

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Planning Commission

**FROM:** Mary Miller, Planner

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

**Date:** For March 24, 2014 meeting

**RE:** MISC NO. 1; VARIANCE FOR CERTIFICATE OF SURVEY; 1433 and 1445 N  
300 RD/HWY 56(MKM)

**CSR-14-00051:** Consider a variance associated with a Certificate of Survey for approximately 73 acres located at 1433 and 1445 N 300 Rd/Hwy 56. The variance is requested from Section 20-810(e)(5)(ii) of the Subdivision Regulations [Section 11-110(e)(5)(ii) of the County Code] to allow the creation of Residential Development Parcels on a principal arterial with less than the required right-of-way. Submitted by All Points Surveying LLC, for Martha J. Christie, Michael E. Christie, Chad M. Christie, and Ann M. Christie, property owners of record.

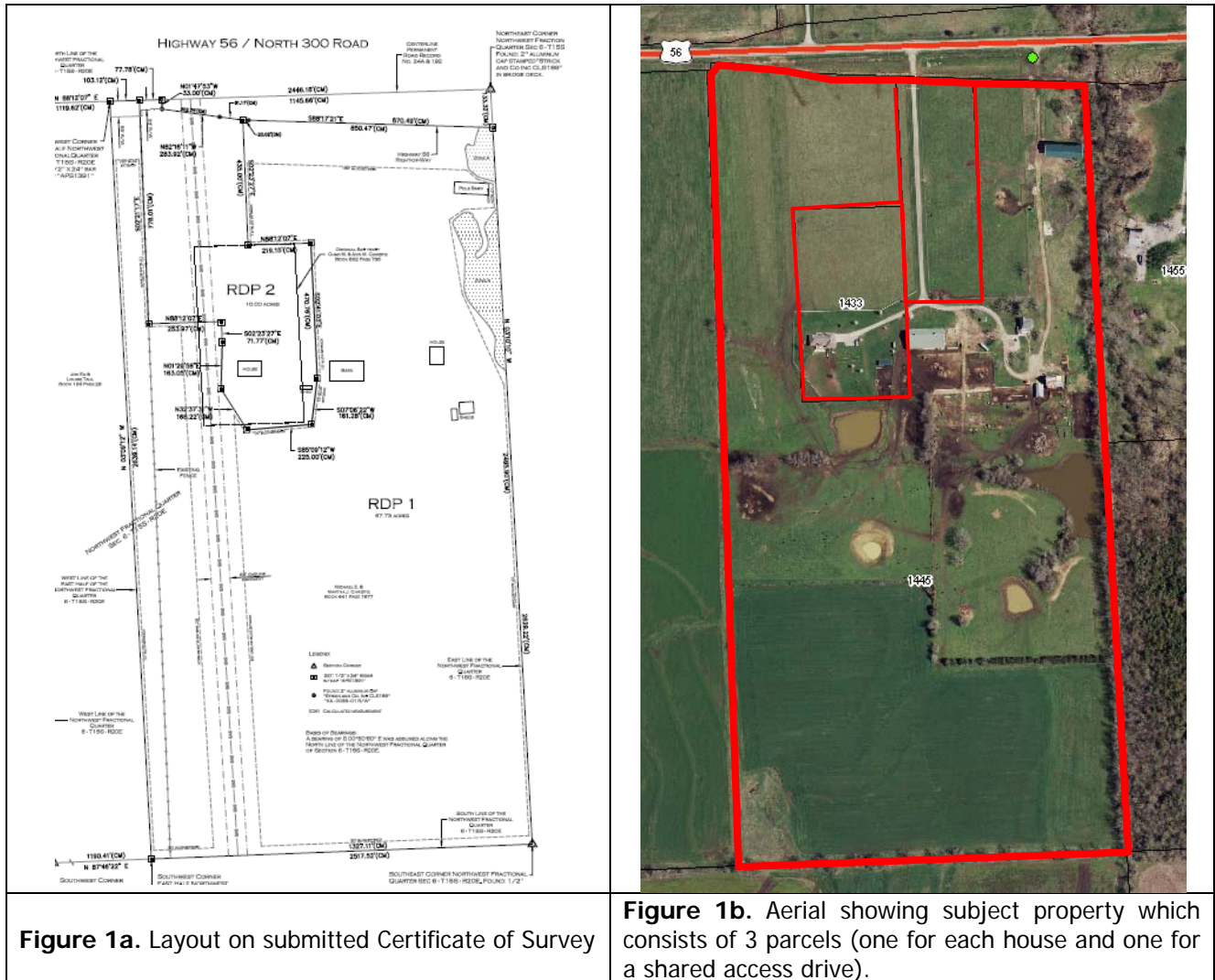
**Attachment A:** Certificate of Survey, CSR-14-00051

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:

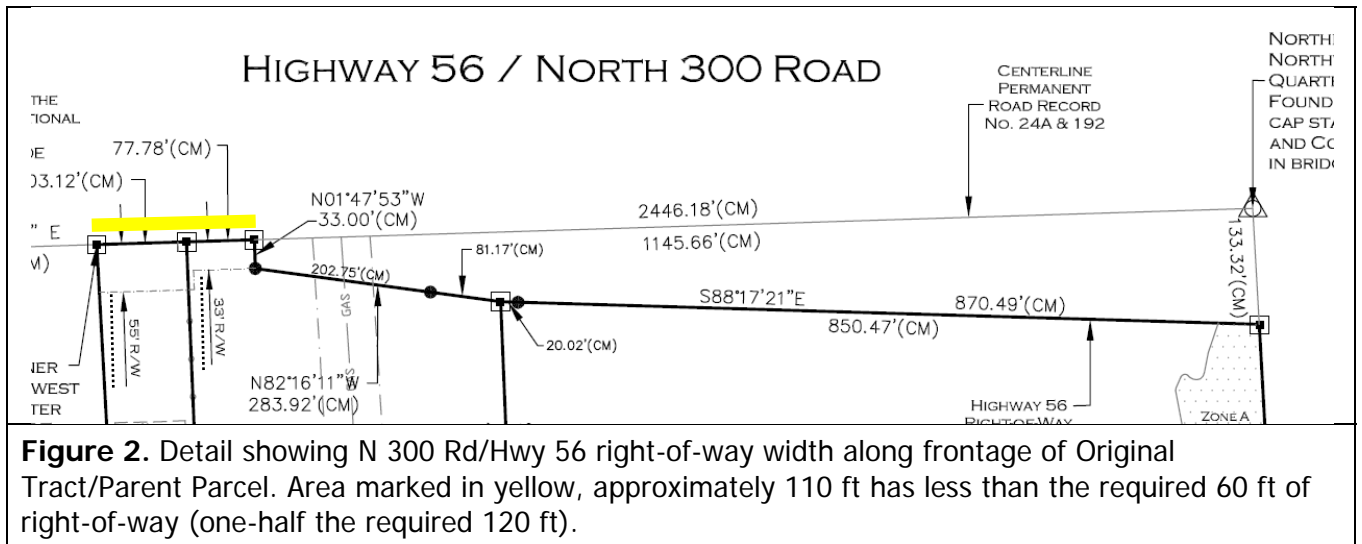
**VARIANCE REQUESTED:** Creation of a Rural Certificate of Survey on a principal arterial with less than the required road right-of-way.

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.



This Certificate of Survey will divide approximately 73 acres in one Certificate of Survey to create 2 Residential Development Parcels (RDP) as shown in Figure 1a. Figure 1b shows the current layout of the property with 3 parcels and 2 residences. One residence is located on a landlocked parcel and both residences share a drive. Per County Code, each residentially developed property must have road frontage and must have its own access to the road right-of-way. This Certificate of Survey will reconfigure the parcel lines and result in 2 code compliant parcels.

The Zoning Regulations require that right-of-way or permanent easement for right-of-way be dedicated prior to final approval of a Certificate of Survey. Per Section 11-110(e)(5)(ii), a Principal arterial requires 120 ft of right-of-way, 60 ft on each side of the centerline. The right-of-way in this location exceeds this requirement for much of the road frontage, but the west side of the property contains frontage with right-of-way of only 55 ft and 33 ft. (See Figure 1a) This variance is being requested to allow the Certificate of Survey to be approved without the dedication of additional right-of-way in these locations.



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

Strict application of these regulations would require the dedication of approximately 5 to 27 ft of additional right-of-way for Hwy 56 along the west 110 ft of the road frontage. The subject property contains approximately 73 acres and has adequate area for the dedication of the additional right-of-way; however, KDOT indicated that they would not require additional right-of-way for the highway with this development. The dedication of additional right-of-way would be required when more significant development occurs. As there is no need for the right-of-way at this time, requiring the applicant to dedicate additional right-of-way would be unnecessary.

**Staff Finding:**

The dedication of additional right-of-way for Hwy 56 would be an unnecessary hardship upon the property owner as KDOT indicated additional right-of-way is not required at this time.

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

Right-of-way dedication is required when properties are subdivided to insure that adequate right-of-way is available for improvements to adjacent roadways. The KDOT representative indicated that additional right-of-way for Hwy 56 is not needed at this time, given that no new development is occurring; however, additional right-of-way would be required if more intense development were proposed. A note should be added to the Certificate of Survey which notes that right-of-way was not required by KDOT at this time, but additional right-of-way must be dedicated when more intense development occurs.

**Staff Finding:**

The variance will allow the proposed land division to occur without requiring the dedication of additional right-of-way. The Certificate of Survey should note that the dedication of additional right-of-way is not required at this time, but would be required with future, more intense development to insure adequate right-of-way will be available for future improvements.

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

The right-of-way currently provided for Hwy 56 a principal arterial, ranges from 66 ft to approximately 270 ft adjacent to the subject property. Per the Subdivision Regulations, between 5 and 27 ft of additional right-of-way would be needed from the subject property; however, KDOT indicated they would not require the dedication of additional right-of-way with this land division. Additional right-of-way would be required when more intense development occurs, or would be obtained when needed for future improvements to Hwy 56.

**Staff Finding:**

Granting of the variance will result in the reconfiguration of parcel lines without increasing the number of residences. While the right-of-way currently provided for Hwy 56 along the west 110 ft of Hwy 56 is not compliant with the Subdivision Regulations for a road classified as a 'principle arterial'; given the fact that no new development is being proposed and KDOT's acceptance of the existing right-of-way width, Staff supports the requested variance. The County Engineer deferred to KDOT in this case.

**STAFF RECOMMENDATION:**

Approve the variance requested from Section 20-810(e)(5)(ii) of the Subdivision Regulations [Section 11-110(e)(5)(ii) of the County Code] to allow a land division through Certificate of Survey CSR-14-00051 to create 2 RDPs without the dedication of additional right-of-way where the property is adjacent to Hwy 56 subject to the following condition:

1. The following notes shall be added to the Certificate of Survey:
  - a. *"The Planning Commission approved a variance from Section 20-810(e)(5)(ii) to allow the land division to occur without the dedication of additional right-of-way where the property is adjacent to Hwy 56"*
  - b. *"KDOT did not require the dedication of additional right-of-way with this land division, but indicated that additional right-of-way would be required when more intense development were proposed."*

N.W. FRACTIONAL QUARTER SECTION 6-T15S-R20E  
SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS

[illegible]

8) DEVELOPMENT ON THE RESIDENTIAL DEVELOPMENT PARCELS SHALL COMPLY WITH THE DOUGLAS COUNTY ZONING CODE, CHAPTER 161 OF THE COUNTY CODE.

A TRACT OF LAND SITUATED IN THE NORTHWEST PRINCIPAL QUARTER OF SECTION 6, TOWNSHIP 18 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS NOW DESCRIBED AS FOLLOWS:

The EAST ONE-HALF of the Northwest Principal Quarter of Section 6, Township 18 South, Range 20 East of the 6th P.M., in Douglas County, Kansas. Book 441, Page 1877

RESIDENTIAL DEVELOPMENT PARCEL NO. 1:

A TRACT OF LAND SITUATED IN THE NORTHWEST QUARTER SECTION 8, TOWNSHIP 18 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS NOW DESCRIBED AS FOLLOWS:

Beginning at the Southwest corner of said Quarter Section; thence South 67°46'52" West along the South line of said Quarter Section, 1327.11 feet to the Southwest corner of the

[illegible]

A TRACT OF LAND SITUATE IN THE NORTHWEST QUARTER SECTION 6, TOWNSHIP 18 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS NOW DESCRIBED AS FOLLOWS:

ACROSS THE NORTH LINE OF SAID QUARTER SECTION, THENCE SOUTH 02°11'17" EAST, 778.01 FEET, THENCE NORTH 88°1207" EAST, 383.87 FEET, THENCE NORTH 02°33'27" EAST, 77.77 FEET, THENCE NORTH 01°02'38" WEST, 148.58 FEET, THENCE SOUTH 32°37'31" EAST, 148.28 FEET, THENCE NORTH 88°09'12" WEST, 338.08 FEET, THENCE NORTH 07°02'02" EAST, 141.28 FEET, THENCE NORTH 02°11'01" WEST, 270.78 FEET, THENCE SOUTH 88°1207" WEST, 218.18 FEET, THENCE NORTH 02°33'27" WEST, 436.00 FEET, THENCE NORTH 88°18'11" WEST, 383.83 FEET, THENCE NORTH 01°47'58" WEST, 383.83 FEET TO A POINT ON THE NORTH LINE OF SAID QUARTER SECTION, THENCE SOUTH 88°12 07" WEST ALONG SAID NORTH LINE, 77.78 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 10.00 ACRES, MORE OR LESS, ALL IN DOUGLASS COUNTY, KANSAS, SUBJECT TO PUBLIC ROAD RIGHT-OF-WAY AND EASEMENTS OF RECORD.

1.2 THE REPRESENTATIONAL DEVELOPMENT FINCHES CREATED BY THIS CERTIFICATE OF SURVEY SHALL NOT BE ELIGIBLE FOR BUILDING PERMITS UNTIL ONE OF THE FOLLOWING ARE ATTAINED:

- [illegible]

THE UNDESIGNED PROPORTIONS OF THE ABOVE DESCRIBED PARCEL OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING CERTIFICATE OF SURVEY, IN DOUGLAS COUNTY, KANSAS.

STATE OF KANSAS  
COUNTY OF DOUGLAS 355

IT IS HEREBY CERTIFIED THAT THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, HAVE CALLED THESE PRESENTS TO BE SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

IN WITNESS WHEREOF, I HAVE HEREunto SET MY HAND AND AFFIXED MY SEAL, this 14th day of May, 2018.

\_\_\_\_\_  
MARIA J. CRISTE

\_\_\_\_\_  
MARIA J. CRISTE

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THE UNDISPOSED INTERESTS OF THE ABOVE DESCRIBED PARCEL OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING CERTIFICATE OF SURVEY, IN DOUGLAS COUNTY, KANSAS.

IN TESTIMONY WHEREOF:

BE IT REMEMBERED THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

DAVID M. & ANN M. CHRISTIE HAVE CALLED THEIR RESIDENTS TO BE SIGNED THIS DAY  
OF SEPTEMBER 2014.

**DANIEL CHEN**      **ANN M. GENTLE**

ENDORSEMENTS: \_\_\_\_\_ REVIEWED BY: \_\_\_\_\_

APPROVED BY THE DOUGLAS COUNTY PLANNING DIRECTOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014,  
as a Certificate of Suitability under Sections 11-1-106 of the Subdivision Regulations for Landmarks.

_____	MICHAEL D. KELLY, PLUS ONE COUNTY CLERK, BUREAU OF	DATE
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**CERTIFICATION:** I HEREBY CERTIFY THAT THIS SURVEY WAS CONDUCTED UNDER MY DIRECT SUPERVISION AND THAT ALL OWNERS WERE  
**FILING RECORD:** STATE OF KANSAS

SET OF FOUND AND COMPILE WITH THE KANSAS DEEDS ATTENDANCE FOR BOUNDARY SURVEY. THIS SURVEY DOES NOT CERTIFY OWNERSHIP OR EASEMENTS. THIS SURVEY WAS COMPLETED ON FEBRUARY 13TH, 2014.

COUNTY OF DOUGLAS 393

THIS IS TO CERTIFY THAT THE INSTRUMENT WAS FILED FOR RECORD ON THIS DAY OF 2014.

IN PLAT READS \_\_\_\_\_ PAGES \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer

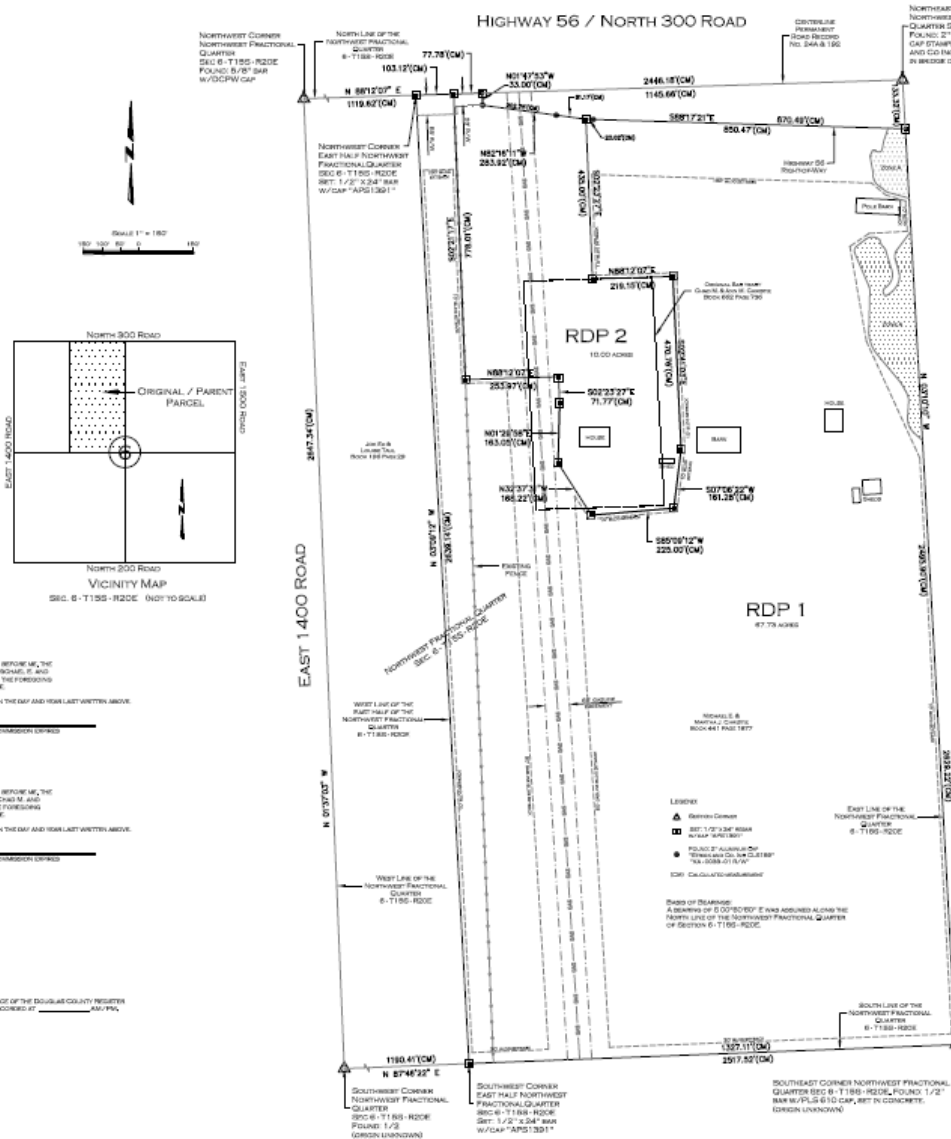
Prof. Dr. Dr. h. c. Kar Petkovski

STEVENS, C. WILLIAMS, FLE 1381  
P.O. BOX 6662  
ST. LOUIS, MISSOURI 63163

LAWRENCE, KAREN BROOK  
(786) 833-0121

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R-14-00051



SCALE 1" = 150'	
DRAWN BY: CHAD CHRISTIE	
JOB #:	14-006
DATE:	2-6-14
DRAWN BY:	SEL
CHECKED BY:	SWW