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**Subject:** 2016 Land Deal Questions To the Board - from David Hopkins (Opportunity to respond)  
**Date:** Wed, Dec 4, 2019 1:15 pm

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To: Jay Goldman  
Cc: Remainer of the Board of Directors

I am about to run a story regarding the 2016 Land Deal. It will specifically be discussing the purchase of the 100 Family Dwelling Units ("FDU's"), which it appears we paid approximately 2.62 Million Dollars for.

Review of the 1988 & 2005 Covenants provide the following language in regards to FDU's. Excerpts below:

#### **1988 Covenants; Article 1; Section 1(d)**

(d) "Family Dwelling Unit" shall mean and refer to any improved property intended for use as a singlefamily or multi-family, attached or detached1 dwelling, condominium unit, townhouse unit, or apartment unit located within the Properties. A Family Dwelling Unit shall be deemed to exist only after certification of completion of the improvements by the Board of Directors of the Association.

#### **2005 Covenants; Article X; Section 5(g)**

(g) Anything to the contrary in the Declaration notwithstanding, the Type "Dlt membership shall cease and all specific rights of the Type "0" member shall end (1) two (2) years after the date that the number of individual lots (improved and unimproved) on the POA's assessment records is greater than 4,500, or (2) on such earlier date as the Type "0" member consents to in writing.  
The POA and the Company agree that 4,750 Family Dwelling Units shall constitute the maximum size of Big Canoe.

**The legal language of the 1988 Covenants appears to indicate that a Family Dwelling Unit ("FDU") at minimum constitutes a platted and certified "LOT". The 2005 Covenants refer to them only in reference as a "maximum" CAP of future lots.**

**In an old Smoke Signals article, we see Bob Crouch sharing a clarifying letter from Bill Byrnes on the subject, which further supports that an "FDU" is a dues paying, improved lot or improved lot:**

Developer Bill Byrne--in a Nov. 2, letter to Crouch--agrees. In that letter regarding clarification of the building cap, Byrne states:

"As part of the transition agreements reached between Big Canoe Property Owner's Association and Big Canoe, LLC, it was agreed that no more than 4,750 family dwelling units (Units), would be developed in Big Canoe.

Recently, you requested that the cap be further defined: I have done so below.

"It was and remains the intent of Big Canoe LLC that the definition of 'Unit' include all residential units which are built, sold or developed on property which is now or is in the future subject to the Covenants and Restrictions, as amended, which established the Big Canoe Property Owners Association. The owner of said unit would be an assessment paying member of the POA.

"By way of example:

1. A home site within Big Canoe, yet to be built on, would count as one of the 4,750 Units
2. A home within Big Canoe would count as one of the 4,750 Units.
3. A condominium within big Canoe would count as one of the 4,750 Units.

**But the Purchase Sale Agreement for the 2016 Land Deal says:**

*"...the Company has agreed to transfer to Purchasers for use in Mother Canoe, 100 of said FDU's...."*

NOTE: Appraisals provided prior to the Deal indicated a value of \$3,000,000 for said FDU's. The Bank valued them at \$0 in the "Official Appraisal. However, research into the Deeds, PT-61's and contract documents indicate that the POA paid \$2.62 Million dollars for the 100 FDU's

**Also, 1988 Covenants; Article III; Section 2 states:**

Section 2. Voting Rights.

TYPE "A" - Type "A" Members shall be all those Owners of the Residential Lots and Family Dwelling Units with the exception of the Company (except as set forth under Type "D" membership provisions below). A Type "A" Member shall be entitled to two (2) votes for each. Family Dwelling Unit which he owns. An Owner of a Residential Lot upon which a Family Dwelling Unit has not been constructed shall be entitled to one (1) vote for each Residential Lot which he owns. It is the intent of this provision that so long as property qualifies as a Residential Lot by virtue of the fact that improvements have not been constructed thereon, the Owner thereof shall have only one (1) vote, but once improvements are constructed on said Lot and it loses its character as a Residential Lot and becomes a Family Dwelling Unit, the Owner thereof shall have a total of two (2) votes for the ownership of such property.

**The above very clearly indicates that a Family Dwelling Unit ("FDU") is an actual home / condo / structure.**

**On yet another reference point, in the 1988 Covenants; Article 1; Section 1(i)**

(i)

"Owner" shall mean and refer to the Owner as shown by the real estate records in the Office of the Clerk of the Superior Court for Dawson and/or Pickens Counties, Georgia, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Family Dwelling Unit, MultiFamily Tract, Public and Commercial Site or Public and Commercial Unit situated upon the

Properties.....

**MY QUESTIONS ARE:**

- 1) Can you show us the "Deed" or "Transfer Mechanism" that conveyed 100 Home Sites; Homes, or Condominiums or similar real property known and defined as Family Dwelling Units (FDU's") to the POA - as indicated in the 2016 Purchase Sales Agreement?
- 2) If there is no deed or transfer mechanism showing real property - can you provide any transfer mechanism for the ownership of said Family Dwelling Units (FDU's") from the Developer to the POA?
- 3) Who is Voting the 100 FDU's? Are they being voted?

Peace,  
- david hopkins / publisher / property owner  
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