

Highlands at Mechums River

Highlands Detached Home Owners Association, Inc.
PO Box 429 Crozet VA 22932-0429

<http://hdhoa.avenue.org/>

Background & History of the Highlands at Mechums River Entrance Landscaping

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Revision History:

- A: Original draft, 8/4/2005
- B: Revised draft, 12/9/2009
- C: Edited 12/31/2009
- D: Fixed URLs that were broken with the passage of time, 9/3/2012

The entrance landscaping for Highlands at Mechums River was completed between August and November 1991, as land in the community was being graded in preparation for the first homes to be built in 1992 (sections 1A & 1B). As a matter of record, the Highlands community entrance landscaping existed as a separate entity before the very first homes in Highlands were built and sold.

1991 – Elements that were included in entrance landscaping:

- **Entrance sign & spotlight on sign** including electrical wiring for lighting.
- **Community fence** along Route 240 and just inside entrance (note that as per county regulations (Albemarle County Planning Commission), the fence requires a 10-foot landscaping easement).
- **Underground Sprinkler System** between fence and Route 240, and along both sides of the divided Highlands Drive entrance Road. It was installed by Duncan Irrigation – [see diagram](#). (The county requires a 10-foot landscaping easement along each line of the sprinkler system as well.)
- **Trees and shrubbery planted behind and in front of the entrance sign.** Trees require (and are situated on) a 10-foot landscaping easement as per county regulations.
- **Bradford Pear trees planted along both sides of the Highlands Drive** divided entrance road and a line of white pine trees along the ridge. (The county requires a 10-foot landscaping easement for each line of trees).
- **Grassy lawn was seeded** between the pine trees, fence and Rte 240, between the white pines and Highlands Drive on one side of the entrance road and between the Bradford Pear trees and Highlands Drive on the other side of the entrance road (all areas watered by sprinkler system).
- **Median Plantings.** No date of installation is available, but the best guess is that this work was completed in the spring of 1992.

Therefore, all references to maintaining common area landscaping, signs, lighting, fencing, and sprinkler systems (or watering landscaping) in the 1992 Declarations, Covenants &

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<http://hdhoa.avenue.org/entrancecmte/faq/HighlandsEntranceLegacyInformation.pdf>

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Restrictions for Highlands 1A (Attached) [RD1] and 1B (Detached) [RD2] Home Owners Associations should be interpreted to imply existing common entrance landscaping elements. Plat maps indicating the location of underground sprinkler system and other entrance landscape elements may be reviewed by [clicking here](#).

1992 – Drafting of Highlands Declarations and Covenants

Landscaping elements included in common community entrance area and landowner responsibilities to maintain them were defined in the Covenants of all three original Highlands Home Owners Associations (HOAs). In the Covenants of Highlands 1A (Attached) [RD1] and 1B (Detached) [RD2] drafted in 1992, this information may be found under Article VI (Covenant for Assessments) Section 2 (Purpose of Assessments). In the Covenants of Highlands 1C (Attached) [RD3] drafted in 1997, essentially the same article VI Section 2, referred to above, is included and is also reiterated under Article V (Easements) Section 4 since the entrance landscaping easements exist on 1C properties bordering Route 240 and Highlands Drive (see reference documents for detail). Future HOAs for the new single-family home sections like the one being developed by RJR Homes (Rock Bridge) and by Sam Craig at the time were intended to have some version of Article VI, Section 2 incorporated into their Covenants. (This is because the declarations & covenants were legally bound to the entire land parcel purchased by Hunter Craig in the early 1990s. That parcel was divided into 5 subdivisions and their respective HOAs. Rock Bridge HOA with properties adjacent to Route 240 and entrance road was one of these subdivisions and should therefore have a section comparable to 1C's Article V (Easements) Section 4 in their covenants.)

At this time, responsibility for maintaining entrance landscaping elements was being equally shared on a per lot basis by every landowner in the community accessing their property by way of the common divided entrance road, including a property grandfathered into the community from the original farm (which is not a member of any HOA).

1992 - 1998 – Entrance Maintenance

Duncan Irrigation continued to maintain the underground sprinkler system for Hunter Craig. This included an annual backflow test at start-up and seasonal maintenance. A number of different landscaping/mowing contractors were hired during this period to mow & fertilize entrance area grass watered by sprinkler system, and to mulch and prune trees/shrubs around entrance sign and along entrance road.

1999 – Sprinkler System Repair & Entrance Maintenance

Todd Minor of Stoney River Irrigation, working for Hunter Craig, repaired the sprinkler system behind the entrance sign. The sprinkler system had become damaged by the installation of utilities for homes under construction in Highlands 1C. At this point, entrance

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landscaping maintenance was under contract to the extent of services provided during the previous year.

2000 - 2001 – Management of Highlands Entrance Maintenance was turned over to landowners

As described earlier, this was detailed in the Covenants of Highlands 1A, 1B and 1C (see reference documents [RD1] [RD2] and [RD3] that follow). During this transition period a number of issues required discussion and negotiation:

- Lawn mowing, mulching and pruning was managed by a hired landscaping contractor.
- Whole sections of the fence along Route 240 were rotting, and one section was badly damaged by an automobile accident. After much discussion, the three existing HOAs and Hunter Craig decided to share this one-time cost for repair on the same percentage basis that was used to calculate the contributions to the annual entrance maintenance costs (i.e. cost share fraction = number of lots in section / total number of lots).
- Correspondence among HOA leaders during this period indicates confusion over easement boundaries that define the entrance landscaping to be maintained. Part of this could be attributed to what was and wasn't shown on the plat of record with respect to easements (see note-1 on issues associated with plats & records linked to the plat). In 2001, when Timothy Scarborough (co-owner of Piedmont Landscaping & Irrigation & then President of Highlands 1B HOA) acquired the contract for mowing common entrance areas and the contract for mowing Highlands 1C, he reassigned responsibility for some of the entrance mowing to Highlands 1C. Entrance mowing from this time onwards has been limited to the VDOT right-of-way easements i.e. 6 feet off the road along Highlands Drive. For definitions of common entrance mowing area see copy of the [common maintenance contract](#). (Note: Highlands 1C has since maintained that is was an incorrect interpretation. Others have argued that despite the presence of various easements, the land in question remains the property of the Highlands 1C Home Owners and should be maintained by them. This debate remains unresolved at the time of this writing.)
- Correspondence among HOA leaders also indicates a disagreement over the sprinkler system. One association wanted to eliminate the sprinkler system, while the leaders of Highlands 1A argued to maintain the system along the entrance proper (around the entrance sign and along both sides of the entrance road). No final decision on the community-owned sprinkler system was ever recorded or issued among the three existing HOAs, so this issue remained open until meetings in 2005 resolved to cap-off sections along Route 240 that were badly damaged from

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construction and to evaluate the remaining sections. Future replanting needs shall require maintenance of the core system and associated repairs as needed.

2002 - 2005 – Sprinkler System and Entrance Maintenance . . . continued to be managed by Piedmont Landscaping & Irrigation. Given the lack of agreement surrounding the sprinkler system in 2000-2001, it is not clear to what extent the system was used. It was activated along the entrance road before water restrictions were imposed during the summer of 2002 drought and was properly winterized that fall.

2002 - 2004 – Care of Bradford Pear Trees along Entrance Road.

For as long as Hunter Craig remained in the community, the Bradford Pear trees were pruned and mulched at least once each year. Mulching the trees is part of the entrance maintenance contract with Piedmont Landscaping & Irrigation, however, these trees have not been pruned since 2003 or 2004 (about the time when we lost three trees to hurricane winds and a local microburst). This corresponds to the time when the trees grew beyond the stipulated height in the maintenance contract after which Piedmont Landscaping & Irrigation would not prune them free of cost.

By the end of 2009, at the time of this writing, the situation is that all twenty trees lining the entrance corridor are in a state that they could fall and block the entrance road for days if we were to receive heavy wet snow, an ice storm, or microburst winds.

Note-1: Legal issues associated with certified plat and records linked to the plat.

The certified plat of record filed with the Albemarle County Circuit Court Clerk is not required to show all landscaping elements with county-required easements. For landscaping elements of the community entrance to be legally recognized, they must be transferred to the plat of record (either drawn-in or as linked text, usually in the form of Declarations, Covenants & Restrictions) and certified. Knowledge of county-required easements is assumed and not shown, since most people viewing these documents are county planners, developers or real estate agents.

As a practical matter, if all the county-required landscaping easements were drawn onto the plat of the Highlands community entrance, one would not be able to read it. The only way it could be accurately drawn would be with overlay sheets, a separate sheet for each landscape element and its required easement.

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REFERENCE DOCUMENTS:

[RD1] Highlands 1A (Attached Homes) Declarations, Covenants and Restrictions

(From the Highlands at Mechums River website: <http://avenue.org/highlands/documents.html>)

Unabridged Article VI (Covenant for Assessments), Section 2 (Purpose of Assessments), 1992.

“Annual Assessments levied by the Association shall be used for the purpose of promoting the enjoyment, health, safety and welfare of the residents in the Property and in particular for the repair, improvement, provision, maintenance, enhancement and replacement of the Common Areas, drainage facilities, signs, landscaping, grounds, fencing, exterior lighting, sprinkler system, mailboxes, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area. Annual Assessments shall also be used for establishing reasonable reserves for maintenance and capital expenditures.

The Association shall use such Annual and Special Assessments, to the extent such Assessments are sufficient funds, for the purposes stated above, and in addition thereto, at such times and in such manner as determined by the Board of Directors, the Association shall:

- (a) maintain all Common Areas including storm water detention and runoff control facilities not publicly owned, if any.”
- (b) - (f) do not apply to Common Areas or entrance maintenance.
- (g) “provide, maintain and replace as necessary such Common Area signs, fencing, lighting, landscaping and sprinkler systems as deemed appropriate by the Board of Directors and maintain in effect maintenance bonds as may be required by VDOT for landscaping or median maintenance.
- (h) be in charge of the general control of the entire Property, and may make any reasonable regulations consistent with the purposes stated herein for control as such and prevention of nuisances.
- (i) maintain liability insurance for Common Areas and pay any and all taxes on the Common Area as levied by the appropriate jurisdictional agency.
- (j) attempt to establish and maintain reasonable reserves to accomplish all of the above.”

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Abridged Article VI – 1A (Covenant for Assessments), Section 2 (Purpose of Assessments), 1998.

This version distinguishes the purpose of community assessments (subsection a) from Association exterior home maintenance assessments (subsection b, previously 2b-2f). Abridged version includes amendments, if any.

“(a) Community Assessments are used to promote the enjoyment, health, safety, and welfare of the residents in the Property and in particular for the repair, improvement, provision, maintenance, enhancement and replacement of the Common Areas, drainage facilities, signs, landscaping, grounds, fencing, exterior lighting, sprinkler system, mailboxes, services and facilities. The Association will use Community Assessments to:

- 1) maintain all Common Area including storm water detention or runoff facilities if any
- 2) operate recreational facilities if any
- 3) provide snow removal from the Streets until they are accepted into the State Secondary System
- 4) provide maintenance and snow removal for Private Roads
- 5) provide, maintain and replace as necessary such Common Area signs, fencing, lighting, landscaping and sprinkler systems as deemed appropriate by the Board of Directors and maintain maintenance bonds as may be required by VDOT for landscaping or median maintenance.
- 6) be in charge of the general control of the entire Property, and may make any reasonable regulations consistent with the purposes stated herein
- 7) maintain liability insurance for Common Area and pay any taxes on the Common Area
- 8) attempt to establish and maintain reasonable reserves to accomplish all of the above.”

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[RD2] Highlands Section 1B (Detached Homes) Declarations, Covenants and Restrictions

Article VI (Covenant for Assessments), Section 2 (Purpose of Assessments), pp. 12-13 (1992).

“Annual Assessments levied by the Association shall be used for the purpose of promoting the enjoyment, health, safety and welfare of the residents in the Property and in particular for the repair, improvement, provision, maintenance, enhancement and replacement of the Common Areas, drainage facilities, entrance signs, landscaping grounds, fencing, exterior lighting, sprinkler system, mailboxes, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and entrance to Highlands at Mechums River, and in addition for the general control of the entire Property and any reasonable regulations consistent with the purposes stated herein for control of such and prevention of nuisances. The Association shall also use Annual Assessments for maintaining liability insurance for the Common Areas, paying any and all taxes on the Common Areas levied by the appropriate jurisdictional agency, providing snow removal from the streets until such time as they may be accepted into the State Secondary System for maintenance, and to provide, maintain and replace as necessary Common Area or entrance signs, fencing, lighting, landscaping and sprinkler system as deemed appropriate by the Board of Directors and maintain in effect maintenance bonds as may be required by VDOT for landscaping and median maintenance. Annual Assessments shall also be used for establishing reasonable reserves for maintenance and capital expenditures.”

[RD3] Highlands Section 1C (Attached Homes) Declarations, Covenants and Restrictions

Article V, Section 4 – Highlands Area Entrance Easements for Fences, Landscaping & Signs, pp 7-8 (1997).

“Declarant, as declarant for all sections of Highlands at Mechums River, reserves unto themselves, their successors and assigns, a perpetual, alienable and releasable easement and right of way on, above and underground through the areas shown on the Plat as easements for fences, landscaping and/or signs. Each of the property owners associations in Highlands at Mechums River (except the future Section 3, for which a separate entrance is planned) shall contribute to one consolidated fund on an equal per lot basis (presently the \$4.00 Community Assessment for Improved Lots) for the repair, improvement, provision, maintenance, enhancement and replacement of the Highlands area entrance, including signs, landscaping, grounds, fencing, exterior lighting, sprinkler system, and facilities devoted to this purpose.”

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Additional Resources/References Used for this Report:

- **Albemarle County Circuit Court Clerk's Office** – certified plats of record, attached Declarations, Covenants, Restrictions and Amendment documents (all sections); examined, links confirmed and copies made as needed on 8/3/2005.
- **Albemarle County Planning Commission website** – landscaping easement requirements verified.
<http://www.albemarle.org/departments.asp?department=planning&relpage=2401>
(the Albemarle website has since reorganized, so this URL is broken)
- **Duncan Irrigation, Inc. - Palmyra, VA** – dates of installation, maintenance contracts, etc.
- **Highlands at Mechums River website.**
<http://www.hmroa.org/pages/documents>
- **Highlands Detached Home Owners Association website.**
<http://hdhoa.avenue.org/treasurerspage/faq/CommonMaintenanceContract.pdf>
includes common maintenance contract PDF file that defines areas to be mowed as part of entrance contract.
- **Highlands 1C Records** – correspondence (letters & email) among HOA leaders from January 2000 to March 2001 concerning entrance maintenance issues and fence repair.
- **Hunter Craig & Associates, Charlottesville, VA** – entrance landscape design & installation, information about landscape easements not shown on plat, Section 1B Declarations, Covenants & Restrictions.
- **Stoney River Irrigation, Inc.** – records of sprinkler system repair.



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