STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0110

Douglas A. Ruhland,
Appellant,

vs.

City of Eden Valley,
Respondent.

Filed July 1, 2013
Affirmed
Larkin, Judge

Stearns County District Court
File No. 73-CV-12-4550

Douglas A. Ruhland, Ruhland Law Office, Ltd., Eden Valley, Minnesota (attorney pro se)

Paul A. Merwin, League of Minnesota Cities, St. Paul, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Halbrooks, Judge; and Larkin, Judge.

U N P U B L I S H E D O P I N I O N

LARKIN, Judge

On appeal from the district court's summary-judgment order confirming respondent-city's decision to rezone certain property from "single and two-family residential" to "commercial reserve," appellant argues that the city (1) failed to follow its

comprehensive plan; (2) failed to comply with its zoning ordinance; (3) did not make sufficient findings of fact to support its decision and the record does not support the findings that it did make; (4) made a decision that constitutes impermissible spot zoning; and (5) made a decision that was improperly impacted by conflicts of interest. We affirm.

FACTS

Jeff Wendroth owns undeveloped land on the northern border of the City of Eden Valley. The property is bordered on the west by state highway 22, on the north by township land that is zoned residential, on the east by undevelopable agricultural land, and on the south by a manufactured-home park. The land to the west of highway 22 is also residential township land. When Wendroth purchased the property, it was zoned "single and two-family residential," but it was designated as a future growth area for "manufactured housing" in the city's 2001 comprehensive plan. The property does not have a residence on it, and it is not connected to the city's water or sewer lines.

On February 13, 2012, Wendroth applied to have the property rezoned "residential/commercial reserve," so he could use the property for his landscaping business. Wendroth currently uses his mother's property on the west side of highway 22 to store the equipment and materials for his business. There are also references in the record to the possibility of building a house on the property.

The city published notice of a public hearing on Wendroth's application before the planning and zoning commission and requested written comments from the public. Appellant Douglas Ruhland, an Eden Valley attorney and property owner, submitted

written comments opposing the application. Ruhland argued that the commission should deny Wendroth's application "on the basis that it would be 'spot zoning' and is neither provided for in the Comprehensive Plan nor the Zoning Ordinance." On March 14, the commission held a public hearing, during which it heard from Ruhland and Wendroth, reviewed Ruhland's written comments and city attorney Adam Ripple's advice on those comments, and discussed the zoning request. At the close of the hearing, the commission voted unanimously to recommend approval of Wendroth's zoning application.

The city council considered Wendroth's application at its regular meeting on April 4. After hearing from Ruhland and discussing his concerns, the city council unanimously voted to approve Wendroth's zoning application. Ruhland appealed the city's decision to the district court, and the district court granted the city's motion for summary judgment. This appeal follows.

D E C I S I O N

A city's enactment and amendment of its zoning ordinance and map are legislative acts that are expressly authorized by Minnesota law. Minn. Stat. § 462.357, subd. 1, 4 (2012); *State, by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885, 888 (Minn. 1978). "[T]he standard of review for legislative zoning decisions is narrow." *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 414 (Minn. 1981). When reviewing a city's zoning decision, an appellate court does not give special deference to the conclusions of the district court; instead, it conducts an independent examination of the record and the city's decision. *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 180 (Minn. 2006).

"We uphold a city's land use decision unless the party challenging that decision establishes that the decision is unsupported by any rational basis related to promoting the public health, safety, morals, or general welfare." *Id.* (quotation omitted). That is, we review a city's land-use decision to determine if it was unreasonable, arbitrary, or capricious, focusing on the legal sufficiency and factual basis for the city's zoning decision. *See Swanson v. City of Bloomington*, 421 N.W.2d 307, 313 (Minn. 1988). A city's zoning decision is "not arbitrary when at least one of the reasons given . . . satisfies the rational basis test." *St. Croix Dev., Inc. v. City of Apple Valley*, 446 N.W.2d 392, 398 (Minn. App. 1989), *review denied* (Minn. Dec. 1, 1989). "Even if the city council's decision is debatable, so long as there is a rational basis for what it does, the courts do not interfere." *Mendota*, 708 N.W.2d at 180 (quotation omitted). "The mere fact that a court might have reached a different conclusion, had it been a member of the council, does not invalidate the judgment of the city officials if they acted in good faith and within the broad discretion accorded them by statute and ordinance." *St. Croix*, 446 N.W.2d at 398.

Before addressing the specific issues that are raised on appeal, we first clarify the zoning classification that resulted from the city's approval of Wendroth's application. Wendroth applied to have his property rezoned from "single and two-family residential" to "residential/commercial reserve." That request is somewhat ambiguous because "residential/commercial reserve" is not a zoning classification recognized by the city's zoning ordinance. Nonetheless, the city "approved" the application as submitted. However, the record shows that the commission and city council construed Wendroth's application as a request for only "commercial reserve" classification. For example, the

city's zoning administrator sought city attorney Ripple's advice on Wendroth's "request . . . to change it to Comm-Res." In addition, in considering the application, the commission and council focused on the prospect of zoning the property for commercial use. Lastly, at oral argument to this court both parties confirmed that the resulting classification is commercial reserve and not a combination of residential and commercial.

Having clarified that the resulting zoning classification is commercial reserve, we turn to the issues raised on appeal.

I.

Ruhland first argues that the city "completely ignored" the criteria contained in its zoning ordinance for granting amendments to its zoning ordinance and zoning map by failing to follow its comprehensive plan. Eden Valley's zoning ordinance authorizes the city council to adopt amendments to its zoning ordinance and zoning map and provides that such amendments "shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the City." Eden Valley, Minn., Zoning Ordinance (EVZO) § 519.090, subd. 1 (2003). Ruhland argues that the city's decision should be reversed because it is inconsistent with the city's comprehensive plan and thus constitutes an arbitrary exercise of the city's power.

Minn. Stat. § 462.353, subd. 1 (2012), expressly authorizes cities to prepare, adopt, and amend a comprehensive municipal plan and implement the plan by ordinance. A comprehensive municipal plan is "a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and

public, of the municipality and its environs." Minn. Stat. § 462.352, subd. 5 (2012). "A comprehensive plan represents the planning agency's recommendations for the future development of the community." *Id.* Although entitled to some weight, a comprehensive plan is "generally viewed as advisory and the city is not unalterably bound by its provisions." *Amcon Corp. v. City of Eagan*, 348 N.W.2d 66, 74 (Minn. 1984).

The city determined that zoning Wendroth's property as commercial reserve is consistent with the city's comprehensive plan because it "[e]ncourages development of commercial uses along highway corridors," "[p]rovides a transition from intense uses like highway to less intense uses like residential and agricultural," and "[f]osters commercial growth within the City." Ruhland challenges those findings. Ruhland contends that the city's plan contemplates an expansion of commercial uses within the highway 55 corridor but not along highway 22, which borders the property. Ruhland notes that the city's comprehensive plan expressly "provides for an expansion of commercial areas that are highway oriented by providing for additional development within the Highway 55 corridor." Although the city's plan expressly contemplates an expansion of commercial uses along highway 55, it does not preclude similar expansion along highway 22 as Ruhland suggests. Ruhland also contends that allowing Wendroth to relocate his business does not foster commercial growth or provide a transition area between more and less intense uses. Although record support for the city's findings regarding the second and third aspects of the comprehensive plan is lacking, the city's finding regarding the development of commercial uses along highway corridors adequately

supports the city's determination that the zoning request is consistent with the comprehensive plan.

II.

Ruhland also argues that the city failed to comply with its zoning ordinance by ignoring the stated purpose of the "commercial reserve" classification. Ruhland characterizes the "commercial reserve district" as "a buffer zone intended to allow existing residential use in areas that are zoned to expand commercial areas" and argues that "[t]he use of this district for an undeveloped tract of land surrounded by residential uses, and not in any way remotely connected to a Commercial District, is contrary to the express purpose as set forth in the zoning ordinance." Ruhland essentially argues that "commercial reserve" is not a permissible zoning classification for Wendroth's property, because the property does not have an existing residential use and it is not adjacent to an existing commercial district.

Interpretation of a zoning ordinance is a question of law "subject to three rules of construction: (1) terms should be construed upon their plain and ordinary meaning; (2) any ambiguity should be resolved against the governing body; and (3) the regulation should be considered in light of any underlying policy goals." *My Brother's Keeper v. Scott Cnty.*, 621 N.W.2d 479, 480-81 (Minn. App. 2001) (citing *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608-09 (Minn. 1980)). The city considered Ruhland's interpretation of its zoning ordinance, along with city attorney Ripple's advice on the issue, and determined that "commercial reserve" is a permissible zoning classification for Wendroth's property.

The city's zoning ordinance explains the commercial-reserve classification as follows:

> Land areas designated on the Zoning Map as Commercial Reserve ("COM - R") are part of the Highway Commercial District ("COM") and are intended to provide space for future expansion of all permitted, accessory, and conditional uses in the Highway Commercial District ("COM"). All provisions of the Highway Commercial District shall apply except that existing residential uses within the Commercial Reserve District shall comply with either the provisions of the Low Density Residential District ("RSF") or the High Density Residential District ("RMF") depending upon the existing use. Until conversion of a residential structure into a permitted Highway Commercial District use is accomplished, the residential structure and its land shall be treated as permitted uses but will be regulated for zoning purposes by the ("RSF") and ("RMF") zoning regulations.

EVZO § 509.010 (2003). The zoning ordinance explains the highway-commercial classification as follows:

> The purpose of the "COM" Highway Commercial Business District is to provide for and limit the establishment of motor vehicle oriented or dependent high intensity commercial and service activities and acceptable "quasi-industrial" and wholesale enterprises that do not need an industrial setting but which have considerable customer contact. Permitted uses take advantage of direct access to major highways, frontage roads or streets intersecting a highway in a manner other businesses are not afforded.

EVZO § 508.010 (2003). Neither the commercial-reserve classification nor the highway-commercial classification allows new residential uses. *See* EVZO §§ 508.020, 509.020 (2003).

Ruhland argues that the purpose of "[t]he Commercial Reserve District, as defined in the ordinances, is to allow mixed-use commercial and existing residential uses in the

Commercial Reserve District until conversion of the residential structure into a permitted Highway Commercial District use is accomplished." In other words, because section 509.010 provides for "existing residential uses within the Commercial Reserve District," Ruhland contends that the commercial-reserve classification is only appropriate if there is an existing residential use on the property. Ruhland also argues that the city's zoning decision does not comply with section 509.010 because Wendroth's property is "detached or apart from and separate from the existing Highway Commercial District." We conclude that the plain language of the ordinance supports the city's decision.

First, even though section 509.010 contemplates and allows for existing residential uses, it does not make such uses a prerequisite for commercial-reserve designation. Instead, the commercial-reserve classification is generally reserved for land areas "intended to provide space for future expansion of all permitted, accessory, and conditional uses in the Highway Commercial District." And the part of section 509.010 stating that "existing residential uses within the Commercial Reserve District shall comply with either the provisions of the Low Density Residential District ("RSF") or the High Density Residential District ("RMF") depending upon the existing use" only applies if there happens to be an existing "residential structure" on the land being rezoned. The plain language of section 509.010 does not preclude a property without an existing residential use from being zoned as commercial reserve.

Second, although section 509.010 states that land areas zoned commercial reserve are "part of the Highway Commercial District" and intended for "all permitted, accessory, and conditional uses in the Highway Commercial District," there is no

requirement that commercial-reserve land be attached or connected to highway-commercial land. In fact, the record shows that the city currently contains commercial-reserve land that is not adjacent to a highway commercial district.

Furthermore, even if the zoning ordinance were ambiguous, we would have to strictly construe it against the city and in favor of Wendroth, the property owner in this case. *See Frank's Nursery*, 295 N.W.2d at 608 (stating, "zoning ordinances should be construed strictly against the city and in favor of the property owner"). An interpretation of the commercial-reserve classification that does not require an existing residence or adjacent highway-commercial district is the most favorable interpretation for Wendroth. Finally, Ruhland's argument that the policy underlying the "commercial reserve" classification "is to allow mixed-use commercial and existing residential uses in the Commercial Reserve District until conversion of the residential structure into a permitted Highway Commercial District use is accomplished," does not overcome the plain language of the ordinance. Nor does it overcome the rule that any ambiguity in the ordinance must be construed in favor of the property owner. In sum, assignment of the commercial-reserve designation is not inconsistent with the zoning ordinance.

III.

Ruhland next argues that the city did not make sufficient findings of fact to support its decision and that the findings it made are not supported by the record. In granting Wendroth's application, the city council approved the planning commission's minutes, including the following findings:

> 1. The rezoning request is consistent with the following components of the Comprehensive Plan.
>
> a. Encourages development of commercial uses along highway corridors.
>
> b. Provides a transition from intense uses like highway to less intense uses like residential and agricultural.
>
> c. Fosters commercial growth within the City.
>
> 2. The rezoning would be compatible with the surrounding uses.
>
> 3. The rezoning will not create a burden on public facilities and infrastructure or cause traffic issues.
>
> 4. The current Comprehensive Plan does not show this area as a future residential growth area on the map.

As discussed above, the city's finding that the zoning request is consistent with its comprehensive plan is adequately supported by the record. Further, there is evidence to support the finding that the rezoning is compatible with surrounding uses. The property is on the northern edge of the city limits, surrounded by undevelopable land to the east, residential township land to the north, and a highway and residential township land to the west, which Wendroth currently uses for the same purpose for which he intends to use the rezoned property. The only strictly residential city land bordering Wendroth's property is the manufactured-home park to the south. As the city points out, it cannot be said that the rezoning is incompatible with the surrounding uses solely because the property shares one of its borders with a residential district because that reasoning would render every other commercial district within the city an incompatible use.

Finally, there is evidence in the record that the rezoning "will not create a burden on public facilities and infrastructure or cause traffic issues." In recommending that Wendroth's application be approved, the planning commission considered that the city's water and sewer lines do not extend to Wendroth's property. One city-council member

noted that previous owners had difficulty trying to develop the property because of the cost of getting infrastructure, such as water and sewer, to the property. Another city-council member noted that Wendroth is currently running his landscaping business on his mother's property directly across highway 22 to the west and that the rezoning therefore would not increase traffic in the area. Moreover, the record reflects that the city council, on advice of counsel, properly considered all of the uses that will be allowed under the commercial-reserve designation when considering Wendroth's zoning application, and it did not limit its analysis to Wendroth's planned usage.

As for the finding that the "current Comprehensive Plan does not show [the] area as a future residential growth area on the map," Ruhland is correct that the city's comprehensive plan designates the area as a future growth area for the city's manufactured-home park. But this erroneous finding does not render the city's decision arbitrary because the city's other reasons for granting the application satisfy the rational basis test. *See St. Croix*, 446 N.W.2d at 398. In sum, the city's findings are adequate.

IV.

Ruhland argues that the city's zoning decision constitutes impermissible spot zoning. Spot zoning refers to zoning amendments which "establish a use classification inconsistent with surrounding uses and create an island of nonconforming use within a larger zoned district, and which dramatically reduce the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property." *Rochester*, 268 N.W.2d at 891. Spot zoning "result[s] in total destruction or substantial diminution of value of property affected thereby." *Id.* (quotation omitted). "The burden of

demonstrating that a particular zoning amendment is spot zoning rests with the litigant attacking the ordinance, and the usual presumption of validity attaching to zoning amendments as legislative acts applies." *Id.*

Ruhland fails to demonstrate that the city's zoning decision creates an island of nonconforming use within a larger zoned district or that the decision resulted in the "total destruction or substantial diminution of value" of the surrounding properties. The record reflects that Wendroth's property is on the edge of the city and surrounded by several different uses, including a highway and residential township property to the west, residential township property to the north, undevelopable agricultural property to the east, and a manufactured-home park to the south. The city's decision did not create an island "within a larger zoned district." Further, Ruhland's affidavit opining that the value of the manufactured-home park will be diminished is the only evidence in the record that the city's decision will reduce the value of the surrounding properties. The record simply does not overcome the presumption of validity that attaches to zoning amendments.

V.

Finally, Ruhland contends that the city's zoning decision was improperly impacted by conflicts of interest between Wendroth and one of the city council members, who is his brother-in-law, and the city's public works director, who is his father-in-law. Wendroth's father-in-law spoke at the planning-commission hearing, and his brother-in-law voted in favor of the zoning amendment at the city-council meeting.

The Minnesota Supreme Court addressed the issue of disqualifying conflicts of interest in *Lenz v. Coon Creek Watershed Dist.*:

> The purpose behind the creation of a rule which would disqualify public officials from participating in proceedings in a decision-making capacity when they have a direct interest in its outcome is to insure that their decision will not be an arbitrary reflection of their own selfish interests. There is no settled general rule as to whether such an interest will disqualify an official. Each case must be decided on the basis of the particular facts present. Among the relevant factors that should be considered in making this determination are: (1) The nature of the decision being made; (2) the nature of the pecuniary interest; (3) the number of officials making the decision who are interested; (4) the need, if any, to have interested persons make the decision; and (5) the other means available, if any, such as the opportunity for review, that serve to insure that the officials will not act arbitrarily to further their selfish interests.

278 Minn. 1, 15, 153 N.W.2d 209, 219 (1967).

When applied to the facts of this case, the *Lenz* factors do not indicate that Wendroth's brother-in-law should have been disqualified from voting on Wendroth's zoning application or that Wendroth's father-in-law should have been disqualified from addressing the zoning request at the planning-commission hearing. There is no evidence that either individual had a direct interest in the outcome of the zoning decision, much less a pecuniary interest. Moreover, all three members of the planning commission and the other four members of the city council unanimously voted to approve Wendroth's application. The participation of Wendroth's brother- and father-in-law does not provide a basis for reversal.

In conclusion, we observe that a city is required to provide reasons for a zoning decision or risk not having its decision sustained. *See Honn*, 313 N.W.2d at 416 ("The municipal 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. By failing to do so, it runs the risk of not having its decision sustained."). We also observe that the reasons for the city's decision in this case are minimal and that greater explanation would have been desirable. However, given our deferential standard of review, we are satisfied that the city's zoning decision was not unreasonable, arbitrary, or capricious. We therefore affirm.

Affirmed.