

90 DE 17 09 13 7

ED131357

RECEIVED
LAND TITLE OFFICE
VICTORIA

① \$35

LAND TITLE ACT
Form 35
(Sections 216(1))

DECLARATION OF BUILDING SCHEME

Nature of Interest: *STATUTORY* Charge: Building Scheme Herewith fee of: \$35.00

Address of person entitled to register this Building Scheme: Full name, address, telephone number of person presenting application:
2000 - 700 West Georgia Street
Vancouver, British Columbia
V7Y 1A8
Pinky Wong
for Ramsay Thompson Lampman
#5 - 1611 Bowen Road
Nanaimo, British Columbia
V9R 5L9
Phone: 754-3321

KERRY A. POLLNER
REGISTRY CO. LTD.

Pinky Wong
Signature of Authorized Agent

We, NOTCH HILL DEVELOPMENT CORPORATION (Inc. #332874), as to an undivided 44/100 interest, and FAIRWINDS DEVELOPMENT CORPORATION, (Inc. #382958), as to an undivided 56/100 interest, companies duly incorporated pursuant to the laws of the Province of British Columbia, of 2000 - 700 West Georgia Street, Vancouver, British Columbia, V7Y 1A8, DECLARE:

1. We are the registered owners in fee-simple of the following land (hereinafter called "the Lots"):

Port Alberni Assessment Area, Province of British Columbia:

Lot 1, District Lots 8 and 78,
Nanose District, Plan VIP 51603

and

Lots 2 to 34, District Lot 78,
Nanose District, Plan VIP 51603

2. We hereby create a Building Scheme relating to the Lots.

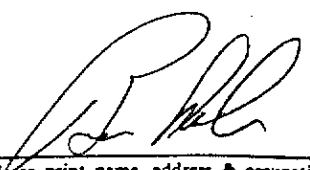
FORM 1 (Section 36)
MEMORANDUM OF REGISTRATION
Registered on application received on
the day and time written hereon
K.O. JACQUES, Registrar of the
Victoria Land Title Office

[Handwritten mark]

2-2-

- 3. A sale of any of the Lots is subject to the restrictions enumerated in the schedule attached or annexed hereto.
- 4. The restrictions shall be for the benefit of all the Lots.

Officer Signature(s)



(Please print name, address & occupation)


Bruce Leslie
 Lawyer
 704-5511 W. Boulevard
 Vancouver

Execution Date

Y	M	D
90	11	26

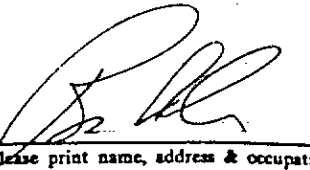
Transferor(s) Signature(s)

NOTCH HILL DEVELOPMENT CORPORATION by its authorized signatory



GEOFFREY BARKER

Officer Signature(s)



(Please print name, address & occupation)


Bruce Leslie
 Lawyer
 5511 W. Boulevard
 Vancouver

Execution Date

Y	M	D
90	11	26

Transferor(s) Signature(s)

FAIRWINDS DEVELOPMENT CORPORATION by its authorized signatory



GEOFFREY BARKER

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. 1979, c.116, 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.

3 - 3 -

SCHEDULE OF RESTRICTIONS

1. For the purposes hereof the following words or phrases shall have the following meanings:
- (a) "Approving Agent" shall mean "Fairwinds" (as hereinafter defined) or any Fairwinds Affiliate (as hereinafter defined) from time to time designated by Fairwinds or any other person from time to time designated by Fairwinds;
 - (b) "Building" shall mean and include all buildings and structures of any type or kind located above or below ground level;
 - (c) "Building Plans" shall mean complete plans and specifications of any proposed Building and any proposed additions or extensions to any Building showing, *inter alia*, elevations of the Building to be constructed, Building cross-sections and floor plans including all dimensions, type and quality of building materials (including roofing), exterior finish materials with colour scheme and type of driveways;
 - (d) "Building Scheme" shall mean the Declaration of Building Scheme to which this Schedule of Restrictions is attached, together with this Schedule of Restrictions;
 - (e) "Lot" shall mean any one of the Lots;
 - (f) "Lots" shall mean the lands described in paragraph 1 of the Declaration of Building Scheme to which this Schedule of Restrictions is attached and any one or more of any portion of the said lands from time to time constituting a single legally subdivided area in accordance with the requirements of the *Land Title Act* of British Columbia for which one or more certificates of title have been issued by the Registrar of the appropriate Land Title Office;
 - (g) "Owner" shall mean any of the following persons:
 - (i) the registered owner from time to time of any Lot or any part thereof,
 - (ii) the registered owner from time to time of a right to purchase any Lot or any part thereof, and
 - (iii) the beneficial owner from time to time of any Lot or any part thereof;
 - (h) "Street" shall mean any public street or road;
 - (i) "Fairwinds" shall mean Fairwinds Development Corporation or Notch Hill Development Corporation or any corporation resulting from any amalgamation or other corporate re-organization involving, Fairwinds Development Corporation or Notch Hill Development Corporation;
 - (j) "Fairwinds Affiliate" shall mean any corporation controlled by Fairwinds Development Corporation or Notch Hill Development Corporation, or any "affiliate: (as that word is defined in the *Company Act* of British Columbia, R.S.B.C., 1979 c. 59) of Fairwinds Development Corporation or Notch Hill Development Corporation; and
 - (k) "Golf Course" shall mean the Fairwinds Golf Course.



2. No person or persons shall:

- (a) place or deposit landfill, or any other like substance on any of the Lots for any purpose;
- (b) excavate or remove any fill, ground cover or trees from any of the Lots;
- (c) apply for a building permit for the construction of any Building on any of the Lots; or
- (d) commence, place, erect or construct any Building, or make any alterations or extensions to the exterior of any Building on any of the Lots if a building permit would normally be required by a Municipality for any such alterations or extensions;

Without in each case first:

- (e) providing to the Approving Agent the Building Plans, in triplicate, in respect of such Building or such alterations or extensions to such Building; and
- (f) obtaining the approval in writing of the Approving Agent to the Building Plans based on the published guidelines of the Approving Agent;

provided always that the approval of the Building Plans by the Approving Agent shall not be unreasonably withheld or delayed if all of the requirements herein have been complied with, and

- (g) the Approving Agent shall be deemed to have approved of the Building Plans if the Approving Agent shall not, within seven (7) business days after the date of receipt of the Building Plans, either request additional specifications, plans or other material or refuse approval of the Building Plans with reasons in writing; and
- (h) if the Approving Agent shall require additional specifications, plans or material in accordance with this paragraph 2 and the same is provided to the Approving Agent, then if the Approving Agent does not either approve of the building Plans including such additional specifications, plans or material or refuse approval thereof with reasons in writing within seven (7) business days after the date of the receipt of such additional specifications, plans and material then the Approving Agent shall be deemed to have approved of the Building Plans including such additional specifications, plans and material. Approval of Building Plans shall expire one year from the date of such approval.

3. If any person commences any Building or alterations or extensions thereof on any Lot after complying with the foregoing restrictions such person shall not discontinue the construction of such Building or alterations or extensions but shall continue diligently to complete the same in all respects in accordance with the Building Plans approved by the Approving Agent and shall complete the same as to external appearance, including finished painting, not later than six (6) months from date construction is commenced, provided however that neither the Owner of any such Lot nor any other person shall be in breach of this restriction if construction is interrupted by reason of strike, lockout, labour dispute, act of God, inability to obtain labour or materials or both, fire or other casualty so long as such Owner or other person takes such steps as are reasonably available to it to minimize the effect of such occurrences and such

Owner or other person diligently recommences construction immediately after any such occurrences.

4. No Building nor any alteration or extension thereof shall be commenced, placed, erected or constructed on any of the Lots:
- (a) except in compliance with all applicable laws, bylaws, ordinances, rules, regulations and orders for all governmental bodies or authorities applicable to the Lots;
 - (b) unless the Building Plans in respect of any Building and any alteration or extension thereof are first approved in writing by the Approving Agent; and
 - (c) unless:
 - (i) If the Lot is adjacent to the Golf Course and if a back yard fence is to be constructed at or near the boundary it shares with the Golf Course then that fence will not exceed 12 metres in height and there shall be planted and maintained a screen of vegetation on the Golf Course side of the fence of a type and design to be approved in writing by the Approving Agent, AND the side yard fence shall not exceed 12 metres in height for a distance of 10 metres from the point where the side yard fence meets the back yard fence.
 - (ii) Fencing for any Lot shall meet the following standards:

Any fence, wall or similar structure shall not be higher than 1.8 metres and fencing will be prohibited in front yards except that ornamental fencing to a maximum height of 1.0 metre may be allowed when constructed in accordance with the design of a home.
 - (d) Unless the Building has a finished main floor residential area of at least 130 square metres in the case of a single storey building and a finished main floor residential area of at least 85 square metres in the case of a two storey building.
 - (e) Unless the setbacks from the lot lines comply with the following minimum regulations:

Side yards:

from each side yard lot line the Building shall be set back at least 10% of the lot width (measuring at a distance of 8 metres from the front property line) or 2 metres, whichever is the greater, unless otherwise noted hereunder:

<u>Side yards:</u>	<u>Minimum set back in metres</u>
Lot 3 (from S.E. Lot Line)	5
Lot 4 (from N.E. Lot Line)	5
Lot 5 (from E. Lot Line)	5
Lot 6 (from E. Lot Line)	5
Lot 7 (from W. Lot Line)	5
Lot 8 (from N.W. Lot Line)	5
Lot 9 (from All Lot Lines)	5
Lot 10 (from W. Lot Line)	5
Lot 11 (from S.W. Lot Line)	4
Lot 12 (from All Lot Lines)	5
Lot 13 (from All Lot Lines)	5
Lot 14 (from W. Lot Line)	4

- 6 -

6

Lot 15	(from E. Lot Line)	4
Lot 16	(from W. Lot Line)	5
Lot 17	(from All Lot Lines)	5
Lot 18	(from E. Lot Line)	5
Lot 20	(from W. Lot Line)	5
Lot 21	(from N.E. Lot Line)	5
Lot 22	(from N.W. Lot Line)	4
Lot 23	(from N.W. Lot Line)	3
Lot 24	(from S.E. Lot Line)	3
Lot 27	(from S.W. Lot Line)	4
Lot 28	(from S.E. & N.W. Lot Lines)	5
Lot 32	(from W. Lot Line)	4
Lot 33	(from W. Lot Line)	4
Lot 34	(from W. Lot Line)	4

Front yards:

The building shall be set back from and parallel to a line at least 8 metres from the front property boundary.

Rear yards:

The building for all lots shall be set back at least 5 metres from the rear property boundary except as otherwise noted hereunder.

Rear yards:Minimum set back in metres

Lot 1		8
Lot 4	(from W. Lot Line)	8
Lot 5	(from S. Lot Line)	8
	(from W. Lot Line)	5
Lot 6	(from N. Lot Line)	8
Lot 7	(from Both Rear Lot Lines)	5
Lot 8	(from Both Rear Lot Lines)	8
Lot 10		8
Lot 15		8
Lot 18	(from S. Lot Line)	5
Lot 20	(from S. Lot Line)	8
Lot 21	(from N.W. Lot Line)	8
Lot 22	(from S.W. Lot Line)	8
Lot 23		8
Lot 24		8
Lot 25		8
Lot 26		8
Lot 27		8
Lot 28	(from N.E. Lot Line)	8
Lot 31		8
Lot 32		8
Lot 33		8
Lot 34		8

- (f) Unless the maximum vertical face of any single family residence will not exceed two stories (including above ground basements) or 6 metres AND the maximum height of any single family residence will be 8 metres.

Provided that if the Approving Agent is satisfied that in all the circumstances the issue of the exposed mass of the building has been addressed with respect to the esthetic appeal and architectural merit, all in relation to the site and

neighbouring lots, then the Approving Agent may approve plans at minor variance from the above height rules.

Height means the elevation of a point directly below:

- (i) that part of the building or structure being measured above land (or the surface of water at high water), and;
- (ii) on a line connecting the two intersections of the natural grade and the outermost exterior building walls or supports as indicated on a plan showing any complete vertical section of that part of the building or structure being measured;

but specifically excludes chimney.

5. The following limitations on the use of any of the Lots or any parts thereof shall be applicable:
- (a) no building material, crates, packing cases, contractor's shed, equipment or other unsightly objects or material shall be placed on any Street nor on any property adjoining any Lot nor left on any Lot otherwise than during such time as construction work is actually in progress on such Lot, and no excavation shall be made unless necessary in connection with the erection of an approved Building or extension or alteration thereof;
 - (b) no billboards, placards, advertising or signs of any kind shall be erected or displayed on any Lot or on any Building, or in any window or door of any Building without the prior written consent of the Approving Agent and if any professional practice be lawfully carried on in a residence then the signage must have been approved in writing by the Approving Agent; if any Lot be listed for sale and a real estate agent's signage or any other signage be used to advertise the sale, the frame for the signage, the sign itself, and the method of displaying the sign shall be first approved by the Approving Agent. It is the intent that such signage shall be uniform for all the Lots and it is not the intent to control the agency with which vendors list Lots for sale.
 - (c) no Building nor any alteration or extension thereto shall have any exterior finish of vinyl or metal material except for such types as are first approved by the Approving Agent and no roof shall be constructed of a "Duroid" type material or of metal. No tile roof shall be constructed except for concrete or clay tiles. Approval decisions will be based on the entire esthetic effect including the effect on surroundings.
 - (d) no driveway on any of the Lots shall be finished in a material other than asphalt, concrete or clean crushed rock;
 - (e) no mobile home, modular home or trailer shall be placed, maintained or occupied on any Lot as a residence and no trailer, boat, truck or recreational vehicle shall be parked or stored on any Lot for a continuous period of more than seventy-two (72) hours unless in an enclosed garage or other area bounded by screening approved by the Approving Agent;
 - (f) no pole, mast, clothesline, antenna or similar object of any kind shall be erected or installed on any Lot or on the exterior of any Building, save and except an umbrella type clothesline;

8

- (g) no satellite television receiving devices shall be placed on any Lot unless the device is completely enclosed within the house, garage or other structure and is not visible from outside the said structure;
 - (h) no heat pumps shall be placed in Buildings or on any Lot unless the siting has been approved by the Approving Agent and the sound level at the property lines of the Lot will not exceed 50 decibels;
 - (i) no trees shall be permitted to grow to a height or in a location on any Lot which unreasonably blocks the views from the building on another Lot; and
 - (j) no poultry, fowl, swine, sheep, cows or other livestock shall be kept on any Lot except only domestic dogs and cats, which pets shall be kept on leash or strictly controlled by the Owners;
 - (k) no decorative Christmas lights shall be permitted on Buildings except during the Christmas season.
6. The Owner of each of the Lots from time to time shall:
- (a) construct, maintain, replace and repair all Buildings on the Owner's Lot in compliance with the requirements of this Building Scheme; and
 - (b) landscape the Lot within a period not exceeding six (6) months from the date of substantial completion of the Building on the Lot, provided however that neither the Owner of any such Lot nor any other person shall be in breach of this provision if landscaping is interrupted by reason of strike, lockout, labour dispute, act of God, inability to obtain labour or materials or both, fire or other casualty so long as such Owner or other person takes such steps as are reasonably available to it to minimize the effect of such occurrence and such Owner or other person diligently recommences landscaping immediately after any such occurrence.
7. The provisions hereof shall be in addition to, but not in substitution for, any generally applicable laws, ordinances, rules, regulations or orders of governmental authorities applicable to the Lots.
8. If any provision or provisions herein contained shall be found by any court of competent jurisdiction to be illegal, invalid or for any reason unenforceable or void then such provision or provisions shall be deleted herefrom and the provisions hereof shall be construed as though such provision or provisions so deleted were never herein contained.
9. No person who is or has been an Owner of any Lot is liable for a breach of any of the provisions hereof if such breach arises after such person has ceased to be an Owner of such Lot in connection with which the breach has occurred.
10. The provisions hereof have been instituted for the general benefit of all Owners of all of the Lots from time to time and which Owner in agreeing to buy any of the Lots acknowledges such general benefit and the personal benefit attaching to the Lot or Lots purchased.
11. Neither Fairwinds nor any Fairwinds Affiliate nor the Approving Agent, nor any of their respective agents, servants and employees, shall be liable for any or all loss, costs, liabilities, claims, damages or injury to any person arising out of:
- (a) the approval or deemed approval of any Building Plans; or

(b) a failure to enforce any of the provisions herein contained;

and whether caused by the negligence or willful act of Fairwinds, any Fairwinds Affiliate, the Approving Agent, or any of their respective agents, servants or employees or otherwise (herein collectively called the "Liabilities"). Each of the Owners of the Lots from time to time hereby releases Fairwinds, Fairwinds Affiliates, the Approving Agent, and each of their respective agents, servants and employees, in respect of the Liabilities.

12. No condoning, excusing or waiver by any person of any default, breach or non-observance by any other person at any time or times in respect of any provision herein contained shall operate as a waiver in respect of any continuing or subsequent default, breach or non-observance, or so as to defeat or affect in any way the rights of any person in respect of such continuing default, breach or non-observance, and no waiver shall be inferred or implied by anything done or omitted to be done by the person having such rights.
13. Any and all reasonable legal fees and disbursements incurred by the Approving Agent for the enforcement of, or the restraint of the violation of, this Building Scheme or any provision of this Building Scheme shall, upon demand by the Approving Agent, be paid and reimbursed to the Approving Agent by the Owner or Owners of the Lot or Lots in respect of which the Approving Agent incurs such legal fees and disbursements for the enforcement of, or the restraint of the violation of, this Building Scheme.
14. This Building Scheme constitutes a charge on the Lots which shall run with and bind all of the Lots and every part thereof, and render the Owner, each purchaser, lessee, sublessee and occupant of any Lot or any part thereof, and each successor in title, future purchaser, lessee, sublessee and occupant of any Lot or any part thereof subject to the restrictions herein set out and confer on them the benefits herein set out.
15. This Building Scheme and all of the restrictions set out in this Schedule shall be effective from and after the date of execution of this Building Scheme by Fairwinds.

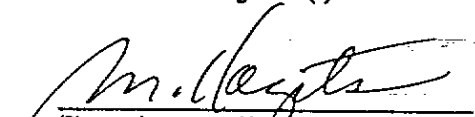
10

CONSENT

The undersigned, being the holder of a charge by way of Mortgage #EB41024 and Extension #ED100279 for valuable consideration, hereby consents to the granting of the within Building Scheme and agrees that the same shall take priority over the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

Execution Date

Officer Signature(s)



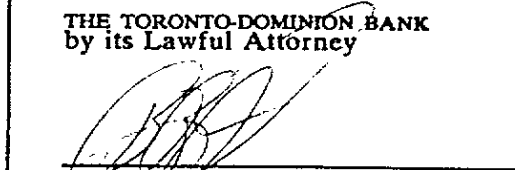
(Please print name, address & occupation)
Mary T. Kagetsu
Mortgage Officer

A Commissioner for taking Affidavits
within the Province of British Columbia
700 West Georgia Street
Vancouver, B.C.
V7Y 1A2

Y	M	D
90	12	11

Transferor/Borrower/Party
Signature(s)

THE TORONTO-DOMINION BANK
by its Lawful Attorney

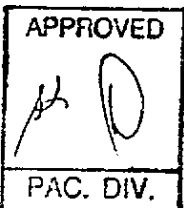


(Please print name)
Bryan Ross Querques
Senior Manager - Commercial Credit
D.F. ED120860

~~XXXXXXXXXXXXXXXXXXXX~~

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. 1979, c.116, 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.



- 11 -

11 VED131357

CONSENT

The undersigned, being the holder of a charge by way of Mortgage #K32096, Modification and Extension #S132213, Assignment #EC105053 and Extension #ED100280 for valuable consideration, hereby consents to the granting of the within Building Scheme and agrees that the same shall take priority over the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.


Officer Signature(s)

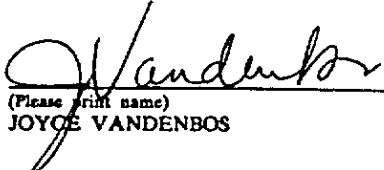
Execution Date

Y	M	D
90	11	27

Party(ies) Signature(s)

CENTRAL GUARANTY TRUST COMPANY
by its Authorized Signatory


(Please print name, address & occupation)
R.J. McLEAN
A Commissioner for taking Affidavits
within the Province of British Columbia
800 West Pender Street
Vancouver, B.C.
V6C 2V7


(Please print name)
JOYCE VANDENBOS

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. 1979, c.116, 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.

"END OF DOCUMENT"