

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.

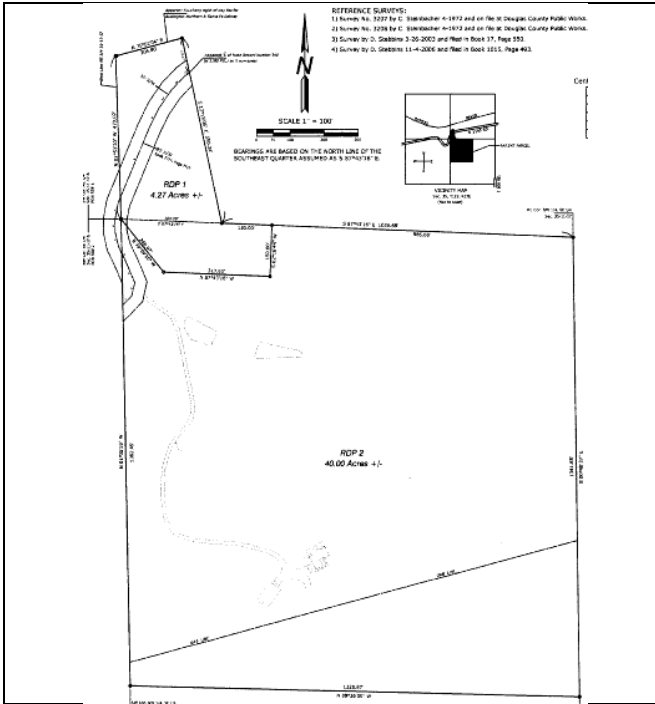


Figure 1a. Layout on submitted Certificate of Survey

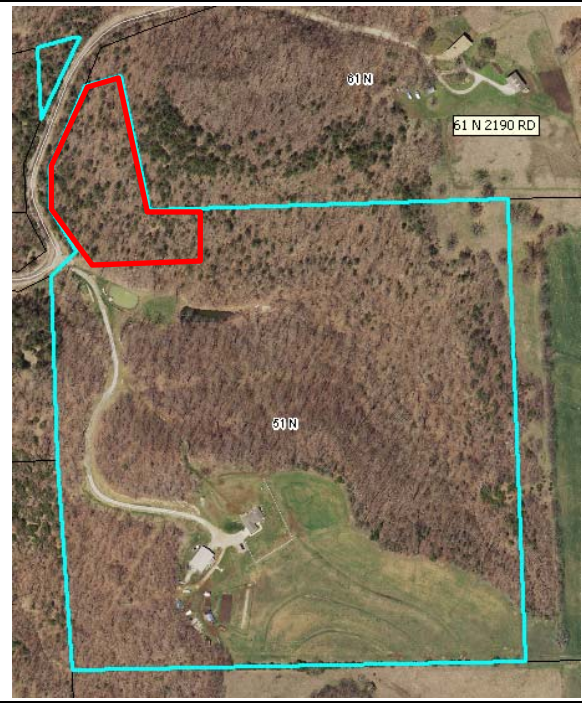


Figure 1b. Aerial showing subject property; proposed RDP1 outlined in red (approximate).

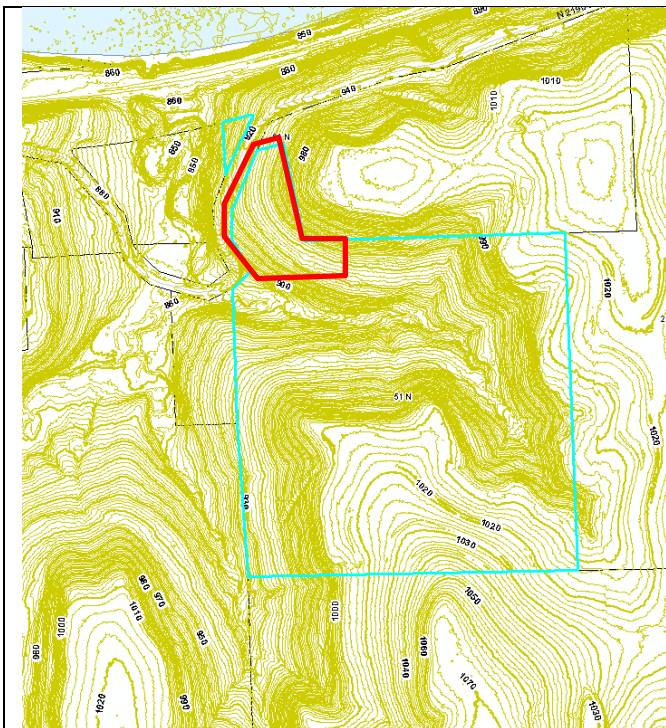


Figure 2a. Contour map of property; proposed RDP1 outlined in red (approximate).

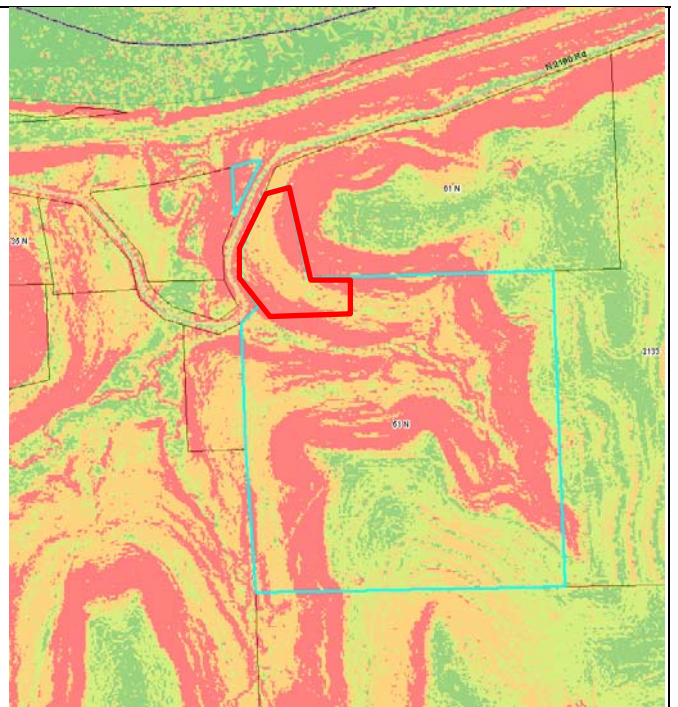
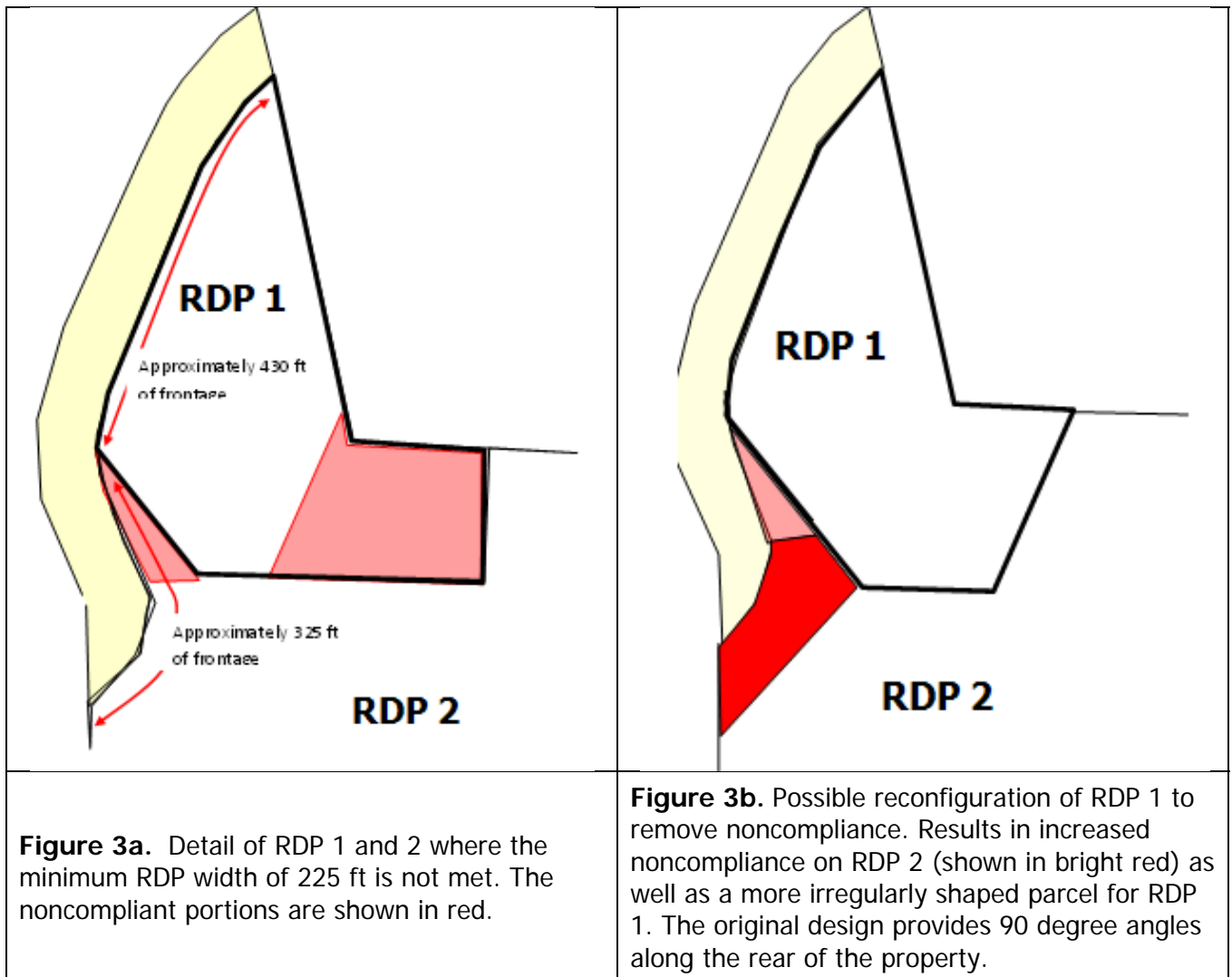


Figure 2b. Slope map from City GIS maps; proposed RDP1 outlined in red (approximate).

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.



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.

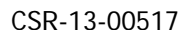
Staff Finding:

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:

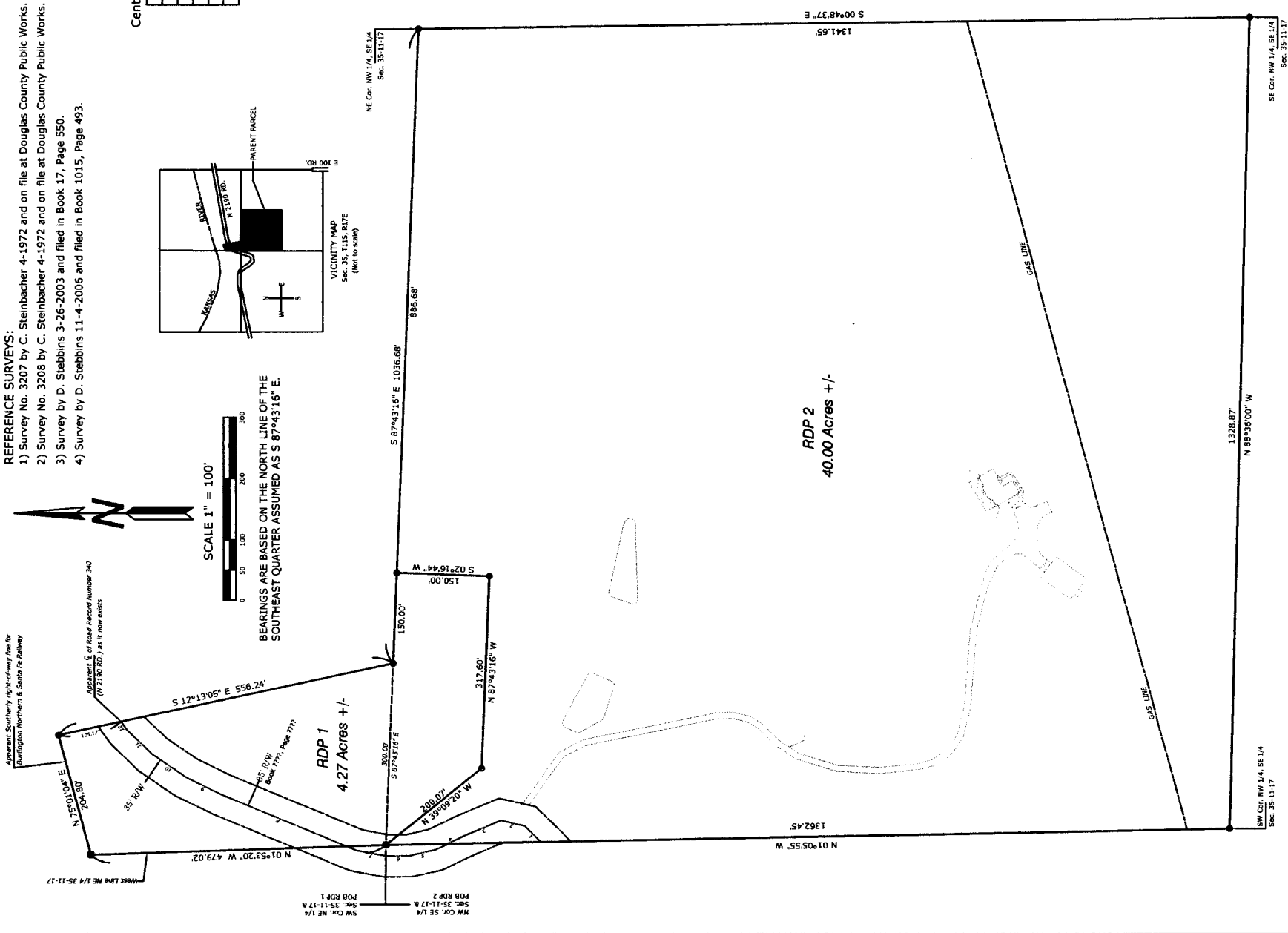
Approve the variance requested from Section 11-106(d)(2)(i) [Section 20-806(d)(2)(i)/City Code] to allow the Certificate of Survey CSR-13-00517 to create 2 RDPs that have less than the required 90% minimum RDP width of 225 ft, subject to the following condition:

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



REFERENCE SURVEYS:

- 1) Survey No. 3207 by C. Steinbacher 4-1972 and on file at Douglas County Public Works.
2) Survey No. 3208 by C. Steinbacher 4-1972 and on file at Douglas County Public Works.
3) Survey by D. Stebbins 3-26-2003 and filed in Book 17, Page 550.
4) Survey by D. Stebbins 11-4-2006 and filed in Book 1015, Page 493.



CERTIFICATE OF SURVEY

EAST HALF (E 1/2) OF SECTION 35, TOWNSHIP 11 SOUTH, RANGE 21
EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS

ORIGINAL TRACT:

The Northwest 1/4 of the Southeast 1/4 of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas,
AND
A tract of land in the Northeast Quarter (NE 1/4) of Section 35, Township 11 South, Range 17 East of the Sixth Principal Meridian, all in Douglas County, Kansas and more particularly described as follows:
Beginning at the Southwest Corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01°53'20\"

PARENT PARCEL:

A parcel of land in the East Half (E 1/2) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:
Beginning at the Southwest Corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01 degrees 53 minutes 20 seconds West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 479.02 feet to the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway; thence North 75 degrees 01 minutes 04 seconds East along the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway a distance of 204.80 feet; thence South 12 degrees 13 minutes 05 seconds East a distance of 556.24 feet to the North line of the South East Quarter (SE 1/4) of said Section 35; thence South 87 degrees 43 minutes 16 seconds East along the North line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 886.68 feet to the Northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence South 00 degrees 48 minutes 37 seconds East along the East line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1341.65 feet to the Southeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 88 degrees 36 minutes 00 seconds West along the South line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1328.87 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 01 degrees 05 minutes 55 seconds West along the West line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1362.45 feet to the Point of Beginning, containing 44.27 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

RESIDENTIAL DEVELOPMENT PARCEL 1:

A parcel of land in the East Half (E 1/2) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:
Beginning at the Southwest corner of the Northeast Quarter (NE 1/4) of said Section 35; thence North 01 degrees 53 minutes 20 seconds West along the West line of the Northeast Quarter (NE 1/4) of said Section 35 a distance of 479.02 feet to the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway; thence North 75 degrees 01 minutes 04 seconds East along the apparent Southerly right-of-way line for the Burlington Northern & Santa Fe Railway a distance of 204.80 feet; thence South 12 degrees 13 minutes 05 seconds East a distance of 556.24 feet to the North line of the Southeast Quarter (SE 1/4) of said Section 35; thence South 87 degrees 43 minutes 16 seconds East along the North line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 150.00 feet; thence South 02 degrees 16 minutes 44 seconds West a distance of 150.00 feet; thence North 87 degrees 43 minutes 16 seconds West a distance of 317.60 feet; thence North 39 degrees 09 minutes 20 seconds West a distance of 200.07 feet to the Point of Beginning, containing 4.27 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

RESIDENTIAL DEVELOPMENT PARCEL 2:

A parcel of land in the Southeast Quarter (SE 1/4) of Section 35, Township 11 South, Range 17 East of the 6th P.M., Douglas County, Kansas and more particularly described as follows:
Beginning at the Northwest corner of the Southeast Quarter (SE 1/4) of said Section 35; thence South 39 degrees 09 minutes 20 seconds West along the West a distance of 200.07 feet; thence South 87 degrees 43 minutes 16 seconds East a distance of 317.60 feet; thence North 02 degrees 16 minutes 44 seconds East a distance of 150.00 feet to the North line of the Southeast Quarter (SE 1/4) of said Section 35; thence South 87 degrees 43 minutes 16 seconds East along the North line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 886.68 feet to the Northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence South 00 degrees 48 minutes 37 seconds East along the East line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1341.65 feet to the Southeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 88 degrees 36 minutes 00 seconds West along the South line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1328.87 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35; thence North 01 degrees 05 minutes 55 seconds West along the West line of the Southeast Quarter (SE 1/4) of said Section 35 a distance of 1362.45 feet to the Point of Beginning, containing 40.00 acres, more or less, all in Douglas County, Kansas. Subject to rights-of-way, easements and restrictions of record.

NOTES:

- (1) This Certificate of Survey was not prepared for the purpose of the platting of land. No further divisions of the parcels created by this survey shall occur until the property is subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed.
- (2) This division is being made in pursuant to Section 20-806, of the Subdivision Regulations for Lawrence and Unincorporated Douglas County.
- (3) There is no FEMA designated floodplain on the Residential Development Parcels according to FIRM Flood Insurance Rate Map Number 2004C0036D, with an effective date of August 5, 2010.
- (4) Water supply will be provided by Rural Water District #3 (if rural water is available) or by an on-site well for Residential Development Parcels. The parcel must contain a minimum of 3 acres that is not located within the FEMA designated floodplain if rural water is available or 5 acres that is not located within the FEMA designated floodplain if well-water is to be used. The Residential Development Parcels created by this Certificate of Survey shall not be eligible for building permits until one of the following occur:
- (a) Rural Water District issues a water meter and documentation that a water meter has been purchased by the owner is presented to the Lawrence-Douglas County Health Department and the Douglas County Zoning Office, or
- (b) The Lawrence-Douglas County Health Department issues a permit for a well and a copy of this permit is provided to the Douglas County Zoning Office. (Please note that well water is not available in all parts of the county. If well water is not available, please contact the Douglas County Health Department for the requirements for cisterns within the county.) occur:

(5) WASTEWATER DISPOSAL NOTE:

Wastewater disposal will be provided by an Onsite Sewage Management System approved by the Director of the Lawrence/Douglas County Health Department or a connection to a wastewater disposal system approved by the Kansas Department of Health and Environment. A preliminary site evaluation for each septic system is required prior to a building permit being issued. The septic permit must be approved and purchased prior to the issuance of a building permit.

(6) This property is Zoned A-Agricultural.

(7) Development on each Residential Development Parcel shall comply with the Douglas County Zoning Codes.

(8) Development on each Residential Development Parcel shall comply with the Douglas County Public Road Access Management Standards.

SURVEYORS CERTIFICATE:

I CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF A SURVEY MADE BY ME ON DECEMBER 12, 2013, AND I FURTHER CERTIFY THIS SURVEY COMPLIES WITH KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS.

Danny L. Stebbins LS No. 1356

IN WITNESS WHEREOF:
LOUIS J. EAKES AND BETTY J. EAKES, HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS ____ DAY OF ____ 2014.

LOUIS J. EAKES
NOTARY PUBLIC:
STATE OF KANSAS COUNTY OF DOUGLAS, BE IT REMEMBERED THAT ON THIS ____ DAY OF ____ 2014, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME LOUIS J. EAKES AND BETTY J. EAKES TO ME KNOWN PERSONALLY TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGE THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC
MY APPOINTMENT EXPIRES ____ DATE
REVIEWED IN COMPLIANCE WITH K.S.A. 59-2005
Michael D. Kelly LS No. 869, Douglas County Surveyor

FILED FOR RECORD IN THE OFFICE OF THE DOUGLAS COUNTY REGISTER OF DEEDS

THIS ____ DAY OF ____ 2014,
BOOK ____ PAGE ____ AT ____

KAY PESNELL
REGISTER OF DEEDS

STEBBINS SURVEYING, LLC
4778 Decatur Road
Meriden, Kansas 66512
785-246-3513

Preparation Date: December, 2013