

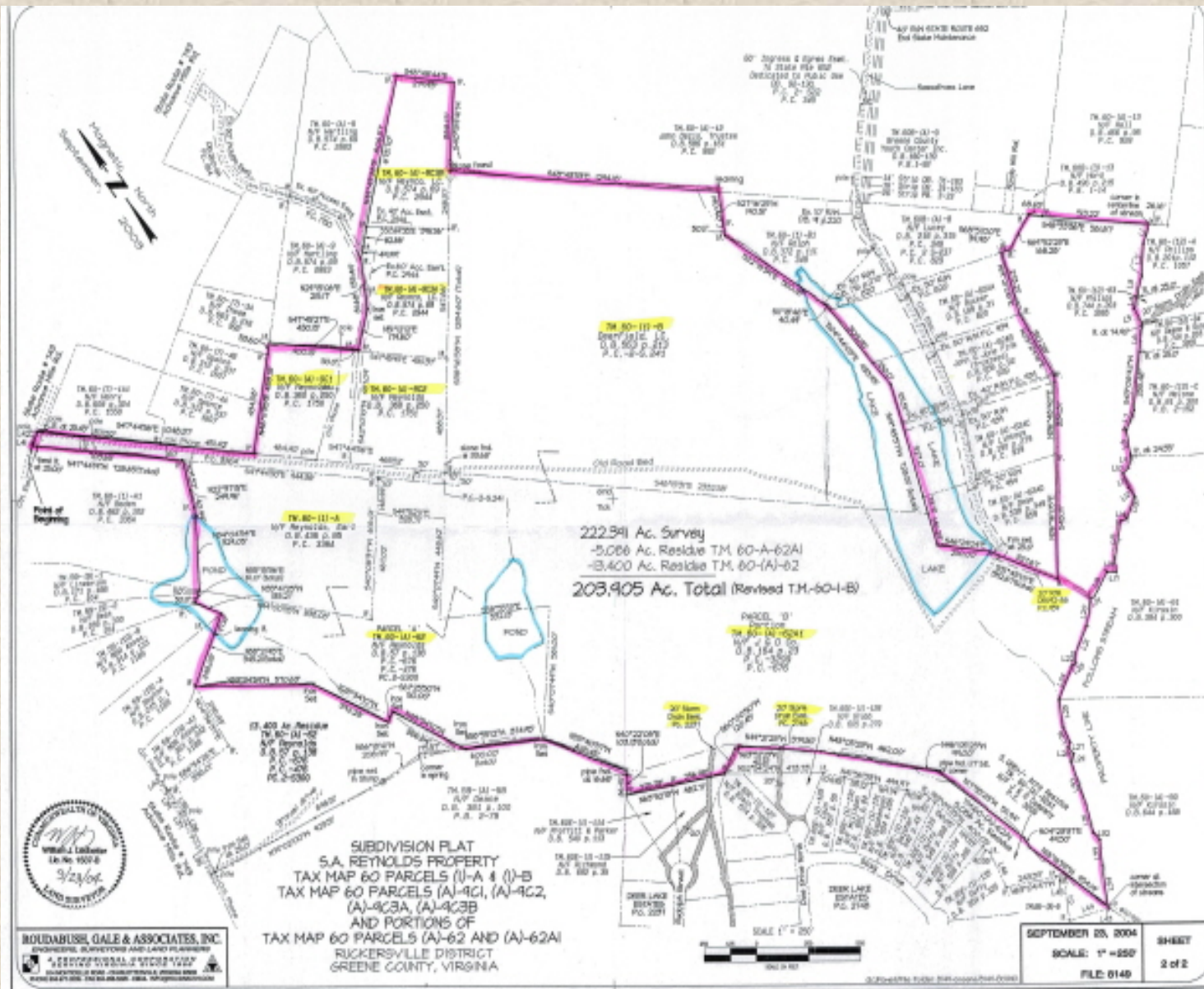
Four Seasons at Charlottesville



An Overview of the Property

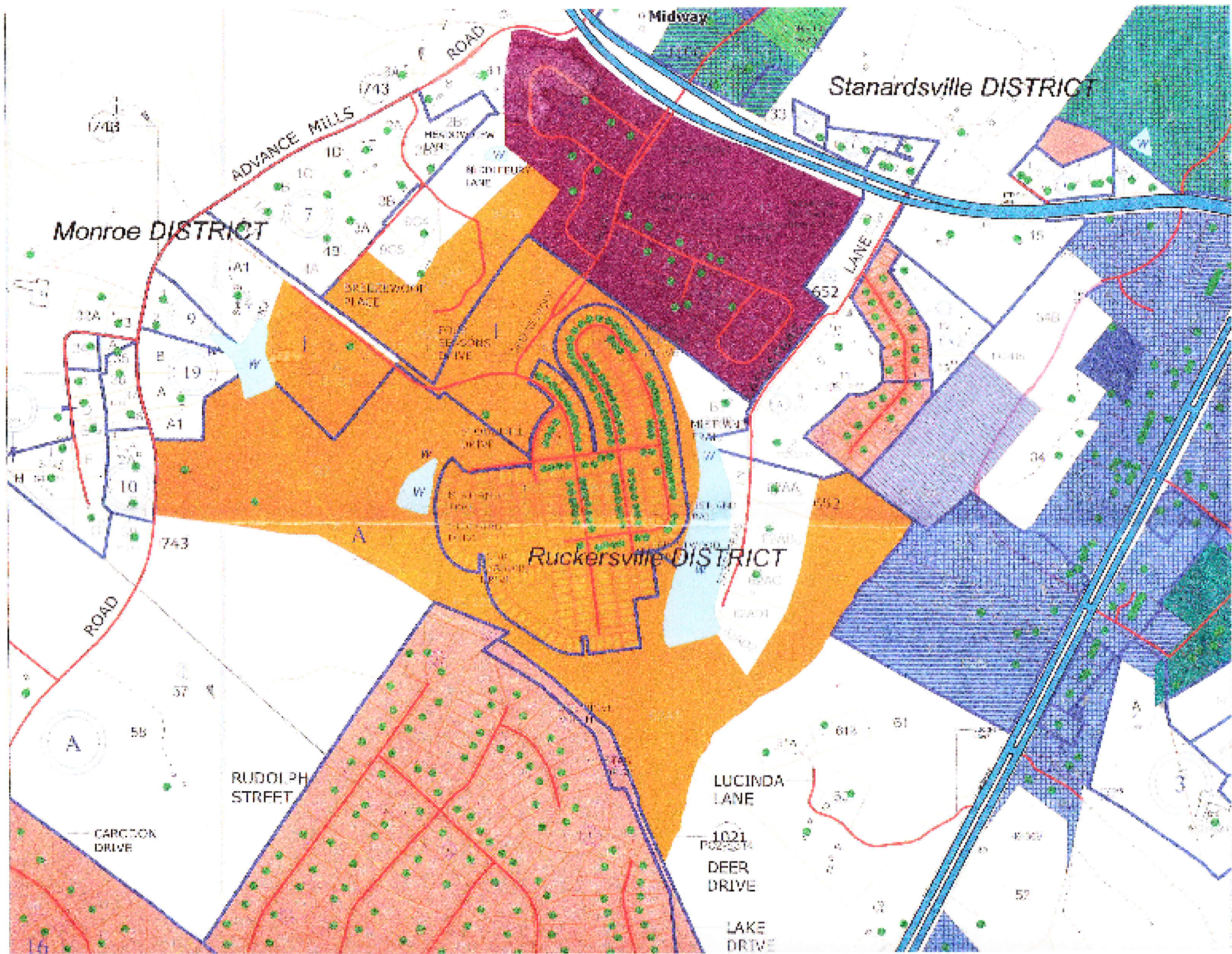
- ❖ **A look at past and current status of the Mountain Vu property**
- ❖ **How the Four Seasons DCCR might change or be dissolved**
- ❖ **Current Homeowner Status**

Reynolds/Deerfield Properties



Declarations on Property

- 2004 – 2006 : Zoning and Development of CIC property with no DCCR and 35 Home Buyers
- 2007 – 2008 : Four Seasons DCCR (for entire property)
- 2009 – 2011 : Continuance of FS DCCR was Challenged
- 2011 – 2019 : FS DCCR Amended, Limited Scope for FS under future Master DCCR Control
- 2019 – future : Status Quo with 1 or More Other Local DCCR Options or with a DCCR Redo



Mountain Vu Subdivision Proffered as Senior Residential

The nearly 204 acres known as Mountain Vu was proffered to be Senior Residential. The proffers offered were:

- ✓ All homes would have an occupant 55+ and no children**
- ✓ Development would follow a proposed subdivision plan for active adults with a clubhouse and recreational facilities**
- ✓ Property limited to 650 family dwelling units**
- ✓ A DCCR would be placed on the property and a non-stock HOA would be incorporated to manage the common area**
- ✓ Design and architectural guidelines would be imposed**

Mountain Vu Subdivision Greene County SR Zoning

The SR zoning of the 204 acres requires that:

- ✓ **All homes would have an adult 55+ and no children under 20 (19 in the Four Seasons DCCR) would be occupants.**
- ✓ **At least 41 acres would be open or common area. (20%)**
- ✓ **At least 8 acres would be developed as a community clubhouse and recreation center for the use of all homeowners. (4%)**

Preliminary Subdivision Plat 2005



Mountain Vu Subdivision

Approved Subdivision Plan

- ✓ The Preliminary Subdivision Plan was dated March 15, 2005, and was approved April 20, 2005, by Greene County.
- ✓ The plan was for 535 single-family dwellings, and showed 2.63 lots per acre, one clubhouse facility, and 17 open space lots.
- ✓ The total area of the lots would be 93 acres with 73.4 acres of open space, a 9.2-acre recreation area, and 28.3 acres of roadway.

Property Development Plan 2005



Plan for 203.91 acre Property

Phase 1 (144 Lots)	23.5387 acres
Common Parcel A	19.4380 acres
Total Phase 1	42.9767 acres

Clubhouse on Common Parcel B	7.8883 acres
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Phase 2 (129 lots)	20.2234 acres
Common Parcel C	27.1594 acres
Total Phase 2	47.3828 acres

Phase 1, 2, and Clubhouse	98.2478 acres
Common Parcels A, B, C	54.4857 acres
Phases 3, 4, and 5	105.6577 acres

Mountain Vu Subdivision

Subdivision Plans and Agreements

- A purchase agreement was signed between Reynolds S. Corp and K. Hovnanian Homes of Virginia, Inc. on June 13, 2005.
- A Preliminary Phase One site plan was submitted to Greene County in August 2005.
- An Option and Development Agreement between CN Terra Nova Holdings LLC (DE) and K. Hovnanian's Four Seasons at Charlottesville, LLC (VA) and K. Hovnanian Holdings NJ, LLC (NJ) was signed on April 11, 2006.

Mountain Vu Subdivision

Option and Development Agreement

- Section 7(a): "Upon each Closing, **fee simple title to each Lot purchased together with an undivided percentage interest in the common areas of the Project** equal to that percentage interest allocated to each Lot in the Preliminary Plan and Final Plat..."
- Section 25.1 states that **all of the terms, conditions, provisions, obligations and indemnities** contained in the agreement **would survive the sale of any lot and the recordation of any deed**. All obligations and indemnities in the O&D Agreement **would survive the expiration, cancellation or termination of the agreement** so that all such obligations and indemnities would continue to be binding upon the parties and their respective successors and assigns.

Mountain Vu Subdivision

NCD/M&T Purchase of Property

- ✓ On April 12, 2006, the Property was transferred with a deed of sale to North Charlottesville Development, LLC (NCD was a wholly owned subsidiary of CN Terra Nova Holdings) with a Purchase Money Line of Credit from M&T Mortgage Corp (part of M&T Bank).
- ✓ The 2005 Phase One Site Plan was approved as final by Greene County on May 11, 2006. The final plan was for 144 lots and a common area (Parcel A) comprising a total of 42.977 acres.
- ✓ Water tap connection fees were prepaid to Greene County for the 535 lots in the preliminary subdivision site plan.

Phase One Development 2006



Mountain Vu Subdivision Property Addition/Deletion

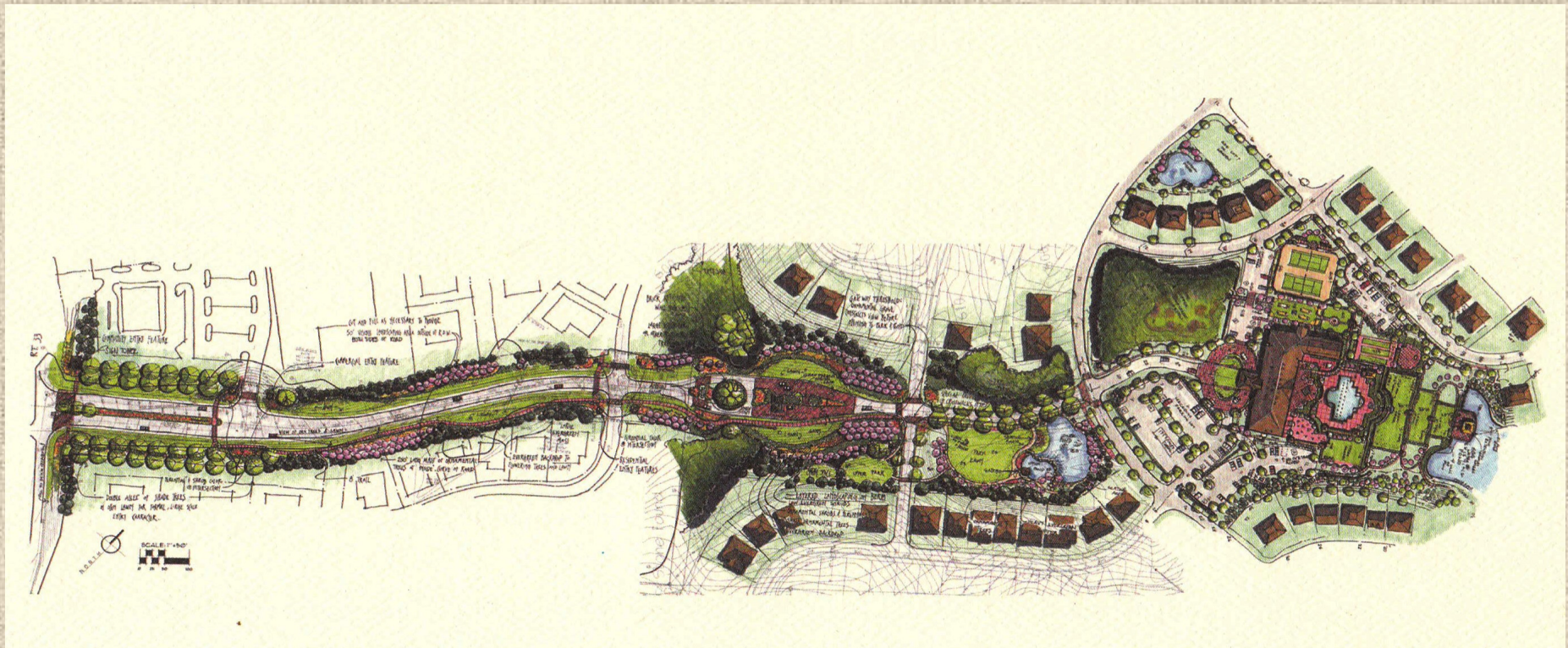
- ✓ **The 535 dwellings called for in the Preliminary Subdivision Plan could be expanded up to 650 dwellings per the SR zoning.**
- ✓ **Any annexation of additional properties beyond the 204 acres could further expand both the number of dwellings and the size of the common areas.**

Relationship with the Ruckersville Village Subdivision

- ✓ A memorandum of agreement between Ruckersville Village and Mountain Vu in May 2004 provided for sharing costs for engineering and construction of what would become Greenecroft Blvd, along with utility easements for both communities, and the provision for a sign easement at Route 33 to benefit both subdivisions.
- ✓ No homes or businesses in Ruckersville Village would front on the road and Mountain Vu would provide and maintain landscaping.

Greenecroft Blvd Plans 2005

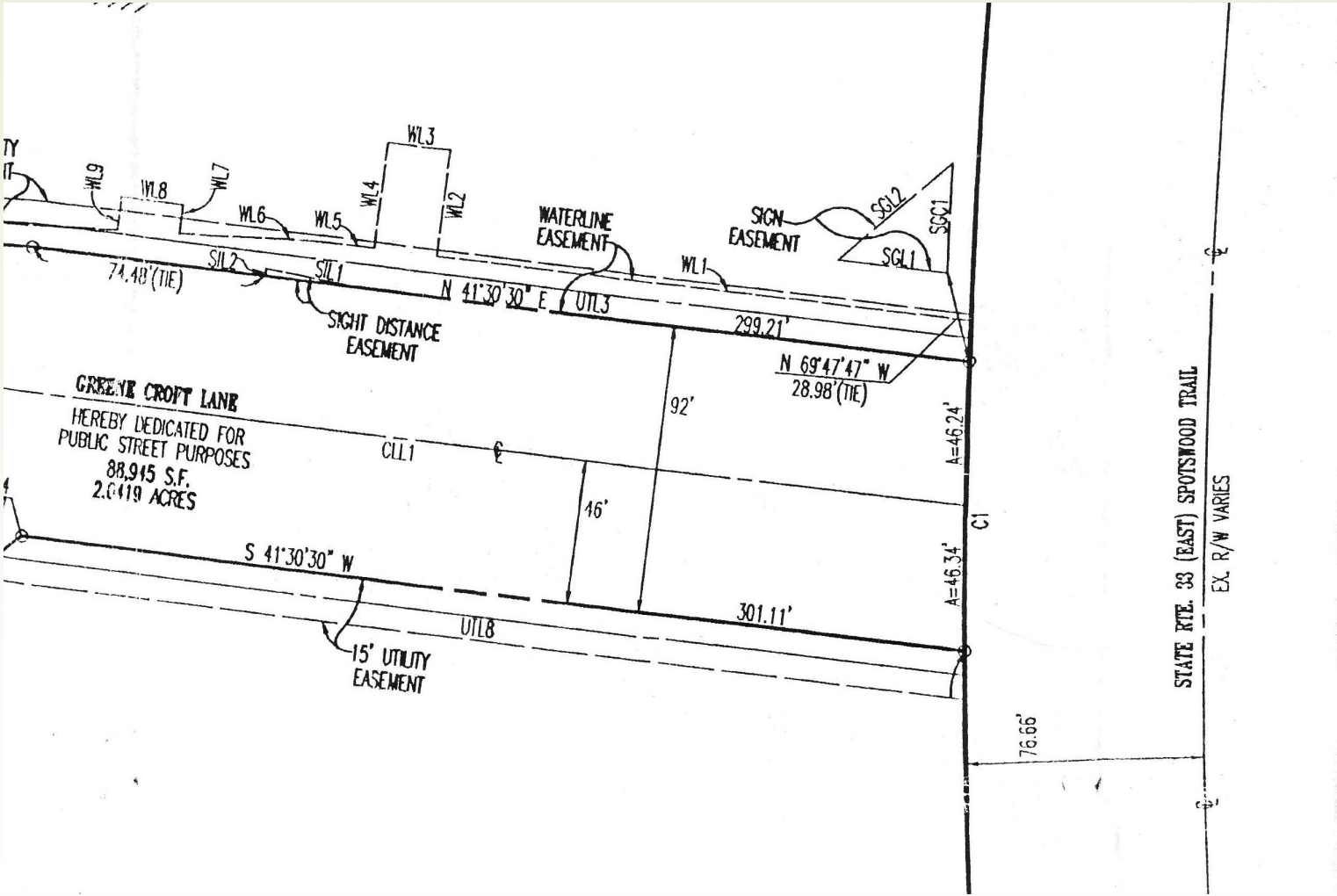
(Roads were labeled as Greene Croft Lane and Thomas Davis Drive on the plans)



Greenecroft Blvd

- ✓ In August 2005, Ruckersville Village dedicated the 2.0289 acres of what would become Greenecroft Blvd from Route 33 to the Mountain Vu property line as a public street including the sign easement and the fifty-foot ingress/egress easement for Mountain Vu.
- ✓ Road was constructed in the summer of 2006.
- ✓ Later on, VDOT adopted it as a state road.

Mountain Vu Sign Easement on VDOT Right of Way



Mountain Vu Subdivision

The Takedown of Lots

- ✓ Eight lots in the proposed Model Park were sold to GMAC Model Home Finance, LLC. on July 12, 2006.
- ✓ K. Hovnanian Four Seasons at Charlottesville, LLC., took down the first six residential lots from NCD on September 8, 2006.
- ✓ Construction began on seven of the model homes and five of the six residential homes.
- ✓ By early January 2007, no DCCR had been placed on the property and there was no homeowner association.

Mountain Vu Subdivision

→ Four Seasons at Charlottesville

- ✓ **The DCCR for the Property was signed as the first Dwelling Units were being sold to homeowners on Jan 11, 2007.**
- ✓ **The DCCR was recorded Jan 17, 2007.**
- ✓ **The Four Seasons at Charlottesville Community Association, Inc. per the DCCR was incorporated on Jan 29, 2007 to manage the Common Area.**

Mountain Vu Subdivision

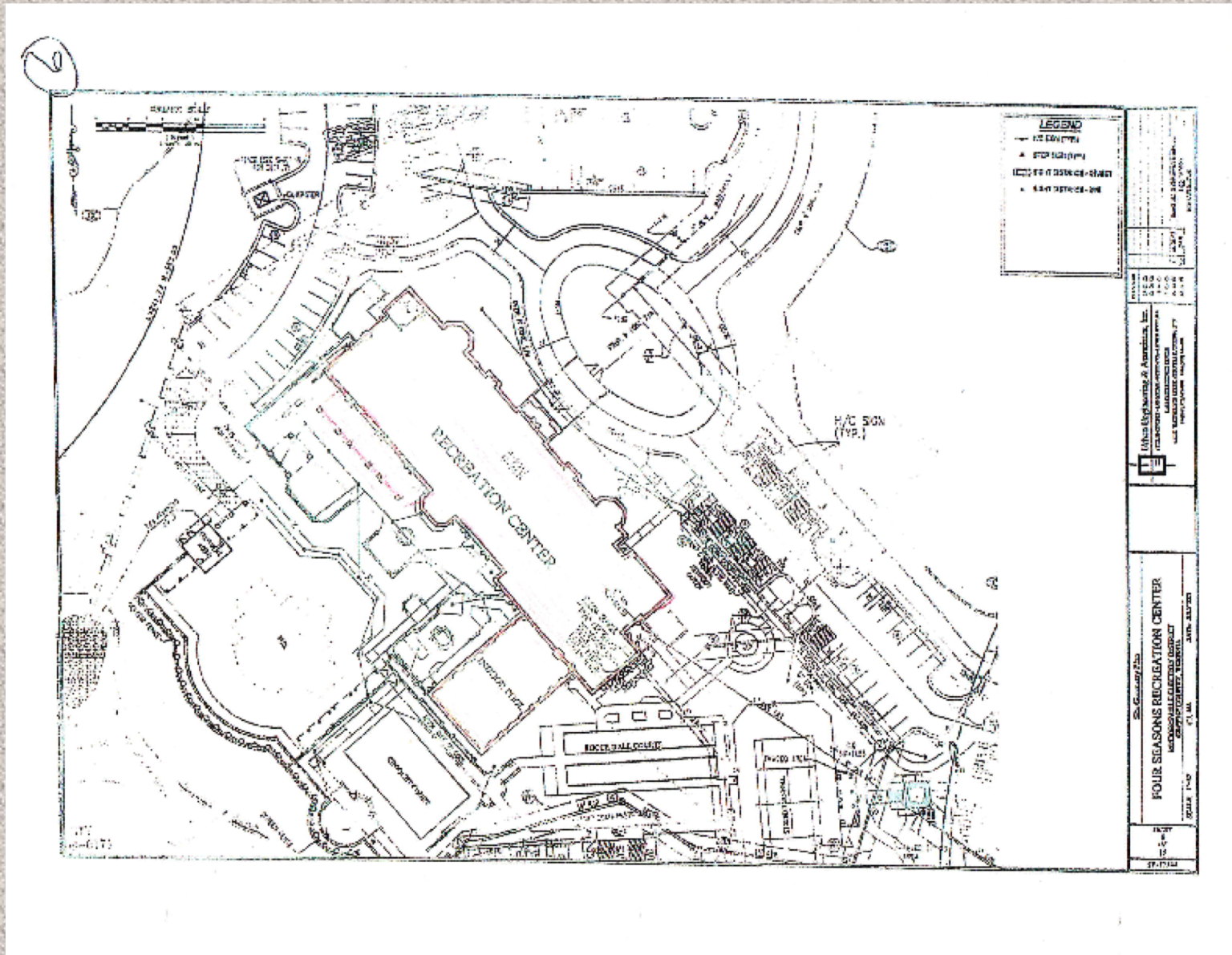
→ Four Seasons at Charlottesville

- ✓ **With the DCCR in 2007, all of the Phase One common area and 136 of the lots in the Phase One Plan were included in Exhibit A. The 8 model lots were not included.**
- ✓ **Therefore, the FS Association consisted of 136 Members and had the Parcel A common area to manage.**
- ✓ **The intent was to add the Clubhouse and additional lots to Exhibit A as the Project was built.**
- ✓ **The model lots would have eventually been added to Exhibit A whenever K. Hovnanian so decided.**

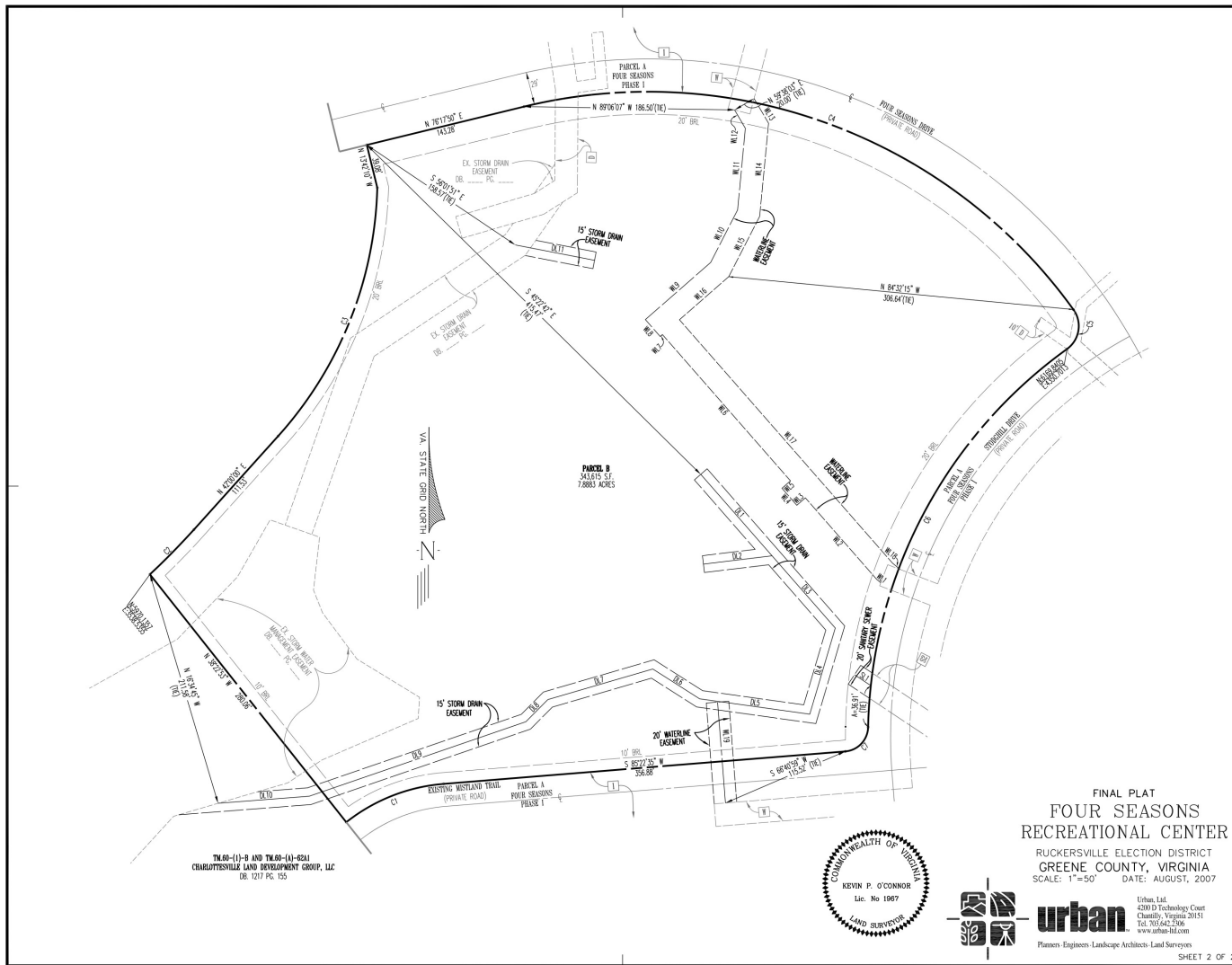
Four Seasons at Charlottesville Clubhouse and Clubhouse Parcel

- ✓ **Groundbreaking was held Feb 22, 2007. Grand opening was held on May 2, 2008.**
- ✓ **The Clubhouse site plan was not signed as complete by K. Hovnanian before the end of 2008 and therefore expired. Hence, the Clubhouse parcel was not added to Exhibit A of the DCCR and was not part of the common area for the Four Seasons at Charlottesville Community Association.**

Clubhouse Plan 2007



Clubhouse Site Plan



TKL60-1(1)-B AND TKL60-1(1)-60A1
 CHARLOTTESVILLE LAND DEVELOPMENT GROUP, LLC
 DB. 1217 PG. 155



FINAL PLAT
 FOUR SEASONS
 RECREATIONAL CENTER
 RUCKERSVILLE ELECTION DISTRICT
 GREENE COUNTY, VIRGINIA
 SCALE: 1"=50' DATE: AUGUST, 2007



urban
 Planners • Engineers • Landscape Architects • Land Surveyors

Urban, Ltd.
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 Tel: 703.642.2900
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Mountain Vu / FS at Charlottesville at Foreclosure Jan 1, 2009

With the 2009 foreclosure on NCD, M&T Mortgage declared that the DCCR was terminated and therefore the Association had no reason to continue in existence.

This legal challenge of the DCCR was contested in court until it was dismissed July 11, 2011.

This presentation will skip past the claims or hypothetical posturing that occurred during that contested period.

At Foreclosure on Jan 1, 2009

- ✓ **35 lots had been sold by NCD before the FS DCCR was signed on Jan 11, 2007. (Those contracts were signed with no recorded DCCR on the property.)**
- ✓ **120 lots (112 Owners plus 8 models) had been purchased under the Option and Development Agreement before the foreclosure auction on Jan 22, 2009.**
- ✓ **The 120 Owners at foreclosure held title to 22.2% pro rata ownership of all existing and proposed common areas within the Property.**

Four Seasons at Charlottesville Community Association 2009 - 2011

- ✓ **The eight model homes were annexed on Feb 22, 2010, thus making 144 Phase I lots in Exhibit A of the DCCR and therefore 144 Members of the Association.**
- ✓ **Had the legal challenge to the Four Seasons DCCR prevailed, the existing FS DCCR would have been replaced, a new homeowner's association would have been established, and the current FS Association would have had no basis to exist.**
- ✓ **However, each Owner of a lot would still have held pro rata title to all common areas of the Property and would still have been subject to a new DCCR placed on the Property.**

HC Land Purchase

Two limited liability corporations formed by HC Land Company purchased the foreclosed property in May 2009 using a Deed of Trust to M&T Mortgage:

- ✓ **CLIG was deeded the 24 unsold lots in Phase I.**
- ✓ **CLDG was deeded the undeveloped portions of the subdivision (the Additional Land) and any developed but not yet conveyed common area* (Parcel A and the Clubhouse Parcel).**

*** Deeded but obligated to convey.**

2011 Settlement of the Dispute Over the Declarations

- ✓ **All parties agreed to settle the dispute by amending the existing FS DCCR along with some monetary concessions.**
- ✓ **K. Hovnanian transitioned the FS Association to Home Owner control.**
- ✓ **The amended DCCR allows for new separate homeowner associations to form on the Additional Land with a Master Association for the Mountain Vu Project.**

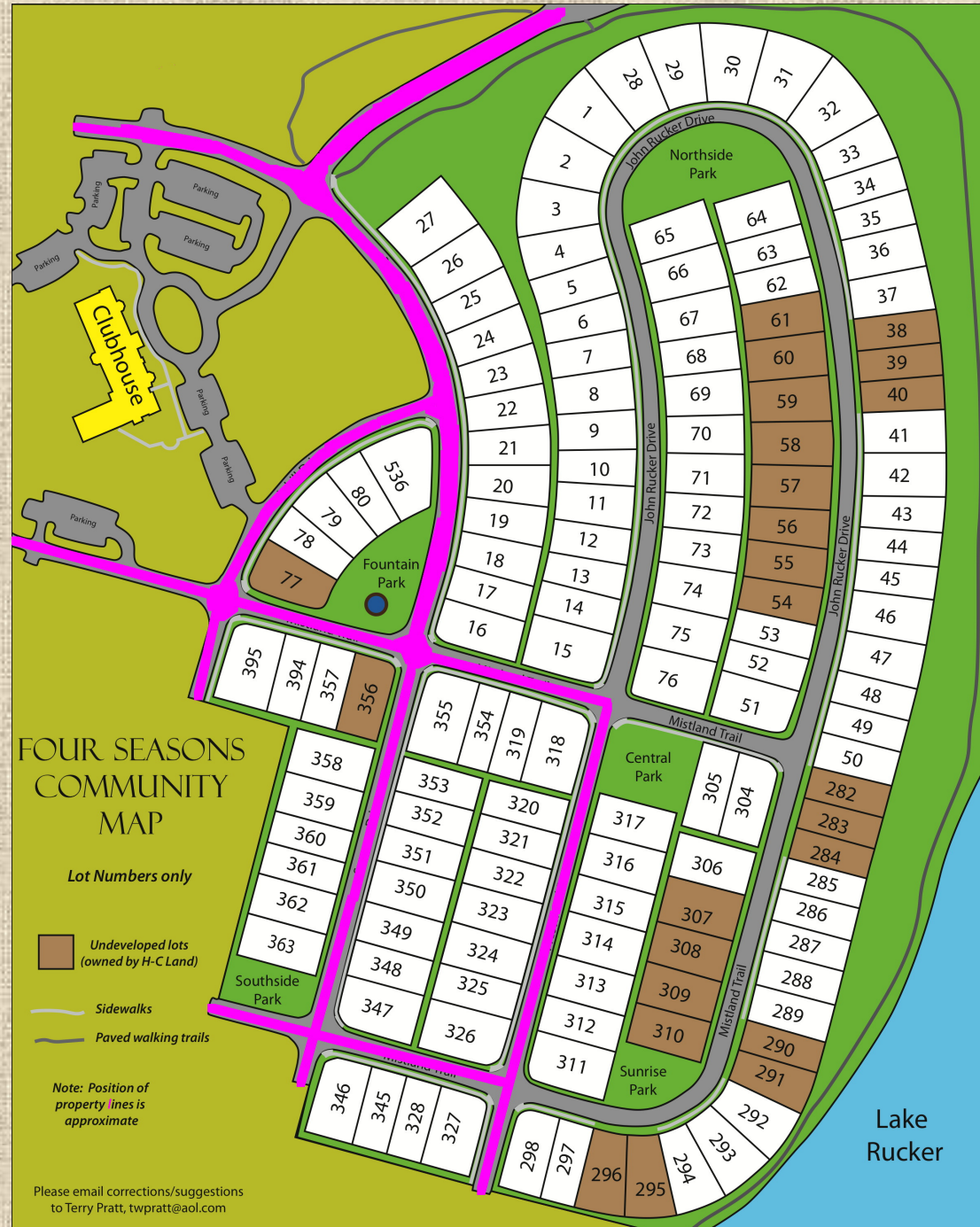
2011 Settlement of the Dispute Over the Declarations

- ✓ **The FS Association along with other associations will be members of the Master Association (MA).**
- ✓ **The FS Association will manage the Clubhouse as long as it wants until the Master Association chooses to become the property manager.**
- ✓ **Much, or all, of the Phase One Common Area will convey to the Master Association when the MA assumes management responsibility.**

Phase One Common Area



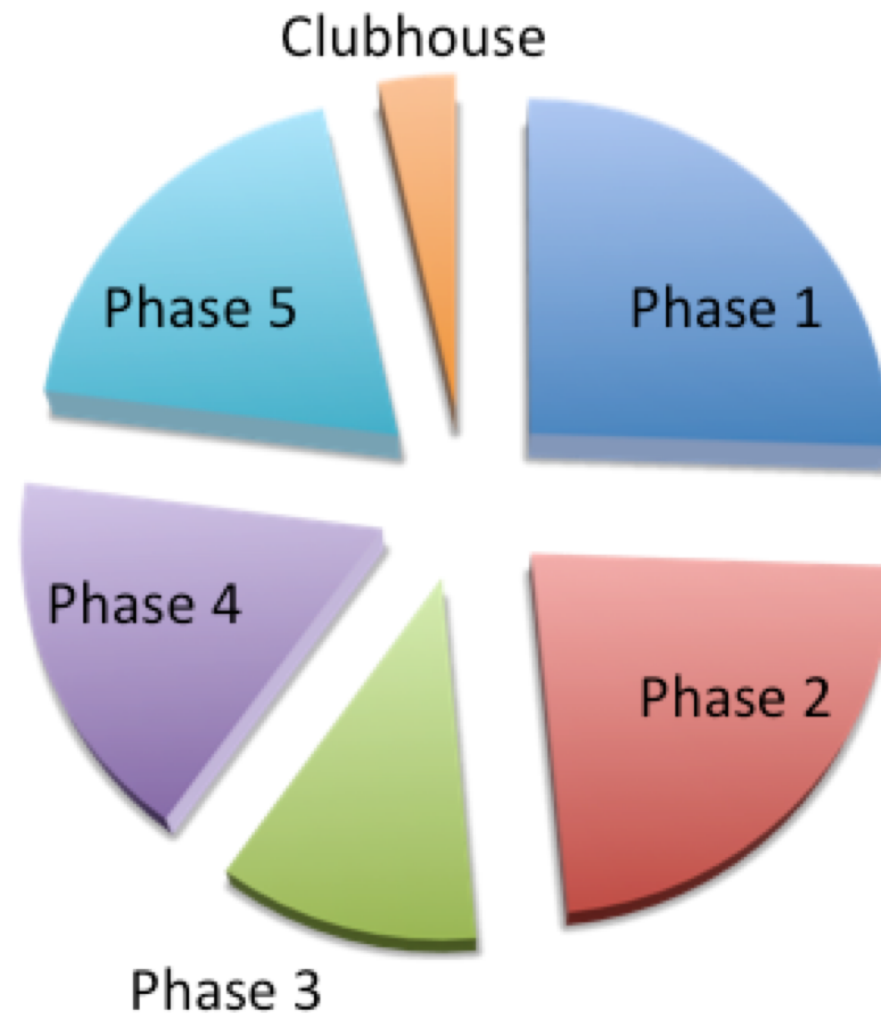
Joint Phase One Common Area



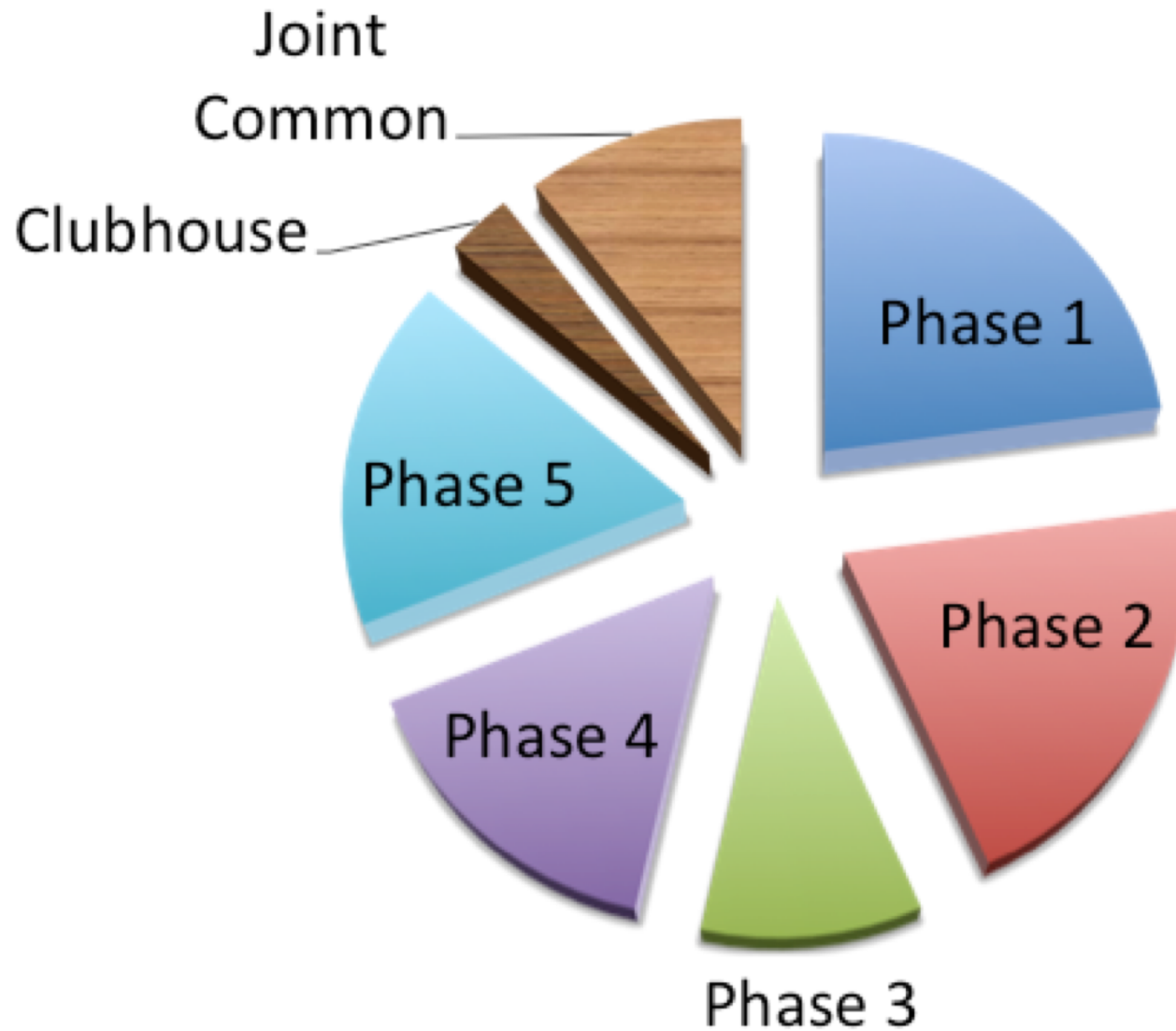
2011 Settlement of the Dispute Over the Declarations

- ✓ Special Declarant Rights were assigned to CLDG and CLIG.
- ✓ The Association granted CLDG a Deed of Easement for temporary and permanent access through Phase One streets until 2030.
- ✓ The Clubhouse and Clubhouse Parcel, as common area for the Project, were released from the M&T Deed of Trust.

For the original 2007 DCCR, all Property would have been annexed to Exhibit A of the DCCR and the Association would manage all of the Common Area



Master Association will eventually manage the Clubhouse and all joint common areas



The Mountain Vu Property

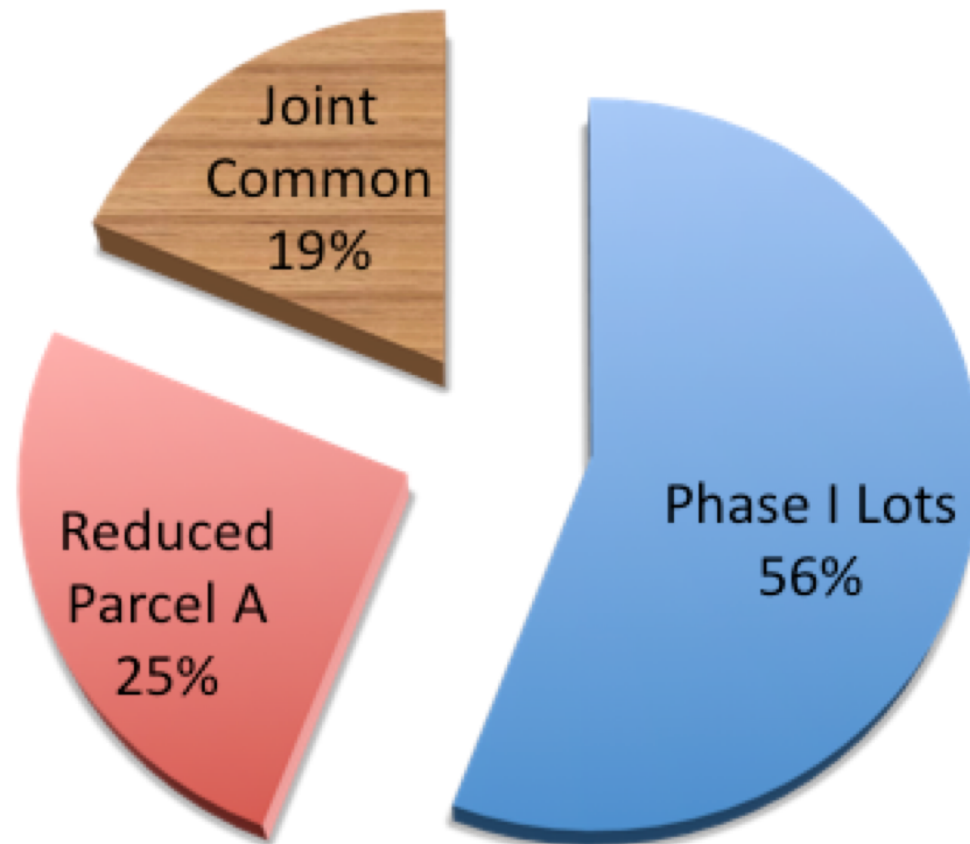
Current Status

- ❖ **Four Seasons at Charlottesville**
(Phase I)
- ◆ **Additional Land (approx. 160 acres)**
(Phase II possible development)
- **Clubhouse and Clubhouse Parcel**

Until the Clubhouse and Joint Common Area is Conveyed to the Master Association

- ✓ **The FS Association can continue to manage the Clubhouse.**
- ✓ **The FS Association can collect pro rata assessments from all Dwelling Units in any other homeowner association created in the Additional Land.**
- ✓ **These pro rata assessments would contribute to the expenses needed to manage the Clubhouse and the Phase One Joint Area.**

Association will manage the reduced Parcel A after the Clubhouse is conveyed to the Master Association



2007 DCCR and the Additional Land

Per Section 7.1 of the DCCR, **any portion of the real estate described in Exhibit B** that is not made a part of the Properties as herein set forth **may be developed and used for any purposes not prohibited by law, including** without limitation, a **commercial development or a residential development which is not part of the Four Seasons Community.**

Nothing in this DCCR shall be construed to require the Declarant or any successor to annex or **develop any of the real estate described in Exhibit B** or any other real estate in the vicinity of the Properties owned by Declarant or an affiliate of Declarant **in any manner whatsoever.**

Amended DCCR and Additional Land

However, in Section 2 of the 2011 Amendment to the DCCR, it is stated that

*“The Additional Land **will be developed** in a manner consistent with the approvals from Greene County **as an active adult community.**”*

Mountain Vu Subdivision

Common Area Tax Assessments

- ✓ **HC Land successfully argued** in the Oct 28, 2011, court case **that they did adhere to the original preliminary subdivision plan** and the language in the amended DCCR.
- ✓ The argument made was that **the value of the Clubhouse and Clubhouse Parcel, like all common areas, was prorated in the value for each subdivided lot** and should not have a separate assessed value.
- ✓ Greene County has yet to distribute any tax assessed value of the common areas (including Parcel A) to lot values.

Possible New Development in 2019

Options to be Considered if Renewed Development Begins

- ✓ Review Proffers and Zoning for Mountain Vu
- ✓ Effect of Option Purchase Agreement to Current Homeowners
- ✓ 2007 Four Seasons DCCR and Resulting FS Association
- ✓ 2011 Amendment to the Four Seasons DCCR
- ✓ Possible new Phase II DCCR and Phase II Association ??
- ✓ Master DCCR (with/without Clubhouse Parcel)
- ✓ Master Association (w/o conveyed Clubhouse Parcel)
- ✓ Termination of Four Seasons DCCR and Replacement DCCR

Review Proffers and Zoning for Mountain Vu

- ✓ **Property zoned Senior Residential (SR)**
- ✓ **Property limited to 650 family dwelling units**
- ✓ **Development would follow the proposed subdivision plan for active adults with a Clubhouse and recreational facilities**
- ✓ **A DCCR would be placed on the property and a non-stock HOA would be incorporated to manage the common areas**
- ✓ **Design and architectural guidelines would be imposed**
- ✓ **Homes would have an occupant 55+ and no children**

Effect of Option Purchase Agreement on Current Homeowners

- ✓ **Each Lot taken down conveyed with an undivided percentage interest in the common areas of the Project equally allocated to each Lot in the Preliminary Plan or Final Plan.**
- ✓ **The Clubhouse Parcel is a common area of the Project.**
- ✓ **The CIC status would survive the sale of any Lot and the recordation of any deed.** (All obligations and indemnities in the O&D Agreement would survive the expiration, cancellation or termination of the agreement. All obligations and indemnities would continue to be binding upon all successors and assigns.)

2007 Four Seasons DCCR and Resulting Association

- ✓ Applied to the portion of the property in Exhibit A and any property in Exhibit B that was annexed into Exhibit A.
- ✓ DCCR Article XV provides for a portion of the property to have a Local Area Declaration, and therefore a Local Area Association could be established for that area.
- ✓ The Clubhouse Parcel would be owned by all homeowners (including those with a Local Area Association).
- ✓ The Clubhouse Parcel would likely have been annexed into Exhibit A and the FS Association would have managed it.
- ✓ By end of 2008, the Clubhouse Parcel should have been annexed into Exhibit A, but K. Hovnanian failed to do that.

2011 Amendment to the Four Seasons DCCR

- ✓ The Four Seasons DCCR has only Phase I lots and Parcel A common area in Exhibit A.
- ✓ This amendment allows for the Article XV Local Area Declarations to create associations independent from the Exhibit A association while recognizing the CIC ownership of all homeowners on the property.
- ✓ Since the Clubhouse Parcel and some other portions of common areas on the property would need management (and to satisfy the proffers and zoning), there would need to be a master association of which two or more independent associations on the property would be members.

2011 Amendment to the Four Seasons DCCR

- ✓ If additional independent associations are established on the property, the Four Seasons Association is granted the authority to manage the Clubhouse Parcel and other common assets for as long as the Clubhouse Parcel and those other common assets are not yet conveyed to a master association.
- ✓ Any additional independent associations will compensate the FS Association for its management of property-wide common areas (including the Clubhouse Parcel).

New Phase II DCCR and Phase II Association

- ✓ As development of Phase II begins, there are several options that a developer could take no later than when the first lot is sold to a homeowner:
- ✓ 1) Record a Phase II DCCR and establish a Phase II association. Would also require a master DCCR and master association.
- ✓ 2) Annex Phase II lots and common area into the FS DCCR Exhibit A (probably not all at once, or with conditions on when assessments would be due).
- ✓ 3) Petition the Phase I homeowners to terminate the FS DCCR and to adopt a new DCCR for the property. This would require serious negotiations.

Master DCCR (with/without Clubhouse Parcel)

- ✓ If Option 1 is chosen and a Master DCCR is recorded, then certain property could be included in its Exhibit A. This could be the Clubhouse Parcel, some Phase I streets, the Lake Rucker dam, and many other parcels.
- ✓ If common area is in the Master DCCR Exhibit A (but is not conveyed to it) then the Master Association may choose to defer management to the FS Association and others.
- ✓ Once common area, especially the Clubhouse Parcel, is conveyed to the Master Association, the Master Association will assume management.

Master Association (w/o Conveyed Clubhouse Parcel)

- ✓ Although additional independent associations could be established on the property under the 2011 amended DCCR, the Four Seasons Association is granted full authority to manage the Clubhouse Parcel and other common areas for as long as the Declarant elects to not convey common assets to the Master Association.

Termination of the Four Seasons DCCR and Recording a Replacement DCCR

- ✓ Article XVI of the Four Seasons DCCR provides for termination of the DCCR "by an instrument signed by Owners of at least sixty-six and two thirds percent (66-2/3%) of the total Dwelling Units" in Exhibit A. For now, this means that at least 96 Phase I Owners would need to sign it. Currently, CLIG is the Owner of 24 lots; therefore at least 72 current homeowners would need to sign the instrument.
- ✓ This might behoove CLDG to act sooner if this option is preferred (Early branding of property and a lower bar to terminate the FS DCCRs).

Termination of the Four Seasons DCCR and Recording a Replacement DCCR

- ✓ A new DCCR would need to be placed on the entire property and an association to manage the newly defined common assets would need to be established.
- ✓ If replacing the current DCCR is proposed, then negotiations between any new developer(s) and the current homeowners would need to take place to reach an acceptable solution.
- ✓ While the Four Seasons Association might help, any real decisions will be between the legal parties of CLIG, the homeowners, and whoever is the expected new developer.
- ✓ The FS Association would need to convey Parcel A.

Pros of a Replacement DCCR

- Finally, development of the property would resume.
- Operating costs will be shared over more homeowners.
- Architectural design will be retained, even if slightly altered for other than Phase I. (Current Design Guidelines may stand.)
- The subdivision will no longer be Four Seasons.
- Developer will help out with Clubhouse capital maintenance.
- Some additional outdoor facilities might be built.
- Developer more likely to fund community aesthetics.
- If agreed to, some portion of the property could become Continuing Care.

Cons of a Replacement DCCR

- Homeowners will need to cede some control back to a declarant.
- Homeowner representation on the Board of the new association can be negotiated, but will be less than now.
- Phase I will no longer be Four Seasons.
- Replacement Reserves inventory will increase.
- Base assessments may, or may not, increase in short term.
- Dam will be a common asset.

Facts

- Phase I homeowners are CIC owners of the Clubhouse Parcel; the FS Association does not own the Clubhouse Parcel.
- The FS Association owns and manages Phase I common area and, per the amended DCCR, it manages the Clubhouse Parcel.
- If the FS DCCR is terminated, the FS Association becomes impotent.

Facts

- Greene County could assess property tax on the common assets, but they simply have elected not to do so. The assessment for all 600+ lots on the property would increase if they did.
- There is no timeline for building on the Phase I vacant lots. They do not have to be built first.
- Dam will be a common asset connected to Phase II.

Facts

- Developers are the owners of undeveloped lots on the property.
- Homeowners are the owners of the common areas on the property.
- Developers must annex all common area into one or more DCCR(s) placed on the property. Established association(s) manage the common areas.
- During the Development Period there will be new Declarant(s) until all common area is conveyed.

Latest (Feb 2019)

- ◆ Builders are still looking at the property, especially Phase II and maybe Phase III.
- ◆ Phase II and III now have some new wetland issues not evident in 2005.
- ◆ Phase II Plan may need to be modified some.
- ◆ 2019 could still see the start of some new development.

Discussion and Questions

