



TOWN OF DEWEY BEACH

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ORDINANCE NO. 618

Gordon E. Elliott
Town Manager

AN ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF DEWEY BEACH, DELAWARE TO PERMIT A CONDITIONAL USE FOR A RESTAURANT IN THE RB-RESORT BUSINESS DISTRICT LOCATED ON COASTAL HIGHWAY DEWEY BEACH, DE ON THE PROPERTY OF 1818 COASTAL HIGHWAY ALSO KNOWN AS THE PREVIOUS SITE OF THE SHELL SHOP, SOUTH OF BELLEVUE ST. AND NORTH OF DAGSWOTHY AVE. PURSUANT TO SECTION 25D(11)(A)(1) OF CHAPTER 185 AND IN ACCORDANCE WITH THE DEFINITION AND REQUIREMENTS OF A RESTAURANT IN CHAPTER 144, SECTION 6, AND WITHOUT LIMITATION AS TO THE TYPE OF ALCOHOLIC BEVERAGES TO BE SERVED

WHEREAS, on the 12th day of April, a public hearing was duly held , after proper notification, for a conditional use in the RB-Resort Business District for a restaurant, filed by George Bendler, an authorized agent for Hammerheads to be located at 1818 Coastal Highway in Dewey Beach, Delaware being part of Sussex County Tax District Map 20.18 Parcel 149.00, pursuant to Subsection 25(11)(a)(1) of Chapter 185 and in accordance with the definition and requirements of a Restaurant in Chapter 14 - 4.

WHEREAS, Chapter 185, section 25D(11)(a)(1), Conditional Uses in a Resort Business District, provides for the Conditional Use of a Restaurant with an ABCC license in the RB – Resort Business District when, in the determination of the Commissioners, the application meets the provisions of Chapter 185, Subsection 25D(11)(a)(1) and Chapter 144.

NOW THEREFORE;

BE IT ENACTED AND ORDAINED, By the Commissioners of the Town of Dewey Beach, Sussex County, Delaware, that:

The above captioned Conditional Use Application from Hammerheads of 1818 Coastal Highway in Dewey Beach, Delaware to establish a restaurant as shown on a preliminary site plan,

revised as of March 09, 2008, is hereby approved, and the Zoning Map of the Town of Dewey Beach is amended to reflect the adoption of this Ordinance subject to the following terms and conditions:

- (1) Hours of operations shall not be earlier than 7:00 a.m. and no later than 1:00 a.m.
- (2) There shall be no loud speakers or amplifiers on the exterior of the building.
- (3) The requirements of Chapter 144, Restaurants, shall be complied with by the Restaurant at all times.
- (4) A final floor and final Site plan shall be submitted and complied with at all times.
- (5) Applicant shall apply for and comply with a Certificate of Compliance as provided in Chapter 144, Restaurants, prior to commencement of operations.
- (6) Applicant shall acquire all necessary licenses from the Town of Dewey Beach and the State of Delaware. All State health and regulatory agency requirements and regulations, including the State Fire Marshal, shall be complied with by the licensee, and licensee shall operate at its own risk of violation and State regulation that is not incorporated into the approval.
- (7) There shall be trash receptacles placed at the premises by the proprietor in compliance with the Dewey Beach Code.

The Commissioners, by a vote of 4 in favor and 0 opposed and 1 absent, declare that the adoption of this Ordinance is an appropriate legislative action based upon the record established during the public hearing process. The Applicant has provided plans, conditions of operation and assurances that protect the nearby residences from undue noise and disturbances that are associate with the conduct of the Applicant's business. The conditions, which have been drafted as a result of input from the Applicant, members of the community, legal counsel and Commission-members, shall assure the health, safety and welfare of the present and future inhabitants and visitors of Dewey Beach whose interests are protected and the purposes and goals of the Resort Business Zoning District and the Comprehensive Development Plan are preserved and enhanced.

ORDIANED AND ENACTED into law this 12th day of April 2008.

Dell C. Tush

Mayor Dell Tush

Gordon E. Elliott

Town Manager Gordon E. Elliott