

Bond Case Briefs

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917 Lusk, LLC v. City of Boise

Supreme Court of Idaho, Boise - June 2014 Term - February 10, 2015 - P.3d - 2015 WL 527852

Commercial building owner petitioned for judicial review of city council's decision granting a conditional use permit (CUP) for developer to build an apartment complex. The District Court affirmed. Building owner appealed.

The Supreme Court of Idaho held that:

- City's refusal to consider adverse effects on property in vicinity of the project was an abuse of discretion, and
- Building owner demonstrated prejudice to substantial rights.

City zoning and planning commission's failure, in granting conditional use permit (CUP) for developer to build an apartment complex taller than applicable zoning height limitation, to recognize that Idaho law and city building code provided it with discretion to require the project to provide on-site automobile parking beyond the minimum required by parking chapter of the code, and thereby refusing to consider adverse effects on property in the vicinity, as evinced by testimony before it, was an abuse of discretion.

City planning and zoning commission's decision to grant conditional use permit (CUP) for developer to build an apartment complex taller than applicable zoning height limitation, prejudiced substantial rights of owner of commercial building located adjacent to proposed building site. Project called for 622 bedrooms to house students at state university and parking chapter of city code required only 280 parking spaces for the project, therefore, there would be significant numbers of residents looking for parking in the vicinity, which could potentially put owner in jeopardy of economic harm.