

**PLANNING COMMISSION REPORT**  
**Regular Agenda –Public Hearing Item**

PC Staff Report  
5/18/15

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR A MICRO-DISTILLERY; 1743 N 200 RD (MKM)**

**CUP-15-00060:** Consider a Conditional Use Permit for a micro-distillery, a *Value-added Agricultural Business*, located on approximately 20 acres at 1743 N 200 Rd, Baldwin city. Submitted by William R. Murphy for Sunwise Turn Farms, LLC, a.k.a. Maple Leaf Orchards, LLC, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit for a micro-distillery, 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. The total area of the structures used for operation, production, or storage may not exceed 10,000 sq ft.
  - c. Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
  - d. The process must comply with EPA water and air quality standards.
  - e. All equipment used in production 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 enclosed within a building or structure so that it is not visible from the property lines.
  - g. Deliveries from 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.
2. Provision of a revised CUP plan with the following changes:
  - a. Identify the areas where storage for the aging process may occur and add the following note *"If storage is to occur in any structure other than the Morton building, the Zoning and Codes Office shall be notified, all necessary building permits obtained, and the structure shall be brought into compliance with current building codes before use."*
  - b. Add the following notes:
    - i. *"The Conditional Use Permit will be administratively reviewed by the Zoning and Codes Office every 5 years following approval."*
    - ii. *"Prior to the commencement of the use, an additional septic system shall be installed for the Morton building or the Morton building will be connected to the existing septic system."*

**Reason for Request:**

(Applicant's Response)

*"The Douglas County zoning regulations were modified in 2012 to encourage growth of farm wineries and micro-breweries. However, "micro-distilleries" have never been specifically addressed at all in the regulations. Our understanding is that we need to request a "conditional use permit" under these circumstances. We respect the Boards input and want to work with the Board to get this project underway."*

## KEY POINTS

- The subject property is located on, and takes access from, N 200 Road which is classified as a Minor Collector in the Douglas County Access Management Road Classification Map.
- The subject property is located within the Urban Growth Area of Baldwin City. A joint Baldwin City and Lawrence-Douglas Metropolitan Planning Commission meeting will be held on this request as it is within 3 miles of the city limits of Baldwin City.

## 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 micro-distillery business, except those which are solely for storage of commodities.

## ATTACHMENTS

- CUP plans
- Supplemental information on the micro-distillery use

## GENERAL INFORMATION

Current Zoning and Land Use:

A (Agricultural) District; *Residential Detached Dwelling*, *Agriculture*, and woodland.

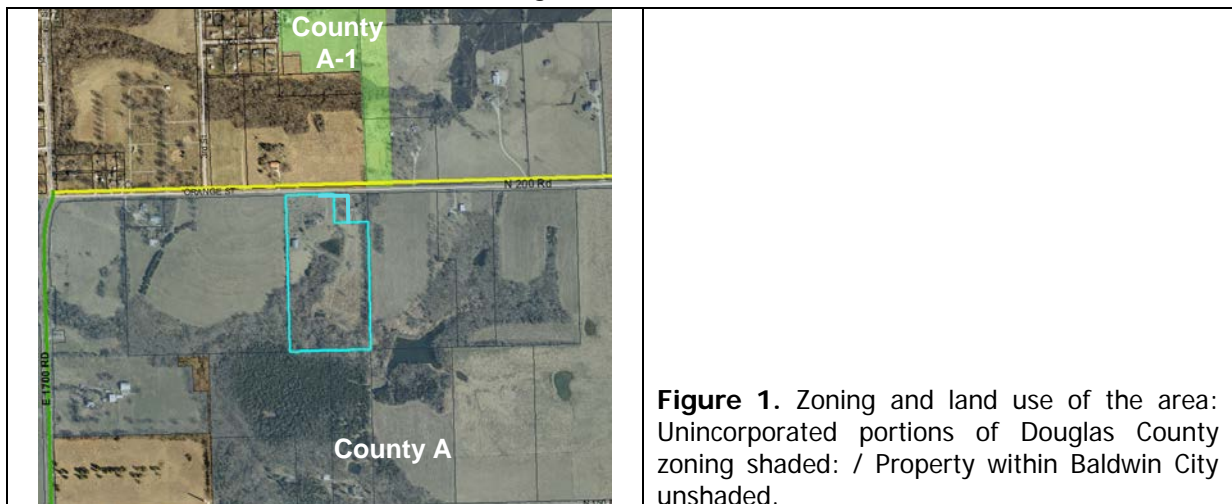
Surrounding Zoning and Land Use:

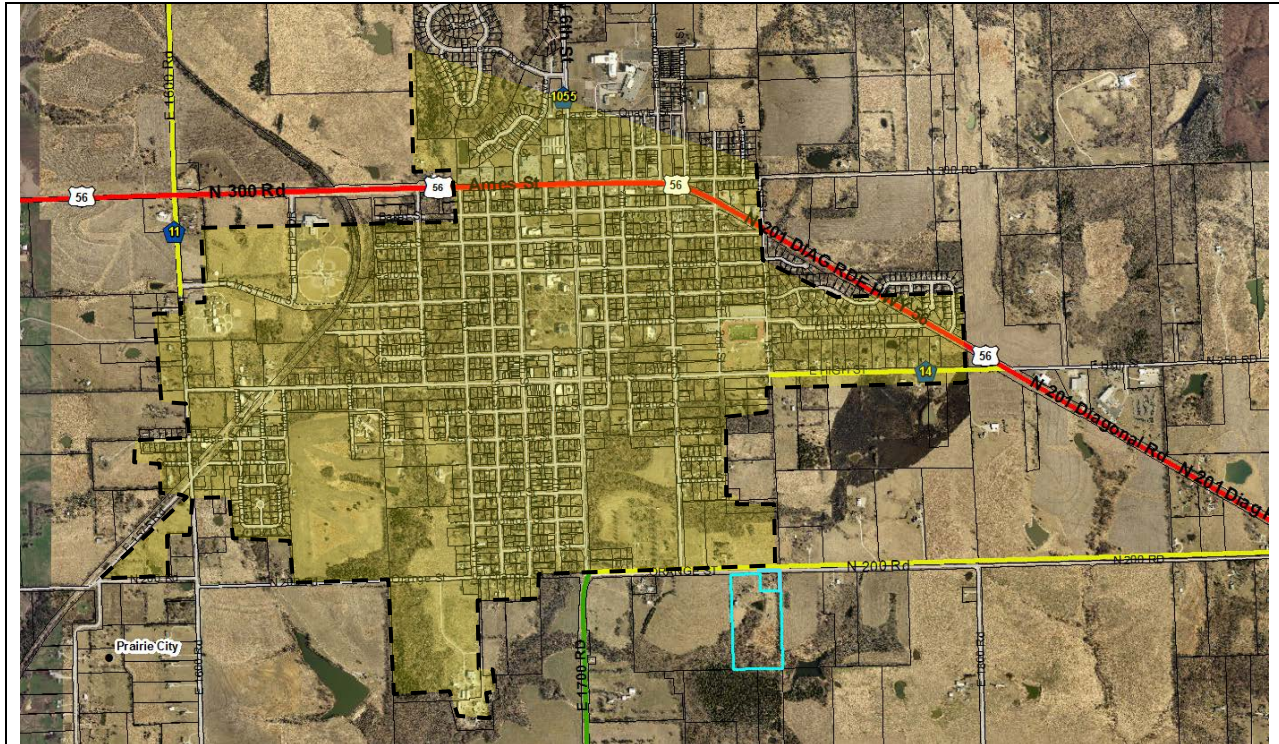
To the west, south, and east: A (Agricultural) District; *Residential Detached Dwellings*, *Agriculture*, and woodland.

To the north: Property to the north is located within the city limits of Baldwin City and has the Baldwin City Zoning Designation of RLD (Residential Low Density); *Residential Detached Dwelling* and woodland.

Property to the northeast is located in the unincorporated portion of Douglas County and is zoned A-1 (Suburban Home Residential) and A (Agricultural); *Residential Detached Dwelling*, and *Agriculture*.

(Figures 1 and 2)





**Figure 2:** Location in relation to Baldwin City. Areas within the city limits are highlighted yellow. Subject property is outlined in blue.

### Site Summary

Subject Property: Approximately 20 acres, with a 3 acre apple orchard  
Structure for Micro-distillery: 2,520 sq ft

### Summary of Request

The Conditional Use Permit is requested to accommodate a *Value-added Agricultural Business* on the subject property. The proposed use, a micro-distillery, 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)."*

The proposed micro-distillery will result in a change in the physical state of the product and fits example 'a' of the definition above.

The property consists of 2 separately deeded parcels. The larger parcel contains approximately 18.3 acres and includes an orchard, farmhouse and an outbuilding (commonly referred to as a Morton building). The property has been in operation as an orchard since the early 1960s. The applicant is working to reclaim the orchard and has approximately 80



remaining trees and have recently planted 24 additional trees. The applicant intends to plant about 100 apple trees this spring as well as other fruit trees.

The applicant plans to distill the hard apple cider into 500 to 1000 gallons of apple brandy a year and plans on branching out to other fruit brandies in the future. The smaller parcel contains approximately 1.7 acres and has several agricultural outbuildings. The applicant indicated they may be interested in using a basement on this parcel, or the basement of the residence for the storing/aging of the finished product. Building permits would be required for this use and the structures would need to comply with current building code. (Figure 3)



**Figure 3.** Buildings on the property include agricultural buildings on the smaller parcel, and a residence and outbuilding, proposed for micro-distillery, on the larger parcel.

The applicant provided the following information regarding the proposed use:

- They will use a 250 gallon copper pot still with an electrical heating element.
- The workforce is currently 2 part-time employees (the business owners) and one full-time employee. The applicant indicated that the business would require one or two more full-time employees at the most. This would be compliant with the *Value-added Agricultural Business* CUP limit of 4 full-time equivalent employees.

The applicant plans on producing all the apples and fruit needed for production and several hundred apple trees will be planted in the future; however, the trees will take time to mature and it may be necessary to purchase fruit when there are late freezes or other weather related issues. The apples will be pressed, and the cider stored in barrels and vats in the Morton Building. The cider will be distilled in a copper pot still and then aged in wooden barrels. The aging process may occur in the Morton Building if they can control the temperature or may occur in another structure on the property. The plan should identify where the aging process may occur and note that structures that are to be used for storage will require a building permit and shall be brought into compliance with current building codes before use.

In addition, the applicant provided the materials in Attachment B explaining the micro-distillery use and noted that additional information could be found in the Handbook for

Microdistilleries prepared by the Kansas Department of Revenue/Alcoholic Beverage Control at <http://www.ksrevenue.org/pdf/hbmicrodistilleries.pdf>

Future plans include Agritourism activities such as tours of the micro-distillery and a tasting room. Depending on the scale of the activities being proposed these could be permitted by a variety of processes: through registration with the Zoning and Codes Office, County Commission approval of a site plan, or a Special Event Permit or Conditional Use Permit for large scale activities.

#### DISCUSSION OF USE.

There are several use categories in the Zoning Regulations that are similar to a Micro-Distillery.

#### **Winery**

A winery and a tasting room can occur without site planning or obtaining a Conditional Use Permit due to the State's determination that a winery is an Agricultural use and therefore is not subject to the Zoning Regulations. When other uses are proposed, such as musical events or meals, additional approvals are required.

#### **Nano-Brewery**

The *Value-added Agricultural Business* Conditional Use Permit standards were developed following a request for a relatively large scale business use, which would compress straw into heating bricks. One of the standards was that the property must have access on a full-maintenance road. A text amendment was initiated for a proposed *Value-added Agricultural Business* use that was very small in scope, a nano-brewery. The nano-brewery was to be located on property that has access from a Private Road; therefore, it did not meet the conditions of the *Value-added Agricultural Business* CUP. A CUP use for nano-brewery was established, with standards, which included the possibility for access from a private road when approved by the County Engineer based on the anticipated traffic and the condition and configuration of the road, all properties with access to the private road sign an agreement, and a maintenance agreement is executed. The conditions for the nano-brewery use were geared to insuring that the use remained small in scope and scale.

#### **Agritourism**

Agritourism uses could be associated with the micro-distillery, such as tours, U-pick 'em activities, demonstrations, etc. These uses involve bringing tourists to the site. The micro-distillery is a producing business which would not, in itself, bring tourists to the site.

#### **Home Occupation**

The use may fit into the home occupation use category, but the applicant does not reside on the property full-time at this time. Applicants may choose to seek approval of a use as a Conditional Use rather than a Home Occupation as the CUP approvals are typically for longer time frames than Home Occupations which must be renewed annually.

#### **I. ZONING AND USES OF PROPERTY NEARBY**

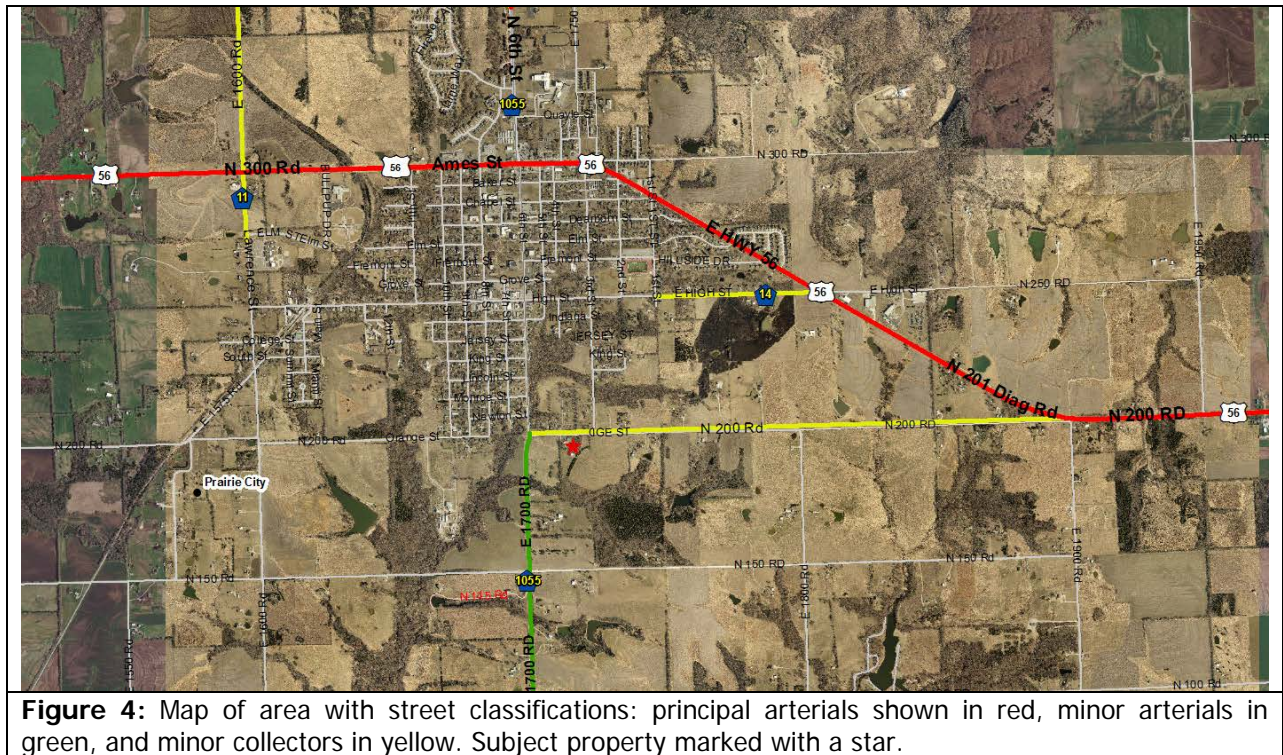
The subject property is located in close proximity to Baldwin City. Property to the west, south, east and northeast are located in the unincorporated portion of the County and are primarily zoned A (Agriculture) with a small amount of A-1 (Suburban Home Residential) Districts. This area contains rural residences, agricultural land uses, and woodland. The property to the north and northwest, is within the limits of Baldwin City and is zoned RLD (Baldwin City zoning designation for Low Density Residential Development). A residence is located to the north of the



property, across N 200 Road/Orange Street and a city cemetery is located to the northwest. Agriculture and rural residential are the primary land uses in the area. Given the small scale of the proposed micro-distillery use, it would be compatible with the zoning and uses of nearby properties.

**Staff Finding** – The area is at the boundary of Baldwin City Limits and contains low density residential City zoning, and agricultural and residential County zoning. The primary uses in the area are low density residential and agriculture. Given the small scale of the proposed micro-distillery, the use would be compatible with the zoning and uses of nearby properties.

## II. CHARACTER OF THE AREA



The subject property is in close proximity to the city of Baldwin City and is located on a minor collector road, N 200 Road, which provides convenient access to Highway 56 to the east, a principal arterial, and to E 1700 Road/County Route 1055 to the west, a minor arterial. The immediate area is rural in nature, with most of the urban development of Baldwin City being northwest of the intersection of N 200 Road/Orange Street and E 1700 Road (Figure 4). As noted earlier, the property is within the Urban Growth Area of Baldwin City. Figure 5 is the Future Land Use Map from the Baldwin City Comprehensive Plan. The subject property, marked with a red star, is in an area that is designated for single-family residential land uses.

**Staff Finding** – This is a rural area near the city limits of Baldwin City. Major thoroughfares in the area provide good access to the major transportation network. The proposed use 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

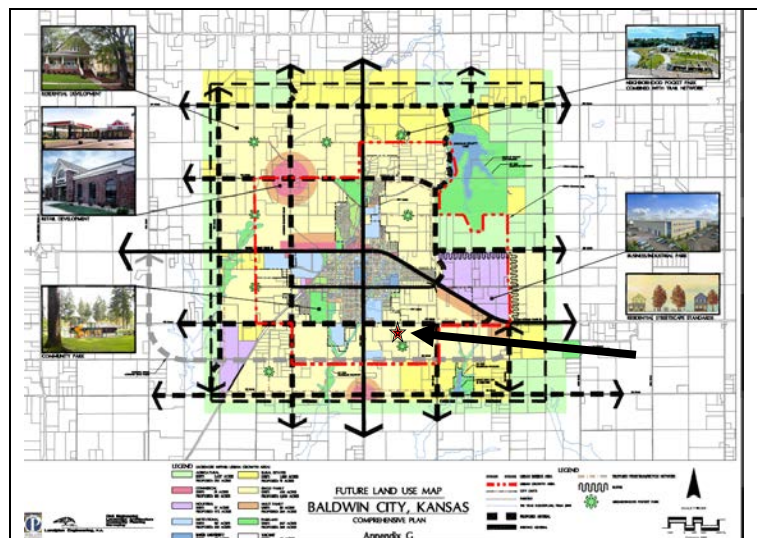
Applicant's response:

*"Maple Leaf Orchards is a 20-acre farm that has been operated as an orchard for many decades, with some interruptions. It has a 3 bedroom farmhouse and several outbuildings, including a 42' x 60' Morton Building, a small smokehouse in which previous owners smoked meat for sale and a 16' x 24' greenhouse/utility building that was previously used for the sale of herbs, flowers, food and various retail items. It was also operated in the past as a U' Pick-Em orchard and watermelon patch with family attractions such as a pumpkin patch, hay rides, bean bag tosses, amusing photo opportunities, a butterfly gazebo and other family entertainment activities. It is located just outside the city limits of Baldwin City, and it once attracted many visitors during the annual Maple Leaf Festival. Visitors from Lawrence, Kansas City, Johnson County and Lee's Summit during its heyday sought its premium apples and a rural farm experience. Maple Leaf Orchards once boasted hundreds of apple trees of various varieties as well as pears, cherries and peaches, but later fell into disrepair. The restoration efforts of the current owners have managed to preserve eighty of the 160 fruit trees that were still alive when their efforts began in 2009. 24 new trees have been planted thus far, and the current owners are in the process of a major orchard replanting. This will consist of various fruit types, but primarily heritage apple varieties, especially cider cultivars. Eventually, a small vineyard may also be planted."*

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 a residence and is well suited for uses which are permitted in the A District.

The existing outbuilding on the larger parcel will be converted for the Micro-distillery use, but no new structures are required for the new use. Given the small scale of the proposed facility, the property is also well suited for the proposed conditional use, *Value-added Agricultural Business*. A Conditional Use Permit (CUP) does not change the base, underlying zoning.



**Figure 5.** Subject property shown on the Future Land Use Map of Baldwin City, with red star. The area is designated for single family residences with a pocket park proposed to the southeast.

As the property is located within the Urban Growth Area of Baldwin City, urbanization is expected in the future. A neighborhood park is recommended in this area and the apple orchard and tourism activities that have been suggested along with the micro-distillery should be compatible with the recommended future land 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 micro-distillery, when approved as a Conditional Use, given the small scale of the facility.

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

**Staff Finding** – The Douglas County Appraiser's records indicate that the residence was built in 1966, which was the year Zoning Regulations were adopted in the unincorporated portions of Douglas County. The outbuildings were constructed in 1980, a farm storage shed, and in 2011, a utility building. The property has been developed with residential and accessory structures since the adoption of zoning in the County.

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

Applicant's Response:

*"We can't envision any detrimental effects which would be caused by approving the proposed use. Douglas County zoning regulations currently allow properties such as Maple Leaf Orchards to be utilized by microbreweries and farm wineries. The proposed micro-distillery would actually be a smaller operation than either of those. The Douglas County zoning regulations simply do not address the question of micro-distilleries because nobody has ever asked before, as we understand it. It would be reasonable to say that, if either of those uses are appropriate, then there is no reason why using the property for a micro-distillery would be inappropriate. These uses amount to essentially the same thing, for all intents and purposes. It is a question of semantics, really."*

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 applicant provided information outlining the proposed use, which is included with this report as an attachment. Production would be fairly low, up to about 1,000 gallons of apple brandy per year, and would expand to include smaller batches of various fruit brandies in the future. The long term plans for the property include Agritourism activities, including tours of the micro-distillery and, if permitted, a small tasting room.

The subject property is adjacent to, and takes access from, a minor collector road with connections to a principal and minor arterial nearby. All processing will occur indoors and there will be no exterior storage of products or commodities. The applicant indicated that the by-product from the distilling process is in the form of pressed pulp which can be fed to livestock or composted.



**Staff Finding** – The use is small scale and should have no negative impacts to the adjacent properties.

## **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:

*"According to our understanding, the proposed use would pose no adverse effects to public health, safety or welfare. As far as that goes, there is reason to believe that the proposed use would improve local land values and might even benefit local businesses. Micro-distilleries have had that sort of impact in other parts of the country where they have sprung up in the last decade.*

*It is reasonable to consider whether the peace and privacy of our neighbors might be disturbed by the traffic of visitors to Maple Leaf Orchards (should we be successful). That seems improbable to us. We would be surprised (but happy) if Maple Orchards were to receive even half as many visitors as it formerly received during its heyday as a U-Pick-Em orchard and farm experience. That would only occur if the local area were to undergo a lengthy process of development involving wineries, micro-breweries and micro-distilleries, such that a weekend tourist trail of those attractions became popular, along the lines of Napa Valley, or the Kentucky Bourbon Trail. If that were to happen someday, any minor inconveniences would definitely be offset by the innumerable positive financial impacts which would occur simultaneously."*

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 apples they grow on the property, in addition to apples or other fruits that are produced off-site, 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 minor collector in close proximity to a principal arterial.

**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. Denial of the request would provide no benefit to the public health, safety or welfare.

## **VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response:

*"The micro-distillery would make use of the concept of "apples to bottle" within the confines of the orchard, depending on apples produced by the orchard. To this end, we plan on putting in more apple trees that would in turn enhance the rural nature of the area. Every attempt will be made to landscape the area around the orchard to look as natural as possible. We have researched the different native prairie grasses (silver bluestem, switch grass or foxtail millet) that are currently growing on our property. Working with a landscape architect, we plan to make beds along the road*

*and leading to the farmstead that would blend the various structures with the natural surroundings. Our goal is to be eco-friendly, to get an "organic" designation, and to be conservative with what nature has to provide."*

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*. The comprehensive plan does not directly address Conditional Use Permits; however it does contain recommendations for properties within the Urban Growth Area in Chapter 4, Growth Management. At the time the comprehensive plan was written, Lawrence was the only city with an Urban Growth Area. Baldwin City has since established an Urban Growth Area and the recommendations would apply to this area as well. The plan recommends that the Urban Growth Area not be developed to urban densities until infrastructure is in place and recommends that developing properties be annexed. The CUP proposal will maintain the existing rural residence and agricultural uses and add a *Value-added Agricultural Business* use which would not require the extension of infrastructure. The proposed uses are compliant with the comprehensive plan recommendations for properties within an Urban Growth Area.

**Staff Finding** –A Conditional Use Permit can be used to allow specific uses that are not permitted in a zoning district with the approval of a site plan. This tool allows development to occur in harmony with the surrounding area and to address specific land use concerns. The proposed CUP is compliant with the recommendations in the comprehensive plan as it will maintain the rural/agricultural character of the area and won't require the extension of City infrastructure.

#### **CUP PLAN REVIEW**

The proposal is to convert the Morton Building on the property to a micro-distillery. No external site improvements are proposed at this time.

#### **Parking and Access:**

The site has 2 access drives, one to the parcel in the northeast which had previously been used for the sale of agricultural products and the other to the residence. Deliveries would occur on the parking lot on the small parcel to the northeast. The applicant indicated that fruit deliveries would be very infrequent and would occur only during the harvest season. Product would be delivered with a pick-up truck.

The employee parks in the residential driveway. The applicant indicated he may consider extending the drive to the Morton Building in the future but has concerns with how this would affect the aesthetics of the property. Given the small scale, and non-public use of the facility, an access to the building is not necessary at this time.

#### **Utilities**

Waterlines will be extended to the building for washing and processing, but there will not be a restroom installed. The employees will use the existing restroom in the residence. The Douglas County Health Department indicated that a small septic system should be installed to manage the wastewater or the Morton building should be connected to the existing septic system.

**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. 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.

### **Conclusion**

The *Value-added Agricultural Business* standards 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 building 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.





**General Notes:**

1. Site: 1743 N 200 Road and adjacent parcel
2. Site Area: Approximately 20 acres
3. Existing Zoning: A (Agricultural) District
4. Current Use: Residential and Agricultural
5. Proposed Use: Residential, Agricultural and Value-added Agricultural Business (Micro-Distillery)
6. Legal Description: 18.327 ACRES; SECTION 10 TOWNSHIP 15S RANGE 20E; EAST 10 ACRES OF NORTHEAST 1/4 OF NORTHWEST 1/4, LESS 1.673 ACRE D 291/420; ALSO W 10 ACRES OF E 1/2 OF NORTHEAST 1/4 OF NORTHWEST 1/4 TCW82

**CUP CONDITIONS:**

1. A maximum of 4 full-time equivalent employees are permitted.
2. The total area of the structures used for operation, production, or storage may not exceed 10,000 sq ft.
3. Noise, light, vibration, or odor associated with the production may not be perceptible beyond the site boundary/property lines.
4. The process must comply with EPA water and air quality standards.
5. All equipment used in production shall be located wholly within a building or structure or be screened from the public rights-of-way and adjacent residential buildings.
6. Product shall be enclosed within a building or structure so that it is not visible from the property lines.
7. Deliveries from 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.
8. The CUP will be administratively reviewed every 5 years following approval.

**Conditional Use Permit  
Maple Leaf Orchards  
Micro-Distillery  
1743 N 200 Road**

**Parking Summary:**

Required parking: 1 space per 2 employees

1 employee: 1 parking space

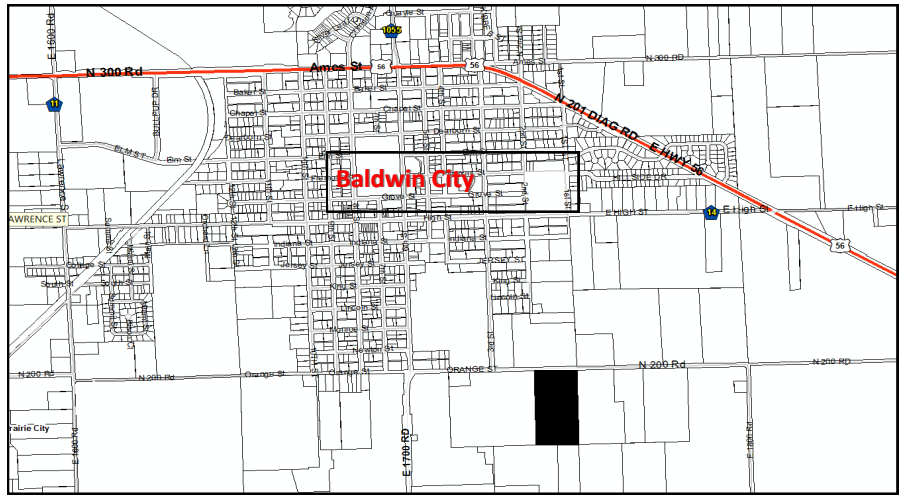
Parking provided: 1 parking space

**Site Summary:**

Site area: ~ 20 acres

Micro-Distillery Structure: 2,520 sq ft

**GENERAL LOCATION**





November 4, 2014

Hi Mr. Sherman,

Thanks so much for getting back to me on this.

My wife and I bought a 20 acre apple orchard/farm outside of Baldwin City about five years ago. This place had been known as Maple Leaf Orchards for decades. It was once a thriving orchard and "kiddie farm" destination, with a pumpkin patch, hay wagon rides and so on. Many locals have shared happy memories about their visits there! They are very excited that we are rehabilitating the orchard, for it had become very neglected and run-down.

Paul and Helene Gesink were the previous owners. Paul grew crops and sold produce, U-pick-'em fruit, hot dogs, slushies, bird feeders and so on from one of the buildings on the smaller parcel. The property actually consists of two separately deeded parcels. The 18.5 acre tract includes the orchard, farmhouse and a Morton Building. It has been in operation as an orchard since the early 60's. My understanding is that it has always been taxed and zoned as Agricultural land. The 1.5 acre tract was taxed as commercial land by the State until a few months before we bought it in 2009. My understanding is that it had some sort of mixed-use business zoning back then. Helene taught elementary school. The place fell apart after they divorced.

Our original intention was to plant grape vines and begin the process of establishing a winery while we waited for the vines to mature. (As you probably know, it generally takes 3-5 years for grape vines to produce.) As we evaluated the property and began designing the vineyard/winery - selecting grape varietals (mostly Crimson Cabernet, like Dennis Reynolds over at Somerset Ridge), acquiring tools and materials to build trellises, testing the soil, and so on - we discovered that the farm was in even worse shape than we thought.

The orchard, in particular, was more of a jungle than anything else, with hundreds of vines up to 4" in diameter covering the canopies and pulling the trees to the ground. Partly out of sympathy for the poor trees and partly in order to have fruit (even if not grapes) available to ferment sooner, rather than later, we began to rescue the orchard. Approximately 80 out of 160 trees survived the vine-clearing process and subsequent drought. We have since planted 24 additional trees, including some pears and cherries. We intend to plant at least 100 more apple trees this Spring, as well as a smaller number of plum and other fruit trees. You see, we had a change of plans along the way! My wife is a gardener and lifelong tree-lover. She fell in love with the orchard!

I am a physician who will be retiring in a few years. I will need a small retirement income to augment Social Security. Two years ago, we made about 50 gallons of hard apple cider, which is currently aging. Last year, a series of unusually warm March days alternating with freezing nights took out our entire crop. This summer, we had a good crop and fermented another 90-100 gallons. I can't make a profit selling hard apple cider

though, especially with so many large companies mass producing it these days. I just can't compete with their economies of scale. My price per bottle would simply be too high.

A micro-distillery is a different story. They are very popular these days! More and more of them are opening around the country every year. There is a growing market for boutique (aka "artisan") brandies. Our plan is to distill our hard apple cider into apple brandy. Eventually, we would like to distill 500-1000 gallons of brandy annually. According to my projections, that would result in \$10-20K revenue after expenses annually. We would make smaller batches of various fruit brandies (probably plum and pear to begin with) someday.

We are also interested in making the orchard a place for families to visit again. The details about that are still under consideration. We would like to offer tours of the micro-distillery and, if permitted, have a small tasting room. We are confident that we would attract many visitors during the annual Maple Leaf Festival in Baldwin City (we are just outside the city limits). It is likely to take a little longer to develop a plan for attracting Agritourists from greater distances. Our efforts in that direction thus far have included studying the State's Agritourism website and beginning to build relationships with other orchards and wineries. We plan to visit the two micro-distilleries currently operating in Kansas.

Our primary fruit processing, fermentation and distillation facility will be an existing 42' x 60' Morton Building on the large property, built in 2011. It is on the back half of the property and only partly visible from the road. We have been discussing electrical service with Baldwin City Public Works and interior finishing with the Morton Building people who constructed the barn. I have made inquiry with the manufacturer of a small hydraulic apple grinder/press. There are several options for a still.

Apple brandy has traditionally been distilled in 250 gallon batches using copper pot stills sometimes called alembics. In Normandy, where they call apple brandy "Calvados", portable pot stills are hauled from farm to farm where they are heated over wood-burning fires. Farmers will produce one or two barrels of "Calvados" annually, which they sell or trade to other farmers. The majority of farms in that part of France have a small orchard which generates this small but important income for them. Industrial distilleries are very different. There, column stills utilize an entirely different "continuous" distillation process. This continuous feed (as opposed to single batch) process enables them to produce tens of thousands of gallons (or even more!) of grain alcohol daily.

I hope I have been able to convey the difference between a distillery and a micro-distillery. What we have in mind is a micro-distillery. We would use a 250 gallon (possibly smaller, depending on cost) copper pot still with an electrical heating element. I believe our operation would be smaller than most micro-breweries and farm wineries in Kansas. Our current workforce consists of the two of us (part-time) and one full-time



employee. I would expect to hire one or two more full-time employees at the most, and that would happen only if we are successful.

Of course, all of this is dependent upon our ability to obtain a distillery permit from the TTB. They do not issue permits until the facility and machinery are all in place, have been approved by the appropriate local, county and state agencies and have passed TTB inspection. We have been encouraged by members of the Baldwin City Council to move forward. I have put all of these projects and purchases on hold pending a decision from you/the Douglas County Zoning department.

I have never been involved with a project like this in my life and am eager to obtain your guidance as to how to do things properly from the County's point of view. How should I proceed? Since micro-distilleries are not even specifically addressed in the zoning regulations currently, but are closer to micro-breweries or farm wineries than anything else, is it a matter left to your discretion? Or would a micro-distillery fall under the general category of distillery even though they are actually very different? If that is the case, I fear I must abandon the project entirely, for distilleries are allowed only in heavy industrial zones.

Thank you for your time in reading this and for any guidance you may give me. Please let me know if you have any questions. I would be more than happy to show you around the orchard, if that would be helpful to you.

Sincerely,

(William) Rory Murphy, MD  
913-484-4045 - cell phone



## FOR IMMEDIATE RELEASE

### Huber's Starlight Distillery Celebrates Grand Opening of New Stillhouse

STARLIGHT, Indiana (December 5, 2014) Today, Huber's Starlight Distillery announced their official opening to a large crowd of supporters during a public open house. The grand opening & ribbon cutting ceremonies celebrated the expansion into a new 12,000 square foot "stillhouse" facility on the Huber's Orchard, Winery, and Vineyard property in Starlight, Indiana.

The development of a distillation process for spirits and opening of a stillhouse was a logical step for Huber's after Indiana Governor Mike Pence signed a new craft artisan permit into law in 2013. State Rep. Ed Clere, R-New Albany, authored the legislation and said, "Indiana wineries and breweries have done a lot for economic development and revitalization, tourism, and job creation in communities throughout the state. There are similar opportunities with distilling, and this expansion is a significant step for the Huber family."

The law grants permission to wineries who want to diversify their business model to include the production of the spirit, such as vodka, gin, whiskey, and bourbon. In response, Huber's released their Starlight Distillery Vodka this past June and in October, Starlight Distillery Gin.

Ted Huber, President, Co-Owner, and Master Distiller of Starlight Distillery noted that the agriculture and tourism aspects of their operation have always been a priority for the family and the tours demonstrating their production process are becoming more popular with visitors. "It's a priority for us to be grain to glass with our spirits like we are vineyard to bottle with the majority of our wines," said Huber. "Our tradition started in 1843 with a family farm and our agricultural heritage still remains a priority today."

The Huber family hopes the expansion into spirit production will be an investment in the local community and partnerships with local companies such as Vendome from Louisville, KY, Libs Paving and Koetter Construction of Floyds Knobs, Indiana were a priority in the construction of the facility.

The event was planned as a celebration of National Repeal Day, an annual affair honoring the day when Prohibition was repealed in 1933. It included a blessing of the new facility, surprise fireworks, spirit tastings and hors d'oeuvres.

"The reaction from the public has been overwhelmingly positive, especially now that Huber's guests have a choice between enjoying the new Vodka and Gin craft artisan cocktails available on property along with Huber's award winning wines," said Samantha Huber, Retail Manager of Huber's Winery.

Huber's is an active member of the American Craft Spirits Association (ACSA) as well as the Distilled Spirits Council of the United States (DISCUS). The brand, Starlight Distillery, was founded in 2001 with the production of their brandy and is a division of Huber's Orchard, Winery, & Vineyards. Currently, all wines and spirits are available for purchase. Huber's Winery is open Monday through Saturday, 10 a.m. – 6 p.m. and Sundays, 12-6 p.m. For more information about the distillery and the products, visit [www.starlightdistillery.com](http://www.starlightdistillery.com).

**Media Contact:** Dana Huber, [dhuber@huberwinery.com](mailto:dhuber@huberwinery.com); (800) 345-9463 or (502) 817-0064 (cell).







P.O. Box 86, 803 Eighth St., Baldwin City, KS 66006 (785) 594-6427 FAX: 594-6586

May 14, 2015

Lawrence/Douglas County Planning Commission  
6 East 6<sup>th</sup> Street  
Lawrence, KS 66044

Dear Chairman Liese & Lawrence/Douglas County Planning Commission Members:

The Baldwin City Planning Commission has received and reviewed the Conditional Use application for Mr. and Mrs. Murphy to operate a micro-distillery at 1743 N. 200 Road, Baldwin City, Kansas. It is the opinion of the Baldwin City Planning Commission that the operation of a micro-distillery will have a positive impact on the County and its agri-tourism efforts and will offer a distinctive economic opportunity for the City of Baldwin City. We fully support the approval of the Murphy family's Conditional Use application and recommend that you do as well.

Respectfully,

Richard DeChant  
*Baldwin City Planning Commission Chair*



Matt Kirby  
*Planning Commission Member*



Ted Madl  
*Planning Commission Member*



Joe Salb  
*Planning Commission Member*



Casey Simoneau  
*Planning Commission Member*

