



# **HISTORY AND FACTS - 2015**

**With**

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# KENMURE PROPERTY OWNERS ASSOCIATION

## *HISTORY AND FACTS - 2015*

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# KENMURE PROPERTY OWNERS ASSOCIATION

## History and Facts

Note: The information contained in this Section is believed to be reasonably accurate and suitable for general knowledge of the subjects covered. More thorough research may be required if legal questions or disputes arise.

### A. Introduction:

The Kenmure Property Owners Association (KPOA) resulted from a merger of the Kenmure Home Owners Association (KHOA) and the Kenmure Road Maintenance Homeowners Association (KRMHA) as part of the process to bring Kenmure under the NC Planned Community Act (PCA) in 2002. The KHOA was a voluntary membership organization; the KRMHA was a mandatory membership organization set up by Kenmure Properties, Ltd. (KPL) to manage road maintenance. The KHOA and the KRMHA were non-profit corporations, as is the KPOA. The KPOA has primary responsibility for Covenant enforcement, road maintenance, security/garbage and architectural review. To accomplish these responsibilities the KPOA established the Kenmure Road Maintenance Committee (KRMC), the Security and Garbage Committee (KSGC) and the Architectural Review Committee (KARC). However, the KPOA Board is the final authority on all decisions made by these Committees.

The purpose of the information that follows is to acquaint prospective and new KPOA Directors and Committee members with some of the history of the Kenmure development. Not only should it help save time when certain questions come before the Board, but it should help Directors avoid some issues in dealing with residents and builders. While it is true that over the years some KRMHA Boards and KPL have been less strict than the Covenants would require, these acts, or failures to act, are not precedents for future actions. The KPOA is now responsible for Covenant enforcement and it owns or controls the rights-of-way. The KPOA should not feel restricted or bound by past policies of the KRMHA, KPOA, KARC or KPL. (See Article 11.7, By-laws)

It is in the best interests of the KPOA Board, and its members, if actions taken by the Board are taken in a formal, legal manner. Unusual agreements with residents and builders that are outside those covered by the Policies and Procedures of the Board must be taken very seriously and signed only after full consideration by the Board. When the agreements bind the property as well as the resident, they should be notarized and recorded with the Register of Deeds. Agreements and communications with property owners must be filed in a property owner's file. Filing by lot number or address is the preferred method. This way it will be simple to find past communications when necessary, even after the property has been sold.

Good communications among the KPOA Directors and Committee members are the key to the smooth and successful operation of the KPOA. When actions taken by a Director or Committee member involve significant cost or unusual situations involving property owners, communication and approval by the KPOA President or the KPOA Board is critical. Generally, Directors and

Committee members are not authorized to exceed the budget for which they are responsible without prior Board approval. The exceptions to this are storm cleanup, including ice and snow removal, and emergency situations.

The KPOA collects large sums of money from its members and has responsibility for conserving these assets and spending them wisely in the best interests of its members. This stewardship can not be taken lightly, nor can the duties of a KPOA Director be effectively accomplished with less than committed effort. A Director's responsibilities require much more than a once a month meeting. They require teamwork and communication; they require careful short and long term planning; they require prudent spending of budget money; they require excellent judgment in dealing with residents and resident problems; and they require patience and tact in resolving problems. They also require quite a bit of time.

This History will frequently refer to KPL. However, KPL became Kenmure Enterprises, Inc. around 2005 and is now referred to as KEI. Phase VI is the last phase that KEI can develop in Kenmure. Over the last five years, KEI has been less and less a factor in the control and management of Kenmure. Although we know of no plans that indicate this will occur, at some point KEI may offer the golf course for sale and phase out altogether. Kenmure volunteers will always be necessary and appreciated. However, at some point in time the residents may find it necessary and advantageous to hire a professional manager or management group to handle some of the day-to-day functions currently being handled by the KPOA Board and its Committees.

#### B. Definitions:

1. Declaration – This is the document or documents that are prepared by a developer or group of property owners that binds all property owners of the land described therein to the restrictions (covenants) therein, including the requirements to pay assessments to maintain the common property described therein. Declarations are recorded with the Register of Deeds in the county where the property is located.

2. Covenants – Basically, these are promises to do or not to do certain things. With regard to Kenmure, they are the promises to do or not to do certain things with or on the land owned in Kenmure. Kenmure covenants are contained in the Third Amended and Restated Kenmure Declaration of Restrictive Covenants that was recorded at Book 1545, Page 105 in August 2013. Declaration and Covenants are sometimes used synonymously. Reading and understanding the Declaration is mandatory for KPOA Directors and Committee members. Reading the NC Planned Community Act, Chapter 47F, is recommended.

3. Register of Deeds – Each county has a register of deeds whose offices are usually in the county courthouse. All documents related to land are, or should be, recorded in the register of deeds office. These include actual deeds, Declarations, plats, deeds of trust and similar documents. A landowner is presumed to have knowledge of all documents in his or her chain of title that are recorded with the register of deeds.

4. Plats – Generally, plats are surveys of property. Plats (surveys) were prepared by KPL as they developed property in Kenmure, including condominium developments. Plats describe one

or more lots, or in the case of condominiums, a section of condominium property. Plats are also recorded with the register of deeds.

5. Right-of Way – With regard to Kenmure, rights-of-way (ROWs) are strips of land that have been surveyed and reserved for Kenmure roads. ROWs are described on the various plat maps recorded with the register of deeds. ROWs vary from 60 feet to 30 feet wide in Kenmure and usually include ditches and up to 21 feet on each side of the paved surface. ROWs are owned or controlled by the KPOA, even though property owner driveways and other structures may be allowed on the ROW.

6. Common Elements – These include any real estate or other property within Kenmure owned or leased by the KPOA other than a lot. Easements “owned” by the KPOA are also considered to be common elements. Mainly, they include all the roads and rights-of-way, the security gate facilities and Rail Pen Gap Park. Of course, each condominium development has completely separate common elements that are owned by the unit owners in each condominium development. Condominium common elements should not be confused with common elements maintained by the KPOA.

7. KPOA Bylaws – These are the rules under which the KPOA non-profit corporation operates. The bylaws must be consistent with the Declaration and can neither contradict nor expand the Declaration. The bylaws can be recorded with the register of deeds but it is not necessary that the bylaws be recorded. See Chapter 55A of the NC statutes. Reading and understanding the KPOA Bylaws is also mandatory for KPOA Directors.

### C. Kenmure Development and the KRMHA:

Kenmure has been developed in six phases. (See Statistics and Facts, O. c., below for Phases, dates started and how to locate on maps.) Kenmure Phase I was developed by Vincent Romeo and Kenmure, Inc., beginning in 1979 (Phase I Declaration recorded). The first nine holes of the golf course opened in 1982. Vincent Romeo acquired a special use permit from Henderson County in 1982 to develop 210 condominiums on 232 acres that included the golf course as open space. Not all of those units were developed, so KPL still has a right to add additional units.

KPL was formed in 1985 to manage and operate the activities of Kenmure. KPL purchased 1,405 acres, more or less, from Vincent Romeo and Kenmure, Inc. in August 1985 (Deed book 664, page 341). This purchase included the land south of Pinnacle Mountain Road, which is now Phase V and VI. At that time, the major road was Kenmure Drive from the gate to the southern end of Greenleaf, then from the northern end of Greenleaf back to Winding Meadows, which was then a gravel road. All 18 holes of the golf course had been built by 1985 and there were seven houses in Kenmure.

The approximately 29 acres of fenced Estate on Overlook Drive, now known as the Rock at Kenmure, was originally owned by Vincent Romeo. It changed hands several times over the years from 1980 until 1998, when it was purchased by the Galloway's. It was never legally part of the Kenmure development until it was brought under the Kenmure Declaration in accordance

with an agreement between the Galloway's and the KPOA in March 2005. Today, lots in the former Galloway property are treated just like any other lot in Kenmure.

The Phase II Declaration was recorded at Book 697, Page 755 in May 1987. The most significant change in the Phase II Declaration was the addition of the KRMHA. Phase II did have a somewhat different set of Covenants from Phase I, a fact that became apparent when attempts were made to impose Phase II Covenants on residents of Phase I. An Amendment adding the KRMHA to the Phase I Covenants was recorded at Book 697, page 770 on the same date as the Phase II Declaration. However, without the agreement of the then current lot owners in Phase I, this Amendment applied only to Phase I lots owned by KPL. Obviously, the Phase I Declaration applied to some Phase I property owners and the amended Phase I Declaration applied to other Phase I property owners.

Although Vincent Romeo had acquired a special use permit to develop condominiums in 1982, the condo and villa areas, with the exception of Brookwood, were developed between 1986 and 1996 by KPL. Brookwood was developed between 1994 and 1999. Golfside I, Fairway Village I, and a number of lots and residences, were subject to the Phase I Declaration. The rest of the condominiums, along with lots and residences in Phases II, III, and IV, were subject to the Phase II Declaration. Insignificant amendments to the Phase II Declaration added Phases III and IV to that document. A third Declaration was recorded for Phase V in 2000. The Phase V Declaration differed from the prior Declarations, mainly due to various paragraphs related to the cottages. The main point to remember is that The Second Amended and Restated Declaration of Restrictive Covenants recorded in Book 1218, Page 682 in 2005 applies uniformly to all properties in Kenmure, including condominiums, and that all of the old declarations have been superseded. This was just part of what was accomplished by bringing Kenmure under the Planned Community Act. The current declaration applies to all properties in Kenmure.

The KRMHA was incorporated as a North Carolina non-profit corporation in February 1987. Due to the way that the KRMHA was set up under the Phase II Declaration, KPL had control over the Association by reason of the 3 to 1 voting rights it possessed. That is, KPL had 3 votes for every "Unit" (individual lot, condo or home) it owned while regular property owners had only one vote. The voting balance changed for the KRMHA Annual Meeting of 1999 when KPL lost its 3 to 1 voting rights under the terms of the Phase II Declaration.

Formal meetings of the KRMHA Board did not begin until 1989. Initially, there were three KPL members and two property owner members on the Board. One of the property owner members was elected as President, the other as Vice President. Bill Robinson, one of the KPL partners, was its Secretary/Treasurer until 1991, when KPL Director of Real Estate, Fred Bivens, replaced him for 2 ½ years. One of the early actions of the first KRMHA Board was to separate the budgets for road maintenance and security and garbage. In September 1989, the KRMHA created the first road inventory. This inventory included all of the rights-of-way for roads designated on the various recorded plat maps for Kenmure at the time.

The Board minutes of 1989, 1990 and 1991 indicate that most Board meetings were conducted with a quorum of two property owner Directors and one KPL Director. These early minutes do not indicate that the property owner Directors played a strong role in pre-construction

inspections or other approvals related to the rights-of-way. No doubt most of these activities were handled by Fred Bivens during his tenure. Fred was later replaced by Steve Orr in July 1993, but Steve was not a KRMHA Director. Al Beers joined the KRMHA Board meetings in November 1990 as the Financial Consultant and Chairman of the Finance Committee. Al brought discipline to the financial program of the KRMHA. He was instrumental in setting up the re-paving reserve program, among other things. During 1990, 1.75 miles of roads had been added for a total of 9.67 miles.

Note: From 1989 until 1998, the builder's fees and right-of-way restoration deposits were paid to KPL, along with building permit application fees and landscaping deposits. KPL then issued a check to the KRMHA for its share of the fees. After 1998, fees and deposits were paid directly to the KRMHA by a separate check from the builder or owner.

Note: The Kenmure security gate was first manned 24/7 on January 1, 1990.

The KRMHA had historically only accepted rights-of-way for roads that were designated on recorded plat maps for Kenmure. The Board made a specific determination in September 1991 that the KRMHA was only responsible for maintaining rights-of-way designated on recorded plat maps. These were the "dedicated" roads, or in their minds, the common roads. Access roads to various condominium developments were specifically excluded from KRMHA responsibility because they were not designated as rights-of-way on recorded plat maps. However, some rights-of-way for roads that were accepted for maintenance were over condominium owned property. These decisions would be controversial issues for years to come as Golfside IV pressed to have their access roads maintained by the KRMHA and KRMHA Boards became increasingly concerned that the KRMHA was maintaining roads in the condominium areas that it did not own or control.

KPL turned control of the KRMHA over to the residents in May 1996. That is, the KPL Directors resigned and three additional property owners were elected to the Board. Charlie Tindal was the President. In May 1996, Bill Robinson and Charlie signed an agreement between KPL and KRMHA regarding KRMHA acceptance of new roads. (That Agreement has now been replaced by a new agreement. See the KRMC Policies and Procedures.) In April 1997, KPL conveyed most of the roads and rights-of-way in Kenmure to the KRMHA by warranty deed. Condominium area rights-of-way and some sections of the right-of-way for Overlook Drive that appeared on the condominium plats were excluded from this conveyance. These rights-of-way had already been conveyed to, and were owned by, the unit owners of one or more of the various condominiums.

With regard to the condominium owned rights-of-way, the 1997 conveyance reads as follows:

Less and except from the operation of this conveyance all of those roadways within the confines and boundaries of Fairway Village I, Fairway Village II, Forest View, Golfside I, Golfside IV, Ridge View, Vantage Point, Woodlands, and Brookwood Village which, pursuant to those Condominium plats recorded in Condominium Cabinet located in the Henderson County, NC Register's Office at Slides 203, at pages 2A-G, Slide 215, at pages 1A-E, Slide 219, at pages 2A-E, Slide 231, at pages 4A-F, Slide 267, at pages 2A-H, Slide 277, at pages 4A-E, Slide 291, at

pages 3A-F, Slide 291, at pages 6A-E, Slide 293, at pages 3A-E (except Portion of Broadmoor Drive maintained by the Brookwood Village Condominium Owner's Association) Slide 303, pages 3A-E, and Slide 305, at pages 1A-F and Declarations of Condominium recorded in the Henderson County Registry, have been dedicated as common areas and therefore owned by the respective condominium associations. (Note: Unit owners actually own the common areas.)

Not included in the 1997 conveyance were all of the roads between Roxworth Court on Berry Creek Drive and Oak Lane on Tarnhill Drive. This section of Phase IV was still under development and had not been accepted by the KRMHA. KPL retained ownership and maintenance responsibility of the first 300' of right-of-way of Kenmure Drive off route 25, as well as the Country Club roads and parking lots. Ownership of the main gate with accompanying land was transferred to KPOA in 2009.

The KRMHA accepted all of the rights-of-way in the 1997 conveyance for maintenance. Thereafter, rights-of-way were accepted in accordance with the May 1996 Agreement specifications at the request of KPL. KPL gave a one-year warranty on roads accepted by the KRMHA. This warranty developed more from custom and practice than from a formal agreement between KPL and the KRMHA. It was the KPL practice to record plats of lots after roads were constructed and the final plats had been accepted by the Henderson County Planning Board. Thereafter, KPL began paying road maintenance fees for the lots described in the plats. Generally, KRMHA accepted roads in due course. However, this changed with the Brookwood development.

The KRMHA did not immediately accept roads in Brookwood because of the intense construction there. Consequently, KPL did not begin paying road maintenance fees until a condo or villa was completed. Road acceptance awaited the substantial development of Brookwood, sometime in 1998. At the time, KPL personnel were doing most of the maintenance on the roads and this arrangement did not cause a problem.

Until the 1998/1999 snow season, snow removal, sanding/salting and right-of-way maintenance had been accomplished using KPL personnel and equipment, mainly by Mike Fridl. However, KPL advised the KRMHA that its equipment was aging and that KRMHA should seek outside contractors to handle these tasks, particularly snow removal. This was done and a three-year contract to handle snow removal was signed with Fletcher Lawn and Landscaping in December 1999. There were only two responses out of 12 requests for bids to do the snow removal and lowest bid was selected. Leo Ramirez and his crew became the contractor of choice (working on an hourly basis) to do right-of-way maintenance, including mowing and leaf pickup. Due to the increasing miles of road and the increased building in Kenmure, costs for these services escalated significantly with the use of outside contractors. In 2002, Fletcher Lawn and Landscaping replaced Leo Ramirez for most right-of-way maintenance, mowing and leaf pickup. (SEE Update - 2024)

Comments from various past KRMHA Board members, and others who were around in the early years, indicate that the budget for right-of-way maintenance was consistently too conservative. Note the road maintenance fee history below. There were no increases in assessments from 1988 through 1996. Of course, KPL was providing low cost services to the KRMHA from 1988 until 1998. In addition, roads and rights-of-way were relatively new and less maintenance was



required. Regardless, this conservative approach left the KRMHA with some right-of-way problems that could have been fixed much earlier.

In addition, increased traffic and home building have caused more damage to some roads than was anticipated by the schedule for re-paving. This means the KPOA could be under reserved for some roads, but experience has shown that other roads are over reserved. A primary problem with some roads is that they were partially built on fill and not compacted sufficiently before paving was done. Another problem was that the shoulders were not wide enough or not stabilized. Both of these situations result in cracking in the pavement and roadway deterioration. This points to the need to do a better job of inspecting roads during the road construction phase.

A number of Kenmure residents have lived in the development since before 1995. Most of these individuals knew Bill Robinson personally. In those early years there was a concerted effort by both KPL and the residents to promote the development and bring in more residents and golf club members. During those early years, there may have been a more relaxed attitude about Covenants and new road acceptance. Consequently, roads that were accepted ten or more years ago may not be accepted without additional work now. Likewise, Covenant violations (primarily structures in the right-of-way) that were overlooked in the early years may not be approved in the future.

The above is not a criticism of long time residents, Bill Robinson, or KPL. That was just the way it was and it is important for new KPOA Directors and Committee members to know that history. The first developer of Kenmure was unable to make a go of it. It was not in anyone's interest to have that happen a second time. It is still very important to maintain a cooperative, business-like relationship with KPL. However, in recent years there has been added emphasis on "business-like." When approached in a constructive, cooperative way, KPL management has reciprocated and as a result, many problems have been solved, sometimes with financial support from KPL. It never hurts to ask.

Two facts are important to remember. First, road maintenance fees are for all the roads in Kenmure, not just for those leading to a particular lot or residence or for the road in front of a lot or residence. Second, the quality of the roads in Kenmure and the upkeep of the rights-of-way directly affect the value of ALL of the property in Kenmure. It is important to remember these facts because property owners sometimes forget them when they comment about assessments.

#### D. Kenmure Changes Under the PCA:

Prior to the vote by property owners to bring Kenmure under the NC Planned Community Act in 2002, KPL basically controlled all aspects of the Kenmure development except for the roads and rights-of-way owned or controlled by the KRMHA. Only KPL could amend the Kenmure declarations and even their power to do so was limited. Due to the way Kenmure was developed, the legal documents, declarations, plats and some deeds, were a patchwork of inconsistent and sometimes conflicting instruments that were full of errors and vulnerable to challenge, particularly with regard to covenant enforcement. The dispute over the condo access roads (described below) was just one example of inconsistent legal documents and inconsistent development plans. The problems with the legal documents could be particularly onerous if

KPL had decided to sell its interest in Kenmure and a new developer took over. There was even the possibility that KPL or a new developer would expand Kenmure beyond the original 1,405 acres. In fact, the original Phase V Declaration lowered the building size restrictions for Phase V and implied that KPL intended to add more property to the Kenmure development. Until these Phase V changes were discovered by the PCA Committee, property owners were not even aware of them. No criticism of KPL is intended by the above comments. They were just developers doing what developers do, trying to sell property and keep their options to do so open. All of the above problems were solved or eliminated when Kenmure was brought under the NC Planned Community Act and the Amended and Restated Declaration was recorded. Only a small number of property owners truly understand how important it was to bring Kenmure under the Planned Community Act and how it enhanced property values.

The KRMHA Board (five members) did the hands on management of road maintenance and maintained the reserves for future re-paving. It is worth noting that KRMHA did have a paid, part time engineer who handled many of the day to day contacts with contractors and property owners. However, the KRMHA Board was responsible for many of the functions that the KPOA now performs, including collecting assessments, holding annual meetings, communicating with property owners, and maintaining accurate records. It was the only Kenmure property owner's organization from 1987 until the end of 2002. However, it was directly controlled by KPL until 1996 and indirectly controlled by KPL until 1999.

The KHOA was a volunteer member organization that collected a \$10 fee from members each year and had a seven-member Board. The function of the KHOA was to promote quality of life issues in Kenmure, like Rail Pen Gap Park. The KHOA had no legal authority to control or manage any aspect of the Kenmure community except Rail Pen Gap Park, which KPL had deeded to the KHOA. However, the KHOA and its various Directors over the years accomplished many valuable projects for the Kenmure community. With the merger of the KRMHA and the KHOA, Rail Pen Gap Park became the property of the KPOA.

The security/garbage and architectural review functions were probably handled exclusively by Kenmure, Inc. prior to 1985. There were only a few residents in Kenmure so not much effort was required. KPL appointed property owner committees to work with them in managing these functions, probably beginning in 1988 or later. Assessments for security/garbage were collected by KPL. However, the KPL appointed Security and Garbage Committee maintained a budget and participated in decision making and perhaps contract negotiations. Of course, security and garbage collection are handled by contractors.

KPL handled most contacts with builders and property owners with regard to architectural review before 2003. Steve Orr was the KPL contact person. Steve brought builder's plans to the Architectural Review Committee for consideration. However, KPL had the decision making power, sometimes exercised without consulting the Committee. KPL is in the business of selling property, including "view lots." In the process of selling property, KPL sales representatives sometimes made promises to existing and prospective lot owners that amounted to variances from the covenants. Many of these promises involved tree cutting to achieve a view. Some of the promises involved structures on the right-of-way. Over the years, property owner members of the Architectural Review Committee had various levels of involvement in the review process.

Some took very strong positions, particularly on the tree cutting issues. Others more or less went along with KPL's position on an issue or deferred to KPL decision making. In any case, all that is in the past. The primary decision making will be done by the KPOA, acting through its appointed KARC.

The KPOA derives its substantial authority from the NC Planned Community Act and the Amended and Restated Declaration which applies to all Kenmure property owners and all Kenmure properties. It owns or controls all rights-of-way for roads in Kenmure, including the security gate. It is responsible for enforcement of covenants and future amendments to the Declaration, although amendments to the Declaration must be approved by 67 % of property owners. It appoints all committee members of the KARC, KRMC and KSGC and oversees the activities and decisions of those Committees. It has fining powers to enforce the covenants and rules and regulations it promulgates. The KPOA is not a voluntary organization or a political organization. It is the property owners organization charged with the responsibility of carrying out the requirements, and enforcing the restrictions of the Declaration for the benefit of all property owners. It will be impossible for the KPOA Board to make all property owners happy in the process of performing its duties.

#### E. Condominium Access Roads and Rights-of-Way:

There are nine condominium associations in Kenmure, as described below. These condo developments are on a contiguous tract of land that extends from the corner of Kenmure Drive and Winding Meadows Drive near the Sales Office north toward the Carl Sandburg property. Over the years, the KRMHA Boards were troubled by the fact that the KRMHA did not own the rights-of-way in the condominium areas that the KRMHA was maintaining. They had been assured by the KRMHA consulting engineer that the KRMHA had "control" over the rights-of-way in the condo areas and those associated with every other road that the KRMHA had accepted. This theory is derived from the fact that when the State "accepts" a public road in a sub-division for maintenance it assumes control over that road and right-of-way even though the road has not been "conveyed" to the State. However, this theory does not apply to private roads.

The KRMC is not responsible for all of the paved surfaces in the condominium areas, just the main roads (rights-of-way) running through them. More specifically, certain access roads off Overlook Drive were not historically part of the KRMHA inventory of roads to be maintained, patched or re-paved. Neither were several loop drives that provide access to condo or villa units. However, sections of Overlook Drive from Winding Meadows Drive to just east of the cart path crossing between 16 and 17 fairways were originally deeded to unit owners of four different condominiums, Golfside I, Golfside IV, Ridgeview and Fairway Village II. In fact, all of the rights-of-way in the condominium area have been deeded to the unit owners of one condominium or another. Roughly, this includes all roads in the condominium area north of the golf course except Winding Meadows Drive and Kenmure Drive. There is also a short stretch of Broadmoor Drive from the 16<sup>th</sup> tee box to the end of that road near the 15<sup>th</sup> fairway that was not deeded to the Brookwood Village condo association.

Over the years beginning around 1991, there developed a controversy between unit owners of Golfside IV and the KRMHA regarding responsibility for access roads to Golfside IV units.

These access roads were not designated as rights-of-way on the various plat maps. However, they were similar to other condo access roads that were designated as rights-of-way on the plat maps and maintained by the KRMHA. This controversy again surfaced after the KPOA was formed. Golfside I joined Golfside IV in requesting that their access road, Golfside Drive, be maintained by the KPOA.

As a result, the KPOA Board appointed a Committee to investigate the condominium access road issue and make recommendations. On July 21, 2003, the Committee presented a report to the KPOA Board with its recommendations. The Report of the Condominium Development Road Maintenance Resolution Committee is very detailed and is available in the KPOA files for further review if necessary. The Committee determined that the KPOA must acquire conveyances, leases or easements for all rights-of-way in the condominium area.

In August 2003, the KPOA Board made its decision. As a result, certain access roads and loop drives (Golfside IV and Fairway Village I) were surveyed and recorded as rights-of-way. Driveways and parking areas were not included. Golfside I declined to participate and will continue to maintain Golfside Drive. After the surveys were recorded, the KPOA began maintaining those roads in accordance with Easement Agreements signed by the KPOA and the involved condominium associations. All condominium associations that have rights-of-way over their condominium property have also signed Easement Agreements with the KPOA. These Agreements are recorded. Thus, this issue has been settled permanently. The bottom line is that the KPOA is still only responsible for the rights-of-way as described on the plats recorded in the Henderson County Register of Deeds.

#### F. Cottage Areas:

There is one homeowner's association in the cottage area and there could be more. The cottages are not condominiums, although the sidewalks could be considered as common elements. The sidewalks were approved by the KRMHA but the KPOA is not responsible for snow/ice removal or any other maintenance of the sidewalks. The State has an easement over the tunnel under Pinnacle Mountain Road and will maintain that road. The tunnel façades may also be the responsibility of the State. However, the State may not choose to maintain the tunnel façade at the same level that Kenmure residents would want. Eventually the KPOA may have to play some role in the maintenance of the tunnel façade.

KPL had the right to maintain control over the cottage homeowner's associations for three years or until 60 % of the units in an association had been built. In 2003, the Cottage Association was formed and control turned over to the cottage owners. The function of the Cottage Association is to maintain lawns, developer planted landscaping and the sidewalks. The Cottage Association and the KPOA are completely separate associations and cottages are simply lots with residences, just like other lots in Kenmure.

### G. Rights-of-way:

Rights-of-way questions come up frequently in various decisions being made by the KRMC. They vary in width from 30' to 60', but most are at least 45'. The roads were not always cut down the center of the right-of-way. Consequently, the surveyed right-of-way could be 12 feet on one side of the road and 30 feet on the other. It may be possible to find the surveyor's iron stake to more precisely determine the right-of-way width. These should be at the corner of each lot. As a practical matter, the KRMC should assume that the road was cut down the middle of the right-of-way, with an equal amount of right-of-way on each side, depending on how wide the right-of-way is. If the right-of-way is 45', there should be approximately 14 feet on each side.

Phase I roads all have a 60' right-of-way. Later phases vary, with some minor roads having 45' or 50'. It is possible to get some idea of the width of the right-of way from the small colored maps of Kenmure. Obviously, those with a 60' right-of-way look wider than those with a lessor right-of-way. The actual rights-of-way for all roads and cul-de-sacs in Kenmure are recorded in a data base called, "Road Survey – 2001." The KRMC has a copy of this document and it is stored on a floppy disk in the KRMHA files at the Sales Office, along with the master file for the policies and procedures. It is imperative that the Road Survey, the policies and procedures and this history be continuously updated.

NOTE: While the right-of-way widths in the Road Survey – 2001 data base are believed to be correct, if a legal question about a given right-of-way is raised, go to the Register of Deeds office and review the plat on which the right-of-way appears.

The unpaved parts of rights-of-way present some of the most significant challenges to be faced by the KRMC. There are rights-of-way that are maintained by the KRMC. Primarily this maintenance involves mowing, but ditch and drainage maintenance may be required too. Then there are rights-of-way that are maintained by the resident. Typically, these rights-of-way have grass planted up to the edge of the road, but some have rather elaborate landscaping. Last, there are those rights-of-way bordering the resident's property that have expensive landscaped ditch work, like rip rap, and the resident expects the KRMC to perform necessary maintenance. KRMC policies need to be developed for handling these situations, although case by case is probably the only approach.

In all cases, when roads are re-paved, the level of the road is raised and shoulder work may be necessary to prevent drainage problems, including large quantities of water flowing down resident driveways. In all cases, re-paving reserves should include an amount per square yard that will cover necessary shoulder work. Where a resident's property is directly effected, that cost could be significantly higher. The re-paving reserves after 2001 included an amount per sq. yard (20 cents) for necessary shoulder work. This amount should be reviewed and updated every year.

### H. Non-Standard Roads:

Northland Court has a nonstandard right-of-way (30') because it was not originally designed to be a main access road to the adjacent lots. It was called an alley. However, Northland Court was

accepted by the KRMHA after the paving was widened to 18'. This acceptance was determined to be in the best interests of the parties involved. The KRMC member in charge of inspections will have to review building plans and prevent structures closer than 6' from the road. This also means that as a practical matter the KRMC is not responsible for maintaining the Northland Court right-of-way beyond 6'.

There are several other non-standard roads in the KRMC inventory. Forrest View Lane is one of these roads. In fact, it may not be correct to call Forrest View Lane a road. It is more like a driveway that gives access to a number of condos and villas. Overlook Way has a non-standard cul-de-sac. Claymoor Court is not even close to standard. It is the first left in Brookwood Village and is only about 12' wide with curbs on both sides. In fact, Claymoor is not even a court. It is one way with an entrance and an exit. The newly surveyed condo access roads in Golfside IV and Fairway Village I are also non-standard.

#### I. Acceptance of New Roads:

Most if not all of the new roads in Kenmure will be in Phase VI. KPL will no doubt seek KRMC acceptance of new roads as quickly as they can after those roads are completed and lots are offered for sale. The process is really in KPL hands. That is, KPL decides when roads will be paved and when the rights-of-way will be brought up to standard. They must initiate the acceptance process with a written request and the engineer's certification. This process has been rather casual at times in the past. However, since KPL has been paying road maintenance fees before the road is accepted, and the one year warranty does not begin to run until a road is accepted, they have an interest in getting roads accepted as quickly as possible.

Here is how the process works: New development is approved by the Henderson County Planning Board (HCPB) in Phases V and VI. It proceeds in several stages, but the final stage is approval of a final plat after improvements, like roads, have been made. A final plat usually includes 11 or more lots, which is called a "Major Sub-division." (It would be a good idea to ask KPL to provide the KRMC with a plat map when that plat has been approved by the HCPB and again after the plat has been recorded. That way, records can be updated, like right-of-way widths, and the KRMC can anticipate a request for road acceptance.) KPL will have 60 days to record the lots in a final plat, after which they will begin paying road maintenance fees on each of those lots. If KPL wishes to speed the acceptance process, they could submit a written request for acceptance to the KRMC at the same time they seek approval of the final plat. The KRMC would then have 60 days to accept or reject the road. If the road meets the specifications, KPL would achieve acceptance of a road or roads at about the same time they would have to begin paying road maintenance fees. See the KPL/KRMHA Agreement in the KRMC Policies and Procedures for more specifics.

The KRMC is responsible for accepting roads and rights-of-way in a timely manner and should do so. However, roads should not be accepted without careful inspection. New roads must meet KRMC specifications. Shoulders and other aspects of the unpaved right-of-way are an important part of the inspection. Narrow and/or steep shoulders usually result in future pavement deterioration. Ineffective drainage will also result in future problems, either with the paved portion of the road or with erosion of the right-of-way. Dead trees on the right-of-way, or

adjacent lots, will have to be removed at some point in time. These problems must be corrected BEFORE a new road is accepted.

#### J. Reserving (SEE Update - 2024):

One of the most important functions of the KPOA Board is to provide adequate funding each year for current expenses and re-paving reserves. Each year a certain portion of the revenue collected from assessments and other fees is set aside as a reserve for future re-paving requirements. As of 2002, that amount included an estimated 20 cents per square yard to pay for the necessary shoulder work. The reserve per square yard is increased every year by an adjustable inflation factor (4% for 2002). When a new road is added to the inventory, the amount of necessary reserve increases. When a road is re-paved before the year that it is scheduled to be re-paved, the amount of necessary reserve increases. Consequently, accurate measurements and accurate records are vital in determining the necessary reserve.

Periodically, questions arise as to just what type of repaving expenses can be covered by the repaving reserves? Although a formal legal opinion has not been given on this subject, this writer is confident that such an opinion would state that the repaving reserves may be used for any repaving and associated right-of-way maintenance, regardless of what necessitated the repaving. The cause could be storm damage, drainage problems or scheduled repaving. The cause is not a consideration. The Declaration does not allow the use of repaving reserves for patching, periodic stripping and other standard yearly maintenance.

#### K. Litigation:

Over the years the KRMHA was involved in several litigation situations. Most of these involved residents who had taken some action contrary to the Covenants. One involved damage to a resident's vehicle when he ran off the road, one involved a curb on the right-of-way and one involved a brick mailbox stand in the right-of-way. It is best to avoid litigation if possible. It is expensive and does not always result in the outcome desired. The way to avoid litigation is to prevent the situation for occurring in the first place. This is accomplished by regularly and frequently communicating the restrictions on placing structures in the right-of-way. Another way is to conduct the inspections of new homes carefully. Perhaps the most important way is to meet with the resident when the problem surfaces and discuss a reasonable solution to the situation.

#### L. Residential Lot and Family Dwelling Unit Assessments:

Although it is possible that assessments were charged by Kenmure, Inc. between 1980 and 1985, Vincent Romeo states that he doesn't remember that any were charged and no evidence exists that they were. The current records for assessments begin in 1986. These records are primarily purchase contracts and closing records for property sales by KPL in 1986 and after. The following provides some history.

In the 1979 Phase I Declaration (the, "Original Declaration"), security/garbage and road maintenance assessments were combined. Residential Lot (lot) assessments were specified as

\$600 and Family Dwelling Unit (residences) assessments as \$1,200. Residences include condominiums and lots with homes. The developer had the right to increase assessments 8 % per year on a cumulative basis. After KPL assumed control in 1985, records show that they assessed lots at \$180 and residences at \$480 per year in 1986 and did not change these assessments until 1990, when 24 hour security began.

In the 1987 Phase II Declaration, formed the Kenmure Road Maintenance Homeowners Association (KRMHA) and security/garbage and road maintenance assessments were separated. Lot assessments and residence assessments for road maintenance were specified as \$480. Lot assessments for security/garbage were specified as \$300 and residence assessments as \$480.

However, for 1988, lot assessments for road maintenance were set by the developer to be \$63 and residence assessments to be \$168. Lot assessments for security and garbage were \$117 and residence assessments for security and garbage were \$312. Obviously, these assessments were far below, and not in the proportion, to assessments as specified in either the Phase I or Phase II Declarations.

Sometime in 1989 or early 1990, KPL established the Security and Garbage Committee that included property owner members. Unlike the KRMHA, this was an informal committee that had no official status under the 1987 Declaration. KPL did not initially pay security/garbage assessments on lots it had developed, only road maintenance assessments. However, at some point in time the property owner members of the Security and Garbage Committee convinced KPL that they should pay security/garbage assessments too.

There are some very obvious results flowing from the early assessment decisions. First, the low lot assessments encouraged lot sales. In fact, the assessments for residences were far below levels allowed by the Declarations. Second, KPL assessments for their lots were kept low too. Third, the 1986 ratio of lot assessments to residence assessments continued up through 2003 even though it became obvious several years earlier that lot assessments for road maintenance were inadequate. As indicated above in other sections, road maintenance assessments are for maintenance of all the roads and have nothing to do with which roads are used or how much they are used.

When Kenmure was brought under the Planned Community Act in 2002 and an amended Declaration was recorded in 2003, the 8 % per year on a cumulative basis language was retained as indicated in the first paragraph above. One reason for retaining this language was to avoid making any more changes to the old declarations than were absolutely necessary. The other reason was a perception that property owners would object if all caps were removed from assessment increases. Many property owners associations do not have a cap on assessment increases.

The 2003 Declaration also provided that the KPOA Board may “adjust” the assessments specified for Residential Lots and Family Dwelling Units. What did that mean? It meant that the KPOA Board could change the ratio of Residential Lot assessments to Family Dwelling Unit assessments, which the Board gradually began doing in 2004. Lot assessments have now been



established as 75 % of Family Dwelling Unit assessments. Development Lot assessments could be increased but could not be adjusted from the levels set in the Declaration.

Although the 2013 Third Amended Declaration retained the 8% language, the cumulative language was deleted and the ratio of lot assessments to residence assessments was set at 75%. Development lots now pay the same assessments as residential lots.

Note: When a lot owner owns an adjacent lot, two separate fees are paid unless the lots are "combined." KPOA allows the separation of previously combined lots on a case by case basis. The County will allow separation under certain conditions.

#### M. Records and Documentation:

The information in this History and Facts has been accumulated by hundreds of hours of research. Mainly, this research involved reading all of the available minutes and correspondence of the KRMHA and talking with KPL, past KRMHA Presidents and others. It also contains a fair amount of legal research. The other major asset that hopefully is still available to the KRMC and the KPOA Board is the database entitled "Road Survey – 2001," which is referenced in paragraph G, Rights-of-Way, above. A third major asset is the KPOA Policies and Procedures Manual. A fourth major asset should be the KPOA files, including, but not limited to the minute files, but this asset needs further development.

The KPOA Secretary is mainly responsible to insuring that these assets are maintained and further developed, but he or she needs lots of help. For example, verbal agreements with residents are not frequently documented so they do not find their way into the files. The Road Survey – 2001 will be of no value if it is lost to future Boards and of less value if it is not updated at least yearly by the KRMC. The same is true of this History and Facts. The KRMHA, now KPOA, filing system has not been developed sufficiently and has not been maintained as it should be. The KPOA needs dedicated office space and a dedicated assistant to take care of its records and other administrative needs.

#### N. Glenroy Heights:

In 1994, KPL conveyed a large section of Phase IV to a partnership, Lotus-Kenmure. Lotus-Kenmure was succeeded by another partnership, Phoenix-Kenmure. The genesis of these companies is not important for this history. For simplicity, the current marketing company for this group of partnerships and companies, the Phoenix Land Company (PLC), will be used to represent all of these entities. PLC had an option to buy a second adjoining section and did so at a later date, probably 1996. These sections on the southwest corner of Kenmure were developed by PLC (Steve Ambrose) as Glenroy Heights and contained approximately 43 lots when the second section was included. Various lots in Glenroy Heights were combined or redrawn to reduce the development to 39 lots. These lots and the roadways in this section are subject to the same covenants and restrictions as other properties in Kenmure.

Initially, the PLC built roads, the main road being Founder's Drive from Beckwood Court to just beyond Wythe Court. At that time, PLC was not allowed to sell lots unless a home was built on

that lot. An agreement between KPL (Bill Robinson) and PLC dated August 12, 1994, "certified" that no road maintenance, security/garbage or other association fees would be due and payable from PLC on the subject property until, "the lots composing the subject tract are recorded on a subdivision plat in the Henderson County Register of Deeds Office." Efforts by the then KRMHA President Art Butler to collect road maintenance fees in March 1995 failed. From the correspondence, it would appear that Bill Robinson was also involved in trying to collect fees in 1995, probably for security and garbage. Although Mr. Butler canceled the invoices he had sent to PLC in October 1995, the first 10 lots in Glenroy Heights were recorded as a single plat in November 1995 and PLC began paying road maintenance fees on lots in its inventory beginning that month. At the end of 1998, PLC was still paying road maintenance fees on 8 of the original 10 lots recorded. In January 1999 an Agreement was signed between KPL and PLC which allowed PLC to sell lots without homes. Sometime in early 1999, PLC sold lot H-2, previously unrecorded, to an adjacent property owner on Bellshire Drive. H-2 was combined with the Bellshire lot and a new plat recorded. On May 5, 1999, PLC recorded a plat with three more lots that were adjacent to the original 10 lot plat, one of which remained in PLC inventory at the end of 1999. There after, PLC commenced a practice of recording lots one at a time as they were sold. A total of six additional lots were recorded in single lot plats between May 1999 and October 2001.

The road maintenance fee issue resurfaced in 2001 after the remaining lots in Glenroy Heights were developed. While in the process handling PLC's request to accept the last section of Founder's Drive, including Ambrose Court, the KRMHA discovered that no road maintenance fees were being paid by PLC on unsold lots on Founder's Drive from Blackstone to Bellshire, including several lots on Blackstone Court. There were 19 unrecorded lots in this section as of the end of 2001.

Note: A 1996 Plat map entitled "1996 Kenmure Road System, KRMHA" indicates that the only section of roads which the KRMHA had accepted in Glenroy Heights was that section of Founder's Drive from the entrance of the development at lot A-136 to just beyond Wythe Court. There is evidence to indicate the KRMHA accepted Founder's Drive from Wythe Court to and including Blackstone sometime in 1999.

The road maintenance fee issue with PLC was settled in 2002 with an agreement that included KPL. There is only one remaining unsold lot in Glenroy and it will not be subject to assessments until it is sold.

O. Statistics and Facts (SEE Appendix – 2024):

a. Unit Count (as of September 1, 2010):

170 Lots (This includes all platted lots regardless of ownership)  
196 Villas and Condos (14 more units are allowed under old development approvals)  
460 Homes and Cottages  
829 (This number will increase as Phase VI is developed.)

In addition, there are two lots within Phase IV of Kenmure that are not platted. One belongs to KEI and is located on Elmridge Drive and the other is owned by Kenmure Phoenix and is located on Founders Drive.

The potential total number of lots in Kenmure once fully platted will be approximately 860 to 870.

b. Presidents KRMHA and KPOA:

Dick Deneke (Director 1989, First President, 1989)	Only 2 property owner Directors
Jim Lecocq (Director 1989-1990, President, 1990)	“ “ “ “
Lou Bernst (Director 1990-1991, President 1991)	“ “ “ “
Bob Ogden (Director 1991-1992, President 1992)	“ “ “ “
Roger Hulette (Director 1992-1993, President 1993)	“ “ “ “
Ed Destremps (Director 1993-1994, President 1994)	“ “ “ “
Art Butler (Director 1994-1996, President 1995)	“ “ “ “
Charlie Tindal (Director 1995-1996, President 1996)	5 Property Owner Directors
Doug Wilder (Director 1996-1998, President 1997-1998)	“ “ “
Nick Weedman (Director 1998-2000, President 1999-6/00)	“ “ “
Carl Simmons (Director 1999-2001, President 6/00-5/01)	“ “ “
Ron Davis (Director 1999-2001, President 6/01-12/01)	“ “ “
Paul Couvillion (Director 2001-2003, President 2002)	“ “ “
Nick Weedman (KPOA President 2003)	7 Property Owner Directors
Dirk Wilms (KPOA President 2004)	“ “ “
Alice Soder (KPOA President 2005)	“ “ “
Larry Rostetter (KPOA President 2006)	“ “ “
Les Christensen (KPOA President 2007)	“ “ “
Jim Mosakowski (KPOA President 2008)	“ “ “
Richard Johannes (KPOA President 2009)	“ “ “
Kathy Meersman (KPOA President 2010)	“ “ “
Linda Mensch (KPOA President 2011)	" " "
Bob Wilson (KPOA President 2012)	“ “ “
Dick Brown (KPOA President 2013)	“ “ “
Allen Van Ostenbridge (KPOA President 2014)	“ “ “
Ron Thornton (KPOA President 2015)	“ “ “

c. Phases – Refer to the small colored maps in the Sales Office:

Phase I – Pink or Rose color on map, center of development – 1979.

Phase II – Dark green on map, northwest section – 1987.

Phase III – Light yellow on map, north central section – 1989.

Phase IV – Blue on map, south section – 1990. Light blue/gray is Glenroy Heights.

Phase V – Light green on map, south of Pinnacle Mountain Road – 2000.

Phase VI – Kemmure maps no long show colors, only future development – 2005

d. Condominiums:

Fairway Village I

Village II

Forrest View

Golf Side I

Golf Side IV

Ridge View

Vantage Point

Woodlands

Brookwood Village

Note: Each condominium has a Declaration and an Fairway association that is responsible for maintaining common elements, like exteriors of buildings, paved surfaces (except those designated as rights-of-way on the plat maps), lawns, landscaping, etc. The condominium common elements are owned by the unit owners of the condominium, not by the condominium association. That is, each unit owner has an undivided fee simple ownership interest in the common elements of his, her or their condominium.

e. Other Associations: Cottages at Kenmure (there may be more than one of these, and they are not condos.) Glenroy Heights Home Owner’s Association manages entrance areas to Glenroy Heights.

f. Road Maintenance Fee History:

	Actual Assessments	
	<u>Residence</u>	<u>Lot</u>
1986	\$168	\$63
1987	168	63
1988	168	63
1989	168	63
1990	168	63
1991	168	63
1992	168	63
1993	168	63
1994	168	63
1995	168	63
1996	168	63
1997	190	70
1998	230	85
1999	230	85
2000	250	92
2001	270	100
2002	310	115

Note: KPL collected assessments prior to 1988 and they were not separated between Road Maintenance and Security and Garbage as they are in these tables.

g. Security and Garbage Fee History:

	Actual Assessments		
	<u>Residence</u>	<u>Lot</u>	
1986	\$312	\$117	
1987	312	117	
1988	312	117	
1989	312	117	
1990	386	147	Increase: Security gate manned 24/7
1991	480	192	
1992	480	192	
1993	480	192	
1994	480	192	
1995	480	192	
1996	480	192	
1997	500	200	
1998	500	200	
1999	500	200	
2000	470	190	
2001	470	190	
2002	500	200	

h. Combined Assessments Under KPOA (See Note-2)

	Actual Assessments		
	<u>Residence</u>	<u>Lot</u>	
2003	870	351	
2004	885	417	Note: Beginning in 2003 Assessments for Road Maintenance and Security and Garbage were combined and the KPOA Board began adjusting the ratio of Lot Assessments to Residence Assessments over a three year period to bring them more in line with the realistic burden lots should bear for road maintenance and security.
2005	907	482	
2006	870	570	
2007	960	675	
2008	999	725	
2009	980	735	
2010	980	735	
2011	1,030	773	
2012	1,100	825	
2013	1,125	844	
2014			
2015			

i. Historical Re-paving Costs per Square Yard:

1993	\$1.79	One inch overlay
1995	2.87	One and one half inch overlay begins
1996	2.95	
1998	3.115	

2000 4.02  
 2003 3.36

j. Director Liability and Insurance:

KRMHA Directors are covered by a Directors and Officers Policy up to a total of \$2 million. North Carolina Statutes (Chapter 55A-8-60) provide civil liability monetary damage immunity for directors and officers of nonprofit corporations, except to the extent covered by insurance. This immunity covers any act or failure to act arising out of this service (as director or officer) so long as he or she:

1. is not compensated beyond reimbursement for expenses,
2. was acting within the scope of his official duties and in good faith,
3. did not commit gross negligence or willful or wanton misconduct,
4. did not derive an improper personal financial benefit from the transaction, or did not incur the liability from the operation of a motor vehicle.

k. Historical Builder's Fees and Deposits:

	Total Fee	KPL Fee	KRMHA Fee	Returnable Deposits	
				KRMHA ROW Restore	KPL Landscaping
1989	\$1,000		\$500	\$500	
1990	1,000		500	500	
1991-					
1995	1,500		1,000	500	
1996	1,500	500	500*	500	500
1997-					
2000	2,000	250	750**	500	500
2001	2,500	500	1,000	500	500
2002	3,500	500	1,500	1,000	500***
2003 ~					
2007	\$4,500	\$500	\$1,500	\$2,000	\$500
2008	\$4,500	\$500	\$1,500	\$2,000	\$500
				\$4,000 (new builder only)	
2009	\$4,500	\$0	\$2,000	\$2,000	\$500
				\$4,000 (new builder only)	
2010	\$4,500	\$0	\$2,000	\$2,000	\$500
				\$4,000 (new builder only)	
2011	\$4,500	\$0	\$2,000	\$2,000	\$500
				\$4,000 (new builder only)	

\*KPL decided to retain \$500 for its expenses in processing applications.

\*\*KPL decided to keep only \$250 for its expenses in processing applications.

\*\*\*This increase was effective in December 2001.



KENMURE PROPERTY OWNERS ASSOCIATION

# **UPDATE – 2024**

**by Long Range Planning Committee**

**November 11, 2024**

## **Snow Removal & ROW Maintenance**

**Snow Removal.** Until the 1998/1999 snow season, snow removal, sanding/salting and right-of-way maintenance had been accomplished using KPL personnel and equipment, mainly by Mike Fridl. However, KPL advised the KRMHA that its equipment was aging and that KRMHA should seek outside contractors to handle these tasks, particularly snow removal. This was done and a three-year contract to handle snow removal was signed with Fletcher Lawn and Landscaping in December 1999. There were only two responses out of 12 requests for bids to do the snow removal and lowest bid was selected. In the summer of 2014, Fletcher notified KPOA that it was exiting the snow removal business. Fletcher recommended Campen replace them and after further search for other options by the KRMC, Campen was placed under contract in the fall of 2014. In the summer of 2022 Campen notified KRMC that it needed to significantly increase its fees so KRMC explored other contractors and in the fall of 2022 placed Tarheel Paving under a 5-year contract. Prior to Tarheel's contract, under an annual contract between KPOA and KEI/Kenmure Country club, grit/sand was stored at the Kenmure Country Club golf course maintenance shed. The snow removal contractor also used KCC equipment to load the grit/sand into its trucks. Under the Tarheel contract the grit/sand is stored at Tarheel's facilities in Hendersonville. See *below, KPOA Storm Expense History (2004-2023)*.

**Right-of-Way.** In 1998/1999, Leo Ramirez and his crew became the contractor of choice (working on an hourly basis) to do right-of-way maintenance, including mowing and leaf pickup. Due to the increasing miles of road and the increased building in Kenmure, costs for these services escalated significantly with the use of outside contractors. In 2002, Fletcher Lawn and Landscaping replaced Leo Ramirez for most right-of-way maintenance, mowing and leaf pickup. In 2014, Fletcher notified KRMC that it was no longer interested in continuing the services. The KRMC interviewed and received bids from 7 firms and selected ProScape, Inc. to perform mowing, shoulder maintenance and leaf removal services. ProScape's contract began in early 2015.



KPOA  
Storm Expense History

	Expense	Reserve Charge	Total Cost
2023	\$ 55,000		\$ 55,000
2022	\$ 85,287		\$ 85,287
2021	\$ 44,643		\$ 44,643
2020	\$ 36,675	\$ -	\$ 36,675
2019	\$ 20,983	\$ 1,100	\$ 22,083
2018	\$ 47,000	\$ 15,883	\$ 62,883
2017	\$ 45,000	\$ 19,427	\$ 64,427
2016	\$ 40,000	\$ 48,365	\$ 88,365
2015	\$ 40,000	\$ 9,757	\$ 49,757
2014	\$ 40,000	\$ 15,365	\$ 55,365
2013	\$ 23,570		\$ 23,570
2011	\$ 8,755		\$ 8,755
2010	\$ 30,995		\$ 30,995
2009	\$ 141,952		\$ 141,952
2008	\$ 61,622		\$ 61,622
2007	\$ 24,551		\$ 24,551
2006	\$ 19,272		\$ 19,272
2005	\$ 10,540		\$ 10,540
2004	\$ 36,906		\$ 36,906
	\$ 60,512		\$ 60,512
		Average	\$ 49,158

10-year average

\$977,318 \$97,732

## KPOA Reserve Accounts

The Kenmure Declaration and KPOA Bylaws require the establishment of the Road Repaving Reserve Account and Other Reserve Accounts. The basic purpose of Other Reserve Accounts is (1) to provide adequate funds, when needed, for capital improvement repairs, restoration, renovation or replacement, and (2) to avoid a special assessment of the membership when large expenses are incurred.

The Road Repaving Reserve Account is calculated annually: “Each year KPOA shall collect and add to the current Road Repaving Reserves, an amount of money for each Road Segment that shall be calculated as follows: Cost of Repaving that segment divided by the Useful Life of that segment. ...” *Kenmure Declaration*, 35E.

KPOA Bylaws, Paragraph 10.6(b) reads “Other Reserve Accounts. The Board may establish other reserve accounts for expenses due to unusual storm damage, other road maintenance and repair, capital equipment replacement and other Common Element repair and replacement, at its sole discretion.”

In 2018, at the direction of the KPOA Board, the Long Range Planning Committee reviewed KPOA’s existing reserve accounts (other than the Repaving Reserve) and made the following funding recommendations:

Admin Reserve	\$100,000 (12% of expenditures)
Office Reserve	\$29,000
KCC Acquisition Reserve	\$50,000 (this reserve was folded into Admin in 2020)
General RMC Reserve	\$51,000 (35% of RMC’s Annual Budget)
Storm Reserve	\$100,000

For more detailed information, see LPRC’s report, [KPOA Reserve Accounts](#).

As of 2018, the Road Repaving Reserve balance was \$1,381,000.

As of January 2024, current reserves and balances were:

General Administrative Reserve	\$ 129,381
General Capital Reserve	\$ 110,682 (formerly Office Reserve; now includes all capital expenditures)
General RMC Reserve	\$ 136,744
Storm Reserve	\$ 100,000
Repaving Reserve	\$1,563,173

## KPOA Surveys – 2020 & 2023

In 2020 and 2023, KPOA conducted a survey of KPOA property owners. The purposes of these surveys were similar. (BOLD & Strikeout=2023)

- To evaluate how KPOA can make Kenmure **an even** better place to live, enhance the quality of life, and maintain and **preferably** increase property values over time.
- To develop a strategy and set priorities for future plans.
- To understand our demographics and levels of satisfaction with our current services and amenities.
- To gather strengths and buying decision criteria for ~~potential future promotion~~ **residents here 3 years or less to follow changing trends.**

Both surveys asked questions pertaining to

Demographics of Kenmure Property Owners  
Would You Recommend Kenmure  
Satisfaction with Living in Kenmure  
Satisfaction with KPOA Committees  
Enhance Living at Kenmure  
Enhance Property Values  
Strengths of Kenmure  
Concerns of Kenmure Residents  
Club & Non-Club Members

In addition, the 2020 Survey asked about decision factors in choosing Kenmure, while the 2023 Survey asked similar questions of residents living in Kenmure for 3 years or less. In the 2020 Survey, several questions were addressed to property owners who only owned lots.

The response rates were 727 (in 2020) and 809 (in 2023). These rates and a wide range of respondents allowed for a generalization to the Kenmure population. In both surveys, 94% of Kenmure residents were satisfied with living in Kenmure and the demographics were quite similar.

To see the 2020 and 2023 full detailed survey results:

**KPOA Survey 2020**

**KPOA Survey 2023**

## Articles of Incorporation Amendment – 2023

In early 2023, the KPOA Board adopted the Long Range Planning Committee's recommendation to amend the KPOA's Second Amended Articles of Incorporation.

To put the proposed 2023 amendment in historical context, you'll will remember that KPOA resulted from a merger of the Kenmure Home Owners Association (KHOA) and the Kenmure Road Maintenance Homeowners Association (KRMHA) as part of the process to bring Kenmure under the NC Planned Community Act (PCA) in 2002. (The KHOA was a voluntary membership organization; the KRMHA was a mandatory membership organization set up by Kenmure Properties, Ltd. (KPL) to manage road maintenance.) KPL did not oppose this effort. A small group of about 12 property owners, however, formed an opposition committee called Concerned Citizens. This committee feared the real intent was to buy Kenmure Country Club. The following language was added to the Amended Articles to demonstrate there was no intent to buy Kenmure Country Club.

Section 2.c. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, manage, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association. **However, it shall not be a purpose of the corporation, and the corporation is not authorized to acquire or manage the Kenmure Country Club.**

The 2002 effort succeeded. The Seconded Amended Articles of Incorporation, Kenmure Declaration and KPOA Bylaws were filed.

After the sale of the Kenmure Country Club from KEI to an investor Steven Schorr at the beginning of 2023, the KPOA Board realized that the 2002 Articles of Incorporation prohibit KPOA from *effective discussion* regarding the future of the Kenmure Country Club with its owner. The 2023 Club sale did not involve KPOA. In any future sale of Kenmure Country Club, it may be in the interest of the community broadly to consider property owner participation.

- An outside company prepared a study which found that a vibrant club has a positive impact on property values. [Resort Development Partners Report, July 2022](#). In September 2022, KPOA held focus groups on potential future scenarios involving the Kenmure Country Club. More than 50% of the KPOA focus groups held in September 2022 favored some form of local control over the Club and its amenities. [Summary Focus Groups, November 2022](#). It is important to have all the options on the table.

The KPOA introduced the proposal to amend the 2002 Articles of Incorporation to property owners at the well-attended Mid-Year (Summer) Meeting on July 11, 2023. Thereafter, five informational meetings were held. A total of 37 property owners attended these meetings. The KPOA website had a page dedicated to the proposed amendment. A letter from the KPOA Board supporting the proposed amendment along with a one-page information sheet was sent by email to property owners. The ballot, KPOA Board letter and information were sent by U.S. Mail. The KPOA Election

Committee successfully managed the vote. The ballot was sent to all property owners on or about August 1. Voting was by paper ballot or electronically. Voting closed on August 25.

Here is a breakdown of the vote:

Number of Eligible Votes: 825

Total Number of Votes Cast: 542

Number of YES Votes Required to Pass

67% of Votes Cast: 364

OR

51% of Eligible Votes: 421

Number of YES Votes: 480 (89% of the votes cast)

Number of No Votes: 62 (11% of votes cast)

The Third Amended Articles of Incorporation were filed on October 6, 2023.

Accordingly, when a Kenmure Country Club owner decides to sell, the KPOA now can engage in meaningful discussions with that owner with the goal of protecting Kenmure property owner interests.

## Summary of Declaration & Bylaws Votes (2022-2019)

### Kenmure Declaration & KPOA Bylaws – 2002

**Issue:** To amend the Kenmure Declaration to bring Kenmure under the NC Planned Community Act and establish the Kenmure Property Owners Association (KPOA) by approving KPOA Bylaws. The KPOA Articles of Incorporation were also amended.

**Result:** Passed

Number of Votes Eligible: 746

Total Number of Votes Cast: 642

**Number of YES Votes Required to Pass:** 500

**Number of YES Votes:** 599

Number of NO Votes/Did Not Vote: 147 (not reported in the Annual Meeting Minutes)

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### Kenmure Declaration – 2003 & 2004

In 2003, three proposed Declaration amendments and one Bylaw amendment were voted upon during the regular election cycle.

#### **Issues:**

The proposed Declaration amendments were to change (1) the time allowed for construction of new homes from the then current 12-month period to a 16-month period, (2) from 5' to 10', the distance from right-of-way of driveways and walkways in which growing items may be removed by homeowner without approval of KARC, and (3) the number of members of the Road Maintenance, Architectural and Security committees. The proposed Bylaw amendment was to remove the restriction that the Road Maintenance, Architectural and Security committees have 5 members.

Note: At the time, there was general consensus that change to the Declaration would not be a major problem.

**Result:** Failed.

From the 2003 Annual Meeting Minutes: There were three proposed changes in the Declaration (Covenants) and one proposed change in the Bylaws. While in excess of 92% of those voting cast yes votes for these proposed changes, the proposals failed. Changes to the Declaration require a 67% positive vote of the total properties eligible to vote and changes to the Bylaws require 50%. Not enough total votes were received to pass the proposals.

*\*The lesson learned from the 2003 failed attempt to amend the Declaration is that the 2/3 positive vote required is a very high bar.*

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In 2004 (similar to the 2003 proposed amendments), four proposed Declaration amendments and two Bylaws amendments were voted upon during the regular election cycle.

**Issues:**

The proposed **Declaration** amendments were

- (1) to change the time allowed for construction of new homes from the then current 12-month period to a 16-month period, and
- (2) to change, from 5' to 10', the distance from right-of-way of driveways and walkways in which growing items may be removed by homeowner without approval of KARC, and
- (3) to extend the period for payment of assessments without penalty from 30 days to 45 days.

The proposed **Bylaws** amendments were to

- (1) eliminate restrictions on the size of the membership of the Road Maintenance, Architectural Review, and Security Committees, and
- (2) revise procedures for review of decisions made by the Judicial Review Committee.

**Result:** All Passed. Amendments were voted upon separately.

Number of Votes Eligible: 765

Total Number of Votes Cast: 548

**Number of YES Votes Required to Pass Declaration Amendments:** 512

**Number of YES Votes Required to Pass Bylaws Amendments:** 390

**Number of YES Votes:**

- |                     |                |
|---------------------|----------------|
| Declaration 1 – 545 | Bylaws 1 – 548 |
| Declaration 2 – 532 | Bylaws 2 – 539 |
| Declaration 3 – 540 |                |
| Declaration 4 – 548 |                |

Number of NO Votes/Did Not Vote: (not reported in the Annual Meeting Minutes)

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**Proposed DeLorenzo Property Annexation – 2012**

**Issue:** To amend the Kenmure Declaration to annex 60.65 acres as a new Kenmure Phase VII to add a maximum of 10 lots (units) for single-family homes.

The KPOA Board recommended the annexation. Adjacent property owners negotiated with Kenmure Enterprises Inc. (KEI) for a 35' setback and, eventually, supported the annexation. A small, but vocal, group opposed the proposed annexation.

**Result:** Did Not Pass

Number of Votes Eligible: 829

Total Number of Votes Cast: 578

**Number of YES Votes Required to Pass: 556**

**Number of YES Votes: 532**

Number of NO Votes: 46

Did Not Vote: 251

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### **Declaration & Bylaws Update – 2013**

**Issue:** To amend the Kenmure Declaration and KPOA Bylaws to 1) ensure that these documents are consistent with the NC Planned Community Act; and 2) update language to provide more clarity and reflect current realities and experiences.

After an 18-month review by a Declaration and Bylaws Committee, the Committee recommended the first major update and revisions since the documents were approved in 2002, including the following changes

- Re-defined “Members” to include nominees of owners or legal entities.
- The process and purpose for which Special Assessments can be used were redefined to eliminate ambiguities.
- Special Rights of Developer which no longer apply were deleted.
- Language was added to define Phases V & VI and language dealing with the Cottages only (actual Phase V) was eliminated.
- Revised Road Repaving Reserves language was updated to try to make it more understandable.
- Language was added to reflect new technologies, such as solar.
- The revisions provided more accurate language on how accounts are set up and managed
- Enforcement Procedures and most Committee descriptions were moved to the Bylaws to prevent duplication.

The following changes were made to be consistent with the NC Planned Community Act:

- Declaration Paragraph 13 - **Trees** “authorized” a \$1500 fine for each tree removed without permission and the Bylaws “authorized” a \$150 fine for violations. Both were inconsistent with the current Act which allows a maximum of a \$100 fine per day, per violation.



- Declaration Paragraph 43- **Variiances** has been removed, because our attorney believes that it is inconsistent with the Act and likely would not be able to withstand challenge.
- Added Filing of Liens
- Declaration **Para 35.B - Annual Assessment Allocation** was added to be consistent with the requirements in the current Planned Community Act.

**Result:** Passed (All amendments were voted upon as a whole.)

Number of Votes Eligible: 828

Total Number of Votes Cast: 625

**Number of YES Votes Required to Pass: 555**

**Number of YES Votes: 593**

Number of NO Votes: 32

Did Not Vote: 203

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## **Proposed 60-Acre (formerly referred to as DeLorenzo) Property Annexation - 2019**

The KPOA Board recommended the annexation. Some adjacent Pinnacle Peak property owners supported the annexation, while a small, but vocal, group (including several residents of adjacent Chatsworth Court) opposed the proposed annexation.

**Issue:** To amend the Kenmure Declaration in order to annex 60.65 acres as a new Kenmure Phase VII to add a maximum of 39 lots (units) for single-family and cottage homes.

**Result:** Did Not Pass

Number of Votes Eligible: 829

Total Number of Votes Cast: 727

**Number of YES Votes Required to Pass: 556**

**Number of YES Votes: 546**

Number of NO Votes: 181

Did Not Vote: 102

## **Kenmure Country Club Sale Summary – August 12, 2024**

The family of W. Gordon and Lydia Phillips McCabe owned the property which became known as Kenmure for a number of years. In 1978 or early 1979, the McCabe family sold to Vincent and Gudrun Romeo. Romeo was the original developer of land and the Kenmure Country Club (KCC). Like many early developers, the cost of development exceeded the returns from the sale of properties and in August 1985, the property was sold to Kenmure Properties, Limited (KPL). KPL was officially formed and registered with the NC Secretary of State on August 29, 1985 with William Robinson as the Manager and Director of the Corporation.

KCC was privately owned by KPL and its successor entity, Kenmure Enterprises, Inc. (KEI), until early 2023. KCC was, and is, an amenity to entice buyers to purchase Kenmure lots and homes. KCC is a the most visible feature of the Kenmure community and, according to recent Kenmure Property Owners Association (KPOA) Surveys, an important reason for some property owners to purchase in Kenmure. At least 80% of 2023 KPOA Survey respondents believe that KCC enhances Kenmure property values.

Kenmure property owners are not required to be KCC members; as of 2024, approximately 68% of property owners are Social, Sports or Golf members.

Although separate entities, KPOA and KCC's owner have a good working relationship and, since 2007, have entered into annual cost sharing agreements.

Throughout the years, property owners have been concerned about KCC's eventual sale and its impact on Kenmure property values. The KPOA Board tasked the Long Range Planning Committee to explore the impact of a sale on the Kenmure community. **(Summary of Plan for the Transition of KEI from Kenmure – June 2016)** According to the 2020 KPOA Survey, the number one property owner concern was the sale of KCC and its impact on Kenmure. In 2022, KPOA commissioned a case study of golf course communities which underwent a change of club ownership. **(RDP Case Studies Report Kenmure with Cover Note – July 2022)** In 2022, it was widely rumored that KEI was in negotiations with a buyer. In late 2022, KPOA held focus groups of Kenmure property owners to get an understanding of what the community felt about a *potential* KCC sale. **(Focus Groups Highlights – September 2022)**

On January 17, 2023, Lee King, KEI General Partner announced to Club members that Steven Schorr, a New Jersey real estate developer, had purchased the KCC as well as KEI's remaining Kenmure lots, an adjacent 60-acre parcel (also known as the DeLorenzo parcel) and KEI's real estate business. According to Henderson County land records and various news articles, these entities were sold for

Kenmure Country Club (Kenmure 11 LLC) - \$6,725,000.

60-acre parcel (Kenmure 12 Land LLC) - \$3,075,000.

Kenmure remaining lots (Kenmure Lots LLC) & real estate (Kenmure 12 LLC) - \$1,000,000.

Accordingly, KCC continues to be privately owned; KemperSports manages KCC's day-to-day operations. Real estate sales and development (Kenmure 12 Broker LLC) continues with Lee King as the broker-in-charge. Since 2023, the new owner has invested in upgrades to KCC, including The Grill Room kitchen and golf course maintenance. In 2024, Top Tracer golf was

introduced. Although KCC was Steven Schorr's first golf course purchase, it has been reported that he has purchased additional golf courses in North Carolina, South Carolina, Michigan, Florida, and Arizona. Steven Schorr said he paid a premium for Kenmure Country Club during an early meeting with members.

In the 2023, KPOA survey, the number one concern of property owners was KCC's operation under the new owner.



# **APPENDIX - 2024**

**by Long Range Planning Committee**

**November 11, 2024**

## Kenmure Profile

June 1 2024

### Lots

|                                                          |       |
|----------------------------------------------------------|-------|
| Total platted                                            | 826   |
| Unplatted – Kenmure                                      | 1     |
| Total available <i>(except for Phase VI unplatted)</i>   | 827   |
| Estimated additional lots in Phase VI <i>(unplatted)</i> | 18    |
| Total when fully platted/developed                       | 845   |
| KEI inventory of platted, unsold lots                    | 2     |
| Total platted vacant lots                                | 119   |
| Homes under construction                                 | 11    |
| Percentage of platted lots sold <i>(826/827)</i>         | 99.8% |
| Percentage of platted lots built out <i>(697/827)</i>    | 84.4% |

### Residential Structures

|                                        |     |
|----------------------------------------|-----|
| Condominiums, villas                   | 196 |
| Cottages                               | 42  |
| Single family residences (stand-alone) | 459 |
| Total residential units                | 697 |

### Owners

|                                                                             |       |
|-----------------------------------------------------------------------------|-------|
| Total individual homeowners                                                 | 693   |
| Total individual lot owners                                                 | 99    |
| Homeowners with second residential address                                  | 205   |
| Percentage homeowners with out of state second homes<br><i>(205 of 693)</i> | 29.6% |

### Kenmure Real Estate Activity *(Sales in \$ millions)*

| Year            | 2015   | 2016   | 2017   | 2018   | 2019   | 2020   | 2021   | 2022   | 2023   |
|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Homes           | 49     | 62     | 63     | 54     | 52     | 73     | 68     | 50     | 44     |
| Lots            | 14     | 5      | 10     | 20     | 10     | 19     | 26     | 16     | 10     |
| Total (million) | \$23.1 | \$30.3 | \$34.4 | \$30.0 | \$29.4 | \$52.5 | \$45.8 | \$39.9 | \$41.6 |

Nick Weedman 6/2/2024

**Kenmure Property Owners Association**  
**History of Association Presidents**  
**As of 2024**

| <u><i>Year</i></u> | <u><i>President</i></u>                                      |
|--------------------|--------------------------------------------------------------|
| 2003               | Nick Weedman                                                 |
| 2004               | Dirk Wilms                                                   |
| 2005               | Alice Soder                                                  |
| 2006               | Larry Rostetter                                              |
| 2007               | Les Christensen                                              |
| 2008               | Jim Mosakowski                                               |
| 2009               | Richard Johannes                                             |
| 2010               | Kathy Meersman                                               |
| 2011               | Linda Mensch                                                 |
| 2012               | Bob Wilson                                                   |
| 2013               | Dick Brown                                                   |
| 2014               | Alan Van Ostenbridge                                         |
| 2015               | Ronald Thornton                                              |
| 2016               | Van Bell                                                     |
| 2017               | Susan Boland                                                 |
| 2018               | Susan Boland                                                 |
| 2019               | Susan Boland                                                 |
| 2020               | Michael Shannon (resigned August 2020 replaced by Jon Couch) |
| 2021               | Jon Couch                                                    |
| 2022               | Michael Burke                                                |
| 2023               | Brian McCormick                                              |
| 2024               | Brian McCormick                                              |

## KENMURE PERSONS OF THE YEAR RECIPIENTS (as of 2024)

Presentation at the Volunteer Dinner the following Year

| YEAR  | WOMEN              | MEN                                  |
|-------|--------------------|--------------------------------------|
| 2023  | Elaine Hessong     | Dale Seekely                         |
| 2022  | Mrs. Terry Stein   | Bill Robins                          |
| 2021  | Roxann Paulsen     | Jon Couch                            |
| 2020  | Sally Hale         | Bob Paulsen                          |
| 2019  | Susan Boland       | Peter Haft                           |
| 2018  | Susan Bush         | Andy Clapper                         |
| 2017  | Jeanne Sudderth    | Ken Hogue                            |
| 2016  | Emmy Weissman      | Jim Krause                           |
| 2015  | Rosemary Mulcahy   | Roger Musgrove ( <i>posthumous</i> ) |
| 2014  | Marion Keenan      | David Amsler                         |
| 2013  | Sue Kauffman       | Mike Mulcahy                         |
| 2012  | Bonnie Niehoff     | Rob Freeman                          |
| 2011  | Linda Mensch       | Richard Bendel                       |
| 2010  | Jackie Murrill     | Dick Brown                           |
| 2009  | Melinda McCormick  | Burton Richards                      |
| 2008  | Betty King         | Jim Mosakowski                       |
| 2007  | Julie Ashbeck      | Lawrence Rostetter                   |
| 2006  | Elizabeth Watson   | Richard Hunt                         |
| 2005  | Kathy Meersman     | Jim Meersman                         |
| 2004  | Barbara Couvillion | Ronald Davis                         |
| 2003  | Cathie McFadden    | Paul Couvillion                      |
| 2002  | Joanne Jones       | Andries Jasma                        |
| 2001  | Karen Beer         | Richard Burns                        |
| 2000  | Beverly Wistrand   | Nick Weedman                         |
| 1999  | Margot Eld         | Charles Tindale                      |
| 1998  | Charlotte Shipley  | James Howard                         |
| 1997  | Joyce Krech        | Donald Brasfield                     |
| 1996* |                    | Robert Ogden                         |
| 1995* |                    | Robert Clark                         |
| 1994  | Janet Michner      | Albert Beers                         |
| 1993* |                    | George Shipley                       |
| 1992* |                    | Louis Bernst                         |
| 1991* |                    | Oki Johnson                          |

\*From 1991-1993 and 1995, 1996, only one Person of the Year was selected. From 1997 to the present, one man and one woman have been selected as Persons of the Year.

## KPOA Combined Assessments (as of 2024)

### Actual Assessments

|      | <u>Residence</u> | <u>Lot</u> |
|------|------------------|------------|
| 2003 | 870              | 351        |
| 2004 | 885              | 417        |
| 2005 | 907              | 482        |
| 2006 | 870              | 570        |
| 2007 | 960              | 675        |
| 2008 | 999              | 725        |
| 2009 | 980              | 735        |
| 2010 | 980              | 735        |
| 2011 | 1,030            | 775        |
| 2012 | 1,100            | 825        |
| 2013 | 1,125            | 844        |
| 2014 | 1,070            | 803        |
| 2015 | 1,090            | 818        |
| 2016 | 1,125            | 844        |
| 2017 | 1,125            | 844        |
| 2018 | 1,150            | 863        |
| 2019 | 1,240            | 930        |
| 2020 | 1,335            | 1,001      |
| 2021 | 1,375            | 1,031      |
| 2022 | 1,485            | 1,114      |
| 2023 | 1,603            | 1,202      |
| 2024 | 1,651            | 1,238      |

Note: Beginning in 2003 Assessments for Road Maintenance and Security and Garbage were combined. The KPOA Board began adjusting the ratio of Residential and Development Lots Assessments to Family Dwelling Units over a three-year period to bring them more in line with the realistic burden lots should bear for road maintenance and security i.e., 75% of the annual assessment for Family Dwelling Units. In 2013, this practice was codified in the Kenmure Declaration, 35.B.



## **Director Liability and Insurance (as of 2024)**

KPOA Directors are covered by a Directors and Officers Liability Policy up to a total of \$3 million. Chapter 55A-8-60 of the North Carolina Nonprofit Corporation Act provides civil liability monetary damage immunity for directors and officers of nonprofit corporations: "... a person serving as a director or officer of a nonprofit corporation shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Is compensated his service beyond reimbursement for expenses,
- (2) Was not acting within the scope of his official duties;
- (3) Was not acting in good faith;
- (4) Committed gross negligence or willful or wanton misconduct that resulted in the damage or injury;
- (5) Derived an improper personal financial benefit from the transaction;
- (6) Incurred the liability from the operation of a motor vehicle; or
- (7) Is a defendant in an action brought under G.S. 55A-8-33."

## **Historical Builder's Fees and Deposits** (updated 2024)

1989-1997

Starting in 1989, The New Construction fee amounting to \$1,500 was collected at the start of a new home. This fee consisted of \$500 nonrefundable for Road Maintenance and \$500 refundable to ensure Right of Way restoration. These fees remained consistent until approximately 1997.

~1997-2000

Sometime around 1997, the New Construction fee was increased to \$2,000. This amount consisted of \$1,000 nonrefundable for KPOA administration and Road Maintenance and \$1,000 refundable at the completion of Landscaping and Right of Way restoration.

2001

In 2001, the New Construction Fee increased to \$2,500. This amount consisted of \$1,500 nonrefundable for KPOA Administration and Road Maintenance and \$1,000 refundable at the completion of Landscaping and Right of Way restoration.

2002-2006

In 2002, the New Construction Fee increased to \$3,500. This amount consisted of \$2,000 nonrefundable for KPOA Administration and Road Maintenance and \$1,500 refundable at the completion of Landscaping and Right of Way restoration.

2007-2008

During this period, the New Construction Fee increased to \$4,500. This amount consisted of \$2,000 nonrefundable for KPOA Administration and Road Maintenance and \$2,500 refundable at the completion of Landscaping and Right of Way restoration.

2009-2023

In 2009 the New Construction Fee remained at \$4,500. The KPOA administration fee was dropped and \$2,000 nonrefundable was allocated to Road Maintenance. The refundable portion of the fee remained at \$2,500 to ensure completion of Landscaping and Right of Way restoration.

2023-2024

In 2023 the amount allocated for Road Maintenance was changed from a set fee to a calculated amount. This amount is calculated at \$0.75 per square foot of the home (heated and unheated space) plus \$500 administration fee. This amount is nonrefundable. A refundable deposit of \$4,500 is assessed to ensure landscape and total project compliance. EXCEPTION: First time contractors to Kenmure must pay an additional \$2,000 refundable deposit.