

# Memorandum

## City of Lawrence

### Planning and Development Services

**TO: Planning Commission**

**FROM: Planning Staff**

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

**Date: January 23, 2019**

**RE: ITEM NO. 13D VARIANCE FOR 23<sup>RD</sup> STREET; 1401 W. 23<sup>RD</sup> ST & 1300 W. 24<sup>TH</sup> ST (SLD)**

**MS-18-00535:** Consider a variance for right-of-way width for 23<sup>rd</sup> Street, associated with a minor subdivision for 1401 W. 23<sup>rd</sup> St & 1300 W. 24<sup>th</sup> St. Submitted by Opus Development Company LLC, for George B. Leinmiller and Marlene J. Leinmiller, property owners of record.

*Variance requested:*

Reduction of right-of-way for a W. 23<sup>rd</sup> Street, a principal arterial street, from 150 feet to 110 feet.

Attachment A: Minor Subdivision MS-18-00535

#### **Background**

Minor subdivisions are processed administratively; however, the Planning Commission's approval is required for variances from the subdivision design standards. No other Planning Commission action related to the proposed minor subdivision is required.

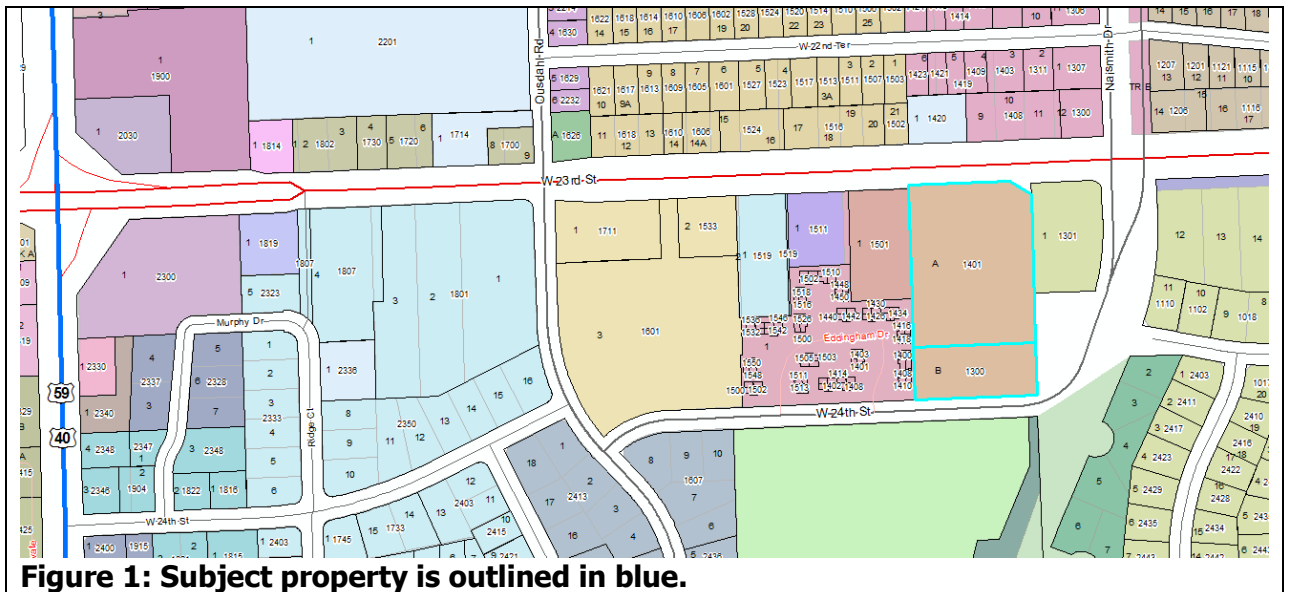
The Subdivision Regulations state that an applicant may request a variance from the design standards in accordance with the variance procedures outlined in Section 20-813(g). This memo provides background information on the variance request, evaluates the request for compliance with the approval criteria, and summarizes staff's recommendation.

The standard for the required right-of-way width changed in 2006 from 100 feet to 150 feet with the adoption of the Land Development Code. This property is located on the south side of W. 23<sup>rd</sup> Street. This segment of W. 23<sup>rd</sup> Street is a developed commercial corridor. This same variance request is being made for property located to the west along the south side of W. 23<sup>rd</sup> Street, west of Ousdahl Road (agenda item 4, 1801 and 1807 W. 23<sup>rd</sup> Street).

**VARIANCE:** Reduction in the width of right-of-way from 150 feet to 110 feet as required for a principal arterial street (W. 23<sup>rd</sup> Street) per Section 20-810 (e)(5) of the Subdivision Regulations to allow redevelopment of the property.

This segment of W. 23<sup>rd</sup> Street is uniform in width. The applicant proposes no additional dedication of right-of-way, keeping the right-of-way width at 110 feet. As noted in previous

reports, the 150 feet of required right-of-way is more applicable to new, greenfield development, rather than existing corridors, unless a specific need is identified.



**REVIEW CRITERIA:**

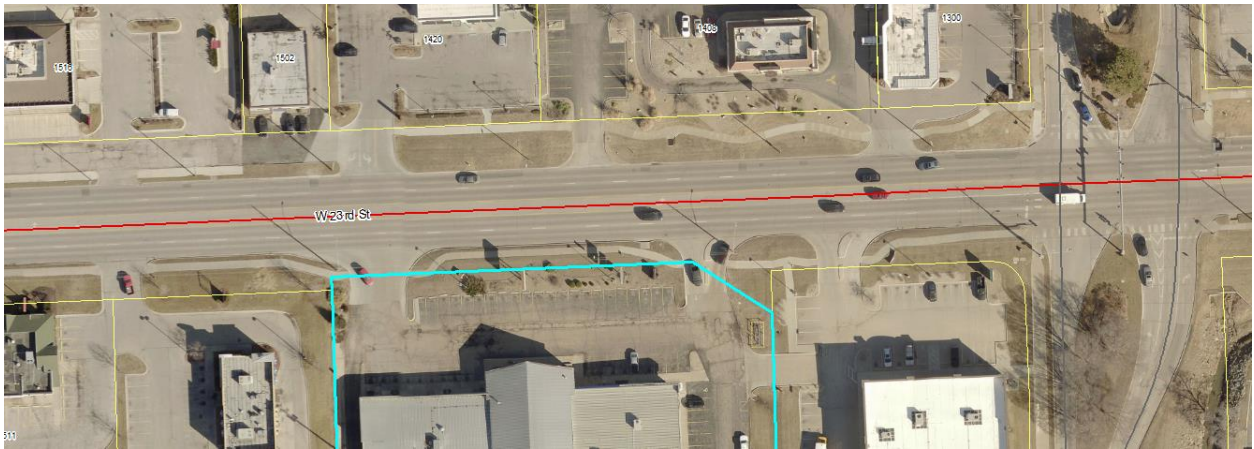
**Criteria 1:** Strict application of these regulations will create an unnecessary hardship upon the subdivider.

Development along this segment of the W. 23<sup>rd</sup> Street corridor includes non-residential uses with building and parking lot setbacks based on the established property line/right-of-way line. This property is part of a proposed redevelopment project that, if approved, will be rezoned as a SmartCode redevelopment project.

The redevelopment includes the consolidation of driveways along this street segment in accordance with the approved 23<sup>rd</sup> Street Access Management Plan.

Within the context of the Land Development Code, strict application of the regulations would limit the developer’s ability to redevelop the property consistent with the existing immediate development pattern. The applicant proposes to develop under the city’s SmartCode. This would require a complete change to the W. 23<sup>rd</sup> Street profile. This detail is discussed as part of the Infill Development Plan (PDP-18-00537). There are no current plans to alter the existing street profile that would result in a street typology consistent with the SmartCode.

As properties have redeveloped along W. 23<sup>rd</sup> Street, the dedication of additional right-of-way has not been required along this street segment. The right-of-way width varies between Ousdahl Road and Naismith Drive between 110 feet wide and 120 feet wide. This property includes a triangle shaped area of right-of-way located on the northeast corner. The property was originally platted in 1963 then replatted in 1976 with this right-of-way configuration. The records do not indicate the purpose for this triangular piece of right-of-way west of the intersection. Both public and private infrastructure are located in this general area.



Sections of W. 23<sup>rd</sup> Street vary at primary intersection (corners) to accommodate street traffic signals and turn lanes.

**STAFF FINDING:** Strict application of the regulations would require the property owner to adjust the existing lot line to the south, dedicating additional right-of-way. Additional right-of-way has not been required for other redevelopment applications in the nearby area.

The strict application of the regulations will require the developer to alter their plans for redevelopment of the site. This same request has been sought for other redevelopment projects along other arterial streets. Granting this requested variance from the required right-of-way dedication is not opposed to the purpose and intent of the regulations.

Additional easement is required to protect public infrastructure along the north property line.

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

This design standard was adopted in 2006 with the Land Development Code. The wider right-of-way accommodates street designs with boulevards, multiple lanes, and amenities that may or may not exist along developed street segments within the community. A similar variance has been granted for other projects located along developed urban corridors that are designated arterial streets. A list of similar requests is included at the end of this report.

The intent of this minor subdivision is to combine two existing platted lots into a single lot to facilitate redevelopment of the site. The change in design requirements in 2006 requires the applicant to seek a variance as part of the subdivision process. Section 20-810(e)(1) provides general design criteria for streets. Subsection iii states, "*Arterial and collector streets shall be laid-out, arranged, and designed in accordance with any adopted Major Thoroughfares Map or corridor plan.*" W. 23<sup>rd</sup> Street is:

- A principal arterial street
- An existing street
- A developed commercial corridor

Per Section 20-801(a) of the Subdivision Regulations, the purpose of these regulations ensures the division of land will serve the public interest and general welfare. The regulations are intended to, "*Provide for the harmonious and orderly development of land within the City by*

*making provisions for adequate open space, continuity of the transportation network, recreation areas, drainage, utilities and related easements, light and air, and other public needs.”*

The proposed redevelopment will be designed per the adopted SmartCode as it pertains to buildings, setbacks, landscaping, parking, and other physical elements. Regardless of zoning, the project is subject to compliance with Subdivision Regulations. This change will not alter the established street network in this area.

There are no planned widening projects for this segment of W. 23<sup>rd</sup> Street. The SmartCode includes a substantially different street profile than the currently constructed W. 23<sup>rd</sup> Street. It is not feasible, practical, or appropriate to redesign only a small portion of the street to comply with the SmartCode when the surrounding area and entire remaining street segment is conventionally zoned. This discrepancy is discussed in more detail within the body of the zoning and infill development plan staff reports.

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

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

W. 23<sup>rd</sup> Street is a designated “Principal Arterial Street”. Its current width includes 100 feet of public right-of-way along this property. The current Subdivision Regulations require “Principal Arterial Streets” to include 150 feet of right-of-way. The current right-of-way for W. 23<sup>rd</sup> Street is an existing condition of the corridor.

The minor subdivision and related SmartCode *Infill Community Plan* are in process. Part of the review includes the evaluation of a traffic impact study. The applicant has provided a traffic study. No additional right-of-way has been identified as needed.

The City adopted an access management plan identifying appropriate driveway consolidation along this segment of the street.

**STAFF FINDING:** Granting this requested variance from the required right-of-way will not harm the public health, safety, or welfare. These public aspirations will continue to be protected though the site development process.

### **STAFF RECOMMENDATION**

Approval of the variance requested for a minor subdivision, MS-18-00535, reducing the right-of-way required per Section 20-810(a)(5) for a principal arterial street, from 150 feet to 110 feet in accordance with the provisions for 1401 W. 23<sup>rd</sup> Street.

Request for right-of-way reductions:

1. PP-15-00067 Dream Haven regarding Peterson Road (4/20/15).
2. PP-14-00303 Schwegler Addition regarding Ousdahl Road, a collector street (9/22/15).
3. PP-13-00338 Menards Addition regarding 31<sup>st</sup> Street (11/8/13 and 10/21/13).
4. PP-13-00352 Burrough's Creek Addition regarding Haskell Avenue (10/21/13).
5. MS-15-00096 Bella Sera at the Preserve (5/18/15).
6. PP-16-00304 Rockledge Addition No. 2 (9/26/16).
7. MS-17-00217 Lawrence Industrial Park No. 2 regarding Haskell Ave (6/28/2017).
8. MS-17-00390 Sunset Hills Estates regarding W. 6<sup>th</sup> Street (9/27/17).
9. MS-17-00554 Casey's Subdivision 1703 and 1111 W. 6<sup>th</sup> Street (10/25/17).
10. MS-18-00113 Eagle Subdivision No. 2, 1803 W. 6<sup>th</sup> Street (4/25/18).
11. MS-18-00243 Casey's Subdivision 1703 and 1111 W. 6<sup>th</sup> Street (7/25/18).
12. MS-18-00567 W. Morris Addition No. 1 (1/23/19).

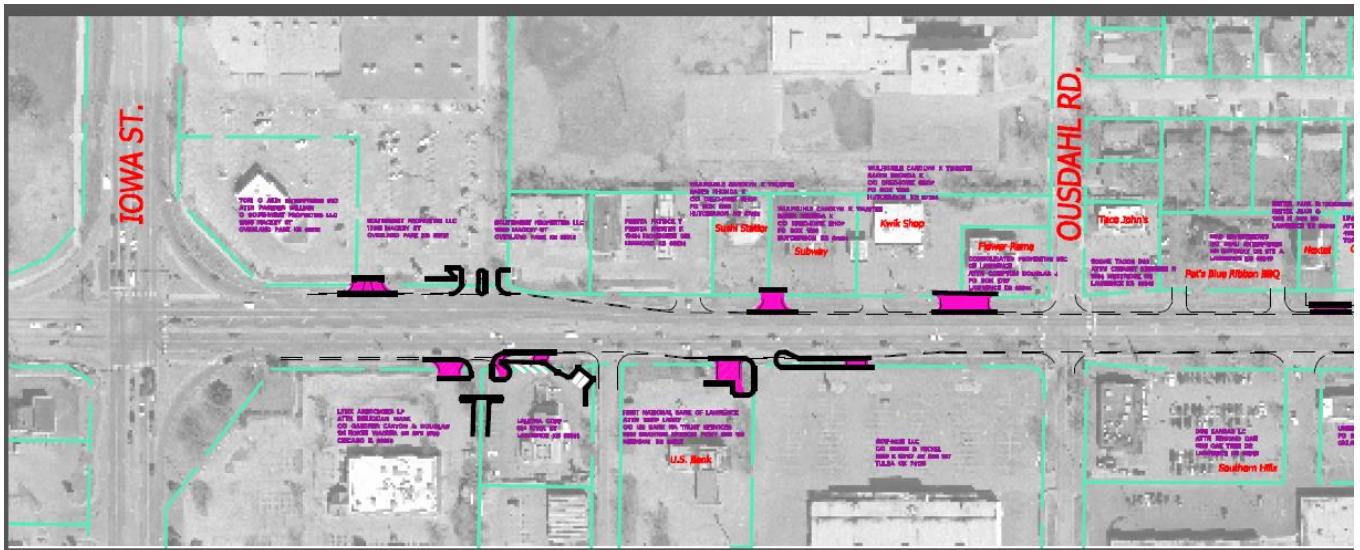


Figure 2: Portion of 23rd Street Access Management Plan