
ZONING & PLANNING - GEORGIA

Clayton County v. New Image MA-012 Towing and Recovery, Inc.

Court of Appeals of Georgia - July 2, 2019 - S.E.2d - 2019 WL 2754562

Business license permit applicant petitioned for writ of certiorari from county zoning board of appeals decision that required applicant to submit a site plan of its proposed use of the property to demonstrate compliance with parking and other development requirements under zoning ordinance.

The Superior Court, reversed the board of appeals decision, and county appealed.

The Court of Appeals held that:

- Applicant was required to comply with parking and other development requirements under zoning ordinance, and
- County administrator did not abuse her discretion in requiring applicant to submit a site plan of its proposed use of the property during the application process.

The term “altered” in zoning ordinance provision governing land use changes included changes in land use unaccompanied by physical alterations to the site, and thus, business license permit applicant, whose proposed use of the site varied from that of the former lessee, was required to comply with parking and other development requirements under zoning ordinance; as recognized by zoning board of appeals members, and testified to by planning and zoning division consultant, there was a significant difference in intensity of use between former fencing company’s “laying wire,” and applicant’s proposed use involving “laying down any number of vehicles.”

County administrator did not abuse her discretion in requiring business license permit applicant to submit a site plan of its proposed use of the property during the application process to demonstrate compliance with parking and other development requirements under zoning ordinance; the administrator explained that a site plan was necessary to determine whether applicant’s proposed use of the property was in compliance with ordinance governing land use changes, which included changes unaccompanied by physical alterations to the site.

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