



Date: May 8, 2012

File No.: SS-SUB-2002.7

To: Salt Spring Island Local Trust Committee for May 17, 2012 Meeting

From: Caitlin Brownrigg, Planner 1

RE: Water Control Covenant, Juniper Place Subdivision

Owner: Parks, O'Connor & Parks Investments

Applicant: Dave Wallace, JE Anderson And Associates

Location: Lot 26 Sections 1 And 2 Range 1 East North Salt Spring Island Cowichan District Plan VIP80776

THE PROPOSAL

A water control covenant to be registered on all 16 lots of Strata Plan EPS578.

BACKGROUND

This subdivision application for 16 bare land strata lots and one common property lot is phase two of subdivision application SS-SUB-2002.7 (see Appendix A: Bare Land Strata Plan). Phase one (25 fee simple lots) has been registered and subdivision completed. This application is part of a larger development known as Rainbow Grove. Phase one was subdivision application SS-SUB-19-93 and phase three (subdivision application SS-SUB-2005.29) is also in progress.

The Ministry of Transportation and Infrastructure has received and has on file a professional report dated July 2, 2010 by EBA Engineering Consultants on the nineteen wells that have been drilled for this subdivision. One well (26793) will not be able to provide the quantity of water required by Bylaw no. 355. This report found arsenic and turbidity outside the health-related guidelines set by Bylaw 355 in the wells tested. Two of the wells (26785 and 31485) cannot be made potable using standard treatment systems. The report recommended that the three wells mentioned above should not be used for any purpose due to low water quality and quantity. The report recommends that further sampling is needed before giving professional advice as to how to make the water potable.

Pursuant to Section 5.5.8 of Salt Spring Land Use Bylaw 355, the applicant is required to grant a covenant under the Land Title Act to the Salt Spring Island Local Trust Committee that requires on-going implementation of water treatment and other recommended measures to ensure that it is potable before being used as drinking water. A copy of the covenant provided by the applicant is attached as Appendix B for consideration.

CURRENT PLANNING STATUS OF SUBJECT LANDS

Land Use Bylaw No. 355

This property is zoned Rural (e) in the Salt Spring Island Land Use Bylaw No. 355. R(e) is a zone variation. It permits:

- (a) In addition to the maximum number of *lots* permitted within the entire area zoned R(e), a further 15 *lots* are permitted pursuant to a transfer of density from Lots 30 and 31, North Salt Spring Island, Cowichan District.
- (b) Notwithstanding the minimum *lot area* set out in subsection 3.14.1, a *seasonal cottage* shall be permitted on not more than 60% of the *lots* within a bareland strata *subdivision* if the total land area of the strata corporation minus the strata road area when divided by the total number of *residential lots* exceeds 1.2 hectares. The bare land *strata lots* upon which a *seasonal cottage* is permitted shall be those *lots* with the largest *lot area*.

Official Community Plan Bylaw No. 434

This property is designated Rural Neighbourhoods (RL) by the Official Community Plan, Bylaw No. 434. It is not in a Development Permit Area.

Islands Trust Fund

There are no known Islands Trust Fund interests adjacent to this property.

Covenants

- ET100495: Section 219 Covenant mandating construction of emergency access routes in favour of Salt Spring Island Local Trust Committee.
- EM39623: Section 219 Covenant restricting further subdivision and dedicating parkland in favour of Salt Spring Island Trust Committee.
- 376041G and 195490G: Right of Way in favour of British Columbia Hydro and Power Authority
- There are also covenants in favour of the Crown and Capital Regional District registered on title

Archaeological Sites

No archaeological sites have been identified on the subject property.

Riparian Area Regulations

The subject property is in a RAR designated watershed.

STAFF COMMENTS

In previous instances the Subdivision Approving officer has granted subdivision approval with awareness of water quality issues. Islands Trust has sought to provide notice to future property owners by entering into water control covenants requiring treatment and monitoring. The Local Trust Committee has discretion to enter into this covenant or not. Staff note that the EBA report does not provide water treatment recommendations. It identifies the need for further sampling before giving advice. The attached covenant places responsibility on the new owners to commission this additional engineering work.

Staff Report

Current practice would be to attach the water report under the seal of an engineer with experience in groundwater hydrology to the water control covenant. The proposed covenant attached to this report is consistent with the template in use by this office, but the report is not attached to or referenced in the covenant. This approach is consistent with the practice in this office when this subdivision application was made. The applicant has provided an undertaking from the firm of Cox, Taylor to register the covenant on all 16 lots created by this subdivision application.

OPTIONS FOR LTC TO CONSIDER

1. The Local Trust Committee may deny the covenant until a more detailed water treatment plan is available.

OR

2. The Local Trust Committee may enter into the water control covenant as presented by the applicant.

RECOMMENDATION

THAT the Salt Spring Island Local Trust Committee deny the covenant as presented for application SS-SUB-2002.7 (David Wallace, Juniper Place).

ALTERNATE RECOMMENDATIONS

THAT the Salt Spring Island Local Trust Committee accept from the registered owner of the land on Salt Spring Island legally described as Lot 26, Sections 1 and 2, Range 1 East, North Salt Spring Island Cowichan District, Plan VIP80776 a water control covenant under section 219 of the Land Title Act (David Wallace, SS-SUB-2002.7, Juniper Place).

THAT the Salt Spring Island Local Trust Committee designate any member to sign the covenant (David Wallace, SS-SUB-2002.7, Juniper Place).

Respectfully submitted by:

Caitlin Brownrigg
Planner 1

Date

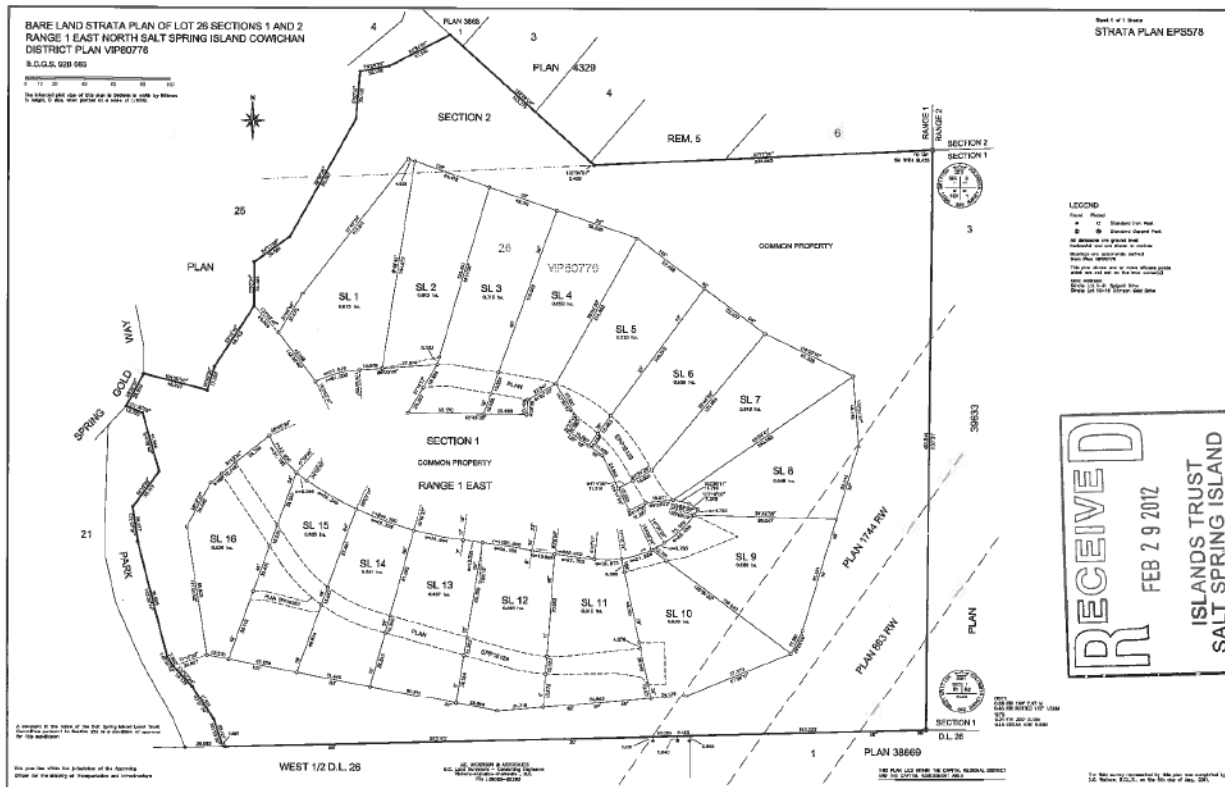
Concurred by:

Leah Hartley
Regional Planning Manager

Date

Appendix A: Bare Land Strata Plan
Appendix B: Proposed Water Control Covenant

Appendix A: Bare Land Strata Plan



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.

Item 12.2
Appendix B

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Cox, Taylor, Barristers & Solicitors
Third Floor, Burnes House
26 Bastion Square
Victoria BC V8W 1H9
250-388-4457
P-638-10*MJH

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

SEE SCHEDULE

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) 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))

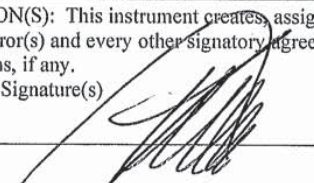
SEE SCHEDULE

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)

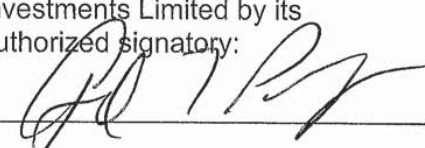


LEE T. FISHER
Barrister & Solicitor
#1 - 105 Rainbow Road
Salt Spring Island BC
V8K 2V5

Execution Date

Y	M	D
12	01	06

Transferor(s) Signature(s)

Parks, O'Connor & Parks
Investments Limited by its
authorized signatory:

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)


LEE T. FISHER
Barrister & Solicitor
#1 - 105 Rainbow Road
Salt Spring Island BC
V8K 2V5

Execution Date		
Y	M	D
12	01	06
12	01	12

Transferor / Borrower / Party Signature(s)

481630 B.C. Ltd. by its authorized signatory:




Mel Topping

Salt Spring Island Local Trust
Committee by its authorized signatory
(ies):



HEATHER GAIL MOAR
Commissioner for Taking Affidavits
for British Columbia
100 - 771 Vernon Avenue 10610
Victoria, B.C. V8X 5A7
Date Commission Expires: Oct. 31, 2013
As To Both

HSBC Bank Canada by its authorized signatory:


MARION MULLER
SENIOR MANAGER
BUSINESS BANKING

ADAM SLATER
ACCOUNT MANAGER
BUSINESS BANKING

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 E**

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

NO PID NMBR STRATA LOT 1, SECTIONS 1 AND 2, RANGE 1 EAST, NORTH SALT SPRING ISLAND, COWICHAN DISTRICT, STRATA PLAN EPS578

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

NO PID NMBR STRATA LOT 2, SECTIONS 1 AND 2, RANGE 1 EAST, NORTH SALT SPRING ISLAND, COWICHAN DISTRICT, STRATA PLAN EPS578

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

NO PID NMBR STRATA LOT 3, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND, COWICHAN DISTRICT, STRATA PLAN EPS578

STC? YES

[Related Plan Number]

EPS578

LAND TITLE ACT
FORM E

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 4, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS5778

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 5, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 6, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

LAND TITLE ACT
FORM E

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 7, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 8, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 9, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

LAND TITLE ACT
FORM E

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 10, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 11, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 12, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

ESP578

LAND TITLE ACT
FORM E

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 13, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 14, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 15, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

**LAND TITLE ACT
FORM E**

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 16, SECTION 1, RANGE 1 EAST, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS578**

STC? YES

[Related Plan Number]

EPS578

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

STC? YES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

STC? YES

LAND TITLE ACT
FORM E
SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Grantee

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the Covenant priority over Mortgage CA630944 and Assignment of Rents CA630945

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**LAND TITLE ACT
FORM E****SCHEDULE**

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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. Transferors (Grantors):

PARKS, O'CONNOR & PARKS INVESTMENTS LIMITED (Inc. No. BC0481568)
292 Rainbow Road
Salt Spring Island, B.C.
V8K 2M3

and

481630 B.C. LTD. (Inc. No. BC0481630)
No. 1 – 105 Rainbow Road
Salt Spring Island, B.C.
V8K 2V5

HSBC BANK CANADA
(CONSENT AND PRIORITY)

6. Transferee (Grantee):

Salt Spring Island Local Trust Committee, the Trust Committee having jurisdiction on and in respect of Salt Spring Island in the Province of British Columbia, pursuant to the Islands Trust Act, R.S.B.C. 1996, c. 239, and having an address at 2nd Floor, 1627 Fort Street, Victoria, B.C. V8R 1H8

TERMS OF INSTRUMENT – PART 2

SECTION 219 WATER TREATMENT COVENANT

This **COVENANT** dated for reference the _____ day of _____, 2011.

BETWEEN:

PARKS, O’CONNOR & PARKS INVESTMENTS LIMITED (Inc. No. BC0481568)
292 Rainbow Road
Salt Spring Island, B.C.
V8K 2M3

and

481630 B.C. LTD. (Inc. No. BC0481630)
No. 1 – 105 Rainbow Road
Salt Spring Island, B.C.
V8K 2V5

(the “Grantors”)
OF THE FIRST PART

AND:

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
200 - 1627 Fort Street
Victoria, B.C.
V8R 1H8

(the “Grantee”)
OF THE SECOND PART

WHEREAS:

A. The Grantors are the registered owners in fee simple of:

PID:	Legal Description
	Strata Lot 1, Sections 1 and 2, Range 1 East, North Salt Spring Island, Cowichan District, Strata Plan EPS578
	Strata Lot 2, Sections 1 and 2, Range 1 East, North Salt Spring Island, Cowichan District, Strata Plan EPS578
	Strata Lot 3, Section 1, Range 1 East, North Salt Spring Island, Cowichan District, Strata Plan EPS578

Strata Lot 4, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 5, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 6, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 7, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 8, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 9, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 10, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 11, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 12, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 13, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 14, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 15, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

Strata Lot 16, Section 1, Range 1 East, North Salt Spring Island,
Cowichan District, Strata Plan EPS578

(collectively the “Lots”)

- B. The Salt Spring Island Use Bylaw, 1999 (the “Land Use Bylaw”) requires each Lot to have a source of potable water, as that term is defined in the Land Use Bylaw.
- C. The Lots will not be connected to a community water system and instead, water for each Lot will be supplied by a private well located on each of Lot (the “Well(s)”).
- D. Chemical analysis of water from the Wells indicates that the water is not potable, as that term is defined in the Land use Bylaw.
- E. Pursuant to the Land Use Bylaw, if a lot does not have a source of potable water then, as a condition of subdivision approval of the plan creating that lot, the owner must grant the Grantee a covenant agreeing to treat the water.

- F. Section 219 of the *Land Title Act* provides that there may be registered as a charge against the title to land a covenant, whether of a positive or negative nature, in respect of the use of land or the use of a building on or to be erected on land.
- G. The Grantors wish to grant this covenant to the Grantee in the interests of confirming the water treatment requirement to the Grantors and all future owners, tenants, lenders and others.

NOW THEREFORE in consideration of the promises below and the sum of One Dollar (\$1.00) paid by the Grantee to the Grantors, and other good and valuable consideration (the receipt and sufficiency of which the parties acknowledge), the parties covenant and agree, pursuant to Section 219 of the *Land Title Act* as follows:

Restriction on use of Lots

- 1. The Grantors shall not use the Lots or any building or structure located on the Lots for any residential or domestic purpose unless the Grantors are in full compliance with this covenant.

Water Treatment System

- 2. The Grantors shall install a water treatment system on the Lots which is effective to make the water from the Wells potable, which term means the water is safe to drink and suitable for domestic purposes and without limiting the foregoing, to no less a standard than that specified by the Land Use Bylaw, as that standard may be revised or replaced from time to time.

Upgrade of System

- 3. The Grantors shall upgrade, replace, clean, disinfect, service and otherwise maintain the water treatment system as necessary from time to time.

Grantors' Responsibility for Treatment System

- 4. The Grantors are solely responsible for all aspects of the water treatment system, including its installation, monitoring and effectiveness.

Water Testing

- 5. The Grantors shall test the water from the Wells from time to time as is necessary to confirm that it is potable.

Grantors' Responsibility for Water Testing

- 6. The Grantors are solely responsible for testing of the water from the Wells including the

determination of the frequency of testing.

Applicable Laws

7. The Grantors acknowledge that there are or may be federal, provincial and local government laws, regulations and orders affecting the Wells and private drinking water supplied and the Grantors acknowledge that the acceptance of this covenant by the Grantee does not relieve the Grantors from complying with all applicable aspects of those requirements.

Discharge Against Public Interest

8. In respect of a possible application to discharge this covenant pursuant to the provisions of the *Property Law Act*, the Grantors acknowledge that it is in the public interest that this covenant remain registered against the titles to the Lots.

Indemnity

9. The Grantors shall release and indemnify and save harmless the Grantee and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, losses, suits actions, damages, claims, demands, costs and other harm arising out of or in any way connected with this covenant or its subject matter.

Disposition of Land

10. The Grantors will not sell, transfer, lease, rent or otherwise dispose of a Lot or propose to do any of them without giving all affected persons written notice of this covenant.

Inspections

11. The Grantee and any of its officers and employees may inspect the Lots and any building or structure on the Lots, for the purpose of ascertaining compliance with this covenant, upon not less than 24 hours notice in writing to the Grantors and to any tenants in occupation.

No Obligations on Grantee

12. The rights given to the Grantee by this covenant are permissive only and nothing in this covenant:
 - (a) imposes any duty of care or other legal duty of any kind on the Grantee to the Grantors or to anyone else.
 - (b) obliges the Grantee to enforce this covenant, which is a policy matter within the sole discretion of the Grantee.

- (c) obliges the Grantee to perform any act or to incur any expenses for any of the purposes set out in this covenant.

No effect on Laws or Powers

- 13. This covenant does not:
 - (a) affect or limit the discretion, rights or powers of the Grantee under any enactment or at common law, including any relation to the use or subdivision of the Lots; or
 - (b) affect or limit any law or enactment relating to the use or subdivision of the Lots.

Interpretation

- 14. Reference in this covenant to:
 - (a) the singular includes a reference to the plural and references to the plural includes a reference to the singular, unless the context requires otherwise;
 - (b) a particular numbered section or lettered schedule is a reference to the corresponding numbered section or lettered schedule of this covenant.
 - (c) an “enactment” is a reference to an enactment as that term is defined in the *Interpretation Act* on the reference date of this covenant.
 - (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced; and
 - (e) a party is a reference to a party to this covenant.

Covenant Runs with the Lots

- 15. Every obligation and covenant of the Grantors in this covenant constitutes both a contractual obligation and a covenant granted under Section 219 of the *Land Title Act* in respect of the Lots and this covenant burdens the Lots and runs with them and binds the successors in title to the Lots provided, however, that the covenants and obligations of the Grantors shall be binding upon them as personal covenants only during the period of the respective ownership of any interest in a Lot. This covenant burdens and charges all of the Lots and any parcels into which it may be subdivided by any means and any parcel into which the Lots are consolidated.

Registration

- 16. The Grantors will do everything reasonably necessary, at the Grantors’ expense, to ensure that this covenant is registered against titles to the Lots 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 covenant.

Waiver

17. An alleged waiver of any breach of this covenant is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver by the Grantee of a breach of this covenant by the Grantors does not operate as a waiver of any other breach of this covenant.

Severance

18. If any part of this covenant 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 covenant and the rest of this covenant remains in force unaffected by that holding or by the severance of that part.

No Other Covenants

19. This covenant is the entire agreement between the parties regarding its subject.

Enurement

20. Subject to Section 15, this covenant binds the Grantors and their successors, successors in title and assigns.

Further Acts

21. The Grantors must do everything reasonably necessary to give effect to the intent of this covenant, including execution of further instruments.

Deed and Contract

22. By executing and delivering this covenant the Grantors intend to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Act Form C which is attached hereto and forms part of this Agreement.

This is the instrument creating the covenant entered into under Section 219 of the Land Title Act by the registered owners referred to herein and initialled by me.

Approving Officer

CONSENT AND PRIORITY AGREEMENT

HSBC Bank Canada (the "Chargeholder") the registered holder of a charge by way of a Mortgage and Assignment of Rents against the within described property which said charge is registered in the Land Title Office at Victoria, British Columbia, under number CA630944 and CA630945, respectively, for and in consideration of the sum of One Dollar (\$1.00) paid by the Transferor to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Transferor, its successors and assigns, that the within statutory right of way shall be an encumbrance upon the within described property in priority to the said charges in the same manner and to the same effect as if it had been dated and registered prior to the said charges and hereby consents to the registration of the statutory right of way.

IN WITNESS WHEREOF the Chargeholder has executed this Consent and Priority Agreement on the attached Form C.

END OF DOCUMENT



Date: May 8, 2012

File No.: SS-SUB-2005.29

To: Salt Spring Island Local Trust Committee for May 17, 2012 Meeting

From: Caitlin Brownrigg, Planner 1

RE: Water Control Covenant, Trustees Trail Subdivision

Owner: Parks, O'Connor & Parks Investments

Applicant: David Wallace, JE Anderson And Associates

Location: West 1/2 of District Lot 26, North Salt Spring Island, Cowichan District and the East 1/2 of District Lot 27, North Salt Spring Island, Cowichan District

THE PROPOSAL

Water control covenant and a statutory right of way for emergency access that will be registered on all 6 lots of Strata Plan EPS577.

BACKGROUND

This application for a 6 lot bareland strata subdivision is the third and final phase of the Rainbow Grove development (see bareland strata plan attached as Appendix A). It is adjacent to a two-phased subdivision (application SS-SUB-2002.7) that is currently in progress. Subdivision application SS-SUB-19-93 was the first phase of this development.

The Ministry of Transportation and Infrastructure has received and has on file a professional report from EBA Engineering Consultants dated July 2, 2010 on the wells drilled for this subdivision application. One well (24977) was found not to have the long-term capacity required by Bylaw 355. The report states that this well has a capacity of 200L/day instead of 1600 L/day and an estimated recharge time of 28 days. There are two additional wells on this property that were not evaluated as part of this report, an unused well and a well that was drilled to replace well 24977. The report recommends that further sampling is needed before giving professional advice as to how to make the water potable. This report also found levels of arsenic and turbidity in the wells above the guidelines in Bylaw 355.

Pursuant to Section 5.5.8 of Salt Spring Land Use Bylaw 355, the applicant is required to grant a covenant under the Land Title Act to the Salt Spring Island Local Trust Committee that requires on-going implementation of water treatment and other recommended measures to ensure that it is potable before being used as drinking water. A copy of the covenant provided by the applicant is attached as Appendix B for consideration.

The proposed statutory right of way connects Trustees Trail (a road created in the first phase of SS-SUB-2002.7) with Wilkie Way. A copy of the statutory right of way for emergency access is attached as Appendix C for consideration.

CURRENT PLANNING STATUS OF SUBJECT LANDS

Land Use Bylaw No. 355

This property is zoned Rural Upland 1 (RU1) in the Salt Spring Island Land Use Bylaw No. 355.

Official Community Plan Bylaw No. 434

This property is designated Uplands by the Official Community Plan, Bylaw No. 434. It is not in a Development Permit Area.

Islands Trust Fund

This property is adjacent to land covenanted by the Islands Trust Fund and owned by the Salt Spring Island Conservancy (Manzanita Ridge).

Covenants

- ET100497: Covenant in favour of Salt Spring Island Local Trust Committee
- EF120425 EF120426: EF120427: EF102118: Easements
- 376041G: Right of Way in favour of British Columbia Hydro and Power Authority

Archaeological Sites

No archaeological sites have been identified on the subject property.

Riparian Area Regulations

The subject property is in a RAR designated watershed.

STAFF COMMENTS

In previous instances the Subdivision Approving officer has granted subdivision approval with awareness of water quality issues. Islands Trust has sought to provide notice to future property owners by entering into water control covenants requiring treatment and monitoring. The Local Trust Committee has discretion to enter into this covenant or not. Staff note that the EBA report does not provide water treatment recommendations. It identifies the need for further sampling and testing before giving advice. The attached covenant places responsibility on new owners to commission this additional engineering work.

Current practice would be to attach the water report under the seal of an engineer with experience in groundwater hydrology to the water control covenant. The proposed covenant attached to this report is consistent with the template in use by this office, but the report is not attached to or referenced in the covenant. This approach is consistent with the practice in this office when this subdivision application was made. The applicant has provided an undertaking from the firm of Cox, Taylor to register the covenant on all 6 lots created by this subdivision application.

OPTIONS FOR LTC TO CONSIDER

1. The Local Trust Committee may deny the covenant until a more detailed treatment plan is available.

OR

2. The Local Trust Committee may enter into the water control covenant as presented by the applicant.

RECOMMENDATION

THAT the Salt Spring Island Local Trust Committee deny the covenant as presented for application SS-SUB-2005.29 (David Wallace, Trustees Trail).

ALTERNATE RECOMMENDATIONS

THAT the Salt Spring Island Local Trust Committee accept from the registered owner of the land on Salt Spring Island legally described as West 1/2 of District Lot 26, North Salt Spring Island, Cowichan District and the East 1/2 of District Lot 27, North Salt Spring Island, Cowichan District a water control covenant under section 219 of the Land Title Act (David Wallace, SS-SUB-2005.29, Trustees Trail).

THAT the Salt Spring Island Local Trust Committee accept from the registered owner of the land on Salt Spring Island legally described as West 1/2 of District Lot 26, North Salt Spring Island, Cowichan District and the East 1/2 of District Lot 27, North Salt Spring Island, Cowichan District a statutory right of way for emergency access under section 219 of the Land Title Act (David Wallace, SS-SUB-2005.29, Trustees Trail).

THAT the Salt Spring Island Local Trust Committee designate any member to sign the covenants (David Wallace, SS-SUB-2005.29, Trustees Trail).

Respectfully submitted by:

Caitlin Brownrigg
Planner 1

Date

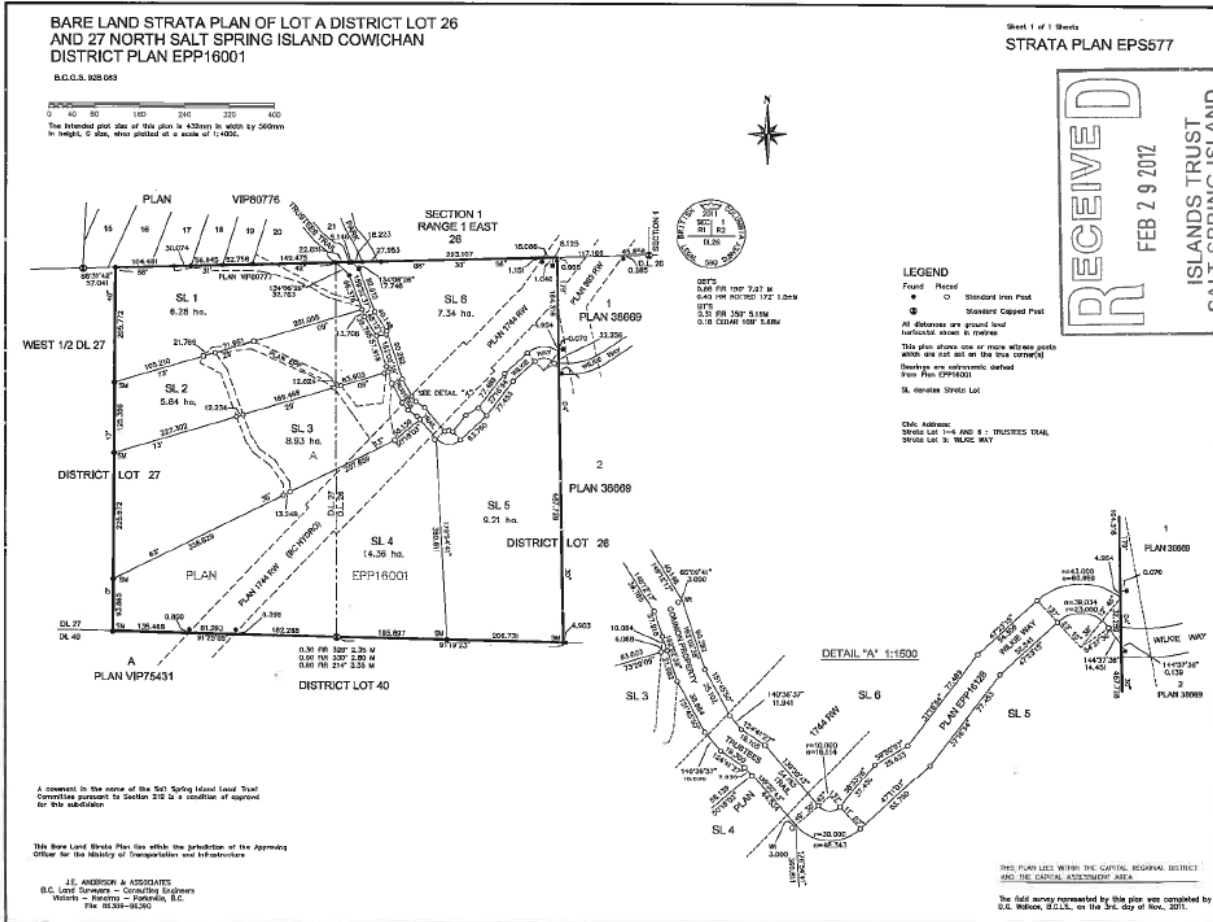
Concurred by:

Leah Hartley
Regional Planning Manager

Date

Appendix A: Bareland Strata Plan
Appendix B: Proposed Water Control Covenant
Appendix C: Proposed Statutory Right of Way

Appendix A: Bareland Strata Plan



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.

Item 12.3
Appendix B

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Cox, Taylor, Barristers & Solicitors
Third Floor, Burnes House
26 Bastion Square
Victoria BC V8W 1H9
250-388-4457
P-638-9*MJH

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

SEE SCHEDULE

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) 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))


SEE SCHEDULE

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.

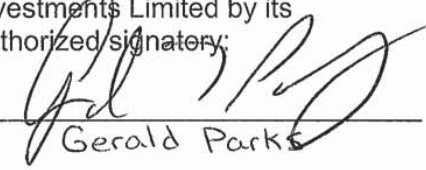
Officer Signature(s)


LEE T. FISHER
Barrister & Solicitor
#1 - 105 Rainbow Road
Salt Spring Island BC
V8K 2V5

Execution Date		
Y	M	D
12	01	06

Transferor(s) Signature(s)

Parks, O'Connor & Parks
Investments Limited by its
authorized signatory:


Gerald Parks

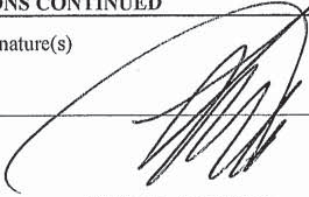
OFFICER CERTIFICATION:

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)



LEE T. FISHER
Barrister & Solicitor
#1 - 105 Rainbow Road
Salt Spring Island BC
V8K 2V5

Execution Date

Y	M	D
12	01	06

Transferor / Borrower / Party Signature(s)

Norisa Holdings Ltd. by its authorized signatory:


Mel Topping

Salt Spring Island Local Trust
Committee by its authorized signatory
(ies):

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 E

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 1, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 2, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 3, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

**LAND TITLE ACT
FORM E**

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 4, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 5, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR STRATA LOT 6, DISTRICT LOT 26 AND 27, NORTH SALT SPRING ISLAND,
COWICHAN DISTRICT, STRATA PLAN EPS577**

STC? YES

[Related Plan Number]

EPS577

LAND TITLE ACT
FORM E

SCHEDULE

NATURE OF INTEREST
Covenant

CHARGE NO.

ADDITIONAL INFORMATION
Grantee

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 6 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. Transferors (Grantors):

PARKS, O'CONNOR & PARKS INVESTMENTS LIMITED (Inc. No. BC0481568)
292 Rainbow Road
Salt Spring Island, B.C.
V8K 2M3

and

NORISA HOLDINGS LTD. (Inc. No. BC0427918)
No. 1 – 105 Rainbow Road
Salt Spring Island, B.C.
V8K 2V5

6. Transferee (Grantee):

Salt Spring Island Local Trust Committee, the Trust Committee having jurisdiction on and in respect of Salt Spring Island in the Province of British Columbia, pursuant to the Islands Trust Act, R.S.B.C. 1996, c. 239, and having an address at 2nd Floor, 1627 Fort Street, Victoria, B.C. V8R 1H8

TERMS OF INSTRUMENT – PART 2

SECTION 219 WATER TREATMENT COVENANT

This **COVENANT** dated for reference the _____ day of _____, 2011.

BETWEEN:

PARKS, O’CONNOR & PARKS INVESTMENTS LIMITED (Inc. No. BC0481568)
292 Rainbow Road
Salt Spring Island, B.C.
V8K 2M3

and

NORISA HOLDINGS LTD. (Inc. No. BC0427918)
No. 1 – 105 Rainbow Road
Salt Spring Island, B.C.
V8K 2V5

(the “Grantors”)
OF THE FIRST PART

AND:

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
200 - 1627 Fort Street
Victoria, B.C.
V8R 1H8

(the “Grantee”)
OF THE SECOND PART

WHEREAS:

A. The Grantors are the registered owners in fee simple of:

PID:	Legal Description
	Strata Lot 1, District Lot 26 and 27, North Salt Spring Island, Cowichan District, Strata Plan EPS577
	Strata Lot 2, District Lot 26 and 27, North Salt Spring Island, Cowichan District, Strata Plan EPS577
	Strata Lot 3, District Lot 26 and 27, North Salt Spring Island,

Cowichan District, Strata Plan EPS577

Strata Lot 4, District Lot 26 and 27, North Salt Spring Island,
Cowichan District, Strata Plan EPS577

Strata Lot 5, District Lot 26 and 27, North Salt Spring Island,
Cowichan District, Strata Plan EPS577

Strata Lot 6, District Lot 26 and 27, North Salt Spring Island,
Cowichan District, Strata Plan EPS577

(collectively the "Lots")

- B. The Salt Spring Island Use Bylaw, 1999 (the "Land Use Bylaw") requires each Lot to have a source of potable water, as that term is defined in the Land Use Bylaw.
- C. The Lots will not be connected to a community water system and instead, water for each Lot will be supplied by a private well located on each of Lot (the "Well(s)").
- D. Chemical analysis of water from the Wells indicates that the water is not potable, as that term is defined in the Land use Bylaw.
- E. Pursuant to the Land Use Bylaw, if a lot does not have a source of potable water then, as a condition of subdivision approval of the plan creating that lot, the owner must grant the Grantee a covenant agreeing to treat the water.
- F. Section 219 of the *Land Title Act* provides that there may be registered as a charge against the title to land a covenant, whether of a positive or negative nature, in respect of the use of land or the use of a building on or to be erected on land.
- G. The Grantors wish to grant this covenant to the Grantee in the interests of confirming the water treatment requirement to the Grantors and all future owners, tenants, lenders and others.

NOW THEREFORE in consideration of the promises below and the sum of One Dollar (\$1.00) paid by the Grantee to the Grantors, and other good and valuable consideration (the receipt and sufficiency of which the parties acknowledge), the parties covenant and agree, pursuant to Section 219 of the *Land Title Act* as follows:

Restriction on use of Lots

- 1. The Grantors shall not use the Lots or any building or structure located on the Lots for any residential or domestic purpose unless the Grantors are in full compliance with this covenant.

Water Treatment System

2. The Grantors shall install a water treatment system on the Lots which is effective to make the water from the Wells potable, which term means the water is safe to drink and suitable for domestic purposes and without limiting the foregoing, to no less a standard than that specified by the Land Use Bylaw, as that standard may be revised or replaced from time to time.

Upgrade of System

3. The Grantors shall upgrade, replace, clean, disinfect, service and otherwise maintain the water treatment system as necessary from time to time.

Grantors' Responsibility for Treatment System

4. The Grantors are solely responsible for all aspects of the water treatment system, including its installation, monitoring and effectiveness.

Water Testing

5. The Grantors shall test the water from the Wells from time to time as is necessary to confirm that it is potable.

Grantors' Responsibility for Water Testing

6. The Grantors are solely responsible for testing of the water from the Wells including the determination of the frequency of testing.

Applicable Laws

7. The Grantors acknowledge that there are or may be federal, provincial and local government laws, regulations and orders affecting the Wells and private drinking water supplied and the Grantors acknowledge that the acceptance of this covenant by the Grantee does not relieve the Grantors from complying with all applicable aspects of those requirements.

Discharge Against Public Interest

8. In respect of a possible application to discharge this covenant pursuant to the provisions of the *Property Law Act*, the Grantors acknowledge that it is in the public interest that this covenant remain registered against the titles to the Lots.

Indemnity

9. The Grantors shall release and indemnify and save harmless the Grantee and its elected and appointed officials, officers, employees and agents, from and against any and all

liabilities, losses, suits actions, damages, claims, demands, costs and other harm arising out of or in any way connected with this covenant or its subject matter.

Disposition of Land

10. The Grantors will not sell, transfer, lease, rent or otherwise dispose of a Lot or propose to do any of them without giving all affected persons written notice of this covenant.

Inspections

11. The Grantee and any of its officers and employees may inspect the Lots and any building or structure on the Lots, for the purpose of ascertaining compliance with this covenant, upon not less than 24 hours notice in writing to the Grantors and to any tenants in occupation.

No Obligations on Grantee

12. The rights given to the Grantee by this covenant are permissive only and nothing in this covenant:
 - (a) imposes any duty of care or other legal duty of any kind on the Grantee to the Grantors or to anyone else.
 - (b) obliges the Grantee to enforce this covenant, which is a policy matter within the sole discretion of the Grantee.
 - (c) obliges the Grantee to perform any act or to incur any expenses for any of the purposes set out in this covenant.

No effect on Laws or Powers

13. This covenant does not:
 - (a) affect or limit the discretion, rights or powers of the Grantee under any enactment or at common law, including any relation to the use or subdivision of the Lots; or
 - (b) affect or limit any law or enactment relating to the use or subdivision of the Lots.

Interpretation

14. Reference in this covenant to:
 - (a) the singular includes a reference to the plural and references to the plural includes a reference to the singular, unless the context requires otherwise;
 - (b) a particular numbered section or lettered schedule is a reference to the

corresponding numbered section or lettered schedule of this covenant.

- (c) an “enactment” is a reference to an enactment as that term is defined in the *Interpretation Act* on the reference date of this covenant.
- (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced; and
- (e) a party is a reference to a party to this covenant.

Covenant Runs with the Lots

- 15. Every obligation and covenant of the Grantors in this covenant constitutes both a contractual obligation and a covenant granted under Section 219 of the *Land Title Act* in respect of the Lots and this covenant burdens the Lots and runs with them and binds the successors in title to the Lots provided, however, that the covenants and obligations of the Grantors herein shall be binding upon them as personal covenants only during the period of their respective ownership of any interest in a Lot and only with respect to that Lot. This covenant burdens and charges all of the Lots and any parcels into which it may be subdivided by any means and any parcel into which the Lots are consolidated.

Registration

- 16. The Grantors will do everything reasonably necessary, at the Grantors’ expense, to ensure that this covenant is registered against titles to the Lots 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 covenant.

Waiver

- 17. An alleged waiver of any breach of this covenant is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver by the Grantee of a breach of this covenant by the Grantors does not operate as a waiver of any other breach of this covenant.

Severance

- 18. If any part of this covenant 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 covenant and the rest of this covenant remains in force unaffected by that holding or by the severance of that part.

No Other Covenants

- 19. This covenant is the entire agreement between the parties regarding its subject.

Enurement

20. Subject to Section 15, this covenant binds the Grantors and their successors, successors in title and assigns.

Further Acts

21. The Grantors must do everything reasonably necessary to give effect to the intent of this covenant, including execution of further instruments.

Deed and Contract

22. By executing and delivering this covenant the Grantors intend to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Act Form C which is attached hereto and forms part of this Agreement.

This is the instrument creating the covenant entered into under Section 219 of the Land Title Act by the registered owners referred to herein and initialled by me.

Approving Officer

END OF DOCUMENT

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.

Item 12.3
Appendix

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Cox, Taylor, Barristers & Solicitors
Third Floor, Burnes House
26 Bastion Square
Victoria BC V8W 1H9
250-388-4457
P-638-9*MJH

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]
**NO PID NMBR THE COMMON PROPERTY OF STRATA PLAN EPS577, DISTRICT LOT 27,
NORTH SALT SPRING ISLAND, COWICHAN DISTRICT**

STC? YES

Related Plan Number: **EPS577**

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) 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))

SEE SCHEDULE

7. ADDITIONAL OR MODIFIED TERMS:

None

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.

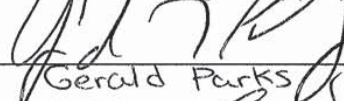
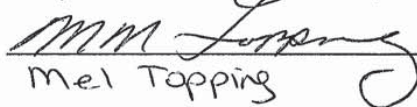
Officer Signature(s)


LEE T. FISHER
Barrister & Solicitor
#1 - 105 Rainbow Road
Salt Spring Island BC
V8K 2V5

Execution Date		
Y	M	D
12	01	06

Transferor(s) Signature(s)

The Owners, Strata Plan EPS577
by its authorized signatory(ies):


Gerald Parks

Mel Topping

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)

Y	M	D

Salt Spring Island Local Trust
Committee by its authorized signatory
(ies):

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 E

SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Statutory Right of Way		Part outlined in heavy black on Plan EPP16128

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**LAND TITLE ACT
FORM E**

SCHEDULE

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:

THE OWNERS, STRATA PLAN EPS577
292 Rainbow Road
Salt Spring Island, B.C. V8K 2M3

6. Transferee:

Salt Spring Island Local Trust Committee, the Trust Committee having jurisdiction on and in respect of Salt Spring Island in the Province of British Columbia, pursuant to the Islands Trust Act, R.S.B.C. 1996, c. 239, and having an address at 2nd Floor, 1627 Fort Street, Victoria, B.C. V8R 1H8

TERMS OF INSTRUMENT, PART 2

STATUTORY RIGHT OF WAY

THIS AGREEMENT made this _____ day of _____, 2011.

BETWEEN:

THE OWNERS, STRATA PLAN EPS577

292 Rainbow Road
Salt Spring Island, B.C. V8K 2M3

(the "Transferor")

AND:

SALT SPRING ISLAND LOCAL TRUST COMMITTEE

200 - 1627 Fort Street
Victoria, B.C.
V8R 1H8

(the "Transferee")

WHEREAS:

- A. The Transferor is responsible for managing and maintaining the common property of Strata Plan EPS577 (the "Common Property") and pursuant to Section 80 (2)(a) of the Strata Property Act of British Columbia the Transferor has agreed to grant this statutory right of way to the Transferee over that part of the Common Property of Strata Plan EPS577 outlined in heavy black on Plan EPP16128 (the "Statutory Right of Way Area").
- B. The emergency access road referred to in Section 1 (a) of Covenant ET100497 has been constructed.
- C. This statutory right of way is necessary for the operation and maintenance of the Transferee's undertaking.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual promises and undertakings herein contained and the sum of \$1.00 now paid by the Transferee to the Transferor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor and the Transferee hereby agree as follows:

1. The Transferor hereby grants and conveys in perpetuity and at all times to the Transferee, its servants, employees, agents, contractors, invitees, licensees, administrators, successors and assigns the full, free, unrestricted and uninterrupted right, license, liberty, privilege, easement and right of way with respect to the Statutory Right of Way Area to:
 - (a) enter, use labour, go, return, pass and repass with or without vehicles, equipment and machinery along, over, under and upon the Statutory Right of Way Area in order to operate, maintain, repair, reconstruct, alter and replace the emergency access road within and along the Statutory Right of Way Area for the use of emergency fire, police, ambulance and rescue motor vehicles and persons associated therewith;
 - (b) do all acts which in the opinion of the Transferee are necessary and incidental to the use of the Statutory Right of Way Area herein granted;
 - (c) allow the general public access to the Statutory Right of Way Area for recreational purposes with or without non-motorized transportation devices and with or without pets, including horses, but not by motor vehicle.
2. The Transferor covenants and agrees with the Transferee that:
 - (a) the Transferor will not make, place, erect or maintain on the Statutory Right of Way Area any building, structure, foundation or obstruction which will interfere with the Statutory Right of Way Area and the rights herein granted;
 - (b) the Transferee, performing and observing the terms, covenants and conditions on its part to be performed and observed, shall and may peaceably hold and enjoy the rights, licenses, liberties, rights of way, privileges and easements hereby granted without hindrance, molestation or interruption on the part of the Transferor or of any person, firm or corporation claiming by, through, under or in trust for the Transferor;
 - (c) the Transferor will not permit to be done any act or thing which in the reasonable opinion of the Transferee might interfere with the use of the Statutory Right of Way Area in the manner set out herein.
3. All costs associated with maintaining, repairing and replacing the Statutory Right of Way Area shall be paid by the Transferor.
4. The covenants contained herein shall be covenants running with the Common Property, but no part of the fee of the soil thereof shall pass to be vested in the Transferee under or by this Agreement.
5. No provision of this Statutory Right of Way Area shall be deemed to have been waived by either party unless written waiver signed by the party waiving a provision has first been obtained by the party asserting a waiver and, without limiting the generality of the

foregoing, no condoning, excusing or overlooking by a party of a breach of the provisions hereof nor any earlier written waiver shall be taken to operate as a waiver or constitute acquiescence to subsequent default or breach of this Agreement by either party.

6. Wherever the singular or the masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context so requires.
7. If any portion of this Agreement is held to be invalid or unenforceable, then such portion shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement which shall remain in full force and effect.
8. This Agreement shall enure to the benefit of and be binding on the parties hereto and their respective heirs, executors, administrators, successors and assigns, notwithstanding any rule of law or equity to the contrary.
9. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.
10. The Transferor shall execute all further documents and things whatsoever to ensure the Transferee's Statutory Right of Way is hereby granted.

IN WITNESS WHEREOF each of the parties has executed this Instrument as of the day, month and year shown on the Form C and Form D, pages 1 and 2, hereof.

Strata Property Act

Form E

[am. B.C. Reg. 289/2000, s. 3.]

CERTIFICATE OF STRATA CORPORATION

(Section 80(2)(a) of the Act)

CERTIFICATE FOR SECTION 80 (2)(a) OF THE ACT

The Owners, Strata Plan EPS577 certify that a resolution referred to in section 80 (2)(a) of the *Strata Property Act* was passed by a ...X.... unanimous vote or 3/4 vote [*check appropriate vote*] at an annual or special general meeting held on January 6, 2012 and that the attached instrument, schedule, plan or other document conforms to the resolution.

For the purposes of section 165 (4) (f) of the *Land Title Act*, execution of the attached instrument has been approved by a resolution at an annual or special general meeting in accordance with the requirements of the *Strata Property Act* or the Strata Property Regulation, and the instrument conforms to the resolution.



Signature of Council Member

Signature of Second Council Member
(not required if council consists of only one member)

END OF DOCUMENT