

SPECIAL SESSION OF THE MOWER COUNTY  
BOARD OF COMMISSIONERS

May 2, 2017

The Mower County Board of Commissioners in and for the County of Mower, Minnesota, met in Special Session May 2, 2017 at 1:05 p.m. at the Government Center in Austin, Minnesota.

Members present, viz:           Tim Gabrielson, Chair  
  Jerry Reinartz, Vice-Chair  
  Mike Ankeny  
  Polly Glynn  
  Craig Oscarson, County Coordinator  
Member absent:                 Tony Bennett

Motion made by Commissioner Ankeny, seconded by Commissioner Reinartz to approve the agenda with the following additions: 1) Approve/Deny St. John the Baptist Catholic Church temporary liquor license application and 2) Approve/Deny request of the Ag Society for an additional \$25,000 allocation for equipment purchase (skid loader) on the fair grounds. Motion carried.

Motion made by Commissioner Glynn, seconded by Commissioner Reinartz to approve the minutes of April 25, 2017. Motion carried.

Motion made by Commissioner Glynn, seconded by Commissioner Ankeny to approve the following Commissioner warrants for payment:

<u>Vendor Name</u>	<u>Amount</u>	<u>Vendor Name</u>	<u>Amount</u>
Austin Utilities	4,296.76	Office Of Mn It Services	3,115.49
Emergency Automotive Technologies, Inc	4,802.10	Pomp's Tire Service, Inc	3,195.68
Hanson Tire Of Austin Inc	2,493.88	Ratwik,Roszak & Maloney,Atty	2,331.93
Holiday Ford Lincoln Mercury	70,542.02	Uhl Company Inc	12,675.00
Nelson Auto Center	115,123.80	58 Payments less than 2000	21,373.18
		<b>Final Total:</b>	<b>239,949.84</b>

Motion carried.

A Public Hearing was held in regard to CUP #847 of Dustin G. & Briana L. Whittington, applicants and landowners, to operate a dog kennel in Section 10, Waltham Twp.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations. The site was previously permitted for the same use.

The Petitioner was present. One person spoke in favor and no one spoke against CUP #847.

**Date: May 2, 2017**

**Res. #29-17**

**RESOLUTION**

On motion of Commissioner Ankeny, seconded by Commissioner Glynn, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held May 2, 2017 at the Government Center, Austin, Minnesota.

**WHEREAS**, The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #847 of Dustin G. Whittington and Briana L Whittington, Landowners and Petitioners, to be issued pursuant to the Mower County Zoning Regulations for:

Operation of dog kennel (boarding, grooming, training, breeding, business sign, bird pens). CUP to include possible building addition. Total of 30 dogs or less.  
Retail sales of minor dog training and care supplies.

Location: on a 6.5 acre parcel, located in Section 10, Waltham Township (T104N-R17W), and legally described as: A tract of land described by the South 460.00 feet of the West 618.5 feet of the North Half of the Northwest Quarter of Section 10, township 104 North, Range 17 West, Mower County, Minnesota, Mower County, Minnesota on a parcel identified per tax records as 19.010.0050; and

**WHEREAS**, Notice having been duly given, a public hearing held on the matter on April 25, 2017, at 7:00 p.m. in the Mower County Government Center, Commissioner's Room before the Mower County Planning Commission, on said petition; and

**WHEREAS**, Notice having been duly given, a public hearing was held on May 2, 2017 before the Mower County Board of Commissioners, on said petition;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board has reviewed, accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas, which is hereby adopted by reference and kept on file in the Office of Environmental Services; and

**BE IT FURTHER RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. Applicant shall follow any and all local, state and federal regulations regarding the proposed use, including but not limited to, MN Statute 325F.791, 346.39, 343.40, handicap accessibility requirements, animal welfare, any licensing requirements or permits from other entities; and
2. Applicant shall be limited to 30-dogs or less. If the owner/applicant seeks to grow beyond this number of dogs, an amendment must be made to this CUP; and
3. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition; and

4. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from the proposed use, and
5. The Owner/ Applicant shall provide adequate area onsite to park, back, turn-around or etc. so as to not create a nuisance or hazard to the traveling public.
6. Hours of patron admission shall be limited to 7 a.m. – 9 p.m. weekly, Monday through Sunday. This does not limit the owner/operator from having lesser hours; and
7. Dogs must be confined or under direct control of the kennel operator or staff at all times. Outdoor commercial kennel areas shall be fenced. Fencing shall consist of durable materials, with a minimum height of six (6) feet, and shall deter dogs from escaping over, under, or through the fence; and
8. All-weather kennels or shelters and dog runs or enclosed exercise areas shall be provided for all dogs and shall be adequately sized for the particular breed; and
9. An approved plan for disposal of animal manure must be submitted to the Environmental Services Department for approval to assure adequate, proper and safe disposal. Animal manure shall not be allowed to enter the septic system on the property. Water coming into contact with animal manure or urine is considered contaminated water and requires proper disposal; and
10. The owners/operators shall confer with the Environmental Services Department of any plumbing and/or water disposal associated to or with this CUP to assure that it is being held or discharged to an appropriate source. Grey water, black water, or sewage cannot be discharged directly to the ground. Any floor drains also need to be approved by the Environmental Services office to assure contaminants are not being discharged into the ground or upon its surface; and
11. The owner and/or operator of the Private or Commercial Kennel shall operate the kennel so as to not unreasonably disturb the peace and quiet of any person. Complaints of barking dogs stemming from this operation shall be addressed by the owner/operator in a written plan if it should be determined to become a nuisance to adjoining landowners. If an acceptable plan or nuisance elimination is not found by the applicant, review of the conditional use by the planning commission and board of commissioners may become necessary and subject to possible revocation of this permit; and
12. The Mower County Sheriff's Department, Mower County Environmental Services or MN Federated Humane Society agent has the right to make periodic inspections of the facility and or required record-keeping; and
13. A conditional use permit shall become void two (2) years from the date of approval by the County Board if no construction has begun or the use has not been established. For the purposes of this provision, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction. A conditional use permit shall become void if the use is discontinued for a period of one (1) year; and
14. This permit is based upon representation given by the applicant during the hearing process; any misrepresentations presented in this process may be grounds for revocation of this permit.

This permit is in accordance with Article II Division 2 Agricultural District Section Sec 14-51 (f) Kennels Kennel - Any lot or premises on which 4 or more dogs over four months of age are kept permanently or boarded temporarily, (c) commercial outdoor recreation, (n) vet clinics, (q) extended home occupations, (U) other uses similar; and Article I Division 6 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 2<sup>nd</sup> day of May, 2017.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

A Public Hearing was held in regard to CUP #848 of Tammi Bustad and Brian Edwin Bustad, applicants, for a commercial greenhouse including growing and sale of plants, produce, soil and plant products; seasonal crafts/craft sales; future commercial pre kitchen; consignment sales; advertising signage; 25 weeks or less per year on the Brian Edwin Bustad property located in Section 15, Windom Twp.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations.

The Petitioner was present and spoke on her own behalf. No one else spoke for or against CUP #848.

**Date: May 2, 2017**

**Res. #30-17**

**RESOLUTION**

On motion of Commissioner Glynn, seconded by Commissioner Reinartz, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held May 2, 2017 at the Government Center, Austin, Minnesota.

**WHEREAS**, The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #848 of Brian Edwin Bustad, Landowners, and Tammi Bustad, Petitioners, to be issued pursuant to the Mower County Zoning Regulations for:

Commercial greenhouse including growing and sale of plants, produce, soil and plant products; seasonal crafts/craft sales; future commercial prep kitchen; consignment sales; advertising signage; 25 weeks or less per year.

Location: on a 5.14 acre parcel, located in Section 15, Windom Township (T102N-R17W), and legally described as: W560FT N400FT S642FT SW1/4 SW1/4 Section 15 Township 102 Range 017, Mower County, Minnesota on a parcel identified per tax records as 20.015.0071; and

**WHEREAS**, Notice having been duly given, a public hearing held on the matter on April 25, 2017, at 7:00 p.m. in the Mower County Government Center, Commissioner's Room before the Mower County Planning Commission, on said petition; and

**WHEREAS**, Notice having been duly given, a public hearing was held on May 2, 2017 before the Mower County Board of Commissioners, on said petition; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board has reviewed, accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas, which is hereby adopted by reference and kept on file in the Office of Environmental Services; and

**BE IT FURTHER RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. Applicant shall follow any and all local, state and federal regulations, including but not limited to: MN Department of health codes, state building codes, state fire Marshall Codes, and handicap accessibility requirements. Apply for an receive all permits, licensures, certifications and appropriate insurance coverage, and etc. required regarding the proposed use; and
2. Public facilities shall meet or exceed handicap accessibility and fire code requirements; and
3. The Owner/ Applicant shall obtain any necessary permits from the Department of Health for food and beverage service; and
4. Parking and signage shall meet or exceed the Mower County zoning ordinance; and
5. The septic system or additional use of the system that was installed for the 3-bedroom home which will be added to the septic system from this proposed use shall comply with MN Rules 7080-7083 and Mower County Septic Ordinance. Additional use of or additions to the system may require modifications to the sizing of the system. Review of the system will be at the landowner's/applicant's expense; and
6. Hours of patron and vendor admission shall be limited to 7 a.m. – 9 p.m. weekly, Monday through Sunday. This does not limit the owner/operator from having lesser hours; and
7. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition; and
8. The Owner/Applicant shall contain any blowing or loose garbage/debris onsite by any means necessary which may include barrier fencing around garbage collection area; and
9. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from the proposed use, and
10. The Owner/ Applicant shall provide adequate area onsite to park, back, turn-around or etc. so as to not create a nuisance or hazard to the traveling public. Vehicles cannot be parked or backed onto the premises from the road or its right-of-way; and
11. The owner/applicant shall obtain an access permit from Minnesota Department of Transportation or other regulating facility of State Highway 56 or provide documentation from the regulating authority that they are exempt from this condition prior to opening. The MN Department of Transportation may or could require turning lanes; and
12. The Owner/Applicant may be required to provide dust control (not to utilize used oil (illegal)) so as not to create a nuisance to neighboring property from the additional traffic; and
13. Any change in operation or use of the facility shall require review of the Conditional Use Permit by the Planning Commission and the County Board of Commissioners; and
14. A conditional use permit shall become void two (2) years from the date of approval by the County Board if no construction has begun or the use has not been established. For the purposes of this provision, construction shall include the installation of footings, slab,

foundation, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction. A conditional use permit shall become void if the use is discontinued for a period of one (1) year; and

15. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

This permit is in accordance with Article II Division 2 Agricultural District Section Section 14-51 (b) Auction facility or flea market; (h) commercial greenhouses and nurseries (u) Other uses of the same general character as those listed above, provide they are deemed fitting or compatible to the District by the Planning Commission.; and Article I Division 6 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 2<sup>nd</sup> day of May, 2017.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

A Public Hearing was held in regard to CUP #849 of John Carroll, on behalf of future land owner Mitchell Corbin, applicant(s) and Richard T. Carroll and Rosalie Carroll, land owners, for Relief from Subdivision and Platting requirements to create a parcel of land approximately 2-3 acres in size for the purpose of constructing a shed/shop/office area for principal use for storage in Section 9, Lyle Township.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations.

The Petitioner was not present. No one spoke for or against CUP #849.

**Date: May 2, 2017**

**Res. #31-17**

**RESOLUTION**

On motion of Commissioner Reinartz, seconded by Commissioner Glynn, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held May 2, 2017 at the Government Center, Austin, Minnesota.

**WHEREAS**, The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #849 of Richard T. Carroll and Rosalie Carroll,

Landowners, and John Carroll, on behalf of Mitchell Corbin, future land owner, Petitioners, to be issued pursuant to the Mower County Zoning Regulations for:

Relief from Subdivision and Platting requirements; to create a parcel of land approximate 2-3 acres in size for the purpose of constructing a shed/shop/office area. Principal use for storage.

Location: on a 80 acre parcel, located in Section 09, Lyle Township (T101N-R18W), and legally described as: S1/2 SW1/4 Section 09 Township 101 Range 018, Mower County, Minnesota on a parcel identified per tax records as 11.009.0010; and

**WHEREAS**, Notice having been duly given, a public hearing held on the matter on April 25, 2017, at 7:00 p.m. in the Mower County Government Center, Commissioner's Room before the Mower County Planning Commission, on said petition; and

**WHEREAS**, Notice having been duly given, a public hearing was held on May 2, 2017 before the Mower County Board of Commissioners, on said petition; and

**NOW, THEREFORE, BE IT RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. Applicant shall follow all state and federal regulations regarding the proposed use; and
2. A Zoning Permit must be obtained prior to construction of the structure; and
3. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition; and
4. The Owner/Applicant shall contain any blowing or loose garbage/debris onsite by any means necessary which may include perimeter fencing; and
5. If the structure is to have a floor drain, that drain must be day lighted; and
6. If the shed will contain a bathroom facility/toilet/shower there must be proper sewage treatment system in place, which would require an ISTS Permit to be obtained prior to construction; and
7. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit; and
8. Survey of the properties shall be required in lieu of platting and shall be recorded with the Deed in the Office of the Mower County Recorder; and
9. 911 addressing is required to be obtained through the Mower County Highway Dept. before construction; and
10. Access permit is required to be obtained from Minnesota Department of Transportation.

This permit is in accordance with Article II Division 2 Agricultural District Section S subdivision Ordinance: Section 13-129 Division 15 Modifications and exemptions; relief from platting; and Article I Division 6 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 2<sup>nd</sup> day of May, 2017.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

A Public Hearing was held in regard to CUP #850 of CRWD, applicant, and LDJ Farms LLC, land owner, for 33,000 CY clay borrow pit to be used for food embankment construction occurring on PID 05.019.0040 located in Section 24, Red Rock Twp.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations.

A representative for the Petitioner was present and spoke on in favor of CUP #850. No other person spoke in favor and one person spoke against CUP #850.

**Date: May 2, 2017**

**Res. #32-17**

**RESOLUTION**

On motion of Commissioner Ankeny, seconded by Commissioner Reinartz, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held May 2, 2017 at the Government Center, Austin, Minnesota.

**WHEREAS**, the Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #850 of LDJ Farms LLC c/o Joel J. Johnson, Treasurer, Landowners, and Cedar River Watershed District c/o Justin Hanson, District Administrator, Petitioners, and to be issued pursuant to the Mower County Zoning Regulations for:

33,000 cubic yards clay borrow pit to be used for flood embankment construction occurring on PID 05.019.0040.

Location: on a 153.87 acre parcel, located in Section 24, Red Rock Township (T103N-R17W), and legally described as: NE1/4 EXC E490FT N545FT NE1/4 NE1/4 Section 24 Township 103 Range 017, Mower County, Minnesota on a parcel identified per tax records as 16.024.0015; and

**WHEREAS**, Notice having been duly given, a public hearing held on the matter on April 25, 2017, at 7:00 p.m. in the Mower County Government Center, Commissioner's Room before the Mower County Planning Commission, on said petition; and



**WHEREAS**, Notice having been duly given, a public hearing was held on May 2, 2017 before the Mower County Board of Commissioners, on said petition; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board has reviewed, accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas, which is hereby adopted by reference and kept on file in the Office of Environmental Services; and

**BE IT FURTHER RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. Applicant shall follow any and all local, state and federal regulations and obtain any necessary permits regarding the proposed use; and
2. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition; and
3. Extraction of materials shall be limited to the area provided on the exhibit map as outlined. Extraction beyond or outside of the depicted area will require a new or amended CUP application; and
4. Extraction of materials shall remain at least thirty (30) feet from all adjoining property lines and Thirty (30) feet from the road right-of-way (as required by ordinance); and
5. Blasting is not allowed; and
6. No refueling storage tanks are allowed in the lower levels of the extraction site; and
7. Secure MPCA NPDES Permit and submit copy to Mower County Environmental Services Department before beginning operation or provide documentation of project exemption; and
8. Access driveway costs are to be bore by the petitioner; and
9. The Conditional Use Permit allows the Owner/Operator to utilize the pit Monday through Saturday from 7AM to 7PM and on Sunday's from 9AM to 3PM. Exception shall be made to these time restrictions for emergency purposes. The owner/operator shall be responsible for informing the county of the emergency that precipitates the need outside of normal business hours; and
10. Any mud, dirt or debris transported to public roads shall be cleared, scraped or removed immediately so as not create a public health or safety risk to the traveling public; and
11. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from the proposed use, and
12. The Owner/ Applicant shall provide adequate area onsite to park, back, turn-around or etc. so as to not create a nuisance or hazard to the traveling public. The trucks cannot be parked or backed onto the premises from the road or its right-of-way; and
13. The Owner/Applicant shall be required to provide dust control (not to utilize used oil (illegal)) so as not to create a nuisance to neighboring property from the additional traffic; and
14. This Conditional Use Permit shall lapse, and shall be no longer valid upon one-year of non-use; and
15. The Owner/Applicant shall abide by all road and bridge weight restrictions or postings that apply to roads used as an ingress/egress to the property; and
16. The Owner/Applicant shall be liable for any road damages as a result of this operation as stated under MN Statute 169.88; and
17. No burying of waste material is allowed and to do so would be in violation of MPCA Regulations and Mower County Solid Waste Ordinance; and

18. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit; and
19. Performance bond omitted by County as the Contractor will be required to have one.

This permit is in accordance with Article II Division 2 Agricultural District Section Article IV Excavating of Earth, Section 14-140.1 Permit required for more than 20,000 cy of material (b1); Conditional Use in "A" district per 14-51(i); and Article I Division 6 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 2<sup>nd</sup> day of May, 2017.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

Motion made by Commissioner Glynn, seconded by Commissioner Reinartz to approve the 2016 annual feedlot report. Motion carried.

Motion made by Commissioner Reinartz, seconded by Commissioner Glynn to approve a 2017 sheriff's department budget amendment in the amount of \$28,780.95 for the replacement of a damaged squad. Motion carried.

Motion made by Commissioner Ankeny, seconded by Commissioner Reinartz to approve the temporary 3.2 beer license for St. John the Baptist Catholic Church effective July 9, 2017. Motion carried.

Motion made by Commissioner Reinartz, seconded by Commissioner Ankeny to approve an additional \$25,000 Allocation to the Ag Society for equipment purchase. Motion carried.

The Board recessed at 1:52 p.m. and reconvened at 2:01 p.m.

The Board continued the Public Hearing from April 17, 2017 regarding the following:

- \*Intent to accept the Statement of Need and Reasonableness (SONAR) document regarding solid waste and the proposed ordinance;
- \*Intent to repeal the current solid waste ordinance in its entirety and adopt a new Solid Waste Ordinance related to the regulation of waste within the county; and
- \*Intent to adopt a new fee structure to support the proposed ordinance.

Angie Knish, Environmental Services Supervisor, reviewed the changes made to the SONAR and proposed ordinance in response to the public input on April 17, 2017.

The Chair requested any new additional public input either for or against the proposed ordinance.

Comments and additional information were received from three persons.

The Board recessed at 2:41 p.m. and reconvened at 3:08 p.m.

Motion made by Commissioner Ankeny, seconded by Commissioner Reinartz to table for continuation the SONAR, Solid Waste Ordinance and Fee Schedule public hearing until May 16, 2017 at 8:30 a.m. Motion carried.

Motion made by Commissioner Reinartz, seconded by Commissioner Glynn to adjourn the meeting at 3:10 p.m. Motion carried. The next meeting is scheduled for May 9, 2017 at 8:30 a.m.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_  
**Chairperson**

**Attest:**

**By:** \_\_\_\_\_  
**Clerk/Coordinator**

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