

VICTORIA LAND TITLE OFFICE

Jan-07-2015 09:29:26.001

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PAGE 1 OF 12 PAGES

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Scott Albert Ritter 5SW4AM

Digitally signed by Scott Albert Ritter 5SW4AM
DN: c=CA, cn=Scott Albert Ritter 5SW4AM, o=Lawyer, ou=Verify ID at www.juricert.com/LKUP.cfm?id=5SW4AM
Date: 2015.01.07 09:11:45 -0800'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)
Scott A. Ritter, Barrister and Solicitor
Scott Ritter Law Corporation
921 H Canada Avenue
Duncan BC V9L 1V2
Document Fees: \$233.16
Tel: 250-748-5857
Ref: 00527-001
Section 219 Covenant
Deduct LTSA Fees? Yes [checked]

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]
023-483-539 LOT 1, SECTION 5, RANGE 2, SOMENOS DISTRICT, PLAN VIP63560
STC? YES []

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION
SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)
(a) [] Filed Standard Charge Terms D.F. No. (b) [checked] Express Charge Terms Annexed as Part 2
A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):
SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))
THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN
7030 TRANS CANADA HIGHWAY, P.O. BOX 278
DUNCAN BRITISH COLUMBIA
V9L 3X4 CANADA

7. ADDITIONAL OR MODIFIED TERMS:
n/a

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)
Scott A. Ritter
Barrister & Solicitor
921 H Canada Avenue
Duncan, BC V9L 1V2
Tel: 250-748-5857

Table with 3 columns: Y, M, D. Values: 14, 04, 09

Transferor(s) Signature(s)
Averill Hills Estates Ltd. by its authorized signatory(ies):
Name: Bruce Muir
Name:

OFFICER CERTIFICATION:
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

John A. Christopher

Y	M	D
14	07	03

Notary Public

12040 - 149 Street NW LAC-2nd Floor
Edmonton, Alberta T5V 1P2
Appointment Expires Dec. 31, 2016

Farm Credit Canada by its authorized
signatory(ies):

Name: Aneesha Ugwoke, Supervisor,
Loan Administration Centre, Farm
Credit Canada

Name:

As to Priority Agreement
Registered holder of Mortgage
CA127227

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

 Jody Mollard
 Commissioner for Taking Affidavits in BC
 Canadian Western Trust Company
 600-750 Cambie Street
 Vancouver BC V6B 0A2
 Commission Expiry May 31, 2016

Y	M	D
14	07	17

 Canadian Western Trust Company in
 Trust, by its authorized signatory(ies):

 Name: David Liaw, Investor Mortgage
 Admin.

 Name: Etelka Despot, Investor
 Mortgage Administrator, Business
 Operations

As to Priority Agreement
 Registered holder of Mortgage
 EX127353,
 See EX127353

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM_E_V19

**LAND TITLE ACT
FORM E**

SCHEDULE

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NATURE OF INTEREST
Covenant

CHARGE NO.

ADDITIONAL INFORMATION
s. 219 - entire document

NATURE OF INTEREST
Priority Agreement

CHARGE NO.

ADDITIONAL INFORMATION
grant covenant one number less than this priority agreement, priority over mortgage CA127227, page 11, paragraph 29;

NATURE OF INTEREST
Priority Agreement

CHARGE NO.

ADDITIONAL INFORMATION
grant covenant two numbers less than this priority agreement, priority over mortgage EX127353, page 11, paragraph 29

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

FORM_E_V19

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 5 OF 12 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

Averill Hills Estates Ltd. (Inc. No. BC0735330) as to s. 219 Covenant;
Farm Credit Canada (as to Priority Agreement);
Canadian Western Trust Company in Trust (see EX127353) (as to Priority Agreement)

TERMS OF INSTRUMENT – PART 2
(Section 219 *Land Title Act*, R.S.B.C. 1996, c.250)

THIS COVENANT dated for reference the 9th day of April, 2014.

BETWEEN:

AVERILL HILLS ESTATES LTD. (Inc. No. BC0735330)
951 F Canada Avenue
Duncan, BC
V9L 1V2

(the "Covenantor")

AND

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN
7030 Trans Canada Highway
P.O. Box 278, Duncan
BC V9L 3X4

(the "District")

WHEREAS:

- A. The Covenantor is the registered owner of land located in the territorial area of the District and legally described as:
- PID 023-483-539, Lot 1, Section 5, Range 2
Somenos District, Plan VIP63560
- (the "Lands")
- B. The District is a municipality incorporated and operating pursuant to provisions of the *Community Charter*, S.B.C. 2003 c. 26, the *Local Government Act* R.S.B.C. 1996 c. 323, and preceding legislation thereto;
- C. Section 219 of the *Land Title Act* R.S.B.C. 1996 c. 250 provides that a covenant of a negative or positive nature in respect of the use of land, and which restricts building on the land and requires that amenities are to be preserved, may be registered as a charge against title to the land in favour of a municipality; and
- D. The Covenantor has agreed to grant this Covenant to ensure that the use and development of the Lands proceeds in a manner set out herein.

THEREFORE IN CONSIDERATION of the sum of \$1.00 paid by the District to the Covenantor, the receipt and sufficiency of which is hereby acknowledged by the Covenantor, the parties covenant and agree as follows pursuant to Section 219 of the *Land Title Act*:

Restrictions on Use

1. As a condition to registration of Phase 2 (Lots 2 to 9) of the subdivision to create the strata lots as generally shown in Schedule A to this Covenant (the "Strata Lots") the Covenantor agrees with the District as follows:
 - (a) That at its cost, the Covenantor shall build on the Lands a water service line, and:
 - a pump station that be equipped with standby power; a pressure tank located in the pump station, maintaining a minimum of 50 psi pressure at Strata Lots 2-9 (as shown on Schedule A); and, require residential dwelling units built upon Strata Lots 2 to 9 to install sprinkler systems and storage tanks that meet fire flow requirements at time of building permits; OR
 - a pump station, equipped with standby power, that must pump to a reservoir storing 72,000 gallons (that is, at 800 gallons per minute, enough for 1.5 hrs x 60 minutes = 72,000); OR
 - another such system approved by the Engineering Department of the District;
 - (b) That the Covenantor shall pay Averill Creek Vineyard ("Averill Creek") \$17,820 plus interest, as a latecomer's charge pertaining to the water main extension Averill Creek previously paid to cross Highway 18 to the North Road;
 - (c) That the Covenantor shall obtain a development permit for the protection of Bings Creek, pursuant to DPA-3 (Protection of the Natural Environment);
 - (d) That a minimum of 9.8 ha within proposed Strata Lot 1 shall be included in the Agricultural Land Reserve, subject to approval by the Agricultural Land Committee the ("ALC"). Should the ALC not approve the foregoing inclusion, this clause is hereby waived and of no effect;
 - (e) That the Covenantor shall prepare Strata Lot 1 for its intended use as a vineyard and plant 5.2 ha (13 ac) of grapes;
 - (f) The Covenantor for itself, and any that may claim through the Covenantor, releases the District from any liability or costs in relation to substandard water services to the Strata Lots and for liability or costs in relation to future upgrading of such water services to the Strata Lots;
 - (g) The Covenantor shall establish and maintain a fifteen (15) metre buffer zone in which existing vegetation will be maintained and new vegetation will be added, as reasonably necessary to buffer nearby agricultural developments, along the north boundary of Strata Lots 2 to 9;
 - (h) The Covenantor shall on or prior to the subdivision to create Strata Lots 2 to 9, register a no build covenant restricting the construction of buildings and structures at the southern portions of Strata Lots 2 to 9, the exact location and area of the no build area to be determined by the parties acting reasonably at the time of subdivision of the Lands to create Strata Lots 2 to 9;

- (i) That the Covenantor acknowledges and agrees that it is aware of the potential nuisance of living adjacent to a vineyard; and
- (j) Upon subdivision of the Lands to create the Strata Lots, each "Covenantor" shall mean the Covenantor of a relevant Strata Lot and any such Covenantor shall not be responsible for the actions of the owner of another Strata Lot;

Discharge of Covenant

- 2. This Covenant will be of no force and effect if final re-zoning approval is not granted by the District by February 27, 2015 and the Covenantor will be at liberty to apply to the District, at its own expense, for a discharge.

Withholding of Building Permits

- 3. The Covenantor agrees that the District may withhold the approval of a building permit for any proposed construction which does not comply with any provision of this Covenant.

Interest in Land and Enurement

- 4. This Covenant is to charge the Land pursuant to Section 219 of the *Land Title Act* and the burden of all covenants herein must run with the Land and charge the Land and every parcel into which the Land may be subdivided.
- 5. This Covenant is to enure to the benefit of and be binding upon the parties hereto.
- 6. No liability for any breach of this Covenant occurring after a person has ceased to be an owner of the Land, or any parcel into which the land may be subdivided, is to attach to that person.

Inspection

- 7. The District, its officers, employees and agents may inspect the Land or any building or structure on the Land, to determine whether provisions of this Covenant are being or have been complied with.

Dispute Resolution

- 8. If a breach of this Agreement occurs or is threatened, or if there is any disagreement as to the meaning or interpretation of this Agreement, the Covenantor or the District may give notice in writing to the other requiring a meeting of the parties within 10 business days following receipt of the said notice.
- 9. The parties must attempt to resolve any matter or disagreement, acting reasonably and in good faith, within 15 business days of receipt of the said notice.
- 10. If the parties are unable to resolve any matter or disagreement within the time set out in clause 9 above, the parties may appoint a mutually acceptable person to mediate the matter or disagreement, and the parties must act reasonably and in good faith and cooperate with the mediator and with each other to attempt to resolve the matter or disagreement within 20 business days after the mediator is appointed.

11. The process of dispute resolution herein does not affect the right of either the Covenantor or the District to pursue other remedies, legal or equitable, which may be available to them, including enforcement remedies herein, or to apply to a court of competent jurisdiction for relief respecting a breach or threatened breach of this Agreement.

Indemnity

12. The Covenantor must indemnify and save harmless at all times the District, its officers, employees, contractors and agents against any proceeding, claim or demand which may be made by any person in relation to the restrictions imposed by this Covenant or in relation to the obligations required to be performed under this Covenant. This indemnity applies to any act or omission occurring while the Covenantor is an owner of the Land, notwithstanding that the Covenantor may have ceased to be an owner of the Land, and is to survive the discharge of this Covenant from title to the Land in relation to acts or omissions occurring before such discharge.

Further Acts

13. The Covenantor must do and cause to be done all things and must execute and cause to be executed all plans, documents and other instruments which may be necessary to give proper effect to this Covenant.

Enforcement Remedy of the District

14. If the District believes that the Covenantor is in breach of any terms of this Covenant:
 - (a) the District may serve the Covenantor with written notice setting out particulars of the breach, and
 - (b) the Covenantor must immediately or within any time period specified by the said notice, remedy the breach or make arrangements deemed satisfactory by the District to remedy the breach.
15. If the Covenantor does not remedy a breach as referred to in clause 14 herein, the District shall be entitled to enter the Land and remedy the breach at the expense of the Covenantor, such expense to include but not be limited to all costs incurred by the District for labour, materials, and administration in remedying the breach.

Performance at Cost of Covenantor

16. Unless otherwise expressly provided in this Covenant, wherever the Covenantor requests that something be done, or the Covenantor is required to do or cause to be done any act, matter or thing, such act, matter or thing must be done by the Covenantor at its sole expense.

Time of the Essence

17. Time is of the essence of this Covenant.

Entire Agreement

18. This Covenant contains the entire agreement between the parties, and the District has made no representations, warranties, guaranties, promises, covenants or agreements to or with the Covenantor in relation to the subject matter of this Covenant other than those expressed in writing in this Covenant.

Amendment and Waiver

19. No amendment or waiver of any provision in this Covenant is to be valid unless it is made in writing and executed on behalf of the Covenantor and the District.

No Exemption From Jurisdiction

20. Nothing in this Covenant exempts the Covenantor or the Lands from any statutory requirement or from the ordinary jurisdiction of the Council of the District, its bylaws, permits, regulations and orders.
21. The construction of any works or services required to be provided by this Covenant do not confer any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or any other fee or charge of whatever nature, except as statutorily required.

Non Enforcement

22. The District is to be under no obligation to any person to enforce any provision of this Covenant.

Notice

23. Whenever provision is made for notice to be given to the Covenantor under this Covenant, notice is deemed to have been given when delivered personally to the Covenantor, or to an officer or director of the Covenantor, or when mailed by prepaid registered mail to the registered and records office of the Covenantor, on the fourth day following the date of mailing. Notice to the District is deemed to have been given when delivered personally to the business office of the District, or when mailed by prepaid registered mail to the postal address of the District, on the fourth day following the date of mailing.

Severability

24. All provisions of this Covenant are to be construed as independent covenants and should any section or lesser portion of this Covenant be held invalid by a Court of competent jurisdiction, that portion must be severed, and the invalidity or unenforceability of such section or portion is not to affect the validity of the remainder, which must remain binding on the Covenantor and remain a charge upon the Land.

Interpretation

25. Wherever the singular or masculine is used in this Covenant, the same must be construed as meaning the plural, or the feminine or the body corporate or politic where the context so requires.

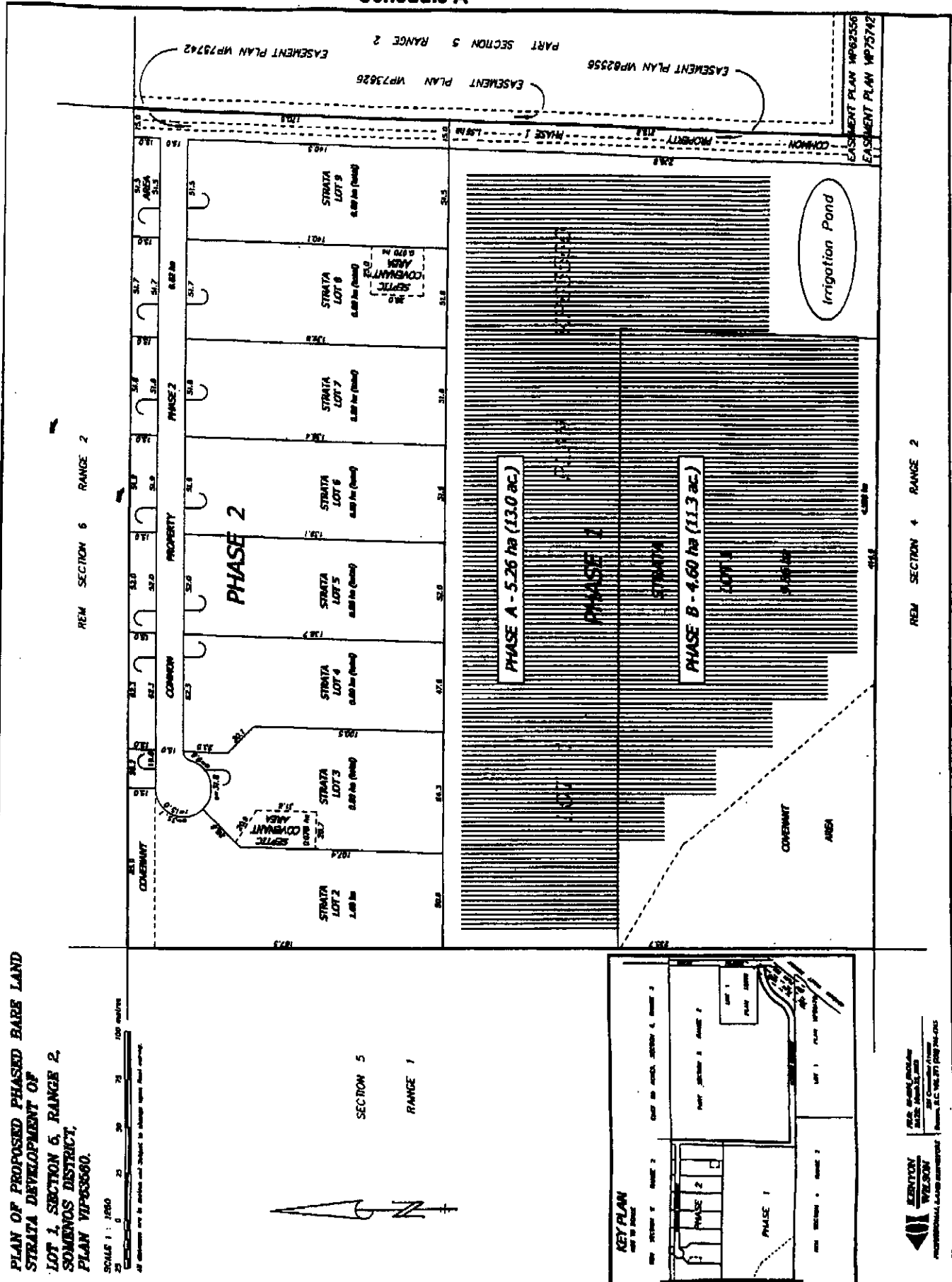
Execution

26. As evidence of its agreement to be bound by the above terms, the Covenantor has executed and delivered this covenant by executing the Land Title Act Form C to which this Covenant is attached and which forms part of this Agreement.
27. The Covenantor agrees to do everything necessary at its expense to insure this Covenant, and the interests it creates, is registered against title to the Land, with priority over all financial charges, liens and encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this covenant, including options to purchase and rights of first refusal.
28. By executing and delivering this agreement, each of the parties intends to create both a contract, and a deed and covenant executed and delivered under seal.

Priority Agreement

29. The Mortgagees, in consideration of the sum of ONE DOLLAR (\$1.00), now paid by the District to the Mortgagees, the receipt and sufficiency of which is hereby acknowledged by the Mortgagees do hereby agree and consent to the registration of the Covenant herein granted, running with the Lands, in priority to the Mortgagees' Mortgages registered under the numbers CA127227 and EX127353 and postpones the right, title and interest of the Mortgages in the lands, as if the mortgages had been registered immediately after the registration of the Covenant, notwithstanding the respective dates of execution and registration of the mortgages and this covenant.

Schedule A

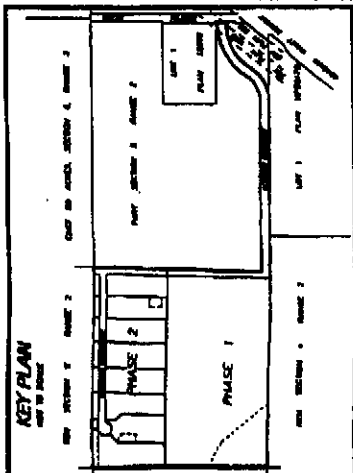


PLAN OF PROPOSED PHASED BARE LAND
 STRATA DEVELOPMENT OF
 LOT 1, SECTION 6, RANGE 2,
 SOMENOS DISTRICT,
 PLAN VIF03660.

SCALE 1 : 1250
 0 25 50 75 100 METERS
 All dimensions are to be verified and subject to change upon final survey.



SECTION 5
 RANGE 1



KENTON WILSON
 PROFESSIONAL LAND SURVEYOR
 REG. NO. 10001
 200 Columbia Avenue
 Prince George, B.C. V2L 0P1 (250) 246-0101