

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planner

Date: For August 25, 2014 meeting

RE: MISC NO. 1; VARIANCE ASSOCIATED WITH SHANK HILL ADDITION NO. 2
MINOR SUBDIVISION, 1016 AND 1020 E 1292 RD(MKM)

Variance request from the minimum lot width requirement with minor subdivisions in the unincorporated portion of Douglas County. The variance is associated with Shank Hill Addition No. 2, a two lot Minor Subdivision for property located at 1016 and 1020 E 1292 Road (MS-14-00361).

Attachment A: Minor Subdivision, MS-14-00361.

The Minor Subdivision referenced above is currently under administrative review; however, Planning Commission approval is required for variances from the Subdivision Design Standards. A copy of the Minor Subdivision is being provided with this memo for context; however, no action is required on the Minor Subdivision.

The Subdivision Design Standards require that lots be designed and laid out in compliance with all applicable zoning district regulations. (Section 20-810(a)(2)(i); [11-110(a)(2)(i), County Code]) Proposed Lot 1 of the Shank Hill Addition No 2 will have less than the required 225 ft 90% Minimum Lot Width for properties on local roads in the A-1 Zoning District.

The applicant requested a variance from this requirement. A discussion of the requested variance follows with an evaluation with the approval criteria outlined in Section 20-813(g) [11-113(g), County Code].

VARIANCE REQUESTED: From Section 20-810(a)(2)(i) [11-110(a)(2)(i) County Code], to allow a Minor Subdivision lot line reconfiguration resulting in a lot 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).

The subject property was platted as Lots 4 and 5 of Shank Hill Addition in 1970. The owner of the western lot, Lot 5, had his property surveyed and discovered that the garage had been constructed over the property line. A Minor Subdivision was submitted to reconfigure the interior lot lines so the garage would be located on the west lot, with the required 10 ft side yard setback. Figure 1 shows the garage encroachment onto the east lot and the proposed lot line reconfiguration.

Two issues were identified with the preliminary review of the Minor Subdivision:

- 1) The area of the eastern lot, Lot 4, does not comply with the Douglas County Sanitary Code. The Douglas County Health Official determined that the lot can be replatted, as long as the area is not reduced.
- 2) The lots were compliant with the regulations in place when they were platted in 1970, but are now nonconforming as some lot dimensions do not comply with the current standards of the A-1 (County-Suburban Home) Zoning District. (Table 1)

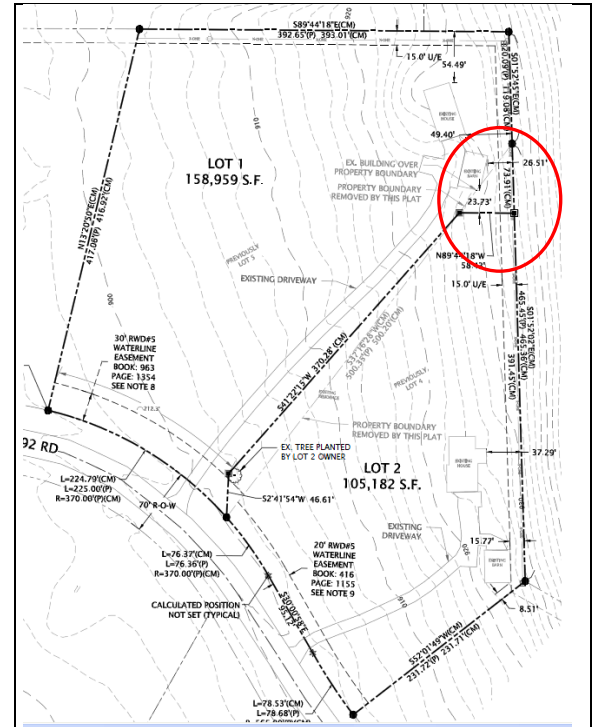


Figure 1. Minor Subdivision exhibit showing proposed and existing lot lines and existing structures.

A nonconforming lot is a lot that was created by deed or subdivision or other lawful means that was established in compliance with regulations in place at the time, but that no longer complies with the regulations. In this case the nonconformity was created by amendments to the Zoning Regulations. A nonconforming lot can continue to be used but the nonconformity cannot be increased. Any increase in the nonconformity or any other reduction below required minimums requires approval of a variance from the Planning Commission.

	Minimum Requirement	Current Dimensions (approximate)	Proposed Dimensions (approximate)
LOT 4 (Proposed Lot 2)			
AREA	3 acres	<u>2.3 acres</u>	2.4 acres
WIDTH AT ROAD	250 ft	<u>248 ft</u>	250 ft
95% MINIMUM LOT WIDTH	225 ft	256 ft	260 ft
LOT 5 (Proposed Lot 1)			
AREA	3 acres	3.7 acres	3.6 acres
WIDTH AT ROAD	250 ft	<u>225 ft</u>	<u>225 ft</u>
95% MINIMUM LOT WIDTH	225 ft	230 ft	<u>212 ft</u>

Table 1. Dimensions of current and proposed lots. Legally nonconforming dimensions are underlined and shown in red. The proposed 95% Minimum Lot Width for proposed Lot 1, highlighted, is below the current requirement. As this change is occurring with this plat, a variance from the Planning Commission is necessary.

A challenge with this Minor Subdivision is to provide an exchange of land area so that the garage is located on the west lot with the required 10 ft setback and the area of the eastern lot is not reduced.

Criteria 1.

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

The lot reconfiguration is seeking to resolve the encroachment of the garage over the property line and provide the required side yard setback, without reducing the area of the eastern lot (proposed Lot 2). It is necessary to 'swap' land from one lot to the other to maintain or increase the area of proposed Lot 2, to comply with the Sanitary Code.

The applicant proposes to exchange a portion of land near the road frontage. He explained that the neighboring property owner planted an apple tree in this location a few years ago, thinking it was on his property. This proposed reconfiguration of the lot line places the exchanged area close to the road frontage where the lot is narrower and results in the noncompliant lot width.

The land exchange could occur further to the rear of the lot, where the lot widens, without reducing the minimum lot width below the 95% minimum. The applicant indicated this would not be a satisfactory location as the additional land would be separated from the lot by the tree row along the existing lot line (Figure 2). Strict applications of the regulations would require that the neighbor accept a less satisfactory land swap or that the garage be removed.

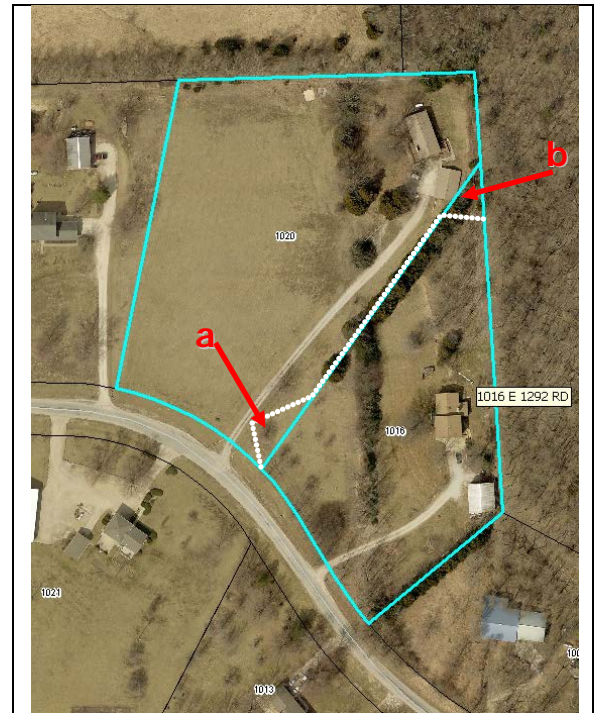


Figure 2. Subject properties and the location of the garage encroachment (a) and tree (b). Proposed lot line dashed (approximate).

Staff Finding:

Strict application of the regulations would require the creation of a lot which maintained the 95% minimum lot width requirement of 225 ft. Providing the 95% minimum lot width is possible, but would be an unnecessary hardship in that the land being exchanged would be of less value to the neighbor or, if the land exchange were not possible, would require the demolition of the garage.

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

The Subdivision Regulations are intended to ensure that the division of land will serve the public interest and general welfare by providing for the harmonious and orderly development of land, contributing to conditions conducive to health, safety, aesthetics, convenience, prosperity and efficiency, and providing for the conservation of human and natural resources.

Staff Finding:

The variance will allow a land swap necessary for a reconfiguration of lot lines so that the garage does not encroach over the lot lines. This will result in a 95% minimum lot width of approximately 212 ft rather than the 225 ft required by the County Zoning Regulations for properties fronting on local roads. This minor variation is in harmony with the purpose of the Subdivision Regulations.

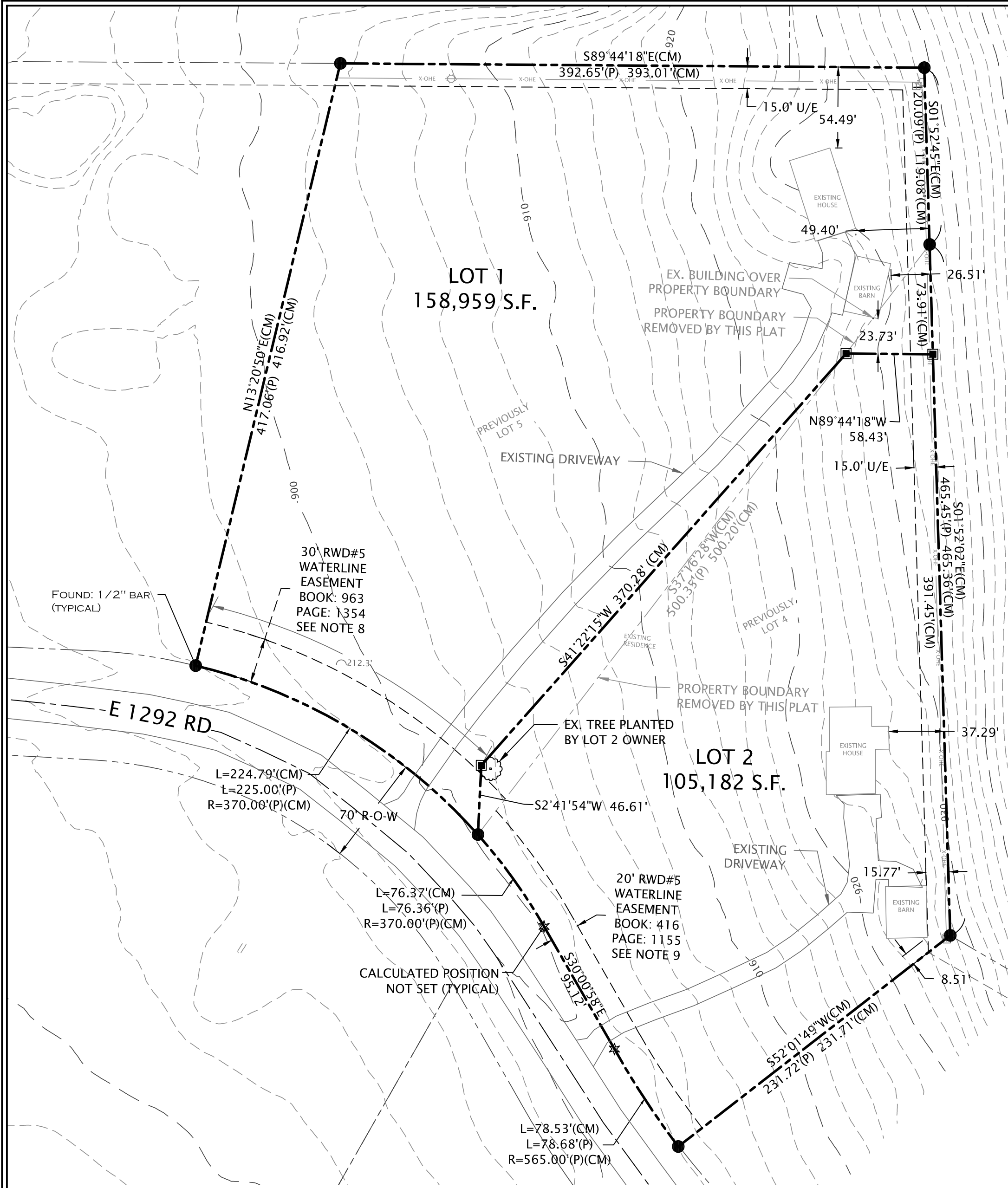
Criteria 3: The public health, safety, and welfare will be protected.

Staff Finding:

The reduction of the 95% Minimum Lot Width for proposed Lot 1 from 225 ft to approximately 212 ft in the small area proposed for the land exchange should have no negative impact on the public health, safety, or welfare.

STAFF RECOMMENDATION: Staff recommends approval of the variance requested from Section 20-810(a)(2)(i) of the Subdivision Regulations [Section 11-110(a)(2)(i) of the County Code] to allow a land division through Minor Subdivision MS-14-00361 with Lot 1 having a 95% minimum lot width of approximately 212 ft rather than the 225 ft required by Code subject to the following condition:

1. The following note shall be added to the Minor Subdivision:
 - a. *"At their August 25, 2014 meeting, the Planning Commission approved a variance from Section 20-810(a)(2)(i) of the Subdivision Regulations to allow a 95% minimum lot width of approximately 212 ft for Lot 1."*



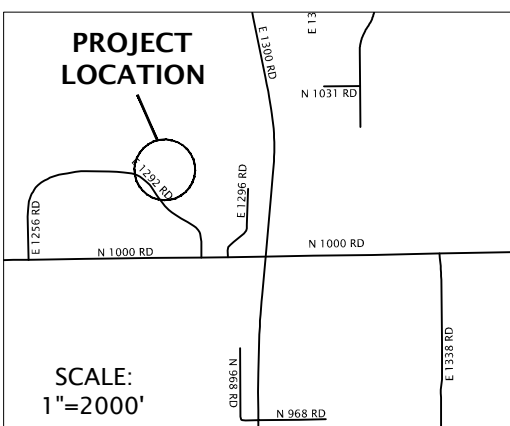
SURVEYOR'S CERTIFICATION

I hereby certify that the platted area shown hereon is the true and accurate result of a field survey performed under my direct supervision in August, 2014, and that the plat is a closed traverse. This Minor Subdivision/Replat conforms to the Kansas Minimum Standards for Boundary Surveys.

ENGINEER'S CERTIFICATION

I hereby certify that the information and area map shown hereon are true and accurate to the best of my knowledge. Plat prepared August, 2014.

LOCATION MAP



COMMUNITY FEATURES WITHIN A MILE:
DOUGLAS COUNTY WELLS OVERLOOK PARK

LEGAL DESCRIPTION

LOT 4 AND LOT 5, SHANK HILL, A SUBDIVISION IN LAWRENCE, DOUGLAS COUNTY, KANSAS.

NOTES

1. Basis of Bearings for this Minor Subdivision is the East property line of Lots 4, Shank Hill (S01°52'02"E)(Assumed).
2. This Minor Subdivision is a replat of a Lot 4 & 5, SHANK HILL, a subdivision all in the Lawrence, Douglas County, Kansas. Further division or consolidation of any lots contained in this Minor Subdivision is prohibited, and shall be processed as a Major Subdivision, unless the action meets the exception noted in Section 20-808(c)(5)(i).
3. Aerial and topographic information obtained from aerial survey performed by Sanborn Mapping for the City of Lawrence and Douglas County 2006 & 2009. Specific topographic and boundary information for property & directly adjacent obtained from field survey provided by All Points Surveying, August 2014.
4. Typical Soil Types: Vm - Vinland-Martin Complex & Mc-Martin Silty Clay Loam
5. The property within this Minor Subdivision/Replat is zoned Douglas County A-1. All new construction shall conform to the setback regulations of the A-1 zoned district as defined by the Douglas County Zoning Code.
6. The lots will be pinned prior to recordation of the Minor Subdivision/Replat at the Register of Deeds Office (per Section 20-811(k)).
7. No portion of this property is located within a designated "Special Flood Hazard Area" per FEMA Map Number: 20045C0169D, Map Revised: August 5, 2010.
8. A Right-of-Way Easement not to exceed 30 feet in width is held by Rural Water District #5, Douglas County for existing Lot 5 and recorded at the Douglas County Register of Deeds Book 963, Page 1354, with said easement being 15 feet either side of a pipeline constructed for the transmission of water. While the water line is adjacent to the existing roadway, the exact location of existing water line(s) is not known and thus easement location might vary slightly from location shown on this document.
9. A Right-of-Way Easement not to exceed 20 feet in width is held by Rural Water District #5, Douglas County for existing Lot 4 and recorded at the Douglas County Register of Deeds Book 416, Page 1155, with said easement being 10 feet either side of a pipeline constructed for the transmission of water. While the water line is adjacent to the existing roadway, the exact location of existing water line(s) is not known and thus easement location might vary slightly from location shown on this document.
10. Existing topography and improvements, and proposed improvements shown for review purposes only. Topography contours and improvements will be removed from final documents.
11. On August 25, 2014 the following variances/waivers were approved by the Lawrence/Douglas County Planning Commission: (PENDING)
 - a. from Section 12-318 "Height, Area and Bulk Requirements Table to allow for "Lot Width" to be less than 90% of Min. Lot/Parcel Width or 225 Feet. 220 Feet is requested;

REFERENCED DOCUMENTS

1. A final plat of SHANK HILL, recorded with the Douglas County Register of Deeds in Book 11, Page 24, on September 21, 1970.

FILING RECORD

State of Kansas
County of Douglas
This is to certify that this instrument was filed for record in the office of the Douglas County Register of Deeds on this ____ day of _____, 2014, and is duly recorded at ____ AM/PM, in plat book ____ page ____.

Register of Deeds
Kay Pesnell

ENDORSEMENTS

Approved as a Minor Subdivision under the Subdivision Regulations of the City of Lawrence & the Unincorporated area of Douglas County. Reviewed in accordance with K.S.A. 58-2005

Planning Director Date Michael D. Kelly, P.S. #869 Date
Scott McCullough Douglas County Surveyor

Variance Approved by Lawrence-Douglas County Planning Commission
Douglas County, Kansas

Bruce Liese Date
Chair

DEDICATION

Be it known to all men that I (we), the undersigned owner(s) of the above described tract of land, have had cause for the same to be surveyed and platted as a Minor Subdivision under the name of "SHANK HILL ADDITION NO. 2" and have caused the same to be subdivided into lot(s) as shown and fully defined on this plat.

Wilton D. Miller
1020 E. 1292 Road
Lawrence, Kansas 66047

Steven R. Hicks Donna J. Hicks
1016 E. 1292 Road
Lawrence, Kansas 66047 Lawrence, Kansas 66047

ACKNOWLEDGEMENT

State of Kansas
County of Douglas

Be it remembered that on this ____ day of _____, 2014, before me, the undersigned, a notary public, in and for said county and state, came Wilton D. Miller who is (are) personally known to me to be the same person(s) who executed the foregoing instrument of writing and duly acknowledge the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my seal on the day and year last written above.

Notary Public My commission expires

ACKNOWLEDGEMENT

State of Kansas
County of Douglas

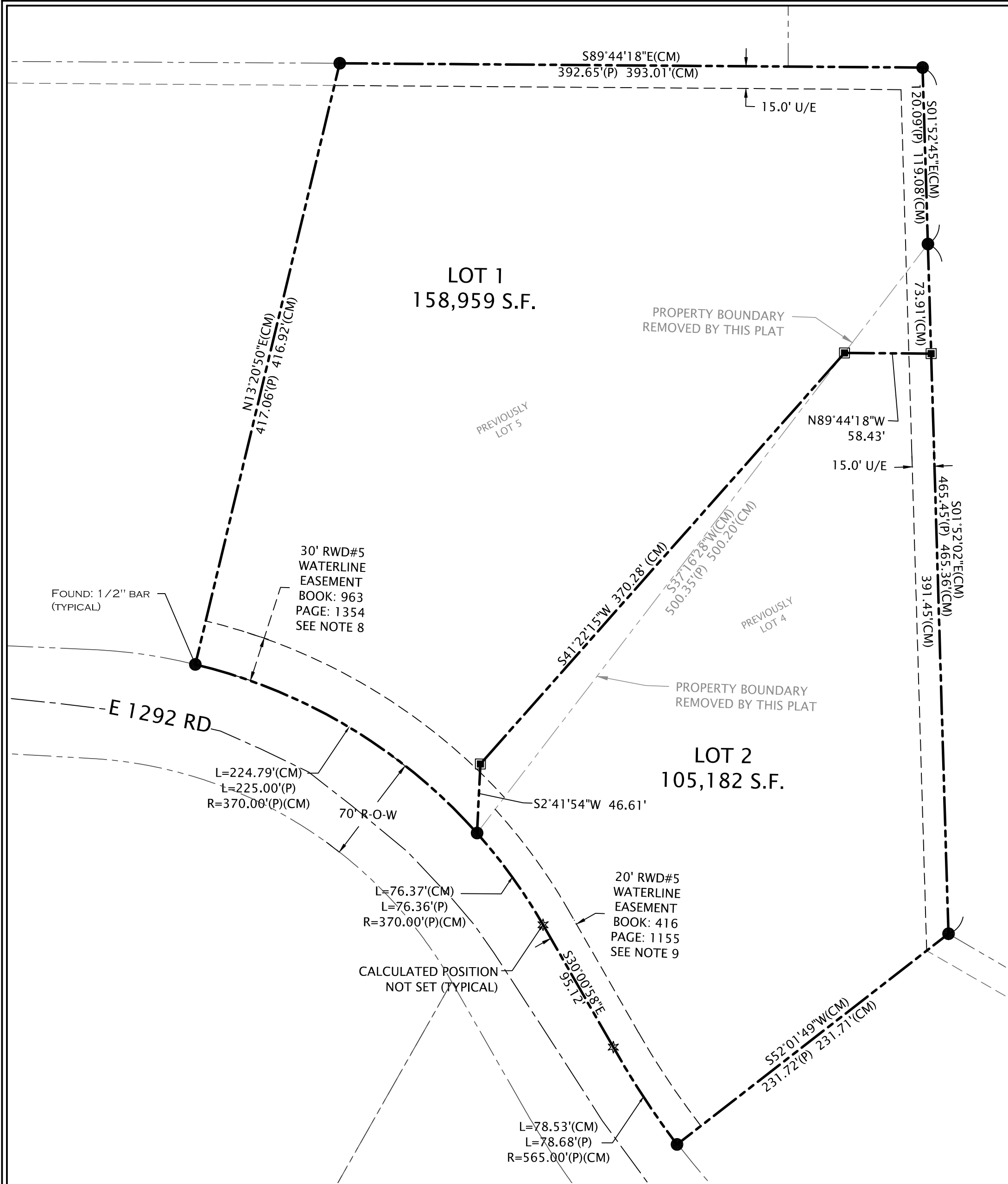
Be it remembered that on this ____ day of _____, 2014, before me, the undersigned, a notary public, in and for said county and state, came Steven R. Hick and Donna J. Hicks, who is (are) personally known to me to be the same person(s) who executed the foregoing instrument of writing and duly acknowledge the execution of the same.

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SHANK HILL ADDITION NO. 2
A MINOR SUBDIVISION/REPLAT OF
LOTS 4 & 5, SHANK HILL,
a subdivision in the SE¼ of Section 26, Township
13 S, Range 19 E, in Douglas County, Kansas

Prepared August 8, 2014



SURVEYOR'S CERTIFICATION

I hereby certify that the platted area shown hereon is the true and accurate result of a field survey performed under my direct supervision in August, 2014, and that the plat is a closed traverse. This Minor Subdivision/Replat conforms to the Kansas Minimum Standards for Boundary Surveys.

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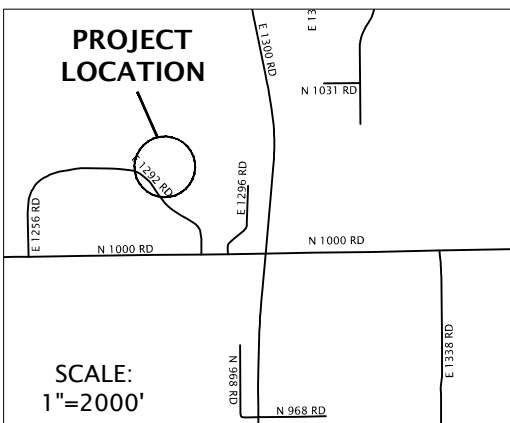
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THIS PLAT SHALL BE CONSIDERED UNOFFICIAL
UNTIL ALL SIGNATURES HAVE BE ACQUIRED
AND DOCUMENT HAS BEEN FILED AT THE
DOUGLAS COUNTY REGISTER OF DEEDS.

Steven D. Williams, P.S. #1391
P.O. Box 4444
Lawrence, KS 66046
(785)832-2121

John Dean Grob, P.E. #12769
3210 Mesa Way, Suite A
Lawrence, KS 66049
(785)856-1900

LOCATION MAP



COMMUNITY FEATURES WITHIN A MILE:
DOUGLAS COUNTY WELLS OVERLOOK PARK

LEGEND

- ROW RIGHT-OF-WAY
- C/L CENTERLINE
- D/E DRAINAGE EASEMENT
- U/E UTILITY EASEMENT
- (P) PLATTED
- (M) MEASURED
- (CM) CALCULATED FROM MEASUREMENTS
- FOUND 3/4" BAR ORIGIN UNKNOWN
- SET 1/2" x 24" REBAR W/CAP "APS 1391"
- ☆ CALCULATED POINT NO PIN SET

LEGAL DESCRIPTION

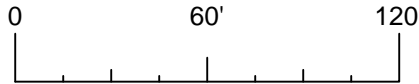
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SCALE: 1 inch = 60 feet



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Michael D. Kelly, P.S. #869 Date
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