


IN THE SUPREME COURT OF THE STATE OF NEVADA

SOUTHTOWNE CROSSING, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant,
vs.
CITY OF RENO, A MUNICIPAL
CORPORATION AND THE CITY
COUNCIL THEREOF,
Respondents.

No. 47978

FILED

MAR 07 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying judicial review in a municipal building permit case. Second Judicial District Court, Washoe County; Bridget Robb Peck, Judge.

The parties are familiar with the facts, and we do not recount them except as pertinent to our disposition.

In 1999, appellant SouthTowne Crossing LLC purchased Unit P in Phase III of the South Meadows Planned Unit Development (SMPUD) in Reno, Nevada. In 2003, SouthTowne applied for building permits to reconstruct the billboards, which the Reno Community Development staff (“the administrator”) denied.¹ SouthTowne appealed the administrator’s decision to the Reno Board of Adjustment (Board), which reversed the administrator’s decision and granted the permits. Thereafter, a Reno City Councilperson appealed the Board’s decision to the Reno City Council, stating that she believed that Unit P was not zoned for billboards. On

¹Chapter 18.06 of the Reno Municipal Code controls the issues surrounding the permits.

January 14, 2004, the City Council heard the appeal. After hearing from all parties and interested members of the community, the City Council voted unanimously to overturn the Board's decision. SouthTowne petitioned the district court for judicial review of the City Council decision, which the court denied. SouthTowne now appeals, claiming that the City Council abused its discretion by not giving deference to the Board's decision. SouthTowne argues that the Board's decision should have been reviewed under an abuse of discretion standard. SouthTowne also claims that the City Council failed to make required findings for reversing the Board. We disagree.

This court, like the district court, reviews the City Council's decision "to determine, based on the administrative record, whether substantial evidence supports the administrative decision."² Substantial evidence is that "a reasonable person could accept as adequately supporting a conclusion."³ Further, we defer to a locality's expertise in zoning issues,⁴ and thus, we presume that a locality's interpretation of its own laws is valid absent a manifest abuse of discretion.⁵

²Kay v. Nunez, 122 Nev. ___, ___, 146 P.3d 801, 805 (2006).

³Flamingo Hilton v. Gilbert, 122 Nev. ___, ___, 148 P.3d 738, 740 (2006).

⁴Nevada Contractors v. Washoe County, 106 Nev. 310, 314, 792 P.2d 31, 33 (1990).

⁵Boulder City v. Cinnamon Hills Assocs., 110 Nev. 238, 247, 871 P.2d 320, 326 (1994).

The Proper Subject of the City Council's Review

SouthTowne first claims that the City Council abused its discretion because it should only have reviewed the Board's decision for abuse of discretion and overturned it only if its decision was arbitrary and capricious. We disagree because the Board's decision was not the proper subject of the City Council's review. In January 2004, when the City Council reviewed the Board's decision, the Reno Municipal Code (RMC) specifically stated that the City Council in reviewing the Board's decision will "determine whether the administrator committed an abuse of discretion."⁶ Thus, although the Council was reviewing the Board's decision, in reality, the true subject matter of the inquiry was the administrator's decision. Therefore, we conclude that the City Council properly reviewed whether substantial evidence supported the administrator's decision, and did not err by not deferring to the Board.

The City Council's Decision

SouthTowne argues that the City Council's decision was not supported by substantial evidence and that the City Council failed to make required findings supporting its decision. We disagree. As to the suggestion of necessary findings, Southtowne's argument fails because the City Council was not required to make express findings.⁷

⁶See RMC § 18.06.107.40(b) (2003) (emphasis added). We note that the current Reno Municipal Code provides that decisions of the administrator are appealed to the hearing examiner and that the City Council conducts de novo review of the hearing examiner's decisions on appeal. RMC § 18.06.208(a), (b)(4) (2005).

⁷See City Council v. Irvine, 102 Nev. 277, 279 n.4, 721 P.2d 371, 372 n.4 (1986) (noting that while a comprehensive record of findings would be *continued on next page . . .*

This court's review is limited to the record before the City Council.⁸ The City Council heard numerous witnesses and reviewed substantial evidence, including the relevant sections of the Reno Municipal Code and ordinances and the "Design Guidelines for South Meadows Planned Unit Development Phase III" (Handbook)⁹ before rendering its decision. Specifically, the Handbook expressly provides that "[w]here [the Handbook] is silent, the applicable Reno development regulations apply." The Handbook did not expressly prohibit billboards in Unit P. Thus, Reno zoning ordinances for arterial (AC), neighborhood (NC), and community commercial (CC) controlled allowed uses for Unit P. SouthTowne claimed that RMC § 18.06.500, which permitted billboards in C-3 commercial districts supported its position that billboards are permitted in Unit P. However, the City of Reno had replaced the C-type commercial zoning, including C-3, with the AC, NC, and CC zones in 1989.¹⁰ Both the administrator and the City Council determined that the Reno city ordinances for AC, NC, or CC did not provide for billboards

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helpful to this court, a presumption of validity favors a city council). Further, here, the administrator fully set forth the reasons behind its original denial of the permits, and its decision was in the record before the City Council.

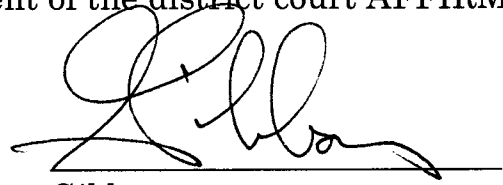
⁸Kay, 122 Nev. at ___, 146 P.3d at 805.


⁹The Handbook sets forth the land uses allowed for units J through P of SMPUD, which was approved and recorded with the City of Reno.


¹⁰See Reno Ordinance No. 3859. A copy of this ordinance was part of the record before the City Council.

either expressly or by special permit. Further, the administrator had determined that the City of Reno had not permitted billboards in the AC, NC, and CC zones since 1989, when they were created out of the old C-3 district. Taken as a whole, we conclude that substantial evidence supported the administrator's denial for the permit. Thus, we conclude that the City Council, reviewing the evidence before the administrator, acted within its discretion when it reversed the Board's decision. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Second Judicial District Court Dept. 7, District Judge
Madelyn Shipman, Settlement Judge
Hale Lane Peek Dennison & Howard/Reno
Reno City Attorney
Washoe District Court Clerk