

Development Review Committee Staff Report

September 17, 2014



Case No:	14WAIVER1031
Project Name:	Hanover Trace
Location:	6414 Billtown Road
Owner/Applicant:	Dominion Homes of Kentucky, Ltd.
Representative:	Mindel, Scott & Associates, Inc.
Project Area/Size:	54.78 acres
Existing Zoning District:	R-4, Single Family Residential
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Matthew R. Doyle, Planner I

REQUEST

- Landscape waiver to plant street trees in equally spaced rows rather than in groupings that appear natural

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The Hanover Trace subdivision was approved as a conservation subdivision last year to create 196 lots. It was revised earlier this year to create 203 lots.

The applicant requests to waive section 7.11.9.E.2 of the Land Development Code that requires new street trees to be installed in groupings that appear natural rather than equally spaced rows typical of standard subdivisions. The landscape plan is under review by Planning Commission staff, Julia Williams, and cannot be approved as proposed.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-4	N
Proposed	Conservation subdivision	R-4	N
<i>Surrounding Properties</i>			
North	Single family residential	R-4	N
South	Single family residential	R-4	N
East	Single family residential and Ag.	R-4	N
West	Single family residential	R-4	N

PREVIOUS CASES ON SITE

- 10-02-86:** A preliminary subdivision was proposed on the site, but was never approved because it did not have Health Department approval to allow cisterns instead of public water.

13SUBDIV1002: The Land Development and Transportation Committee approved the Preliminary Major Subdivision Plan for Hanover Trace Conservation Subdivision on condition that sidewalks will be provided and shown on the plan as well as the 25-foot access and utility easement along the Marshall property, and also that the Conservation Management Plan be submitted addressing the pedestrian access and the other components of the open space in the conservation area.

14SUBDIV1001: Revision to the Hanover Trace Conservation Subdivision to create 203 lots instead of 196 lots.

INTERESTED PARTY COMMENTS

Staff has not received any inquiries or interested party comments to date.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A LANDSCAPE WAIVER of Chapter 7.11.9.E.2 to plant street trees in equally spaced rows rather than in groupings that appear natural:

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

STAFF: The waiver will not adversely affect adjacent property owners since tree canopy and open space requirements are being met.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 13, Landscape Character, seeks to “protect and enhance landscape character.” Both the stated intents to promote tree canopy as a resource and enhance visual quality, and the stated policies of (a) “encouraging the planting of native plant species including those that provide habitat for a wide variety of wildlife” and (b) “ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas” appear most applicable with respect to the proposed landscape design for the conservation subdivision. The waiver would violate Guideline 13, Landscape Character, since the proposed landscape design is inappropriate for a conservation subdivision in a relatively rural setting where the streetscape should appear natural.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the street trees can be planted in groupings.

(d) Either:

(i) The applicant has 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

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of land or create an unnecessary hardship since the street trees can be planted in groupings without depriving the applicant the reasonable use of land or creating an unnecessary hardship.

TECHNICAL REVIEW

N/A

STAFF CONCLUSIONS

The landscape waiver to plant street trees in equally spaced rows rather than in groupings that appear natural does not meet the standard of review. They can be planted in groupings to meet the intent of the regulation. The approved landscape plan for Poplar Lakes Phase 1, which is a conservation subdivision, provides an example of how street trees can be planted in groupings to comply with the regulation. This has been provided in the case materials for review.

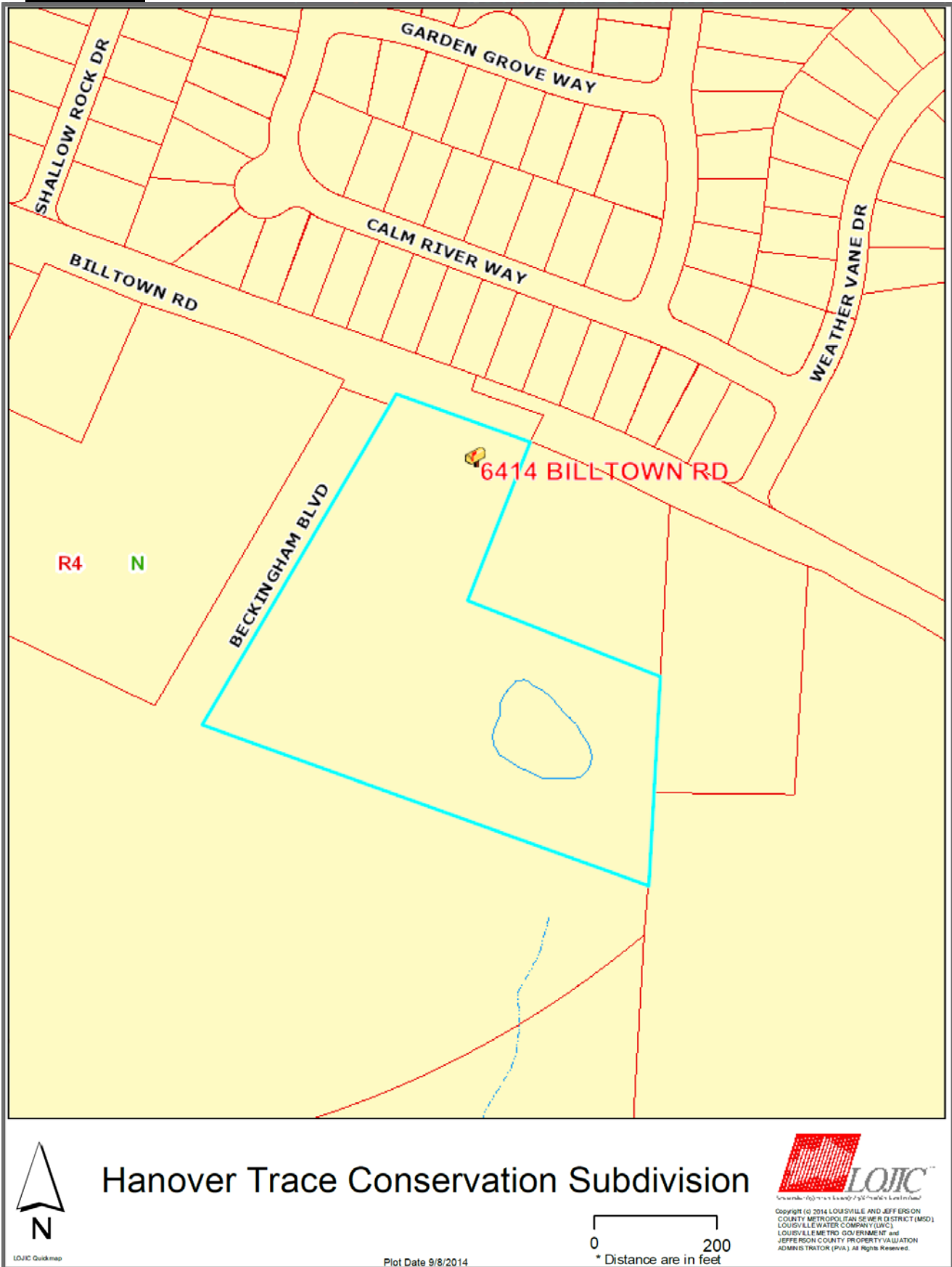
NOTIFICATION

Date	Purpose of Notice	Recipients
8/27/14	Hearing before DRC	1 st tier adjoining property owners Registered neighborhood groups

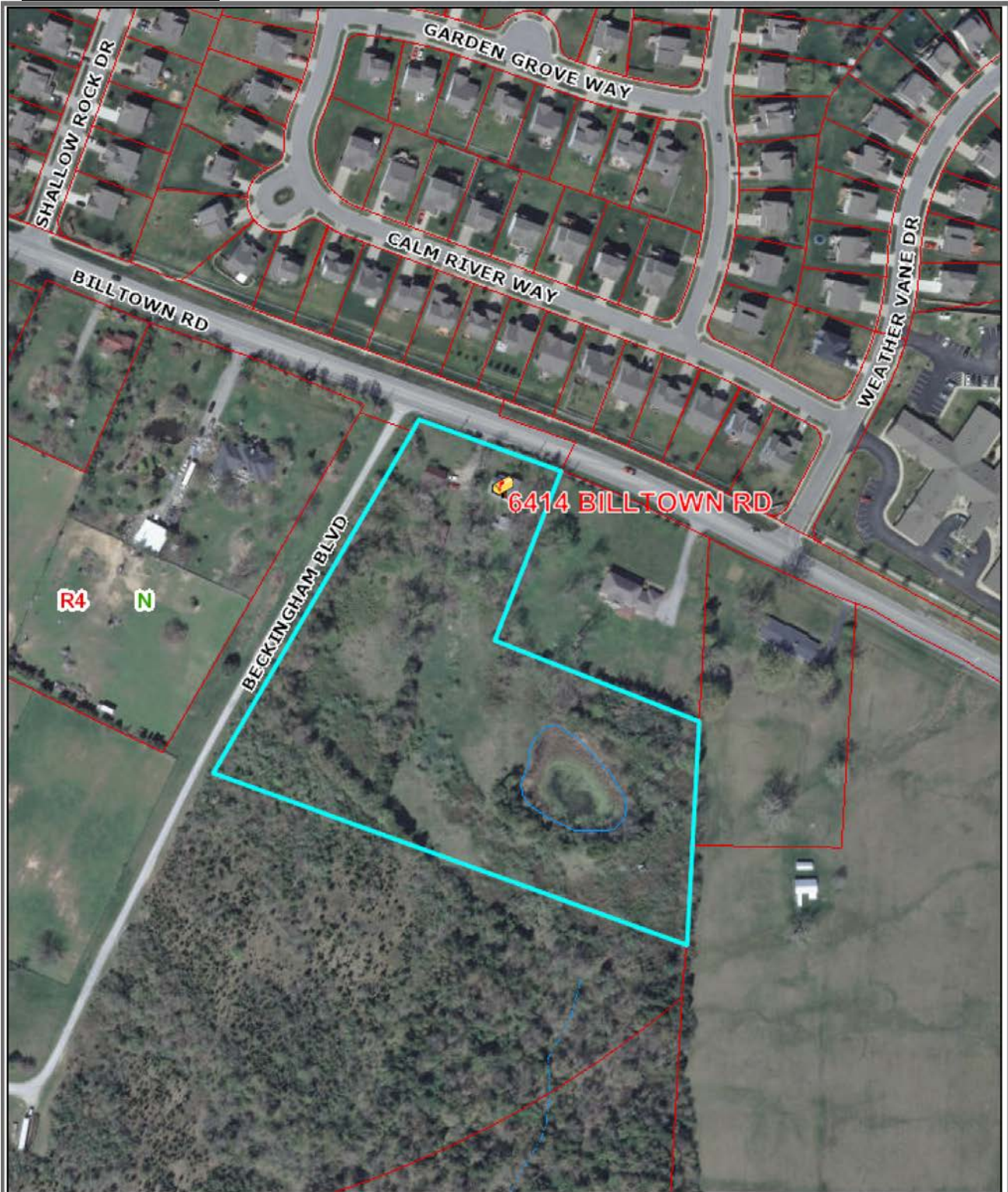
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval

1. **Zoning Map**



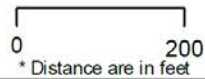
2. **Aerial Photograph**



Hanover Trace Conservation Subdivision



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Plot Date 9/8/2014

3. Conditions of Approval

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All conditions of approval requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.

c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

7. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
8. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
9. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
11. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
12. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. The applicant shall provide language in the deed restrictions notifying lot and/or house purchasers that a future road corridor is planned in the area of the subdivision. The form of such restrictions shall be approved by Planning Commission counsel. The area reserved for future road corridor shown on the approved preliminary plan shall also be shown on the record plat.
15. Pedestrian pathways are required through conservation areas. The pathways shall be shown on the landscape and tree preservation plans for each phase of the subdivision. The location and materials used for the pathways will need to be noted on the plans.