

Justification for Waivers at
18Minorplat1006
9801 Cedar Creek Road

Waiver 1 This is a request for a waiver of the requirement in LDC 7.8.60.B.4 which states “direct access to either a major arterial, minor arterial or a collector level roadway from individual single lots is prohibited” One access point for a new 4.62 acre tract is requested.

Waiver 2 This is a request for a waiver from the requirement to build a sidewalk under LDC 6.2.6 B. The newly created tract is just under 5 acres (4.62). If over 5 acres, sidewalks constructed is not required for this tract. For this reason, and because the tracts have over 957 feet of road frontage a waiver is requested.

Waiver 1

This is a request for a waiver of the requirement in LDC 7.8.60.B.4 which states “direct access to either a major arterial, minor arterial or a collector level roadway from individual single lots is prohibited”

The waiver request is part of a pending Minor Plat for just under 10 acres. The purpose of the plat is to create two tracts from one tract. The new tract at 4.62 acres has preliminary health department approval for a single family home without sewers. The other tract has the existing home on it.

The specific tract in question is the newly created Tract 2 which is 4.622 acres. It is a corner lot where Cedar Creek Road makes a 90 degree turn and intersects with the end of Cooper Chapel Road. This area is a mixture of large non platted residential lots on Cedar Creek Road and Cooper Chapel Road. There are also a few new subdivisions in the area, one of which is the airport expansion relocation subdivision from the Minor Heights area now, called Heritage Creek.

Cedar Creek Road is labeled a primary collector road which is the second least intense road category subject to the terms of LDC 7.8.60. B.4.

The Road is basically straight in the area where the new driveway would be located and has good site distance in both directions. The proposed driveway is located near the extreme south end of the new tract to be as far as possible from the intersection and is the flattest portion of that section of road. There are no safety concerns for a new access point.

This waiver of the direct access requirement is requested because the existing home site has a driveway on the extreme east side of the lot on Cedar Creek Road. Thus a new shared access point on Cedar Creek Road for a shared driveway does not work. Also,

that access point would be closer to an intersection of Cedar Creek and Cooper Chapel Road, than the proposed location on Cedar Creek at about 350 feet from the intersection.

The applicant requests a waiver of the requirement of LDC 7.8.60.B.4 and that Tract 2 be allowed to place an entrance as shown on the plat.

As grounds for this, there are the reasons set forth above and below.

1. The waiver should be granted because the waiver will not adversely affect adjacent property owners because similarly situated landowners along Cedar Creek Road have the same type of access and the site distance is good.
2. The waiver will not violate the Comprehensive Plan because the primary intent of the regulation is to limit direct access onto collector or higher level roads when planning multiple new residential uses. Only one home is proposed on this site.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the existing driveway on Tract 1 is not located in a position to allow for a shared driveway use.
4. The strict application of the provisions of the regulation creates an unnecessary hardship on the applicant because the granting of one additional access point will not overly burden this road and is desirable for a single family home on 4.6 acres.

For these reasons, a waiver of the requirements of LDC 7.8.60.B.4 is requested in order to allow for direct access for Tract 2 as indicated on the Minor Plat on to Cedar Creek Road.

Waiver 2:

The applicant requests a waiver of the requirement of LDC 6.2.6 B and that these tracts not be required to construct sidewalks.

The parcel subject to this minor plat was basically 10 acres before right of way dedication in a previous Minor Plat. This land east of McNealy Lake Park area is in a section of southeastern Jefferson County which is still fairly rural with many tracts of 5 acres and greater. Sidewalks are not in the area, nor are there shopping or other destinations within almost two miles of the property. If these tracts were 5 acres, they are exempt from sidewalks construction under LDC 6.2.6 B (first exception). The house on Tract 1 has been there for many years. One new home is proposed on Tract 2. There is over 957 feet of road frontage with the two tracts because it is a corner tract. Tract 2 has 669 feet of frontage. Because of the amount of road frontage and the fact the tracts are closest to 5 acres exemption, this waiver is requested. As further support of this request, this tract was previously 10 acres but lost some square footage due to right of way dedication along this extensive street frontage. Additionally, there are not any connecting sidewalks in the immediate area, thus making the sidewalk unnecessary.

As further grounds for this sidewalk waiver:

1. The waiver should be granted because the waiver will not adversely affect adjacent property owners because similarly situated landowners along Cedar Creek Road do not have sidewalks because of the large tracts and rural nature of the area.
2. The waiver will not violate the Comprehensive Plan because the Plan grants a waiver for tracts of over 5 acres. This tract is 4.62 acres and it lost some of its land due to right of way dedication in a previous Minor Plat. It has over 952 feet of road frontage on these two tracts.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because relief from sidewalk construction cost is equitable in this situation because of the large amount of street frontage and the previous right of way dedication of land.
4. The strict application of the provisions of the regulation creates an unnecessary hardship on the applicant because the construction of 952 feet of sidewalk is an economic hardship for a single family tract. This hardship is the purpose of the exemption on LDC 6.2.6 B.

For these reasons, a waiver of the requirements of LDC 6.2.6 B to not construct a sidewalk along the frontage of this 4.6 acre lot on Cedar Creek Road.