

Planning Commission

Staff Report

March 1, 2018



Case No:	17SUBDIV1026
Project Name:	The Courtyards
Location:	11706 Hillside View Drive
Owner(s):	Red Bud Hill Development Inc
Applicant:	Red Bud Hill Development Inc
Representative(s):	Mindel Scott & Associates
Project Area/Size:	39.93 acres
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST(S)

- **Variance** from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25'.
- **Variance** from Land Development Code section 7.11.10.C to allow minimum side yards to be 0' rather than the required 3' along one side of each lot, a variance of 3'.
- **Major Preliminary Subdivision (Conservation Subdivision)** to create 107 buildable lots on approximately 39.93 acres.

CASE SUMMARY

One-hundred and seven single-family residential lots are proposed on 39.93 acres of land along the Jefferson/Bullitt County line, about .6 miles east of Bardstown Road. This was formerly agricultural land therefore the majority has been cleared, with patches of vegetation scattered throughout. The site is Karst Terrain with sinkholes visible and seasonal ponds. The southwest corner of the site has the highest concentration of slopes greater than 30%. This area is included in the conservation area, as well as 109,428 square feet of tree canopy. Conservation areas are contiguous and adjoin adjacent open space. Lots sizes within the subdivision vary from about 6,000 square feet to 11,000 square feet. The proposal includes primary access as an extension of Hillside View Drive with three stub roads for future connections. The northern most access will connect to the proposed Oakland Hills Subdivision.

STAFF FINDING

The conservation subdivision plan meets or exceeds the requirements of the Land Development Code, specifically those guidelines contained in Chapter 7, Part 11: Conservation Subdivisions. The variance requests appear justified and meet the standard of review.

TECHNICAL REVIEW

- The area on the plan that includes the relocation of the driveway from the eastern access point needs to be excluded from the open space calculations. The open space calculations need to be updated on the plan to reflect this.

CONSERVATION SUBDIVISION CREDIT TABLE

Conservation Space Required	524,916 SF (30%)
Conservation Space Provided	624,241 SF (36%)
Full Credit Conservation Area	624,241 SF (36%)
Half Credit Conservation Area (credit)	0 (0%)
Tree Canopy Required	313,1500 SF
Tree Canopy Provided	313,150 SF
Applicant's Conventional Subdivision Yield	101
Open Space Credit Lots (15%)	15
Total Buildable Lots Allowed Under 7.11	116
Lots Requested	107

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25'.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as homes in the subdivision will consistently maintain adequate yards and setbacks around structures. All provisions for safe circulation of traffic and access to utility infrastructure will be maintained.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the site design will be consistent throughout the subdivision. The surrounding area is Neighborhood Form which has no maximum setback for residential structures.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as all appropriate access and utilities will be provided within the subdivision and will not be affected by the requested setbacks.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations, as the mixed setbacks allowed by the request will create a varied streetscape that meets the intent of the Conservation Subdivision regulations which encourage flexibility of housing design.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances, but is rather a preferred design for the builder.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or 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 the land or create an unnecessary hardship, as the subdivision could still be developed with standard setbacks.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The regulation was in place prior to the proposed conservation subdivision with non-compliant setbacks.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE to allow minimum side yards to be 0' rather than the required 3' along one side of each lot, a variance of 3'.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the side setbacks allowed by the request will still provide appropriate spacing between homes due to the consistency of the design throughout the subdivision.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the site design will be consistent throughout the subdivision, therefore allowing appropriate spacing between homes similar to the Neighborhood Form.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as all appropriate access and utilities will be provided within the subdivision and will be unaffected by the side yard setback.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as consistency of the design allows for appropriate spacing and meets the intent of the Conservation Subdivisions design regulations.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances, but is rather a preferred design for the builder.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or 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 the land or create an unnecessary hardship as the subdivision could still be developed as proposed with standard setbacks.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The regulation was in place prior to the proposed conservation subdivision with non-compliant setbacks.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40’
- **APPROVE** or **DENY** the **Variance** from Land Development Code section 7.11.10.C to allow minimum side yards to be 0’
- **APPROVED** or **DENY** the **Conservation Subdivision Plan**

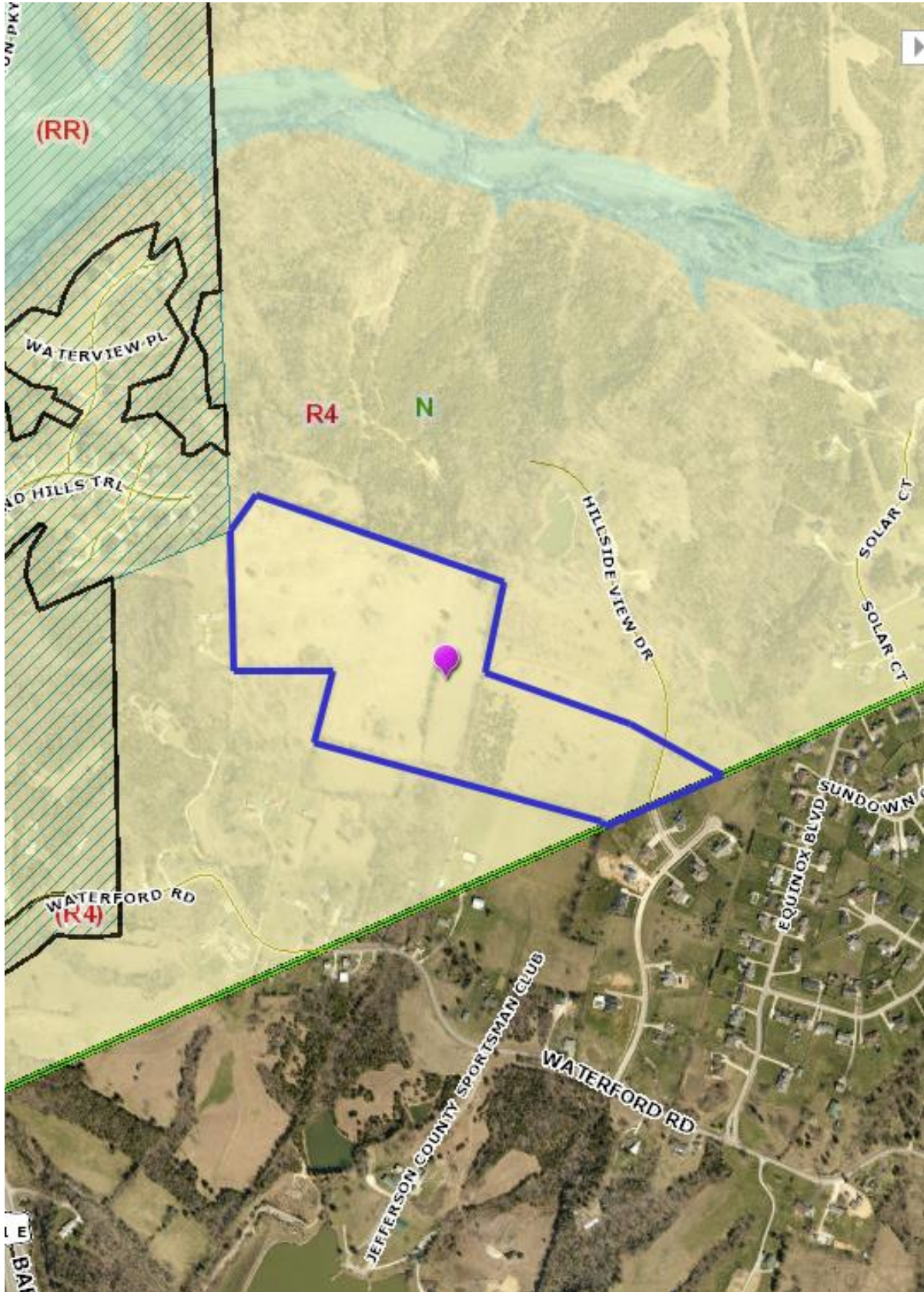
NOTIFICATION

Date	Purpose of Notice	Recipients
2/15/18	Hearing before PC	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 20

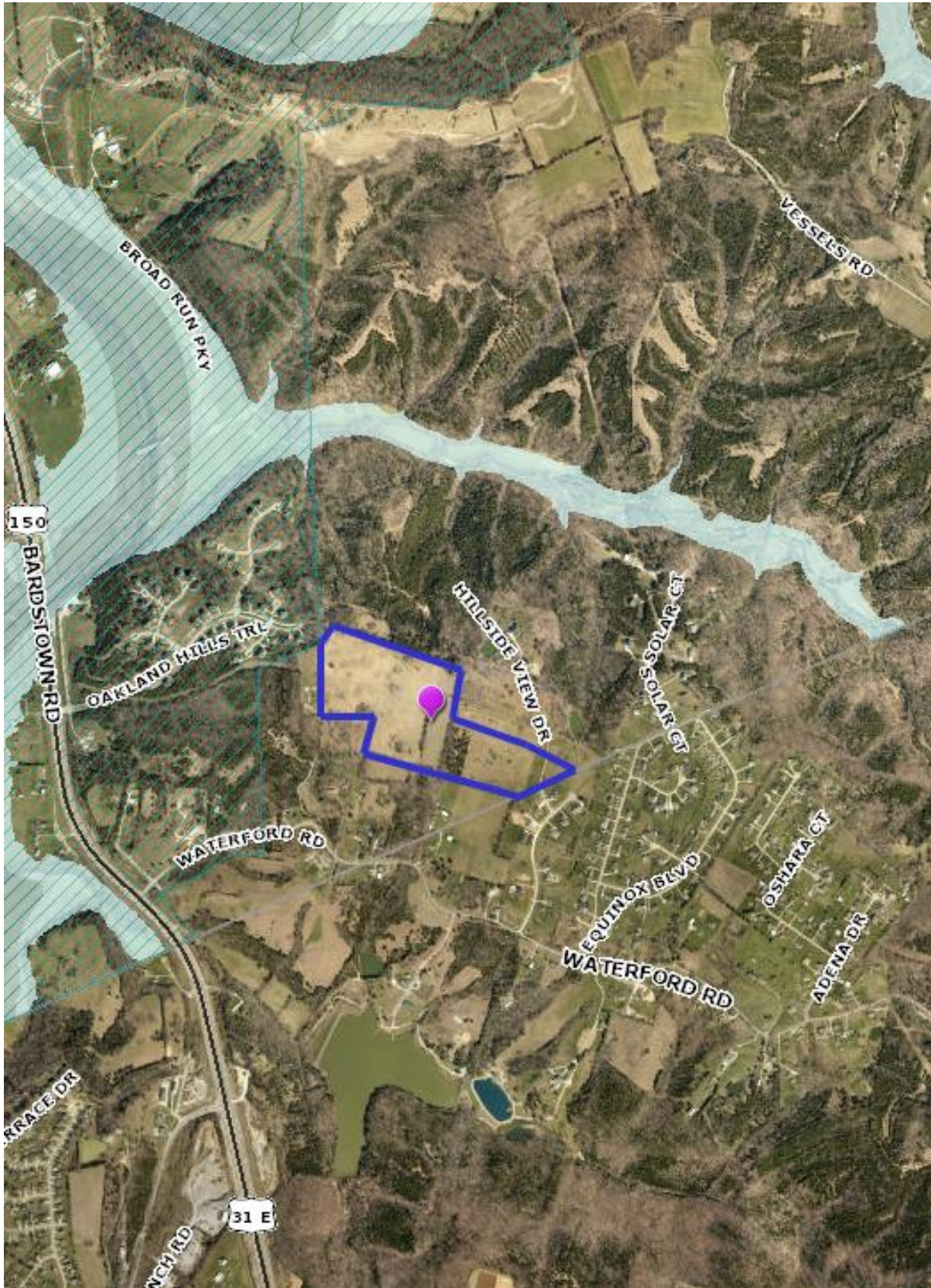
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



4. Proposed Conditions of Approval

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. 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. 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.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for A and B Streets, as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. 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.
7. 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.
8. 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.
9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan

shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

10. 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.
11. 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. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
 - d. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - e. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.

16. The location of sinkholes as shown on the preliminary plan shall be identified on the record plat.
17. If sinkholes are found on the property or if ponds are to be filled on the site, a geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval and the recommendations of the report shall be carried out during construction on the site.