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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1483**

In the Matter of the Application of DOB Properties, LLC, for a Conditional Use Permit.

**Filed July 20, 2026
Affirmed
Johnson, Judge**

Douglas County Board of Commissioners
File No. CU-00185

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Considered and decided by Bond, Presiding Judge; Johnson, Judge; and Rasmusson, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

DOB Properties LLC applied for a conditional-use permit so that it could build a planned-unit development in a rural-residential zoning district. The Douglas County Board of Commissioners denied the application. We conclude that the county board's decision is not unreasonable, arbitrary, or capricious. Therefore, we affirm.

FACTS

DOB Properties owns a parcel of property of approximately 25 acres in a rural-residential zoning district in Carlos Township. The property is on the east side of county

state aid highway 42 and the south side of Prairie Road Northeast. That portion of highway 42 is part of the Glacial Ridge Trail Scenic Byway, development of which is guided by a “Corridor Management Plan.”

In early 2025, DOB Properties applied to the county for a conditional-use permit (CUP) that would allow it to build a planned-unit development (PUD) consisting of 72 storage units. The county’s planning advisory commission reviewed the proposal and expressed concerns related to “aesthetic appearance, additional traffic, and increased runoff volume.” DOB Properties withdrew the application so that it could make revisions.

In June 2025, DOB Properties submitted a second CUP application with a revised proposal for the construction of a PUD with 68 storage units that would be set back further from highway 42. The storage units would be individually owned and could be used for storage of personal, hobby, and recreational items as well as for light commercial uses. The proposal called for storage units in “pole-style” buildings of two different sizes, the larger of which would be approximately 27 feet tall. DOB Properties proposed to install trees and shrubs along the county road and to delay construction for three years to allow the vegetation to grow taller.

County staff reviewed the application and issued a report, which stated that the development would affect the aesthetics of the adjacent residential area and scenic byway because the proposed vegetation buffer would provide only limited screening for a decade or more, until the trees and shrubs were tall enough to completely screen the storage buildings. The report also stated that the commercial appearance and number of the pole-style buildings would differ from adjacent properties and might not be compatible with

future residential development on adjacent properties. The report stated further that the development would create additional traffic but that such traffic was not expected to impact adjacent properties, cause congestion, or create traffic hazards. The staff report concluded that the application could be either approved or denied but that, if it were approved, it should be approved subject to specific conditions, including a limitation on the type of items stored, a limitation on the type of uses to the “pursuit of hobbies,” specified outdoor lighting, a 120-foot setback from highway 42, and the planting of trees and shrubs along the entire boundary between the development and highway 42.

The planning advisory commission considered DOB Properties’ application at a public hearing in July 2025. The owner of DOB Properties, Dan O’Brien, made remarks in support of the proposal. O’Brien submitted nine photographs of other developments in the area that did not have any buffers or screening. A commission member responded that only one of the other developments is located in a residential or rural residential zone while the seven other developments are located in commercial and industrial zones.

The commission received public comments on the application. Several persons who live nearby testified in opposition to the application. The residents expressed concerns that the proposed development would negatively affect their property values and the aesthetics of the area’s natural landscape. One resident criticized the staff report for relying on outdated traffic data. Some residents commented that the development would increase traffic and exacerbate the hazards of a blind spot at the intersection of highway 42 and Prairie Road Northeast.

The commission discussed the proposal. The county's director of land and resource development confirmed that the staff report used traffic data from a 2009 study and agreed with public comments that traffic volume had increased since then. But he stated that highway 42 could accommodate the increase in traffic. He also confirmed that there was a four-foot increase in elevation when approaching the intersection from the east on Prairie Road Northeast. But he also noted that the county did not receive "any comment from the county engineer indicating that it's a traffic hazard in regard to this application."

The commission recommended the denial of the application by a vote of four to two. The commission's recommendation was based on four reasons: (1) the proposed use was not compatible with the specific location, (2) the property is adjacent to a designated scenic byway, (3) the proposed use does not provide adequate separation or screening to prevent negative impacts to property values and future development, and (4) the proposed use would add traffic to the area.

The county board considered the application one week later at a public meeting. Before the meeting, the board was provided with the staff report, O'Brien's photographs of other nearby developments, written public comments, and the commission's findings and recommendation. At the public hearing, the director of land and resource development summarized DOB Properties' proposal, the comments received by the commission at the public hearing, and the commission's discussion. The county board voted unanimously to deny the application. In August 2025, the county board approved a nine-page document with findings of fact and a statement of the reasons for its decision, which were the same

reasons stated by the county's planning advisory commission. DOB Properties appeals by way of a writ of certiorari.

DECISION

DOB Properties argues that the county board's decision to deny its CUP application is unreasonable, arbitrary, and capricious.

A county board has broad discretion to grant or deny a CUP application. *Zylka v. City of Crystal*, 167 N.W.2d 45, 49 (Minn. 1969). But a county board's decision to grant or deny a CUP application cannot be unreasonable, arbitrary, or capricious. *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75 (Minn. 2015). Courts apply a two-step inquiry to determine whether a county board's denial is unreasonable, arbitrary, or capricious: "First, we must determine if the reasons given by the [county board] were legally sufficient. Second, if the reasons given are legally sufficient, we must determine if the reasons had a factual basis in the record." *Id.* at 75-76 (citations omitted). A county board's decision to grant or deny a CUP application is proper and will be affirmed if at least one of the reasons given for the denial is both legally sufficient and has a factual basis. *See Hubbard Broadcasting, Inc. v. City of Afton*, 323 N.W.2d 757, 765 n.4 (Minn. 1982).

A county board may deny a CUP application "if the proposed use endangers 'the public health or safety or the general welfare of the area affected or the community as a whole.'" *RDNT*, 861 N.W.2d at 76 (quoting *Zylka*, 167 N.W.2d at 49). The "absence of more express standards" may make denial of an application "more, not less, vulnerable to a finding of arbitrariness," thereby warranting closer scrutiny. *Id.* (quotation omitted).

In this case, a county ordinance provides:

In granting a conditional use permit, the Douglas County Board shall consider the advice and recommendations of the Planning Advisory Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants or surrounding lands. Among other things, the following findings may be considered:

(1) The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

(2) The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

(3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

(4) The use in the opinion of the County Board of Commissioners is reasonably related to the overall needs of the County and to the existing land use.

(5) The use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

(6) The use is in conformance with the Land Use Plan of the County.

(7) The use will not create a traffic hazard or congestion.

Douglas County, Minn., Zoning Ordinance (DCZO) § VII.G.1.a. (2021). This ordinance requires consideration of the “health, safety, and general welfare of occupants or surrounding lands” and, in addition, contains “more express standards” in the enumerated

list of seven specific factors. DCZO § VII.G.1.a.; *cf. RDNT*, 861 N.W.2d at 76 (stating that ordinance referencing only health, safety, and welfare was “legally sufficient” but lacked “more express standards”).

In its written findings, the county board referred to section VII.G.1.a. of the zoning ordinance and stated that it had considered “the effect of the proposed use on the public health, safety, and welfare.” The board based its denial on four findings: (1) the proposed use is not compatible with the residential and agricultural location, (2) the property is located adjacent to a designated scenic byway, (3) the proposed use does not provide adequate screening and may deter future development in the area, and (4) the proposed use would increase traffic and enhance existing traffic hazards. We address each of the county board’s reasons in turn to determine whether any of the county board’s reasons are legally sufficient and supported by a factual basis in the record. *See RDNT*, 861 N.W.2d at 76; *Hubbard Broadcasting*, 323 N.W.2d at 765 n.4.

A. Compatibility with Location

The county board’s first reason for its decision is that “[t]he proposed use is not compatible with the specific location, which is residential and agricultural in nature.” The county board specifically noted that “[t]he proposed development is in close proximity to existing residential development and in an area where future residential development is likely.” This reason is legally sufficient because the ordinance specifically provides that the county board may consider whether the proposed use “will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or

used land” and whether “[t]he structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.” DCZO § VII.G.1.a.(2), (3).

DOB Properties argues that the county board did not explain why the proposed development would be incompatible with the location. To the contrary, the county board’s first finding describes the development’s structures as “pole-style buildings” and states that “the clustering of this type of structure within a single development can present the appearance of a commercial use and would be a significant departure from current uses.” This is an adequate explanation of why the proposed development would be incompatible with the location.

DOB Properties also argues that the county board did not evaluate the project according to the appearance standard in the ordinance. To the contrary, the county board’s first finding states that the clustering of pole-style buildings “can present the *appearance* of a commercial use.” (Emphasis added.) The county board’s first finding also states that the project, including lighting during nighttime use, likely would “create a visual impact.” These statements are directly related to the provision of the ordinance allowing consideration of whether the property would “have an appearance that will not have an adverse effect upon adjacent residential properties.” *See* DCZO § VII.G.1.a.(3).

The county board’s stated reasons are supported by the record. DOB Properties’ property is in a rural-residential zoning district and is adjacent to a residential development. Several residents of that development expressed concerns that the proposed use would negatively impact their property values. The director of land and resource development stated that county employees had reviewed the impact of similar planned-unit

developments on adjacent properties over time and had determined that such developments could cause property values to increase at a slower rate than they would without the developments. Nearby residents also stated that they valued the scenic views and natural landscape of the area and were concerned that the landscape would be negatively affected by the commercial appearance of the storage units.

Thus, the county board's first reason for its decision is legally sufficient and has a factual basis in the record.

B. Scenic Byway

The county board's second reason for its decision is that "the subject property is located adjacent to a designated Scenic Byway." The county board's second finding states that the size, number, and commercial appearance of the proposed storage units would conflict with the goals of the scenic byway, which are to "promote, preserve, enhance, and interpret the rich cultural and historic resources, scenic beauty and recreational resources of the region."

DOB Properties argues that the county board's second reason is legally insufficient on the ground that the county board relied on "a non-codified planning concept." DOB Properties refers to the Glacial Ridge Trail Scenic Byway Corridor Management Plan, which is not part of the county's zoning ordinances. But the county's zoning ordinance allows the county board to consider whether the proposed use "will be sufficiently compatible [with] adjacent agricultural or residentially zoned or used land." DCZO § VII.G.1.a.(2). That factor is broad enough to encompass the features of the scenic byway.

The county board's finding that DOB Properties' proposed use would be incompatible with the scenic-byway designation is supported by the record. DOB Properties' site design indicates that approximately half of the storage units would be located along the side of highway 42. The staff report indicates that the proposed pole-style buildings would have a commercial appearance that would cause "a significant change in the viewshed of the area." The staff report also indicated that some storage units would be 27 feet tall and that the proposed tree-and-shrub buffer would take a decade or longer to grow before it would be tall enough to screen the buildings.

Thus, the board's second reason for its decision is legally sufficient and has a factual basis in the record.

C. Inadequate Screening

The county board's third reason for its decision is that the proposed use "does not provide adequate separation or screening from adjacent agricultural or residential zoned or used land such that a deterrence to development will not occur." This reason is justified by the provision in the zoning ordinance that allows the county board to consider whether a proposed use "will be sufficiently compatible *or separated by distance or screening from* adjacent agricultural or residentially zoned or used land." DCZO § VII.G.1.a.(2) (emphasis added).

DOB contends that the county board's third reason is legally insufficient on the ground that it imposed "a timing requirement found nowhere in the ordinance" by considering the length of time it would take for the vegetation screening to grow. But the ordinance does not preclude the county board from considering how long it would take

screening to become effective, nor does it expressly give a property owner a period of time to comply with the ordinance. *See* DCZO § VII.G.1.a.(2). Thus, the county board’s third reason is legally sufficient.

DOB Properties argues that the record supports the conclusion that the proposed screening would have been adequate to mitigate any negative effects on adjacent land. The proposal indicated that some storage units would consist of 27-foot-tall, pole-style buildings with a commercial appearance. The staff report found that the proposed tree-and-shrub buffer would take a decade or longer to reach a height sufficient to screen the storage units. The staff also determined that planned-unit developments similar to the proposal have caused the property values of adjacent land to increase at a slower rate. In light of these statements, the county board’s conclusion that the proposed screening would be inadequate has a factual basis in the record.

Thus, the county board’s third reason for its decision is legally sufficient and has a factual basis in the record.

D. Traffic Concerns

The county board’s fourth reason for its decision is that “the use would add traffic to the area, specifically the intersection of [highway 42] and Prairie Road.” This reason is legally sufficient because the ordinance provides that the county board may consider whether a conditional use will create a traffic hazard or congestion. DCZO § VII.G.1.a.(7).

DOB Properties argues that the county’s traffic-related findings do not have a sufficient factual basis because the record contains only the generalized concerns of nearby residents. DOB Properties contends that the county board improperly disregarded the only

technical evidence in the record: the county engineer's determination that the proposed use would not create a traffic hazard.

The record indicates that residents' opposition was based on concrete observations. One resident submitted a written comment that included an aerial photograph of the 45-degree-angle intersection between highway 42 and Prairie Road Northeast. Other residents who are familiar with the intersection commented that they have reduced visibility when turning left from either direction. The director corroborated the comments of residents by noting that the intersection has a four-foot increase in elevation. The county board was permitted to rely on the testimony of residents who had personally observed a blind spot at the intersection. *See RDNT*, 861 N.W.2d at 76-77.

Thus, the county board's fourth reason for its decision is legally sufficient and supported by a factual basis in the record.

In sum, the county board did not act unreasonably, arbitrarily, or capriciously by denying DOB Properties' CUP application because each of the county's four reasons for its decision is legally sufficient and supported by a factual basis in the record.

Affirmed.