

SUBSTITUTE FORM "C"

Date: th 25 October 1972

Applicant:

G85683

Nature of Interest:
LAND USE CONTRACT

CORPORATION OF THE DISTRICT
OF SAANICH,
770 Vernon Avenue,
Victoria, B. C.
V8X 2W7

Subject to Restrictive
Covenant No. 373379-G.

Per:

J. S. [Signature]
Agent 226-2241 (local 020)

THIS CONTRACT is made as of the 25th day of October 1978:

BETWEEN:

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1978 OCT 25

THE CORPORATION OF THE DISTRICT OF SAANICH,
770 Vernon Avenue in the City of Victoria
in the Province of British Columbia,
V8X 2W7

(hereinafter called "the Municipality")

OF THE FIRST PART,

AND:

BROADMEAD FARMS LTD., (Incorporation No.
65,469), a company incorporated under the
laws of the Province of British Columbia,
of 950 Royal Oak Drive in the City of
Victoria in the Province of British Columbia,

(hereinafter called "the Owner")

OCT 25 1978 10 65 4 THE SECOND PART 3650

WHEREAS:

A. The Owner is the registered owner of an estate in
Fee Simple of ALL AND SINGULAR those certain parcels or tracts
of land and premises (hereinafter called "the land"), situate,
lying and being in the MUNICIPALITY OF SAANICH in the Province
of British Columbia, as shown on Schedule "A" hereto, and
more particularly known and described as:

Firstly: Lot 42, Section 44, Victoria District, Plan 5900
EXCEPT that part thereof included in Plan 22002;

Secondly: Lot 4, Section 44, Victoria District, Plan 8909;

Thirdly: Lot 30, Section 44, Victoria District, Plan 376
EXCEPT those parts thereof included within Plans
7969, 12665, 29241 and 22002;

Fourthly: Lot 31, Section 44, Victoria District, Plan 376,
EXCEPT Parcel A (D.D.64985-1) thereof and those
parts of said Lot 31 included within Plans 6441 and
12665; and



Fifthly: Lot 1, Section 44, Victoria District, Plan 6441, EXCEPT that part thereof lying to the Southwest of a line parallel to and perpendicularly distant 75 feet from the Southwest boundary of said Lot 1 and that part of said Lot 1 included within Plan 12909;

B. The land is located within an area which has been heretofore designated as a development area by the Council of the Municipality;

C. The Council of the Municipality, pursuant to Section 702A of the "Municipal Act" may, notwithstanding any by-law of the Municipality, upon the application of an owner of land within a development area designated as such by a by-law of the Municipality, enter into a land use contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon, and thereafter the use and development of that land shall be in accordance with such land use contract;

D. The Owner has presented to the Municipality a scheme of use and development of the land and has made application to the Municipality to enter into this land use contract under the terms, conditions and for the consideration hereinafter set forth;

E. The Owner has obtained the consents of all persons having a registered interest in the land as set out in Schedule "B" hereto to the registration of this contract in the Victoria Land Registry Office with priority over their respective interests which consents are attached to the said Schedule "B" hereto;

F. The Council of the Municipality, having given due regard to the considerations set forth in Section 702(2) and 702A(1) of the "Municipal Act" has agreed to the terms, conditions and considerations herein contained;

G. The Owner acknowledges that it is fully aware of the provisions and limitations of Section 702A of the "Municipal Act" and the Municipality and the Owner mutually acknowledge

and agree that the Council of the Municipality could not enter into this Agreement until the Council held a public hearing in relation to this Agreement in the manner prescribed by law and has duly considered the representations made and the opinions expressed at such hearing, and unless the required majority of all members of the Council present at the meeting at which the vote is taken and entitled to vote on the by-law, vote in favour of the Municipality entering into this Contract;

H. If the land is within a radius of one-half mile of the intersection of a controlled access highway and another highway, the approval of the Minister of Highways to the terms hereof must be obtained;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Municipality and the Owner covenant and agree as follows:-

1. The land, including the surface of water and any and all buildings and structures erected thereon, thereover or therein for a term of FIFTEEN (15) YEARS commencing upon the date of execution hereof by the Municipality, shall be used for the purposes specified in Schedule "C" hereto and none other.
2. No building or structure shall be constructed, reconstructed, altered, moved or extended upon the land except in compliance with the plan and specifications attached as Schedule "D" hereto: PROVIDED HOWEVER that minor alterations to the said plan and specifications which do not substantially alter this work may be permitted and approved by the Municipal Engineer of the Municipality.
3. All buildings and structures shall be constructed strictly in compliance with and according to the said plan and specifications set out in Schedule "D" hereto: PROVIDED

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HOWEVER that minor alterations to the plan which do not substantially alter this work may be permitted and approved by the Municipal Engineer of the Municipality.

4. At the expiration of the period of fifteen years referred to in paragraph 1 hereof, the use of the land shall be controlled by the provisions of the Zoning By-law of the Municipality in force in respect of the zone comprising the land at that time, and, in default of such zoning by-law, shall be covered by the provisions of this Land Use Contract until the Zoning By-law applicable to the land is enacted. If the use of the land pursuant to the terms of this Contract is in conflict with the provisions of the Zoning By-law in force at the expiration of the period of fifteen years as aforesaid, then such use shall be deemed to be a lawful, non-conforming use at that time.

5. Notwithstanding anything elsewhere contained herein, if during the course of construction or erection of any of the things to be constructed or erected as aforesaid, it shall be made to appear to the Municipal Engineer of the Municipality that it is expedient or desirable in the interest of both the public and the Owner that departures from the applicable plan and specifications hereinbefore referred to, having no substantial effect upon the essential nature or character of the said things to be constructed or erected as aforesaid should be permitted in order to meet the requirements of generally accepted design and engineering standards or practices, or to comply with building or fire regulations or with any other requirements of any authority having jurisdiction in the premises, the Municipal Engineer of the Municipality may, in his absolute discretion, permit such departures.

6. All works and services required by the Municipal Engineer to be provided within the development to service the land shall be constructed, installed, placed and provided

by the Owner in accordance with the specifications in Schedule "E" attached hereto.

7. The entire cost of the development of the land including the provision of all works and services referred to in paragraph 6 hereof, shall be paid for by the Owner.

8. The cost of maintaining and replacing sewer pumping facilities required by the Municipal Engineer to be constructed or installed to service the development shall be the responsibility of the Owner who shall cause to be established a strata corporation to own, operate and maintain the said sewer pumping facilities, and any such sewer pumping facilities shall be located wholly within the area designated as the Strata plan area referred to in paragraph 12 hereof.

9. All works and services, buildings, structures, pipes and fixtures and development constructed, placed or carried out on the land that is now, or by this Contract becomes vested in the Municipality or located upon highways required to be dedicated, shall upon acceptance by the Municipality in writing, become the property of the Municipality free and clear of any claim by the Owner or any person claiming through the Owner and the Owner shall save harmless the Municipality from any such claim.

10. The Municipality shall, from the date of acceptance, become solely responsible for the operation, upkeep and maintenance of any works and services and any building, structure, pipes and fixtures or development accepted by it pursuant to Paragraph 9 hereof, but nothing herein contained shall be deemed to require the Municipality to operate, maintain or repair such works and services, buildings, structures, pipes, fixtures or development in any manner or to any extent different from its obligation in relation to similar works, services, buildings, structures, pipes, fixtures or development constructed by it out of its general municipal funds.

11. The Owner shall as soon as is reasonably possible after execution of this contract by the Municipality, cause to be filed in the Victoria Land Registry Office a subdivision plan or plans which shall dedicate as road allowance and park the lands shown on the plans attached hereto as Schedule "C1" and "Amended Schedule C2" respectively. Following deposit of the plan of subdivision, the Owner shall request the Municipality to release and the Municipality shall release from this land use contract pursuant to paragraph 19 hereof the parcel of land measuring 25 feet by 250 feet lying immediately to the East of Lots 3, 4 and 5, Block E, Section 44, Victoria District, Plan 501 and shown approximately in red as Parcel A on Amended Schedule C2 attached hereto and the Owner shall forthwith convey the same to the Municipality for the sum of \$1.00 clear and free of all encumbrances.

12. The Owner shall, as soon as is reasonably possible after execution of this Contract by the Municipality, file a strata plan in the Victoria Land Registry Office which shall include the lands shown on the plan attached hereto as Schedule "C4" and such lands only.

13. This Land Use Contract shall be null and void notwithstanding the execution hereof unless within sixty (60) days after execution hereof by the Municipality it has been registered in the Land Registry Office in the City of Victoria in the Province of British Columbia as a first charge against the land having priority over any and all liens, entries, judgments, mortgages, leases or other encumbrances or charges of whatsoever kind or description, save and except restrictive covenants, easements and Crown Reservations, if any: PROVIDED that if the Municipality shall not within the period of fifteen (15) days after the execution hereof apply to register this Land Use Contract as aforesaid, the Owner may and is hereby irrevocably authorized to apply to register the same as the agent of the Municipality and the Municipality shall for that purpose deliver

to the Owner a fully executed copy of this Land Use Contract, duly attested, and in all respects in registrable form, together with a true copy of the by-law authorizing execution of the same by the Municipality certified as such by the Municipal Clerk.

14. The Municipality may before the expiration of the period of sixty (60) days mentioned in the preceding clause, extend in writing such period of sixty days, and may further in writing extend such period during any extension or extensions thereof.

15. Notwithstanding anything contained herein, the Owner may grant any easement or charge required by any government or local authority having the power to demand or expropriate such easement or charge.

16. Unless the Owner shall have commenced the development of the land in accordance with this Contract within eighteen (18) months from the date of registration hereof in the Land Registry Office at Victoria, this Contract may be terminated forthwith at the option of the Council of the Municipality and this Contract shall thereupon be null and void and of no further force or effect. For the purpose of this paragraph, the development shall be deemed to have been commenced when the value of the construction or erection undertaken by the Owner in accordance with this Contract shall exceed Twenty-five Thousand Dollars (\$25,000.00) as certified by the Engineer of the Municipality.

17. Except as otherwise provided in this Contract, the lands, buildings and structures, and the development thereof shall comply with all statutes, regulations, by-laws and ordinances from time to time in force in the District of Saanich, and without limiting the generality of the foregoing, the development of all buildings and structures shall be subject to the building code of British Columbia and the District of Saanich building and plumbing by-laws and the Owner hereby agrees to apply for any permits which the Municipality may require pursuant to said building and plumbing by-laws prior to the erection of any buildings

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or structures.

18. The Owner shall carry out the work and construct, locate, provide, develop and substantially complete the structures, buildings, works, services, development and facilities within one hundred and twenty (120) months from the date hereof, in default of which the Municipality may at its option upon ten (10) days' prior written notice to the Owner terminate this Contract and the Contract shall thereupon be null and void and of no further force and effect.

19. Notwithstanding anything elsewhere contained herein, the Owner may at any time apply to the Council of the Municipality for the release of any provision of this Contract or the release of the Contract from all or any portion of the land, and the Council of the Municipality may grant the release requested if in its opinion it is in the interest of the Municipality to do so.

20. Upon the written application of the owner of the land and of every person who has a registered interest therein as mortgagee, optionee or purchaser under an agreement for sale, the Municipality may by the resolution of its Municipal Council shorten or lengthen the period of fifteen years mentioned in paragraph 1 hereof, or agree to its cancellation, provided that such resolution shall not become effective until a certified copy thereof has been filed with this Contract in the Victoria Land Registry Office.

21. The Owner shall make payment to the Municipality for improving services outside the boundaries of the land, or undertake to perform such work as more specifically set forth in Schedule "F" attached hereto, together with any offsite drainage improvements necessary to convey storm water from the land to an outlet approved by the Municipal Engineer.

22. The Owner shall make all applications for subdivision approval to the Approving Officer of the Municipality in accordance with current municipal policy and procedures and shall provide all plans, fees, designs and information as would normally be required for the processing of such applications.

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23. Notwithstanding By-Law No. 3231 of the Municipality, being the Subdivision and Development Control By-Law, the specifications set out in Schedule "G" hereto shall apply to that part of the land to be used for single-family detached housing.

24. The Owner shall engage the services of a Professional Engineer to prepare all engineering designs of works and services relating to the subdivision and development of the land considered to be necessary by the Municipal Engineer and shall submit all such designs to the Municipal Engineer for his approval in accordance with current municipal policy and procedures.

25. The Owner shall submit architectural plans and specifications for all buildings and structures to be constructed hereunder other than single-family residences and buildings and structures costing less than Ten Thousand Dollars (\$10,000.00) to construct, to the Municipality, its agent, nominee or appointee, for its approval prior to submission of applications for Building Permit for any such buildings or structures. Approval by any agent, nominee or appointee of the Council shall be deemed to constitute approval of design by the Municipality: PROVIDED HOWEVER, in the event the Owner and any agent, nominee or appointee of the Council do not reach agreement on any specific issue requiring approval within a reasonable period of time, the matter shall be referred to the Council of the Municipality who shall hear representations from both the Owner and the agent, nominee or appointee of the Council and reach a decision which shall be final and binding on both parties.

26. The Owner shall cause restrictive covenants to be registered against the title of all single-family residence lots and the restrictive covenants shall be in the form of Schedule "H" attached hereto.

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27. Notwithstanding anything elsewhere contained herein, the Owner may from time to time when requested by the authority having jurisdiction over the dedication or establishment of highways, dedicate or convey such portions of the land as may be required for highway purposes, free from this Contract upon the release by the Municipality of this Contract over the part to be dedicated.

28. Upon the submission to the Approving Officer of the Municipality and approval by him of a plan of subdivision consolidating

Firstly - Lot 1, Section 44, Victoria District, Plan 6441, EXCEPT that part thereof lying to the Southwest of a line parallel to and perpendicularly distant 75 feet from the Southwest boundary of said Lot 1 and that part of said Lot 1 included within Plan 12909, and

Secondly - Lot 30, Section 44, Victoria District, Plan 376 EXCEPT those parts thereof included within Plans 7969, 12665, 20281 and 22002, and

Thirdly - Lot 31, Section 44, Victoria District, Plan 376 EXCEPT Parcel A (D.D.64985-I) thereof and those parts of said Lot 31 included within Plans 6441 and 12665, and

Fourthly - That part of Section 44, Victoria District, being the portion of Sea Point Drive dedicated as Minnie Avenue by Plan 501, lying to the South East of the production North Easterly of the North Westerly boundary of Lot 1, Plan 6441, and to the North West of the production South Westerly of the most Southerly South Easterly boundary of Lot 42, Plan 5900, save and except that part thereof included within Plan 22002 (hereinafter called "the closed road"), and

Fifthly - Lot 42, Section 44, Victoria District, Plan 5900 EXCEPT that part thereof included in Plan 22002,

the Council of the Municipality shall:

(a) approve the transfer and conveyance to the Owner by the Corporation of the District of Saanich of the closed road for the nominal sum of One Dollar (\$1.00);

(b) release that certain Restrictive Covenant registered in the Victoria Land Registry Office under No. 373379-G over the said parts of the said Lots 30 and 31 described above as secondly and Thirdly.

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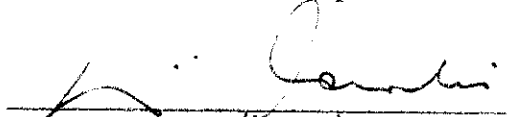
29. The Owner covenants and agrees with the Corporation of the District of Saanich to extend this Land Use Contract forthwith following the transfer of the closed road mentioned in paragraph 28(a) and without requiring any amendment to this Land Use Contract it shall be deemed to charge the said closed road.

30. Whenever the singular or masculine is used herein the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or parties so require.

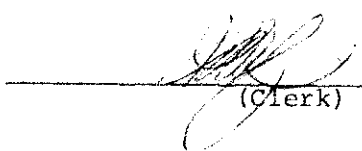
31. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have caused these Presents to be executed as of the day and year first above written:

The Corporate Seal of THE CORPORATION OF THE DISTRICT OF SAANICH was hereunto affixed in the presence of:

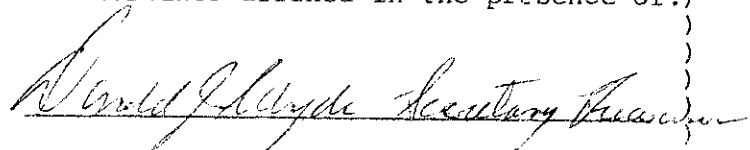


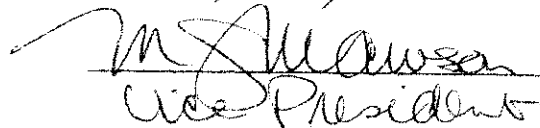
(Mayor)



(Clerk)

The Common Seal of BROADMEAD FARMS LTD. was hereunto affixed in the presence of:





Vice President