

May 20, 2022

To All Silver Pine Ridge Homeowners,

Facts:

The Silver Pine Ridge Homeowners Association (SPR HOA) received a Letter and Correction Notice from the City of Wentzville on February 2, 2022. This Correction Notice charged the SPR HOA with stabilizing the failed slope on HOA common ground behind a homeowners' house at 131 Pinewood Trails Drive.

Your Failed Slope Committee has been investigating the causes for the slope failure and working on how to comply with the City's Correction Notice against us.

We have been informed by the City of Wentzville that common ground maintenance is the responsibility of the SPR HOA and that includes full responsibility of all issues. In this case, the failed slope mentioned above.

When all new home owners close on their newly purchased home in any subdivision with an HOA, they also **agree** to the Indentures of that subdivision. For all homeowners in the Silver Pine Ridge subdivision this includes, but is not limited to the following:

- To **help** maintain the common ground with all the other homeowners and the HOA.
- To **not** alter any common ground without getting prior approval from the HOA and the City of Wentzville, if required.
- To **not** put your grass clippings or leaves on common ground behind your home or on common ground hillsides, or in creeks or streams at the toe of the common ground hillsides/slopes.
- To **not** leave fallen trees, cut-up tree logs, or tree branches, in creeks or stream beds to decompose there.
- To **not** block access to public sidewalks by parking your vehicles across those sidewalks.
- To **not** install a satellite dish on a pole in your back or side yard, making it visible from the front street.
- To **not** store your trash cans in front of your house or garage doors which would be visible from the front of the house.
- To **not** allow a commercial vehicle to be parked overnight in the subdivision.
- To **not** install an above-the-ground swimming pool.

Review of Facts identified in February 2022:

- Homeowner cleared the slope (streambank) behind their home in the Spring and Summer of 2021, thinking it was their property. In reality, 100% of the cleared slope was HOA common ground, protected by a Natural Watercourse Riparian Buffer in an easement per the City of Wentzville Municipal Code Section 410.490. The homeowner did not contact the HOA or the City of Wentzville to get permission to clear the slope.
- Homeowner called the City of Wentzville in early December 2021 reporting the slope behind their home was failing, claiming a torrential rain storm late May 2021 caused the bioretention basin on the hillside across the creek from their home to overflow and erode the ground at the base of their hillside. At this time, the homeowner admitted to the City that they had cleared the hillside behind their home of dead trees, roots system, shrubs, and vegetation.
- The failed slope is roughly 20 feet wide by 60 feet long. If not stabilized, it will further impact the hillside and waterway below, and possibly, the adjacent private property.
- The City requested the homeowner obtain the services of a civil engineer to determine the cause(s) of the slope failure. The homeowner did not comply with the City's request and, as a result, on February 2, 2022 the City issued a Correction Notice to the SPR HOA because the City determined that the area the homeowner cleared off was actually SPR HOA common ground and part of a Riparian Buffer which should have NEVER been touched. This Riparian Buffer is controlled by the Army Corps of Engineers and cannot be altered without permission and a permit from the Corps.
- The HOA President, Susan Spiegel, had to recuse herself from this issue because she is the Director of Public Works for the City of Wentzville and was requested to do so by the City's Legal Department.
- A Failed Slope Committee was formed in February 2022.

What the Failed Slope Committee has learned from our investigation and research into this serious issue:

When this tract of land (Layton Woods) which the Silver Pine Ridge subdivision and the adjacent Pinewood Estates subdivision are situated on was officially recorded (Plats) with the City of Wentzville, St. Charles County, in July 2007, the "future development" and "common ground" areas were identified. That "common ground" is any land the builder does not build a house or structure on that is outside a homeowners' "property line". **This "common ground" is automatically DEEDED to the HOA** and the City of Wentzville signs off on it. After these Plats are officially recorded, the City of Wentzville is free of any responsibilities and the HOA becomes accountable for all the "common ground". When a Land Developer (LLC) divides the tract into Plots, both the LLC and the Builder of the homes on these Plots, can change the land

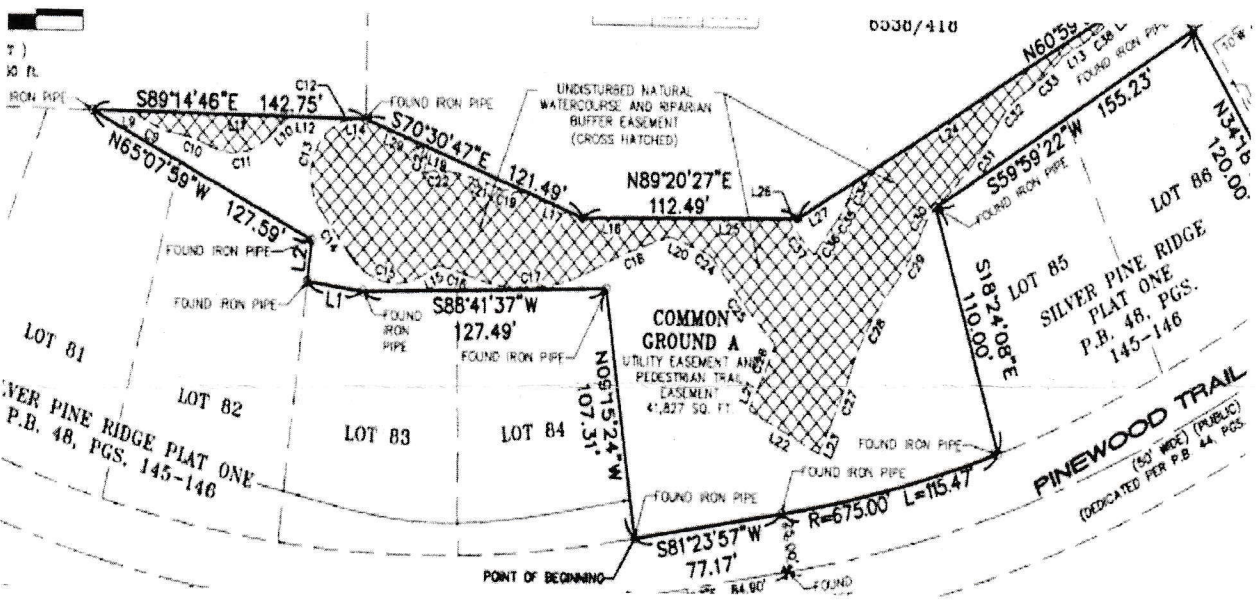
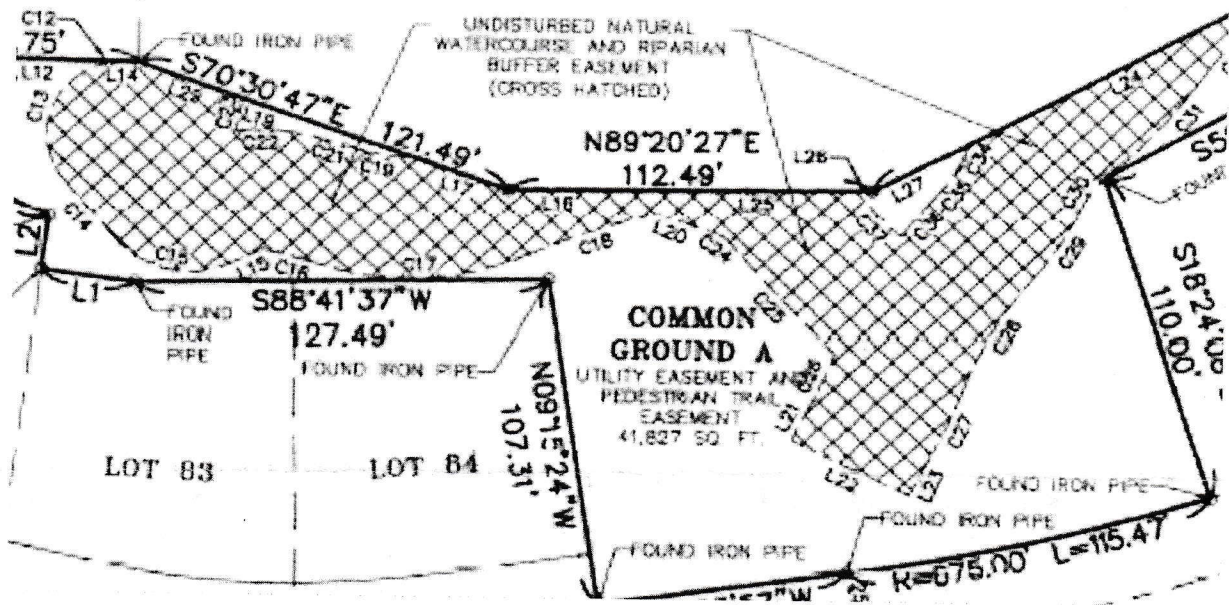
as needed by submitting "Improvement Plans" to St. Charles County. Thus, a smaller Plot may have more common ground around it, a larger Plot may have less common ground around it, or a Plot may have no common ground around it; all depends on the size of the home being built on the Plot.

Point is: Whatever land the LLC or Builder does not use is automatically known as common ground, which could be inferior and useless land, or steep, hillside slopes that could cause future problems. In the Silver Pine Ridge subdivision, most of the common ground is either a retention basin or several steep, hillside slopes on waterways. This common ground is **owned by all the homeowners** whether it is next to their property or not. They are part of the HOA and the HOA is responsible for maintenance of the common ground.

When the LLC and the Builder have completed a subdivision (usually by 85%) and it is turned over to the HOA, the LLC, the Builder, and the City of Wentzville are relieved of all liabilities in connection with the subdivision. Plus, the LLC and Builder receives whatever monies are left in an Escrow Account which was set up in the planning and development stages of the subdivision. We believe this happened in 2018 or 2019 for the SPR subdivision. The City has confirmed that there is no money left in an Escrow Account for our subdivision; what was in there was refunded back to the LLC and the Builder.

Also, when the Silver Pine Ridge Plat Two was submitted and recorded with the City of Wentzville, St. Charles County, it states "The undisturbed natural watercourse and Riparian Buffer easement shown as cross hatched XXXXXXXX sections hereon, is hereby established and granted to the City of Wentzville, Missouri, their successors and assigns, for the purpose of drainage only. **The easement is to remain undisturbed. No clearing or grading to be done within these designated areas. The maintenance of said watercourse and riparian buffer easement shall be maintained by the Silver Pine Ridge Plat Two Homeowners Association, their successors and assigns.**"

As shown in the figures below, **Lot 83** has very little common ground but much Riparian Buffer area, which unfortunately, is what the 131 homeowners permanently damaged by removing trees, shrubs, roots system, and vegetation behind their home.



The Failed Slope Committee read on a “variance” map on the City of Wentzville website that at least 7 years ago, the request was made to the City of Wentzville to move the building of new homes 5 feet closer to the curb at the street in order to provide more room at the rear of Lots; especially Lots that were on hillsides with streams/creeks behind them; but the Variance Request was denied.

The fact still remains that 131 homeowners should never have touched the Common Ground or Riparian Area behind their home.

Bioretention Basin in Pinewood Estates subdivision:

The 131 homeowners claimed that their slope failed after a torrential rainfall at the end of May 2021 and when the bioretention basin located across the creek in the Pinewood Estates subdivision overflowed and the water came down against the bottom of their slope.

Unfortunately, the 131 homeowners did not document this event, take pictures, or notify the City of Wentzville; thus, neither the City of Wentzville nor the civil engineering company can say for sure that this is what caused their slope failure.

The civil engineering company’s report says: “removal of native vegetation and buildup of cut vegetative material has likely accelerated erosion at the toe and slope failure”.

The City of Wentzville says: “The City will not be making a determination of the cause of the slope failure. Ultimately, it is the responsibility of the HOA as the owner of the common ground to ensure the slope gets stabilized regardless of the cause of the slope failure.”

The HOA has annual aerial photos, 2017-2021, showing how the trees and vegetation disappeared from behind Lot 83 but not from the Lots on either side of it.

The City of Wentzville said they are dealing with the LLC concerning the bioretention basin in the Pinewood Estates subdivision.

Actions Taken by the Failed Slope Committee:

The City of Wentzville gave the Failed Slope Committee a list of recommended and approved contractors to contact to stabilize the slope. The City required us to hire a civil engineering company to evaluate the failed slope and put together a package of recommendations on how to fix the failed slope. We were then required to submit the report package to the City’s Engineering Group for approval.

Intuition & Logic in Chesterfield, MO was the **only** civil engineering firm who would work with us to put a package together for the City.

We contacted 10 other civil and geotechnical engineering firms who either said they could not do the project or never called us back. We finally have a geotechnical engineering company meeting with us on May 23rd to look at the site and give us a bid.

We contacted 10 Stream Stabilization Contractors/Landscapers and only 3 companies responded. We have a bid from two contractors and are waiting to receive one more bid by May 23rd. Even after we choose one of these contractors, they will not be able to repair the failed slope until August or September due to equipment availability, labor, and funds.

Needless to say, it has been very frustrating and stressful to get these companies to call us back. When we called the City about this, they said they could not help us.

The Failed Slope Committee had a meeting with personnel from the City of Wentzville's Stormwater Division, Engineering Division, and the Mayor. Once again, the City reiterated that they would not make a determination of how the slope failed. We brought up the bioretention basin concerns but they said it did not appear to them during their walk around the area that the water from the basin caused the slope to fail. We brought up that there is a lot more water flowing into the stream/creek due to the new cul-de-sac of homes across the creek from SPR subdivision, and the widening of Interstate and Heppermann Roads, but they rejected all our points. They said they just want it fixed and it is the HOA's responsibility because it is HOA common ground. They said the issue is between the HOA and the 131 homeowners.

The Failed Slope Committee called St. Charles County water division but they said to call the City of Wentzville because the stream/creek is within the limits of the City of Wentzville.

The Failed Slope Committee called the Missouri Department of Conservation but they also said they could not help us. They said the stream/creek is in the jurisdiction of the City of Wentzville.

Two weeks ago, the Failed Slope Committee contacted a lawyer whose expertise is HOA issues. In his legal opinion, the lawyer believes the responsibility of the slope failure sits with the 131 homeowners. If the 131 homeowners choose to not pay for the cost of repairing the failed slope, we would want all residents to contribute to the repair via a Special Assessment Fee. If this was to occur, we would then take legal action to recover all costs by placing a lien against the home at 131 Pinewood Trails Drive and filing a law suit. The total cost of repair and legal fees is very significant.

CONCLUSIONS:

The Failed Slope Committee and members of the HOA Board have been working tirelessly since February and have exhausted every contact that was brought to our attention in search of every possible solution to this very critical issue. Our best cost estimate to stabilizing the failed slope is as follows:

Contractors cost to stabilize the failed slope and re-vegetate the Common Ground (may be higher depending on when work can be done)	\$56,000
Money the HOA has already spent to get the Engineering package prepared for the City's approval	\$ 2,700
Contingency Fee to cover unknowns such as permits, Attorney fees, etc. (Will be higher if we go to court)	\$10,000 ⁽⁺⁾
GRAND TOTAL	\$68,700

We understand that this is unexpected and overwhelming. Not doing this now will only cost more later. Once we have information finalized, we will send a follow-up letter. If it becomes necessary, we will hold a Special HOA Meeting to discuss a plan to resolve this situation.

Hopefully, this will be a one-time issue as long as we **all** adhere to the HOA rules regarding all of the common ground areas; and don't mess with it.

Thank you for your time and feel free to contact us at sprhoaslope@gmail.com with any questions, comments or suggestions you have regarding this issue. We will take your feedback for the next two weeks and then get back to everyone.

Respectively submitted,

The SPR HOA Failed Slope Committee