

Surf Works, L.L.C. v. City of Jacksonville Beach, No. 1D-16-3312, 2017 WL 5162015
(Fla. 1st DCA Nov. 8, 2017)

Court Clarifies Correct Law in Rezoning Application Review

In *Surf Works, L.L.C. v. City of Jacksonville Beach*, Surf Works filed a rezoning application for the rezoning of property from Central Business District to Redevelopment District (“RD”), intending to redevelop the property into a mixed-use development. The development was to include a two-story bar, retail space, and office space. However, because the proposed bar would be located within 500 feet of two other alcoholic beverage establishments, it would have been in violation of the City of Jacksonville’s land development code (“LDC”). Hence, Surf Works sought rezoning under the more flexible RD zoning process, which requires review under a separate section of the LDC.

After review and approval from the City’s planning commission and community redevelopment agency, the city council considered the application not under the RD section of the LDC, but instead under section 34-211. That section governs zoning atlas and code amendments, and required the city council to consider whether the proposed rezoning conflicted with any other portion of the LDC. After two public hearings, the city council denied the application because of its conflict with the LDC section restricting the location of establishments that serve alcoholic beverages.

Surf Works filed suit, arguing that its application was subject to the requirements of the RD section only, and that the city council applied the incorrect law when reviewing the application because the RD criteria does not include the sections that the city council used as a basis for denying the application.

The court agreed with Surf Works for two reasons. First, the court held the RD section of the LDC does not require that an application for an RD zoning classification also comply with the LDC section restricting the location of establishments that serve alcohol. Second, the court reasoned the RD section of the LDC is intended for situations like this one, and the city council applied the incorrect law. Thus, the court held that the city council deprived Surf Works of the lawful use of its property.