

BEFORE THE ST. CHARLES COUNTY COUNCIL  
ST. CHARLES COUNTY, MISSOURI

In the matter of Bill No. 5061 to approve )  
Conditional Use Permit CUP22-01 for custom ) Bill No. 5061  
butchering to Anthony Brinker and Tammy L. )  
Brinker, Property Owners, and Tony’s )  
Processing, LLC, Applicant.. )  
)

**FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER**

On May 31, 2022, the St. Charles County Council (“**County Council**”), by an affirmative vote of its majority, passed Bill No. 5061, approving Conditional Use Permit CUP22-01. The Planning and Zoning Commission (“**Commission**”) considered the application for Conditional Use Permit CUP22-01 (“**CUP22-01**”) and on a vote of nine (9) yeas to zero (0) nays decided to recommend it for approval. Pursuant to Section 2.600 of the St. Charles County Charter, an affirmative vote of a majority of the County Council is necessary to pass any bill, unless passing the subject bill would override a negative recommendation of the Commission, in which case, Section 405.510.A of the Ordinances of St. Charles County, Missouri (“**OSCCMo**”) requires the supermajority vote of five (5) Council Members to pass the bill. Because the County Council decided to uphold the positive recommendation from the Commission, only the affirmative vote of a majority of the County Council was necessary to pass Bill No. 5061 approving the CUP22-01.

At the May 31, 2022 meeting, the St. Charles County Council received for its consideration the record as it was stipulated and agreed by and between Anthony Brinker both as Owner of Tony’s Processing, LLC (“**Applicant**”), and as owner of the subject property with Tammy L. Brinker (“**Owners**,” and collectively with Applicant, “**Applicants**”), and St. Charles County Department of Community Development, Planning and Zoning Division (“**Division**”), in that certain Agreement to Stipulate as to the Relevant Facts and the Record and Waiving Formal Hearing, dated May 10, 2022, signed by Applicants and by the Division (“**Stipulation Agreement**”). Said Stipulation Agreement is attached hereto as **EXHIBIT I** and incorporated herein. The record set forth in the Stipulation Agreement constitutes the entire record relied upon by the County Council in making its decision. Having been duly advised in the premises, the County Council hereby makes its Findings of Fact and Conclusions as required by law.

**FINDINGS OF FACT**

**APPLICABLE PROVISIONS OF THE UNIFIED DEVELOPMENT ORDINANCE**

1. At all times relevant to this decision, St. Charles County has had in effect the Unified Development Ordinance for St. Charles County, Missouri (“**UDO**”), including its zoning regulations codified as Chapter 405 of the OSCCMo.

2. Chapter 405 of the UDO sets out zoning regulations applicable to the unincorporated part of St. Charles County.
3. Section 405.080.C.22 of the UDO provides that in “A” Agricultural Districts, the category “Custom butchering” is an authorized conditional use.
4. Section 405.510.A of the UDO provides that applications for conditional use permits for uses specifically authorized for consideration in the district use regulations shall be made to the Division, which shall refer the application to the Commission for public hearing. After holding the public hearing, a report and recommendation shall be filed by the Commission with the County Council.
5. Section 405.510.B of the UDO provides,

Before authorizing the issuance of a conditional use permit, the County Council may impose such conditions as will, in the County Council's judgment, ensure that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity, nor substantially diminish and impair property values within the neighborhood; and that the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

#### THE SUBJECT PROPERTY AND ITS ZONING

6. The property subject to the above-captioned conditional use permit application (“**Subject Property**”) is a parcel of land known as 291 Boone Country Lane; is located 3,200 feet from the intersection of Boone Country Lane and South Highway 94, near Matson; and consists of 23.23 acres. (Ex. I.)
7. The Subject Property is within an “A” Agricultural District. (Ex. I.)

#### THE CONDITIONAL USE PERMIT APPLICATION AND ITS REVIEW

8. Through the application for CUP22-01 for the Subject Property owned by Anthony Brinker and Tammy L. Brinker, the Applicants are seeking to develop a custom butchering operation. (Ex. I.)
9. On April 20, 2022, the Commission conducted a hearing on that application. (Ex. I.)
10. At that hearing, Robert Myers, Director of Planning and Zoning, provided a verbal report for Application No. CUP22-01. (Ex. I.)

11. Commissioner Cleary asked staff who would be responsible for performing the required inspections for this facility. Robert Myers responded that the state of Missouri will be responsible for performing the required inspections. (Ex. I )
12. With no further questions for County staff, Chairman Ellis asked the Applicant to come forward. (Ex. I )
13. Tony Brinker, 291 Boone Country Lane, Defiance, MO was sworn in. Mr. Brinker stated that he is the property owner. He stated that he is requesting that the Commission recommend approval of this conditional use permit request, and he stated that there are eight farmers in the audience for whom he does processing for that are in support of this request. He stated there is also a family member in the audience whose land adjoins his property that can testify if necessary regarding any concerns the Commission may have regarding odors coming from this facility. (Ex. I )
14. Chairman Ellis asked the Commission if they had questions for the Applicant. (Ex. I )
15. Commissioner Bahr asked Mr. Brinker whether a person could purchase a cow from a farmer and bring that cow to butcher it for their family or whether the service was only offered to the farmers themselves. Mr. Brinker responded that the service is both for the farmers and for persons that purchase livestock from the farmers. He added that he cannot legally sell anything wholesale or retail. (Ex. I )
16. With no further questions by Commissioners, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. CUP22-01. (Ex. I )
17. There being no one from the audience wishing to comment on this application, Chairman Ellis closed the public hearing and asked the Commission if they had any questions for the Applicant or staff. (Ex. I )
18. There being no further questions for the Applicant or staff, Chairman Ellis entertained a motion to approve Application CUP22-01. The Commission considered the motion duly made and seconded and recommended approval of Application CUP22-01 with the conditions recommended by Division Staff by a vote of nine (9) ayes to zero (0) nays. (Ex. I )
19. On May 9, 2022, the County Council introduced Bill No. 5061 to consider the Commission's recommendation to approve the application for CUP22-01. (Ex. I )
20. At that Council meeting, Robert Myers, Director of Planning and Zoning, was sworn in by staff and provided an overview of CUP22-01. Mr. Myers explained that, prior to the recent amendment to the UDO to add custom butchering as a conditional use in the "A" Agricultural District, there had been nothing within the County's zoning rules to address the Applicants' request. Mr. Myers reviewed the acreage the business sits on, how the

sanitary sewage will be addressed, the use of existing equipment and a small parking lot. Essentially, the footprint would not look any different than what it does currently. Finally, Mr. Myers noted that the Commission unanimously recommended approval of this application. (Ex. I )

21. The Applicant chose not to speak at this meeting. (Ex. I )
22. Council Chair Schneider opened the floor to public comments related to Bill No. 5061. (Ex. I)
23. Arnie C. Dienoff, O'Fallon resident, stated that there was no opposition received during the Planning and Zoning process, and with the current County and State rules, this should be a welcome use of land in the rural area. (Ex. I)
24. There being no further public comment or further discussion from Council, Council Chair Schneider announced the public comment and discussion on the matter was closed. (Ex. I)

### **CONCLUSIONS OF LAW**

25. At the May 31, 2022 meeting, the County Council concluded as a matter of law that it had the authority to grant the application for CUP22-01, because, through the conditions placed on the CUP22-01 the County Council can, as the UDO requires,

...ensure that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity, nor substantially diminish and impair property values within the neighborhood; and that the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

Section 405.510.B, OSCCMo.

26. Given that the proposed operation is limited in scope; that the Applicants would be able to engage in the conditional use utilizing the current footprint of existing buildings; that the penning of animals is a permitted use in the "A" Agricultural District; and that the conditions recommended by the Division Staff and adopted in Bill No. 5061 shall ensure that the conditional use conforms to the standards of Section 405.510.B OSCCMo., the Council finds that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity; that the conditional use will not substantially diminish and impair property values within the neighborhood; and that the

establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

### **DECISION AND ORDER**

On this 13<sup>th</sup> day of June 2022, the St. Charles County Council hereby orders:

1. The County Council's majority vote to approve Bill No. 5061 at its May 31, 2022 meeting resulted in the application for conditional use permit CUP22-01 being granted, subject to the following conditions:
  - i. The conditional use shall substantially comply with the CUP concept plan and CUP narrative submitted by the Applicants.
  - ii. The conditional use operator shall obtain and maintain necessary State licenses and permits, including, but not limited to, licenses and permits from the Missouri Meat and Poultry Inspection Program.
  - iii. The conditional use operator shall obtain a permit from St. Charles County and/or the State of Missouri, as necessary, for construction, operation, and maintenance of an onsite sewage disposal permit.
  - iv. No conditional use shall become active until such time all conditions of approval have been met.
2. As required by Section 405.511 OSCCMo., the County Council's approval of Bill No. 5061 and granting of the requested Application CUP22-01 at its May 31, 2022 meeting is hereby documented in these written Findings of Facts and Conclusions of Law.
3. Upon execution by the undersigned, these Findings of Facts and Conclusions of Law are hereby made part of the record and approved by the Governing Body, such approval constituting the Governing Body's final action on the subject of the CUP22-01 Application.
4. The County Registrar shall mail or send certified copies of this Decision and Order to the Applicant and property Owners at their record addresses and to the Department of Community Development; and
5. The Department of Community Development is directed to retain its certified copy of this Decision and Order with the records on the application for conditional use permit CUP22-01.

ST. CHARLES COUNTY COUNCIL

By: \_\_\_\_\_  
Nancy Schneider, Chairperson

ST. CHARLES COUNTY EXECUTIVE

By: \_\_\_\_\_  
Steve Ehlmann, County Executive

ATTEST:

By: \_\_\_\_\_  
Brenda Hinton, County Registrar

Certificate of Service

The undersigned certifies that on this \_\_\_\_ day of \_\_\_\_\_, 2022, she mailed or sent certified copies of this document to Anthony Brinker and Tammy L. Brinker at 291 Boone Country Lane, Defiance, MO 63341; and to Michael Hurlbert, Director of Community Development, St. Charles County, at 201 North Second Street, St. Charles, Missouri 63301.

\_\_\_\_\_  
Brenda Hinton, County Registrar

# EXHIBIT I



## CONDITIONAL USE PERMIT STIPULATION AGREEMENT

### BEFORE THE ST. CHARLES COUNTY COUNCIL ST. CHARLES COUNTY, MISSOURI

In the matter of Bill No. 5061 to approve     )  
Conditional Use Permit CUP22-01 for custom     )     Bill No. 5061  
butchering on property owned by Anthony     )  
Brinker and Tammy L. Brinker     )

### **AGREEMENT TO STIPULATE AS TO THE RELEVANT FACTS AND THE RECORD AND WAIVING FORMAL HEARING**

It is stipulated and agreed by and between Tony's Processing, c/o Tammy L. Brinker ("Applicant"), Anthony Brinker and Tammy L. Brinker, ("Owners"), and St. Charles County Department of Community Development, Planning and Zoning Division ("Division"), that the relevant facts, as set forth in the documents and additional audio and video recordings listed below, may be considered by the County Governing Body to be true.

- Conditional Use Permit Application
- Division Staff Recommendation to the P&Z Commission
- Property Description
- Photos of the Site
- Custom Exempt Operations Information
- CUP Narrative
- Concept Plan
- Number of Letters in support   1
- Number of Letter with concerns   0
- Number of Letters in opposition   0
- Minutes from the P&Z Commission meeting on April 20, 2022
- Year 2030 Master Plan for St. Charles County, Missouri
- The Unified Development Ordinance of St. Charles County, Missouri
- Recommendation from the P&Z Commission
- Video Recording of the P&Z Commission meeting on April 20, 2022
- All testimony received during the public comment session of the County Council meeting on May 9, 2022 where the Bill was introduced, as documented in the video recording of the meeting.

It is further stipulated and agreed that the record for consideration by the County Governing Body include only the materials listed above, that copies of these materials be admitted into evidence as if originals, and that said record be admitted into evidence before the County Governing Body without objection by either party.

Bill No. 5061 to approve Conditional Use Permit CUP22-01, pg. 2

All evidence admissible by this stipulation shall have the same force and effect as if it were admitted by specific ruling of the County Governing Body pursuant to the formal rules of evidence and may be used by the Governing Body in making findings of fact to the same extent as any other properly admitted evidence.

It is further stipulated and agreed by and between the parties to the above-entitled matter that, notwithstanding the right to a formal hearing under Section 405.511 of the Ordinances of St. Charles County, Missouri, such formal hearing shall be and is waived and the matter shall proceed to the County Governing Body for final decision on the record as stipulated herein.

IN WITNESS WHEREOF, the Parties have executed this Stipulation Agreement as of the date last written below:

**St. Charles County Department of Community  
Development, Planning and Zoning Division**

**(“Division”)**

Signature By: Robert A. Myers

Printed Name: Robert A. Myers

Title: Planning & Zoning Div. Director

Date: May 10, 2022

Attest: Sheila Weiss

**(“Applicant”)**

Signature By: Anthony Brinker

Printed Name: ANTHONY BRINKER

Title: OWNER

Date: May 10, 2022

Attest: Sheila Weiss

**(“Owner”)**

Signature By: Anthony Brinker

Printed Name: ANTHONY BRINKER

Title: OWNER

Date: May 10, 2022

Attest: Sheila Weiss