



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

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Kansas City, Kansas 66101
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To: City Planning Commission
From: Planning and Urban Design Staff
Date: November 14, 2022
Re: **Special Use Petition SP2022-100**

GENERAL INFORMATION

Applicant:
Bent Bitikofer

Status of Applicant:
Property Owner
5841 Swartz Road
Kansas City, Kansas 66106

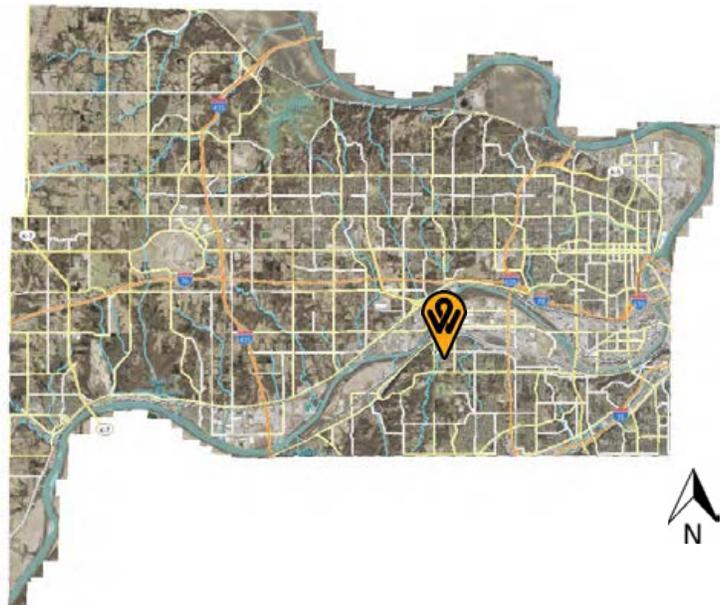
Requested Action:
Approval of a Temporary Use of
Land Special Use Permit.

Date of Application:
September 30, 2022

Purpose:
Special Use Permit to keep a
storage container on the property.

Property Location:
5841 Swartz Road
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 and A-G Agriculture District
Adjacent Uses:	North: Single family residence South: Single family residence East: Single family residence West: Single family residence
Total Tract Size:	2.28 Acres
Master Plan Designation:	The City-Wide Master Plan designates the subject property as Rural-Density Residential, which allows agriculture, ranches and large lot residential development.
Major Street Plan:	The Major Street Plan designates Swartz Road as a Local Street and 59 th Street as a Class C Thoroughfare.
Parking Requirement:	Sec 27-455(e) states two (2) off-street parking spaces shall be provided on the premises for each single-family dwelling, at least one of which shall be in a garage or carport. The property meets all parking requirements, between the three (3) detached garages and the driveway space.
Advertisement:	<u>The Wyandotte Echo</u> – October 20, 2022 Letters to Property Owner – October 21, 2022
Public Hearing:	November 14, 2022
Public Support:	None to date.
Public Opposition:	None to date.

PROPOSAL

Detailed Outline of Requested Action: The applicant, Bent Bitikofer is requesting a Special Use Permit to keep a storage container to store building materials, airplane parts, and tools on the property at 5841 Swartz Road.

City Ordinance Requirements: 27-592 through 27-606

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. There have been no noise or disturbance complaints at the subject property.

Building, Zoning, or Code Enforcement Complaints:

1. There are two (2) active Notices of Violation on the subject property, both regarding the storage container.

Outstanding or Related Permits and Cases:

1. 2022 – CMP22-0390 – Code Enforcement Complaint – Storage Container
2. 2022 – PMZ22-0029 – Zoning Enforcement Complaint – Storage Container

FACTORS TO BE CONSIDERED

1. The Character of the Neighborhood.

The neighborhood is located in the Turner Statistical Neighborhood, within the Neighbors on Watch neighborhood group. The neighborhood consists of primarily large-lot single-family residences and agricultural uses. The neighborhood is located along 59th Street, a residential Class C Thoroughfare, which runs North to the Kansas River and South to Johnson County.

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 proposed use is not compatible with surrounding uses, as most uses that surround the property may utilize their accessory building(s) for storage, rather than a storage container. As staff noted during a site visit, the storage container is being used for the storage of airplane parts and building materials, a use which is out of character for the neighborhood, and not allowed per code.

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. The context of the property, however, 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 sheds suitable and generally acceptable, while storage containers in such neighborhoods are less appropriate. While a storage container may not be the most suitable use on the property, the property is large enough to where it may conceal the container from the surrounding properties, which would limit the potential impacts.

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 Rural-Density Residential land use designation does not address the storage of commercial tools, airplane parts, or building materials but does discourage all industrial uses. The applicant is currently using the storage container to store airplane parts, as well as tools, and other building materials, while the storage of tools and residential building materials isn't necessarily out of character, the storage of airplane parts is a heavy commercial or industrial use, which does not conform to the 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 Swartz Road a Local/Neighborhood Street, or 59th Street, a Class C Thoroughfare 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 hold tools, airplane parts, and building materials for the applicant's personal use and can be considered reasonably necessary for the convenience and welfare of the public and may improve the visual quality and marketability of adjoining property, as it may help prevent, airplane parts, building materials and tools from being left out in the open in a manner which may be unsightly to surrounding property owners. The use, however, may still injure the visual quality and marketability of adjoining property, as it does not match the character of the neighborhood. While the proposed storage container may be used for building materials and tools, it may not be used for airplane parts.

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.*

The storage container is already on the property, so no additional impacts from noise, dust, or vibration would occur.

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

The proposed use of the storage container is to store tools, airplane parts, and building materials. This use should not pollute the air, land, or water, so long as it is stored on an improved surface.

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 located in an existing rural-residential property.

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 to public health, safety, and welfare is minimal, as the proposed use serves the property owner for their private use. If denied, the applicant would have to find somewhere else to keep the containers, or utilize an existing a public storage facility, rather than keep the containers on their property.

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

The subject property is currently used for the storage of the container, as well as parking for the applicant's personal vehicles, and storage of other equipment in an unorganized manner which inherently already creates an atmosphere of overcrowding of the land. These additional uses must be addressed before a Special Use Permit is issued.

PREVIOUS ACTIONS

There have been no previous planning entitlements received at the subject property.

NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting on October 27, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

KEY ISSUES

Additional Uses on the Property
Accessory Structures
Alternative Storage Solutions
Building Materials
Length of time for the Container
Screening and Landscaping
Unpermitted Use of Land

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

NOTE: During a staff site visit on October 14, 2022, staff noted that there were many tools, storage barrels, trailers, and airplane parts laying in the open on the property. Staff also noted that there were three (3) accessory structures on the property, two (2) of which do not have building permits and are over the limit of allowed accessory structures in the R-1 Single-Family District.

1. The applicant is seeking a Special Use Permit to add in essence a 4th accessory structure on the property. There are already three (3) on the property, one (1) of which is over the 1,000 square foot limit for accessory structures, and two (2) of which are over the allowance of one (1) accessory structure in the R-1 Single-Family District. The applicant has two (2) options:
 - a. Remove the two (2) sheds from the property; or,
 - b. Apply for a variance to keep the two (2) sheds.

Applicant Response: The applicant believes that their sheds are exempt under Section 27-609(2)(c).

Staff Response: Section 27-609(2)(c) would not apply here as the sheds are under 120 square feet and the code section cited was developed in relation to carports, rather than all accessory uses.

2. The applicant shall remove all airplane parts from the property, as these uses are prohibited on a residentially zoned parcel in a residentially zoned neighborhood. The applicant may not keep airplane parts or work on airplane parts on the subject property.

Applicant Response: The applicant does not agree with the staff findings and believes this to be a hobby no different than working on cars.

3. The applicant shall submit a landscaping plan, or elevations for an architectural screen demonstrating how they intend to screen the rear-yard and storage container from the public right-of-way and adjoining properties.

Applicant Response: See updated plot plan.

4. The applicant shall remove or store any tools, disabled equipment, or any additional furniture from the yard and place those into storage of some sort.

Applicant Response: Understood.

5. As stated, there are more than one (1) accessory structure on the property; Why is the applicant not able to utilize these structures for storage of materials, tools,

or the other equipment seen on the property, or utilize an existing storage facility?

Applicant Response: As the applicant and their family has lived on the property for generations, they have more personal property than they can fit in existing garages.

6. What other uses are occurring on the subject property?

Applicant Response: There are no additional uses on the property.

7. How long does the applicant plan to keep the storage container on the property?

Applicant Response: The applicant intends to keep the storage container for the full two (2) year term.

Staff Response: If approved, there will only be one (1) two (2) year term, as a temporary use of land may not extend beyond two (2) years.

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 make the findings contained within the staff report related to *Factors to be Considered*, and *Key Issues* and recommend **DENIAL** of Petition **SP2022-100** subject to all comments and suggestions outlined in this staff report.

If the City Planning Commission seeks to **approve** this petition, it shall be done so under the following conditions.

1. **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;**

- 2. All existing and future driveways must feature curb cuts that are constructed to UG standards;**
- 3. Applicant shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets, and Retaining Walls, or other requirements as applicable;**
- 4. 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;**
- 5. Any business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that all vehicle parking or vehicle storage 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;**
- 6. Approval of this case by the Board of Commissioners, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the real or constructive operation of any use allowed under this Special Use Permit, or any portion thereof, does not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located;**
- 7. 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,**
- 8. 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 Imagery
Zoning Map
Land Use Map
Plot Plan
Neighborhood Meeting Materials
Site Photos, Taken by Staff, Dated October 14, 2022

REVIEW OF INFORMATION AND SCHEDULE

Action	Planning Commission	Unified Government Board of Commissioners
Public Hearing	November 14, 2022	December 1, 2022
Special Use		

STAFF CONTACT: **James Molloy, Planner**
jmolloy@wycokck.org

MOTIONS

I move the Kansas City, Kansas City Planning Commission **RECOMMEND DENIAL** of Petition **SP2022-100**, 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.

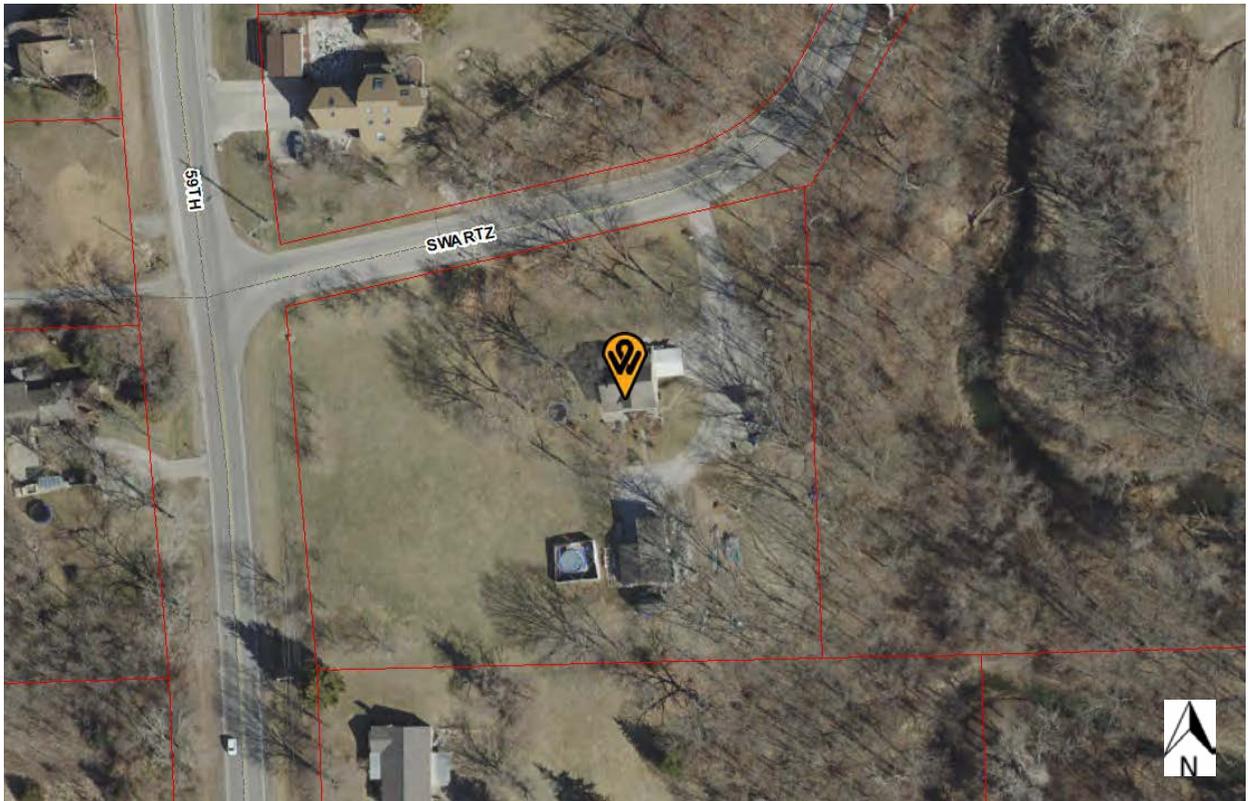
OR

I move the Kansas City, Kansas, City Planning Commission **RECOMMEND APPROVAL** of Petition **SP2022-100** 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:

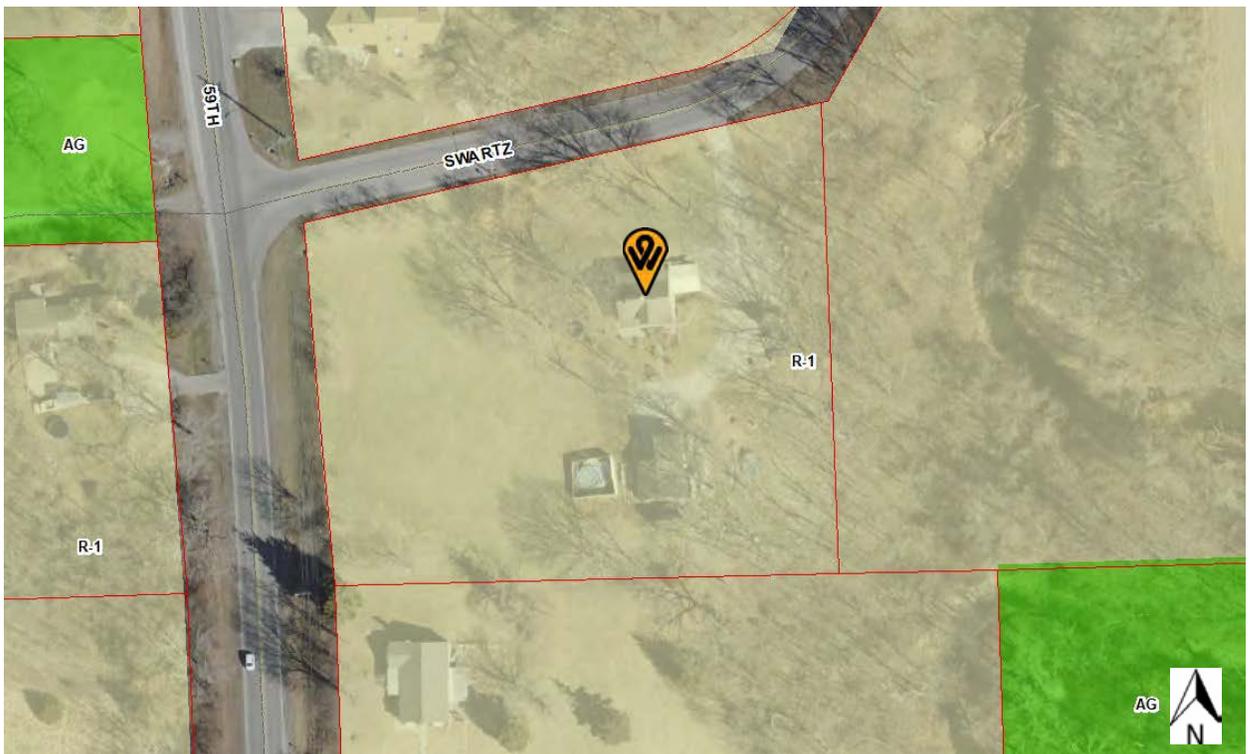
1. _____;
2. _____; And
3. _____.

ATTACHMENTS

AERIAL IMAGERY



ZONING MAP

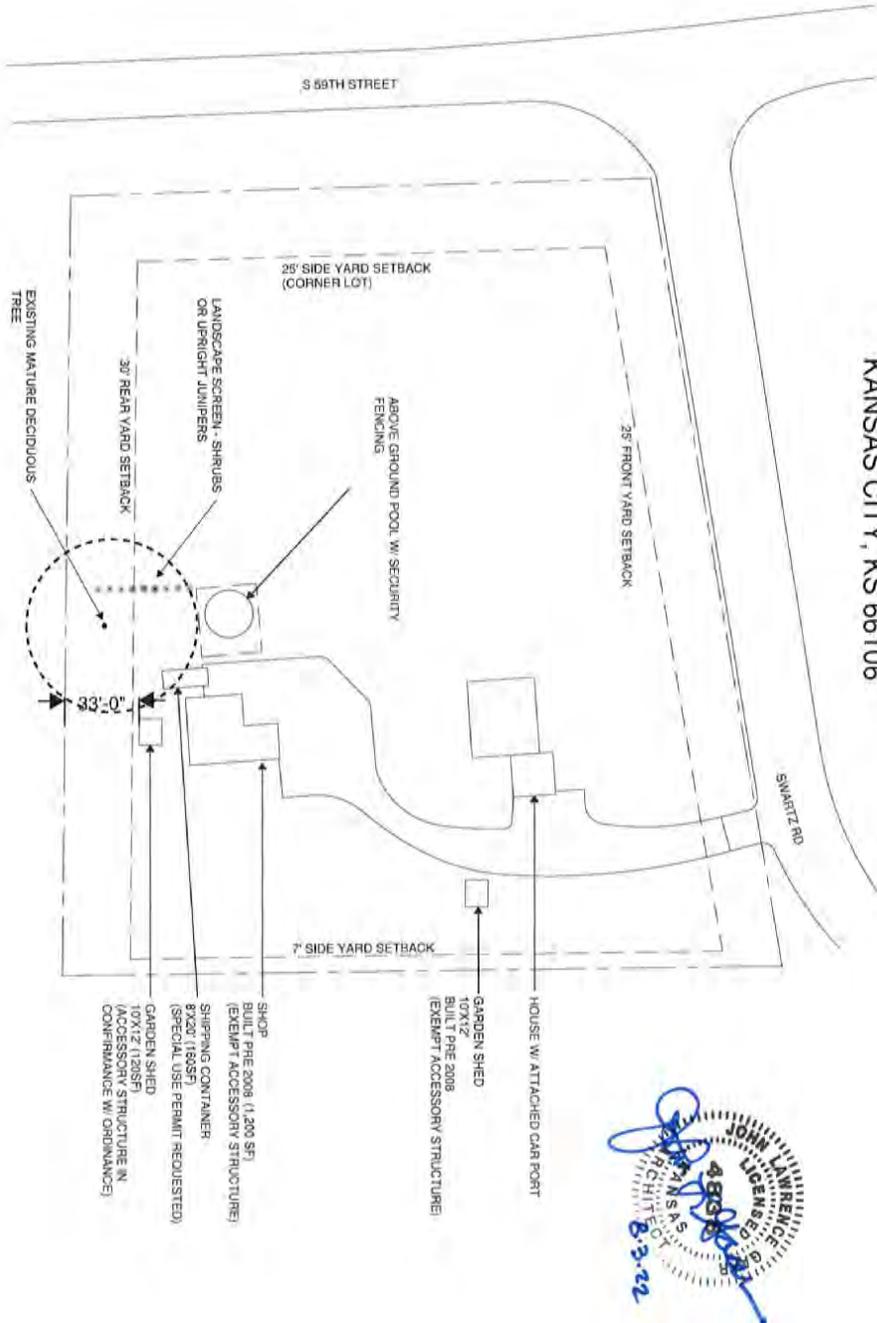


LAND USE MAP



PLOT PLAN

BITIKOFER RESIDENCE
5841 SWARTZ RD
KANSAS CITY, KS 66106



NEIGHBORHOOD MEETING MINUTES

AFFIDAVIT – NEIGHBORHOOD MEETING

STATE OF Kansas)
COUNTY OF Woods) SS:

Comes now Brent E. Bittkuhn, of lawful age, sound mind and upon his/her oath states as follows:

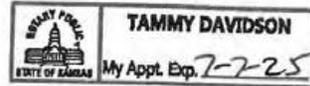
1. That I am the petitioner for Petition # SP2022-100
2. That I conducted a neighborhood meeting on 10/27/2022.
3. Attached are the minutes/summary of the meeting and a copy of the notice mailed to the property owners on the list provided by the Urban Planning and Land Use Department.

Further affiant saith not.

Brent E. Bittkuhn
Affiant

SUBSCRIBED IN MY PRESENCE AND SWORN to before me this 1 day of NOVEMBER 2022

My commission expires July of 7th, 2022



Tammy Davidson
Notary Public

Application Number SP2022-100

Date and Location: 10-27 6PM

SOUTH BRANCH LIBRARY 3104 STRONG AVE.

A sign posted at entry door advising meeting location in main entry to library where conference room is open to main entry and visually checked for anyone who might have been looking for meeting. No one came.

Meeting called to order at: 6PM

Names of people in attendance: None

Introductions: None

Presentation by applicant and/or team Printed land use provided by John Garr. to those in attendance. 20 printed none distributed

Questions and answers (include the following): none

There were 2 to prior contacts by phone

On October 25, 2022 18:26

MARTINEZ, KATE M 1026 S 59TH ST KANSAS CITY, KS 66106

She said she was unable to attend but had no objection to proposal.

On October 26, 2022 17:30

BUTCHER, LISA 1115 S 59TH ST KANSAS CITY, KS 66106

She stated they have no objection to the container by text

Meeting adjourned at: 7PM

Minutes taken by: Brent Bitikofer

SITE PHOTOS, TAKEN BY STAFF, DATED OCTOBER 14, 2022

