

IN THE SUPREME COURT OF THE STATE OF NEVADA

5TH AND BROOKS, LLC, A NEVADA
LIMITED LIABILITY COMPANY,

Appellant,

vs.

NORTH LAS VEGAS CITY COUNCIL, A
POLITICAL SUBDIVISION OF THE
CITY OF NORTH LAS VEGAS,
COUNTY OF CLARK, STATE OF
NEVADA,
Respondent.

No. 51232

FILED

NOV 03 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order denying a petition for judicial review or, alternatively, for a writ of mandamus in a zoning action.¹ Eighth Judicial District Court, Clark County; J. Charles Thompson, Judge.

Appellant 5th and Brooks, LLC, submitted an application for a Site Plan Review with the City of North Las Vegas Planning and Development Commission in February 2007 to construct a vehicle impound yard. The City Council denied the application.

Thereafter, the district court denied appellant's petition pursuant to the reasoning and holding of Stratosphere Gaming Corp. v. Las Vegas, 120 Nev. 523, 96 P.3d 756 (2004), which concluded that any "decision that lacks support in the form of substantial evidence is


¹We note that in the caption, appellant has requested relief pursuant to mandamus; we conclude that mandamus is an inappropriate vehicle in light of NRS 278.3195.


arbitrary or capricious and, therefore, an abuse of discretion.” Id. at 524-25, 528-30, 96 P.3d at 757-58, 761 (citation omitted). We agree.


On appeal of a judicial review petition in a land use case, “this court’s function is the same as the district court: to determine, based on the administrative record, whether substantial evidence supports the administrative decision. Thus, this court affords no deference to the district court’s ruling in judicial review matters.” Kay, 122 Nev. at 1105, 146 P.3d at 805.

Appellant failed to establish that the City Council’s decision was based on ill will and that the decision was therefore arbitrary and capricious and not supported by substantial evidence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Chief Judge, Eighth Judicial District
Hon. J. Charles Thompson, Senior Judge
Ara H. Shirinian, Settlement Judge
Moran Law Firm, LLC
North Las Vegas City Attorney
Eighth District Court Clerk