

# Memorandum

## City of Lawrence

### Planning and Development Services

**TO:** Planning Commission

**FROM:** Planning Staff

**CC:** Scott McCullough, Planning and Development Services Director

**Date:** August 14, 2015

**RE:** Minor Subdivision, MS-15-00342, variance request to reduce the right-of-way radii for an existing cul-de-sac and to allow subdivision to exclude construction of public sidewalks along W. 19<sup>th</sup> Terrace per Section 20-813(g) of the Land Development Code for University Field Subdivision No. 6, located at 1745 W. 19<sup>th</sup> Terrace. Submitted by Matthew and Jessica Douglas for Mountain Top LLC, owners of record.

#### **Attachment A:** Minor Subdivision MS-15-00342

Minor Subdivisions are processed administratively. Planning Commission approval is required for variances from the Subdivision Design Standards. This Minor Subdivision is subject to Planning Commission approval for the reduced right-of-way for the existing cul-de-sac bulb and for the exclusion of constructing a public sidewalk along W. 19<sup>th</sup> Terrace. A copy of the Minor Subdivision is included with this memo for context; no action is required for Minor Subdivision approval.



The property is located along the south side of W. 19<sup>th</sup> Terrace. This is a developed area with residential uses on both sides of the street. The area was developed with a narrower cul-de-sac bulb right-of-way than is currently required and prior to requirements for the construction of sidewalks on either one or both sides of a public street. The property is currently platted as three lots. The western lot is developed with a residence. The proposed Minor Subdivision proposes to adjust the interior lot lots to create a fourth residential lot.

The Subdivision Regulations state that an applicant may request a variance from the Design Standards in accordance with the variance procedures outlined in Section 20-813(g). This section lists the criteria that must be met in order for a variance to be approved. The requested variance is evaluated for compliance with the approval criteria below.

**VARIANCE #1:** Reduction in the width of the right-of-way bulb from 60' to 40' as required for a cul-de-sac per Section 20-810(e)(5). The current design standard for a cul-de-sac bulb is 60'. This area is developed with a smaller cul-de-sac bulb that terminates W. 19<sup>th</sup> Terrace.

**VARIANCE #2:** The proposed Minor Subdivision includes the creation of 4 new residential lots where there are currently only 3 lots. Per Section 20-811(c) public sidewalks are required. Local streets require the construction of a minimum 5' wide sidewalk. This request seeks to exclude construction of a new sidewalk along this existing street segment as there are no sidewalks along the remainder of W. 19<sup>th</sup> Terrace.

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

**R-O-W:** This area is developed with residences on both sides of the street. W. 19<sup>th</sup> Terrace is an existing local street. The proposed Minor Subdivision includes property along the south side of the street and a portion of the existing cul-de-sac. There are no plans to improve or widen the existing street.

The existing cul-de-sac provides access to existing residences. A parking lot for a multi-dwelling residential development abuts the cul-de-sac on the north. Increasing the width of right-of-way for the cul-de-sac bulb will result in a reduced building setback for the existing residence at 1745 W. 19<sup>th</sup> Terrace. Since the two properties to the north are not included in the proposed Minor Subdivision, the r-o-w would not be uniform. Acquiring additional right-of-way from the properties to the north will impact them by reducing the building setback for the residence and would also result in loss of off-street parking spaces for the existing multi-dwelling residential use. There is no expectation that the street must be reconstructed to serve the proposed Minor Subdivision. Dedication of the additional right-of-way and reconstruction of the street is not necessary to serve one additional lot in this area.



**Sidewalk:** This application seeks to exclude the construction of sidewalk along W. 19<sup>th</sup> Terrace. The proposed application will revise the three platted lots (with one existing residence) to 4 platted lots. There is no existing sidewalk along any part of this street between the cul-de-sac and Ousdahl Road to the east. There are no plans to construct sidewalk on either side of the existing W. 19<sup>th</sup> Terrace. This subdivision and the surrounding area was developed prior to sidewalk improvements being required. Requirement to construct the sidewalk would be unfair when no other property owner in the area would be required to construct sidewalk along their individual properties. Sidewalks along W. 19<sup>th</sup> Terrace west of Ousdahl Road do not meet any sidewalk gap in the overall pedestrian network of the surrounding neighborhood.

**STAFF FINDING:** Strict application of the regulations would require acquiring additional right-of-way that is out of the applicant's control. Reconstruction of the street to current design standards would result in creating non-conforming building setbacks for the two existing residential structures that take access from W. 19<sup>th</sup> Terrace.

Requirement to construct the sidewalk would result in a partial sidewalk segment along only one side of the street with no reasonable expectation that it will be extended to the east to connect with the Ousdahl Road sidewalk.

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

The proposed request does not alter the development pattern. The intent of the land division is to create three buildable lots where there are two platted but undeveloped lots and one platted developed lot. Dedication of additional right-of-way results in creating a non-conforming building setback for the existing residence. Construction of the sidewalk does not substantially benefit anyone in the immediate area. The proposed development is consistent with the existing development pattern in the surrounding area.

**STAFF FINDING:** Granting this requested variance from the required right-of-way and exempting the construction of a sidewalk is not opposed to the purpose and intent of the regulations.

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

The current width for right-of-way for a cul-de-sac primarily provides turning space emergency apparatus. Construction of new streets must meet this design standard. Current design standards require public sidewalks on both sides of streets. Both of these standards are applicable in new development. This application represents infill development through the Minor Subdivision process creating one additional residential lot above the existing design.

**STAFF FINDING:** Granting this requested variances from the required right-of-way and construction of a sidewalk will not harm the public health, safety or welfare.

**STAFF RECOMMENDATION**

Approve the variance requested for a Minor Subdivision, MS-15-00342, to reduce the right-of-way from Section 20-810(a)(5) for a cul-de-sac bulb from 60' to 40' and to allow the exemption for the construction of a new sidewalk per Section 20-813(g) of the Land Development Code for property located at 1745 W 19<sup>th</sup> Terrace.