

# Photovoltaic Solar Energy System/Conditional Use Permit: Minnesota Appellate Court Addresses Challenge to Denial



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The Court of Appeals of Minnesota (“Court”) in a July 12th Opinion addressed an issue arising out of the proposed construction of a photovoltaic solar energy system (“System”). See *In the Matter of the Application of United States Solar Corporation and USS Water Fowl Solar LLC for a Conditional Permit*, 2021 WL 2909044.

The issue involved the denial of the System’s application for a conditional use permit (“CUP”).

United States Solar Corporation and USS Water Fowl Solar, LLC (collectively “Solar Corp.”) applied to the McLeod County, Minnesota, (“County”) Planning Commission (“Commission”) to construct a .5-MW system on 10 acres of farmland. The Commission recommended to the County Board (“Board”) approval subject to certain conditions.

The Board denied the application on a 3-2 vote. However, three of the five Board members indicated the application met the applicable zoning requirements for granting a CUP.

The Board provided a letter to Solar Corp. identifying two reasons for denial:

1. Concern for the preservation and protection of land values
2. The property is considered prime agricultural soil

Solar Corp. appealed to the Court arguing that the Board’s decision was arbitrary and capricious because:

... the two reasons the county provided for denial were legally insufficient and factually unsupported by the record.

The Court holds that the Board’s denial of the CUP application was arbitrary and capricious because:

- The record does not support the finding of concern for the preservation and protection of land values
- Information was submitted suggesting that the System would not negatively impact property values
- Statement from neighbors expressing concern about property values not supported by expert opinion or other concrete information
- The property is considered prime agricultural soil is not a condition listed in the ordinance for the Board’s consideration related to the CUP application

- General-purpose language cited by the County referencing purpose of preserving farming in an agricultural district is not referenced by the relevant provision involving the System
- Even if consideration of preservation of prime agricultural soil was a basis for denial, it is unsupported by the record

The Court reverses the Board's decision and remands with instructions to approve the CUP application subject to reasonable conditions.

A copy of the Opinion can be downloaded [here](#).