

**PLANNING COMMISSION REPORT  
REGULAR AGENDA**

PC Staff Report  
06/22/11

**ITEM NO 9: PRELIMINARY PLAT; KASOLD WATER TOWER ADDITION; SE OF  
TAM O'SHANTER & KASOLD DR (MKM)**

**PP-4-4-11:** Consider a Preliminary Plat for Kasold Water Tower Addition, approximately .5 acre containing 1 lot, located southeast of the Tam O'Shanter and Kasold Drive intersection. Submitted by the City of Lawrence, property owner of record.

**STAFF RECOMMENDATION ON VARIANCE REQUEST FROM SECTION 20-810(d)(4)(i)**

Staff recommends approval of the requested variance from the requirement to dedicate 150 ft of right-of-way for a principal arterial to permit the dedication of 40 ft, resulting in a total of 140 ft of right-of-way in this location.

**STAFF RECOMMENDATION ON WAIVER REQUEST FROM SECTION 20-811(c)**

Staff recommends approval of the requested waiver from the requirement to install a 6 ft wide sidewalk along the east side of Kasold Drive along the frontage of this subdivision and forwarding the request to the City Commission with a recommendation for approval subject to the following condition:

Addition of the following note to the preliminary plat: *"A 6 ft wide sidewalk shall be constructed on this lot when sidewalks are installed on either of the adjacent properties."*

**STAFF RECOMMENDATION:**

Staff recommends approval of the Preliminary Plat of the Kasold Water Tower Addition and forwarding the plat to the City Commission for acceptance of dedication of right-of-way and easements subject to the following conditions:

1. The plat shall be revised with the following changes:
  - a. If the requested waiver is approved the plat shall be revised with a note indicating the date of approval. If the requested waiver is not approved, the plat shall be revised to show the location of the 6 ft wide sidewalk.
  - b. The amount of right-of-way being dedicated shall be increased to 40 ft from the centerline of Kasold Drive.
  - c. The distance of the shed to the right-of-way line shall be dimensioned on the plat.

**Reason for Request:** Unplatted property is not eligible for building permits. The property is being platted so improvements could be made in the future.

**KEY POINTS**

- The existing water tower is classified as a *minor utility* which is a permitted land use in the RS7 District with approval of a Special Use Permit.
- Section 20-1306(b) of the Development Code states that uses which were allowed by right at the time they were established but that now require a Special Use Permit will be considered an approved Special Use and will be allowed to continue without a public

hearing. Any alterations or expansions of the use are subject to the Special Use amendment procedures of Section 20-1306(I).

- No physical changes are being proposed to the site at this time.

#### **SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-810(d)(4)(i) requires 150 ft of right-of-way for principal arterial streets. A variance has been requested from this requirement.
- Section 20-811(c) requires 6 ft wide sidewalks along both sides of arterial streets. A waiver has been requested from this requirement.

#### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

- City Commission determination on the waiver request.
- City Commission acceptance of dedication of easements and right-of-way as shown on the preliminary plat.
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Any future development on the site shall be in accordance with Special Use Amendment provisions in Section 20-1306(I).

#### **PLANS AND STUDIES REQUIRED**

- *Traffic Study* – The water tower is a very low traffic generator, utility workers access the site to maintain or repair the tower. Given the nature of the use no traffic study is required.
- *Downstream Sanitary Sewer Analysis* – No DSSA is necessary as there are no sanitary sewer facilities on the site.
- *Drainage Study* – Not required
- *Retail Market Study* – Not required.

#### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Received a call from a nearby property owner asking how the water tower is accessed and if a new access point is proposed. The City Utility Engineer indicated that the tower is accessed from north bound Kasold Drive via an existing curb cut. There are no changes planned for the access at this time.

#### **Site Summary**

Gross Area:	.952 acres (21,796.91 sq ft)
Right-of-Way Area:	.075 acres ( 3,269.45 sq ft)
Net Area:	.425 acres (18,527.46 sq ft)
Number of Lots:	1

## GENERAL INFORMATION

Current Zoning and Land Use: RS7 (Single-Dwelling Residential) District; City water tower, a *minor utility*

Surrounding Zoning and Land Use: To the north: RM24 (Multi-Dwelling Residential) District; detached dwelling.

To the east: U-KU (University) District; undeveloped property owned by KU Endowment Association.

To the south: RS7 (Single-Dwelling Residential) District; detached dwelling.

To the west: PUD [Alvamar] (Planned Unit Development); Kasold Drive and detached dwellings.

## STAFF REVIEW

The subject property is currently unplatted and is developed with a water tower. No new development is being proposed at this time, but the property is being platted so that improvements could be made to the site in the future. Per Section 20-801(c), unplatted property is not eligible for a building permit.

The Development Code identifies two types of utility uses, 'major' and 'minor'. *Major utilities* are defined as those that have substantial impacts such as water treatment facilities, airports and power generation plants. *Minor utilities* are defined as those that have a local impact on surrounding properties. Water towers are among the list of utilities that are considered 'minor'.

## Zoning and Land Use

The subject property is located within the RS7 (Single-Dwelling Residential) Zoning District. This district permits residential development with a minimum lot area of 7000 sq ft. The RS7 District also permits *minor utilities* that serve more than one specific development with approval of a Special Use Permit. As this water tower serves more than one development, a Special Use Permit is required. Section 20-1306(b) of the Development Code provides an Automatic Special Use Status for a use which was permitted by right when it was established but now requires a Special Use Permit. The water tower was permitted by right when it was established but with the adoption of the 2006 Development Code, a Special Use Permit is now required. The water tower has automatic Special Use Status; however, any revisions or alterations to the site or use are subject to the Special Use amendment procedures of Section 20-1306(l).

## Streets and Access

The property is located on and takes access from Kasold Drive. A driveway located near the southwest corner of the property provides access from the northbound lane of Kasold Drive. No change in access is being proposed.

Kasold Drive is classified as a principal arterial on the Major Thoroughfares Map. Per Section 20-811(c) of the Subdivision Regulations, a 6 ft wide sidewalk is required on both sides of arterial streets. This section also states that a waiver may be requested from this requirement. The Planning Commission may make a recommendation on such waiver request, but final action shall be by the governing body as part of the preliminary plat review. A waiver from the requirement to install a 6 ft wide sidewalk along Kasold Drive has been requested and is discussed later in this staff report.

### **Utilities and Infrastructure**

The subject property contains a water tower which is classified as a *minor utility*. Sanitary sewer facilities and a water supply are not necessary as employees are on the site only as necessary to maintain/service the tower and no water or sanitary sewer facilities are located on the site. No additional utilities or infrastructure are necessary for this use.

### **Easements and Rights-of-way**

Per Section 20-810(d)(4)(i) of the Subdivision Regulations, Kasold Drive, a principal arterial, requires 150 ft of right-of-way. The GIS maps show approximately 135 ft of right-of-way for Kasold in this area. A wider right-of-way is provided to the west (100 ft) than to the east (50 ft) of the centerline of Kasold Drive due to the location of a frontage road along the west of Kasold Drive. To achieve the required amount of right-of-way on the east side, 50 ft of right-of-way would need to be dedicated from the centerline of Kasold Drive. The applicant indicated concern with the dedication of this amount of right-of-way as this would place some of their facility within the right-of-way. A variance has been requested from the requirement to dedicate a total of 50 ft to allow 40 ft of right-of-way to be dedicated in this location. This variance is discussed later in the report.

The property contains a framed shed which will be located within the front setback when this additional right-of-way is dedicated. This property is zoned RS7, so a 25 ft front yard setback is required. The plat should note the dimension of the shed to the right-of-way line. With the dedication of additional right-of-way, the shed will be located within the required front setback for the RS7 District (25 ft). As the structure complied with the Zoning Regulations at the time it was built, it would be considered a nonconforming structure. Per Section 20-1503, a nonconforming structure can continue to be used; however, if it is abandoned or damaged to a degree of more than 60% of its fair market value it must be restored in compliance with the setback requirements of the Zoning District in which it is located. If the structure were to be restored in the same location, it would be necessary to obtain a variance from the setback requirements from the Board of Zoning Appeals.

Utility easements are provided along the rear of the adjacent lots for the sanitary sewer line serving these properties. As this property is City-owned property, no easement is necessary for the location of City utility lines.

### **VARIANCE**

Variance from Right-of-Way Requirement in Section 20-810(d)(4)(i)

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.*

Right-of-Way is obtained during platting so it is not necessary to purchase additional right-of-way from a property owner when a street is widened or otherwise improved. Dedication of the full right-of-way for Kasold Drive would result in existing and anticipated above- and under-ground facilities being located within the right-of-way. The City Engineer indicated that 40 ft of right-of-way would accommodate future widening of the street or construction of sidewalks. As the property is under City ownership, it would not be necessary to purchase the land if additional right-of-way is necessary in the future. Given these facts, requiring the dedication of the full 50 ft of right-of-way would constitute an unnecessary hardship on the subdivider. It should be noted that 50' of right-of-way exists south of this lot but will need to be dedicated for properties to the north, including the KU Endowment property. The specific physical constraints of improving the water tower site justifies the reduced right-of-way in this instance. It is presumed that the other undeveloped, unplatted properties along Kasold will dedicate the required 50' of right-of-way when appropriate.

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

The purpose of the Subdivision Regulations is to provide for the harmonious and orderly development of land and to contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity and efficiency. The wider right-of-way required in the 2006 Subdivision Regulations is intended to provide adequate space for the roadway, utilities, sidewalks and other features. The Subdivision Regulations are also intended to coordinate the development of each parcel of land with the existing community and facilitate the proper development of adjoining land [Section 20-801(2)(iv)]. In this case, additional right-of-way has been deemed necessary but 140 ft (40 ft on this property) has been determined to be adequate for any future improvements to Kasold Drive in this area recognizing that a conflict exists between anticipated future improvements to the water tower site. The proposed variance is in harmony with the intended purpose of the Subdivision Regulations and the right-of-way being dedicated will presumably provide the necessary room to place additional street improvements, such as a sidewalk, along Kasold.

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

The property is being subdivided in preparation for future improvements to the facility. The lot meets the density and dimensional requirements of the RS7 Zoning District. The variance will permit the right-of-way for Kasold Drive to be increased to 140 ft in this location, which the City Engineer has indicated is acceptable for this one lot due to the physical conflicts with improving the water tower site. In staff's opinion, there will be no negative impact on the public, health, safety and welfare with the granting of this variance.

## **WAIVER**

### **Waiver from Sidewalk Requirement in Section 20-811(c)**

The west side of Kasold Drive contains a continuous sidewalk system from its origin at the curve connection with W 31<sup>st</sup> Street to W 6<sup>th</sup> Street. The sidewalk system on the east side is not continuous. Sidewalks are located along the east side of Kasold Drive north of Bob Billings Parkway and south of Clinton Parkway but not in the area between the 2 streets, a distance of approximately 1 mile. The subject property has approximately 93 ft of frontage. Adding a sidewalk to this frontage would not improve pedestrian connectivity in this area. As the figure on Page 5 shows, the east side of Kasold Drive between Bob Billings and Clinton Parkway is developed with the exception of property which is owned by the University of Kansas

Endowment Association. The City Engineer indicated that he would support the waiver from the requirement to install a sidewalk on the east side of Kasold Drive in this area as it is unlikely that the property to the south would be replatted and sidewalks added in this area. A sidewalk to the north may be a possibility in the event the Kansas University property develops; therefore, the waiver should defer the installation from the requirement to install a sidewalk to a time when other sidewalks are available in the area. A note should be added to the plat that the property owner shall install a 6 ft wide sidewalk when sidewalks are installed on other properties on the east side of Kasold between Bob Billings and Clinton Parkways.

**CONFORMANCE**

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





Development in the area. Subject property is outlined in red.