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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1124**

Patrick A Lease, et al.,
Appellants,

vs.

Mankato Township,
Respondent,

Blue Earth County,
Respondent.

**Filed April 13, 2026
Affirmed
Wheelock, Judge**

Blue Earth County District Court
File No. 07-CV-24-1550

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Considered and decided by Connolly, Presiding Judge; Smith, Tracy M., Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

Appellant property owners challenge the district court's grant of summary judgment for respondents Blue Earth County and Mankato Township regarding the township's approval of the county's application for a conditional use permit (CUP). Appellants argue that the district court erred in affirming the grant of the CUP because the township (1) violated the provisions of the township's land use ordinance (the ordinance) that set forth procedural and substantive requirements for the issuance of a CUP and (2) lacked sufficient evidence to support its decision. Appellants further argue that (3) they are entitled to an injunction because the CUP is not valid. We affirm.

FACTS

In March 2024, the Mankato Township Board (the board) approved the county's CUP application to build a public works facility (the facility) within the township on a lot near property owned by appellants Patrick A. Lease and Lynn M. Koosman-Lease. The county had determined that the old facility was inadequate and "[at] the end of its useful life," and in 2019, it completed a feasibility study of 19 sites to identify an appropriate location for a new public works facility. The lot selected for the facility is located in an agricultural district that also falls within and is subject to the requirements of the township's urban fringe overlay district (UFD) and orderly annexation agreement (OAA) provisions of the ordinance. After the county determined that the selected lot would meet the needs of the proposed facility, it prepared a CUP application proposing the construction of a 90,780 square-foot public works facility. The plans included an outdoor storage yard,

a 33,422 square-foot accessory building, a 16,000 square-foot salt-and-sand-storage accessory building, a fuel island, above-ground fuel-storage tanks, bunkers for material storage, and culvert storage. The selected lot is located approximately 70 yards from appellants' property. Appellants challenge the board's grant of the CUP.

Before we address appellants' arguments, we set forth the process that led to the board's grant of the CUP. In January 2024, the county submitted the CUP application, along with a letter in support from the county administrator. The administrator's letter asserted that the CUP should be granted because the proposed facility was similar to other uses allowed in agricultural districts and met the applicable standards for a CUP under the ordinance. It identified the similar uses as landscaping businesses, grain elevators, and large agricultural facilities. It also asserted that an Environmental Assessment Worksheet was completed and that the proposed use would not have the potential for significant impacts.

After reviewing the application, the township's planning staff prepared a report setting forth its assessments and recommendations to the planning commission and the board.¹ In the report, the staff reviewed multiple studies prepared for the project, including a traffic-impact analysis, noise-impact analysis, archaeological-site investigation, stormwater study, and landscaping plan. The planning staff determined that the facility's proposed use "has elements of numerous conditional uses which support a determination by the Township that it is a conditional use within the Agricultural District." In its report,

¹ The township contracts with the City of Mankato's planning staff for it to serve as the township's planning staff.

the planning staff compared the proposed use to other conditional uses within an agricultural district, including extraction of minerals; golf courses, country clubs, gun clubs, and racetracks; private commercial landing fields and associated facilities; grain elevators; and landscape contractors. The planning staff concluded that the facility's proposed use "qualifies as a conditional use within the Township's Agricultural District per" the ordinance. The report also recommended the inclusion of 22 conditions in the CUP.

At a meeting in February, the planning commission reviewed the application and the report and conducted a public hearing, during which it heard comments from the public in support of and against the CUP. Appellants were among the members of the community present at the meeting who made statements explaining why they opposed the grant of the CUP.

After closing the public comment period, the planning commission made the following proposed findings: that the CUP did not conform with the ordinance for uses in an agricultural zone; the proposed facility was leapfrog development, which is inconsistent with the township's goal of orderly development; and the proposed facility was inconsistent with existing uses in the area. In a vote of 4-1, the planning commission recommended that the board deny the CUP.

In March, the board held a special meeting to address the county's CUP application. The county administrator was present at this meeting and advocated for granting the CUP,

asserting that the proposed use aligned with the ordinance.² Members of the public also attended, and some individuals expressed their opposition to granting the CUP. The board received a petition opposing the CUP that had signatures from 221 people, 58 of whom resided within the township. The board then voted 2-1 to grant the CUP.

In the resolution granting the CUP, the board made 18 findings, including that the proposed facility qualified as a conditional use because it was a similar use to uses allowed within the agricultural district. The board pointed out that the agricultural district allows conditional uses such as extraction of minerals; golf courses, country clubs, gun clubs, and racetracks; private commercial landing fields and associated facilities; grain elevators; and landscape contractors. The board also found that the ordinance allows buildings within the UFD that are “owned and operated by a governmental agency for a public purpose” and that the facility falls within that provision. The resolution also adopted the 22 conditions that the planning staff recommended in its report.

Appellants challenged the grant of the CUP by filing a complaint in the district court in which they alleged that the CUP did not comply with the ordinance and sought

² The county administrator also advised the board that the county could proceed with the project regardless of the township’s grant of the CUP under the precedent established in *Town of Oronoco v. City of Rochester*, 197 N.W.2d 426, 429 (Minn. 1972). The parties discussed the opinion at the summary-judgment hearing, and appellants and the county mention it in their briefs. The county asserts that, if we determine that the CUP was not valid, instead of granting appellants an injunction, we must remand to the district court for application of *Oronoco*’s balancing-of-interests test. Because we conclude that the grant of the CUP is valid, we do not reach this issue.

declaratory and injunctive relief. Appellants argued they would be directly and adversely affected by the proposed facility because it would lead to

degeneration of water quality, have an adverse impact on water run-off, generate noise, generate light, generate other pollution, cause increased traffic congestion, cause increased traffic hazards, be injurious to [appellants'] use of their property, be injurious to the use of other properties located within the vicinity, be injurious to [appellants'] peace and quiet enjoyment of their property, reduce or decrease the value of [appellants'] property, reduce or decrease the value of other property in the vicinity, impede the normal and ordinary development of future residential development within the vicinity, and invite additional industrial use within the vicinity.

Blue Earth County intervened in the lawsuit.

All parties then moved the district court for summary judgment and appeared for a hearing on the motions. The district court took the matter under advisement and later issued an order granting respondents' motions for summary judgment.

This appeal follows.

DECISION

An appellate court's "authority to interfere in the management of municipal affairs is, and should be, limited and sparingly invoked." *White Bear Docking & Storage, Inc. v. City of White Bear Lake*, 324 N.W.2d 174, 175 (Minn. 1982). To prevail in challenging the board's CUP decision, appellants must establish that the decision was unreasonable, arbitrary, or capricious because the decision was based on legally insufficient reasoning or because the reasoning was not supported by the record. *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75-76 (Minn. 2015) (stating that we must first determine whether the reasons given by the governing body regarding the CUP decision were legally

sufficient and then, if the reasons were legally sufficient, whether they had a factual basis in the record); *see also White Bear Docking & Storage*, 324 N.W.2d at 176 (encouraging judicial restraint when reviewing zoning appeals). Even if a respondent municipality's decision is debatable, so long as there is a rational basis for its decision, reviewing courts will not interfere. *See Honn v. City of Coon Rapids*, 313 N.W.2d 409, 414-15 (Minn. 1981).

Our function is “not to weigh the evidence, but to review the record to determine whether there was legal evidence to support the zoning authority’s decision.” *Barton Contracting Co. v. City of Afton*, 268 N.W.2d 712, 718 (Minn. 1978). “Our standard of review is a deferential one, as counties have wide latitude in making decisions about special use permits.” *Schwardt v. County of Watonwan*, 656 N.W.2d 383, 386 (Minn. 2003) (upholding county board’s grant of CUP, even when planning commission recommended denial, because board’s decision was supported by evidence); *see also Big Lake Ass’n v. St. Louis Cnty. Plan. Comm’n*, 761 N.W.2d 487, 491 (Minn. 2009) (“Our limited and deferential review of a quasi-judicial decision is rooted in separation of powers principles.”). Further, we give more deference to a decision approving a CUP than to a decision denying one. *Schwardt*, 656 N.W.2d at 389 n.4.

Before we reach appellants’ arguments, we review relevant parts of the ordinance, Mankato Township, Minn., Land Use Ordinance (LUO) §§ 0100.0101-.2602 (2000). The ordinance divides the township into different classes of land districts that include agriculture, conservation, residence, business, and industry (light and heavy). LUO § 0100.0501, subps. 1-5. The ordinance expressly authorizes certain uses within each

district, but it also authorizes a “conditional use,” which it defines as “a land use as defined by this Ordinance that would not be permitted, but may be allowed with restrictions which are site and use specific as provided by official controls” upon certain findings. LUO § 0100.0403, subp. 16. The ordinance allows conditional uses subject to the grant of a CUP issued in accordance with section 17, entitled “Conditional use permits.” LUO § 0100.0403. A CUP is “[a] permit issued by the Township Board in accordance with procedures specified in this Ordinance which would enable the Board to assign site specific conditions and dimensions to a proposed use.” *Id.*, subp. 17.

Section 17 of the ordinance requires that, when the township planning commission receives a CUP application, it reviews that application and reports to the board its findings and recommendations. LUO § 0100.1705. The ordinance requires the planning commission to make specific findings before it can recommend approval of the CUP application. LUO § 0100.1707, subp. 1(A)-(O). The board holds any public hearings it deems advisable and then “shall make a decision upon the proposal” for the CUP. LUO § 0100.1705.

The ordinance does not include a public works facility as an authorized use within an agricultural district; however, the ordinance specifies 22 other conditional uses allowed in agricultural districts, such as mineral extraction, grain elevators, and landscape contractors. LUO § 0100.0602, subp. 2. The board granted the CUP for the facility here under the last conditional use listed in this subpart for “[o]ther uses determined by the Planning Agency to be similar [to] the uses listed above.” *Id.*, subp. 2(V). The ordinance defines “Planning Agency” as “[t]he organization of the Planning Commission or the

Planning Department” and further defines “Planning Commission” as the township’s Planning Commission. LUO § 0100.0403, subps. 64-65. The ordinance does not define “Planning Department,” and the term is not used anywhere else in the ordinance. *Id.*, subp. 64.

We now return to appellants’ challenges to the board’s grant of the CUP for the facility. Appellants assert that the CUP was improperly granted because the township (1) violated the ordinance’s provisions specifying procedural and substantive requirements for the issuance of a CUP and (2) lacked sufficient evidence to support its decision. Appellants further argue that, because the CUP is not valid, (3) they are entitled to an injunction. We address each argument in turn, ultimately concluding that appellants’ challenges fail.

I. The township’s grant of the CUP did not violate the ordinance.

First, appellants argue that the township violated several of the ordinance’s provisions that set forth procedural and substantive requirements for the issuance of a CUP. They assert that the township violated the ordinance in five specific ways: (1) the ordinance authorizes only the planning commission, not the board, to determine when a CUP is allowed within the agricultural district and the planning commission did not find that the proposed facility qualified as a similar use; (2) the ordinance must be read to exclude the facility from the agricultural district; (3) the facility does not meet all the standards required under the ordinance for a conditional use; (4) the ordinance prohibits the facility because it is a scattered development; and (5) the facility violates the UFD and OAA provisions of the ordinance.

A. The ordinance authorized the board to make the decision whether to grant the CUP.

Appellants argue that the ordinance is unambiguous and that the plain language of the ordinance authorizes only the planning commission, not the board, to determine when a CUP is allowed within the agricultural district and that, because the planning commission did not find that the proposed facility qualified as a similar use and voted against granting a CUP, the board had no authority to grant the CUP—thus, the board’s grant of the CUP violates the ordinance and the CUP is void. Appellants’ argument relies on their interpretation of the ordinance such that the Mankato planning staff cannot be a “planning department” under the definition in the ordinance. The county and the township both agree that the ordinance is not ambiguous and that we may construe the language of the ordinance according to its plain and ordinary meaning; however, they argue that the board had the authority to decide whether to grant the CUP and that the ordinance allows for the Mankato planning staff to qualify as a planning department and to recommend approval of a CUP.

To resolve this question, we must interpret the ordinance. “Interpretations of state statutes and existing local zoning ordinances are questions of law that this court reviews de novo.” *Clear Channel Outdoor Advert., Inc. v. City of St. Paul*, 675 N.W.2d 343, 346 (Minn. App. 2004), *rev. denied* (Minn. May 18, 2004) (quoting *Buss v. Johnson*, 624 N.W.2d 781, 784 (Minn. App. 2001)). “A zoning ordinance should be construed (1) according to the plain and ordinary meaning of its terms, (2) in favor of the property owner, and (3) in light of the ordinance’s underlying policy goals.” *SuperAm. Grp., Inc. v. City of Little Canada*, 539 N.W.2d 264, 266 (Minn. App. 1995) (first citing *Frank’s*

Nursery Sales, Inc. v. City of Roseville, 295 N.W.2d 604, 608-09 (Minn. 1980), and then citing *Med. Servs., Inc. v. City of Savage*, 487 N.W.2d 263, 266 (Minn. App. 1992)), *rev. denied* (Minn. Jan. 5, 1996); *see also Clear Channel Outdoor Advert.*, 675 N.W.2d at 346. “The rules that govern the construction of statutes are applicable to the construction of ordinances.” *Yeh v. County of Cass*, 696 N.W.2d 115, 128 (Minn. App. 2005), *rev. denied* (Minn. Aug. 16, 2005). “To determine the plain meaning of a word, we often consider dictionary definitions.” *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016).

The planning commission does not have the authority to grant a CUP, and it does not have the sole authority to determine whether a proposed conditional use qualifies as a “similar use.” The ordinance states:

For each application for Conditional Use, the Township Planning Commission or Land Use Administrator shall report to the Township Board of Supervisors all findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission or Land Use Administrator, the *Township Board of Supervisors* shall hold whatever public hearings it deems advisable and *shall make decision upon the proposal for Conditional Use Permit*.

LUO § 0100.1705 (emphasis added). The plain language of the ordinance states that the board has the sole authority to grant a CUP. Although the planning commission reports its “findings and recommendations” about a CUP application to the board, the board has the authority to make its own findings and is not required to follow the planning commission’s

recommendation.³ Thus, we next consider whether the ordinance restricts the determination of whether a proposed use is allowed in the agricultural district as a “similar other use” to an entity other than the board.

Section 6 of the ordinance, entitled “Agriculture District,” includes a list of uses authorized within the district as well as a list of “conditional uses” that may be allowed in the district “as regulated in Section 17” of the ordinance. LUO § 0100.0602. The final conditional use in the list is “[o]ther uses *determined by the Planning Agency* to be similar [to] the uses listed above.” *Id.*, subp. 2(V) (emphasis added). The ordinance defines “planning agency” as “[t]he organization of the Planning Commission or the Planning Department,” and it defines “planning commission” as the “Mankato Township Planning Commission,” but it does not define “planning department.” LUO § 0100.0404, subps. 64-65.

Appellants’ argument here is focused on the term “planning department.” Appellants argue that subpart 2(V) and these definitions must be read to mean that the planning commission was the *only* body authorized to find that the facility was a similar other conditional use for the agricultural district. They reason first that, because the Mankato planning staff is not defined in the ordinance as the “planning department,” the planning staff was not authorized to determine that the facility qualified as a “similar other

³ A town board’s refusal to adhere to a planning commission’s recommendation regarding a CUP does not automatically make the decision arbitrary or capricious. *See Schwardt*, 656 N.W.2d at 389 (holding that board’s decision to grant CUP after planning commission recommended denial was valid because board “received and considered all proffered evidence, gave both sides an opportunity to be heard, and the evidence [was] not so significant and one-sided as to render the approval arbitrary”).

use” under the ordinance and second that, because “planning department” is not defined in the ordinance, a determination that the planning staff is the planning department would be “adding language to the ordinance.” However, the township itself recognizes the planning staff as its planning department. In its brief, the township states that “[t]he undisputed facts in the case at bar are that the [township] currently contracts with the City of Mankato to provide the [township] with land use planning staff to act as the [township’s] ‘Planning Department.’”

In addition, our interpretation of the plain and ordinary meaning of “planning department” reaches the same conclusion. “Planning” is a descriptive word explaining the type of department and is defined as “formulat[ing] a scheme or program for the accomplishment, enactment, or attainment of” a goal. *The American Heritage Dictionary of the English Language* 1347 (5th ed. 2018). “Department” is defined as a “distinct, usually specialized division of a large organization, especially[] [a] principal administrative division of a government.” *Id.* at 486. Here, the township planning staff is a division of government within the meaning of the term “department.” *See id.* The planning staff reviewed the CUP application and prepared a report that included observations and assessments of aspects of multiple factors regarding the application, including location, existing land use, zoning, public utilities, and environmentally sensitive areas. In essence, the planning staff acted as a division of the township in considering whether the CUP fit within the established ordinance and any impacts the proposed facility may have on the surrounding areas. Based on its plain and ordinary meaning, “planning department” includes the township planning staff.

We observe that the owner of the selected lot for the facility is the county and that the county's interest is in granting the CUP, which weighs in favor of the township's interpretation of the ordinance. And we construe the ordinance in light of its underlying policy goal. The stated purpose of the ordinance is to "promote the health, safety, and general welfare of the unincorporated areas of Mankato Township." LUO § 0100.0201, subp. 1. The CUP application stated that the county needs the proposed facility to ensure safe transportation and road maintenance for the public because the old facility was no longer adequate and was coming to the end of its useful life. The township's decision to hire the Mankato planning staff to serve as its planning department is consistent with the ordinance's underlying policy goals, as is the interpretation of "planning department" to mean the Mankato planning staff. Because it is consistent with precedent that requires courts to construe a zoning ordinance "(1) according to the plain and ordinary meaning of its terms, (2) in favor of the property owner, and (3) in light of the ordinance's underlying policy goals," *SuperAm. Grp.*, 539 N.W.2d at 266, we conclude that the unambiguous plain language of the ordinance authorized the Mankato planning staff to find that the proposed facility qualified as a similar other use, upon which basis the board could grant the CUP.

B. The ordinance does not prohibit the proposed use within the agricultural district.

Appellants argue that the ordinance prohibits the proposed use within the agricultural district because the presence of the words "highway maintenance shop and yard" as an authorized use in districts other than the agricultural district shows that the ordinance intended to prohibit this use in the agricultural district. Appellants point to

section 11 of the ordinance, entitled “Light Industry District,” in which the conditional use for a “[h]ighway maintenance shop and yard” is explicitly permitted, LUO § 0100.1102, subp. 2(P), and to section 12, entitled “Heavy Industry District,” which authorizes any use allowed in a light industry district, LUO § 0100.1202, subp. 1(A). Appellants rely on the statutory-interpretation canon of *expressio unius est exclusio alterius*—the expression of one thing is the exclusion of another—to support their claim. They cite *Persigehl v. Ridgebrook Investments Ltd. Partnership*, 858 N.W.2d 824, 833 (Minn. App. 2015), to assert that this canon may be applied even if a statute or ordinance is unambiguous. They then reason that, even though they assert the ordinance’s language is unambiguous, we should apply the interpretive canon here to conclude that the ordinance’s expression that a highway maintenance facility is an approved use in the light and heavy industrial districts and its silence on whether a highway maintenance facility is an approved conditional use in an agricultural district means that a highway maintenance facility is a prohibited use in the agricultural district. Because we construe an ordinance “according to the plain and ordinary meaning of its terms, . . . in favor of the property owner, and . . . in light of the ordinance’s underlying policy goals,” we disagree. *SuperAm. Grp.*, 539 N.W.2d at 266.

Reading the cited provisions and the ordinance as a whole, the absence of the words “highway maintenance shop and yard” in section 6 of the ordinance establishing the agricultural district does not require a conclusion that the ordinance prohibits such a use in an agricultural district. By including subpart 2(V), which allows other “similar uses” in an agricultural district as determined by a planning agency, LUO § 0100.0602, subp. 2(V), the township created flexibility that allows further uses to be contemplated in an

agricultural district that were not explicitly enumerated in section 6. If the ordinance meant to exclude uses that were explicitly approved uses in other districts, it could have added a provision containing language to that effect in the ordinance. It did not do so. And, as cited by both parties, in *Persigehl*, we observed that “[w]e generally do not read into the statute a requirement that the Legislature has omitted.” 858 N.W.2d at 832 (quotation omitted).⁴

Construing the ordinance language “in favor of the property owner” supports the township and county’s interpretation that the ordinance does not exclude the proposed facility from an agricultural district based on uses allowed in other districts, such as a highway maintenance shop and yard in a light industrial district. As the property owner of the selected site, the county’s interest in locating a public works facility at the site in question weighs in favor of determining that the ordinance does not prohibit the proposed conditional use within the agricultural district. In addition, consideration of the ordinance’s purpose of “promot[ing] the health, safety, and general welfare of the unincorporated areas of Mankato Township” supports the county’s interpretation. LUO § 0100.0201, subp. 1.

We thus conclude that the ordinance does not prohibit the proposed use within the agricultural district.

⁴ We also observe that appellants misread *Persigehl*; in that opinion, this court determined that the statute in question was unambiguous and that the canon of *expressio unius est exclusio alterius* did not apply. 858 N.W.2d at 832-33.

C. The board determined that the facility met all of the conditions required under the ordinance for a CUP.

In challenging the CUP, appellants make three subarguments related to the findings that section 17 of the ordinance requires before a CUP may be issued. First, appellants reassert the argument we rejected in section I.A., *supra*, that only the planning commission, not the board, could make the 15 findings required for a CUP to be validly granted. We reject that argument here for the reasons already given. Second, appellants assert that the conditional use is not compatible with the existing neighborhood; and third, they assert that the board did not make three of the 15 specific findings necessary for a CUP. We address the second and third subarguments.

Appellants' argument that the facility is not compatible with the existing neighborhood because the use is not residential or agricultural relies on the ordinance's definition of "conditional use." The ordinance defines "conditional use" as

land use as defined by this Ordinance that would not be permitted, but may be allowed with restrictions which are site and use specific as provided by official controls upon finding fact that:

A. Certain conditions as detailed in this Ordinance exist.

B. The use or development conforms to the Land Use Plan of the Township.

C. *The use is compatible with the existing neighborhood.*

LUO §0100.0404, subp. 16 (emphasis added). Appellants state that "[n]othing in the Board Findings shows how the conditional use is compatible with the existing neighborhood" and therefore the proposed facility fails to meet the definition of a conditional use and is impermissible. However, because the board found that the facility is a permissible "similar

other use” in the agricultural district, we infer that the use is compatible with the existing neighborhood. Local authority over land use is entitled to great deference, and we will not overturn a county’s decision unless it has no rational basis. *SuperAm. Grp.*, 539 N.W.2d at 266. The board provided a rational basis for granting the CUP alongside 22 conditions to ensure that the facility followed requirements within the ordinance.

Appellants next claim that the board failed to make three of the 15 specific findings necessary for a CUP—findings J, K, and N, stating that, “[i]f the Board has the authority [to approve a CUP] after rejection by the Planning Commission, the Board must make Findings on each of the issues required by the Ordinance.” Section 17 of the ordinance sets forth 15 required findings in paragraphs identified by letters A-O, LUO § 0100.1707, subp. 1, including findings J, K, and N, which state:

J. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

K. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

. . . .

N. That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Id., subp. 1(J)-(K), (N).

However, in its report, the planning staff made all of the findings required for a conditional use recommendation and reported these findings to the planning commission

and the board, and the board included the findings in its resolution granting the CUP. As to finding J, the report states that the facility is not “encroaching onto other adjacent properties” and has setbacks that are “greater than required by” the ordinance. The board also made an explicit finding that the facility “will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted” because the county would take “mitigation measures to address concerns” from the adjacent landowners, “including the installation of a berm, landscaping, and fencing.” The board found that the county’s application “provided reliable information that the adverse impact on surrounding properties’ land values will not be significant by the proposed use.” The board also made the findings required by paragraphs K and N, stating:

14. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area. The subject property is located in the southwest corner of Planning Area F (within the Township Land Use Plan). The proposed use would not separate land uses that are not currently separated by County Road 16 and/or County Road 90. The immediately adjacent properties to the site are used for raising row crops and the development would not impede that use.

. . . .

17. That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District. Other conditional uses allowed within the Agricultural District with similar types of operations to or similar or greater impacts than the proposed development include: “Extraction of minerals”, “Golf courses and country clubs, gun clubs, and race tracks”, “Private commercial landing fields and associated facilities”, “Grain Elevators”, and “Landscape Contractors”. The proposed

development's overall intensity is not greater than the intensity characteristic of other uses allowed within the Agricultural District.

Because the board made the findings required by the ordinance, we reject appellants' arguments that the CUP is void on this basis.

D. The facility is not prohibited by the ordinance's goal to avoid scattered development.

Appellants' next argument that the township violated the ordinance's procedural and substantive requirements is that locating the facility on the selected site constitutes scattered, or "leapfrog," development and is prohibited by the ordinance. Appellants point to the language of section 6—addressing the agricultural district—that states, "It is the intent of this district to prevent scattered development." LUO § 0100.0601, subp. 3. Appellants assert that neither the planning commission nor the board made a finding that the facility is not, or will not cause, scattered development.

The ordinance does not define "scattered development." Appellants suggest, based on a letter the county submitted in support of its CUP application, that a "scattered development" requires a connection to a municipal water and sewer system.⁵ A review of the record shows that, in the letter, a leapfrog development is defined as development that requires "the extension of public facilities . . . through undeveloped land" and that such development "contemplates municipal infrastructure being extended for development."

⁵ Appellants also cite an opinion from a Florida district court that defines urban sprawl as development that "leap frogs" over land; however, this opinion is not binding authority, nor is it relevant to the interpretation or application of the ordinance here.

The record establishes that the facility will use private utilities for which the county will pay. The board found that, because the utility lines are private, this would not lead to rapid growth or scattered development in the area. During the public hearing, the board also concluded that neither granting the CUP nor the facility itself would contribute to rapid growth or scattered development. In the resolution approving the CUP application, the board stated:

With respect to area F, the plan specifically states “It is the intent of the Township to restrict rapid growth in the area generally bounded by County Road 16 on the west and Highway 22 on the east and to provide for the continued use of these lands as prime agricultural.” The proposed use will not contribute to rapid growth within this area of the Town and is supportive of county infrastructure necessary for modern agricultural operations.

Because the board’s finding is supported by the record and the facility does not violate the ordinance, the board’s grant of the CUP was not improper on this basis.

E. The township did not violate other parts of the ordinance by granting the CUP.

Appellants argue that the township violated the UFD and the OAA provisions of the ordinance. Appellants assert that nothing in the record shows that the proposed use falls within any permitted uses under these provisions and that, therefore, issuance of the CUP violates them.

The UFD, in section 25 of the ordinance, is a district intended “to prevent encroachment of non-farm uses into agricultural lands, and to allow for the orderly conversion of agricultural lands to urban type uses which are serviced by municipal water and sewer systems.” LUO § 0100.2501. Multiple conditional uses are allowed within the

UFD, including “[b]uildings owned and operated by a governmental agency for a public purpose,” LUO § 0100.2502, subp. 2(C), under which appellants argue the facility does not fall because the facility is not a single building but contains a gas station, a storage yard, a parking facility, and a garbage-storage location.

In granting the CUP, the board determined that the facility qualified as a conditional use within the UFD because it met the requirements for “a building owned and operated by a governmental agency for a public purpose” and because the ordinance provides for “permitted accessory uses” within the UFD that are “customarily incidental to the permitted and conditional uses listed above.” *Id.*, subp. 3. It is reasonable to conclude that “accessory uses” for a public works building would include parking, gas for vehicles on site, storage for materials, and garbage areas.

Because the facility is owned by a government agency for a public purpose—“providing maintenance of roadways and other public infrastructure which support all land uses within the township”—it reasonably falls within the permitted conditional uses for the UFD.

The OAA is also set forth in the ordinance and addresses the annexation of certain areas to “develop and implement a process for the orderly and controlled growth of the City and Township.”⁶ Appellants argue that the facility is prohibited by the OAA because the OAA requires the selected lot to be annexed or qualify for an exception and neither occurred here. Appellants fail, however, to consider all of the exceptions listed in the OAA.

⁶ The OAA is part of a joint resolution between Mankato Township and the City of Mankato. LUO § 0100.2601.

The OAA requires annexation for certain development activities within designated areas defined in the ordinance. LUO § 0100.2601 ex.A §§ 1, 3-4. As to the area in which the facility is located, the ordinance prohibits “all urban, non-farm development or redevelopment . . . unless the property proposed for such development or redevelopment and any adjacent, necessary land, is first annexed to the City pursuant to the terms and conditions of this Joint Resolution.” *Id.* ex.A § 4(a).

Section 3(b)(i) of the OAA creates an exception for “[a]gricultural development as defined in Section 2(b),” which includes “the permitted and *conditional uses as contained in the Agriculture Zoning District* of the [ordinance].” *Id.* ex.A §§ 2(a) (emphasis added), 3(b)(i). As we have already concluded, *see supra* section I.A, the board determined that the facility is a valid conditional use within an agricultural district. Thus, the facility is allowed as agricultural development and annexation is not required under the OAA. Neither the UFD nor the OAA operates to prohibit the county’s grant of the CUP.

In sum, we conclude that the township’s grant of the CUP did not violate the procedural and substantive provisions of the ordinance as alleged by appellants.

II. Sufficient evidence supports the township’s grant of the CUP.

Appellants next argue that the township’s decision to grant the CUP was based on insufficient evidence to support its determination that the proposed use was similar to other uses allowed in the agricultural district. Appellants assert that the board’s findings were arbitrary and capricious because the findings were not supported by evidence in the record.

We examine whether the board “acted unreasonably, arbitrarily, or capriciously” in its decision regarding the CUP. *Schwardt*, 656 N.W.2d at 386. “[O]ur function is not to

weigh the evidence, but to review the record to determine whether there was legal evidence to support the zoning authority's decision." *RDNT*, 861 N.W.2d at 76 (quotation omitted). When the record contains conflicting evidence, we generally defer to the judgment of the municipal decisionmaker. *Id.*

Determining whether a proposed use constitutes a similar use requires the interpretation of a zoning ordinance, which presents a question of law. *Prior Lake Aggregates, Inc. v. City of Savage*, 349 N.W.2d 575, 578 (Minn. App. 1984). In interpreting the township ordinance, we adhere to rules of construction as set forth above. *See supra* section I.A. First, we construe a term according to its plain and ordinary meaning. *SuperAm. Grp.*, 539 N.W.2d at 266. Second, we construe strictly in favor of the property owner. *Id.* Finally, we consider the ordinance in light of its underlying policy. *Id.*

In its resolution granting the CUP, the board found that the facility was a "similar use" because it was similar in quality to the following uses, which the ordinance allows in an agricultural zoning district:

a. "Extraction of minerals" as such typically includes the generation of some levels of noise and dust with heavy equipment and the arrival and departure of transport trucks. This use often has external stockpiling and fueling stations.

b. "Golf courses and country clubs, gun clubs, and race tracks" will often have multiple vehicles arriving and departing vehicles during the hours of operation and would be expected to normally have some level of buildings for office, meeting, and small retail purposes. Gun clubs can be expected to generate a level of noise throughout their hours of operation. The same can be said of race tracks. Fueling stations are a normal part of race track uses.

c. “Private commercial landing fields and associated facilities” can include storage hangers, fueling stations, and repair facilities.

d. “Grain Elevators” include operations of loading, unloading and processing of grains using large equipment and large storage bins or silos. This can include loading involving rail spurs. Typically there are office, testing, and storage facilities on site. Other operations include vehicle scales and in some cases, ground-storage of grains. Depending on the season, the traffic from such facilities can be expected to fluctuate wildly and can run 24 hours a day at times.

e. “Landscape Contractors” often include use and storage for medium to large equipment, outdoor storage of various landscape product (soils, mulches, soil amendments, rock). Typically there is a business office and can include storage buildings or sheds.

These findings were also supported by the Mankato planning staff’s report.

The plain language of the ordinance does not require specific findings when determining whether a proposed use qualifies as a “similar use.” LUO § 0100.0602, subp. 2(V). The ordinance states only that whether a use is a similar use must be ascertained by the planning agency, which occurred here. *See supra* section I.A. In its resolution approving the county’s application and granting the CUP, the board incorporated all the findings under section 17 of the ordinance as required for a CUP, including its specific findings that the proposed facility is a similar other use as compared to authorized conditional uses. LUO § 0100.1707, subp. 1.

For example, the provision in the ordinance for the authorized conditional use of extraction of minerals accounts for “[t]rucks used in hauling material for the site of excavation” and as well as “[w]hen explosives are used.” LUO § 0100.1605, subp. 1(E),

(H). This shows that the board’s finding that the proposed facility use will be similar with respect to truck usage, dust, and noise is reasonable. It was also reasonable for the board to determine that a public works facility for which the main purpose is road and bridge maintenance would be less disruptive than a proposed extraction-of-minerals use that permits explosives, which is authorized in an agricultural district. *Id.*

Appellants argue that “common sense” cannot be used to determine whether a proposed use is a “similar use,” but in its resolution, the board tied its determination of “similar other use” to the plain language of the ordinance and the descriptions of those allowed conditional uses, including golf courses, country clubs, and race tracks, which have parking lots for customers and fueling stations for vehicles onsite; “private commercial landing fields and associated facilities” that have plane hangars and fueling stations as required for flight operations; grain elevators and landscape contractors that use large equipment and outdoor storage buildings or sheds. Applying the rules of construction to the ordinance, including construing it in favor of the property owner and in light of its underlying policy, we conclude that the board’s interpretation of its ordinance in determining that the proposed facility was a similar other use was not flawed. Furthermore, the record contains information to support a determination that the proposed use is a similar use, and as stated above, in instances of conflicting evidence, we defer to the judgment of the zoning board. *RDNT*, 861 N.W.2d at 76. We thus also conclude that the record contains evidence that supports the board’s findings and that the board’s findings were not unreasonable, arbitrary, or capricious.

In sum, the board's reasons for its decision to grant the county a CUP for the facility are legally sufficient and supported by the record, *see id.* at 75, and appellants failed to meet their burden to show that the grant of the CUP was arbitrary and capricious.

III. Appellants' injunction argument is moot.

Appellants argue that because the CUP is invalid, a permanent injunction is warranted. It bases its assertion on the arguments we rejected above.

Because we conclude that the township properly granted the CUP to the county, appellants' injunction argument is moot.

Affirmed.