

# Development Review Committee Staff Report

June 4, 2014



<b>Case No:</b>	14waiver1013
<b>Project Name:</b>	Shakes Run
<b>Location:</b>	1405 -1413 Kennesaw Way & 17013 Isabella View Place
<b>Owner(s):</b>	Kevin Wohl, Laurel Cornell, Kathy Gumond, Daniel Miles, Kurt Ehret, & Steve Canfield
<b>Applicant:</b>	same as above
<b>Representative(s):</b>	Jennifer Caummisar, Land Design & Development
<b>Existing Zoning District:</b>	R-4
<b>Existing Form District:</b>	Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19-Jerry Miller
<b>Case Manager:</b>	Sherie' Long, Landscape Architect

## REQUEST

- Waiver from Chapter 5.8.1.B to not provide sidewalks along 8 lots fronting Kennesaw Way.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

This case was noticed for the May 14, 2014 DRC hearing, but was withdrawn by staff due to a notice error and binding element requirement. Notices were then sent for today's hearing as required by the binding element and LDC.

The subject property is within a previously approved 250 acre single-family residential subdivision called Shakes Run. The primary access to Shakes Run Subdivision is from Eastwood Fisherville Road and future sections of Shakes Run will connect to Catalpa Farms Subdivision to the south and Derbyshire Estates to the southwest. Sections 1-5 are in various states of construction and development.

This application is only for 8 lots which are located on one of three cul-de-sacs off Shakes Creek Drive located in Section 2A. The three cul-de-sacs are Kennesaw Way, Isabella View Place, and Isabella View Court which contain a total of 25 lots. The distance from the intersection of Kennesaw Way and Isabella View Place to the tip of the cul-de-sac is approximately 280 linear feet. Currently a sidewalk is located along a portion of Kennesaw Way.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Single Family Residential, Vacant	R-4	Neighborhood
<b>Proposed</b>	Single Family Residential	R-4	Neighborhood
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Large Single Family Residential lot	R-4	Neighborhood
<b>South</b>	Single Family Residential	R-4	Neighborhood
<b>East</b>	Large Single Family Residential lot	R-4	Neighborhood
<b>West</b>	Single Family Residential	R-4	Neighborhood

## PREVIOUS CASES ON SITE

10-38-05 – A Preliminary Subdivision plan was approved in September 2006 to allow a 483-lot R-4 subdivision on 250 acres known as Shakes Run. Since the 2006 approval there have been three Revised Preliminary Plan approvals for sections 1-4 of this subdivision.

## INTERESTED PARTY COMMENTS

A 1<sup>st</sup> tier adjacent property owner, Dudley and Nancy Wetherby, have provided comments which are included as an attachment to the report.

An interested party inquired about the location of the request but did not wish to provide any comments prior to the hearing.

## APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) How the proposed waiver conforms to the Comprehensive Plan and the intent of this Land Development Code; and

STAFF: The proposal violates guideline 1 because the neighborhood streets are connected but do not invite human interaction because there are only partial sidewalks being provided. The proposal violates guideline 2 because the proposed residential area is not designed for easy access by pedestrians or future transit users because there are only partial sidewalks provided within the development that would lead to the sidewalks along Shakes Creek Drive. The proposal violates guideline 9 because the proposal does not provide for pedestrians access throughout the community. Pedestrians within the community and others walking would not have a safe way to walk in this section of the subdivision.

- (b) Why compliance with the regulations is not appropriate and granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: Compliance with the regulation is appropriate to provide safe pedestrian passage from the individual home lots to the rest of the Shakes Run subdivision to which these lots belong. The intent of providing sidewalks is to provide a safe way for pedestrians to walk through the community.

- (c) What impacts granting of the waiver may have on adjacent property owners; and

STAFF: Not providing sidewalks will adversely affect adjacent property owners because there will be no safe way for pedestrians throughout the Shakes Run community to walk throughout the subdivision. The waiver will also adversely affect the future homeowners of the proposed lots not yet built upon because there will be only a partial safe connection from the new lots to the other portions of the existing subdivision. It is not safe to walk in the street.

- (d) Why strict application of the provision of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: There is no evidence that indicates that the sidewalks could not be constructed which could indicate a hardship on the applicant. The applicant could still construct the home lots with the sidewalks being provided.

### TECHNICAL REVIEW

1. All technical review comments have been addressed.

### STAFF CONCLUSIONS

The proposal does not meet the requirements of the LDC or the guidelines of the Comprehensive Plan.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting a sidewalk waiver established in the Land Development Code.

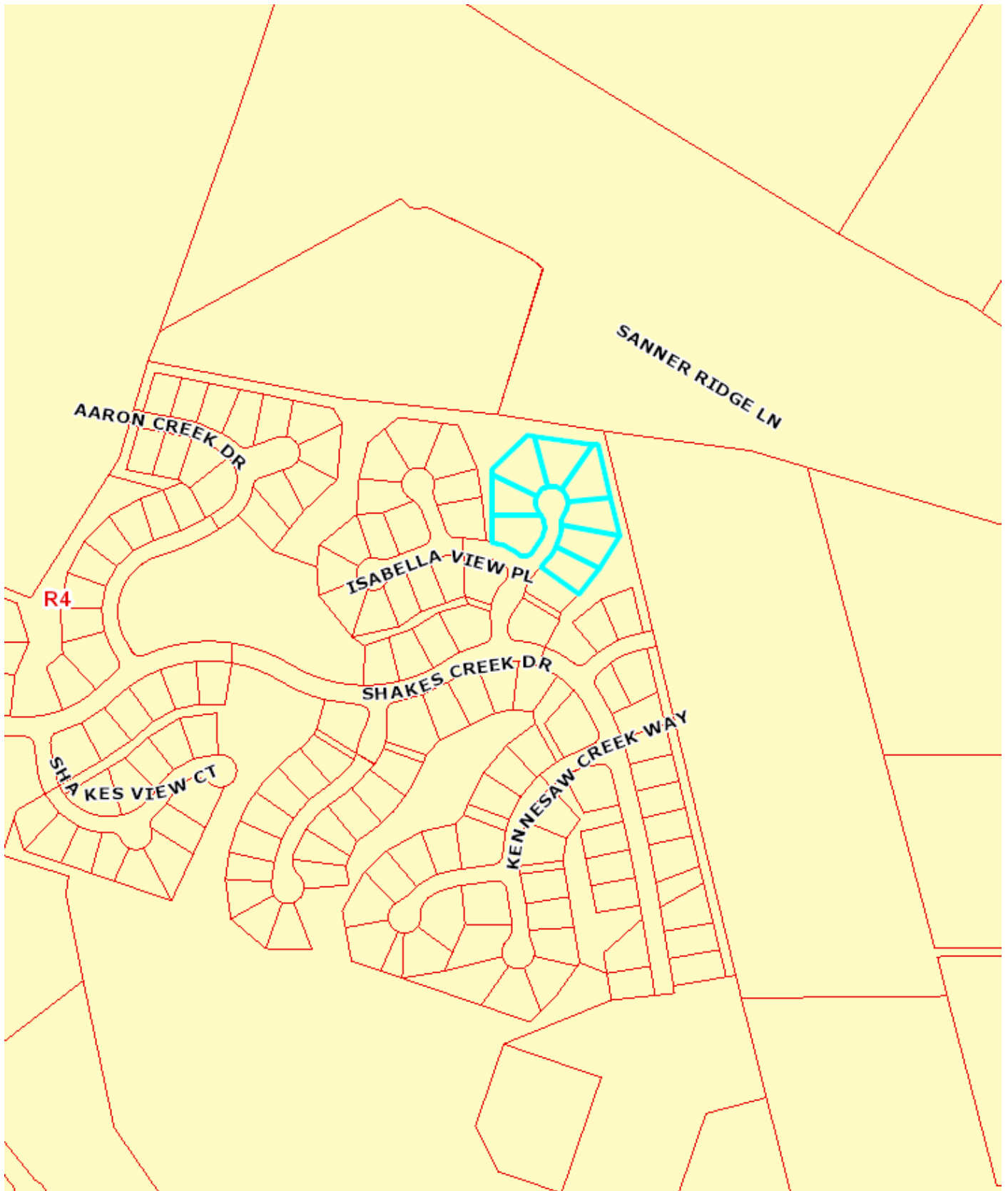
### NOTIFICATION

Date	Purpose of Notice	Recipients
05/13/14	Hearing before DRC on 06/04/14	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals 1 <sup>st</sup> and 2 <sup>nd</sup> tier property owners as required by Binding Element # 27

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Applicant's Justification
5. Wetherby Emails and Remarks

Attachment 1: Zoning Map





Attachment 2: Aerial Photograph



**Attachment 3: Cornerstone 2020 Staff Checklist**

- + Exceeds Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Finding	Comments
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**Sidewalk Waiver**

11	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	-	The neighborhood streets are connected but do not invite human interaction because there are only partial sidewalks being provided.
36	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	-	The proposed residential area is not designed for easy access by pedestrians or future transit users because there are only partial sidewalks provided within the development that would lead to the sidewalks along Shakes Creek Drive
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	-	The proposal does not provide for pedestrians throughout the community. Pedestrians within the community and others walking would not have a safe way to walk into and around the subdivision.

## Attachment 4: Applicants Justification

### **Sidewalk Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following 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. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?**

The Land Development code allows for cul-de-sacs with fewer than 20 lots to not provide sidewalks. The area of the waiver request is located on a cul-de-sac with fewer than 20 lots.

- 2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?**

The sidewalks at this location were proposed as part of the original subdivision plan but were not technically required because the cul-de-sac bulb has fewer than 20 lots fronting it. Not requiring the sidewalks at this location would be more in line with the requirements of the Land Development Code.

- 3. What impacts will granting of the waiver have on adjacent property owners?**

The waiver will not adversely affect adjacent property owners. Sidewalks would still be constructed along the entry of Kennesaw Way and the existing and proposed sidewalks will terminate at logical and accessible locations.

- 4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?**

Due to their geometric layout, lots fronting cul-de-sacs have a reduced roadway frontage and front yard area. Strict application of the provisions of the regulations by requiring sidewalks at this location would further reduce available green space for home owners and add additional, unnecessary impervious surface.



## Attachment 5: Wetherby Emails and Remarks

### Long, Sherie

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**From:** Dudley & Nancy Wetherby <dudley-wetherby@twc.com>  
**Sent:** Monday, May 05, 2014 10:18 AM  
**To:** Long, Sherie  
**Subject:** Shakes Run DRC Meeting

Sherie ...

We have just been informed by a friend who saw the notice of a DRC Meeting in Shakes Run Subdivision in Jerry Millers District 19 News Letter that a meeting is scheduled for Monday, May 14th and involves 1405-1413 Kennesaw Way and 17013 Isabella View Place and is known as Case # 14WAIVER1013. Since my wife and I are listed as first tier property owners, I wish to point out to you that we have not been directly informed of this meeting as required by Condition of Approval # 27. which states: "Written notification to first and second tier property owners shall be provided if there are any changes, additions, or deletions to the approved preliminary subdivision plan."

We are requesting that this May 14th Development Review Committee Meeting be canceled and a new date be distributed to first and second tier property owners as required by COA #27. We are also requesting that this e-mail be placed as a part of the minutes of the "new DRC meeting" when it is set up.

Your response is requested.

Dudley & Nancy Wetherby

[dudley-wetherby@twc.com](mailto:dudley-wetherby@twc.com)

### Long, Sherie

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**From:** Dudley & Nancy Wetherby <dudley-wetherby@twc.com>  
**Sent:** Thursday, May 29, 2014 12:50 PM  
**To:** Long, Sherie  
**Subject:** Case #14WAIVER1013  
**Attachments:** Scan0001.pdf

Sherie ...

We will not be able to come to June 4th DRC Meeting due to appointments. Please find comments regarding the Sidewalk Waiver for this case in Shakes Run Subdivision in the attachment.

Dudley & Nancy Wetherby



**Remarks in Reference to Case #14WAIVER1013  
For Inclusion in the June 4<sup>th</sup> DRC Meeting**

**In the past I have brought to the attention of officials at Planning and Design that my wife and I, as first tier property owners, have NOT received notices of changes in the subdivision's five sections as required by COA # 27. Our mailing address has been on the eastern boundary of the subdivision on every plan that has ever been made for this subdivision from its beginning. Please be advised that, after I notified you of not being officially notified of the May 14<sup>th</sup>, DRC meeting, the new listing I received is still incorrect since some names are still missing, others are misspelled and there are names of individuals who are not property owners or interested individuals requesting that they be notified. The list needs to be thoroughly reviewed and corrected for future mailings.**

**Please also include in the minutes of the June 4<sup>th</sup> DRC meeting, a copy of my e-mail of May 5, 2014, stating that I had not received notification of the May 14<sup>th</sup>, DRC Meeting but had been informed of it by an individual who saw it in Jerry Miller's Newsletter for District 19.**

**Sidewalks have already been partially built along the eastern portion of Kennesaw Way and on the western portion also. What is going to happen to these partial sidewalks? Are they just going to be fragmented pieces of concrete going nowhere? It seems a bit late for the developer to ask for waivers to eliminate sidewalks. If I had bought a Homearama lot/home in 2012, when this section of Shakes Run Subdivision was opened, I am sure the price I paid included ALL utilities, which included a walk in front of that lot. I would feel deceived as a homeowner living in this section now because two years later the developer is asking for a sidewalk waiver.**

**The requested sidewalk waiver should be denied for 1405 – 1413 Kennesaw Way and 17013 Isabella View Place.**

**E-mailed by Dudley & Nancy Wetherby (First Tier Property Owners) May 29, 2014**