

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Northern Greenville County Rural)
Landowners,)
)
Appellant,)
vs.)
)
Vicars Construction, LLC and the)
Greenville County Planning Commission,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
Case No. 2020-CP-23-03513

**ORDER REMANDING TO GREENVILLE
COUNTY PLANNING COMMISSION**

This matter is before the Court on an appeal by Appellant Northern Greenville County Rural Landowners from the Greenville County Planning Commission’s approval of Few’s Crossing subdivision, a proposed residential development. Following the parties’ submission of briefs and a hearing before the Court on June 1, 2021, the Court held the matter under advisement.

The Court now remands the proposed subdivision to the Planning Commission for comprehensive written findings to delineate the reasoning of its approval of the subdivision. The written findings must expressly address the factors outlined in Article 3.1 of Greenville County’s Land Development Regulations (Article 3.1).

DISCUSSION

In 2018, Greenville County Council enacted Article 3.1 as part of its land development regulations. Article 3.1 establishes criteria “for all developments reviewed” under Article 3, which governs “general subdivision requirements.” Specifically, Article 3.1 provides,

Submitted developments may be approved if they meet all of the following criteria:

- Adequate existing infrastructure and transportation systems exist to support the project;

- The project is compatible with the surrounding land use density;
- The project is compatible with the site's environmental conditions, such as but not limited to, wetlands, flooding, endangered species and/or habitat, and historic sites and/or cemeteries.

Fews Crossing came before the Planning Commission for approval on June 24, 2020. Several community members submitted comments asserting the subdivision did not satisfy Article 3.1's criteria relating to compatibility with surrounding land use density and the potential for the subdivision to exacerbate flooding.

Ultimately, the Planning Commission voted 5 to 4, to approve Fews Crossing. However, in voting, the Planning Commission failed to explicitly provide written findings or to announce the reasoning for its decision. Significantly, the Planning Commission did not specifically outline its findings regarding the three factors delineated in Article 3.1. The Court finds the lack of specific findings for each factor inadequate to support the Planning Commission's decision to approve the proposed subdivision.

Article 3.1 explicitly provides, "[s]ubmitted developments may be approved if they meet all of the following criteria." The Planning Commission's approval of the subdivision cannot be supported without findings specifically addressing each of the three factors in Article 3.1. Without such findings, this court cannot adequately exercise its statutory authority to review the Planning Commission's decision. A court will overturn a local governmental body's decision only if it is "arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion." *Rest. Row Assocs. v. Horry Cnty.*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999). However, this Court cannot conduct its requisite evaluation of the Planning Commission's decision in the absence a stated rationale for that decision. While this Court must "refrain from substituting its judgment for that of the reviewing body," it is mandated to determine "whether the decision of

the [commission] is correct as a matter of law.” *Clear Channel Outdoor v. City of Myrtle Beach*, 372 S.C. 230, 234, 642 S.E.2d 565, 567 (2007).

On remand, the Greenville County Planning Commission must make comprehensive written findings to delineate the reasoning of its approval of the Fewes Crossing subdivision. In its written findings, the factors outlined in Article 3.1 of the Greenville County Land Development Regulations must be expressly discussed.

IT IS SO ORDERED.

[JUDGE’S ELECTRONIC SIGNATURE PAGE TO FOLLOW]



Greenville Common Pleas

Case Caption: Northern Greenville County Rural Landowners VS Vicars
Construction Llc , defendant, et al
Case Number: 2020CP2303513
Type: Order/Other

So Ordered

s/ Edward W. Miller