Memorandum
City of Lawrence
Planning & Development Services

TO: Planning Commission
FROM: Mary Miller, Planner
CC: Scott McCullough, Planning and Development Services Director
Date: For January 27, 2014 meeting
RE: MISC NO. 1; VARIANCE FOR CERTIFICATE OF SURVEY; 51 N 2190 RD(MKM)

CSR-13-00517: Consider a variance associated with a Certificate of Survey for approximately 44 acres located at 51 N 2190 Rd. The variance is 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 Residential Development Parcels which do not comply with the RDP dimensional requirements of the Zoning Regulations. Submitted by Stebbins Surveying LLC, for Louis and Betty Eakes, property owners of record.

Attachment A: Certificate of Survey, CSR-13-00517

Certificates of Survey are processed administratively but Planning Commission approval is required for variances from the Subdivision Design Standards. The Certificate of Survey referenced above was recently submitted and 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.

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 11-113(g) [20-813(g)/City Code]. 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 REQUESTED:** Creation of a Rural Certificate of Survey with Residential Development Parcels with minimum widths below that required in the Zoning Regulations.

A Rural Certificate of Survey is a residential land division that is permitted in the unincorporated portions of the county that are 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.
Figure 1a. Layout on submitted Certificate of Survey

Figure 1b. Aerial showing subject property; proposed RDP1 outlined in red (approximate).

Figure 2b. Contour map of property; proposed RDP1 outlined in red (approximate).

Figure 2b. Slope map from City GIS maps; proposed RDP1 outlined in red (approximate).
The Certificate of Survey will divide approximately 44 acres in one Certificate of Survey to create 2 Residential Development Parcels (RDP) for residential development as shown in Figure 1a. Approximately 3 acres are being divided from the property which has been developed with a residence to create another parcel that can be developed residentially. Although the property contains over 40 acres, only one certificate of survey with 2 RDPs is possible due to the amount of road frontage that is available. (Figure 1) N 2190 Road is classified as a ‘local road’ in the Douglas County Access Management Map. Any RDP created in a rural Certificate of Survey on a local road requires a minimum of 250 ft of road frontage. The RDPs both exceed this frontage requirement.

The Zoning Regulations require that each RDP which fronts on and takes access to a local road have a minimum width equal to 90% of the minimum required road frontage, or 225 ft. A variance is being requested from this requirement.

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

<table>
<thead>
<tr>
<th>Figure 3a</th>
<th>Figure 3b</th>
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<tr>
<td>Detail of RDP 1 and 2 where the minimum RDP width of 225 ft is not met. The noncompliant portions are shown in red.</td>
<td>Possible reconfiguration of RDP 1 to remove noncompliance. Results in increased noncompliance on RDP 2 (shown in bright red) as well as a more irregularly shaped parcel for RDP 1. The original design provides 90 degree angles along the rear of the property.</td>
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As shown in the detail in Figure 3a, the configuration of the road and the original shape of the parcel prevent the minimum width from being provided in all portions of the Residential Development Parcels (RDPs).

The example in Figure 3b shows a possible reconfiguration of RDP 1 that would provide the required minimum RDP width of 225 ft (approximately) for RDP 1. This reconfiguration would result in an increased portion of RDP 2 that does not comply with the required minimum RDP width of 225 ft (shown in bright red). This reconfiguration also creates a more irregularly shaped boundary for RDP 1, where the originally proposed layout provides right angles at the east boundary of the RDP. The property owner wishes to maintain his access to the 2 ponds that are located on RDP 2 (Figure 1) but he indicated that the lengthening of RDP 1 as shown in the example would interfere with this access. In staff’s opinion, as the change to RDP 1 does not remove the noncompliance from the minimum RDP width requirement but shifts the noncompliance to RDP 2 and results in a more irregularly shaped boundary for RDP 1 and possibly impedes access to the existing farm ponds; this reconfiguration is not preferred.

Strict application of these regulations would not allow the division of the 44 acre parcel through the Certificate of Survey process even though the parcel exceeds the required road frontage of 250 ft for each RDP and the required area requirement of 20 acres for a Certificate of Survey based on the pre-existing configuration of N 2190 Road and the subject parcel.

**Staff Finding:**
Strict application of these regulations would require the minimum RDP width of 225 ft to be observed. The existing shape of the parcel and the layout of N 2190 Road in this road (required due to the topography of the area) would prevent the division of the 44 acre parcel through the Certificate of Survey process even though the RDPs would exceed the road frontage requirement and the Certificate of Survey would exceed the minimum area requirement as the minimum width requirement could not be met. In staff’s opinion this would be an unnecessary hardship upon the subdivider.

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

The purpose and intent of the Subdivision Regulations are noted in Section 20-801 as “...to ensure that the division of land, which, in many instances, is an initial step in urbanization, will serve the public interest and general welfare. Since the allocation and arrangement of parcels of land for both private uses and public uses helps to influence the health, safety, economy, livability, and amenities of an area, these regulations are intended to:

(i) Provide for the harmonious and orderly development of land within the City and the Unincorporated Area of Douglas County 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;

(ii) Contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency; and

(iii) Provide for the conservation and protection of human and natural resources.

The requested variance will allow the creation of 2 parcels from a 44 acre parent parcel per the requirements of the Zoning Regulations with the exception that portions of the Residential Development Parcels will have less than the required 225 ft width. This will not affect the open
space, continuity of the transportation network, recreation areas, drainage, utilities/easements, light and air or other public needs. The variance will allow the creation of a RDP that has a rectangular boundary with 90 degree angles where possible. This results in a more convenient and efficient parcel design and fencing is more likely to follow property lines accurately. Maintaining the proposed RDP configuration allows the access to the farm ponds to remain as is. Given the topography of the site, creating new access drives could be difficult. The Certificate of Survey has provisions for the conservation and protection of the natural resources on the site, stands of mature trees, and this variance will not affect that protection. Areas that contain stands of mature trees (up to 40% of the site) are required to be shown outside of the building envelope and identified on the Certificate of Survey as ‘Environmentally Sensitive Lands’.

**Staff Finding:**
Allowing the creation of 2 RDPs with this Certificate of Survey that have less than the required minimum RDP width of 225 ft as shown on the submitted Certificate of Survey will result in a more regularly shaped boundary for RDP 1 and allow the existing access to the farm ponds to remain. The variance is being requested only in the area near the irregular roadway and the existing farm ponds. The variance requested is in harmony with the stated intent and purpose of the Subdivision Regulations.

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

One new access point will be added to the roadway. The roadway frontage is approximately 750 ft for the Certificate of Survey. The Douglas County Access Management Standards recommend an entrance spacing of 250 ft on local roads. The length of the road would be adequate for 3 Residential Development Parcels and 3 access points. The irregular shape of the roadway prevents the creation of 2 Certificates of Survey; therefore, the number of access points being provided in this area will be 2 rather than the 3 that would be permitted on this length of roadway with the Access Management Standards.

**Staff Finding:**
Granting of the variance will result in 2 access points which are compliant with the Douglas County Access Management Standards. Granting the variance will not negatively affect the public health, safety, and welfare.

**STAFF RECOMMENDATION:**
Approve the variance requested from Section 11-106(d)(2)(i) [Section 20-806(d)(2)(i)/City Code] to allow the Certificate of Survey CSR-13-00517 to create 2 RDPs that have less than the required 90% minimum RDP width of 225 ft, subject to the following condition:

1. The Certificate of Survey shall be revised to note that the Planning Commission approved the requested variance with the date.