



26-WAIVER-0085

Development Review Committee
Staff Report
August 5, 2026

Top Hill Road Sidewalk

Location: 1801 Top Hill Road
Applicant: Zachary Devoe
Representative: Zachary Devoe
Jurisdiction: Louisville Metro
Council District: 13 – Dan Seum, Jr.
Case Manager: Abby Bills, Planner I

REQUEST & RECOMMENDED ACTION

1. Waiver of Land Development Code Section 5.8.1.B to waive the requirement to construct a sidewalk in the abutting right-of-way serving the development site.
 - Staff finds the justification for the request is not adequate and recommends the Development Review Committee **DENY** the Waiver.

CASE SUMMARY

The subject site is currently zoned R-4 Single Family Residential and is in the Neighborhood Form District on 1.06 acres. The site is located along Top Hill Road, south of I-265. The subject site is currently vacant, and the applicant is proposing to construct a single-family residence on the property. As such, a sidewalk is required along the frontage of Top Hill Road in accordance with Section 5.8.1 of the Land Development Code (LDC).

TECHNICAL REVIEW

- Section 6.2.6.C of the Land Development Code lists the methods of compliance when a sidewalk is required by Chapter 5. These methods of compliance are:
 1. Construct sidewalks in accordance with the applicable sections of the LDC; or
 2. Be allowed a reduced sidewalk requirement where less than 50% of street frontage is being developed; or
 3. Be allowed to construct a sidewalk at an alternative location within Metro Council District 13; or
 4. If one of the above methods of compliance cannot be met, the applicant may be allowed to pay a fee in lieu of sidewalk construction.
- Transportation Planning has determined that the applicant may pay a fee-in-lieu of construction totaling \$3,250.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE WAIVER

(a) The waiver will not adversely affect adjacent property owners; and

STAFF FINDING: The requested waiver will not adversely affect adjacent property owners as there are no sidewalks along the adjoining properties on Top Hill Road. Granting the Waiver would provide no change from the existing conditions.

(b) Granting of the Waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF FINDING: Granting of the Waiver will not result in a development consistent with the Comprehensive Plan or the overall intent of the Land Development Code. Mobility Goal 1, Policy 1.4 of Plan 2040 calls for new development to provide for the movement of pedestrians where appropriate, by including sidewalks along the streets of all developments. While there are no other sidewalks present along Top Hill Road, justifying the request to not provide the sidewalk on this property, payment of the fee-in-lieu that was offered to the applicant would contribute to Louisville Metro's ability to construct sidewalks and provide pedestrian connectivity in nearby areas. Granting of the Waiver would not be in line with the guiding principle of Connectivity laid out in the Comprehensive Plan, as it would deprive the community of an opportunity to provide improved pedestrian access in the larger area surrounding Top Hill Road.

Further, granting of the Waiver will not result in a development consistent with the intent of the Land Development Code, as the Land Development Code intends for all developments to provide public sidewalks when the established construction threshold is met.

(c) The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

STAFF FINDING: The applicant has provided adequate justification as to why they cannot reasonably construct the sidewalk, or a portion of the sidewalk, on the subject property, citing drainage and safety issues. However, the applicant has not provided adequate justification as to why the fee-in-lieu of construction cannot be paid, as the fee-in-lieu amount offered is reasonable and proportional to the cost of construction of the single-family home.

(d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF FINDING: Strict application of the provision of the regulation would not create an unnecessary hardship on the applicant, as the applicant has been offered a reasonable alternative to construction of the sidewalk on the subject property in the form of the fee-in-lieu of construction.

(e) *There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.*

STAFF FINDING: There are site constraints on the subject property that would make sidewalk construction impractical, including heavily wooded terrain and potential steep slopes along Top Hill Road. There are additionally no sidewalks along Top Hill Road, and there is not a likelihood for sidewalks to be constructed in the future. However, the applicant has been offered alternatives to construction on site that would serve as mitigation for any site constraints affecting the requirement.

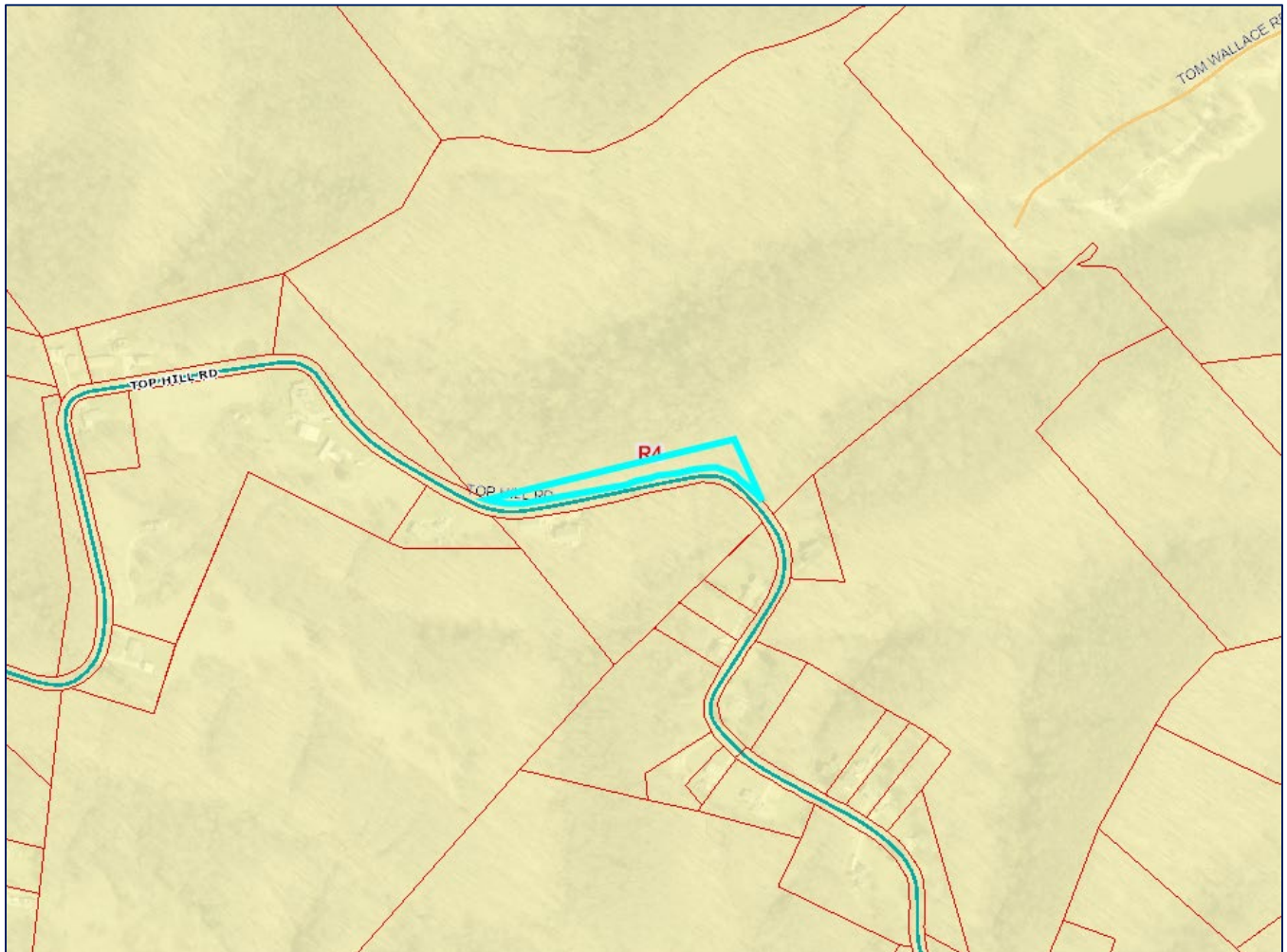
NOTIFICATION

DATE	PURPOSE OF NOTICE	RECIPIENTS
TBD	Development Committee Hearing Review	1 st tier adjoining property owners and current residents; Registered Neighborhood Groups in Council District 13

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

