

OCT. 21 1977

SUBSTITUTE FORM "C"

F88386

DATE:

APPLICANT:

NATURE OF INTEREST:

The Corporation of the District of Saanich
770 Vernon Avenue
Victoria, B. C. V8X 2W7
386-2241

Land Use Contract

K Hughes
Agent

THIS CONTRACT is made as of the 25th day of August, 1977.

BETWEEN:

THE CORPORATION OF THE DISTRICT OF SAANICH,
770 Vernon Avenue, Victoria, British Columbia,

(hereinafter called "the Municipality")

MARKED OFF IN PROPERTY INDEX
OCT. 28 1977

OF THE FIRST PART

AND:

Per WB

LUTHER COURT SOCIETY, a Society duly
incorporated under the Societies Act,
c/o 3781 Cedar Hill Road, Victoria, B. C.

(hereinafter called "the Owner")

OF THE SECOND PART

WHEREAS:

A. The Owner is the registered holder of an Agreement for Sale and Purchase of an estate in fee simple of all and singular those certain parcels or tracts of lands and premises, situate, lying and being in the Municipality of Saanich, in the Province of British Columbia, and being more particularly known and described as:

Lot 7, Block 4, Sections 39 and 40,
Victoria District, Plan 301

Lot A, Block 4, Sections 39 and 40,
Victoria District, Plan 301

B. The Owner intends to apply pursuant to the provisions of the Land Registry Act for a subdivision of the said lands in accordance with the plan of subdivision attached hereto and marked Schedule "A";

C. The Owner has presented to the Municipality a scheme for the use and development of that portion of the lands described as Lot 2 on the said plan of subdivision marked Schedule "A" hereto (hereinafter called "the land");

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

E. The Council of the Municipality, pursuant to Section 702A of the "Municipal Act" may, notwithstanding any by-law of the Municipality, or Section 712 or 713 of the "Municipal Act" upon the application of an owner of land within a development area designated as such by 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;

F. 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;

G. 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, which consents are attached to the said Schedule "B" hereto;

H. The Council of the Municipality having given due regard to the considerations set forth in Section 702(2) and 709A(1) of the "Municipal Act" has agreed to the terms, conditions and considerations herein contained;

I. 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 at least two-thirds 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;

J. 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 shall be used for the purpose 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 plans and specifications noted thereon which said plans are attached as Schedule "D" hereto, PROVIDED HOWEVER that minor alterations to the said plans and specifications which do not substantially alter this work may be permitted and approved by the Municipal Engineer.
3. No sign shall be erected upon the land or any building or structure thereon except in compliance with the plans and specifications noted thereon which said plans are attached as Schedule "D" hereto, PROVIDED HOWEVER that minor alterations to the said plans and specifications which do not substantially alter this work may be permitted and approved by the Municipal Engineer.
4. Off street parking and loading spaces shall be provided, located and constructed in accordance with the plans set out in Schedule "D" hereto, PROVIDED HOWEVER that minor alterations to the said plans which do not substantially alter this work may be permitted and approved by the Municipal Engineer.
5. All buildings and structures shall be constructed strictly in compliance with and according to the said plans and specifications set out in Schedule "D" hereto, PROVIDED HOWEVER that minor alterations to the plans which do not substantially alter this work may be permitted and approved by the Municipal Engineer.
6. All landscaping, surface treatments, fences and screens shall be constructed, located, provided and maintained in compliance with and according to the said plans and specifications set out in Schedule "D" hereto, PROVIDED HOWEVER that minor alterations to the plans which do not substantially alter this work may be permitted and approved by the Municipal Engineer.

7. All roads and utilities, including water, sewer, gas, telephone and electricity, shall be placed, provided and constructed in compliance with and according to the standards of the Municipality, PROVIDED HOWEVER, that minor alterations to the plans which do not substantially alter this work may be permitted and approved by the Municipal Engineer.

8. 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 Municipality that it is expedient or desirable in the interests of both the public and the Owner that departures from the applicable plans 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 may, in his absolute discretion, permit such departures.

9. The entire cost of the development of the land including the provision of all services set out in paragraphs 4 to 7 hereof and the provision and construction of all items set out therein shall be paid for by the Owner, PROVIDED HOWEVER, the provisions of this paragraph shall not preclude the Owner applying to the Municipality for assistance in bearing the costs involved in major road construction and to the Municipality giving consideration to such application in accordance with its normal procedure for sharing certain costs of land development.

10. All works and services, buildings, structures, pipes and fixtures and development constructed, placed or carried out upon the property 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.

11. 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 10 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 obligations in relation to similar works, services, buildings, structures, pipes, fixtures or developments constructed by it out of its general municipal funds.

12. Unless the Owner shall have commenced the development of the land in accordance with this contract within 9 months from the registration of this Contract in the Victoria Land Registry Office, this Contract may be terminated forthwith at the option of the Council of the Municipality. For the purposes of this paragraph the development shall be deemed to have been commenced when the value of construction or erection undertaken by the Owner in the land, in accordance with this contract, shall exceed \$10,000.00 as certified by the Engineer of the Municipality.

13. Except as otherwise provided in this Agreement 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 District of Saanich Building and Plumbing By-law, being By-law No. 3520, and the Owner hereby agrees to apply for any permits which the Manager, Development Division, may require pursuant to the said Building and Plumbing By-law prior to the erection of any buildings or structures.

14. The Owner shall carry out the work and construct, locate, provide, develop and substantially complete the structures, buildings, works, services, developments and facilities by not later than 24 months after the registration of this Contract in the Victoria Land Registry Office, in default of which the Municipality may at its option, upon 90 days prior notice to the Owner, declare this Agreement to be void and of no further force and effect.

15. This agreement shall be registered in the Land Registry Office in the City of Victoria as a first charge against the land having priority over any and all other charges, encumbrances and liens registered against the land, except for the agreement for sale in favour of the Owner, registered under No. F12172, and shall have no force and effect unless and until it has been so registered but upon registration as aforesaid shall have the force and effect of a restrictive covenant running with the land, PROVIDED HOWEVER, that if the Municipality shall fail or neglect to apply for registration of the same within the period of three (3) clear days after the Owner shall have made written demand in that behalf upon the Municipality, the Owner may thereafter apply as agent for the Municipality without further reference to or authority from the Municipality.

16. 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.

17. The Owner agrees that it will be responsible for the maintenance of all off-site services such as roads and sidewalks for a period of one year after acceptance by the Municipality.

18. The Owner agrees that final engineering design drawings will be submitted to the Municipal Engineer for approval prior to the construction of any off-site services.

19. 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.

20. 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

