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755 HUMBOLDT STREET VICTORIA BC V8W 1B1

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Persons who need to rely on a plan for legal purposes must examine the official version at the Land Title Office in which the plan is deposited. However, plans with plan numbers beginning with the letters EPP or EPS are electronic plans which constitute the official version.

FA057060

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LAND TITLE ACT FORM C (Section 233)

PROVINCE OF BRITISH COLUMBIA GENERAL INSTRUMENT - PART 1

PAGE 1 of 12 pages

1/10

10

1.

Application: JAWL & BUNDON (File: 20488/RGM)

4th Floor - 1007 Fort Street

Victoria, B. C. V8V 3K5 (385-5787)

Mulden

APPLICANT

(a) Parcel Identifier and Legal Description of Land:*

P.I.D. No .:

Legal Description:

Strata Lot 24, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 26, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 27, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 28, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 29, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 30, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

Strata Lot 31, Section 38, South Salt Spring Island, Cowichan District, Strata Plan VIS5021(Phase 4)

 Nature of Interest:* DESCRIPTION

DOCUMENT REFERENCE (page and paragraph)

PERSON ENTITLED TO INTEREST

s. 219 Covenant

Page 4, paragraphs 1 and 2

Transferee

Priority Agreement granting Covenant priority over Mortgage ET139543, Assignment of Rents ET139544, Mortgage EW72284 and Assignment of Rents EW72285

Page 6, paragraph 14

Transferee

02 06/05/12 12:32:19 02 VI CHARGE 698561 \$130.40

4. Terms:* Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

X Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

//0

a/C

LAND TITLE ACT FORM C (Section 219.81)

Page 2

PROVINCE OF BRITISH COLUMBIA **GENERAL INSTRUMENT - PART 1**

5. Transferor(s):*

> SPENCER'S EXCAVATING LTD. (Inc. No. 130985) and GOSSET BRONZES INC. (Inc. No. A27416) (as to Covenant)

ISLAND SAVINGS CREDIT UNION (as to priority agreement)

6. Transferee(s): (including address(es) and postal code(s))*

> HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AS REPRESENTED BY THE MINISTRY OF TRANSPORTATION.

103 - 4475 Viewmont Avenue, Victoria, B.C. V8Z 5K8; and

CAPITAL REGIONAL DISTRICT, 524 Yates Street, P.O. Box 1000, Victoria, B.C. V8W 2S6

7 Additional or modified terms:*

N/A

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's Signature(s

ROBERT G. MILNE Barrister & Solicitor 4th FLR., 1007 FORT STREET VICTORIA, B.C. V&V 3K5

(as to both signatures)

Exe	ecution D	ate		
Υ	М	D	Party(ies) Signature(s)	
05	12	16	SPENCER'S EXCAVATING LTD., by its authorized signatory:	
		4	Roriald Spencer GOSSET BRONZES INC., by its authorized signatory: Charles Gosset	

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,

^{*} If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
** If space insufficient, continue executions on additional page in Form D.

LAND TITLE ACT FORM D

EXECUTIONS CONTINUED

Page 3

Officers Signature(s)

Daneve Fitzgerald
Commissioner for taking Affidavits
for British Columbia
Island Savings Credit Union
300 - 499 Canada Avenue
Duncan, BC V9L 1T7

towald

Execution Date					
Y	М	D			
05	12	28			
		=,=			

Transferor(s) Signature(s) (as to Priority)

ISLAND SAVINGS CREDIT UNION by its authorized signatory(ies):

Pent Name FRED ZDAN

rint Name Jackie Scott

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.

^{*} If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

^{**} If space insufficient, continue executions on additional page in Form D.

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. SPENCER'S EXCAVATING LTD. and GOSSET BRONZES INC. (the "Owner") are the registered owners of those lands described in Item 2(a) of Part 1 of this instrument (the "Land");
- B. HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AS REPRESENTED BY THE MINISTRY OF TRANSPORTATION (the "Province") and CAPITAL REGIONAL DISTRICT (the "CRD") consider construction on portions of the Land is subject to or is likely to be subject to one or more of: flooding, mud flows, debris flows, debris torrents, erosion, land slip, rock falls, subsidence or avalanche (the "Risks") and have required the Owner to provide the CRD with a report certified by a professional engineer with experience or training in geotechnical study and geohazard assessment (the "Engineer") that the Land may be used safely for the use intended;
- C. The Owner has provided the CRD and the Province with the report of the Engineer, a copy of which report is attached to this instrument as Schedule A (the "Report"), in which the Engineer has certified certain areas as safe building areas suitable for residential development (the "Covenant Areas") which are shown outlined in dark on a plan entitled, "Reference Plan of Covenants over Parts of Strata Lots 24, 26, 27, 28, 29, 30 and 31, South Salt Spring Island, Cowichan District, Strata Plan VIS5021", certified correct by Brian G. Wolfe-Milner, a British Columbia land surveyor, as representing a field survey completed on the 2nd day of October, 2005, that the plan was completed and the checklist filed under #38401 on the 7th day of October, 2005, and filed concurrently with this instrument, and identified Risks on the remaining areas of the Land;
- D. The Owner has agreed to enter into this agreement and to register it against the title to the Land as a covenant and indemnity under s. 219 of the Land Title Act, s. 695 of the Local Government Act and s. 56 of the Community Charter,

NOW THEREFORE in consideration of the covenants contained in this agreement and for other valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties covenant and agree with each other as follows:

- The Owner shall use the Land only in the manner determined and certified by the Engineer in the Report as enabling the safe use of the Land for the use intended.
- The Owner shall not construct buildings or other structures on any part of the Land not included in one of the Covenant Areas unless the Owner provides a report certified by a professional engineer or professional geoscientist with experience or training in geotechnical study and geohazard assessments that the said part of the Land may safely be used for the use intended.
- The Owner shall reimburse the CRD and the Province for any expense that may be incurred by the CRD or the Province as a result of a breach of a covenant under this agreement.
- 4. The Owner agrees that the enforcement of this Agreement shall be entirely within the discretion of the CRD and the Province and that the execution and registration of this covenant against the title to the Land shall not be interpreted as creating any duty on the part of the CRD or the Province to the Owner or to any other person to enforce any provision of this Agreement.



- 5. The Owner releases and forever discharges the CRD and the Province from any claim, cause of action, suit, demand, expenses, costs and legal fees which the Owner may have against the CRD or the Province for any loss or damage or injury that the Owner may sustain or suffer arising out of the issuance of a building permit under this Agreement or the use of the Covenant Areas as a result of the issuance of a building permit to construct, alter or add to a building or structure on the Covenant Areas, or as a result of mud flows, debris flows, debris torrents, erosion, land slip, rock falls, subsidence or avalanche.
- 6. The Owner covenants and agrees to indemnify and save harmless the CRD and the Province from any and all claims, causes of action, suits, demands, expenses, costs and legal fees that anyone might have as owner, occupier or user of the Covenant Areas, or by a person who has an interest in or comes onto the Covenant Areas, or by anyone who suffers loss of life or injury to his person or property, that arises out of the issuance of a building permit under this Agreement or the use of the Covenant Areas as a result of the issuance of a building permit, to construct, alter or add to a building or structure on the Covenant Areas, or as a result of mud flows, debris flows, debris torrents, erosion, land slip, rock falls, subsidence or avalanche.
- 7. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s. 219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 8. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
- 9. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 10. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 11. This Agreement is the entire agreement between the parties regarding its subject.
- 12. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
- 13. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.



Priority Agreement

14. ISLAND SAVINGS CREDIT UNION, in consideration of the receipt of one dollar (\$1.00) and other good and valuable consideration (the sufficiency of which is acknowledged), consents to the granting and registration of the covenants granted by the Transferor in this agreement (the "Covenants") and grants to the Transferee priority for the Covenant over the ISLAND SAVINGS CREDIT UNION's Mortgages registered in the Victoria Land Title Office under Nos. ET139543 and EW72284 and Assignments of Rents registered under Nos. ET139544 and EW72285 (the "Prior Charges") in the same manner and to the same effect as if the Covenants had been dated, executed, delivered and registered prior to the date, execution, delivery and registration of the Prior Charges.

IN WITNESS WHEREOF the parties acknowledge that this agreement has been duly executed and delivered by the parties executing Part 1 of Form C attached to and forming part of this agreement.

This is the instrument creating the condition or covenant entered into under section 219 of the Land Title Act by the registered owner(s) referred to herein and shown on the print of the plan annexed hereto and initialled by me.

Approving Officer for the Ministry of

Transportation



Geotechnical/Materials Engineering

28 Crease Avenue Victoria, B.C. V8Z 1S3 Tel: (260) 475-3131 Fax: (250) 475-3611

October 13, 2005 File No: 8-1991-4

Mt. Tuam Developments Ltd. % Polaris Consulting Ltd. Box 324 - #110 - 174 Wilson Street Victoria, B.C. V9A 7N7

Attention: Mr. B. Taylor

Dear Sir.

Re: Proposed Strata Lots SL 24 to SL 31 Inclusive
Mt. Tuam Development, Phase 4 - Salt Spring Island

At your request, we met with you at Phase 4 of the Mt. Tuam Development on May 12, 2005 to carry out a visual geotechnical assessment of one or more proposed building areas for single family residential structures on each of the eight referenced lots. An additional proposed building site on Lot SL 27 was visually assessed on July 21, 2005, and revisions to the initial Lot SL 27 building site and the Lot SL 29 building site were assessed on site on September 22, 2005. This report provides our geotechnical observations and conclusions regarding the proposed building sites. The Phase 4 area is on a portion of the mountain side that generally slopes down to the southeast, but varies locally from south to east sloping. Slope angles were estimated with a hand held clinometer and are reported in degrees from the horizontal.

The proposed building areas assessed were typically identified by a ribbon or hub within an area of terrain judged to be suitable for building, with respect to geotechnical considerations, and a radius representing a conservative distance around the ribbon or hub that lies completely within the deemed suitable terrain. For completeness, a copy of a Wolfe - Milner Land Surveying Inc. plan of the proposed Phase 4 Subdivision with the assessed proposed building areas for each lot shown, is attached.



October 13, 2005

Mt. Tuam Development, Phase 4 - Sait Spring Island, B.C. Page 2

LOT SL 24

A partial driveway had been roughed in on Lot SL 24. An area with overall slopes of typically 20 degrees or less and numerous bedrock exposures was observed approximately 20 m to 30 m south southeast of the end of the roughed in driveway. The centre of a 20 m radius circle within the identified suitable residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing.

LOT SL 25

The Lot SL 25 ground surface sloped down to the southeast from a roughed in driveway at typically 20 degrees or less, with a few isolated steeper areas. There was a heavy growth of coniferous saplings and a ground cover of salal and other brush. The heavy growth would indicate at least a veneer of soil in this area. The lower part of the lot had some areas with slopes of 25 to 30 degrees and probable shallow bedrock that were considered technically feasible to build on. The centre of a 20 m radius circle within the upper identified suitable residential building terrain near the roughed in driveway was flagged. However, given that the entire lot appeared to be technically feasible to build on relative to geotechnical considerations, for residential buildings and typical shop and/or garage structures, it was deemed unnecessary to restrict the "buildable area" on Lot SL 25 to a specific identified portion of the lot. Foundations should bear on sound bedrock sloping at no steeper than 20 degrees from horizontal, or be pinned to the sound bedrock with dowels grouted into drilled holes. We recommend that a geotechnical engineer review the prepared subgrade for any buildings on this lot, prior to placing the foundation concrete, and provide recommendations for the number, size, spacing and depth of dowels, where required.

LOT SL 26

The surface of Lot SL 26 sloped down to the east and southeast, with portions of the lower slopes exceeding 30 degrees. An area in the central part of the lot was identified where the surface slopes varied from 5 degrees to 20 degrees. The slope surface generally consisted of soil in this area, although bedrock is expected at relatively shallow depth. The centre of a 20 m radius circle within the identified suitable residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing. There was an area of wet, seeping ground within the defined circle, and some active springs nearby. It will be important to install good drainage measures for any buildings in this area.

LOT SL 27

A ridge with intermittent exposures of bedrock was observed starting about 30 m southeast of the cul-de-sac at the south end of Annas Drive, and extending southeast down the slope. Slopes on and along the ridge typically varied from 5 degrees to 25 degrees (limited occurrences). There were a

C.N. Ryzuk & Associates Ltd.

Continued

October 13, 2005

Mt. Tuam Development, Phase 4 - Salt Spring Island, B.C. Page 3

few locations where there were exposed bedrock "steps" of up to 1.2 m height. The centre of a 20 m radius circle within the identified suitable residential building terrain was flagged in the upper quarter of Lot SL 27 on May 12, 2005, and was subsequently moved approximately 15 m south. The relocated proposed building area was of 15 m radius, and was visually assessed on September 22, 2005. The terrain at the revised location was also typically gently to moderately sloping exposed or shallow depth bedrock, with some limited areas of 25 to 30 degree slopes in the east half where it will be necessary to excavate or blast near level foundation areas or anchor the foundations to the sloping rock with dowels. The centre and circumference of the building area assessed on September 22, 2005 are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing. During a site review on July 21, 2005, we observed a roughed in driveway that extended down the slope with one switch-back to near the middle of the lot. A round topped ridge feature with bedrock exposures extending down the slope was also present in this area of the lot. The overall slope down the axis of the ridge was approximately 11 degrees, with localized somewhat steeper segments of slope. A wood stake inscribed with "IP R=20 m", and with a plastic W.-M. Inc. tag Number 6692 attached to the top was found approximately 15 m down slope of the end of roughed in driveway. We noted some irregular terrain (bedrock exposed or expected at shallow depth) in the outer half of the southsoutheast to southeast sector within the 20 m radius around the stake, but generally consider the area defined by the stake and radius as suitable for residential construction. This "mid-lot" circle is also shown on the referenced Wolfe - Milner Land Surveying Inc. Drawing.

LOT SL 28

Approximately 1/3 of the lot length west of the east end was a fairly planar bench sloping at typically 14 degrees to 15 degrees, with some localized portions up to 20 degrees. There were some bedrock exposures on the bench. The centre of a 15 m radius circle within this identified suitable residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe-Milner Land Surveying Inc. drawing. A roughed in driveway was observed on August 4, 2005 extending from the south end of Annas Drive up the slope with 3 switch-backs to the lower perimeter of the identified 15 m radius suitable building area.

LOT SL 29

There was a relatively large area a little north of centre of Lot SL 29 that appeared to have possibly been a landing or sorting area during past logging activity. This area sloped at typically 7 degrees to 8 degrees, with portions of the upper perimeter possibly as steep as 15 degrees. There could be re-worked soil, fill and buried wood debris in this area, particularly along the low side. Provided appropriate care is taken in removing any unsuitable soils and wood debris from beneath building footprints, we consider that this area is generally suitable for residential buildings. The centre of a 20 m radius circle within the identified suitable residential building terrain was flagged on May 12, 2005. There was a spring or drainage discharge in the southwest quadrant of the identified suitable building area. It will be important to install good drainage measures for any buildings in this area.

October 13, 2005

Mt. Tuam Development, Phase 4 - Salt Spring Island, B.C. Page 4

The centre of the proposed 20 m radius suitable building area circle was subsequently relocated approximately 13 m north-northeast. We visually reviewed the area covered by the relocated circle on September 22, 2005 and determined that it is wholly located on terrain consistent with the conditions observed and described above for the initial location, including the possible presence of reworked soil and wood debris as well as possible wet ground / spring conditions. The centre and circumference of the relocated 20 m radius circle are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing.

LOT SL 30

Three potential building sites were visually assessed, but only two were considered suitable for reporting at this time. An area in the middle of the west half of the lot (upper site), located on a ridge, was observed to have numerous bedrock outcrops and slopes up to 25 degrees. It is probable that rock removal will be required in order to create building areas on this site, and some foundations may require dowels grouted into sound bedrock. The centre of a 12 m radius circle within the identified technically feasible residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing. A rectangular bench within the middle third (east - west) of the lot was located at the base of a small bluff rising to the west northwest. The surface of the bench had bedrock exposures and outcrops throughout, and was sloped at typically up to 20 degrees, while the terrain on the other 3 sides sloped down more steeply from the bench. The centre of a 14 m radius circle within this identified suitable residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing.

LOT SL 31

Lot SL 31 had some areas of relatively steep terrain and some areas of significant size with slopes of 15 degrees to 20 degrees. A road easement extends across the western half of the lot in a near north - south orientation. An area of typically 20 degrees slope with exposures of bedrock, located just west (up slope) of the road easement and on the north side of the lot was assessed and judged to be generally suitable for residential buildings. Where not exposed, the bedrock is expected to be at relatively shallow depth in this area. The centre of a 20 m radius circle within the identified suitable residential building terrain was flagged, and the centre and circumference are shown on the referenced Wolfe - Milner Land Surveying Inc. drawing.



October 13, 2005

Mt. Tuam Development, Phase 4 - Salt Spring Island, B.C. Page 5

There are technically feasible building sites other than those specifically identified in this report on most, if not all of Lots SL 24 to SL 31. Any proposed alternative building sites should be assessed by a geotechnical engineer, and specific site preparation and foundation recommendations provided for the alternative building sites.

We hope the preceding is suitable for your purposes at present. If you have any questions, or require additional assistance, please call. We appreciate this opportunity to have been of service to you.

RZWS

Yours very truly,

C.N. Ryzuk & Associates Ltd.

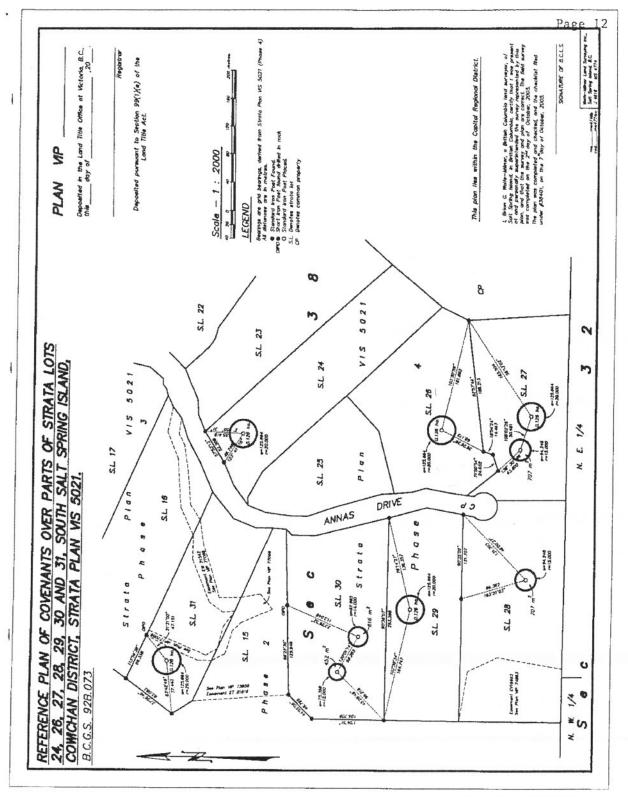
Steven Scotton, M. A. Sc., P. Eng.

Geotechnical Engineer

/SS

Attachment

C'Occuments and SettingelSzevchity Documentel-196(-64-1991-4-2005,07,30.ss.straniots.tr.wyd



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