

ISLANDS TRUST COVENANT

EX 113595

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

-7 SEP 2005 14 01

EX113595

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)

GLENNA BORSUK
12428-55th Ave.
SURREY, BC V3X 3B1
(604) 596-2064

Applicant's Solicitor

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)	(LEGAL DESCRIPTION)
003-134-806	N.E. 1/4, Sec. 3, Gabriola Island, Nanaimo District, Except Parcel A (DD 773261)
003-134-792	S.W. 1/4, Sec. 8, Gabriola Island, Nanaimo District

3. NATURE OF INTEREST:*

Description	Document Reference (page and paragraph)	Person Entitled to Interest
Section 219 Covenant	Entire Instrument	Transferee

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
- (c) Release There is no Part 2 of this Instrument.

A selection of (a) include 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):*

CENTRE STAGE HOLDINGS LTD. (Inc. No. 204577)

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

GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a corporation under the *Islands Trust Act* (British Columbia) having an office at 700 North Road, Gabriola Island, BC V0R 1X3

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LAND TITLE ACT

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GENERAL INSTRUMENT-PART 1

7. ADDITIONAL OR MODIFIED TERMS:*

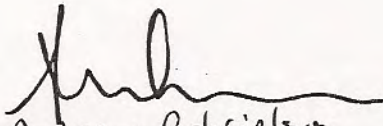
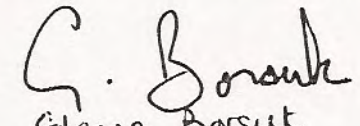
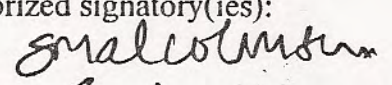
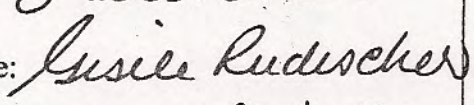
N/A

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

Execution Date
Y M D

Transferor Signature

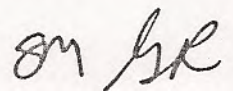
 Andrew Gabrielson Solicitor 2100-1075 W. Georgia Street Vancouver, BC (as to both signatures)	2005 <u>09</u> <u>01</u>	CENTRE STAGE HOLDINGS LTD. by its authorized signatory(ies): Name:  Etelenna Barsut Name:
V6E3G8		Transferee Signature
(as to both signatures)	2005 ____	GABRIOLA ISLAND LOCAL TRUST COMMITTEE by its authorized signatory(ies):  Name:  Sheila Malcolmson Name: GISELE RUDISCHER

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. 1979, c. 116, 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.

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TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS COVENANT dated for reference the 30 day of September, 2005

BETWEEN:

CENTRE STAGE HOLDINGS LTD. (Inc. No. BC0204577), a company incorporated under the laws of the Province of British Columbia and having an address at 12428 55th Avenue, Surrey, BC V3X 3B1

(the "Owner")

AND:

GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a corporation under the *Islands Trust Act* (British Columbia) having an office at 700 North Road, Gabriola Island, V0R 1X3

(the "Trust Committee")

WHEREAS:

A. The Owner is the registered owner in fee simple of lands on Gabriola Island, British Columbia legally described as:

PID: 003-134-792, South West 1/4 of Section 8, Gabriola Island, Nanaimo District; and,

PID: 003-134-806, North East 1/4 of Section 3, Gabriola Island, Nanaimo District, except Parcel A (DD 77326I),

(collectively, the "Land")

B. The Owner has applied to the Trust Committee to rezone the Land from Resource (R) zone to Resource Residential 1 (RR1) zone, and the Owner has agreed to certain conditions ensuring that the proposed bylaw amendment will be in the public interest;

C. The Owner has agreed to grant a covenant under s. 219 of the *Land Title Act* to the Trust Committee in the terms and conditions herein, to induce the Trust Committee to adopt the proposed bylaw amendment.

D. Attached to this agreement as Schedule A is a reference plan of the Land (the "Reference Plan");

E. The Owner wishes to grant, and the Trust Committee accepts, the s.219 covenants contained in this agreement over the Land.

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NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to S. 219 of the *Land Title Act*, and in consideration of the terms of this Covenant and the sum of ONE DOLLAR now paid by the Trust Committee to the Owner (the receipt and sufficiency of which is hereby acknowledged), the Owner hereby covenants and agrees with the Trust Committee as follows:

1. Covenants

The Owner covenants and agrees with the Trust Committee that the Land shall not be built upon or used for any purpose or subdivided by any method unless the Owner is in compliance with all of the conditions set out in Schedule "B".

2. Subdivision requirements

The parties agree that this covenant does not presume or permit that all of the 49 lots may be approved for final subdivision. Final approval of any subdivision lies with the Approving Officer of the Ministry of Transportation, and only through that Ministry's subdivision process may the lots be authorized for final subdivision.

The Owner agrees that the Land lies within development permit areas and are subject to Development Permit Area guidelines in the Gabriola Island Official Community Plan (Gabriola Island), Bylaw No. 166, 1997.

3. Costs

The Owner shall comply with all the requirements of this Agreement at its own cost and expense. Where a covenant or other document required by this Agreement requires a survey or other plan, the Owner shall be solely responsible, at its own cost, for preparation of the document, including the survey and the plan.

4. Indemnity

The Owner releases, and must indemnify and save harmless, the Trust Committee, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.

5. Obligations

The parties agree that this Agreement creates only contractual obligations and obligations rising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.

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6. No Effect on Laws or Power

(a) Where the Trust Committee is required or permitted by this Agreement to form an opinion, exercise discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Trust Committee is under no public law duty of fairness or natural justice in that regard and agrees that the Trust Committee may do any of those things in the same manner as if it were a private party and not a public body.

(b) This Agreement does not:

(i) affect or limit the discretion, rights or powers of the Trust Committee under any enactment (as defined in the Interpretation Act, on the reference date of this Agreement) or at common law, including in relation to the use of subdivision of the Land;

(ii) affect or limit any enactment relating to the use or subdivision of the Land, or

(iii) relieve the Owner from complying with any enactment, including in relation to the use of subdivision of the Land.

7. Covenant Runs with the Land

Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s. 219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors of title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

8. Discharge of the Covenant

The Trust Committee agrees that within a reasonable time after a demand by the Owner, the Trust Committee must prepare and deliver to the Owner, at the Owner's expense, a discharge of this Agreement in remittable form from title to the Land if proposed Bylaw 236 has not been finally adopted by the Trust Committee on or before December 31, 2005.

9. Priority

The Owner agrees to register this Agreement, at its own cost, in priority to all registered and pending financial charges over the Land. Where any part of this Agreement requires the Owner to grant the Trust Committee or another government body a further covenant, statutory right of way or other interest in land as a condition of a subdivision or use of the Land, the Owner shall apply to register that document, at its own cost, in priority to all registered and pending financial charges.

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10. Waiver

An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

11. Severance

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.

12. Entire Agreement

This Agreement is the entire agreement between the parties regarding its subject.

13. Enurement

This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

14. Further Assurances

(a) The Owner agrees, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.

(b) The Owner agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.

15. Deed and Contract

By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part of the Land Title Act Form C to which this Agreement is attached and which forms part of this Agreement.

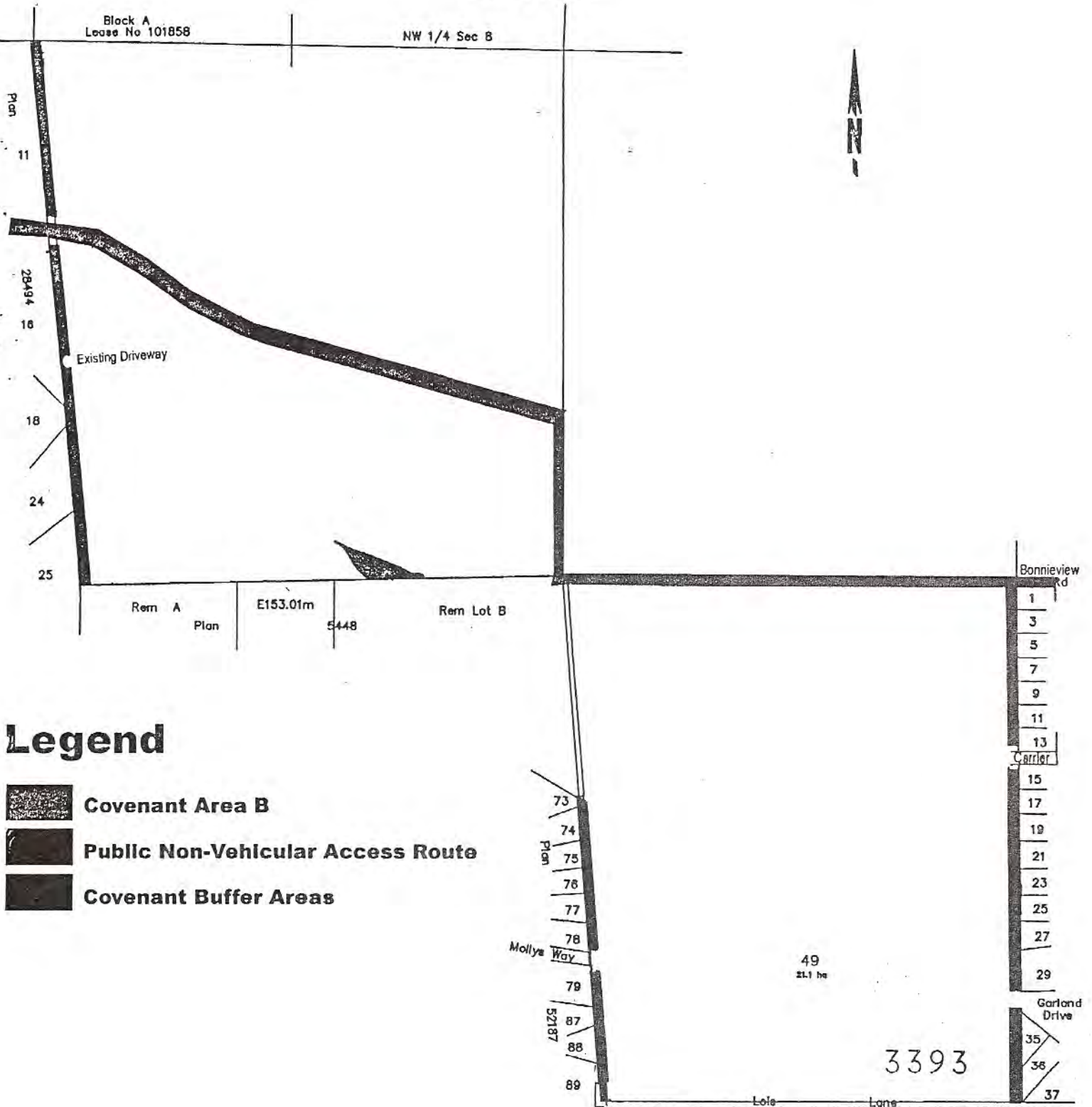
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Covenant Areas Showing Grandfathered Driveway SW 1/4 Section 8 and Rem of NE 1/4 Section 3 Gabriola Island, BC.

Scale 1:7500m



Legend

- Covenant Area B**
- Public Non-Vehicular Access Route**
- Covenant Buffer Areas**

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SCHEDULE "B" – CONDITIONS

Subdivision

1. The Owner shall only subdivide the Land into a maximum of forty-nine (49) parcels.
2. The Owner agrees that any final plan of subdivision shall take into account the following matters:
 - (a) To use their best efforts, in good faith, to locate as many First Nation heritage sites of interest, as identified in the Archaeology report of I.R. Wilson prepared by Darcy Mathews dated October 2002; on as few lots as possible,
 - (b) Government of British Columbia, Heritage Branch recommendations for archaeological sites;
 - (c) Buffer areas for noise and privacy;
 - (d) Steep slopes, within Development Permit Areas;
 - (e) Public road and non-vehicular access; and
 - (f) Lot layout configuration in accordance with community bylaw subdivision standards and other requirements of the *Local Government Act*.
3. No lot less than one hectare (2.47 acres) in size shall be created by subdivision, by any method, of the Land.

Buffer Areas

4. The Owner shall not establish or drill wells, site septic fields or any structure, except fences, within those areas marked "Covenanted Buffer Area" on the Reference Plan, attached as Schedule "A".
5. For the purpose of providing a privacy buffer, the Owner shall not, nor permit anyone to, cut down, trim, prune, defoliate, alter, remove or in any way tamper with or work on any trees or other vegetation within those areas marked "Covenanted Buffer Area" on the Reference Plan without prior written consent of the Trust Committee, which consent shall be in the sole discretion of the Trust Committee and may not be unreasonably withheld.
6. Notwithstanding Section 5 above, a tree taller than nine (9) metres in height within the Covenanted Buffer Areas shown on the Reference Plan may be topped or limbed above the nine (9) metre height.
7. When seeking the consent of the Trust Committee under Section 5 above, the owners of each lot adjacent to the area within the Covenanted Buffer Area shown on the Reference Plan in which works prohibited in section 5 are proposed, shall provide the Trust Committee with written notice that the said owners agree that the action proposed may be carried out to their mutual satisfaction. Adjacent lots refers to those lots existing as of July 27, 2005 and those that may be created by a future plan of subdivision.

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8. Notwithstanding section 5 above, an unsafe or dangerous tree or vegetation within the Covenanted Buffer Area shown on the Reference Plan may be removed as determined by a Registered Professional Arborist or similarly qualified professional, in which case that qualified professional shall be consulted as to appropriate replacement trees or vegetation to replace those removed. The Owner shall maintain the replacement vegetation and trees until their maturity. If the replacement vegetation or trees do not provide adequate screening between the parcels, such replacement vegetation and trees shall be replaced such that an adequate privacy screen is achieved.

Development of the Land

9. The Owner shall ensure that at the time of subdivision appropriate non-motorized public access routes shall be located substantially in accordance with the areas illustrated on the Reference Plan.

10. All development, construction, land alteration, or removal of vegetation within the areas marked "Covenanted Area B" on the Reference Plan shall be in accordance with the Best Management Practices for Urban and Rural Land Development in British Columbia, as published by the Ministry of Environment.

Other Governments

11. The Owner shall not subdivide the Land until satisfactory provision has been made by the Owner for a covenant over the Land in favour of Her Majesty the Queen in the Right of the Province of British Columbia as represented by the Minister of Tourism, Sports, and the Arts, to provide protection to those First Nations archaeological sites on the Land identified in the Archaeology report of I.R. Wilson prepared by Darcy Mathews dated October 2002 and pursuant to the Heritage Protection Act and the recommendations of the Heritage Branch.

END OF DOCUMENT

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