

INTRODUCTION

Remington, Vernick and Beach Engineers, was retained by the Town of Dewey Beach to provide oversight of the project referred to as the Ruddertown construction project undertaken by Dewey Beach Enterprises. At the time our firm was brought into the process the building had already been constructed to a height of 3 stories and had been in the permitting process as early as 2007. My responsibility was, and in part still is, to ensure compliance with the terms of the MAR and to develop a checklist to be used to track such compliance.

As my review of the project documents progressed, it became clear that this project raised many questions and posed many challenges beyond just the oversight of the MAR.

Although not unusual, Dewey Beach seemingly relinquished enforcement responsibility (permitting plan review and building inspections) to Sussex County by way of an ordinance in 1987 (ref. 71-1; Ord. 97). Sussex County was to be responsible for the construction document review for compliance with the applicable code (2003 International Building Code) and for the conduct of inspections pursuant to that code. As presented, the building is complex and requires a very comprehensive understanding of ALL aspects of the IBC to perform an effective review and inspections. The questions that were raised and that are still pending resolution are detailed in this report.

Other questions about the project have been raised by some, but these questions go beyond applicable legal requirements. For example, some have questioned whether a traffic impact study was required for the project. However, nothing in the Town's Code requires a traffic impact study, nor am I aware of any requirement under State law for a traffic impact study, and at least one DelDOT official stated at a recent meeting that there was no requirement for a traffic impact study. The review of the provided construction documents and all Dewey Beach and Sussex County paperwork has been completed.

I am of the opinion that, while some important items remain open, the building plans are generally compliant with the applicable provisions of the 2003 IBC including 1998 ICC/ANSI 117.1 for Accessibility. The actual, as constructed, compliance with these codes should be determined during the inspection process.

Moving forward, the next milestone should be the issuance of the certificate of occupancy for what the builder is calling Phase I; understanding that many inspections, reports and questions must be addressed prior to that event. Additionally, the Town of Dewey Beach has requested that our firm be involved in any future development plans for this property from the outset.

David A. Naples, MCP

PLAN REVIEW - ISSUES RELATED TO THE TOWN OF DEWEY BEACH

<p>Review plans for compliance with Town of Dewey Beach Zoning Code</p> <p>Status: Complete</p>	<p>The plans have been reviewed and comply with the applicable version of the zoning code. The Building Official will need to complete a final zoning inspection prior to issuing a Certificate of Occupancy.</p>																								
<p>Review plans for compliance with the MAR</p> <p>Status: Complete</p>	<p>The plans are in compliance with the MAR, although they do not contain enough information to verify that the developer has fulfilled all its obligations under the MAR (see MAR issues below).</p>																								
<p>Review building valuation used to calculate \$480,000 Town of Dewey Beach building permit fee</p> <p>Status: Complete</p>	<p>ICC value based on 2006 IBC (2008 construction values) is approximately \$16.11M (uses construction type and square footage of each Use Group/Occupancy Type); agrees with Letter from David Sills to Bill Mears outlining construction costs dated on or about 7/11/12. The details of this calculation are in the chart below:</p> <table border="1" data-bbox="732 951 1520 1346"> <thead> <tr> <th><u>Use Group</u></th> <th><u>~ft²</u></th> <th><u>\$/ft²</u></th> <th><u>Value(\$)</u></th> </tr> </thead> <tbody> <tr> <td>A-3 (Assembly)</td> <td>26,900</td> <td>\$145.74</td> <td>\$3.92M</td> </tr> <tr> <td>S-2 (Parking gar)</td> <td>28,300</td> <td>\$80.58</td> <td>\$2.28M</td> </tr> <tr> <td>R-2 (Condo)</td> <td>23,100</td> <td>\$124.11</td> <td>\$2.87M</td> </tr> <tr> <td>R-1 (Hotel)</td> <td>47,200</td> <td>\$149.02</td> <td><u>\$7.03M</u></td> </tr> <tr> <td colspan="3">TOTAL VALUATION</td> <td>\$16.1M</td> </tr> </tbody> </table>	<u>Use Group</u>	<u>~ft²</u>	<u>\$/ft²</u>	<u>Value(\$)</u>	A-3 (Assembly)	26,900	\$145.74	\$3.92M	S-2 (Parking gar)	28,300	\$80.58	\$2.28M	R-2 (Condo)	23,100	\$124.11	\$2.87M	R-1 (Hotel)	47,200	\$149.02	<u>\$7.03M</u>	TOTAL VALUATION			\$16.1M
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<p>Review county building permit</p> <p>Status: Complete</p>	<p>The building permit issued by Sussex County covers both the shell and the interior work based on a review of the approved plans provided by Sussex County.</p>																								
<p>Review Town building permit</p> <p>Status: Complete</p>	<p>Applicable building permits obtained Shell – (#5058 issued 7/15/2011) Interior fit-outs - (#5058 issued 7/15/2011)</p> <p>The building permit issued by the Town was intended to be for both the shell and the interior work based on 1) the permit fee, and 2) the plans.</p>																								

FULL MAR COMPLIANCE - QUESTIONS/ADDITIONAL DOCUMENTATION NEEDED

<p>Review Parking</p> <p>Status: Open</p>	<p>The plot plan shows the plan for street parking but we do not have a layout for parking in the building</p>
<p>Review number of Hotel rooms</p> <p>Status: Open</p>	<p>Confirm actual number of Hotel Rooms proposed – <i>based on what DBE is calling Phase 1; there are 108 Hotel Rooms (the plan specifically refers to them as Hotel rooms (R-1)); The MAR provides that there may be a maximum of 90 Hotel Rooms and that up to 20 residential units may be made available for hotel use; applicant needs to clarify how the 108 hotel room figure is calculated.</i></p>
<p>Review plans as they relate to voluntary amenities and other uses</p> <p>Status: Open</p>	<p>There is not enough information in the current plans, which the developer has labeled “Phase I”, to confirm full compliance with the MAR related to:</p> <ul style="list-style-type: none">• All voluntary amenities• Retail space• Convention center• Mixed use provisions

ITEMS FOR SUSSEX COUNTY

Provide documentation that authorizes the modification of the terms of permit #266565 to include all interior work. **Status: Open**

Provide documentation on the “conditions” as set forth in the approval from the Office of the State Fire Marshal and as stated in the Plan Review Report from Sussex County issued on 3/3/08.

Status: Open

Provide documentation that confirms that the entire building is to be fully sprinklered.

Status: Open

Provide documentation that confirms the Office of the State Fire Marshal received and approved the interior fit-out work. The SFMO Permit issued on 3/5/08 states SHELL and CORE ONLY. A subsequent letter dated 9/7/12 from State Fire, Marshal Grover P. Ingle to Mr. David N. Sills, IV states that the current permit (2007-04-1162-SHL-03) will be extended for “the shell only.”

Status: Open

Provide documentation that the Office of the State Fire Marshal approved the doors on the top floor PLAZA area to swing in the direction opposite of egress travel. 2003 IBC section 1008.1.2 requires that egress doors be side-hinged and open in the direction of egress travel for areas serving an occupant load of 50 or more persons. The calculated occupant load for the PLAZA area is 209 as stated by the design architect on the approved construction documents.

Status: Open

Provide documentation for the building’s compliance with ANSI/ASHRAE Standard 90.1 Energy Standard for Buildings as was stated would be provided in the letter from Davidson Associates to Mr. Charlie Wheatley, Sussex County Plans Examiner, and dated 1/24/08. It appears as though the documentation was sent via facsimile to Mr. Wheatley on 2/21/08, however only page 1 of 2 was provided to Dewey Beach.

Status: Open

Provide documentation, if it exists, to confirm that all applicable requirements of the International Mechanical Code have been met based on a review of submitted construction documents. Need information on swimming pool area HVAC requirements, kitchen hood exhaust system and associated make-up air provisions.

Status: Open

Provide documentation on the required atrium smoke removal system as required in IBC Chapters 4 and 9. Atriums, by definition, exist in the swimming pool area and the front lobby area.

Status: Open

Provide documentation that the terms of 2003 IBC 1612.4 (Design and construction) have been met based on the submitted construction documents. Article 52-1 of the Sussex County Code officially adopts Chapters 1 through 26 and chapter 35 of the 2003 IBC. Therefore, the terms of chapter 16 should have been adhered to for flood design pursuant to ASCE 24. No such information was contained in the construction documents obtained from Sussex County; no flood design provisions are noted on the Sussex County approved construction plans. As an example, ASCE 24 requires that elevators capable of descending below the design flood elevation must be equipped with a means to prohibit them from descending into flood waters.

Status: Open

Provide documentation that Sussex County approved the request for a code variance for the use of the 50' limit for dead-end corridors as cited from the 2009 IBC. The 2003 IBC limits dead-end corridors to 20' in section 1016.3.

Status: Open

OTHER ITEMS

<p>FFE survey to be completed (Finished Floor Elevation)</p> <p>Status: Open</p>	<p>Provide documentation that the Dewey Beach Building Code Official has notified the permit applicant of the requirement for a final as-built lowest floor elevation certificate survey to be submitted to the BCO prior to the issuance of a Certificate of Occupancy. (Dewey Beach Code Article 101-20) – <i>to occur prior to the issuance of any c/o.</i></p>
<p>Sign Permits applications to be completed</p> <p>Status: Open</p>	<p>The developer has not yet applied for any sign permits but has indicated that it intends to apply.</p>
<p>Floor covering flame spread ratings</p> <p>Status: Open</p>	<p>Confirm flame spread rating on FLOOR COVERING as required in vertical exits, exit passageways, exit access corridors. (IBC 804)</p>
<p>Floodplain compliance</p> <p>Status: Open</p>	<p>Verify appropriate use(s) for ground floor.</p>
<p>Review special inspection reports</p> <p>Status: Open</p>	<p>Special inspections for: (confirm all reports are up to date); confirm that sealed foundation plans are being used for actual construction</p> <ul style="list-style-type: none">i. Concreteii. Pile foundationsiii. Spray applied fire-resistant materials (if applicable)iv. Soils <p>Confirm Special Inspection reports for piles match Sussex County construction documents</p> <ul style="list-style-type: none">• NO structural foundation construction documents provided by Sussex County• Obtain confirmation from Sussex County regarding approval of structural foundation construction documents. Third Party Inspectors must have something to use for onsite

	inspection approvals.
<p>Legal issues related to the authority of the Town and the Town Building Official</p> <p>Status: Open</p>	<p>LEGAL-Does the Building Code Official accept the final inspection approval of Sussex County as proof of compliance with the terms of Dewey Beach Code article 71-4 that states, <i>All construction, repairs, alteration, or additions shall comply with the requirements of any Building Code adopted by the Town, Chapter 185, Zoning, and the Town ordinances, all as amended from time to time. (will be based upon LEGAL interpretation and article 71-1 that adopts the IBC as the Construction Code for Dewey Beach)</i></p> <p>Confirm that Dewey Beach code article 71-8 can be used to withhold the issuance of a certificate of occupancy if the Town determines that the use of the premises would be in violation of any of the provisions of Chapter 71 (ie- 71-1 for observed International Building Code violations).</p> <p>Confirm that Dewey Beach 71-2 article (a) (6) can be used to gain access to inspect the premises of the DBE project by anyone duly appointed by article 71-3 (e) by the Town Commissioners.</p>

ITEMS RELATED TO THE HISTORY OF THE BUILDING PERMIT(S)

It should be noted that it appears that this project did not follow the normal application, review and approval process that other projects would have followed due to the extensive litigation and the Mutual Agreement and Release.

Provide copies of all permits issued by the Town for the DBE project. Sussex County issued their SHELL ONLY permit on 3/7/08. When did Dewey Beach initially issue permit #5058? The only copies provided are dated 2/26/11; 3 years after the Sussex County permit issuance. – *after discussion with Bill Mears, it was learned that appx. 3 years did elapse from the time approval was received from Sussex County and the initial issuance of permit #5058.*

Provide documentation that modified the scope of permit #5058 from SHELL to include all interior work. This should coincide with the date Sussex County took the same action. – *after discussion with Bill Mears, it was learned that the normal process for modifying an existing permit application (prior to the issuance of an actual permit) would have been to revise the scope of the permit application, submit the revised construction documents to Dewey Beach, review for Dewey Beach compliance, forward approval to Sussex County for review and approval, return to Dewey Beach for Dewey Beach permit issuance. For this project, this process was not followed. No documents could be found that verify that the proper process was followed. It is noted that the intended scope of permit #5058 was for the entire Phase 1 building and not just a Shell. This appears to mirror the intent of permit #266565 issued by Sussex County as the approved construction documents are for more construction than just a Shell building. Need to confirm that although the regular process was not followed, that all appropriate documentation has been submitted for review by Town and County, and that Town has not been prejudiced by irregular procedure.*