

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Planning Commission

**FROM:** Mary Miller, Planner

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

**Date:** For April 21, 2014 meeting

**RE:** MISC NO. 1; VARIANCE FOR CERTIFICATE OF SURVEY; 120 HWY 40(MKM)

**CSR-13-00496:** Consider a variance associated with a Certificate of Survey requested from Section 20-806(d)(2)(i) of the Subdivision Regulations [Section 11-106(d)(2)(i) of the County Code] to allow the creation of a Residential Development Parcel with a minimum width less than required. Submitted by Howard Smith, for Howard and Fredonna Smith property owners of record.

**Attachment A:** Certificate of Survey, CSR-13-00496

While Certificates of Survey are processed administratively, Planning Commission approval is required for variances from the Subdivision Design Standards. The Certificate of Survey referenced above is currently under review. A copy of the Certificate of Survey is being provided with this memo for context; however, no action is required on the Certificate of Survey. This survey was before the Commission previously for a variance from the requirement to dedicate additional right-of-way for Hwy 40, as KDOT indicated additional right-of-way was not needed at this time.

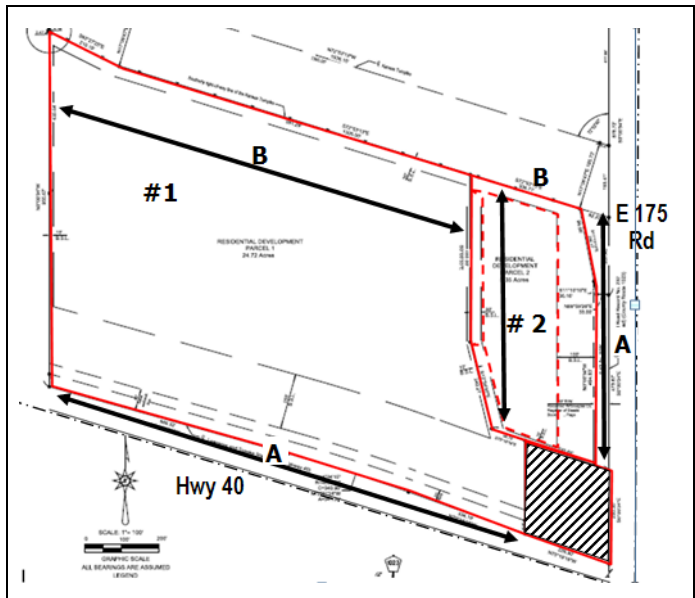
As the applicant began planning for the future residential development on Residential Development Parcel 2, he determined that the topography of the new Residential Development Parcel (RDP) and the minimum required setback from the adjacent road posed constraints for the development of the parcel.

The Subdivision Regulations state that an applicant may request a variance from the Design Standards in the Regulations in accordance with the variance procedures outlined in Section 20-813(g) [11-113(g), County Code]. This section lists the criteria that must be met in order for a variance to be approved. A discussion of the requested variance follows with an evaluation with the approval criteria:

**VARIANCE REQUESTED:** To allow a Rural Certificate of Survey with a Residential Development Parcel that does not comply with all applicable zoning district regulations (specifically, the 90% Minimum Parcel Width requirement provided in Section 12-318 of the County Zoning Regulations). [Section 20-806(d)(2) of Subdivision Regulations; 11-106(d)(2) of the County Code.]

A Rural Certificate of Survey is a residential land division that is permitted in the unincorporated portions of the county outside the Urban Growth Areas. A minimum of 20 acres is required for a Certificate of Survey and a maximum of 2 developable parcels (Residential Development Parcels or RDPs) are possible, unless the property is bounded on 2 sides by local roads; in which case 3 RDPs are possible.

This Certificate of Survey will create 2 Residential Development Parcels on approximately 30 acres. The property is developed with one residence and outbuildings and RDP 2 will be available for additional residential development. RDP 1 has frontage on Hwy 40, a principal arterial; therefore, a minimum frontage of 1320 ft and a minimum parcel width of 1188 ft is required (Per Section 12-318 of the Zoning Regulations). RDP 2 will take access to E 175 Road, a major collector, and is required to have a minimum frontage of 500 ft and a minimum parcel width of 450 ft. With the layout shown in Figure 1, both RDPs are able to comply with these requirements; however, as shown in the next section of this memo, RDP 2 does not have a suitable building area due to topography of the site.



**Figure 1.** Certificate of Survey with both RDPs having required frontage and 90% minimum parcel width. Frontage for both RDPs is shown with arrow A, and the minimum parcel width is shown with arrow B. (hatched area is not included in the Certificate of Survey).

### Criteria 1.

**Strict application of these regulations will create an unnecessary hardship upon the Subdivider.**

The strict application of these regulations would result in the creation of a Residential Development Parcel that would be very difficult to develop due to the topography of the site. To illustrate, Figure 2a shows an aerial photo with contours and 2b provides slope information from the City GIS maps. Slopes between 7% and 15% are shown in brown and slopes 15% and higher are in red. The steepest slopes are located within the center of the building envelope.

To determine if this hardship is unnecessary, a review of the alternate configuration of the parcels, revised to create a suitable building envelope for RDP 2, is necessary. Providing the required minimum parcel

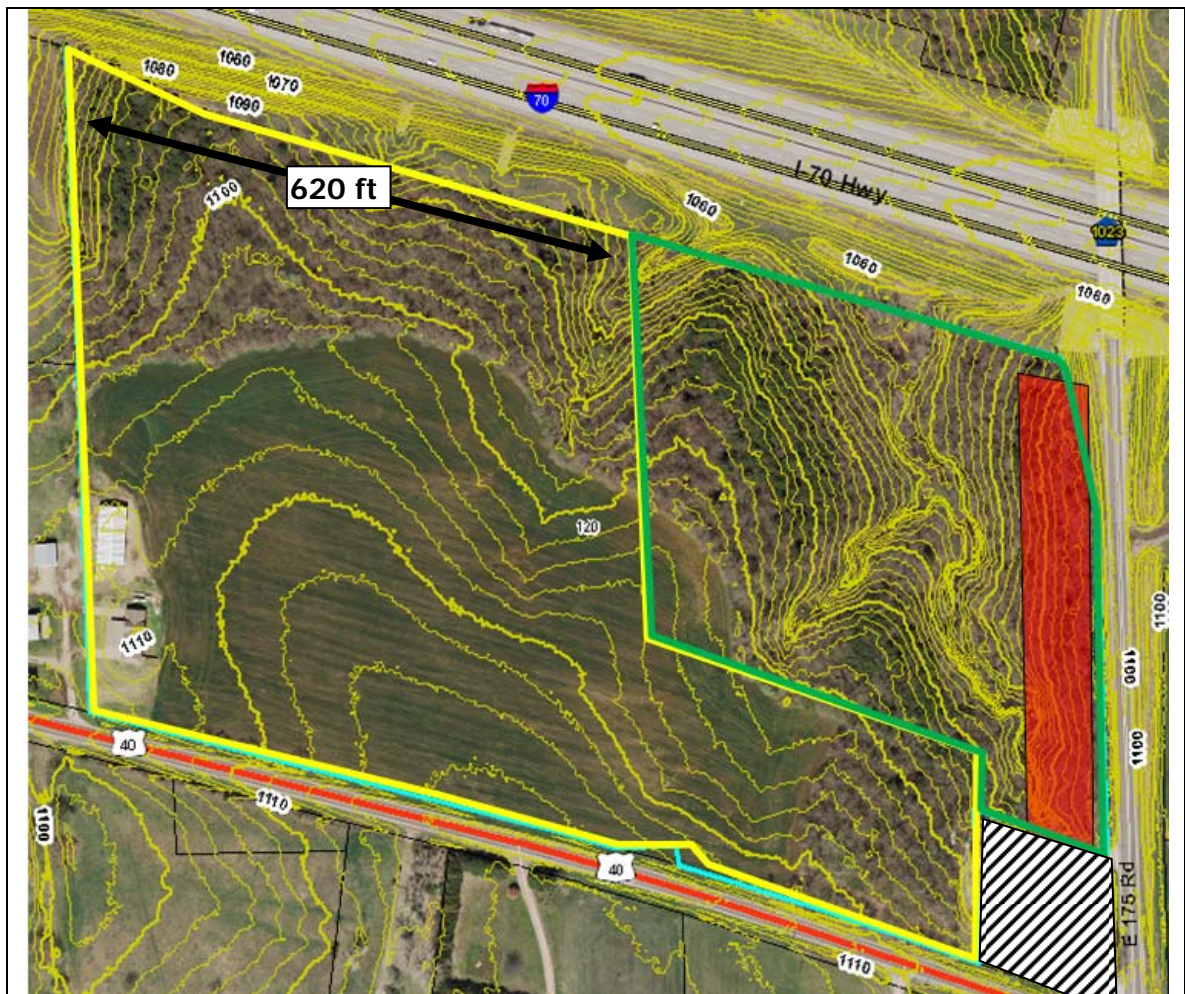


**Figure 2a.** RDP #2 with building envelope outlined in dashed line. Contours shown in yellow.



**Figure 2b.** RDP #2 with building envelope, brown slopes between 7 and 15%, red slopes 15% and up.

width of 1188 ft for RDP 1 limits the depth of RDP 2 as shown in Figure 1. Providing the depth for RDP 2 which is necessary to provide a buildable area would reduce the minimum width of RDP 1 to approximately 620 ft. (Figure 3)



**Figure 3.** Proposed reconfiguration of parcels overlain on the contour and aerial maps. RDP 1 is currently developed and RDP 2 will have adequate space for building, while observing the required setback (in red) and avoiding the steep slopes

#### **Staff Finding:**

Strict application of the regulations would require the creation of a RDP which, due to the topography of the site and the required building setbacks, would have a very limited building area. This hardship would be unnecessary as it is possible to reconfigure the parcels with a variance to the minimum parcel width requirement and create 2 RDPs suitable for development.

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

The Subdivision Regulations note that the purpose of the Rural Certificate of Survey land division is to implement the comprehensive plan's recommendation to provide suitable residential development in the Rural Area of Douglas County. The overall purpose of the Subdivision Regulations is to provide for the harmonious and orderly development of land; contribute to conditions conducive to health,

safety, aesthetics, convenience, prosperity and efficiency; and to provide for the conservation and protection of human and natural resources. The variance would allow 2 RDPs to be created which both have adequate area (one with approximately 20 acres the other with approximately 10 acres) and which both have suitable building envelopes which do not require the development on slopes greater than 15%. Moving development away from the steep slopes should also reduce erosion and maintain the vegetation that is currently on the slopes.

**Staff Finding:**

The variance will allow RDP 2 to have greater depth than would be possible while observing the minimum width for RDP 1. This greater depth would provide a larger building envelope and would not require development to occur on steep slopes. This would be in harmony with the intended purpose of the Subdivision Regulations to provide suitable residential development in the rural areas and to contribute to conditions conducive to health, safety, convenience and efficiency.

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

**Staff Finding:**

The reduction of the width of RDP 1 from a minimum of 1188 ft to approximately 620 ft would have no negative impact on the public health, safety, or welfare.

**STAFF RECOMMENDATION:** Staff recommends approval of the variance requested from Section 20-806(d)(2)(i) of the Subdivision Regulations [Section 11-110(d)(2)(i) of the County Code] to allow a land division through Certificate of Survey CSR-13-00496 with RDP 1 having a minimum parcel width of 619.88 ft rather than the 1188 ft required by Code subject to the following condition:

1. The following note shall be added to the Certificate of Survey:
  - a. *"At their April 21, 2014 meeting, the Planning Commission approved a variance from Section 20-806(d)(2)(i) of the Subdivision Regulations to allow a minimum parcel width of 619.88 ft for RDP 1."*



