



Delaware beaches: Court backs Ruddertowne plan

Decision ends Dewey Beach battle

By SEAN O'SULLIVAN and RYAN CORMIER • The News Journal • July 31, 2010

A plan to raze the landmark Ruddertowne in Dewey Beach and replace it with a \$100 million, 35-foot-tall hotel-condominium-restaurant complex won the backing Friday of the Delaware Supreme Court.

The sudden reversal of the redevelopment project came in a 10-page ruling from a three-justice panel that overturned previous rulings from the Delaware Superior Court and the Dewey Beach Board of Adjustment. The ruling applies only to Ruddertowne. The Rusty Rudder bar is owned by another company and is not affected.

Opponents claimed the ruling will result in "a prison-like structure" at the heart of the resort community.

"If they choose to do that, to build the plan they submitted to the town, it would be an overwhelmingly dense building with tiny little windows and no balconies. It won't be very appealing," said Joy Howell, a member of Citizens to Preserve Dewey, a group that formed to oppose the Ruddertowne plan.

One of the property's owners, Jim Baeurle, who also owns some of the businesses inside, promised that whatever they build will serve as a new town center and "will be professional and be a credit to the town."

He dismissed opponents' criticisms of plans for Ruddertowne as premature and overblown because "they have no idea of what we are going to build."

He said the property owners, Dewey Beach Enterprises -- a company that includes principles from Harvey, Hanna and Associates -- are still working on their plans.

And while Friday's ruling clears the way for a multi-use residential and commercial building, other court rulings could give developers even more leeway in what they can build.

In a statement, Dewey Beach Enterprises President Thomas Harvey III said, "We now hope that out-of-state interests who are holding the town of Dewey Beach hostage will allow Delawareans to get back to work with the 1,500 jobs that this \$100 million project will create."

"We as a group have a long history of following the rules," Harvey said Friday. "The decision handed down today ... illustrates this was a matter between right and wrong and Dewey Beach Enterprises was right all along."

For longtime opponents, it was the end of a battle that has raged in the small 22-block town for more than three years.

Former Mayor Dell Tush said she was disappointed, but respected the decision. "If they move forward with something over there now, I hope what they build will be an asset for the town and something they will be able to do well with," she said.

Even though the court has made its decision, Tush said, the scars of the turmoil will remain for a while.

"I believe both sides felt what they wanted would be good for the town," she said. "It did divide the

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community a great deal and that's unfortunate since we are such a small town. You'd like to see everybody work in harmony."

Rick Judge, 60, a lifetime resident and chairman of the town's infrastructure committee, said the court's decision goes against the wishes of the majority of citizens.

"We're a little town and the last thing we need is more density in it. What [Dewey Beach Enterprises] has done with Que Pasa and the upgrade at the Crabbers Cove restaurant is good stuff," said Judge, who also is a member of Citizens to Preserve Dewey. "But if you fill that parking lot with cement and add 30-odd units, I just don't understand it. The town doesn't want it. It has spoken loudly and the Supreme Court surprised us."

Pat Wright, a former Dewey Beach mayor and commissioner who attended oral arguments before the Supreme Court, said the decision stands as an affirmation of property owners' rights.

"This particular group was pointed out and their rights were taken away," said Wright, a residential and commercial property owner in Dewey Beach. "It can happen to the next guy. I just think they were treated poorly and wrongly. I'm delighted with this opinion."

According to court papers, when the controversial redevelopment plan was submitted in November 2007, the town's building inspector and the town solicitor signed off on it. "Because it is exactly what is called for in the comprehensive plan," said Dewey Beach Enterprises attorney Shawn Tucker.

But a month later, the town solicitor reversed course and advised developers that the plan failed to meet zoning restrictions. Tucker charged that the about-face was because of "political reasons."

The town board of adjustment upheld the denial in July 2008 as did the Superior Court in July 2009.

But Friday, the state's highest court vacated those findings, ruling that the plan met zoning rules and that any uncertainty in the law "must be resolved in favor of the landowner."

"This is a straight-up win for Dewey Beach

Enterprises," said attorney Kathleen Jennings, who also represented developers in court.

Baeurle charged that at the root of the controversy over the plans are some unknown business interests in town who are trying to stop the property owners because they fear competition from the proposed rental units. "People in the business are trying to prevent another business from building," he said.

Baeurle also owned the Stone Balloon in Newark, which he demolished before building a wine bar-restaurant and condominiums.

As for a timetable for Ruddertowne, he said Dewey Beach Enterprises "wants to get moving forward, at the very least to begin increasing parking capacity." He said he didn't know exactly when that might happen.

"This decision is hours old," he said, and the outcome of a pending lawsuit in Delaware Chancery Court, challenging the town's new zoning code, might change the owners' plans even further.

"Clearly, our legal position continues to strengthen," he said.

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