

Matter of Dairy Ridge, LLC, Not Reported in N.W. Rptr. (2025)

2025 WL 958513

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P. 136.01(1)(C) AND MINN. ST. SEC. 480A.08(3).

Court of Appeals of Minnesota.

In the MATTER OF the Application of DAIRY  
RIDGE, LLC, for a Conditional Use Permit.

A24-0640

|

Filed March 31, 2025

Todd County Board of Commissioners

**Attorneys and Law Firms**

Gary R. Leistico, Jayne E. Esch, Thomas S. Maigaard,  
Leistico & Esch, PLLC, Clear Lake, Minnesota (for relator  
Dairy Ridge)

Kristin C. Nierengarten, Molly M. Fischl, Squires,  
Waldspurger & Mace, P.A., Minneapolis, Minnesota (for  
respondent Todd County)

Considered and decided by Worke, Presiding Judge;  
Connolly, Judge; and Kirk, Judge. \*

**NONPRECEDENTIAL OPINION**

CONNOLLY, Judge

\*1 On certiorari appeal from the denial of its request for a conditional use permit (CUP), relator-applicant argues that respondent-county board's decision was arbitrary, capricious, unreasonable, and/or made without a rational basis. We affirm.

**FACTS**

Relator Dairy Ridge, LLC operates a 75-acre farm in Todd County that maintains approximately 1,700 dairy cows.

In November 2023, Dairy Ridge applied for a CUP with respondent Todd County Board of Commissioners (board), seeking to expand its feedlot by 700 dairy cows. Dairy Ridge also sought to construct two confinement barns; expand an existing barn; construct both an earthen and a concrete liquid manure storage area; and expand the feed storage area. In its CUP application, Dairy Ridge acknowledged that the feedlot expansion would result in “an increase in traffic ... from more milk trucks and trucks at harvest,” and admitted that “[t]here may be a slight increase in odor.”

The Todd County Planning & Zoning Commission (planning commission) reviewed Dairy Ridge's CUP application at its December 7, 2023 public meeting. Prior to this meeting, Mark Anderson, a hydrologist with the Minnesota Department of Natural Resources (DNR), submitted a letter to the planning commission expressing “concern regarding groundwater sustainability” in light of Dairy Ridge's CUP application. Anderson's letter informed the planning commission that in 2020 or 2021, Dairy Ridge began operating a third well on its property without approval from the DNR, which resulted in five “well interference issues with neighboring properties.” These wells draw water from the B1 aquifer, and Anderson explained that the B1 “aquifer is limited and there are no other mapped aquifers available within one mile.” Anderson further explained that “[w]ater level data is limited from [the B1] aquifer, but available data indicates a 25-to-30-foot water decline over the past 20 years.” And according to Anderson, Dairy Ridge applied to the DNR for the applicable permit to operate the third well, but the DNR has “yet to issue an amendment adding the additional irrigation well as [it is] waiting on monitoring data from the 2023 irrigation season.”

Several neighboring landowners also commented publicly about Dairy Ridge's well interferences and expressed concern that their wells might run dry if Dairy Ridge's CUP application were granted. In addition, several neighboring landowners expressed concerns about increased traffic and safety issues related to Dairy Ridge's CUP application.

After the December 7, 2023 meeting, the planning commission tabled the CUP application to allow more time to gather information from the DNR. The planning commission subsequently received the DNR's 2023 groundwater investigation report referenced in Anderson's letter. The report documented the strain on the B1 aquifer due to its high usage, particularly from the three wells operated by

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Dairy Ridge. The report also noted that there were five well interferences that occurred in 2021. Although the report acknowledged that Dairy Ridge reimbursed the well owners for the costs related to well interference, the report noted that more well interference is expected. The DNR's report concluded that it would need to monitor groundwater levels in the B1 aquifer and collect additional well information to monitor and assess the viability of the B1 aquifer.

**\*2** At the next meeting on January 4, 2024, the planning commission again heard public comments related to Dairy Ridge's CUP application.<sup>1</sup> Anderson attended the meeting and reiterated concerns related to groundwater sustainability because the B1 aquifer is “very confined” with a “limited capacity.” Anderson also reiterated that well interferences will continue if the DNR allows additional use of the B1 aquifer. And Anderson stated that the DNR might choose not to grant Dairy Ridge's application for use of its third well in light of the B1 aquifer's sustainability issues.

Neighboring landowners again expressed concern about the B1 aquifer's sustainability if the CUP were granted. Another neighboring landowner expressed concern that the feedlot expansion would cause increased odors. And another neighboring landowner stated that their well water contained high levels of nitrates, which increases the risk of cancer. The neighbor opined that the high levels of nitrates might be related to manure from Dairy Ridge.

Dairy Ridge's representative stated that Dairy Ridge was in the process of obtaining a permit to pump water from the H1 aquifer, which is a more “robust” aquifer located “in the airport area.” He also stated that, if the B1 aquifer “starts falling down,” Dairy Ridge would engage in nighttime irrigation, which he described as a more conservation-oriented irrigation process.

At the end of the January 4 meeting, the planning commission decided to recommend approval of the CUP application with several conditions, including the requirement that Dairy Ridge “obtain ... DNR waters withdrawal permitting.” The planning and zoning division director then spoke at the next county board meeting on January 16, 2024, and explained that the recommendation included conditions that provided safeguards for manure spreading and seepage. He also explained that, because Dairy Ridge's feedlot is greater than

1,000 animals, the Minnesota Pollution Control Agency (MPCA), not the county, controls the regulation of manure management.

Several neighboring landowners also spoke at the meeting and expressed the following concerns related to Dairy Ridge's CUP application: (1) the mismanagement of manure spreading and its runoff into a nearby lake, which is already high in phosphorus; and (2) public health, safety, and welfare due to high levels of nitrates in well water. Conversely, a Dairy Ridge representative claimed that if the CUP were granted, “we will save 18 million gallons of water from the aquifer, because we are going to reuse it ... from our third stage of our manure pit and the cows are going to drink, in theory.... [S]o there's 11 million gallons of water saved by ... this expansion.” He also claimed that Dairy Ridge was “likely” to get the permit from the DNR to draw water from the H1 aquifer because the DNR is “very favorable of pulling water from the airport aquifer, which is a very robust aquifer.” And the representative stated that Dairy Ridge had purchased land close to nearby lakes to act as a “buffer” to prevent manure runoff.

After hearing public comments, members of the board expressed concern over water quantity levels of the B1 aquifer, and whether permitting through the DNR would actually ensure water quantity protection. Another board member wanted to know how much water the DNR would allow Dairy Ridge to draw from the B1 aquifer. The board concluded that a workshop was necessary to discuss these lingering concerns.

**\*3** At the first workshop on February 6, 2024, the Todd County Soil and Water Conversation district manager confirmed that Dairy Ridge is regulated by the MPCA, and that a recent inspection by the MPCA found Dairy Ridge's National Pollutant Discharge Elimination System permit to be in full compliance. The district manager also acknowledged that Dairy Ridge's current livestock water permit draws from the B1 aquifer and that there were four or five well interferences in 2021. But the district manager claimed that the well interferences were “not entirely associated with the livestock operation,” rather, they were “more likely [caused] from unusual irrigation usage in the area due to a drought year.” Finally, the district manager opined that concerns related to the B1 aquifer should be addressed directly with the DNR since that is their expertise.

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At the next workshop on February 20, 2024, a hydrologist spoke on behalf of Dairy Ridge and explained that, even with the feedlot expansion, the proposal is to use significantly less water from the B1 aquifer because Dairy Ridge had begun the process to apply for a permit to draw from the H1 aquifer. But the hydrologist acknowledged that, during dry seasons, the water levels in both the B1 and H1 aquifers might slightly drop because a lack of precipitation would require more irrigation, and “the more you pump from the aquifer, the lower that water level is going to go during the growing season.”

At the end of the workshop, the division director proposed several conditions, in addition to the conditions suggested by the planning commission, for the board to consider with the CUP. These conditions included requirements that Dairy Ridge obtain proper permitting from the appropriate governmental agencies.

After the February 20 workshop, the DNR sent a letter to Dairy Ridge regarding the DNR's preliminary assessment for well construction in connection with Dairy Ridge's outstanding application to source water from the H1 aquifer in addition to sourcing from the B1 aquifer. The letter identified potentially significant resource impacts on nearby trout streams, and stated that “[a] permit application to use groundwater near trout streams must be evaluated so the project does not negatively impact trout stream resources.” The letter also stated that Dairy Ridge's project could impact domestic wells, surface water features, and drinking water. And the letter added that a groundwater technical review of Dairy Ridge's application was necessary and that, depending on the results of this review, “an observation well in the water table aquifer or an aquifer test may be recommended.”

At the next board meeting on March 5, 2024, several neighboring landowners continued to voice their concerns related to the B1 aquifer's sustainability, as well as potential detrimental environmental effects associated with the CUP. Moreover, one board member expressed concern that Dairy Ridge's permit applications had not yet been granted and that an analysis of the B1 aquifer had not yet been conducted to determine the health of that aquifer. This board member added that the DNR was still waiting for information related to an “elevation threshold,” which was imperative to determine a

“safe yield analysis.” And another board member indicated that this information may not be available for months.

At the end of the meeting, the board voted to deny the CUP. A written notice of denial was then issued, which provided the following reasons for the board's denial of the CUP:

1. Lack of information provided by the [DNR] in order to make an informed decision about water quantity protections.
2. Insufficient availability of groundwater to supply the requested increase in animal units.
3. Lack of correct information related to ground water and that the County shall have the final decision in protection of ground water quantity.

\*4 4. Health, safety, and welfare for the citizens of Todd County.

This certiorari appeal follows.

## DECISION

Dairy Ridge challenges the board's decision to deny its CUP application. “A county board's decision regarding a CUP is quasi-judicial and reviewable by writ of certiorari.” *August v. Chisago Cnty. Bd. of Comm'rs*, 868 N.W.2d 741, 744 (Minn. App. 2015), rev. denied (Minn. Dec. 15, 2015). Out of respect for the separation of powers, our review is limited and deferential. See *Big Lake Ass'n v. Saint Louis Cnty. Plan. Comm'n*, 761 N.W.2d 487, 491 (Minn. 2009). We will not overturn a county board's decision simply because we may have come to a different conclusion. See *VanLandschoot v. City of Mendota Heights*, 336 N.W.2d 503, 509 (Minn. 1983). But, “[s]ince zoning laws are a restriction on the use of private property, a landowner whose application for a [CUP] has been denied has a lighter burden than one who challenges approval of a permit.” *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75 n.4 (Minn. 2015).

The basic standard of review for all zoning matters is the same: “whether the zoning authority's action was reasonable.” *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 417 (Minn. 1981). Caselaw has expressed the standard in various ways, including whether the decision is “unreasonable, arbitrary

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or capricious.” *Id.*; see also *RDNT*, 861 N.W.2d at 75-76 (applying the unreasonable, arbitrary or capricious standard to a CUP appeal). This court reviews the county board's decision “to see whether there was a reasonable basis for the decision, or whether the county acted unreasonably, arbitrarily, or capriciously.” *Schwardt v. County of Watonwan*, 656 N.W.2d 383, 386 (Minn. 2003).

In considering whether a CUP and its conditions are reasonable we apply a two-step inquiry. *RDNT*, 861 N.W.2d at 75-76. “First, we must determine if the reasons given by [the 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.* (citation omitted). The party challenging the decision must prove that the reasons for the decision were legally insufficient or not supported by the record. *Sagstetter v. City of St. Paul*, 529 N.W.2d 488, 492 (Minn. App. 1995). But “[n]ot all reasons for the denial of a [CUP] need be legally sufficient and supported by facts in the record. Thus, a city's denial of a land use request is not arbitrary when at least one of the reasons for the denial satisfies the rational basis test.” *Trisko v. City of Waite Park*, 566 N.W.2d 349, 352 (Minn. App. 1997) (quotations and citation omitted), *rev. denied* (Minn. Sept. 25, 1997).

Dairy Ridge challenges the board's decision to deny the CUP application, arguing that the decision is arbitrary, capricious and unreasonable because “all reasons given by the [b]oard lack a factual basis,” and “at least two of the reasons given by the [b]oard are legally insufficient.” Dairy Ridge also contends that the denial of its CUP application is unreasonable because Dairy Ridge “demonstrated that all of the standards specified by the zoning ordinance as conditions of granting the permit had been met.” We address these arguments in turn.

**A. Lack of information provided by the DNR related to water quantity.**

\*5 The first reason provided by the board for denying the CUP application was: “Lack of information provided by the [DNR] in order to make an informed decision about water quantity protections.” Dairy Ridge argues first that this reason is legally insufficient because nothing in the applicable zoning ordinance “authorizes the [b]oard to deny a CUP application because a specific *state agency* did not demonstrate one of the factors for granting a CUP had been satisfied.” We disagree.

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.* In determining what constitutes a legally sufficient reason for denying a CUP, we look to the applicable zoning ordinance as an expression of the county board's policy determinations regarding what uses will promote the public health, safety, morals, or general welfare. See *Honn*, 313 N.W.2d at 417.

Pursuant to Todd County's land-use ordinance, “[t]he applicant for a [CUP] has the burden of demonstrating that the standards listed in [the ordinance] have been satisfied.” Todd County Planning and Zoning Ordinance § 5.05(A) (2017). But as the board points out, there is nothing in the applicable ordinance prohibiting the board from considering evidence, or a lack thereof, from state agencies or other sources when issuing its findings. See *id.* Moreover, caselaw explains that, in reviewing a decision by a local governing body, the reviewing court looks to the record as a whole to determine if the decision was legally valid. See *Barton Contracting Co. v. City of Afton*, 268 N.W.2d 712, 718 (Minn. 1978). It follows that, in making its decision, the board also looks to the record as a whole, not just the information provided by Dairy Ridge. Therefore, the board's reliance on the lack of information provided by the DNR is a legally sufficient basis to deny the CUP application.

Dairy Ridge also contends that the first reason provided by the board for denying the CUP lacks a factual basis in the record. But Todd County's zoning ordinance provides that, in granting a CUP, the board must find:

The use will not create a pollution hazard or other detrimental environmental effects both during and after construction. Effects to be considered shall include, but not be limited to, soil erosion and sedimentation, pollution or other degradation of surface waters and ground water supplies, *impact on*



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*water supply*, and adequacy of sewage treatment.

Todd County Planning and Zoning Ordinance § 5.05(B)(v) (2017) (emphasis added).

Here, one of the primary issues related to Dairy Ridge's CUP application involved groundwater quantity concerns. In assessing this issue, the board looked to the DNR for information related to groundwater testing and Dairy Ridge's permit applications. But the record reflects that, throughout the CUP-application process, the board lacked definitive answers addressing the groundwater concerns. For example, the record indicates that the DNR intended to monitor groundwater levels in the B1 aquifer and collect well information to monitor and assess the viability of the B1 aquifer. But the record also reflects that this information was unavailable at the time the board denied Dairy Ridge's CUP application.

Moreover, the record indicates that, at the time Dairy Ridge's CUP application was denied, the DNR had still not approved the permit for the third well on Dairy Ridge's property that was pumping water from the B1 aquifer. In fact, Anderson stated that the DNR might choose not to grant Dairy Ridge's application for use of its third well in light of the B1 aquifer's sustainability issues. And although Dairy Ridge proposed using water from the H1 aquifer, the DNR had not yet issued a permit allowing Dairy Ridge to proceed with this plan. This lack of information was consistent throughout the proceedings, and the board consistently referenced this lack of information at the various meetings. As such, there is a sufficient factual basis in the record to support the first reason provided by the board for denying the CUP.

**B. Insufficient availability of groundwater.**

\*6 The second reason provided by the board for denying Dairy Ridge's CUP application is: "Insufficient availability of groundwater to supply the requested increase in animal units." Dairy Ridge contends that this reason is "arbitrary, capricious, unreasonable, and lacks a factual basis" because it "directly contradicts the [b]oard's first reason for denial—that they do not have enough information to make a decision on ground water protection/quantity."

We are not persuaded. As the board points out, it "did not find that there was simply insufficient information about groundwater .... Rather it found that there was insufficient information related to *groundwater protections* to allow for an informed decision on such protections." (Emphasis added.) In other words, the board identified an issue related to the sufficiency of groundwater availability, and then determined that it needed additional information from the DNR concerning how to address this issue in light of Dairy Ridge's CUP application. As addressed above, this additional information was lacking at the time the board denied the CUP application. And without this information, the board determined that it could not impose conditions to reach a solution that would satisfy the CUP criteria after several months of consideration. As such, the board's first and second reasons for denying the CUP are not directly contradictory.

Dairy Ridge also argues that the second reason provided by the board for denying the CUP lacks "meaningful support" in the record because the proposed expansion will significantly reduce the amount of water appropriated from the B1 aquifer by allowing Dairy Ridge to (1) reuse water taken from the B1 aquifer, and (2) draw water from the more "robust" H1 aquifer. But "counties have wide latitude in making decisions about special use permits." *Schwardt*, 656 N.W.2d at 386. And it is well settled that it is not our function as the reviewing court to reweigh the evidence. *RDNT*, 861 N.W.2d at 76. Rather, our function is to "review the record to determine whether there was legal evidence to support the zoning authority's decision." *Id.* (quotation omitted). In doing so, we generally defer to the zoning authority's judgment on conflicting evidence. *Id.*

Here, there was ample evidence in the record suggesting that the B1 aquifer has become stressed. Although the hydrologist who spoke on behalf of Dairy Ridge explained that the feedlot expansion would use significantly less water from the B1 aquifer because Dairy Ridge had begun the process to apply for a permit to draw from the H1 aquifer, there was no requirement that the board place greater weight on the hydrologist's testimony. In fact, the hydrologist acknowledged that during dry seasons, the water levels in both the B1 and H1 aquifers might slightly drop. And the hydrologist acknowledged that a lack of precipitation would require more irrigation, and that "the more you pump from the aquifer, the lower that water level is going to go during the growing season."

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Moreover, the record reflects that, at the time the CUP was denied, Dairy Ridge's permit application to draw from the H1 aquifer had not yet been approved. In fact, at the February 20 workshop, the DNR sent a letter to Dairy Ridge regarding the DNR's preliminary assessment for well construction related to Dairy Ridge's application to source water from the H1 aquifer. This letter identified potentially significant resource impacts on nearby trout streams, and stated that "[a] permit application to use groundwater near trout streams must be evaluated so the project does not negatively impact trout stream resources." The letter also stated that Dairy Ridge's project could impact domestic wells, surface water features, and drinking water. As such, evidence in the record suggests that approval of Dairy Ridge's permit to draw water from the H1 aquifer was not a foregone conclusion.

\*7 Furthermore, several neighboring landowners expressed concerns that Dairy Ridge's CUP would adversely affect their wells. For example, one landowner claimed that Dairy Ridge caused his and other nearby neighbors' wells to run dry. And another landowner stated that his well was "sucking a little air," and that his neighbor had to drop his well by 20 feet. Accordingly, there is substantial evidence in the record to support the board's denial of the CUP application based on "[i]nsufficient availability of groundwater to supply the requested increase in animal units."

**C. Lack of correct information related to groundwater.**

The third reason provided by the board for denying the CUP application was due to "[l]ack of correct information related to ground water and that the County shall have the final decision in protection of ground water quantity." Dairy Ridge challenges this reason, arguing first that it is legally insufficient "because it demonstrates a fundamental misunderstanding of conditional use permits and the procedures for issuance under the Todd County Zoning Ordinance and other applicable law." According to Dairy Ridge, the board "can obtain additional information and ensure compliance with specific directives by making the permit *conditional* on the satisfaction of certain conditions/criteria."

To support its position, Dairy Ridge cites *Yang v. County of Carver*, in which the relator sought a CUP to operate a custom

slaughterhouse as a farm-related business on his property. 660 N.W.2d 828, 830 (Minn. App. 2003). The county denied the CUP, in part because the relator's "operational plan failed to adequately describe provisions taken to comply with state regulations concerning water service, sewage and wastewater disposal, parking, sanitation facilities, rendering, and livestock delivery at the slaughterhouse." *Id.* at 835. On appeal, this court noted that the relator "recognized that he cannot operate his slaughterhouse until he complies with all applicable state regulations and obtains the relevant licenses." *Id.* The court also noted that it was suggested that the county condition issuance of the CUP on the relator obtaining the relevant licenses. *Id.* This court then stated that "specific state licensing standards concerning water service, sewage and wastewater disposal, sanitary facilities, livestock delivery, and rendering services are not established by the [county] or [county] ordinance, and it is not the county's responsibility, under the ordinance, to enforce compliance with these standards." *Id.* Thus, the court concluded that the county "acted arbitrarily in denying [the relator's] application on the grounds that his operational plan inadequately described his compliance with state standards" because the county "had no duty to ensure state regulations were met, and should have reserved the question of regulatory compliance for relevant state agencies by conditioning issuance of the [CUP] on [the relator's] confirmed compliance with state standards." *Id.*

We conclude that *Yang* is distinguishable from the circumstances presented in this case. In *Yang*, the relator needed certain permits and licenses in order to operate his slaughterhouse. *Id.* In contrast, the outstanding permits in this case related to groundwater concerns were not necessarily a requirement for Dairy Ridge to operate a feedlot. In other words, the record indicates that Dairy Ridge has the necessary licenses to operate a feedlot, but it sought permits related to the B1 and H1 aquifers. The concerns related to groundwater involved both quality and quantity and may not have been alleviated even if Dairy Ridge's permit applications were granted by the DNR. For example, the hydrologist who spoke on behalf of Dairy Ridge acknowledged that, during dry seasons, the water levels in both the B1 and H1 aquifers might slightly drop, indicating concerns related to water quantity even if Dairy Ridge's permit to draw from the H1 aquifer was approved.

\*8 Moreover, and perhaps more importantly, a letter sent from the DNR after the February 20 workshop indicated that,

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even if Dairy Ridge's permit to draw from the H1 aquifer was approved, Dairy Ridge's project could impact domestic wells, surface water features, and drinking water. The record reflects that these concerns include the presence of nitrates in local wells, which increases the risk of [cancer](#). And the record reflects that the presence of nitrates in local drinking water may be exacerbated if Dairy Ridge's CUP were approved due to the increase in manure.

State law recognizes that counties have general authority to promote health, safety, and the general welfare of their communities through planning and zoning. *See Minn. Stat. §§ 394.21, .301* (2024). And in determining what constitutes a legally sufficient reason for denying a CUP, we look to the applicable zoning ordinance as an expression of the county board's policy determinations regarding what uses will promote the public health, safety, or general welfare. *See Honn, 313 N.W.2d at 417*. The applicable ordinance in this instance specifically provides that the board must make findings regarding impacts on surrounding properties, detrimental environmental effects on groundwater, and potential adverse effects on public health, safety, and welfare. Todd County Planning and Zoning Ordinance § 5.05(B) (2017).

Here, in light of the groundwater-quality concerns, the board's decision to deny Dairy Ridge's CUP application for a lack of correct information related to groundwater directly involved the health, safety, and general welfare of the local community. The board's third reason for denying the CUP was, therefore, legally sufficient.

Dairy Ridge also contends that the board's third reason for denying the CUP lacks an adequate factual basis. But this reason is similar to the first two reasons provided by the board because it relates to groundwater concerns. As addressed above, the record reflects that the board consistently lamented about the lack of accurate information related to the effect that Dairy Ridge's feedlot expansion would have on groundwater quantity and quality. And, as addressed above, the record supports the board's concerns. Although Dairy Ridge claims it provided information to alleviate the concerns related to groundwater quantity and quality, the board was not obligated to credit this information, particularly in light of the DNR's lack of definitive information on these issues. It is not the province of this court to reweigh the evidence considered by the board. *See VanLandschoot, 336 N.W.2d at 509* (stating

that a reviewing court will not overturn a county board's decision simply because it may have come to a different conclusion). As such, the board's third reason for denying Dairy Ridge's CUP application is supported by a sufficient factual basis.

**D. Health, safety, and welfare of county citizens.**

The fourth reason provided by the board for denying the CUP application was: "Health, safety, and welfare for the citizens of Todd County." Dairy Ridge challenges this reason, claiming that the conditions articulated by the division director "ensure[s] the protection of the health, safety, and welfare of Todd County's citizens." And Dairy Ridge contends that the record "demonstrates [that] the proposed expansion will actually help the health, safety, and welfare of Todd County citizens" because its "proposal for expansion will substantially reduce water appropriation from the B1 aquifer," and the proposed conditions "ensure manure spreading and storage would not result in any adverse effects." Thus, Dairy Ridge contends that the fourth reason provided by the board lacks an adequate factual basis.

**\*9** We disagree. As addressed above, the board's reservations related to Dairy Ridge's feedlot expansion were primarily based on groundwater quantity and quality concerns, which are directly related to the health, safety, and general welfare of the county citizens. Although Dairy Ridge offered evidence tending to alleviate groundwater quantity and quality concerns, there was also evidence presented contradicting Dairy Ridge's position.

Moreover, the record reflects that neighboring landowners expressed concern that Dairy Ridge's expansion would increase traffic and odor. In fact, Dairy Ridge's CUP application acknowledges that its expansion would increase traffic and odor from manure. An increase in traffic and odor are also directly related to the health, safety, and general welfare of local citizens. Accordingly, the board's fourth reason for denying Dairy Ridge's CUP application has a factual basis in the record.

**E. Applicable zoning ordinance conditions.**

Finally, Dairy Ridge argues that the denial of its CUP application is unreasonable because its "proposed expansion meets all standards for granting a CUP outlined in

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Todd County's Zoning Ordinance.” We disagree. 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](#). Before approving a conditional use, a county may require an applicant to show that the standards and criteria in the ordinance will be satisfied. *Id.*; see also [Schwardt, 656 N.W.2d at 387](#) (“[C]ounties may approve conditional uses if the applicant satisfies the standards set out in the county ordinance.”).

The Todd County zoning ordinance lays out nine findings that the board must make prior to granting a conditional use permit. Todd County Planning and Zoning Ordinance § 5.05. These nine findings require consideration of various factors, such as the impacts on development in the surrounding areas; detrimental environmental effects, including groundwater impacts; and impacts on public health, safety, and welfare. *Id.* § 5.05(B).

Here, despite Dairy Ridge's argument to the contrary, its proposed expansion fails to satisfy all the standards for granting a CUP as outlined in the Todd County zoning ordinance. As addressed above, the board found that there were concerns related to groundwater quantity and quality, which is one of the considerations listed in the applicable ordinance. *See id.* Moreover, the board found that there were concerns related to the impacts on public health, safety,

and welfare, which is another consideration listed in the ordinance. *See id.* These findings are supported by the record and provided a sufficient legal and factual basis to deny Dairy Ridge's CUP application.

Dairy Ridge further argues that, because the planning commission voted to approve the CUP based upon certain conditions, the board acted arbitrarily by failing to consider the planning commission's decision, and ultimately denying the CUP. Indeed, the board is required by ordinance to “consider the advice and recommendations of the Planning Commission.” *Id.* But the ordinance does not require the board to *adopt* the planning commission's recommendation; rather, the board must simply consider it. *See id.* The record reflects that the board considered the planning commission's recommendation, but decided to deny the permit based on several considerations. As addressed above, the board's decision is legally sufficient and has a factual basis in the record. Accordingly, Dairy Ridge has failed to meet its burden to show that the board's decision is unreasonable, arbitrary, or capricious.

**\*10 Affirmed.**

**All Citations**

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**Footnotes**

- \* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to [Minn. Const. art. VI, § 10](#).
- 1 A decision on a CUP application must be made within 60 days of the application unless the applicable county extends the deadline by another 60 days for further consideration. [Minn. Stat. § 15.99, subds. 2, 3\(f\) \(2024\)](#). Prior to the January 4, 2024 meeting before the planning commission, the board voted to extend the statutory 60-day deadline to allow additional time to gather necessary information.