

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1796**

In the Matter of the Application of Andrew Wheeler for a Conditional Use Permit.

**Filed July 27, 2026
Affirmed
Rasmusson, Judge**

Cass County Planning Commission
File No. SA25-138-30-2

Brandon J. Wheeler, Felhaber Larson, Minneapolis, Minnesota (for relator Andrew Wheeler)

Paul Donald Reuvers, Michael Conlin-Brandenburg, Iverson Reuvers, Bloomington, Minnesota (for respondents Cass County and Cass County Planning Commission)

Considered and decided by Bond, Presiding Judge; Rasmusson, Judge; and Reilly, Judge.*

NONPRECEDENTIAL OPINION

RASMUSSON, Judge

In this certiorari appeal, relator Andrew Wheeler challenges respondent Cass County Planning Commission's denial of his application for a conditional use permit. Wheeler argues that (1) the Planning Commission's failure to follow statutory requirements made its decision *prima facie* arbitrary and (2) the Planning Commission's denial of his application was unreasonable, arbitrary, or capricious. We affirm.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

FACTS

Wheeler and his wife purchased a 4.01-acre lakeshore property in Cass County and built a home on it. The house is around 10,000 square feet, contains nine bedrooms and nine bathrooms, and offers various amenities. For approximately three years, the Wheelers rented out the property on a short-term basis for up to 25 people at a time.

Cass County’s Short-Term Rental Ordinance

In February 2025, Cass County adopted an ordinance governing short-term rentals (the STR ordinance). *See* Cass County, Minn., Short-Term Rental Ordinance §§ 1-6 (2025). The STR ordinance permits short-term rentals with a license but requires that “[s]hort-term rental units that advertise as thirteen (13) or more occupants or advertise as six (6) bedrooms or more, must first obtain a Conditional Use Permit prior to receiving a license.” *Id.*, § 3(A)-(B).

Cass County’s Process for Requesting a Conditional Use Permit

The process of requesting a conditional use permit (CUP) is governed by Cass County’s ordinance regulating land use (land-use ordinance). *See* Cass County, Minn., Land Use Ordinance (CCLUO) §§ 500, 705 (2025). The Planning Commission decides whether to approve or deny a CUP application. *See id.*, § 705.1(B), (D). When reviewing a CUP application, the Planning Commission “shall consider” certain “evaluation criteria.” *Id.*, § 705.2. The land-use ordinance requires the Planning Commission to consider CUP applications at a meeting, and, “[i]f the permit is denied, the [Planning Commission] shall advise the applicant of the reasons therefore in writing.” *Id.*, § 705.1(C)-(D); *accord* Minn.

Stat. § 15.99, subd. 2 (2024) (requiring an agency denying a request related to zoning to “state in writing the reasons for the denial at the time that it denies the request”).

Wheeler’s CUP Application

In August 2025, Wheeler applied for a CUP to advertise the property for short-term rental with eight bedrooms and capacity of up to 25 people. Consistent with the process required by the land-use ordinance, the county sent out notices inviting public comment. *See* CCLUO § 705.1(B). In response, the county received four comments, all opposing Wheeler’s CUP application.

Also consistent with the land-use ordinance, the county’s environmental services department (ESD) conducted a field inspection of the property. *See* CCLUO §§ 501(F), 501.4. Based on this inspection, ESD prepared proposed findings and conditions for the Planning Commission to use in considering Wheeler’s application. The proposed findings noted that the application may not meet criteria for granting a CUP, including that “[t]he size of the proposed rental and its impacts on the neighborhood may have an undue impact on public health, safety, and welfare.”

On September 8, 2025, the Planning Commission held a public meeting during which it discussed Wheeler’s CUP application. The Wheelers were present at the meeting and participated in the discussion. The Planning Commission raised various concerns with Wheeler’s proposed use of the property as a short-term rental, including concerns about the size of the house and the number of people using the relatively small amount of lakeshore. After discussing these concerns, the Planning Commission voted to deny Wheeler’s CUP application.

Two days after the meeting, Wheeler received a denial notification that stated “[t]he application was reviewed and discussed with the applicant at the time of the hearing. The motion passed by a vote of 3/2 to deny the application.” The denial notification did not articulate the Planning Commission’s reasons for denying Wheeler’s application.

At its next meeting on October 14, 2025, the Planning Commission adopted findings addressing the required criteria and detailing the reasons for denying Wheeler’s CUP application. These findings were sent to Wheeler, although he contends that he did not receive them for several weeks.

Wheeler filed a petition for writ of certiorari, seeking reversal of the Planning Commission’s denial of his CUP application and an order to issue the requested permit.

DECISION

I. The Planning Commission’s actions do not establish a prima facie case of arbitrariness.

Wheeler argues that the Planning Commission violated Minnesota Statutes section 15.99 (2024), which provides a 60-day deadline for an agency to respond to a request related to zoning, because it failed to (1) state the reasons for denial on the record, (2) adopt a written statement and provide him a copy before the expiration of the 60-day period, and (3) give reasons for denial in the written statement that were consistent with the reasons stated on the record.¹ He contends that these violations are sufficient to establish a “prima facie case of arbitrariness” such that the burden of persuasion shifts to the Planning

¹ Wheeler briefly mentions “the County’s own ordinance governing the administration of such applications,” referencing CCLUO § 705.1(D), but does not analyze this language separately. Our analysis therefore focuses on the statutory language.

Commission on appeal to show its denial was legally sufficient and has a reasonable factual basis.

Appellate courts review application of the law de novo. *Harlow v. State, Dep't of Hum. Servs.*, 883 N.W.2d 561, 568 (Minn. 2016). Appellate courts “will reverse a governing body’s decision regarding a conditional use permit application if the governing body acted unreasonably, arbitrarily, or capriciously.” *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75 (Minn. 2015).

A zoning decision is presumed to be arbitrary “[i]f a [governing body] fails to record the basis for a zoning determination at the time it acts.” *R.A. Putnam & Assocs. v. City of Mendota Heights*, 510 N.W.2d 264, 267 (Minn. App. 1994), *rev. denied* (Minn. Mar. 15, 1994). The governing body “need not necessarily prepare formal findings of fact, but it must, at a minimum, have the reasons for its decision recorded or reduced to writing and in more than just a conclusory fashion.” *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 416 (Minn. 1981). “[A]s long as the necessary record is prepared within a reasonable time of a zoning decision, a [governing body] should not be presumed to have acted in an arbitrary manner.” *R.A. Putnam*, 510 N.W.2d at 267.

A. The Record

Wheeler first contends that the Planning Commission did not state its reasons for denial on the record. When “a multimember governing body denies a request, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial.” Minn. Stat. § 15.99, subd. 2(c).

In this case, the Planning Commission held a public meeting during which it discussed Wheeler's CUP application at length and reduced its discussion to a verbatim transcript, which is the meeting record. On the record, the Planning Commission members discussed the potential impacts of the size of the short-term rental and the size of the lakefront portion of the property, concluding that the number of guests was too substantial for the available lakefront; that there would be impacts on the riparian corridor; and that there would be impacts on the surrounding neighborhood, as the size of the proposed use was quasi-commercial.

Although the Planning Commission did not specifically list in summary form the reasons for denial, the record contains the commissioners' concerns and reasons for the denial. We therefore conclude that the Planning Commission stated its reasons for denial on the record as required in section 15.99, subdivision 2(c).

B. Timeliness

Wheeler next contends that the Planning Commission failed to adopt and provide written findings within 60 days, thereby establishing a "prima facie case of arbitrariness." The applicable deadline governing the CUP application is found in Minnesota Statutes section 15.99, subdivision 2. Aside from certain exceptions not applicable to this case, subdivision 2(a) requires that "an agency must approve or deny [a CUP application] within 60 days [of] a written request." It further provides that any "[f]ailure of an agency to deny a request within 60 days is approval of the request." Subdivision 2(c) requires that "[i]f the written statement is not adopted at the same time as the denial, it must be adopted at

the next meeting following the denial of the request but before the expiration of the” 60-day deadline.

The Minnesota Supreme Court has distinguished between mandatory and directory provisions in this statute. A mandatory provision is one that “express[es] specific consequences for noncompliance.” *Hans Hagen Homes, Inc. v. City of Minnetrista*, 728 N.W.2d 536, 541 (Minn. 2007); *see also Johnson v. Cook County*, 786 N.W.2d 291, 295 (Minn. 2010) (reaffirming this definition). A directory provision is one that “contain[s] a requirement but provide[s] no consequence for noncompliance.” *Johnson*, 786 N.W.2d at 295 (quotation omitted). A zoning authority’s noncompliance with a mandatory provision in subdivision 2 “would trigger [automatic approval], but noncompliance with a directory provision in the statute would not.” *Id.*

Section 15.99, subdivision 2(a), contains a mandatory provision. If an agency fails to approve or deny an application within 60 days, the application is considered approved. Minn. Stat. § 15.99, subd. 2(a). Wheeler’s CUP application was submitted on August 14, 2025, so the 60-day deadline lapsed on October 13, 2025. The Planning Commission held the meeting to consider Wheeler’s application on September 8, 2025, and orally denied the application. The Planning Commission promptly sent Wheeler a written denial notification without findings that stated “[t]he application was reviewed and discussed with the applicant at the time of the hearing.” The initial oral and written denials satisfy section 15.99, subdivision 2(a), because the denials were issued within 60 days of Wheeler’s application.

Wheeler contends that the Planning Commission's failure to provide the full written findings within the 60-day deadline violates section 15.99, subdivision 2, and establishes a case of "prima facie arbitrariness." However, the statutory provision setting a deadline for a written statement is in its own paragraph, which contains no penalty provision. *See* Minn. Stat. § 15.99, subd. 2(c). Without a penalty provision, the requirement to complete written findings within 60 days is a directory provision not subject to automatic approval if the deadline is not met.

We next consider whether the Planning Commission's delay was reasonable. "[A]s long as the necessary record is prepared within a reasonable time of a zoning decision, a [decision-making body] should not be presumed to have acted in an arbitrary manner." *R.A. Putnam*, 510 N.W.2d at 267. Wheeler was aware of the denial and the reasons for it on September 8, 2025. He received written confirmation of the denial several days later. The Planning Commission reviewed and approved written findings at the first meeting following the initial determination, which was just one day past the deadline.

We conclude that, although the Planning Commission missed the 60-day deadline to adopt a written statement that states the reasons for the denial, the delay was brief, reasonable, and did not establish prima facie arbitrariness.

C. Reasons for Denial

Lastly, Wheeler contends that the formal reasons for denial provided by the Planning Commission were inconsistent with the reasons stated on the record. The formal written statement must be "consistent with the reasons stated in the record at the time of the denial" and "provided to the applicant upon adoption." Minn. Stat. § 15.99, subd. 2(c).

The Planning Commission's formal findings include four reasons supporting the denial:

[T]he visibility of cars and general operations as viewed from public waters is potentially an issue as parking is sparse and the lot is only 100' in width at the water.

....

Approval of the application is not consistent with the policies and provisions of the Comprehensive Plan and various Watershed Management Plans and the intent, purposes, and requirements of the Cass County Land Use Ordinance and the various other Ordinances as this size of activity is blurring the lines between a residential area and commercial use.

Approval of the application is not consistent with the present land uses in the area. Neighboring properties are single family homes and close by. While the property is 4 acres, the majority of that is in the backlot and the lakeside area where individuals gather is not very large.

....

The size of the proposed rental and its impact on the neighborhood will have an undue impact on public health, safety, and welfare given the size of the short-term rental and the size of the lakefront portion of the property.

The Planning Commission members made several statements consistent with these findings on the record. In addition to robust discussions about the impact of trash and parking issues affecting the neighborhood, one member stated that "25 people impacting that narrow of riparian lot on the lake to me is an issue." Another stated: "[N]o matter what, when you have property that's on the lake, the people will always be on the lake side. That's just where people hang out" Another member pointed out that resorts require commercial classification, including registration with the state and other rules, and that the

size of operation that the Wheelers were proposing was “really starting to weigh heavier on [the] commercial side,” which is too much for the residential area. After further discussion, a Planning Commission member moved to deny the application for 25 people because the use was “too impactful for the size of the lot.”

Although the language used by the Planning Commission members is not identical to the language used in the formal findings, the reasoning is broadly the same. The Planning Commission denied Wheeler’s CUP application due to limited lakefront, a large home with high occupancy, and potential commercial use in a residential neighborhood with single-family homes located nearby.

We conclude that the Planning Commission’s written findings are consistent with the reasons for denial placed on the record, sufficient to meet the requirements of section 15.99, subdivision 2(c).

D. Prima Facie Arbitrariness

Wheeler contends that these alleged statutory violations amount to a prima facie case of arbitrariness, thereby shifting the burden to the Planning Commission to prove that its denial of the Wheeler CUP application was not arbitrary and capricious. We disagree.

A relator generally bears the burden of persuading the court that the zoning authority acted unreasonably, arbitrarily, or capriciously. *RDNT*, 861 N.W.2d at 75 n.4. However, “[i]f the decision-making body does not state reasons contemporaneously with its action, its decision will be prima facie arbitrary, and it will bear the burden of persuading the reviewing court that the facts and circumstances before it gave rise to legally sufficient reasons for denial.” *Corwine v. Crow Wing County*, 244 N.W.2d 482, 486 (Minn. 1976)

overruled on other grounds by Nw. Coll. v. City of Arden Hills, 281 N.W.2d 865 (Minn. 1979). Although the formal findings of fact were issued one day beyond the 60-day deadline, the denial was initially communicated to the Wheelers at the public meeting and are adequately reflected in the record. Additionally, the formal and complete findings were provided to Wheeler within a reasonable time. Accordingly, Wheeler has not proven that a prima facie case of arbitrariness exists, and he retains the burden of proving the Planning Commission's decision was unreasonable, arbitrary, or capricious.

II. The Planning Commission's denial of Wheeler's CUP application was not unreasonable, arbitrary, or capricious.

Wheeler challenges the Planning Commission's decision to deny his CUP application, contending that the stated reasons were legally insufficient and unsupported by the record.

Appellate courts "will reverse a governing body's decision regarding a conditional use permit application if the governing body acted unreasonably, arbitrarily, or capriciously." *RDNT*, 861 N.W.2d at 75. In considering whether a denial of a CUP application was unreasonable, arbitrary, or capricious, appellate courts apply a two-step reasonableness inquiry. *Id.* "First, [the appellate court] must determine if the reasons given by [the governing body] 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 (citation omitted).

Although Wheeler argues that each of the Planning Commission's four reasons for denying his CUP application was unreasonable, arbitrary, or capricious, we limit our

consideration to the Planning Commission’s fourth reason: that the proposed use would have “an undue impact on public health, safety, and welfare given the size of the short-term rental and the size of the lakefront portion of the property.” *See* CCLUO § 705.2(F) (requiring the Planning Commission to evaluate “factors specific to the application that impact public health, safety, and welfare.”). Because we conclude this ground is legally and factually sufficient, we do not need to address the three other grounds upon which the Planning Commission based its decision. *See Hubbard Broad., Inc. v. City of Afton*, 323 N.W.2d 757, 765 n.4 (Minn. 1982) (“Not all of the reasons stated need be legally sufficient and supported by facts in the record.”).

A. Legal Sufficiency

Under Minnesota law, a county “may by ordinance designate certain types of developments . . . as conditional uses under zoning regulations.” Minn. Stat. § 394.301, subd. 1 (2024). “Conditional uses may be approved upon a showing by an applicant that standards and criteria stated in the ordinance will be satisfied.” *Id.*

To make a legally sufficient decision, the Planning Commission needed to apply “the standards set forth in the applicable ordinance,” here the land-use ordinance. *In re Stadsvold*, 754 N.W.2d 323, 332 (Minn. 2008); *see also Honn*, 313 N.W.2d at 417 (stating that in reviewing the grant or denial of a special use permit, “reasonableness is measured by the standard set out in the particular local ordinance,” and the appellate court’s “inquiry focuses on whether the proposed use is contrary to the general welfare as already established in the zoning ordinance”). The land-use ordinance at issue provides that the

Planning Commission “shall consider” six criteria when reviewing a CUP application. *See* CCLUO § 705.2.

The Planning Commission’s written findings address each factor and subfactor individually. The Planning Commission’s determination that granting Wheeler’s CUP application would have “an undue impact on public health, safety, and welfare given the size of the short-term rental and the size of the lakefront portion of the property” is consistent with its obligation to evaluate “factors specific to the application that impact public health, safety, and welfare.” CCLUO § 705.2(F). Accordingly, we conclude that the Planning Commission’s reason for denial is legally sufficient.

B. Factual Basis in the Record

We next address whether the Planning Commission’s reason for denial—that the requested use was against public health, safety, and welfare—had a reasonable factual basis. *See RDNT*, 861 N.W.2d at 76 (requiring a reasonable factual basis even when the decision-making body had a legally sufficient reason for denying an application). We conclude that it did.

Upon review of a governing body’s decision, an appellate court’s 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.” *Id.* (quotation omitted).

Maps and surveys within the administrative record establish that the Wheeler property is 4.01-acres. *See Honn*, 313 N.W.2d at 416 (identifying materials that ordinarily constitute a factual basis as “maps, plans, surveys, studies and reports prepared by both the city staff and by the landowners”). The property is dissected by a road. The undeveloped

back lot contains most of the acreage. The lakeside portion of the lot has 100 feet of lakefront and is dominated by the 10,000 square-foot house. The house is located very close to the lakefront and the homes on either side are positioned similarly, resulting in them being approximately 100 feet away from the house. The ESD's report to the Planning Commission included a proposed finding that "[t]he size of the proposed rental and its impacts on the neighborhood may have an undue impact on health, safety, and welfare." Based on the evidence in the administrative record, one Planning Commission member reasoned that "25 people impacting that narrow of [a] riparian lot on the lake to me is an issue."

We conclude that the record contains sufficient facts supporting the Planning Commission's legally sufficient reason for denying Wheeler's CUP application.² Because the Planning Commission's denial is legally sufficient and has a reasonable factual basis, we conclude that it was not unreasonable, arbitrary, or capricious.

Affirmed.

² Wheeler offered a series of conditions he could impose on his property to eliminate conflict with the ordinance's standards. *See RDNT*, 861 N.W.2d at 78 (stating that governing body's denial is arbitrary if CUP applicant demonstrated that imposing reasonable conditions would eliminate basis for denial). However, none of the proposed conditions relates to the reason for denial addressed herein, so we do not consider those conditions in this analysis.