

**PLANNING COMMISSION REPORT  
REGULAR AGENDA --NON-PUBLIC HEARING ITEM  
PUBLIC HEARING – VARIANCE ONLY**

PC Staff Report  
12/12/2011

**ITEM NO. 1: PRELIMINARY PLAT; DAN & TRISHA SIMONS ADDITION; 444 COUNTRY CLUB TERR (MKM)**

**PP-10-10-11:** Consider a 1 lot Preliminary Plat for Dan & Trisha Simons Addition, approximately 2.36 acres, located at 444 Country Club Terrace and associated variance from requirement in Section 20-810(b) that all lots have frontage on a public street. Submitted by Treanor Architects, PA for Dan & Trisha Simons, property owners of record.

**STAFF RECOMMENDATION:**

Staff recommends approval of the variance requested from Section 20-810(b) to allow the creation of a lot without street frontage.

Staff recommends approval of the Preliminary Plat of the Dan and Trisha Simons Addition; 444 Country Club Terrace and referring it to the City Commission for acceptance of dedication of easements subject to the following conditions of approval:

- 1) If the Planning Commission approves the variance requested from the frontage requirement in Section 20-810(b), a note shall be added to the plat with the section and the date the Planning Commission approved the variance.
- 2) The property owner shall execute an easement for the off-site service line and the Book and Page Number shall be noted on the face of the final plat.

**Applicant's Reason for Request:** Due to a recent land combination, subdivision is required prior to obtaining a building permit.

**KEY POINTS**

- A house is located on the property addressed as 444 Country Club Terrace. The property owner recently purchased unplatted land from the Lawrence Country Club to the north and intends to build an accessory structure.

**SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Dec 31, 2006.
- Section 20-813 states that building permits will not be issued for unplatted property.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Dedication of private easement for the sanitary sewer service line which crosses other sites. The Book and Page Number shall be noted on the final plat.

### PLANS AND STUDIES REQUIRED

- *Traffic Study* – Not required for project.
- *Downstream Sanitary Sewer Analysis* – The City Utility Engineer indicated that a DSSA is not required as no change in use is being proposed.
- *Drainage Study* – The property is currently developed with a single-family home. A drainage study is not required.
- *Retail Market Study* – Not applicable to project.

### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment was received prior to the printing of this staff report.

### Site Summary

Gross Area:	102,834 sq. ft. (2.36 acres)
Rights of Way:	0
Net Area:	102,834 sq. ft. (2.36 acres)
Number of Lots:	1

### GENERAL INFORMATION

Current Zoning and Land Use: RS10 (Single-Dwelling Residential) District; undeveloped.

Surrounding Zoning and Land Use: RS10 (Single-Dwelling Residential) District surrounding the property in all directions with the exception of two lots south of the property; Country club with golf course to the west, north and east and detached dwelling to the west and south.

RSO (Single-Dwelling Residential-Office) District 2 lots south of the subject property; detached dwellings.



**Figure 1.** Surrounding land use and zoning. Subject property outlined in blue.

## STAFF REVIEW

The Subdivision Regulations permit building permits only on platted properties or nonconforming lots. A nonconforming lot is defined in Section 20-1503 of the Development Code as:

*“A nonconforming lot is a tract of land, designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means, that was established prior to adoption of the City’s first zoning ordinance or development code, or that complied with all applicable lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width, or lot depth requirements of the zoning district in which it is now located.”*

To qualify as a nonconforming lot, the lot had to be established prior to the adoption of the first zoning ordinance, which occurred in 1927. The existing house was constructed on the property in the 1960s. The property owner recently purchased the northern portion of the property from the Lawrence Country Club; therefore, it does not meet the definition of a nonconforming lot. Platting is therefore required prior to the issuance of a building permit.

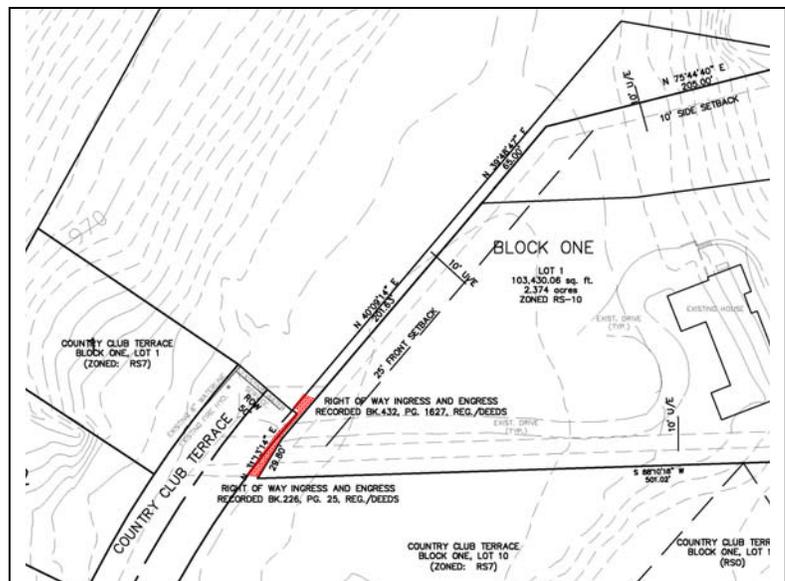
## Zoning and Land Use

The subject property is zoned RS10 (Single-Dwelling Residential) District which permits lots with a minimum area of 10,000 sq. ft. The property is located within an established neighborhood, also zoned RS10, which has been developed with single-dwelling residences and the Lawrence Country Club and golf course. Two lots to the south were rezoned to the RSO (Single-Dwelling Residential-Office) District. These lots are currently developed with detached dwellings. The lot to the southeast was rezoned to the RMO (Multi-Dwelling Residential-Office) District and a site plan has been approved for the construction of an office building at this site, 501 Rockledge; however the site is currently undeveloped.

## Streets and Access

The subject property is located east of Country Club Terrace, and takes access from Country Club Terrace through ingress/egress right-of-way easements. The property does not have street frontage due to the dedication of Country Club Terrace right-of-way with earlier plats that ended within property owned by Lawrence Country Club rather than extending to the next property line (Figure 2).

As street frontage is required by the Subdivision Design Standards and none is provided for the new lot, a variance from the Planning Commission is necessary for the approval of this plat. The variance is discussed later in this report.



**Figure 2.** Narrow strip of land owned by LCC separating the subject property from Country Club Terrace Right-of-Way shown in red.

### **Utilities and Infrastructure**

A detached dwelling on the site is currently served with City water and sewer. The City Code requires that the sanitary sewer main touch each new lot in a subdivision. In this case, the previously installed service line connects to an off-site sewer main as shown on the plat. The City Utility Engineer indicated an easement for areas where the service line is located off-site would be acceptable and recommended that the property owner also execute a maintenance agreement if the service line is shared. The property owner will execute an easement for the off-site service line and the Book and Page Number shall be noted on the face of the final plat.

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

The plat indicates that 10 ft perimeter utility easements are being provided. Country Club Terrace is considered a 'limited local street' due to the termination in the Country Club parking lot. Per Section 20-810(d)(4)(i), limited local streets require 50 ft of right-of-way and the plat shows that 50 ft of right-of-way currently exists. Adequate easements and rights-of-way are being provided.

### **Plat Contents**

The contents of the plat meet the requirements of the Subdivision Regulations with the following exception:

- Per Section 20-810(b), all lots must have the required frontage on a public street. In order for the plat to be approved with the current lot and right-of-way configuration, a variance must be obtained from this requirement from the Planning Commission. If the Planning Commission grants the variance, the preliminary plat should be revised to note the date the variance was approved.

### **VARIANCE FROM SUBDIVISION DESIGN STANDARDS**

Section 20-810(b) Frontage and Access requires that all lots have frontage on a public street except when private streets are approved through a Planned Development, or joint use driveways are used for commercial or industrial developments. A minimum street frontage of 40 ft is required for properties in the RS10 District.

The plat survey indicates that the right-of-way for Country Club Terrace did not extend to the owner's property line when it was dedicated. Ingress/Easement Right-of-Way easements were dedicated to allow the subject property access to Country Club Terrace, which provides legal access to the right-of-way. A variance from the requirement for all lots to have frontage on public streets is necessary.

Section 20-813(f) of the Subdivision Regulations provides that the Planning Commission may grant variances from the design standards of the Subdivision Regulations in cases where there is a hardship in carrying out the literal provisions of such design standards.

As per Section 20-813(f)(3) variance requests shall not be granted unless all of the following apply:

- 1) Strict application of these regulations will create an unnecessary hardship upon the subdivider;**

The house on the subject property was constructed in the 1960s and ingress/egress right-of-way easements were dedicated in 1963 and 1989 to allow the property access to Country Club

Terrace. When the right-of-way for Country Club Terrace was dedicated it did not extend to the property to the east; therefore, a narrow strip of land (approximately 5 ft wide) belonging to the Lawrence Country Club is located between the subject property and the street right-of-way. Due to this, the property has no actual frontage on the street. It is not possible for the property owners to provide frontage, as the strip of property is not owned by them and is not under their control. In staff's opinion, the easements that allow access from the subject property to the right-of-way are an acceptable alternative to actually securing and providing the right-of-way. As the subject property was developed with a residence in the 1960s, right-of-way easements for ingress/easement have been recorded to permit access to Country Club Terrace, prohibiting the plat based on this unique frontage situation would be an unnecessary hardship. Figure 3 shows the right-of-way access easements and right-of-way lines.

**2) The proposed variance is in harmony with the intended purpose of the Subdivision Regulations;**

The variance is in harmony with the intended purpose of the regulations which is to ensure that all lots have access to the public street network. The property is currently developed and has access to Country Club Terrace via the existing access easement. Platting the property will allow the property owner to construct accessory dwellings, but will not result in additional lots. The variance will allow the lot to function as it has historically. The proposed lot is designed according to the Subdivision Regulations Standards and has over 40 ft of width that would be street frontage if the right-of-way were expanded to the property line.

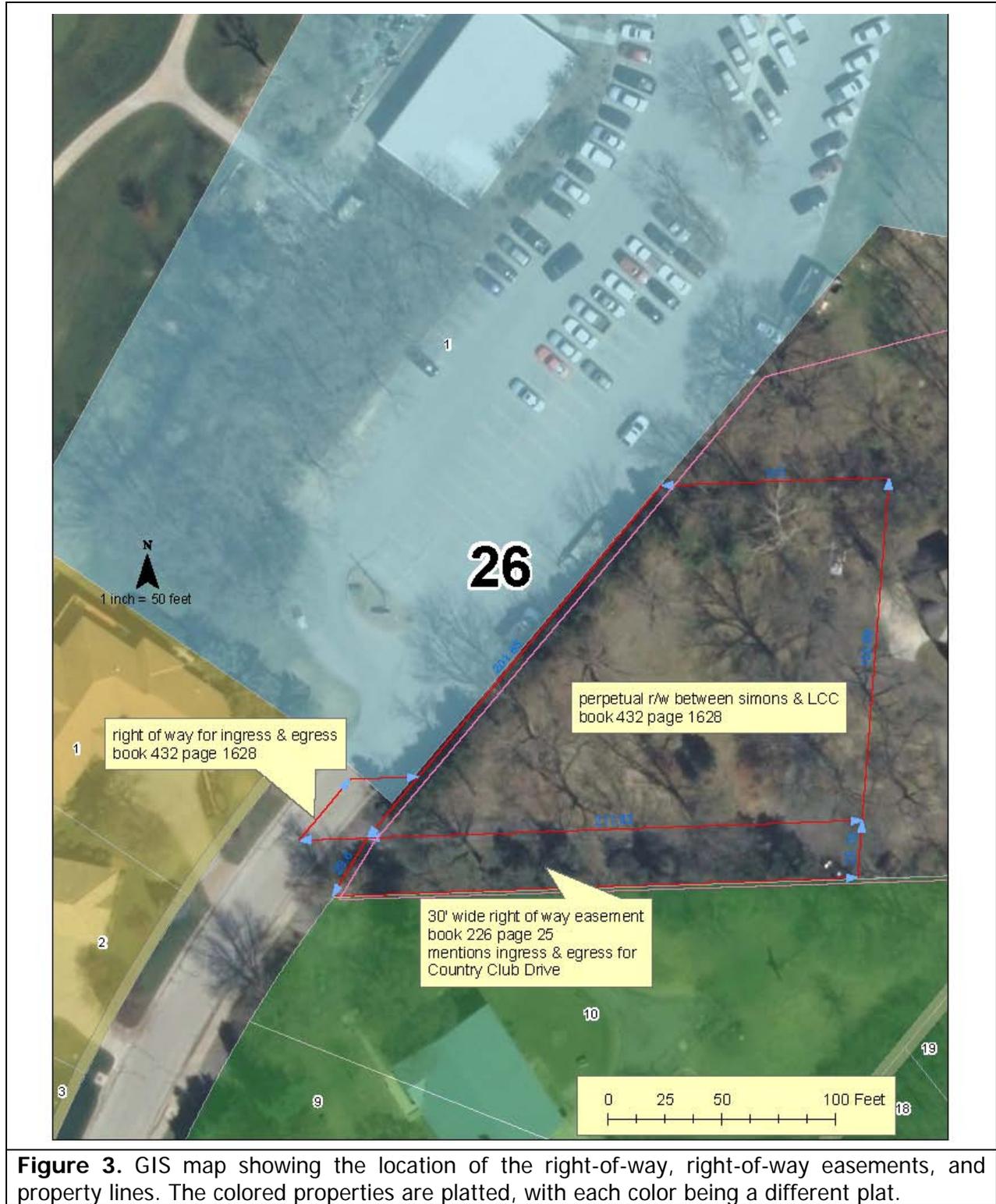
**3) The public health, safety and welfare will be protected.**

The public health, safety and welfare are protected should the variance request be granted. The configuration of the property and right-of-way lines will not be changed with the platting of the property. The previously recorded ingress/egress right-of-way easements will continue to provide adequate access to and from the property.

**Summary**

The subject property was a nonconforming lot with the right to a building permit, per Section 20-1504 of the Development Code, prior to the purchase of additional land from the Lawrence Country Club. With the purchase of the land, the property lost its nonconforming status and is being platted to meet the eligibility requirements for a building permit. The lack of street frontage is a pre-existing situation which is not being altered with the platting of this property.

The preliminary plat, as conditioned and with a variance from Section 20-810(b) conforms with the Subdivision Regulations.



**Figure 3.** GIS map showing the location of the right-of-way, right-of-way easements, and property lines. The colored properties are platted, with each color being a different plat.