

Judge sides with City of Naples on parking credits dispute

Laura Layden
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A Collier Circuit judge has sided with the city of Naples in a years-long legal battle over parking credits for one of Naples' oldest buildings.

In a final ruling Tuesday, judge Lauren Brodie, who handled the case, found in favor of an administrative decision Robin Singer, the city's planning director, made to grant parking credits to the owners of the vacant, historic Olde Naples Building off Third Street South.

Brodie's decision came more than a month after she considered hours of arguments at a non-jury trial June 11-12.

In her ruling, Brodie found Singer's decision was not "arbitrary, capricious, confiscatory, or violative of constitutional guarantees" — and that the planning director did not overstep her legal power or authority as the other side argued, but rather followed city code.

The ruling also states the building should be considered a "lawful nonconformity" for purposes of future development.

The parking credits were awarded to Anne D. Camalier and Charles A. Camalier III more than five years ago. John Shubin, a Miami attorney who represents them, said his clients were "extremely pleased that the court vindicated their position and the decision of the city to approve the parking credits."

"We hope that this very clear decision in their favor puts an end to this prolonged dispute," Shubin said. "Certainly the court did a very thorough analysis of all the facts and was very clear that the planning director's decision was entirely appropriate."

Neapolitan Enterprises — a competing property owner and landlord on Third Street — filed the lawsuit, challenging the city's administrative decision to approve the credits. The company and its owner Joan Tobin, whose family has been involved in the development of Third Street since the 1950s, wanted to ensure there was "sufficient parking to support all businesses there," according to the suit.

Naples attorney Michael Moore, who represents Neapolitan, said in an email that he had "no comment at this time" about the judge's ruling.

Neapolitan filed its initial suit over the parking issue in 2012. It took the action against the city and two limited liability companies controlled by the Camaliers: Broad Avenue LLC and Olde Naples Building LLC, the owners of the building.

Collectively the defendants argued the parking decision was made legally, the planning director had the right to make it and it was a "non-reviewable executive administrative action."

The building has never provided off-street parking.

Once known as the Naples Company Building, the iconic building has been home to one of the city's earliest development companies, a church, City Hall and a movie theater. It last housed a popular grocery store and sandwich shop known as Fantozzi's, which closed in 2006.

The squabble between Neapolitan and the city began in 2011 after the Camaliers requested confirmation of a parking space credit as part of a building permit application to renovate and stabilize the Olde Naples Building, built in 1921.

The developers sought a credit for 76 spaces — all of the spaces city code would require for a grocery store or restaurant to operate on the property. When Singer approved the request without a public hearing and without knowing the future use of the building, it didn't sit well with Neapolitan.

Neapolitan argued the effect of the administrative decision was to allow the redevelopment of the property to its most intensive use without requiring "a single real off-street parking space," and that it would put the burden of its parking on nearby property owners, forcing them to pick up the slack and putting them at a competitive disadvantage.

Kara Jursinski Murphy, a Fort Myers-based real estate attorney who represents the city, said the judge's ruling shows the plaintiffs didn't meet their burden of proof and that their arguments didn't factually or legally support their attempts to overturn the planning director's administrative decision.

Murphy described Brodie's 13-page ruling as detailed and well thought out, showing she invested a lot of time in her final judgment.

While the judge's judgment is final, it doesn't mean the case is over, as it could still be appealed by the other side.

"It may not end here," Murphy said. "I don't know."