

- c. Bay Walk serving as a continuous exterior walkway from Van Dyke Avenue to Dickinson Avenue along the Rehoboth Bay that may be publicly accessed without restriction at all times (this may include space currently, or in the future, licensed for use by the restaurants as well). The Bay Walk shall be 12 feet or more in width, and shall be compliant with the Americans with Disabilities Act. Subject to DNREC approval as well as any other required approval of any other county, state or federal agency, the Bay Walk shall include a Gazebo 500 square foot in size with seating, which shall serve as a focal point along the Bay Walk. If DBE and the Town cannot obtain the required approvals for a 500 square foot Gazebo, DBE agrees to construct a 250 square foot Gazebo at a location not subject to approval by DNREC or any other agency which has jurisdiction over the original location of the Gazebo. The Bay Walk shall be maintained by DBE. The existing beach frontage along Que Pasa and the jet ski rental location shall serve as the Bay Walk along this area of the DBE property, and shall be no less than 12 feet in width. DBE shall not install any fixed tables or fixed seating in the Bay Walk, and the entire width and length of the Bay Walk shall remain unobstructed, walkable, and accessible by the public at all times. The Town shall assist and otherwise act in good faith with DBE in obtaining approval for the Bay Walk (including the Gazebo) from DNREC and any other county, state or federal agency from which approval might be required. In the event the required approvals cannot be obtained in whole or in part, DBE shall complete construction of the Bay Walk in the area closest to the Bay not requiring approval. The Bay Walk shall be constructed prior to the issuance of the Certificate of Occupancy for the main structure, and shall be constructed in accordance with all applicable state and federal regulations.