



IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDERSEN-COLARD RANCH
ENTERPRISES LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Appellant,
vs.
CARSON CITY, NEVADA, A
CONSOLIDATED MUNICIPALITY AND
POLITICAL SUBDIVISION OF THE
STATE OF NEVADA AND ITS BOARD
OF SUPERVISORS; MAYOR LORI
BAGWELL; AND SUPERVISORS LISA
SCHUETTE, MAURICE WHITE,
CURTIS HORTON, AND STACEY
GIOMI, IN THEIR OFFICIAL AND
INDIVIDUAL CAPACITIES,
Respondents.

No. 89916

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to dismiss a complaint and denying a petition for judicial review in a land use matter. First Judicial District Court, Carson City; Kristin Luis, Judge.

Appellant Andersen-Colard Ranch Enterprises LLC (ACRE) sought approval of a tentative subdivision map for single-family residential lots in Carson City. The Carson City Planning Commission recommended denial after reviewing the map and subsequent revisions. Respondent Board of Supervisors (the Board) unanimously denied the amended map proposal under CCMC § 17.07.005(6).

ACRE then filed the underlying combined petition for judicial review (PJR) and complaint seeking review of the Board's decision under NRS 278.0233 and asserting civil claims against the Board and its members and respondent Carson City. The district court dismissed the civil claims,

finding they were improperly joined with the PJR. It also denied the PJR, finding that ACRE filed its opening memorandum after the statutory deadline and that substantial evidence otherwise supported the Board's determination that the project failed to meet CCMC § 17.07.005(6) and provisions of a zoning ordinance contained in CCMC Chapter 17.10, which governed common open space development.¹ In doing so, the district court found that ACRE had notice of those deficiencies and failed to correct them. This appeal followed.

When examining an order resolving a judicial review petition, “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.” *Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801, 805 (2006). As ACRE points out, the district court incorrectly referenced an abuse-of-discretion standard, but because the district court reviewed the administrative record to determine whether substantial evidence supported the Board’s decision, which is the governing review standard, we perceive no reversible error based on the review standard applied by the district court. *Id.*; *City of Reno v. Citizens for Cold Springs*, 126 Nev. 263, 271, 236 P.3d 10, 15-16 (2010).

As to the dismissal of ACRE’s civil claims, we agree with the district court that combining civil claims within a PJR is foreclosed by *City of Henderson v. Eighth Judicial District Court*, 137 Nev. 282, 287, 489 P.3d 908, 912 (2021). In that case, we concluded that a petition for judicial review of a land use action may not be joined with civil claims that invoke different procedures and standards of review. *Id.* Though ACRE argues

¹ACRE submitted its application under CCMC Chapter 17.10, which the Board has since suspended.

City of Henderson does not apply because ACRE asserted civil claims contemporaneously with its PJR rather than adding them later, that distinction does not alter the risk of confusion or a convoluted record that *City of Henderson* sought to prevent. *See id.* Accordingly, the district court properly dismissed the civil claims based on *City of Henderson*. And contrary to ACRE's argument, that decision was not a sanction. Thus, the district court was not required to conduct a case-ending sanctions analysis under *Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 787 P.2d 777 (1990).

As to the petition for judicial review, ACRE argues that the Board improperly relied primarily on concerned citizens' objections. Having reviewed the record, we agree with the district court that substantial evidence supports the Board's decision. *Mason-McDuffie Real Est., Inc. v. Villa Fiore Dev., LLC*, 130 Nev. 834, 838, 335 P.3d 211, 214 (2014) ("Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion." (citation modified)). In denying the tentative map under CCMC § 17.07.005(6), the Board explained that the proposed density transfer left the adjacent 50-acre parcel underdeveloped, which did not comply with CCMC Chapter 17.10's zoning requirements. This included CCMC § 17.10.020, which requires that any non-residential use be designed as an integral part of the project and serve its residents. That determination rested on ACRE's tentative map, revised submissions, city staff reports, planning memoranda, and multiple hearings before the Planning Commission and the Board.

While the Planning Commission and Board also considered objections from concerned citizens, those objections concerned ordinance-based deficiencies the Board relied upon in denying the application.

Contrary to ACRE's characterization, this record aligns with *City of Las Vegas v. Laughlin*, which explained that "substantial and specific" public opposition could constitute substantial evidence to support a local government's land use decision. 111 Nev. 557, 559-60, 893 P.2d 383, 385 (1995); *see also Redrock Valley Ranch, LLC v. Washoe Cnty.*, 127 Nev. 451, 461, 254 P.3d 641, 648 (2011) (concluding that testimony from 34 members of the public about fire risk, impacts on wells, wildlife, livestock, pollution, and other issues constituted substantial evidence to support the county's denial of a special use permit). Taken together, the documentary evidence and focused public objections provided substantial evidence supporting the Board's denial. Because the district court independently reviewed the administrative record and reached the merits of the PJR, any failure to analyze whether ACRE had good cause for the delay in filing its memorandum does not warrant relief.² The district court correctly concluded that the Board's decision was supported by substantial evidence, and we do not reweigh the evidence or substitute our judgment for that of the Board. *See Redrock Valley Ranch*, 127 Nev. at 455-56, 254 P.3d at 644-45 (affirming district court's denial of petition for judicial review of a county special use permit denial because substantial evidence supported county's decision).

ACRE also argues that the Board misapplied CCMC § 17.07.005 and NRS 278.349(3). Interpreting the code provisions de novo, *see Citizens for Cold Springs*, 126 Nev. at 271-72, 236 P.3d at 16 (applying de novo review when interpreting municipal code provisions), we disagree.

²In this, we do not construe the district court's order as precluding ACRE from continuing to work with the Planning Commission and the Board to devise a suitable tentative map application.

The plain language of CCMC § 17.07.005 and NRS 278.349(3) require the decisionmaker to consider each listed factor, including conformity with zoning ordinances and the master plan, when reviewing a tentative subdivision map. NRS 278.349(3)(e) (requiring consideration of a project’s “[c]onformity with the zoning ordinances and master plan” and stating “that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence”); CCMC § 17.07.005(6) (requiring the Planning Commission and the Board to consider “[c]onformity with the zoning ordinance and land use element of the city’s master plan”). That is what the Board did here.

Decisionmakers must also state their reasons, either in writing or on the record, so that reviewing courts may evaluate the basis for the decision. *Highroller Transp., LLC v. Nev. Transp. Auth.*, 139 Nev. 500, 507, 541 P.3d 793, 802 (Ct. App. 2023). The Board acted within its authority when it explained on the record how these considerations informed its denial. *See* NRS 278.349(4) (“Any disapproval or conditional approval must include a statement of the reason for that action.”). In particular, the Board explained that the project did not conform with CCMC § 17.07.005(6) because it failed to satisfy CCMC § 17.10.020. In this, the district court did not err in interpreting CCMC Chapter 17.10 as preserving the Board and the City’s discretion to deny approval of the project based on any one of those findings. *See* CCMC § 17.10.010 (providing that a “[c]ommon open space development *may* be allowed in any residential zoning district” (emphasis added)). Though ACRE argues that affirming the Board’s decision would signal that the absence of any single 1 of the 12 considerations in CCMC 17.07.005 mandates denial of a tentative map

application, we are not persuaded that this was the necessary implication behind the Board's decision, nor should our decision be construed as such.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Stiglich, J.



Cadish, J.



Lee, J.

cc: Hon. Kristin Luis, District Judge
Madelyn Shipman, Settlement Judge
Oshinski & Forsberg, Ltd.
Carson City District Attorney
Carson City Clerk