



**CORPORATION OF THE CITY OF VERNON**

**ADVISORY PLANNING COMMITTEE**

**TUESDAY, APRIL 27, 2021 @ 4:00 P.M.**

**VIA ZOOM**

**A G E N D A**

1) **ADOPTION OF AGENDA**

2) **ADOPTION OF MINUTES**

March 23, 2021 (attached)

3) **NEW BUSINESS:**

a) **DVP00505** – 702 Brassey Crescent

4) **INFORMATION ITEMS:**

The Staff Liaison will provide an update of APC related items discussed at the most recent Council meeting.

5) **DATE OF NEXT MEETING:**

The next meeting is to tentatively scheduled for **Tuesday, May 11, 2021.**

6) **ADJOURNMENT**



# THE CORPORATION OF THE CITY OF VERNON

## MINUTES OF THE ADVISORY PLANNING COMMITTEE MEETING HELD VIA ZOOM TUESDAY, MARCH 23, 2021

**PRESENT:** VOTING

Mark Longworth, Chair  
Phyllis Kereliuk  
Monique Hubbs-Michiel  
Jamie Paterson  
Doug Neden  
Lisa Briggs  
Joshua Lunn  
Larry Lundgren

NON-VOTING

Mayor Cumming (Alternate Appointed Member)

**ABSENT:** Councillor Mund (Appointed Member)

Harpreet Nahal  
Don Schuster  
Bill Tarr

**STAFF:** Craig Broderick, Manager, Current Planning/Staff Liaison

Daniel Sturgeon, Long Range Planner  
Jade Adams-Longworth, Records/Committee Clerk

**ORDER**

The Chair called the meeting to order at 4:03 p.m.

**ADOPTION OF  
AGENDA**

Moved by Doug Neden, seconded by Larry Lundgren:

THAT the Advisory Planning Committee agenda for March 23, 2021 be adopted.

**CARRIED.**

**ADOPTION OF  
MINUTES**

Moved by Phyllis Kereliuk, seconded by Monique Hubbs-Michiel:

THAT the minutes for the Advisory Planning Committee meeting of March 9, 2021 be adopted.

**CARRIED.**

**NEW BUSINESS:**

**OFFICIAL  
COMMUNITY PLAN  
AMENDMENT AND  
ZONING AMENDMENT  
IN THE FOOTHILLS  
NEIGHBOURHOOD  
(6820 FOOTHILLS  
DRIVE)**

The Manager, Current Planning reviewed the Official Community Plan Amendment and Zoning Amendment in the Foothills Neighbourhood for 6820 Foothills Drive. The Committee noted the following:

- Part of the site is a future reservoir site, moving forward will be contingent on RDNO and the Water Authority agreeing based on the location.
- Clarification on the movement of the road – originally the road was set to go down the middle with housing lots on both sides, now is the road is as far east as possible allowing houses on the left side only with the exception of Lot 12 pending input from RDNO.

Moved by Monique Hubbs-Michiel, seconded by Jamie Paterson:

THAT Council support the proposed Official Community Plan amendment and concurrent rezoning of a portion of Lot 1, Plan EPP102994, Sec 13, Twp 8, ODYD (6820 Foothills Drive) as outlined in the report titled “Official Community Plan Amendment and Zoning Amendment in the Foothills Neighbourhood” dated March 17, 2021 and respectfully submitted by the Manager, Current Planning;

AND FURTHER, that Council’s support of the rezoning application is subject to the following: That the application will not proceed to public hearing without receipt of confirmation from the RDNO – Greater Vernon Water Services confirming the land required to be zoned P4 (Utilities) to accommodate existing and future reservoir needs

**CARRIED.**

**INFORMATION ITEMS:**

The Manager, Current Planning reviewed the following APC related applications discussed at the March 22, 2021 Council meeting:

- **DVP00507** – Council went with Alternative 1 for the Advertisement Signs (2411 Hwy 6, 5580 Anderson Way, and 5351 25<sup>th</sup> Avenue).

- **Secondary Suites Bylaw Amendment** – Zoning Bylaw deferred and Council postponed consideration of Bylaw #5851 until the April 12, 2021.
- **Upcoming DVP's** – Variances for the reservoir site scheduled for the Council Meeting on April 12, 2021.

**NEXT MEETING**

The next meeting of the Advisory Planning Committee is tentatively scheduled for Tuesday, April 13, 2021.

**ADJOURNMENT**

The meeting of the Advisory Planning Committee adjourned at 4:13 p.m.

**CERTIFIED CORRECT:**

---

Chair



# THE CORPORATION OF THE CITY OF VERNON REPORT TO COUNCIL

**SUBMITTED BY:** Craig Broderick, Manager, Current Planning

**COUNCIL MEETING:** REG  COW  I/C

**COUNCIL MEETING DATE:** May 25, 2021

**REPORT DATE:** April 20, 2021

**FILE:** 3090-20 (DVP00505)

**SUBJECT: DEVELOPMENT VARIANCE PERMIT APPLICATION FOR 702 BRASSEY CRESCENT**

---

## PURPOSE:

To review the development variance permit application to vary Section 4.2.1 of Zoning Bylaw #5000 in order to allow an at grade swimming pool to be constructed within the front and exterior side yard at 702 Brassey Crescent. The applicant has also requested that covenant LB136794 (charge holder is Predator Ridge) be modified to allow a portion of the pool and deck to be within the covenant area. Any modifications of the covenant would be up to the charge holder (Predator Ridge Golf Club Ltd.).

## RECOMMENDATION:

THAT Council support Development Variance Permit Application DVP00505 to vary Section 4.2.1 of Zoning Bylaw #5000 in order to allow an at grade swimming pool to be constructed within the front and exterior side yard on Lot 25, Plan KAS3344, Section 2, Township 13, ODYD (702 Brassey Crescent);

AND FURTHER, that Council support of DVP00505 is subject to the following:

- a) the site plan and elevations intended to illustrate the proposed variance, as shown on Attachments 1 and 2 in the report titled "Development Variance Permit Application for 702 Brassey Crescent" dated April 20, 2021, respectfully submitted by the Manager, Current Planning, be attached to and form part of DVP00505 as Schedule 'A'.

## ALTERNATIVES & IMPLICATIONS:

1. THAT Council not support Development Variance Permit Application DVP00505 to vary Section 4.2.1 of Zoning Bylaw #5000 in order to allow an at grade swimming pool to be constructed within the front and exterior side yard on Lot 25, Plan KAS3344, Section 2, Township 13, ODYD (702 Brassey Crescent).

*Note: This alternative does not support the development variance permit application and as a result the swimming pool could not be constructed as requested.*

## ANALYSIS:

### A. Committee Recommendations:

At its meeting of April 27, 2021, the Advisory Planning Committee passed the following resolution:

"

"

**B. Rationale:**

1. The subject property is located at 702 Brassey Crescent (Figures 1 and 2). The property is 1,087 sq.m (11,700 sq.ft) in size. The subdivision and property are located in the Falcon Point neighbourhood of Predator Ridge. The property is located at the corner of Brassey Crescent and Falcon Point Way. The subdivision (KAS3344) was registered in November 2007. The house on this lot was constructed in November 2010.

2. The subject application proposes to vary Section 4.2.1 of Zoning Bylaw #5000 in order to allow an at grade swimming pool to be constructed within the front and exterior side yard of the subject property.

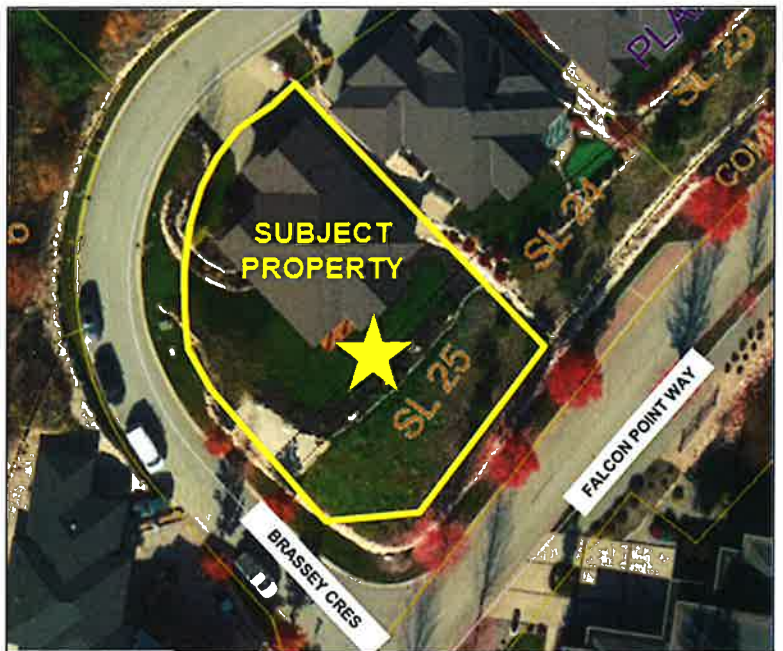
3. In support of the application, the owner has submitted a letter, site photographs, a site plan and a cross-section of the lot (Attachment 1). The intent is to construct a pool on the south-west side of the property as that is the preferred site for the proposed pool and related improvements.

4. Zoning Bylaw #5000 Section 4.2.1 states that "Swimming pools shall not be located in a front yard or an exterior side yard". For the subject property, the functional rear yard (i.e. behind the house) is technically the front yard due to the subdivision configuration. From a legal/zoning perspective, the front yard of this lot is on Falcon Point Way as that is the most narrow road frontage. The exterior side yard flanks onto Brassey Crescent. Typically, zoning bylaws prohibit pools and other accessory buildings (i.e. sheds, garages, etc.) in front and exterior side yards. The intent is to help keep a residential streetscape along a typical subdivision development, while also enhancing privacy for residents. Further, safety considerations related to pools is typically easier to administer with a pool in the rear yard.

5. As with many phases of development at Predator Ridge, a "no-build, no-disturb" covenant was placed on title at the rear of the property. Most of these covenant areas are environmentally sensitive or serve as a buffer between residential uses and golf areas. The covenant (LB136794 – Attachment 2) is in the name of Predator Ridge Golf Club Ltd. This covenant has been heavily modified in the past as it is the



**Figure 1 - Property Location Map**



**Figure 2 – Aerial View of Property**

rear yard of all the homes on Brassey Crescent. As the covenant is not in the City's name, any modification within that area is up to the charge holder (i.e. Predator Ridge Golf Club Ltd.). As the charge holder of the Restrictive Covenant, Predator Ridge is aware of this application.

6. The physical characteristics of the lot and house built on the lot limit options for the placement of the pool and related improvements. The lot slopes upward from Falcon Point Way and Brassey Crescent. As such, the pool and deck would be above the road surfaces and generally out of view from drivers, pedestrians and cyclists. The required fencing and landscaping would screen the pool from view. In general, the Falcon Point area of Predator Ridge is similar to a large, multi-phase strata with only other owners entering the area. No through road exists or are planned for that part of the Predator Ridge neighbourhood.
7. Administration supports the proposed construction of the pool and related improvements (i.e. deck, pump house). The site is well suited for the proposed project and the zoning regulations in this instance are not effective.
8. In order to protect the public, Council members, and staff, the City has implemented strict physical distancing measures in all City facilities, which follow the guidelines and Orders of the Provincial Health Officer (PHO).

Until further notice, to support these measures, Council has directed Administration to receive public input for development variance permit applications in written form only, until physical distancing requirements have been lifted by the PHO.

Only those written submissions (or emails to [phearings@vernon.ca](mailto:phearings@vernon.ca)) received prior to the Public Input Session shall be distributed to Council.

As part of the notification process, \_\_\_ letters were sent to neighbouring residents, tenants and property owners. At the time of report writing, \_\_\_ written submissions had been received. As input is received, it is placed on the City of Vernon website (Development Variance Permits – Public Input) as well as in a binder at the front counter of the Community Services Building.

**C. Attachments**

Attachment 1 – Letter, Site Photographs, Site Plan and Cross-Section  
Attachment 2 – Restrictive Covenant (LB136794)

**D. Council's Strategic Plan 2019 – 2022 Goals/Action Items:**

The subject application involves the following goals/action items in Council's Strategic Plan 2019 – 2022:

- Review applications processes to ensure they are efficient as possible

**E. Relevant Policy/Bylaws/Resolutions:**

N/A

**BUDGET/RESOURCE IMPLICATIONS:**

N/A

---

Prepared by:

Approved for submission to Council:

**X**

\_\_\_\_\_  
Signer 1

Craig Broderick, Manager  
Current Planning

\_\_\_\_\_  
Will Pearce, CAO

Date: \_\_\_\_\_

**X**

\_\_\_\_\_  
Signer 2

Kim Flick, Director  
Community Infrastructure and Development

**REVIEWED WITH**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Corporate Services                    | <input type="checkbox"/> Operations           | <input checked="" type="checkbox"/> Current Planning          |
| <input type="checkbox"/> Bylaw Compliance                      | <input type="checkbox"/> Public Works/Airport | <input type="checkbox"/> Long Range Planning & Sustainability |
| <input type="checkbox"/> Real Estate                           | <input type="checkbox"/> Facilities           | <input type="checkbox"/> Building & Licensing                 |
| <input type="checkbox"/> RCMP                                  | <input type="checkbox"/> Utilities            | <input type="checkbox"/> Engineering Development Services     |
| <input type="checkbox"/> Fire & Rescue Services                | <input type="checkbox"/> Recreation Services  | <input type="checkbox"/> Infrastructure Management            |
| <input type="checkbox"/> Human Resources                       | <input type="checkbox"/> Parks                | <input type="checkbox"/> Transportation                       |
| <input type="checkbox"/> Financial Services                    |   | <input type="checkbox"/> Economic Development & Tourism       |
| <input checked="" type="checkbox"/> COMMITTEE: APC (Apr.27/21) |   |   |
| <input type="checkbox"/> OTHER:                                |   |   |



**RANDY HOOD**

702 Brassey Crescent  
Vernon, BC V1H 2H7

September 22, 2020

City of Vernon  
3400-30 St.  
Vernon, BC

**ATT: Mr. Craig Broderick**

Dear Sir,

We are proposing to build a swimming pool on the front of our property, however there is an existing covenant registered on our property. We are requesting a waiver of a portion of this covenant to allow construction of the pool.

I understand that the original purpose of these covenants was to preserve the natural areas on the lots. On this particular lot the developer removed all vegetation because of the terrain and required grade changes.

Previous owners of the property landscaped a portion of the covenant area, added trees and wild grasses to the remainder of the area.

We would intend to move the landscaping in the proposed pool and patio area closer to the Falcon Point Way end of the lot, along the edge of the new patio.

We have attached our pool permit application, site plan and a few photos showing the existing landscaping.

We would be please to meet with you onsite at your convenience.

Best Regards,

Randy Hood





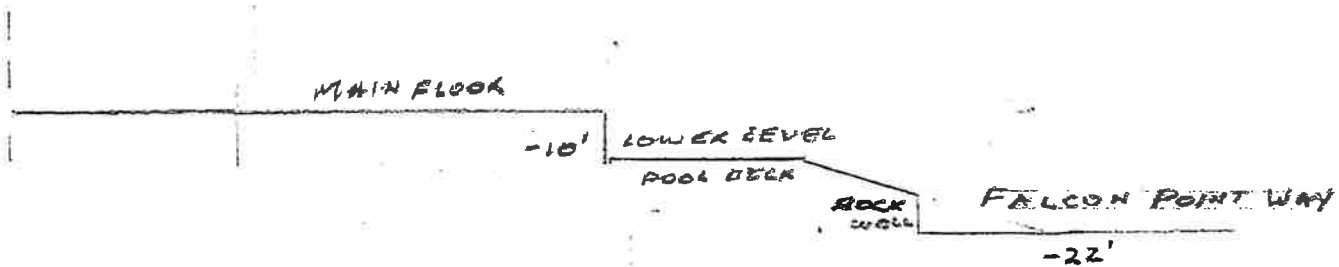








O. BRASSEY CR.



SITE PROFILE

TOP BRASSEY CR.

50

LB136795

15 NOV 2007 14:54:09 50

LB 136794  
C.P.A. 632  
Plans 34

LAND TITLE ACT  
FORM C

(Section 233)  
Province of British Columbia

GENERAL INSTRUMENT - PART 1 (This area for Land Title Office use)

Page 1 of 10 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)  
NIXON WENGER, Barristers and Solicitors (ID #10560)  
4th Floor, 3201-30th Avenue, Vernon, B.C. V1T 2C6  
Telephone No. (250) 542-5353  
Attention: Chris Alveberg 19286-304

signature of applicant, applicant's solicitor or agent  
RB 07/11/15 14:54:09 01 KL 026553

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*  
(PID) (LEGAL DESCRIPTION)  
SEE SCHEDULE

CHARGE \$131.30  
RB 07/11/15 14:54:14 01 KL 026553  
S/S/DT PLANS \$54.00

Gillespie Renkema  
Barnett Brpadway LLP  
KAMLOOPS  
AGENT  
#10588

NATURE OF INTEREST:\*  
DESCRIPTION  
SEE SCHEDULE

DOCUMENT REFERENCE  
(page and paragraph)

PERSON ENTITLED TO INTEREST

TERMS: Part 2 of this instrument consists of (select one only)

- (a) Filed Standard Charge Terms
(b) Express Charge Terms
(c) Release

D.F. No.
Annexed as Part 2

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.

5. TRANSFEROR(S):\*  
SEE SCHEDULE

TRANSFeree(S): (including postal address(es) and postal code(s))\*

PREDATOR RIDGE GOLF CLUB LTD., (Inc. No. 354876), 301 Village Centre Place, Vernon, British Columbia, V1H 1T2

7. ADDITIONAL OR MODIFIED TERMS:\* NIL

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)

Execution Date

Transferor(s) Signature(s)

[Handwritten signature of David R. Laronde]

Table with 3 columns: Y, M, D. Values: 2007, 10, 16

PREDATOR RIDGE GOLF CLUB LTD., (as Transferor) by its authorized signatory(ies):

[Handwritten signature of David Bustos]

Print Name: David Bustos

DAVID R. LARONDE
BARRISTER & SOLICITOR
SUITE #2650, PARK PLACE
666 BURRARD STREET
VANCOUVER, B.C. V6C 2X8
TEL: 604-694-8819

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(s) in Form D.

**LAND TITLE ACT  
FORM D**

Province of British Columbia

**EXECUTION CONTINUED**

Officer Signature(s)



**DAVID R. LARONDE  
BARRISTER & SOLICITOR  
SUITE #2650, PARK PLACE  
666 BURRARD STREET  
VANCOUVER, B.C. V6C 2X8  
TEL: 604-694-8819**

Execution Date

Y	M	D
2007	10	16

Party(ies) Signature(s)

**PREDATOR RIDGE GOLF CLUB LTD.**  
(as Transferee) by its authorized signatory(ies):

  
Print Name: David Bustos

**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**

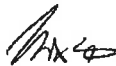
Province of British Columbia

**EXECUTION CONTINUED**

Officer Signature(s)

Execution Date


Party(ies) Signature(s)



**WINNIE SHUM**  
**A COMMISSIONER FOR TAKING AFFIDAVITS**  
**FOR BRITISH COLUMBIA**  
885 ~~885~~ WEST GEORGIA STREET  
**VANCOUVER, B.C.**  
**V6C 3G1**

Y	M	D
2007	10	10

HSBC BANK CANADA, by its  
authorized signatory(ies):



Print Name: **DOUGLAS BRANDES**  
**ASSISTANT VICE PRESIDENT**  
**COMMERCIAL FINANCIAL SERVICES**

Print Name: **ANDERS FEMMINGSEN**  
**COMMERCIAL FINANCIAL**  
**SERVICES OFFICER**

**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**  
Province of British Columbia  
**SCHEDULE**

Enter the Required Information in the Same Order as the Information Must Appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

**2. Parcel Identifier(s) and Legal Description(s) of Land:**  
(PID) (Legal Description(s))

Strata Lot 1 and Strata Lot 2, Section 11, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~603341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access);

Strata Lot 3, Strata Lot 11 and Strata Lot 12, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~603341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access); and

Strata Lots 4 to 9 inclusive and Strata Lot 13 to 26 inclusive, Section 2, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~603341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access)

**3. Nature of Interest**  
Description

Document Reference  
(page & paragraph)

Person Entitled to Interest

Restrictive Covenant

Entire Instrument  
Pages 5 - 10

Registered Owner of <sup>85/</sup> Lot E and an undivided ~~26~~ 26/238 share in Lot A, Sections 2 and 11, Township 13, ODYD, Plan KAP65832 except Plans KAP70001, KAP74004, KAP75755, KAP76359, KAP81819 and KAP 85324

Priority Agreement granting this Restrictive Covenant priority over Mortgage LB102884, extended by LB115984 and Assignment of Rents LB102885, extended by LB115985

Page 9

Transferee

**5. Transferor(s):**

**PREDATOR RIDGE GOLF CLUB LTD., Inc. No. 354876, as to Restrictive Covenant, and HSBC BANK CANADA, as to priority**

**TERMS OF INSTRUMENT – PART 2**

**RESTRICTIVE COVENANT (BUFFER AREA)**

**WHEREAS:**

- A. The Transferor is the registered owner in fee simple of all and singular that certain parcel(s) or tract(s) of land and premises, situate, lying and being in the Vernon Assessment Area, in the Province of British Columbia, more particularly known and described as:

Strata Lot 1 and Strata Lot 2, Section 11, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~003341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access);

Strata Lot 3, Strata Lot 11 and Strata Lot 12, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~003341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access); and

Strata Lots 4 to 9 inclusive and Strata Lot 13 to 26 inclusive, Section 2, Township 13, Osoyoos Division Yale District, Strata Plan KAS ~~003341~~ and each Strata Lot having an undivided 1/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 (see Plan as to Limited Access)

(hereinafter collectively called the "Servient Tenement");

- B. The Transferor will be developing on the Servient Tenement a residential housing development at locations on the Servient Tenement that have not yet been determined by the Transferor;
- C. The Transferee is the registered owner in fee simple of all and singular that certain parcel(s) or tract(s) of land and premises, situate, lying and being in the Vernon Assessment Area, in the Province of British Columbia, more particularly known and described as:

Lot E and an undivided 86/238 share in Lot A, Sections 2 and 11, Township 13, Osoyoos Division Yale District, Plan KAP65832 except

Plans KAP70001, KAP74004, KAP75755, KAP76359, KAP81819 and KAP ~~85324~~

(hereinafter called the "Dominant Tenement");

D. The Transferee owns the Dominant Tenement which will be affected by construction of the residential housing development on the Servient Tenement, therefore, requiring the Transferor to establish a buffer area (the "Buffer Area") on:

(a) those parts of Strata Lots 1 to 9 inclusive and Strata Lots 11 to 26 inclusive, of the Servient Tenement as shown outlined in bold black on an Reference Plan of Covenants pursuant to Section 99(1)(e) of the *Land Title Act* over Strata Lots 1 - 9 and 11 - 26, Sections 2 and 11, Township 13, Strata Plan KAP ~~85324~~ and an undivided 25/238 share in Lot A, Sections 2 and 11, Township 13, ODYD, Plan KAP65832 (see Plan as to Limited Access) prepared by Mark A Cahill, B.C.L.S., and completed on the 19<sup>th</sup> day of September, 2007 (a photocopy of which is attached hereto as Schedule "A");

ASSIGNED PLAN NO. KAP 85324

E. The Transferor and the Transferee agree that the Buffer Area is not to be disturbed unless in accordance with the provisions of this Agreement;

F. Pursuant to the provisions of Section 221 and 222 of the Land Title Act, there may be registered a covenant against the title to the Servient Tenement and such covenant is enforceable against the Transferor by the Transferee and the successors in title of the Transferee to the Dominant Tenement;

NOW THEREFORE in consideration of the promises set forth in this Covenant and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The Transferor covenants with the Transferee that:

(a) the Buffer Area must not be altered, interfered with or disturbed and, without limiting the generality of the foregoing, the natural vegetation, contour and state of the Buffer Area shall not be altered, interfered

with or disturbed and no soil, plantings or other material shall be deposited on, removed from or excavated within the Buffer Area;

- (b) development of the Buffer Area, including, without limitation, by construction or placement of any building or structure on the Buffer Area, is prohibited; without limiting the foregoing, the Transferor shall not construct, erect or place any buildings, modular homes, mobile homes or unit improvement or structure on the Buffer Area;
- (c) no building permit may be applied for in respect of the Buffer Area; and
- (d) no occupancy permit may be applied for in respect of the Buffer Area,

unless, solely in connection with paragraph (a) above:

- (i) strictly required in connection with the terms and conditions of the Section 219 Covenant in favour of The Corporation of the City of Vernon, registered against title to the Servient Tenement under instrument no. KR96531, as the same may be modified, amended or replaced from time to time and, then, upon thirty (30) days prior written notice to the Transferee; or
- (ii) required in order to conduct reasonable repairs and/or maintenance of the rock wall which is located, as at the date of this Agreement, or will be located, after the date of this Agreement, within the Buffer Area.

*wildfire*

2. If the Transferor or the Transferee or their successors come to any disagreement concerning the interpretation of the provisions of this restrictive covenant, such dispute shall be resolved by arbitration by referring this matter to a single arbitrator pursuant to the provisions of the *Commercial Arbitration Act*, Statutes British Columbia.

3. It is expressly agreed between the Transferor and the Transferee hereto that the restrictions hereinbefore contained in this Agreement shall be read and held as made by and with, granted to and imposed upon the respective parties hereto and their respective heirs, executors, administrators,

successors and transferees in title of the Servient Tenement and the Dominant Tenement respectively, and wherever the singular or masculine is used, the same shall be construed as being the plural, feminine or body politic or corporate where the context or the parties hereto so require.

4. The Transferor agrees to do everything reasonably necessary, at the Transferor's expense, to ensure that this Agreement is registered against title to the Servient Tenement 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.
5. 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.
6. 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.
7. This Agreement is the entire agreement between the parties regarding its subject.
8. The Transferor must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
9. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal. The rights given to the Transferee by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Transferee to anyone, or obliges the Transferee to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
10. As evidence of their agreement to be bound by the above terms and conditions set out in this Agreement, the parties each have executed and delivered this Agreement by executing the *Land Title Act* Form C and Form

D, as applicable, to which this Agreement is attached and which forms part of this Agreement.

11. The covenant set out in this Agreement will burden and run with the Servient Tenement. The Transferor releases, and must indemnify and save harmless, the Transferee, its directors, officers, agents and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Transferor, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Transferor of this Agreement, or any default of the Transferor under or in respect of this Agreement.
12. Subject to section 13, this Agreement will enure to the benefit of and be binding upon the parties to this Agreement and their respective successors, heirs, executors, administrators and assigns.
13. Notwithstanding anything contained in this Agreement, the Transferor will not be liable under any of the covenants and agreements contained in this Agreement where a liability arises by reason of an act or omission occurring after the Transferor ceases to have any further interest in the Servient Tenement.
14. HSBC BANK CANADA hereby consents to the within Restrictive Covenant and grants priority over its Mortgage registered under number LB102884, extended by LB115984 and its Assignment of Rents registered under number LB102885, extended by LB115985.

SCHEDULE "A"

REFERENCE PLAN OF COVENANTS OVER PARTS OF STRATA LOTS 1-9 AND 11-26, SECS. 2 & 11, TP. 13, STRATA PLAN KAS0326 AND AN UNDIVIDED 25/238 SHARE IN LOT A, SECS. 2 & 11, TP. 13, ODYD, PLAN KAP65832. (SEE PLAN AS TO LIMITED ACCESS)

PLAN KAP

Downloaded by the Land Title Office of Ontario, S.C. on May 11, 2007  
REGISTRAR

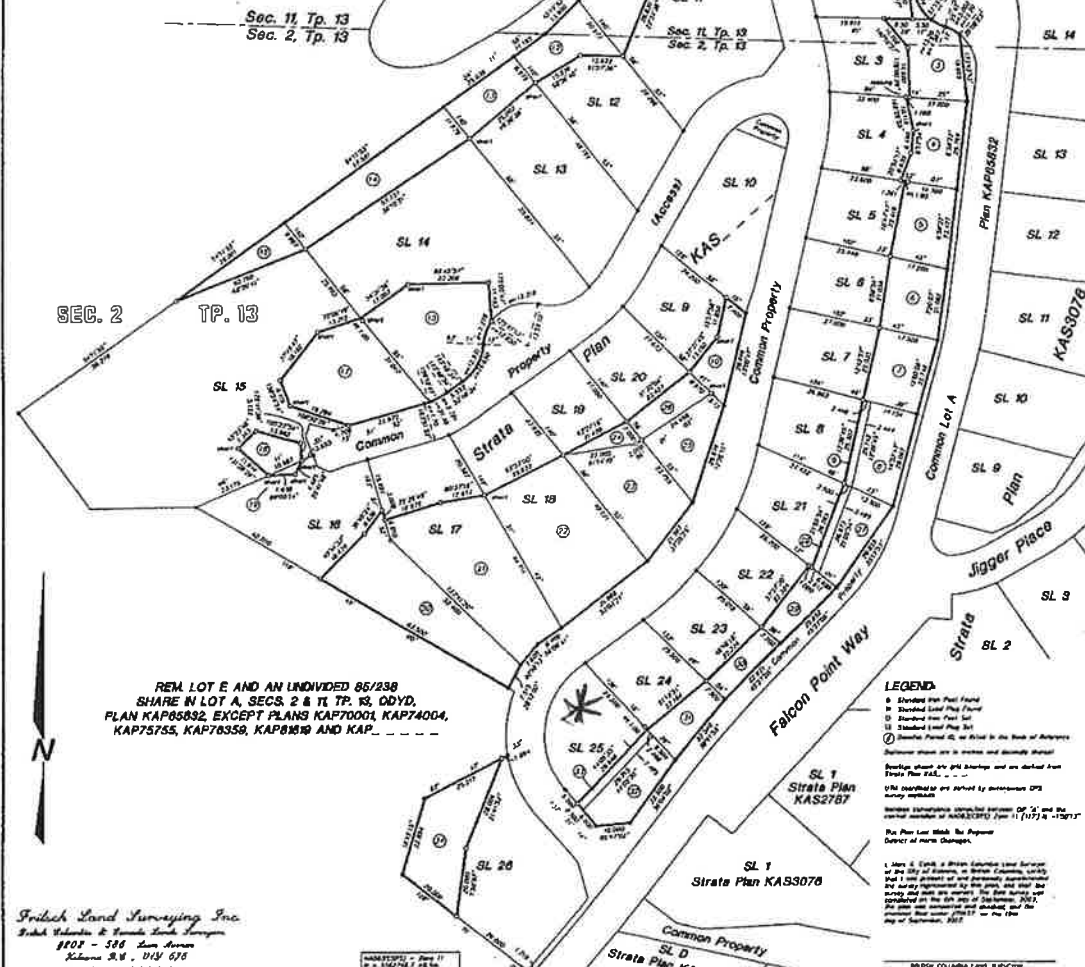
Pursuant to Section 89(1)(e) of the Land Title Act.

On BCGS 82L014

Scale 1:600 Metric

Book Of Reference

INSTR.	DATE ACQUISITION	AREA
1	Strata Lot 1, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	2,158 sq. ft.
2	Strata Lot 2, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,975 sq. ft.
3	Strata Lot 3, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,883 sq. ft.
4	Strata Lot 4, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,801 sq. ft.
5	Strata Lot 5, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,718 sq. ft.
6	Strata Lot 6, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,635 sq. ft.
7	Strata Lot 7, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,552 sq. ft.
8	Strata Lot 8, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,469 sq. ft.
9	Strata Lot 9, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,386 sq. ft.
10	Strata Lot 10, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,303 sq. ft.
11	Strata Lot 11, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,220 sq. ft.
12	Strata Lot 12, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,137 sq. ft.
13	Strata Lot 13, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	1,054 sq. ft.
14	Strata Lot 14, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	971 sq. ft.
15	Strata Lot 15, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	888 sq. ft.
16	Strata Lot 16, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	805 sq. ft.
17	Strata Lot 17, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	722 sq. ft.
18	Strata Lot 18, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	639 sq. ft.
19	Strata Lot 19, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	556 sq. ft.
20	Strata Lot 20, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	473 sq. ft.
21	Strata Lot 21, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	390 sq. ft.
22	Strata Lot 22, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	307 sq. ft.
23	Strata Lot 23, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	224 sq. ft.
24	Strata Lot 24, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	141 sq. ft.
25	Strata Lot 25, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	58 sq. ft.
26	Strata Lot 26, Sec. 11, Tp. 13, 13-0010, Strata Plan KAS...	21 sq. ft.



British Land Surveying Inc.  
1107 - 556 Lamb Avenue  
Richmond B.C. V6V 6T6  
604-271-1170 (250) 762-0172

END OF DOCUMENT

**LAND TITLE ACT**  
 FORM 11(a)  
 (Section 99(1)(e), (j) and (k))  
**APPLICATION FOR DEPOSIT OF REFERENCE OR EXPLANATORY PLAN (CHARGE)**

I, **CHRISTOPHER ALVEBERG**, Lawyer of Nixon Wenger, Barristers & Solicitors, 4th Floor, 3201 - 30th Avenue, Vernon, British Columbia, V1T 2C6, 542-5353, agent of **PREDATOR RIDGE GOLF CLUB LTD.**, (Inc. No. 354876), 301 Village Centre Place, Vernon, British Columbia, V1H 1T2, the owner of a registered charge,

apply to deposit reference/explanatory plan of:

Covenants  
 Over Parts of Strata Lots 1 - 9 and 11 - 26, Sections 2 & 11, Township 13, ODYD, Strata Plan **KAS 85325**, and an undivided 25/238 share in Lot A, Sections 2 & 11, Township 13, ODYD, Plan **KAP65832** (see Plan as to Limited Access)

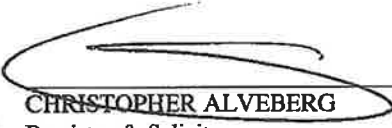
I enclose:

1. The reference/explanatory plan.
2. The reproductions of the plan required by section 67(s).
3. Fees of \$54.00.

ASSIGNED PLAN NO.

**KAP 85325**

Dated the 9 day of November, 2007.

  
**CHRISTOPHER ALVEBERG**  
 Barrister & Solicitor  
 4<sup>th</sup> Floor, 3201 - 30<sup>th</sup> Avenue  
 Vernon, British Columbia, V1T 2C6

NOTE:(i) Under section 67(s) the following reproductions of the plan must accompany this application:

- (a) one blue linen original (alternatively, white linen or original transparencies).
- (b) one duplicate transparency.
- (c) one whiteprint is required as a worksheet for the land title office.

(ii) The following further requirements may be necessary:

- (a) If the parent property is in an Agricultural Land Reserve, a release is required unless the parent property is less than 2 acres (app. 0.8094 hectares) of where, for permitted uses, an approving officer has endorsed the plan under section 3 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (B.C. Reg. 171/2002) under the **Agricultural Land Commission Act**.
- (b) Where a notice respecting a grant under the **Home Purchase Assistance Act** is endorsed on title, an extra white print must accompany the application, unless the Ministry of lands, parks and Housing agrees otherwise in writing. This extra print must contain the following endorsement:  
 "The eligible residence as defined by the **Home Purchase Assistance Act** is located on lot \_\_\_\_\_ created by this plan.

\_\_\_\_\_  
 B.C.L.S. or solicitor for the owners

- (c) Controlled access approval must be evident on the plan where parent property adjoins a highway that is designated as a controlled access highway.
- (d) Where the plan refers to a covenant to be made under section 219, the instrument containing the covenant must be tendered with the plan.