

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

PC Staff Report  
11/15/10

**ITEM NO 2: PRELIMINARY PLAT; HELM SUBDIVISION; .253 ACRES; ADJACENT TO 761 ELM ST (SLD)**

**PP-9-8-10:** Consider a Preliminary Plat for Helm Subdivision, a 2 lot subdivision containing approximately .253 acres, located adjacent to 761 Elm Street and a waiver request from the requirement in Section 20-810 to provide lots that comply with the applicable zoning. Submitted by Landplan Engineering, P.A., for Glen and Carla Helm, property owner of record.

**STAFF RECOMMENDATION ON WAIVER:**

Staff recommends approval of the variance requested from Section 20-810(a)(42(i) to permit lots that do not meet the minimum lot area requirements.

**STAFF RECOMMENDATION:**

Staff recommends approval of the Preliminary Plat of the Helm Subdivision and forwarding it to the City Commission for consideration of acceptance of easements.

**Applicant's Reason for Request:** Subdivision requirement prior to construction.

**KEY POINTS**

- Subject property is developed with a detached single-dwelling residence on lot 2.
- Property is located in Zone X protected by Levee (August 5, 2010 Floodplain). Floodplain Development permit is not required for this property.

**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(a)(2)(i) requires subdivisions design to comply with all applicable zoning district standards. A variance has been requested from this requirement to permit the subdivision to occur with lots less than 7,000 SF.
- Section 20-813 states that building permits will not be issued for unplatted property.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- City Commission acceptance of easements as shown on the Preliminary Plat.
- Final Plat submission for administrative review, approval, and recording at Register of Deeds Office.
- Site Plan approval for the proposed development.
- Building permits prior to construction activity.

**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – Not required.
- *Downstream Sanitary Sewer Analysis* – Capacity was evaluated by staff per Administrative Policy 76; no capacity concerns were identified.
- *Drainage Study* – Not required.
- *Retail Market Study* – Not applicable to residential project.

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

- None

## **ATTACHMENTS**

- Preliminary Plat

## **Site Summary**

Gross Area:	.253 acres (11,007 SF)		
Number of Lots:	2		
Area of Lot 1:	.152 acres	Area of Lot 2:	.115 acres
Existing ROW:	0 acres	Additional ROW:	0 acres

## **GENERAL INFORMATION**

Current Zoning and Land Use: RS7 (Single-Dwelling Residential) District; existing single dwelling residence and vacant parcel.

Surrounding Zoning and Land Use: RS7 (Single-Dwelling Residential) District in all directions. Existing residential development.

## **STAFF REVIEW**

The preliminary plat shows the creation of a second residential lot on the vacant portion of the original parcel. The property is located on the north side of Elm Street.

## **Zoning and Land Use**

This property is zoned RS7. The purpose of this district is to allow low density residential development. No changes to the base zoning are proposed with this request. The surrounding and intended development is for low density residential development.

This preliminary plat includes two separate parcels. Both parcels are currently non-conforming lots. If approved, the interior parcel line will be shifted to the east resulting in lots that are similar in size. Parcels have been separately owned from at least 1924 to current.

<b>Property</b>	<b>Parcel 1 (761 Elm St)</b>	<b>Parcel 2 (700 block Elm Street)</b>
Existing lot area	5015 SF existing	6,638 SF existing
Proposed lot area	5517 SF proposed	5517 SF proposed
Development Status	Existing residence	Vacant parcel
Improvements	Built 1900	Undeveloped
Earliest Deed Description	1924	1927
Existing Zoning	RS7	RS7
Minimum Lot Area	7,000 SF	7,000 SF

Historically these parcels have been non-conforming to the zoning district standard. A portion of the 700 block of Elm Street is platted, much of the block is un-platted with properties with a variety of lot sizes.

## **VARIANCE**

The property owner is requesting a variance from the minimum lot area requirement in Section 20-810(a)(2)(i) to permit lots less than 7,000 SF.

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.*

The development pattern within the 700 block of Elm includes a variety of parcel sizes (both platted and unplatted). Many lots are less than 7,000 SF. The current configuration of the parcels was created prior to 1927 (the adoption of the Subdivision Regulations). The undeveloped parcel is exempt and could be issued a building permit with no changes. This applicant proposes to shift the common property line to the east creating a slightly larger parcel (Lot 2) and a smaller parcel (Lot 1). The net result is that the lots will be more uniform and approximately the same size.

The existing ownership and development pattern does not allow for the applicant to acquire additional land to remove the non-conforming situation.

*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 within the existing community and facilitate the proper development of adjoining land.

These parcels are currently non-conforming parcels that do not meet the minimum lot area of the base zoning district. The approval of the request to allow the interior property line to be shifted to the east will not substantively alter the existing development pattern of the immediate area. Both properties have access to utilities. This requested variance is in harmony with the intended purposes of these regulations.

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

No changes to the public health safety and welfare will result from the approval of this variance. The public interests are not harmed by this request.

### **Streets and Access**

The property abuts Elm Street. Elm Street is a designated local street. No additional right-of-way is proposed for this development.

### **Utilities and Infrastructure**

The property currently has access to water and sanitary sewer lines. It was noted in the review that additional approval regarding the location of the sanitary sewer connection is required. A waiver for sanitary sewer connection will be processed by Utilities staff and forwarded to the City Commission.

**Easements and Rights-of-way**

This request includes dedication of utility easement along the south side (front) of Lot 2 to accommodate private utilities.

**STAFF RECOMMENDATION**

Staff recommends approval of the variance request from Section 20-810(a)(2)(i) to allow creation of lots less than 7,000 SF.

**Conformance**

The preliminary plat conforms to the standards and requirements of the Subdivision Regulations and the Development Code subject to the approval of the variance.