

**PLANNING COMMISSION REPORT
REGULAR AGENDA
PUBLIC HEARING ON THE VARIANCE REQUEST ONLY**

PC Staff Report
05/26/10

ITEM NO 9: PRELIMINARY PLAT FOR JOHNSON & ELLIS INVESTMENTS ADDITION; .538 ACRES; 1804 W 6TH ST (MKM)

PP-3-3-10: Consider a Preliminary Plat for Johnson & Ellis Investments Addition, with one lot, approximately 0.538 acres, located at 1804 W 6th St. and a variance from the right-of-way requirements in Section 20-810(d)(4)(i). Submitted by Bartlett & West, Inc., for Johnson & Ellis Investments, property owner of record.

STAFF RECOMMENDATIONS:

Staff recommends approval of the variance requested from Section 20-810(d)(4)(i) to permit the right-of-way for W 6th Street to remain at 100 ft.

Staff recommends approval of the Preliminary Plat of the Johnson & Ellis Investments Addition and forwarding it to the City Commission for consideration of dedication of easements subject to the following conditions of approval:

- 1) City Commission approval of the variance request from City Code Section 19-214 to permit the private sanitary sewer line to extend more than 15 ft into the right-of-way.
- 2) The preliminary plat shall be revised with the following changes:
 - a. A 5 ft wide sidewalk shall be shown along Colorado Street, 3 ft from the curb as approved by the City Engineer.

Applicant's Reason for Request: Subdivision requirement prior to construction of building addition.

KEY POINTS

- This parcel is the only remaining unplatted parcel in the area. It is surrounded on all 4 sides by platted property. (Figure 1)
- Subject property is developed with the Jayhawk Jewelry and Pawn Shop.
- Sanitary sewer line was installed when property was originally developed but it is not compliant with current City Code requirement that private sewer lines not extend more than 15 ft into the right-of-way. A variance request has been submitted for City Commission approval and is being processed by the Utilities Department. This variance must be approved prior to final approval of this plat.

SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-813 states that building permits will not be issued for unplatted property.
- Section 20-810(d)(4)(i) requires 150 ft of right-of-way for principal arterials, such as W 6th Street. A variance has been requested from this requirement to permit the subdivision to occur with the existing 100 ft of right-of-way.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- City Commission acceptance of easements as shown on the preliminary plat.
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Execution and recordation of access easement so off-site access to Colorado Street can be utilized.
- City Commission approval of the variance request for the sanitary sewer service line extension into the right-of-way.
- Site Plan approval for the proposed building addition and parking lot expansion.
- Building permits prior to construction activity.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required with the preliminary plat.
- *Downstream Sanitary Sewer Analysis* – The City Utility Engineer indicated that a DSSA is not required due to the fact that there will be no increase in plumbing fixtures.
- *Drainage Study* – A drainage study is not required for this project because downstream flooding is confined to the regulatory floodplain. [Stormwater Management Criteria Section 1.6.E.2.a]
- *Retail Market Study* – Not applicable to project.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Site Summary

Gross Area:	.538 acres
Number of Lots:	1
Area of Lot 1:	.538 acres

GENERAL INFORMATION

Current Zoning and Land Use: CS (Commercial Strip) District; retail and warehouse use.

Surrounding Zoning and Land Use: CS (Commercial Strip) District in all directions; medical offices to the west, drive aisle associated with the medical office to the north, warehouse use to the east, and general retail uses to the south.

RM24 (Multi-Dwelling Residential) District to the north of the drive aisle; apartment complex.

STAFF REVIEW

The subject property is developed with the Jayhawk Jewelry and Pawn Shop which consists of both retail and warehouse uses. The property is being platted so a building permit can be obtained for a building addition.

Zoning and Land Use

The subject property is zoned CS (Commercial Strip) District. The existing land use, *general retail and light wholesale storage & distribution*, is permitted in the CS District.

Streets and Access

The property is bordered by W 6th Street/ Highway 40, a principal arterial, on the south and by Colorado Street, a local street, on the east. Currently, access is taken from W 6th Street and Colorado Street. The access onto Colorado Street will be closed with this development and access will be taken through the drive to the north which serves the medical facility west of the subject property. (Figure 2) Per Section 20-810(h)(2) a joint use driveway may be approved if a city approved easement of record ensuring perpetual access to the joint use driveway by all lots and providing for its perpetual ownership, continuance and maintenance is provided. An access easement will be required for this shared driveway. Access onto W 6th Street will remain. KDOT indicated that they may consider closure or restrictions on this access if any intensification of use is proposed, but as the use is remaining a pawn shop they are not requiring any changes at this time.

A 5 ft wide sidewalk will be installed along Colorado Street and this sidewalk should be shown on the face of the plat. The City Horticulture Manager cautioned against locating the sidewalk too close to the existing trees as a change in grade within the dripline of the trees may damage them. The City Engineer approved the location of the sidewalk at 3 ft from the curb in order to reduce the amount of grading required within the dripline of the existing street trees.

Utilities and Infrastructure

Utilities have been extended to the property when it was originally developed. The sanitary sewer service line connects to the main located in the center of Colorado Street, approximately 40 ft from the property line. The City Code limits the extension of private service lines to 15 ft into the right-of-way; therefore, a variance has been requested from the City Commission to permit the service line to remain in this location.

Easements and Rights-of-way

W 6th Street has 100 ft of right-of-way and Colorado Street has 80 ft of right-of-way. Adequate right-of-way currently exists for Colorado Street, a local street, and a variance is being requested to permit the W 6th Street right-of-way to remain at 100 ft, rather than the 150 ft required in the Development Code.

Utility easements were provided on the adjacent properties when they were platted. The only new easement required with this plat is a utility easement for the water service line to the meter. This easement is shown on the plat. An access easement which is acceptable to the city must be recorded to permit this property to take access to Colorado Street through the access drive on the adjacent property to the north.

VARIANCES

The property owner is requesting a variance from the right-of-way requirement in Section 20-810(d)(4)(i) to permit the right-of-way for W 6th Street to remain 100 ft, rather than the 150 ft required by Code.

Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected.

The evaluation below reviews the proposed development with the criteria necessary for granting a variance.

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

Dedicating the additional 50 ft of right-of-way would relocate the south property line 25 ft to the north. This would result in a reduced number of parking spaces on the south side of the building (from 3 to 1) and would reduce the display area by about half. While these changes would not result in any non-conformity with the site, the hardship would be unnecessary as the City Engineer indicated that there were no plans to widen W 6th Street and no requirement for additional right-of-way in this area.

The development pattern along this section of W 6th Street was established when 100 ft of right-of-way was required for an arterial. Buildings were constructed near the front setback. Widening the street to the extent that another 25 ft of right-of-way on each side would be required would result in buildings being located within the setback or right-of-way. The City Engineer indicated that it is highly unlikely that this portion of W 6th Street would be widened and that the additional right-of-way would not be necessary.

For this reason, the dedication of additional right-of-way would result in unnecessary hardship.

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to coordinate the development of each parcel of land with the existing community and facilitate the proper development of adjoining land.

The amount of right-of-way being provided with this plat is consistent with the amount of right-of-way currently existing along W 6th Street in this area. (Figure 2) The development of this property will be consistent with the development pattern in the area.

Criteria 3: The public health, safety and welfare will be protected.

The City Engineer indicated that additional right-of-way would not be necessary as there are no plans to widen W 6th Street in this location. W 6th Street is functioning adequately with the 100 ft of right-of-way; therefore maintaining the same right-of-way will not negatively impact the public health, safety, or welfare.

STAFF RECOMMENDATION

Staff recommends approval of the variance request from Section 20-810(d)(4)(i) to permit the platting of the subject property without dedication of additional right-of-way.

Conformance

With the approved variance and recommended conditions, the preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.

