



Planning and Urban Design

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To: City Planning Commission
From: Planning and Urban Design Staff
Date: April 12, 2021
Re: SP2021-001

GENERAL INFORMATION

Applicant:
Tim Paxton

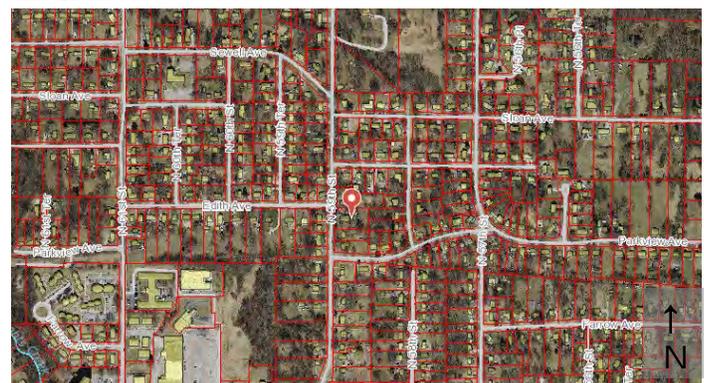
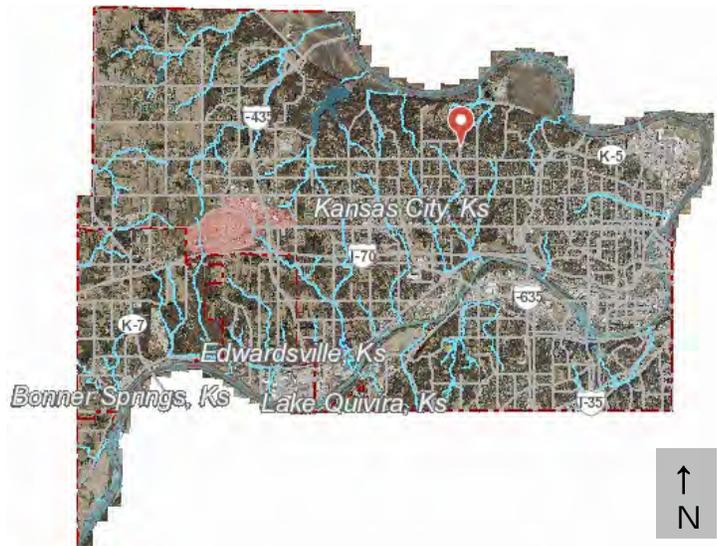
Status of Applicant:
Homeowner
3319 North 59th Street,
Kansas City, Kansas 66104

Requested Action:
Approval of a Special Use Permit.

Date of Application:
January 2, 2021

Purpose:
Special Use Permit for storage of
commercial tools on the property.

Property Location:
3319 North 59th Street,
Kansas City, Kansas 66104



Commission District:	Commissioner At Large: Melissa Bynum District #1 Commissioner: Gayle Townsend
Existing Zoning:	R-1 Single Family District
Adjacent Zoning:	North: R-1 Single Family District South: R-1 Single Family District East: R-1 Single Family District West: R-1 Single Family District
Adjacent Uses:	North: Single-family residence South: Single-family residences East: Single-family residences West: Single-family residence
Total Tract Size:	0.68 Acre
Master Area Plan:	City-Wide Master Plan
Master Plan Designation:	The City-Wide Area Master Plan designates the property as Low-Density Residential. The Low-Density Residential land use designation allows single-family residences, institutional uses such as schools, small places of worship, and libraries, and parks or other open spaces. All industrial uses, business parks, adult-oriented businesses, and night clubs are discouraged.
Major Street Plan:	The Major Street Plan classifies North 59 th Street as a Class B Thoroughfare.
Required Parking:	Section 27-454(e) requires two (2) parking spaces for each single-family dwelling, one (1) of which must be a garage or carport. The property has paved parking on the driveway, but there is not a garage on the property.
Advertisement:	<u>The Wyandotte Echo</u> – February 11, 2021 Letters to Property Owners – February 12, 2021 and March 19, 2021
Public Hearing:	April 12, 2021
Public Support:	One (1) neighbor has expressed support for the Special Use Permit.
Public Opposition:	None to date.

PROPOSAL

Detailed Outline of Requested Action: The applicant, Tim Paxton, is requesting a Special Use Permit for storage of commercial tools on a private residence. The tools will be stored in a detached accessory structure that has been proposed to be built on the property sole for this purpose. There are currently no other detached accessory structures on the property.

City Ordinance Requirements: Article VIII Sections 27-592 through 27-606

Code Enforcement History: A Notice of Violation for environmental/junk was issued to the property on November 5, 2020. As of January 8, 2021, the applicant has requested an extension on the removal deadline due to the snow. Code Enforcement records show that as of February 9, 2021 all inoperable vehicles have been removed from the property, but it is unclear if the noted junk (trash, old appliances, etc.) were still present on the property.

FACTORS TO BE CONSIDERED

1. *The Character of the Neighborhood.*

The subject property is within the Bethel-Welborn Statistical Neighborhood and within the Field of Dreams Neighborhood Group. The property is located within a single-family residential neighborhood, a few blocks north of Leavenworth Road.

2. *The zoning and uses of properties nearby and the proposed use's expected compatibility with them.*

Most nearby parcels are approximately one-quarter (0.25) acre in size. While the subject property is larger than average at 0.68 acre, the relative density of the area magnifies the effect that accessory uses have upon neighboring properties. In this instance, use of a storage container, in addition to the several vehicles already on the property, the storage container may have an aesthetic and physical imposition that is incompatible with the zoning and uses of the single-family residences that surround the subject property.

3. *The suitability of the property for the uses to which it has been restricted. Will removal of the restrictions detrimentally affect nearby property?*

Special Use Permits for storage containers are not uncommon. However, the context of the property is important when determining the effects that a storage container will have on the nearby properties. In this instance, the residential nature of the neighborhood tends to make garages and shed suitable and generally acceptable, while storage containers in such neighborhoods are less appropriate. The question of whether the storage container will have any detrimental effects on the property is not a hypothetical one—the storage container is already on the property.

4. *The length of time the property has remained vacant as zoned.*

The property is currently occupied.

5. *The degree of conformance of the proposed use to the Master Plan.*

Special Use Permits are not addressed in the City-Wide Master Plan. The Low-Density Residential land use designation does not address the storage of commercial tools but does discourage all industrial uses. While storage of the tools is not the same as a full industrial use, the storage of tools in an area designated as Low-Density Residential should still be regulated. The proposed special use conforms to an extent with the City-Wide Master Plan.

6. *Whether the proposed use will result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.*

The applicant has given no indication that customers will be coming to the property. Therefore, the proposed use will not result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.

7. *Whether the proposed use is reasonably necessary for the convenience and welfare of the public and will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.*

The proposed use of the storage container is to securely hold tools for the applicant's business. Have a secure place to hold tools, and continuing a business, is on its face necessary for the convenience and welfare of the public. However, Staff questions as to whether use of the storage container will substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.

8. *Whether the noise, vibration, dust, or illumination that would normally be associated with such use is of such duration and intensity as to create problems for near-by property.*

It appears that the storage container in question is already on the property, so there is no concern about noise, dust, or vibrations from moving the container on site. The applicant has stated that there will be no exterior lights.

9. *Whether the proposed use will pollute the air, land or water.*

The applicant has stated that basic work tools will be stored in the storage container. Such tools will not pollute the air, land or water.

10. Whether the use would damage or destroy an irreplaceable natural resource.

There are no irreplaceable natural resources that would be damaged by the proposed and continued use of a storage container in the rear yard, provided that there are no chemicals or gases that could escape and leech into the ground, the groundwater, or the air.

11. The relative gain to the public health, safety, and welfare as compared to the hardship imposed on the individual landowner or landowners.

The public will gain little in the way of having a storage container continue to sit on the property. Hardships to the surrounding landowners—and to the public—include a less aesthetically pleasing view from the public right-of-way and greater overcrowding on the property.

12. Whether the proposed use would result in overcrowding of land or cause undue concentrations of population.

Based on aerial photographs and those provided by the applicant, the current presence of the storage container and the several other vehicles on the property already creates an atmosphere of overcrowding. The presence of inoperable vehicles must be addressed before a Special Use Permit can be granted.

PREVIOUS ACTIONS

N/A

NEIGHBORHOOD MEETING

The applicant accepted emails and phone calls through February 22, 2021. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant (see the “Attachments” section of this report).

KEY ISSUES

Alternative Storage Solutions
Notices of Violation
Screening
Temporary Use of Storage Container
Tools to be Stored

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design:

- 1) Aerial photos from 2020 show several cars or other large objects on the property. The applicant must remove all unpermitted accessory structure and immovable vehicles from the property and park all moveable vehicles on paved parking as allowed under all relevant sections, including Sections 27-454(e), 27-673(a)-(d), and 27-675(b).

Applicant Response: *All vehicles are legally tagged and drivable while on designated parking areas.*

Staff Response: All vehicles must be registered, operable, and parked on paved parking area, as per Sections 27-454(e), 27-673(a)-(d), and 27-675(b), before the Special Use Permit.

- 2) The site plan and photos show a storage container already on the property.
 - a. Is that the storage container for which the applicant is requesting a Special Use Permit?

Applicant Response: *Yes, that is the storage container for which a permit is being requested.*

- b. How long has the storage container been on the property?

Applicant Response: *It has been in place since Fall of 2019. We were unaware until a few months ago that a special permit was required.*

- c. Is or will the storage container be on any foundation?

Applicant Response: *The container is supported by concrete pillars to give support and hold it in place.*

- 3) The site plan shows dimensions for a storage container, but it is difficult to read. State the dimensions of the storage container here.

Applicant Response: *The dimensions of the storage container are: 20' x 8' x 8.5'*

- 4) What types of tools will be stored in the storage container?

Applicant Response: *The tools to be stored in the container are power tools, hand tools, and other small items used in remodeling.*

Staff Response: No chemicals or otherwise combustible or flammable material may be stored within the storage container.

- 5) Where was the applicant storing their tools before storing them in the storage container on the subject property?

Applicant Response: *Prior to having the container, tools were either stored in the basement or locked within vehicles. Storage in the basement caused hardship due to the need of opening garage doors causing heating or cooling to escape thus increasing the financial hardship with every opening of the garage door. Of course, it was difficult to continually have to rearrange tools to be able to use vehicles.*

Staff Response: An accessory structure with a foundation, such as a garage, is better suited—and in fact preferred by Department of Planning & Urban Design—to a storage container, which is not as stable and is less aesthetically pleasing. If granted the Special Use Permit for use of a storage container, Staff encourages the applicant to use the granted time to erect a founded accessory structure to serve as more permanent and secure storage of the applicant's power tools.

- 6) In the Special Use Permit application, the applicant stated that use of the storage container is necessary because there is no secure garage or shed on the property.
- a. The site plan provided by the applicant shows that there is a shed on the property. Why does the applicant not utilize that shed for tool storage?
 - b. Does the applicant have plans of constructing a garage or shed to permanently store their tools in?

Applicant Response: *The shed on the property is only a 3-sided shed without capability of securing tools. Upon purchasing the container, we expected it to be a permanent solution to housing our tools. If this is not possible, we are open to learning about other approved solutions that are available.*

Staff Response: As previously stated, Staff encourages the applicant to use the granted time to erect a founded accessory structure to serve as more permanent and secure storage of the applicant's power tools. The 3-sided shed, however, will have to be demolished if a new accessory structure is constructed or a variance for the second accessory structure must be granted.

- 7) The storage container should be screened from view from the public right-of-way by the permissible use of a fence, vegetation, topography, or any combination of the three (3) options.

Applicant Response: *A privacy fence is in the process of being built across the driveway to obstruct the view from the front of house. Climbing, flowering vines that will be aesthetically pleasing and reduces carbon footprint have been planted and are expected to cover the container by the end of the growing season.*

Staff Response: A fence must be fully erected and screening the storage container before the Special Use Permit can go into effect.

- 8) The site plan provided by the applicant demonstrates a gravel driveway leading from the public right-of-way to a concrete slab in the rear yard. Due to the commercial use of the storage container, the gravel driveway must be paved in accordance with the relevant portions of Section 27-675 in order to properly reflect the special commercial use.

Applicant Response: *As in accordance to Section 27-675, we have a gravel drive and parking area which is regraded every 2-3 years as we are a single family dwelling. No commercial vehicles are used at the address. Only the tools are stored on the premises.*

Staff Response: Land entitlements, such as a Special Use Permit, have the appropriate nexus between the permit and requiring the driveway to be paved. If a storage container is to be stored on the driveway and/or parking space on the property, then a paved driveway is required.

- 9) Does the applicant have a Business License/Occupational Tax Receipt from the Unified Government?

Applicant Response: *No. We are a registered LLC with the State of Kansas.*

Staff Response: The applicant must receive an occupational tax receipt from the Business Licensing Department before the Special Use Permit can be granted.

- 10) Any signage must comply with the sign code and be permitted through the Department of Planning and Urban Design.

Applicant Response: *This property is not used in a commercial capacity, therefore no signage to attract or designate it as a business is displayed.*

- 11) The applicant has filed and maintained a current business occupation tax application.

- 12) The Special Use Permit shall be valid for two (2) years from the publication of the associated Ordinance. The Applicant is solely responsible for renewing their Special Use Permit. The Applicant should contact the Planning and Urban Design Department no less than two (2) months prior to the expiration of the permit in order to begin the renewal process. Any application for renewal that is submitted after the expiration date will be considered a new application with the associated application fee and approval term. If the renewal deadline is not met, all operations must cease until such time as a new Special Use Permit is approved.

- 13) The Special Use Permit is not valid for the approved use to be in operation until all the conditions of approval are met. The Applicant acknowledges that both the property owner and the business owner are collectively responsible to ensure that the use of the property is compliant with all ordinances, conditions and other requirements of this approval. Failure to meet all these requirements may result

in revocation of this permit. The property may also be subject to enforcement actions and administrative citations.

- 14) Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Urban Planning and Land Use Department (check made payable to the Unified Treasurer) immediately following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper.

Planning Engineer Comments:

- A) Items that require plan revision or additional documentation before engineering can recommend approval:
 - 1) None
- B) Items that are conditions of conditions:
 - 1) None
- C) Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
 - 1) None

STAFF RECOMMENDATION

Staff recommends that the City Planning Commission make the findings contained within the staff report related to *Factors to be Considered*, and *Key Issues* and recommend **APPROVAL** of Petition **SP2021-001** subject to all comments and suggestions outlined in this staff report, and summarized by the following conditions:

- 1) **Keeping a container is not in line with the SOAR goals, which is to reduce blight and degradation in neighborhoods. The Unified Government Board of Commissioners has repeatedly stated this goal at multiple public hearings. A permanent detached accessory structure shall be constructed to keep tools and ancillary items within two (2) years of this permit;**
- 2) **Driveway must be paved, per nexus of planning entitlements and the relevant Director's Interpretation;**
- 3) **The applicant has filed and maintained a current business occupation tax application;**
- 4) **A fence must be fully erected and screening the storage container before the Special Use Permit can go into effect;**
- 5) **No chemicals or otherwise combustible or flammable material may be stored within the storage container;**
- 6) **The Special Use Permit is not valid for the approved use to be in operation until all the conditions of approval are met. The Applicant acknowledges that both the property owner and the business owner are collectively responsible to ensure that the use of the property is compliant with all ordinances, conditions and other requirements of this approval. Failure to meet all these requirements may result in revocation of this permit. The property may also be subject to enforcement actions and administrative citations;**

- 6) The Special Use Permit shall be valid for two (2) years from the publication of the associated Ordinance. The Applicant is solely responsible for renewing their Special Use Permit. The Applicant should contact the Planning and Urban Design Department no less than two (2) months prior to the expiration of the permit in order to begin the renewal process. Any application for renewal that is submitted after the expiration date will be considered a new application with the associated application fee and approval term. If the renewal deadline is not met, all operations must cease until such time as a new Special Use Permit is approved; and,
- 7) Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Urban Planning and Land Use Department (check made payable to the Unified Treasurer) immediately following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper.

ATTACHMENTS

Land Use Map
 Aerial Map
 Zoning Map
 Site Plan Submitted by the Applicant
 Photos of Property Provided by the Applicant
 Neighborhood Meeting Materials, Dated February 22, 2021

REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u>	<u>Planning Commission</u>	<u>Unified Government Commission</u>
Public Hearing Special Use	April 12, 2021	April 29, 2021

STAFF CONTACT: **Michael Farley**
 mfarley@wycokck.org

MOTIONS

I move the Kansas City, Kansas City Planning Commission recommend **APPROVAL** of Petition **SP2021-001** to the Unified Government Board of Commissioners as meeting all the requirements of the City code and being in the interest of the public health, safety and welfare subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements of the Kansas City, Kansas City Planning Commission:

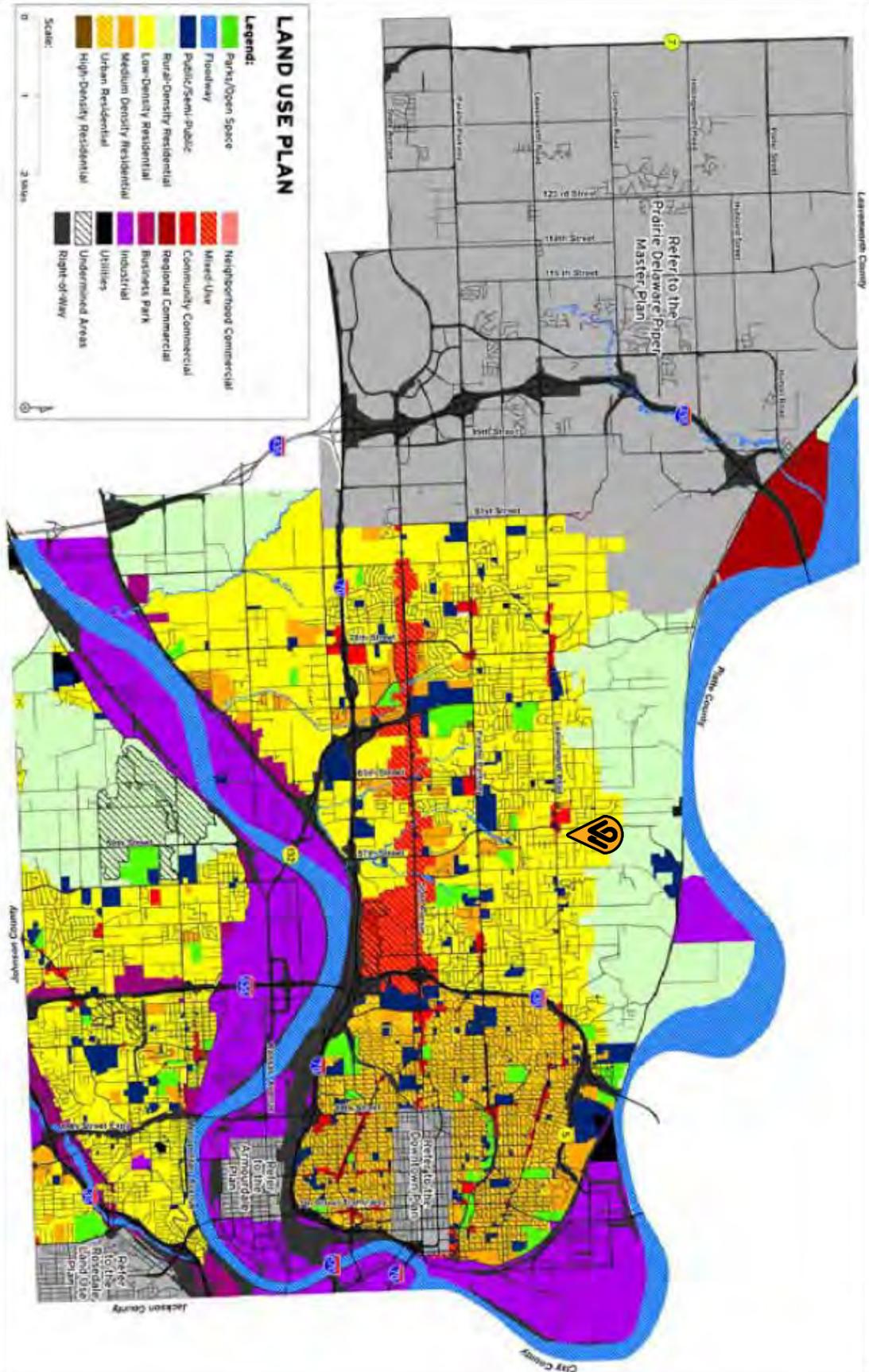
1. _____;
2. _____; And

3. _____.

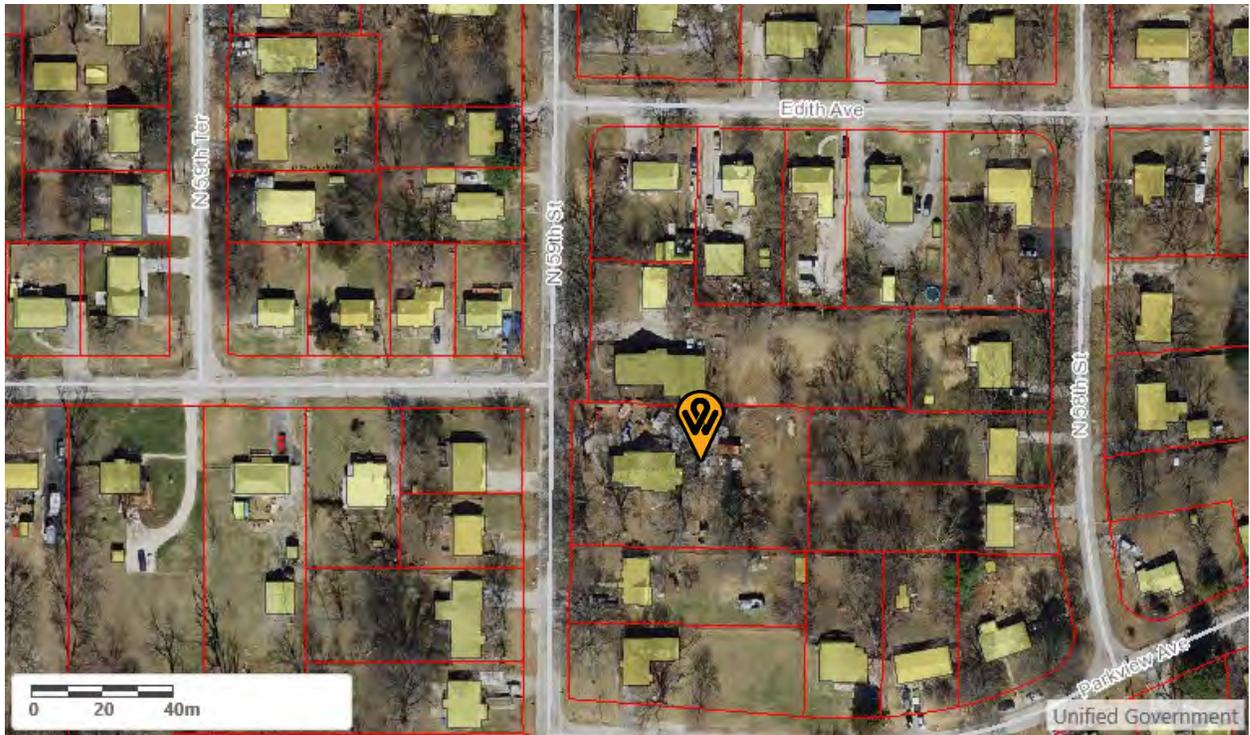
OR

I move the Kansas City, Kansas City Planning Commission recommend **DENIAL** of Petition **SP2021-001**, to the Unified Government Board of Commissioners as it is not in compliance with the City Ordinances and as it will not promote the public health, safety and welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.

LAND USE MAP



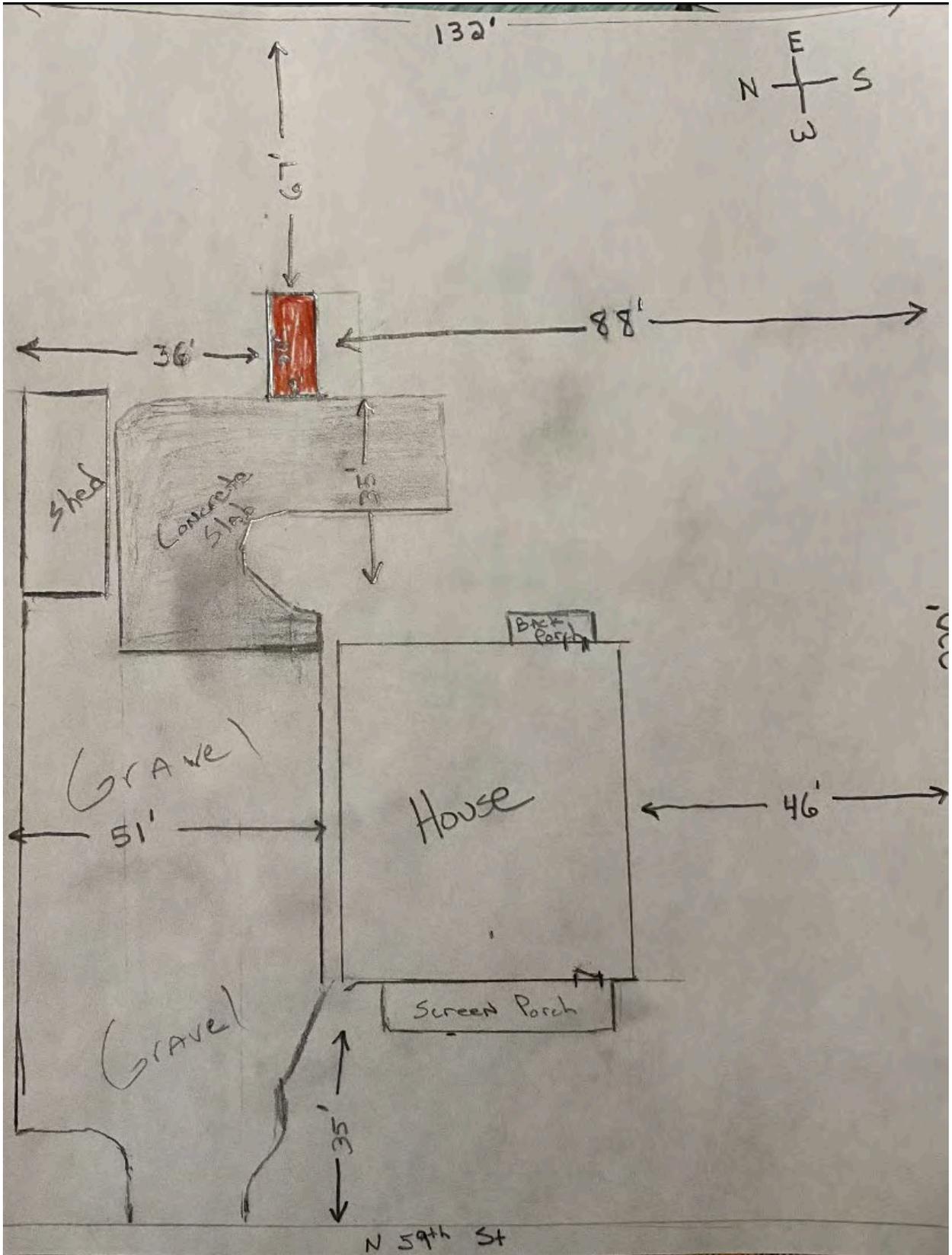
AERIAL MAP



ZONING MAP



SITE PLAN SUBMITTED BY THE APPLICANT



PHOTOS OF PROPERTY PROVIDED BY THE APPLICANT



NEIGHBORHOOD MEETING MATERIALS, DATED FEBRUARY 22, 2021

February 10, 2021

Tim Paxton

3319 N. 59th St.

Kansas City, Kansas 66104

Subject: Neighborhood Meeting

I/we have filed an application with the Department of Urban Planning and Land Use #SP2021-001-3319 NORTH 59TH STREET. The purpose for this is a special use permit at 3319 N. 59th St., Kansas City, KS 66104. We are asking to use a 20 ft. shipping container on concrete pillars located behind our house. This structure is intended to be a semi-permanent addition to securely house tools used by our business, Alpha Omega Home Solutions, that currently do not have an alternate secure location in which to be stored. The structure's location is in adherence to city regulations by being well off property lines and located almost in the middle of our property, behind the northeast back corner of the house (see drawing). No increase in noise or traffic will occur due to use of this structure.

Due to Covid-19 restrictions, we are holding this meeting in an email question/comment format. All inquiries must be submitted no later than February 22, 2021 @ 7pm. All questions /comments may be directed to: m.pax2000@yahoo.com. Please use the reference #SP2021-001-3319 NORTH 59TH STREET in the subject line. Thank you.

Sincerely,

Tim Paxton

property is maintained that the owner should be able to do as he/she pleases on their own property.

Respectfully,
Keith W. Herdman
5801 Edith Avenue
KC, Ks.

Our response was: Thank you for your support!

I have spoken in person with several neighbors, explaining the situation to them and the responses were all positive showing encouragement and support of the container to continue to be used as tool storage.

As requested, letters were mailed out with an email enclosed to answer any questions or concerns. One response was received. It was from Keith Herdman [*email address redacted*]. It said the following: This is in response to the letter I received in reference to the special permit request. I feel this permit should be approved for the said use of the 20' shipping container on said property. It is also my opinion that anything that doesn't violate current property code and the upkeep of the