process with concerns that the operations as described in the original application would be inappropriate for the Town. The applicant answered all my questions in a positive way.

David King. Entered this processed with lots of hope (year round operation of a restaurant with great food and great beer, operated by people with a lot of local goodwill) and lots of reservations about this not being an appropriate accessory use in a 110 seat restaurant on a busy beach block corner; if the applicant were to insist on brewing to the maximum permitted by State law and selling most of their product off site I would view this as primarily a manufacturing facility and not appropriate for the proposed location. With the voluntary conditions they have accepted, embodied in the Planning Commission's draft ordinance, especially the limit of a maximum of 800 barrels sold wholesale, and the new information on their delivery/trash/storage and parking plans and operations that indicate the proposed operations will not be too intense for this location, I can support this application.