

PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
7/22/15

**ITEM NO. 1 CONDITIONAL USE PERMIT FOR BURNING BARREL; 292 N 2100 RD
(MKM)**

CUP-15-00229: Consider a Conditional Use Permit for a *Value-added Agricultural Business*, The Burning Barrel, a specialty meat processing shop, located on approximately 30 acres at 292 N 2100 Rd. Submitted by Brian Strecker, for James Myers, property owner of record. *Joint meeting with Lecompton Planning Commission.*

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for a specialty meat processing shop, a *Value-added Agricultural Business* use, subject to the following conditions:

1. The following standards apply to the use:
 - a. A maximum of 4 full-time equivalent employees are permitted.
 - b. Structures are required to comply with commercial building code requirements if used for more than the storage of agricultural commodities.
 - c. Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
 - i. If necessary, an Ozone Generator shall be installed on the smoker to manage smoke and odor.
 - d. The production of the value-added product must comply with EPA water and air quality standards.
 - e. All equipment used in the production of the value-added product shall be located wholly within a building or structure or be screened from the public rights-of-way and adjacent residential buildings.
 - f. Product shall be stored within a building or structure so that it is not visible from the property lines.
 - g. Deliveries from commercial vehicles with a GVW (Gross Vehicle Weight) that exceeds 5 tons in capacity are limited to no more than 2 trips (to and from the site) per day.
 - h. Slaughtering is not permitted on the premises.
 - i. No retail sales shall occur on the premises.
2. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
3. A new septic system shall be installed prior to the operation of the use, per Health Department approval.

Reason for Request:

(Applicant's Response)

"To process pre-slaughtered and inspected hogs into a variety of products to restaurants seeking locally produced items."

KEY POINTS

- The subject property is located on, and takes access from, N 2100 Road/County Route 1023 which is classified as a Major Collector in the Douglas County Access Management Road Classification Map.

- A joint Lecompton and Lawrence-Douglas Metropolitan Planning Commission meeting will be held on this request as the subject property is within 3 miles of the city limits of Lecompton. (Figure 1)

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Approval of the Conditional Use by the Board of County Commissioners.
- Applicant shall obtain a permit for the Conditional Use from the Zoning and Codes Office prior to commencing the use.
- Applicant shall obtain a building permit from the Zoning and Codes Office for any structures used in the Value-added Agricultural Business, except those which are solely for storage of commodities.

PUBLIC COMMUNICATION

1. An adjacent property owner contacted Planning with concerns about gluten being used in the smoker. The applicant indicated they will not be smoking items containing gluten.
2. The Lecompton Planning Commission provided a set of questions, which are included with this report as an attachment.

ATTACHMENT

- CUP plans
- Lecompton Planning Commission questions

GENERAL INFORMATION

Current Zoning and Land Use:

A (Agricultural) District; *Agriculture*, outbuildings, and a vacant mobile home.

Surrounding Zoning and Land Use:

A (Agricultural) District in all directions; *Residential Detached Dwellings*, *Agriculture*, and woodland. (Figure 2)



Figure 1. Location of subject property (green dot) in relation to the City of Lecompton (outlined).



Figure 2: Zoning and land use of the area; subject property is outlined

Summary of Request

The Conditional Use Permit is requested to accommodate a *Value-added Agricultural Business* on the subject property. The proposed use, a specialty meat processing shop, meets the definition of *Value-added Agricultural Business* provided in Section 12-319-7.35 of the County Zoning Regulations:

"A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity that is not produced on the site, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:

- a. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).*
- b. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system)." An example would be packaging sunflower seeds and/or other grains for bird seed.*

The proposed specialty meat processing shop will result in a change in the physical state of the product and fits example 'a' of the definition above.

The property contains approximately 30 acres and includes agricultural accessory buildings and a vacant mobile home. The applicant intends to remove the mobile home from the site and replace it with the meat processing shop. The existing utility lines will be used to service the facility.

The applicant had considered converting the agricultural buildings but looked into other options after identifying the measures needed to bring them into compliance with the commercial building codes. The meat processing shop will be housed in converted shipping containers which will house the office, kitchen, and storage areas. Shipping/storage containers are converted and used for many uses, from offices to homes. The applicant indicated the unit will have a roof, will be secured to a concrete pad and will be painted with ceramic paint. Figure 3 provides examples of converted containers. The Zoning and Codes Director indicated that the shipping containers would be acceptable if they were engineered to meet building code.



Figure 3. Examples of converted storage containers

The applicant explained that the Kansas Department of Agriculture defines their use as a 'Meat and Poultry Processing Facility' and provided the following information on their use:

"We will be processing off-premise slaughtered hogs and cattle that have been inspected then transported to the Burning Barrel kitchen. In the kitchen we will make custom sausages, bacons, hams and primal cuts for wholesale to restaurant and grocery stores. The smoking of meats will take place one or possibly two days out of the work week. The odor will not be any different than would be a fireplace for home use. The smell will be much less since the method of cooking is done at much lower temperature. The cooking range will be between 150-200 degrees Fahrenheit. If any smell was detected it would be

The plan in Figure 4 shows the placement of the kitchen, office, and smokehouse in the area currently occupied by the vacant mobile home. The facility, including the smokehouse, will be 16 ft x 50 ft. The floorplan in Figure 5 shows the layout.

Farm equipment will be stored in the steel sided building or under the open side shed area. Wood for the smoke house will also be stored under the open shed. No equipment used in the production of the value-added product will be visible from N 2100 Road.

Figure 4. Proposed layout of site, with converted shipping containers replacing the mobile home and a gravel parking area to the south.

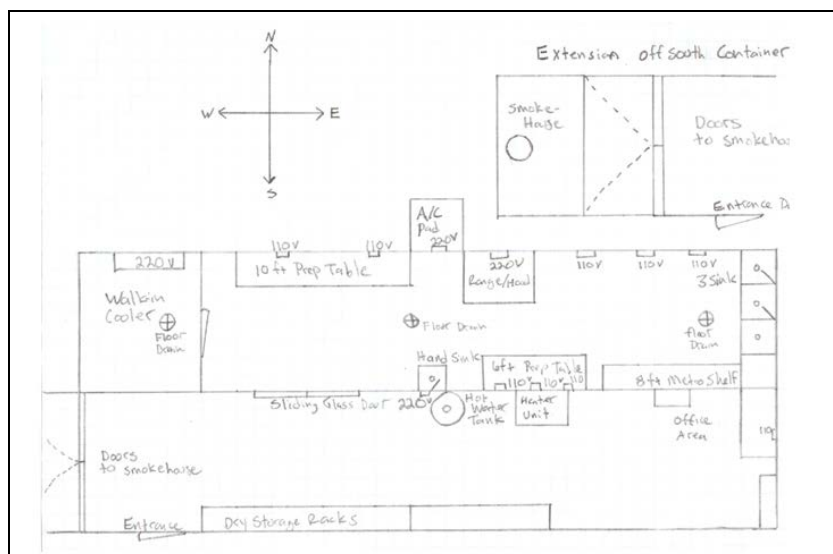


Figure 5. Proposed floorplan of kitchen, office, and smokehouse.

Business use is restricted by the Zoning Regulations to no more than two trips (to and from) by vehicles with a Gross Vehicle Weight (GVW) of 5 tons or more.

I. ZONING AND USES OF PROPERTY NEARBY

The subject property is not within the urban growth area of any city. Nearby property is zoned A (Agricultural) District and agriculture and rural residences are the primary uses. Given the small scale of the proposed business, the low volume of associated traffic, and the standards applied to a *Value-added Agricultural Business* use, the proposed use should be compatible with the nearby properties.

Staff Finding – The area is in the rural portion of Douglas County and contains agricultural County zoning. The primary uses in the area are rural residential and agriculture. Given the small scale of the proposed facility and the standards applied with this use, the specialty meat processing shop should be compatible with the zoning and uses of nearby properties.

II. CHARACTER OF THE AREA

This rural area is located beyond the limits of the Urban Growth Areas for any of the cities in the county but is within 3 miles of the Lecompton city limits. The topography is varied with large areas of higher slopes (above 7%) throughout. Woodlands are located on the steep slopes while the more level land is used for agriculture and rural residences are scattered throughout the area.

The subject property contains approximately 30 acres, of which approximately 1.5 acres will be used for the *Value-added Agricultural Business* use. The remainder of the site will remain in agricultural production. The business owner indicated they hope to garden about 1 to 2 acres and may raise cattle for their personal use.

Staff Finding – This rural area has a mix of agricultural and residential uses and woodland. The proposed *Value-added Agricultural Business* use and agricultural uses would be compatible with the current land uses and character of the area.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

The subject property is zoned A (Agricultural) District. Section 12-306 of the County Zoning Regulations notes *"...the purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses."* The A District is associated with a majority of the unincorporated portion of Douglas County.

Uses allowed in the A District include: farms, truck gardens, orchards, or nurseries for the growing or propagation of plants, trees and shrubs in addition other types of open land uses. It also includes residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. In addition, uses enumerated in Section 12-319 which are not listed as permitted uses in the A District, may be permitted when approved as Conditional Uses. The property has been developed with agricultural accessory buildings and is well suited for uses which are permitted in the A District.

The property is well suited for the current agricultural uses and also for the proposed *Value-added Agricultural Business* use and future agricultural uses.

Staff Finding – The property is suitable for the uses which are permitted within the A (Agricultural) District. The property is also suitable for the proposed *Value-added Agricultural Business* use, a specialty meat processing shop.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

The County Appraiser's records indicate that the tool shed was built in 1940 and the other accessory buildings were built in 1973. A mobile home is currently on site; however, there is no record when that was installed.

Staff Finding –The property has been used for agricultural and residential uses and has remained in agricultural use since the adoption of the Zoning Regulations in 1966.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Section 12-319-1.01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use is included in the Conditional Uses enumerated in Section 12-319-4 of the Zoning Regulations for the Unincorporated Territory of Douglas County as a *Value-added Agricultural Business*.

The proposed use is very low impact, with the processing occurring indoors. The only detrimental effect that may be generated from this use could be the smell of smoking meat. They will have a smoker similar to those associated with restaurants within the City of Lawrence. The smoker cooks at low temperatures which should minimize any odor associated with the smoking meat. The applicant indicated that Ozone Generators are very effective at eliminating the smoke smell as they emit charged ions that attach to the smoke vapor and cause the vapor to drop. One could be attached with the smoker if odor was found to be an issue. This is included as a condition of the Conditional Use.

The subject property is adjacent to, and takes access from, a major collector road. All processing will occur indoors and there will be no exterior storage of products or commodities. Wood for the smoker may be stored in the lean to; however, it will be screened and not visible from the roadway or adjacent properties.

Staff Finding – All production activity will occur within a structure and should have no negative impacts to the adjacent properties. If odor is present at the property lines, an Ozone Generator will be installed to reduce the smoke and odor from the cooking process.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's Response:

"Without the permit we may lost the opportunity to begin this business."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Approval of this request would allow the landowners to process locally raised meat on the property as a *Value-added Agricultural Business*. No benefit would be afforded to the public health, safety, or welfare by the denial of the request as the business operation is small scale, a low traffic generator and would be located on a major collector.

Staff Finding – In staff's opinion, the approval of this request will result in a compatible project that will not harm the public health, safety or welfare but will increase availability of locally grown and processed food. Denial of the request would provide no benefit to the public health, safety or welfare.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"We will provide a product that was raised, produced and sold in Kansas. We will be putting the property back to work as a sustainable farm and by job creation."

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. A Conditional Use Permit provides additional review for uses which may be desirable in an area, but could have negative impacts. This tool allows development to occur in harmony with the surrounding area and to address specific land use concerns.

Chapter 16 of the Comprehensive Plan recommends the development of policies to support a sustainable local/regional food system; however, the policies and recommendations have not been developed at this time. The proposed use is a component of a local/regional food system: processing meat from locally raised animals for sale in the area.

Staff Finding –The proposed CUP is compliant with the recommendations in the comprehensive plan as it will maintain the rural/agricultural character of the area and will be a part of the local/regional food system.

CUP PLAN REVIEW

The proposal is to remove the vacant mobile home from the site and replace it with a converted shipping container with kitchen/office/storage areas. The converted container would be engineered to comply with commercial building codes. The business will pick up inspected pre-slaughtered animals and deliver products to customers using a Toyota pick-up. As the business grows, they plan to use a trailer with a refrigerated storage area for deliveries and may have inspected meat delivered to the site. The business intends to sell to restaurants, grocery stores, and farmers markets. There will be no retail sales on the property.

The applicant explained that the pre-slaughtered animal will be bled and the intestines and other organs removed except for those they can use in the processing prior to being brought to the site. They will use most of the animal in the processing and will have little waste. They will use the leftover materials for dog food or fertilizer or may deliver it to nearby pet food manufacturers. The applicant indicated that residential trash service should be adequate for their business.

The applicant indicated they may be interested in hosting weddings on the property in the future. This use is outside the scope of this CUP but could be permitted with a Special Use Permit, Agritourism Registration, or submittal of a CUP for the use.

Parking and Access:

The facility will utilize the existing access to N 2100 Road/County Route 1023. A parking area will be installed adjacent to the facility. One parking space is required for each 2 employees for manufacturing or similar type uses, in Article 16 of the Zoning Regulations. The use will have 2 employees; therefore one parking space is required at this time. The parking space provided on the plan is 15 ft by 30 ft. Per the Zoning Regulations, a parking space must be 180 sq ft; typically 18 ft x 10 ft. The parking area is adequate for one parking space.

Utilities

The Douglas County Sanitary Code requires that septic systems be inspected prior to the sale of property. The septic system failed the inspection and a new septic system will be installed prior to the sale. The applicant should work with the Douglas County Health Department to insure that the new septic system is sized adequately for the *Value-added Agricultural Business* use.

Landscape and Screening: The equipment and materials used in the business will be stored inside; therefore, no landscaping or screening is required.

Limits and Conditions:

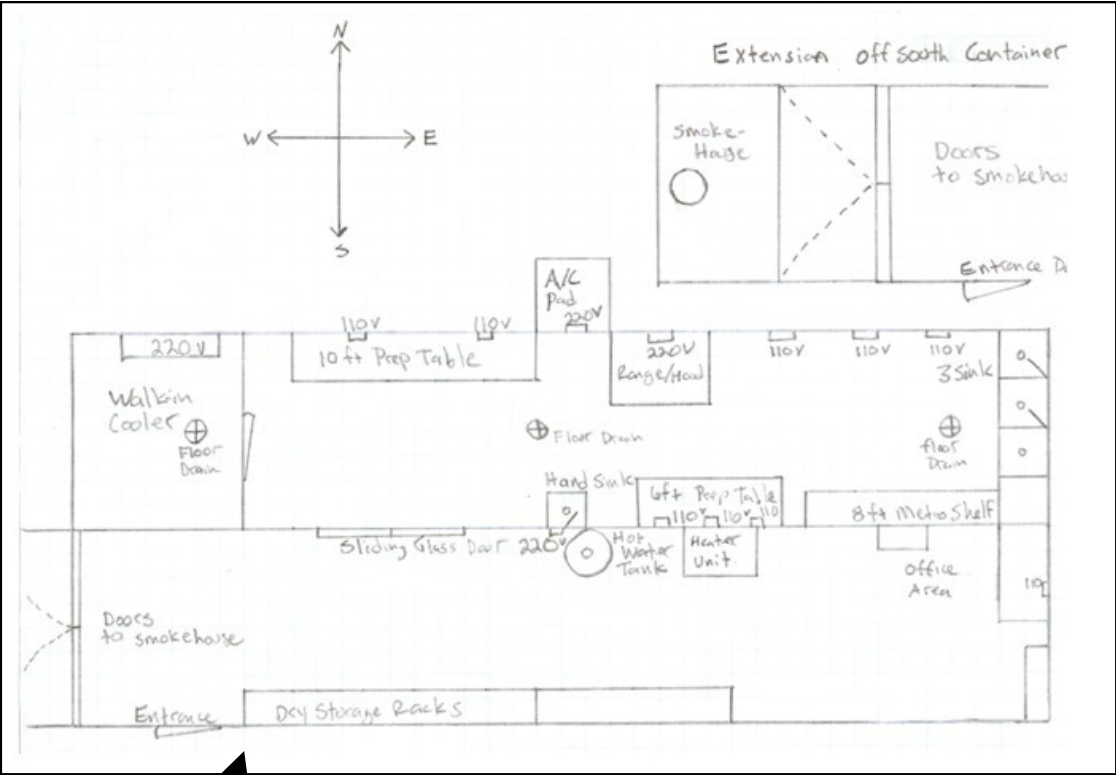
The standards for the *Value-added Agricultural Business* use apply to this use and these are listed on the plan. Additional standards requiring the use of a Ozone Generator, if necessary to manage odors from the smoking meat, and a restriction prohibiting-site retail sales have been applied to insure compatibility with the rural character and residential uses in the area. A *Slaughter House* is a separate conditional use and the applicant will not slaughter animals for the *Value-added Agricultural Business* use. A condition noting that this CUP use does not include slaughtering of animals was added for clarity. If slaughtering is proposed, a revised CUP application would need to be submitted and reviewed.

Due to the long-term investment, it is not appropriate to impose an end date on this CUP. Five year administrative reviews are recommended to provide regular opportunities to assess changes in operation. These conditions are noted on the plan.

Conclusion

The small scale of the proposed use and the standards applied with the Conditional Use Permit should insure compatibility with surrounding properties. A permit required for the Conditional Use may be obtained from the Douglas County Zoning and Codes Office following approval of the Conditional Use and release of the plans to the Zoning and Codes Office. The buildings used for the *Value-added Agricultural Business* must comply with minimum building code standards for non-residential uses and a building permit will be required for changes to the structure.

Conditional Use Permit
Burning Barrel
Specialty Meat Processing Shop
292 N 2100 Road



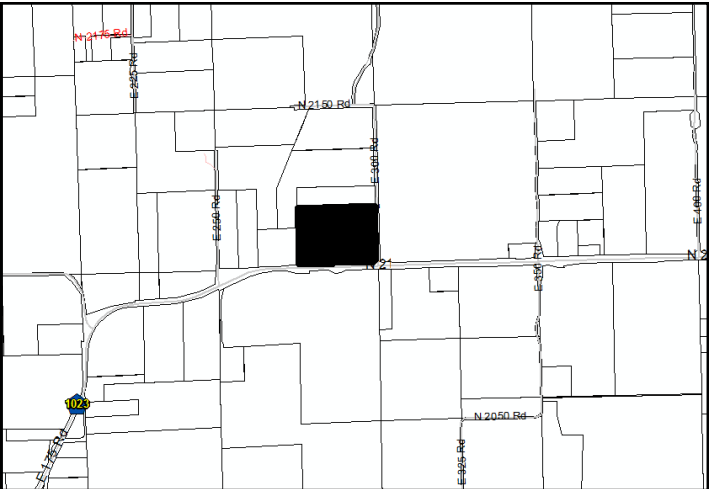
- General Notes:**
1. Site: 292 N 2100 Road
 2. Site Area: Approximately 27.8 acres
 3. Existing Zoning: A (Agricultural) District
 4. Current Use: Agriculture, vacant mobile home
 5. Proposed Use: *Value-added Agricultural Business* (Burning Barrel a specialty butcher shop)
 6. The business operator is responsible for disposal of waste resulting from the processing of pre-slaughtered animals.

CUP CONDITIONS:

- 1) A maximum of 4 full-time equivalent employees are permitted.
- 2) Structures are required to comply with commercial building code requirements if used for more than the storage of agricultural commodities.
- 3) Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
 - a. An Ozone Generator shall be installed on the smoker, if necessary, to manage smoke and odor.
- 4) The production of the value-added product must comply with EPA water and air quality standards.
- 5) Deliveries from commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to 2 trips (to and from the site) per day.
- 6) All equipment used in the production of the value-added product shall be located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings.
- 7) Products shall be stored within a building or structure so that it is not visible from the site boundary/property lines.
- 8) Slaughtering is not permitted with this CUP use.
- 9) No retail sales shall occur on the premises.
- 10) The CUP shall be administratively reviewed every 5 years.



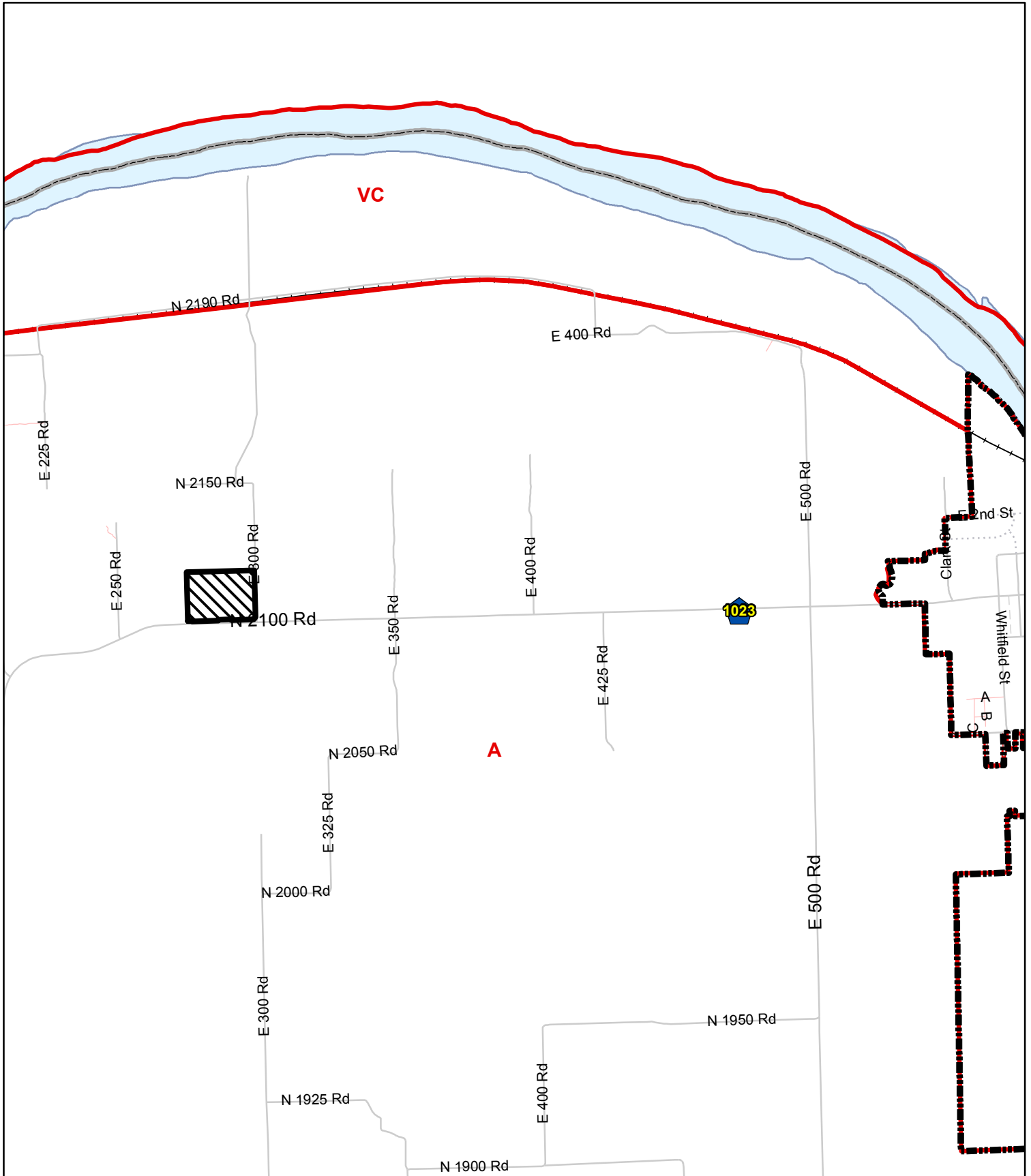
Location Map



PARKING SUMMARY

Production: 1 per 2 employees on maximum shift
2 employees total: 1 parking spaces
Parking Required: 1 space
Parking Provided: 1 space

LEGAL DESCRIPTION: . The Southeast Quarter of the Southeast Quarter of Section 31 Township 11S Range 18E less North Half of North Half of Southeast Quarter of Southeast Quarter EVC (DIV 1987 500136B)



**CUP-15-00229: Conditional Use Permit for The Burning Barrel,
a Value-added Agricultural Business Located at 292 N 2100 Road**



Lecompton Planning Commission Questions/Response

The questions provided by the Lecompton Planning Commission are listed below with the responses following each, in **bold print**.

1. Clarify pre-slaughtered?

- Meaning they will be killed before arrival at the plant? With or without heads?
Hogs will be killed before arrival. With Heads
- Inspected by whom?
Killed and slaughtered by Paradise Meats in Missouri Hogs are inspected at there facility by a USDA inspector as well as our facility by a KDA inspector.
- How will hogs be transported to site? **Burning Barrel operator will pick-up and bring meat to the site. The CUP standards would allow meat to be delivered with a limitation of 2 trips a day (to and from) for vehicles over 5 GVW.**
- How many will be stored awaiting processing?
Max of 4 hogs per week and quarter side of beef.
- What inspections will occur at the site?
KDA will be inspecting all aspects of production from butchering to packaging.
- How much waste?
There will be minimal waste from our facility. We will be utilizing most of the slaughtered animals through means of the meat business to dog food. From an estimate stand point I would see our waste being comparable to a family of 3 people.
- What are plans for Waste Disposal?
We plan on recycling the plastic and any other recyclable materials but will need trash service as well. Normal residential service will be adequate.
- Will a lagoon be necessary? If so, how large? **The existing septic system failed the pre-purchase inspection so a new system will be installed. It will be a 1000 gallon tank in accordance with the Douglas county health code requirements.**

2. If pre-slaughtered meaning dead before arrival, will the head/hooves /skin still be on?

- If so, what are your disposal plans for the remains?
I am in the process of talking with Hills Pet Food Manufacturing in Topeka and Big Heart Pet Brands in Lawrence for all parts I can't utilize. There are many options for utilizing these animals from stocks to grinding the bones for bone-meal fertilizer, house made

dog food that is human consumption friendly. Rendering the fat for lard to selling the skin for chicharones. The plan is for making as much possible income from the animal as well as respecting its life.

3. Are you processing the hog into pork products for restaurants only ?

Products will be available through grocery stores, restaurants and farmers markets.

4. Will you be processing any portions of the animal into dog treats/snacks?

Yes

5. What type of waste disposal plan do you have?

- In regards to portions of the Hog that you will not be able to sell (meat, bones, fat)
- How frequently will you have trash service?
- In regards to animal fats and sewer systems, will the septic system be able to handle the animal fat/residue being washed down the drain? Will you have an appropriate grease/fat trap? What size?

The grease trap will be in accordance to the Local Health Inspector requirements.

Trash service will be the same as a residential service.

6. Would you have employees? If so how many do you anticipate? **2 employees, including self. The standards applied to the Value-added Agricultural Business use permit a maximum of 4 full-time equivalent employees.**

7. Fire prevention/safety – extinguishers? Sprinkler systems? Is the water system capable of meeting the need if necessary?

(Please provide any other info on fire protection. Will you be using extinguishers?)

Fire prevention will be in accordance to building code.

The Fire Department had no concerns with this project.

8. Are you using/converting any of the existing structures to fit your business needs?

One of the existing structures will be to store wood for the smoker. The business itself will be located in a new facility located where the vacant mobile home is now located. The plan is to use converted shipping containers for the kitchen, office and storage area.

9. How many times a week do you anticipate meat deliveries? Do you happen to know what the meat delivery truck will be (Semi tractor-trailer, refrigerated truck, etc.?)

Meat will be picked-up with a pickup and brought it to the site. A refrigerated unit on a trailer may be used as business grows. There will be no commercial deliveries of meat at this time, although it would be permitted with the CUP. One of the standards applied to this use limit the number of commercial deliveries by a vehicle with a gross vehicle weight over 5 tons to 2 trips (to and from) a day.

10. It was indicated on the application that the smell of smoked meat would be the only effect on the nearby properties? If you throw out any remains (unusable meat, fat or bones) how will you prevent the smell of that kind of waste from wafting to nearby properties?

No animal remains will be discarded in this fashion.

11. On the application it was mentioned that the business would provide a product that would put the property back to work as a sustainable farm. In what way is the processing plant considered a farm?
- Definition of farm: Noun; an area of land and its buildings used for growing crops and rearing animals, typically under the control of one owner or manager.
Verb; make one's living by growing crops or keeping livestock.
 - If there are no growing of crops or keeping of live animals how is it considered a sustainable farm?
 - Is BBQ-ing meat a "sustainable farm" activity? Meat processing can occur in non-agricultural rural locations.

We will be planting fruit trees, have large garden areas growing a variety of fruits and vegetables for local vendors as well as farmers markets. We will raise livestock for personal use and for the business when that time comes. The property will be farm in all regards, with the addition of the custom meat business. Smoking meat is not the same as BBQ-ing meat. The smoking is done at a much lower temperature range and is a way of preserving and adding flavor to the product. The smoke will be very minimal and not really comparable to a BBQ business. The smoking portion of the business is only a small portion of the plan. Much of the products we create will be custom fresh primal cuts of meats as well as fresh sausages.

12. What level of meat processing business certification/license are you applying for?

KDA will issue a Meat and Poultry Processing Permit

13. Is it relevant to the issue of the CUP, but the PC was curious if the intent of the applicant to purchase the property if the CUP is passed? If so is the applicant purchasing the entire 40 acres or just the 30 acres with the buildings? **If the CUP is not passed we will not purchase the property. If the CUP passed we are under contract to purchase the 40 acres.**

14. Question #4 on the application does not seem to answer the question

(Planning Note: Questions 1 through 5 on Sheet A are review criteria for the approval of the CUP. The applicant is provided the opportunity to respond to these questions, and their responses are included in the Staff Report. Staff also provides a review of these criteria in the report. It isn't necessary for the applicant to answer the questions, or to answer them to a certain degree; but we want to allow them a chance to have input on these criteria).

- Just a note: the property is not adjacent to a Federal or State Highway (as indicated on the application.) **Noted.**