



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

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To: City Planning Commission

From: Planning and Urban Design Staff

Date: May 9, 2022

Re: **Special Use Permit Petition SP2022-021**

GENERAL INFORMATION

Applicant:

Melissa Herr DBA Herr Hut

Status of Applicant:

Property Owner
2618 South 48th Terrace
Kansas City, Kansas 66106

Requested Actions:

The Approval of a Special Use Permit for a Home Occupation.

Date of Application:

January 28, 2022

Purpose:

To begin operating as toy and gift merchandise sales shop in the Applicant's home.

Property Location:

2618 South 48th Terrace
Kansas City, Kansas 66106

Commission Districts:

Commissioner At Large, District #2:
Tom Burroughs
District #6 Commissioner: Angela Markley

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 Residence East: Single Family Residence West: Single Family Residence
Total Tract Size:	0.1734 Acre
Master Plan Area:	The Subject Property is within the City-Wide Master Plan.
Master Plan Designation:	The City-Wide Master Plan designates this Property as Low Density Residential. Low Density Residential allows for single-family residences, parks, open space, and institutional uses such as schools, and churches. Discouraged uses include industrial uses, business parks, and medium and high-density residences.
Major Street Plan:	The City-Wide Master Plan designates South 48 th Terrace as a Local Street.
Parking Requirement:	R-1 District: Section 27-454(d) requires two (2) off-street parking spaces premises for each single-family dwelling, one (1) of which must be a garage or carport. The property currently has a detached garage and driveway, meeting this requirement.
Advertisement:	<u>The Wyandotte Echo</u> – February 17, 2022 Letters to Property Owners – February 18, 2022, March 8, 2022 and April 5, 2022
Public Hearing:	May 9, 2022
Public Support:	The Applicant received one email of support.
Public Opposition:	None to date.

PROPOSAL

Detailed Outline of Requested Action: The Applicant, Melissa Herr of Herr Hutt LLC, is seeking approval to operate a home occupation out of their property at 2618 South 48th Terrace. The applicant plans to sell toys, gifts, and similar merchandise and deliver the orders which are placed virtually. The applicant plans on keeping a small amount of inventory on the property but does not plan on having any on-site sales or visiting customers. The Applicant wishes to use the sales proceeds as an investment to fund a future restaurant business.

City Ordinance Requirements: Article VIII Sections 27-340 – 27-765 and Article VII Sections 27-454 – 27-457, Sections 27-592 – 27-606.

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. The current property owner has received no noise or disturbance complaints.

Building or Code Enforcement Complaints:

1. The subject property has previous abatement violations as late as 2006, however, they are prior to the applicant's purchase.

Outstanding or Related Permits and Cases:

1. The subject property has no outstanding Building Permits.
2. The current property owner has no outstanding Code Inspection Cases.

FACTORS TO BE CONSIDERED

1. Neighborhood character.

The neighborhood is residential in character. Lots are average for residential densities and are approximately 60 feet in width. There streets are concrete, and driveways are often concrete approaches with concrete or asphalt driveways. Lots have mature trees, but do not show signs of improvement such as sidewalks or storm drainage.

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

The zoning and uses are set out above. The subject property is surrounded primarily by R-1 Single Family Zoning District. The property has been owner occupied since 2021 and appears to have been maintained in the Applicant's family since 2006. Commercial uses of are not traditionally compatible with single-family properties although if managed appropriately and without obvious indicators that there is a home occupation at the property, general compatibility

would be maintained.

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

This property is suitable for use as a single-family home. The property could be suitable for use as a gift delivery service if managed appropriately by keeping all inventory discreetly stored inside the home and by prohibiting customers from visiting on site. Removal of the restrictions that require a Special Use Permit for such activities has the potential to create issues such as overcrowding if inventory is kept outside the confines of the building,

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

The property is not currently vacant. The property is owner 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 City-Wide Master Plan designates this Property as Low Density Residential. Low Density Residential allows for single-family residences, parks, open space, and institutional uses such as schools, and churches. Discouraged uses include industrial uses, business parks, and medium and high-density residences. The usage of a single-family home for the commercial purpose of a gift or merchandise delivery service is an allowed commercial use if approved with a Special Use Permit.

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 proposed use should not exceed the capacity of the Local Street to accommodate it if managed properly as all customer interactions are off-site.

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 does not provide a use considered reasonably necessary for the convenience and welfare of the public as it is a private service. If managed properly, the continued use of the property will not substantially nor permanently injure the appropriate use, visual quality, or marketability of adjoining property as the proposed use operates entirely within an existing dwelling in a built-out neighborhood.

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.*

There have not been any noise complaints to date with the current applicant, as this is a new application. Noise, vibration, dust, or illumination are not issues typically related to the use of a residential property as a delivery gift and merchandise service if properly managed.

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

The proposed use will not pollute the air, land, or water as it is an existing permitted residence.

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

The proposed use will not damage or destroy an irreplaceable natural resource as it is an existing single-family residence in a built-out urban neighborhood.

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

The relative gain or loss to the public health, safety, and welfare is likely to be minimal as it only provides the convenience of delivery to private customers or consumers. If denied, the landowner could not use the property as a home occupation but may still use the property as their primary residence or sell the property.

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

The proposed use will not create issues of overcrowding as it operates within an existing structure on the site. Customers are not proposed to visit the site, therefore, undue concentrations of population should not be an issue.

13. *Development of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise, or other adversity.*

The subject property is a permitted single-family residence in a built-out neighborhood and can be used as a merchandise delivery service without any foreseen adversity if operated properly

14. *The extent to which utilities and public services are available and adequate to serve the proposed use.*

a. *Water service*

Water Service is provided by BPU.

b. Sanitary sewer service

Sanitary sewer is provided by public sewer.

c. Storm water control

Stormwater control is provided at various point throughout the Rainbow Boulevard corridor

d. Police

Police service is provided by South Patrol, District #334.

e. Fire

Fire service is provided by Station #10.

f. Transit

There is no accessible public transit to the property.

g. Schools

Education is provided by Turner, Kansas USD #202.

h. Streets

See item #6 above.

NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting at the property on April 19, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

KEY ISSUES

Neighborhood Character
Parking
Zoning
Land Use
Noise
Traffic
Hours of Operation

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

General:

1. What type of products do you intend to sell?

Applicant Response Summarized: Small gifts such as toys, stuffed animals, and similar small items that may be combined into a gift basket, similar to what is ordered for birthdays or other special occasions.

2. Do you have a Business License/Occupational Tax Receipt from the Unified Government?

Applicant Response Summarized: Not yet.

3. Are you having customers visiting the property?

Applicant Response Summarized: No, I will deliver the gifts with my personal vehicle. No customers will be coming onto the property.

4. If approved, the driveway and apron shall be upgraded to an improved surface such as asphalt or concrete. The amount of improved surface in the front yard shall not exceed 30% of the open space.
5. If approved, the applicant shall perform repairs to remove the fallen rear tree and repair the rear corner soffit.

Planning Engineering Comments:

- A) Items that require plan revision or additional documentation before engineering can recommend approval:
 - 1) None
- B) Items that are conditions of approval:
 - 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 recommend **APPROVAL** of Case **SP2022-021** subject to all comments and suggestions outlined in this staff report, and summarized by the following conditions:

1. If approved, the driveway and apron shall be upgraded to an improved surface such as asphalt or concrete. The amount of improved surface in the front yard shall not exceed 30% of the open space;
2. If approved, the applicant shall perform repairs to remove the fallen rear tree and repair the rear corner soffit;
3. If approved, the applicant must file and maintain a current business occupation tax application with this office;
4. A Right-of-Way Permit is Required. The applicant is required to contact the Public Works Department at (913) 573-5311 or by info@wycokck.org to confirm if they need a right-of-way permit, and if so, must take it upon themselves to initiate the permit process accordingly;
5. A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspection@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;
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;
7. Any business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that all vehicle parking must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-463 through 27-470; 27-592 through 27-616; 27-667 through 27-676; 35-468 through 35-492]. No such business shall use the public right of way for any business operation. Any shared parking with another property is only allowed by a properly executed legal document that has been filed with the Unified Government and ratified by the City Planning Commission. Failure to comply at all times with parking regulations will result in municipal summons, administrative citation, or revocation of the Special Use Permit;
8. 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 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,
9. Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the

Unified Treasurer) within 30 days 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

Aerial Map
Zoning Map
Land Use Map
Sample Merchandise Photo
Applicant Photos Dated January 2, 2022
Letter of Support

REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u>	<u>Planning Commission</u>	<u>Board of Commissioners</u>
Public Hearing		
Special Use Permit	May 9, 2022	May 26, 2022

STAFF CONTACT: **Kallie McLaughlin**
kdmclaughlin@wycokck.org

MOTIONS

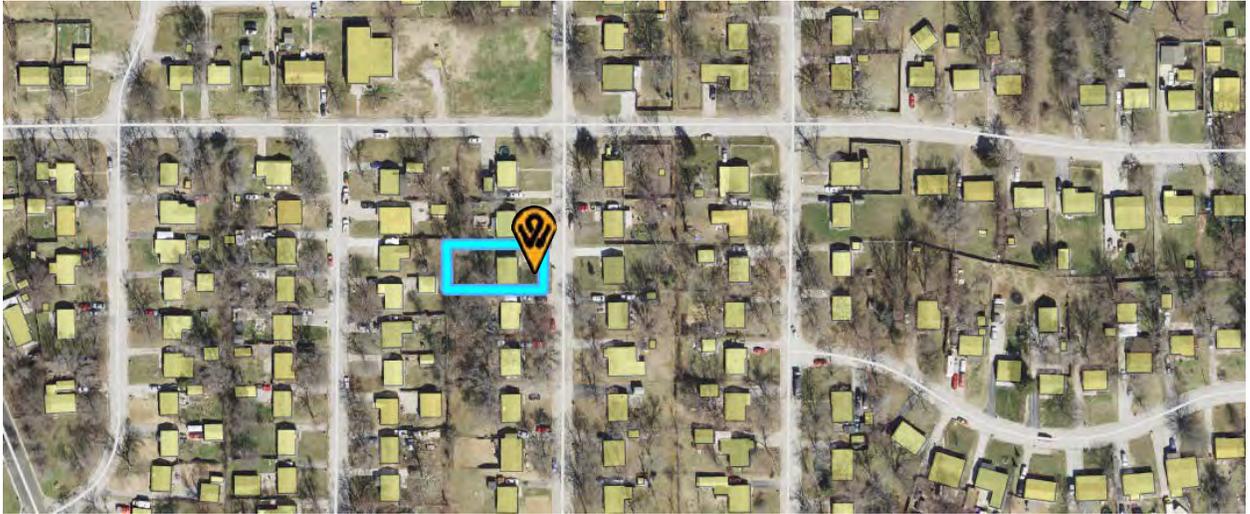
I move the Kansas City, Kansas City Planning Commission **RECOMMEND APPROVAL** of Petition **SP2022-021** to the Unified Government Board of Commissioners as meeting all the requirements of the City code and being in the interest of the public health, safety and welfare subject to such modifications 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 **SP2022-021** 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.

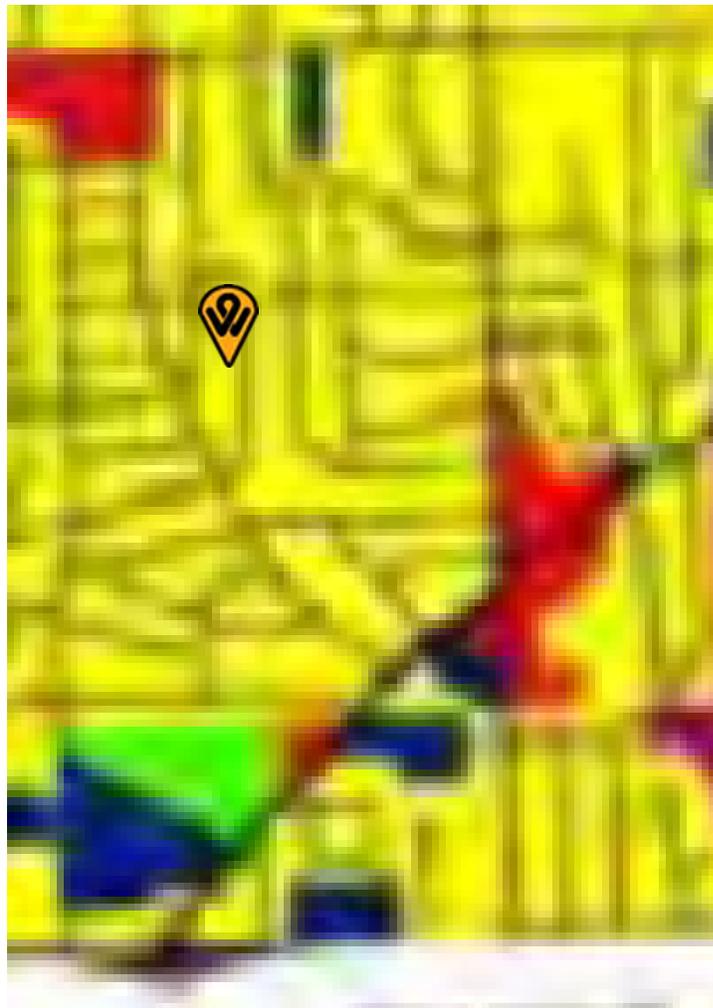
AERIAL MAP



ZONING MAP



LAND USE MAP



SAMPLE MERCHANDISE PHOTO



APPLICANT SUPPLIED PHOTOS DATED FEBRUARY 2, 2022



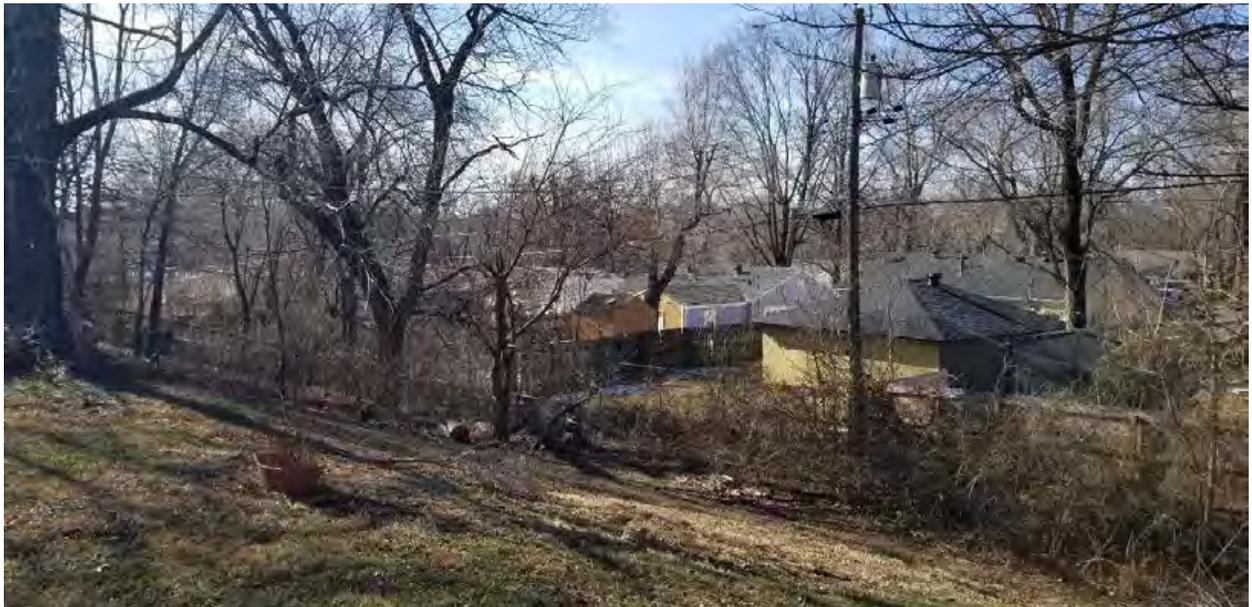
APPLICANT SUPPLIED PHOTOS DATED FEBRUARY 2, 2022



APPLICANT SUPPLIED PHOTOS DATED FEBRUARY 2, 2022



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LETTER OF SUPPORT

Affordable Rental Property LLC
1850 N, MO-7
Blue Springs, MO 64014

April 4th, 2022

Department of Planning and Urban Design
701 North 7th Street
Room 423
Kansas City, Kansas 66101

Dear Department of Planning and Urban Design Bureaucrats,

My name is Sepehr Bekam and I am the LLC Managing member for Affordable Rental Property LLC. My company owns several rental properties within Kansas City, KS/MO.

My company received a letter from your department advising of a petition for a special permit by HERR HUT LLC. The Special Permit Petition number is SP2022-021.

The purpose of this letter is to express my company's support to Melissa Herr and Herr Hut, LLC in obtaining their permit for 2618 South 48th Terrace.

90% of small businesses fail within the first 5 years of startup. The last thing Melissa needs during the startup process is burdensome regulations and a tedious zoning process.

Neither we or our tenants care about what Herr Hut, LLC does within 2618 S 48th Ter so long as no one is being harmed and nothing is being stolen.

Please do not waste any more time or tax payer dollars in delaying Herr Hut's application process. We support Herr Hut, LLC's special permit petition.

Thank you,



Sepehr Bekam
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Affordable Rental Property LLC
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