



**SABAK, WILSON & LINGO, INC.**  
ENGINEERS, LANDSCAPE ARCHITECTS & PLANNERS  
THE HENRY CLAY • 608 S. THIRD STREET  
LOUISVILLE, KY 40202  
PHONE : (502) 584-6271 • FAX : (502) 584-6292

**UPDATED SIDEWALK WAIVER JUSTIFICATION**  
**HIGHLAND PRESERVE**  
**19-MSUB-0016**  
**January 27, 2020**

- 1. Explain how the proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code.**  
The comprehensive plan encourages SAFE modes of transportation. A sidewalk along Newburg Road that encourages walking on an arterial level street that primarily has no sidewalks would not be SAFE. There are no other sidewalks along this section of Newburg Road and encouraging people to walk along this road where there are no sidewalks would be unsafe. In addition, existing topography would require the sidewalk to be built at the edge of pavement with no verge. This would also be an unsafe condition on this Arterial level roadway.
- 2. Explain how the waiver will not adversely affect adjacent property owners.**  
There will be no impact on adjacent property owners because there are no other sidewalks in the general vicinity. In addition, this area is largely developed and no new sidewalks are anticipated in the future.
- 3. Explain how you are unable to reasonably comply with one of the listed methods of compliance in LDC section 6.2.6.C.**  
Existing topography, utilities, fences, trees, and walls prohibit the construction of a sidewalk on this property. This is a small development with only a few new homes and requiring the fee-in-lieu would be a financial hardship on the developer.
- 4. Explain how strict application of the provision of the regulations deprives you of reasonable use of the land or creates an unnecessary hardship.**  
The strict application of the regulation would require major work to occur along the road frontage including utility pole relocation, removal of an existing fence, possible reconstruction of an existing retaining wall, and the removal of several large trees. All of this would be required to construct a sidewalk that is unlikely to be used along the frontage of this property.
- 5. What site constraints make sidewalk construction impracticable? Or, are there no existing sidewalks in the area and no likelihood for sidewalks to be constructed in the future?**  
The topography along the frontage of this site makes construction of a sidewalk impracticable. Installation of a sidewalk would require major work to occur along the road frontage including utility pole relocation, removal of an existing fence, possible reconstruction of an existing retaining wall, and the removal of several large trees. In addition, there are no other sidewalks along Newburg Road for a ¾ of a mile stretch between Schuff Lane and Trevilian Way.

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

No. This waiver is internal to the property and will have no effect on adjacent property owners.

**2. Will the waiver violate the Comprehensive Plan?**

No. There will be no impact on access to and from the property so there will be no violation of the Comprehensive Plan.

**RECEIVED**  
DEC 23 2019  
**PLANNING &  
DESIGN SERVICES**

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

Yes. The applicant's vision for this community includes a private, gated roadway that provides secure access to the property. This can only be achieved if the roadway is private. The applicant will build the roadway to Metro Public Works standards and will post a bond for future maintenance should the Homeowners Association not fulfill their obligation. Therefore, this waiver is the minimum necessary to afford relief to the applicant.

**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

Again, the applicant will build the road to Metro Public Works standards and post a bond for future maintenance as requested in order to compensate for non-compliance with the regulation.

19 - 5 - WAIVER - 0113