

REGIONAL DISTRICT OF CENTRAL OKANAGAN

BYLAW NO. LUCA-95-44

Being a Bylaw of the Regional District to authorize the Regional District of Central Okanagan to enter into an Agreement amending an existing Land Use Contract.

WHEREAS the Regional District of Central Okanagan pursuant to Section 930(4)(a) may amend a land use contract that is entered into and registered in a land title office subject to the terms and conditions therein set out;

NOW THEREFORE the Regional Board of the Regional District of Central Okanagan in open meeting assembled enacts as follows:

1. That the Land Use Contract between the Regional District of Central Okanagan and Lake Okanagan Resort dated the 12th day of September, 1978 and registered in the Land Title Office at Kamloops under number N74468 and as modified pursuant to Section 31 of the Conveyancing and Law of Property Act on the 27th day of May, 1980, registered under R44169.
2. That the Chairperson and Secretary are hereby authorized to sign the Agreement attached hereto and affix the seal of the Regional District thereto and deliver the same as the act and deed of the Regional District.
3. This Bylaw may be cited as "Regional District of Central Okanagan Land Use Contract Amendment Bylaw No. LUCA-95-44".

READ A FIRST TIME this 24th day of February, 1997

SUBJECTED TO PUBLIC HEARING this 14th day of April, 1997.

APPROVED BY THE MINISTRY OF TRANSPORTATION & HIGHWAYS PURSUANT TO SECTION 982(3) OF the Municipal Act this 22nd day of November, 1997

READ A SECOND AND THIRD TIME this 5th day of May, 1997

RECONSIDERED AND ADOPTED this _____ day of _____, 199

Chairperson
Robert Hobson

Secretary
Wayne d'Easum

.../2

I hereby certify the foregoing to be a true and correct copy of Bylaw #LUCA-95-44 as read a third time by the Central Okanagan Regional District on the 5th day of April 1997

Dated at Kelowna this day 7th of April, 1997

Secretary
Wayne d'Easum

I hereby certify the foregoing to be a true and correct copy of Bylaw #LUCA-95-44 which was Reconsidered and Adopted by the 199

Dated at Kelowna this _____ day of _____, 19

Secretary
Wayne d'Easum

APPROVED UNDER THE HIGHWAY ACT

THIS 5th DAY OF November, 1997.

for Bob M. Clifford
District Highways Manager
Ministry of Transportation & Highways

SCHEDULE A

LAND USE CONTRACT N74468

AMALGAMATED WITH MODIFICATION R44169

THIS CONTRACT made the 12th day of September, 1978 and amended the 27th day of May, 1980.

BETWEEN: **REGIONAL DISTRICT OF CENTRAL OKANAGAN**
1450 KLO Road, Kelowna, British Columbia
V1W 3Z4

(the "Regional District")

OF THE FIRST PART

AND: **LAKE OKANAGAN RESORT LTD.**
2751 Westside Road, Kelowna, British Columbia
V1Y 8B2

(the "the Landowner")

OF THE SECOND PART

WHEREAS:

- A. The Regional District, pursuant to Section 702A and 798A of the **Municipal Act**, may, notwithstanding any bylaw of the Regional District, enter into a land use contract containing such terms and conditions for the use and development of land as may be agreed upon with a Landowner, and thereafter the use and development of the land shall be in accordance with the land use contract;
- B. The **Municipal Act** requires that the Board of Regional District consider the criteria set out in section 702(2) and 702A(1) in arriving at the terms, conditions and consideration contained in a land use contract and the Board of the Regional District have considered such criteria in arriving at the terms and conditions herein contained;
- C. The Landowner has presented to the Regional District a scheme of use and development of the within described lands and premises that would be in contravention of the Zoning Bylaw of the Regional District and has requested that the Board of the Regional District enter into this contract under the terms, conditions and for the consideration hereinafter set forth;
- D. The Land is within an area of the Regional District designated as a development area pursuant to Section 702A(2) of the **Municipal Act**, R.S.B.C. 1960;

- E. If the Land is within a radius of one-half mile of a controlled access highway, the approval of the Minister of Highways of the Province of British Columbia to the terms hereof must be obtained;
- F. The Regional District and the Landowner both acknowledge that the Board of the Regional District cannot enter into this Contract until the Board of the Regional District has held a public hearing in relation to this Contract and considered any opinions expressed at such hearing, and unless two-thirds of the Directors of the Board of the Regional District present at the meeting at which the bylaw to approve this Contract is adopted vote in favour of the Regional District entering into this Contract;
- G. This Contract was registered at the Kamloops Land Title Office on December 20, 1978 as Land Use Contract N74468 (the "Land Use Contract");
- H. The Supreme Court of British Columbia in an order dated May 27, 1980, ordered that the Land Use Contract be modified and such order and modifications were registered as Modification to Land Use Contract R44169.

NOW THEREFORE THIS CONTRACT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Regional District and the Landowner covenant and agree as follows:

1. **OWNERS:** The Landowner is the registered owner of an estate in fee simple of all and singular that certain parcel or tract of lands and premises situate, lying and being in the Regional District of Central Okanagan, in the Province of British Columbia and being more particularly known and described as:

Lots 1, 2, 3, 4 and 5, District Lot 3547, ODYD, Plan 30301

(the "Land").

It is expressly understood and agreed that the remainder of District Lot 3547, ODYD is excluded from this Land Use Contract.

2. **CONSENT:** The Landowner has obtained the consent of all persons having a registered interest in the Land as set out in the schedule prefacing the consents to the use and development set forth herein which consents are attached hereto.

3. **INCORPORATIONS:** The Schedules hereto and hereinafter referred to are incorporated into and made a part of this Contract. The Schedules are part of the over-all plan of development and changes thereto may be made at any time with the approval of the Regional District.
4. **COSTS:** The Landowner shall pay to the Regional District on invoice by the Regional District, all legal, surveying, and advertising costs incurred by the Regional District in the preparation and registration of this Contract.
5. **COMPLIANCE:** Where any change in a Bylaw made subsequent to the Land Use Contract, would permit a wider range of use of the Land than as otherwise specified in this Land Use Contract, it shall be applicable to the Land.
6. **REPRESENTATIONS:** It is understood and agreed that the Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Landowner other than those set out in this Contract.
7. **REGISTRATION:** This Contract shall be construed as running with the Land and shall be registered in the Land Registry Office by the Regional District pursuant to the provisions of Section 702A(4) of the **Municipal Act**.
8. **INTERPRETATION:** Wherever 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 the parties so require.
9. **BINDING:** This Contract shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
10. **USES:** The Land, including the surface of water and any and all buildings and structures erected thereon, thereover, therein pursuant to this Contract, shall be used for the purposes of a Country Club. Schedule "A" herein describes generally the first phase of the development of the Land. Amendments and additions to Schedule "A" as required from time to time by the Landowner for future development shall be approved by the Regional District.

For the purposes of this Contract, "Recreational Country Club" shall mean and be deemed to mean:

A development including the recreational facilities and seasonal residential accommodation described generally in schedule "A" herein and as amended by approval of the Regional District from time to time and any service

buildings necessary for the quality operation of the facilities, used and intended to be used by the Members of the Society or corporation having general control of the development, who ordinarily reside elsewhere than on the Land, for their personal use of their bona fide guests.

- 10A. **MANAGEMENT:** The Landowner and the Club Members may engage the services of a management company to operate the facilities as a Recreational Country Club and Resort Hotel.
11. **SUBSEQUENT PHASES:** It is understood and agreed that Schedule "B" herein is an overall general plan of development for the Land and that the final detailed plans and specifications for buildings, structures, recreational facilities, roadways and beach development shall be prepared by professional planners engaged by the Landowner considering suitability of terrain, engineering, environmental and economical factors and aesthetic qualities to achieve the most well designed and attractive layout with the minimum disturbance of the natural terrain and tree cover. The final plans shall be submitted to the Regional District and all other authorities having jurisdiction in such matters for approval prior to the issuance of any building permits.
12. **SITING:** No building, facility, or structure shall be constructed, reconstructed, altered, moved or extended upon the Land except in compliance with the specifications, plan and site plan set out in Schedule "B" hereto or as approved by the Regional District.
13. **SIGNS:** The Landowner shall submit designs for signs to be erected upon the Land or any buildings or structures to the Board for the Regional District for approval.
14. **PARKING:** Off street parking spaces shall be provided and located in accordance with the site plan contained within Schedule "B" hereto. All parking spaces shall be not less than six metres (6m) in length and two and seventy-five hundredths metres (2.75m) in width. Parking areas shall be surfaced with gravel and be graded to provide an even surface upon which surface water will not accumulate and drainage therefrom shall be contained upon the site or as approved by the Regional District.
15. **ROADWAYS:** All roadways, parking lots, accesses, boat launching ramps, and other vehicular carrying facilities shall be located and constructed in substantial compliance with and according to the plans and specifications set out in Schedule "B" hereto or as approved by the Regional District.

16. **WESTSIDE ROAD:** The Landowner shall not alter any water course, cut down any tree or do earth moving or undertake any other work so as to effect the drainage and/or stability of the present or future highway known as Westside Road or its rights-of-way.
17. **CONSTRUCTION:** It is understood and agreed that Schedule "B" herein provides a general plan of the proposed buildings and structures which is to be used as a guide only in the preparation of the designs, plans and specifications for such buildings and structures. The final designs, plans and specifications shall be drawn in accordance with the overall general plan and concept of the development and shall be approved by the Regional District. All construction shall be in accordance with the Building Bylaws of the Regional District, except as permitted by this Contract.
18. **BUILDING PERMITS:** No building permits shall be issued for the construction of any of the dwelling units or the clubhouse facility until the plans for sewage disposal facilities required herein have been approved by the Medical Health Officer of the Pollution Control branch of the Province of British Columbia.
19. **OCCUPANCY:** No building or structure shall be occupied until an occupancy permit therefore has been issued by the Building Inspector. No dwelling unit or food serving facility shall be occupied on the Land until the water supply and the sanitary sewage disposal system have first been approved by the Medical Health Officer, or Pollution Control Branch.
20. **PERMANENT OCCUPANCY:** with the exception of the single-family residence for the Manager, the Maintenance staff and the permanent Resident Security staff, no housekeeping unit, guest unit or summer chalet on the Land shall be used or occupied as the principal, permanent or ordinary residence of any persons, family or household.
21. **GOLF COURSE:** The parties hereto agree that the Landowner has constructed a golf course on the Land which satisfies the requirements of the Regional District.
22. **LANDSCAPING:** It is understood and agreed that Schedule "B" herein provides a general plan for landscaping of the Land which is to be used as a guide only in the preparation of the final plans for landscaping to be completed in stages, which shall be approved by the Regional District from time to time as required.

23. **SEWAGE DISPOSAL:** Sewage disposal systems coming within the purview of the medical Health Officer for the disposal of Sanitary waste from any structure built upon the Land shall be constructed only in accordance with plans and specifications first approved by the medical Health Officer of the South Okanagan Health Unit. If the Medical Health Officer is of the opinion that the average daily flow of any proposed sewage disposal system will exceed 5,000 gallons, the system must be approved by the Pollution Control branch of the Province of British Columbia prior to commencement of construction of such system.

Disposal fields for the sewerage system to be installed on the Land shall be located as specifically shown on the plan contained in Schedule "E" attached hereto. All disposal fields shall be constructed according to the plans and specifications more particularly shown in Schedule "E" hereto. The Landowner may utilize any other method of sewage disposal as approved by the medical Health Officer and such facilities are to be located on the Land at a site approved by the Medical Health Officer and the Regional District.

The Landowner shall install a water meter for the purpose of keeping an accurate record of water used in any and all facilities and structures constructed upon the Land for the purpose of assessing the adequacy of sewage disposal facilities relative to hydraulic loading. Should the volume of water used, in the opinion of the Medical Health Officer of the South Okanagan Health Unit or the Pollution Control branch, exceed that volume for which the sewage disposal system is designed, then the Landowner shall, at the request of the Medical Health Officer or the Pollution Control Branch, immediately reduce the volume of water used, or immediately commence the alteration of the sanitary sewerage disposal field so that the field will, in the opinion of the Medical Health Officer or the Pollution Control Branch, be sufficient enlarged to accommodate the anticipated additional volume of water being used on the Land.

Lysimeter test pipes, the number and location to be approved by the authority having jurisdiction, shall be installed, if required by the medical Health Officer, below the sewage disposal field about three quarters of the distance to the high water mark of Okanagan Lake for the purpose of monitoring any movements of sewage effluent through the ground to the lake which might occur from overloading of sewage disposal fields or from excessive porosity of the soils. In the event that free movement of harmful effluent is found, appropriate steps shall be taken forthwith by the Landowner to either relocate the sewage disposal field or to install appropriate facilities to eliminate the movement of sewage effluent towards the lake.

24. **WATER SUPPLY AND DISTRIBUTION SYSTEM WORKS:** The water supply system is to be operated as a privately owned utility company in accordance with the provisions of the **Water Utilities Act** and **Health Act** of the Province of British Columbia. All components of this system will be designed and constructed to meet the requirements of the aforesaid Acts and no connections will be made to such works until they are first approved by the authority having jurisdiction.
25. **FORESHORE:** The Landowner shall not, at any time, do any work upon the Land whatsoever that would cause any fill to move from the Land to any portion of foreshore or lake east of the legal easterly boundary of the Land. Should the Landowner by accident or otherwise cause or permit any fill to flow from the Land into the lake or onto the foreshore east of the legal boundary of the Land, then the same shall be removed forthwith at the cost of the Landowner. Should the Landowner fail to remove such fill, the fill may be removed by the Regional District at the cost of the Landowner who shall pay such cost forthwith upon invoice therefor.
- The Landowner shall not, at any time, move any soil from or onto, or construct any structure on the Crown foreshore east of the legal boundary of the Land without first obtaining the written consent of the Lands Branch of the Ministry of Environment. Without restricting the generality of the foregoing, such prohibited work includes any grading of beaches, earth moving of any nature, and construction of piers, docks, seawalls, and retaining walls. The Landowner shall, with a minimum disturbance to surrounding areas, move all silty and dirty material and soil well back from the existing water level to avoid adding silt to the waters of Okanagan Lake.
26. **USE OF FORESHORE:** The Landowner shall not construct any fence on lands lying easterly of the legal boundary of the Land so as to prevent access thereto by the public unless first obtaining the written permission to do so from the Land Branch of the Ministry of the Environment of the Province of British Columbia.
27. **DOCKS AND WHARVES:** No pool, dock, boat launch, ramp or other structure or facility shall be built upon the crown foreshore or water easterly of the legal boundary of the Land except at the locations shown on the site plan contained in Schedule "B" hereto or as approved by the Regional District and in accordance with the plans and specifications first approved by the Lands Branch of the Ministry of Environment of the Province of British Columbia.

28. **DAMAGE INCURRED BY WILDLIFE:** The Landowner acknowledges that it has been recommended by the Fish & Wildlife Branch of the Ministry of Recreation and Travel Industry and the Regional District that the development authorized hereby be enclosed by the construction of fencing along its boundaries in order to better protect the development itself and users thereof from damage or injury to property or persons caused by straying wildlife in vicinity of the development. Notwithstanding this recommendation, the Landowner does not wish to construct such fencing and in consideration of the Regional District foregoing the requirement that such fencing be provided, the Landowner covenants and agrees to indemnify and save harmless the Regional District and Her Majesty the Queen in Right of the Province of British Columbia from and against all claims, demands, suits, and actions that may be brought or made against the Regional District or Her Majesty the Queen in Right of the Province of British Columbia by any person or persons for or by reason of any damage to persons or their property resulting from or caused by wildlife and in respect of any claims by the Landowner for such damage the Landowner waives, releases and discharges the Regional District and Her Majesty the Queen in Right of the Province of British Columbia therefrom. Provided always, however, that it is understood and agreed that in accepting the foregoing indemnity and waiver, the Regional District and Her Majesty the Queen in Right of the Province of British Columbia do not thereby acknowledge that either of them would otherwise be liable for any claims arising out of damage to persons or property caused by wildlife.
29. **INDEMNITY:** The Landowner covenants to save harmless and indemnify the Regional District against:
- a. all actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction of any of the facilities shown on Schedule "B" hereto; and
 - b. all expenses and costs which may be incurred by reason of the execution of the said works resulting in damage to any property owned in whole or in part by Her Majesty the Queen in Right of the Province of British Columbia.
30. **INTENT:** It is understood and agreed that the intent of this Land Use contract is to permit the Landowner to construct a resort that shall be occupied only by members of the club and their guests and not by permanent occupants, and that the development shall enhance and not detract from the natural appearance and beauty of the Land and the adjacent lake shore and lake. It is a condition precedent of the development proposed that the development not substantially effect the quality of the lake water adjacent to the Land or in any way

encourage or promote the growth of weeds in the lake water adjacent to the Land.

31. FLOOD CONTROL REQUIREMENTS:

- a. for the purposes of this section, the following definitions shall apply: "Natural Boundary" - means the visible high-water mark of any lake, river, stream, or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the lake, river, stream, or other body of water, a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.
- b. Notwithstanding any other provisions of this Contract, no building or part thereof shall be constructed, reconstructed, moved or extended, nor shall any mobile home or unit, modular home or structure be located:
 - i. with the underside of the floor system of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a mobile home or unit the ground level on which it is located, lower than elevation 1127.5 feet Geodetic Survey of Canada datum.
 - ii. within 25 feet of the natural boundary of Okanagan Lake. If landfill is used to achieve the required elevation, no portion of the landfill slope shall be closer than the above distance from the natural boundary, and the face of the landfill slope shall be adequately protected against erosion from floodwaters.

32. INSPECTION: Any officer or employee of the Regional District, the South Okanagan Health Unit, the Ministry of Highways, Fish & Wildlife Branch, Water Rights Branch, Pollution Control Branch, or Lands Branch of the Government of Canada or British Columbia may enter on the Land to determine if the terms hereof are being complied with or to take any measurement from any meter or testing device installed pursuant to the terms hereof.

This Contract was adopted by an affirmative vote of at least two-thirds of the members of the Board of the Regional District present at the meeting at which the bylaw to authorize this Contract was adopted by the Board of the Regional District on the 11th day of September, 1978 and the order for amendments thereto was made on the 27th day of May, 1980.

IN WITNESS WHEREOF the said parties to this contract have hereunto set their hands and seals the day and year first written above.

THE CORPORATE SEAL OF THE REGIONAL DISTRICT OF CENTRAL OKANAGAN was hereunto affixed in the presence of:

seal

Chairman Authorized Signatory

Secretary Authorized Signatory

THE CORPORATE SEAL OF LAKE OKANAGAN RESORT LTD. was hereunto affixed in the presence of:

seal

Name:

Name:

REVISED SCHEDULE A

Specific Recreational & Residential Uses Permitted on the Land in
Conjunction with the Permitted Resort Use

1. FIRST PHASE

- a. Club House
- b. Swimming Pools and Whirlpools
- c. Tennis Courts
- d. Beaches
- e. Marina
- f. Nine Hole Golf Course
- g. Residential Accommodation (including not more than 18 housekeeping units, 10 guest units and 5 summer recreation chalets)
- h. Residential Accommodation for Maintenance Staff
- i. Single Family Residential Accommodation for Club Manager
- j. Garage and Maintenance Building
- k. Boat Launch

2. SUBSEQUENT PHASE

- a. In addition to the existing accommodation and rental units (as of the adoption of the Land Use Amendment Bylaw LUCA-95-44) which consist of the following:
 - * 2 chalets with 5 rental units each
 - * 20 chalets with 2 rental units each
 - * 18 housekeeping apartments with 2 rental units each
 - * 18 1 bedroom motel rental units
 - * 12 studio motel rental units
 - * 99 one-bedroom rental units

for a total of 116 rental units, there shall be permitted to be constructed in substantial compliance with the attached site plan marked "Revised Schedule B-96-9" a total of 331 additional accommodation and rental units as follows:

- * 63 hotel units as per attached floor plan of the hotel marked Annexure "1"
- * 48 time share units as per attached floor plan of building #100 and building #200 marked Annexure "2"
- * 15 townhouse units as per attached floor plan of buildings #300, 400 and 500 marked Annexure "3"
- * 205 accommodation units in the form of chalets, housekeeping units, condominiums, townhouses, motel units, hotel units and time share units for future development in accordance with the overall general plan (Revised Schedule B-96-9)

for a total of 331 additional units.

The combined total number of rental units shall not exceed 500.

- b. Restaurant (at the marina)
- c. Maintenance Building (at the boat launch)
- d. Golf Cart Storage & Locker Room Building

REVISED SCHEDULE B-96-9

REVISED SCHEDULE C

Letter of Undertaking in the Matter of the Land Use Contract Amendment Bylaw LUCA-95-44 for Lake Okanagan Resort Ltd. To Amend Land Use Contract Bylaw #225

In connection with the application of Lake Okanagan Resort Ltd. ("LOR") to amend the existing Land Use Contract and in consideration of the consent of the strata owners who have an interest in the Contract (the "Strata Owners"), LOR covenants and agrees as follows:

1. LOR is committed to maintain the quality operation of the resort and facilities.
2. **Rights and Privileges of Strata Owners.** LOR acknowledges that the Strata Owners continue to have a guaranteed access to all recreational facilities including club house, beach, tennis courts, swimming pools, marina and golf course.
3. **Replacement - Tennis Courts.** LOR Agrees to install lights on one valley court immediately with the commencement of construction on Court 1, lights will be installed on the remaining courts as demand dictates. Two New Valley courts will be constructed as demand dictates.
4. **Removal or Upgrading of Unfinished Construction Site.** LOR agrees to remove the existing concrete foundations behind the Terrace Inn, or upgrade the site with landscaping during the first phase of construction.
5. **Marina and Beach.** If the existing marina and beach become over-stressed due to the additional development, LOR agrees to upgrade, expand, or add to the facilities in compliance with the requirements of the Ministry of Lands.
6. **Pools.** LOR has made provisions in the development plans for the addition of an indoor pool as part of the connecting link plus the addition of an outdoor pool at the north end.
7. LOR acknowledges the designated area for recreational use only as shown on the Revised Overall General Development Plan attached to LUCA-95-44 as Revised Schedule "B-96-9", and agrees and covenants that no construction on that area (except for recreational use) shall be permitted unless consented to by the Strata Owners.
8. LOR undertakes to landscape parking areas so that parked cars are substantially concealed from the view of existing units.

9. LOR undertakes and covenants to construct the access road, the parking area and building site of buildings #100, #200 and #600 in substantial compliance as shown on detailed site plan and cross sections of buildings #100, #200 and #600 attached to and forming part of the Modified Site Plan dated November 6, 1996, as Annexures 1 and 2.

DATED at Kelowna, British Columbia, this _____ day of _____
_____ 1997

THE CORPORATE SEAL OF
LAKE OKANAGAN RESORT LTD.
was hereunto affixed in
the presence of:

seal

Name:

Name:

REVISED SCHEDULE D

SCHEDULE B

PROPOSED AMENDMENTS TO LAND USE CONTRACT N74468
AS MODIFIED BY MODIFICATION R44169

THIS CONTRACT made the _____ day of March, 1997.

BETWEEN: REGIONAL DISTRICT OF CENTRAL OKANAGAN
1450 KLO Road, Kelowna, British Columbia
V1W 3Z4

(the "Regional District")
OF THE FIRST PART

AND: LAKE OKANAGAN RESORT LTD.
2751 Westside Road, Kelowna, British Columbia
V1Y 8B2

(the "the Landowner")
OF THE SECOND PART

WHEREAS:

- A. The Regional District has declared with Area Zoning Amendment Bylaw #224, 1997 District Lot 3547 ODYD a Development Area covered by Land Use Contract Bylaw #225.
- B. The Regional District and the Landowner have entered into a certain Land Use Contract dated the 12th day of September, 1978, registered in the Land Title Office at Kamloops under N74468, and as modified pursuant to Section 31 of the **Conveyancing and Law of Property Act** on the 27th day of May, 1980, registered under R44169 and with proposed modifications made in 1981

(the "Land Use Contract").
- C. The Regional District and the Landowner now wish to modify certain terms and conditions of the Land Use Contract as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Regional District and the Landowner covenant and agree with each other that the Land Use Contract is to be modified as follows:

1. Paragraph 1 is to be deleted and the following substituted therefor:

The Landowner is the registered owner in fee simple of all and singular that certain parcel or tract of land and premises situate, lying and being in the Regional District of Central Okanagan, in the Province of British Columbia and being more particularly known and described as:

Lot 1, District Lot 3547 ODYD, Plan 30301, Except Plan 32216 (the "Land").

2. Paragraph 2 is to be deleted and the following substituted therefor:

The Landowner has asserted that it has obtained the consent of a majority of the owners of the 169 strata units on Lots 2, 3, 4, 5 and A of the original lands affected by the Land Use Contract N74468.

3. Paragraph 3 is to be deleted and the following substituted therefor:

The Schedules attached hereto hereinafter referred to are hereby incorporated into and made a part of this Contract.

4. Paragraph 5 is to be deleted and the following substituted therefor:

Except for the matters otherwise specifically provided for herein the Landowner shall comply with all present and future bylaws of the Regional District, as amended from time to time, as the same apply to the Land.

5. Paragraph 7 is to be deleted and the following substituted therefor:

This Contract shall be construed as running with the Land and shall be registered in the Land Title Office by the Regional District pursuant to the provisions of Section 982(7) of the **Municipal Act** and the **Land Title Act**.

6. Paragraph 10 shall be deleted and the following substituted therefor:

The Land, including the surface of water and any and all buildings and structures erected thereon, thereover, therein, pursuant to this Contract, shall be used for the purposes of a Resort.

Schedule "A" herein describes generally the first and future phases of the development of the Land. Amendments to the type of units required from time to time by the Landowner in the future, taking into consideration of the then prevailing market demand and conditions, shall be as approved by the Regional District.

For the purposes of this Contract, "Resort" shall mean and be deemed to mean the development, including the recreational facilities and accommodation units described generally in Schedule "A" herein and as amended by approval of the Regional District from time to time, and any service buildings necessary for the quality operation of the Resort, to be used by the Resort Hotel, hotel guests, time share owners and by the Strata Owners. The units may be leased to the Resort Hotel and be managed as hotel guest accommodation or may be used exclusively for the owners use and that of their guests for adult living.

Since the subject property has been zoned in 1978 for recreational purposes, the parties hereto acknowledge that the provision for the par 3, 9-hole golf course and the development of the Land into a resort with recreational facilities was an important feature of the development.

In order to ensure that the Landowner develops the Land in substantial compliance with the terms and conditions of the Land Use Contract, the Landowner covenants and agrees that the development of the additional units will not change in any way or alter the development concept of the Resort and the quality operation of the recreational facilities, except as outlined in this amendment of Land Use Contract.

7. Paragraph 10A shall be amended by deleting the words "Recreational Country Club".
8. Paragraph 11 shall be deleted and the following substituted therefor:

Phases subsequent to Phase 1 of the development shall be constructed in accordance with the general plans, specifications and descriptions set out in Revised Schedule "B-96-9" hereof and all detailed plan and specifications for buildings, structures, and recreational facilities contained in such phases shall first be approved by the Regional District and all other authorities having jurisdiction in such matters prior to the issuance of any building permits therefore.

9. Paragraph 12 shall be deleted and the following substituted therefor:

No building, facility, or structure shall be constructed, reconstructed, altered, moved or extended upon the Land except in compliance with the specifications, plan and site plan set out in Revised Schedule "B-96-9" hereto.

10. Paragraph 14 shall be amended by deleting the words "Schedule B" and replacing them with the words "Revised Schedule B-96-9".
11. Paragraph 15 shall be amended by deleting the words "Schedule B" and replacing with the word "Revised Schedule B-96-9".
12. Paragraph 17 shall be deleted and the following substituted therefor:

It is understood and agreed that Schedule "B-96-9" herein provides a general plan of the proposed buildings and structures which is to be used as a guide only in the preparation of the designs, plans and specifications for such buildings and structures. The final designs, plans and specifications shall be drawn in accordance with the overall general plan and concept of the development and shall be approved by the Regional District. All construction shall be in accordance with the Building Bylaws of the Regional District.

13. Paragraph 18 shall be deleted and the following substituted therefor:

No building permits shall be issued for the construction of any of the dwelling units or the clubhouse facility shown on Schedule "B-96-9" until the plans for sewage disposal facilities required herein have been approved by the Medical Health Officer or the Pollution Control Branch of the Province of British Columbia.

14. Paragraph 20 shall be deleted and the following substituted therefor:

The units may be leased to the Resort Hotel and be managed as hotel guest accommodation or may be used exclusively for the owners use and that of their guests for adult living.

15. Paragraph 22 shall be deleted and the following substituted therefor:

The Landowner shall landscape the Land in accordance with the site plan attached as Revised Schedule "B-96-9".

16. Paragraph 27 shall be deleted and teh following substituted therefor:

No pool, dock, boat launch, ramp or other structure or facility shall be built upon the Crown foreshore or water easterly of the legal boundary of the Land except at the locations shown on the site plan contained in Revised Schedule "B-96-9" hereto and in accordance with the plans and specifications first approved by the Lands Branch of the Ministry of Environment of the Province of British Columbia or as approved by the Regional District.

17. Paragraph 29 a. shall be deleted and the following substituted therefor:

All actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction, occupation or use of any of the facilities shown on Revised Schedule "B-96-9" hereto; and

18. Paragraph 30 shall be deleted and the following substituted therefor:

It is understood and agreed that the intent of this Land Use Contract is to permit the Landowner to construct a resort that shall be occupied only by members of the club and their guests, hotel guests, and adult residential occupants, and that the development shall enhance and not detract from the natural appearance and beauty of the Land and the adjacent lakeshore and lake. It is a condition precedent of the development proposed that the development not substantially affect the quality of the lake water adjacent to the Land or in any way encourage or promote the growth of weeds in the lake water adjacent to the Land.

19. Schedule "A" of the Land Use Contract is to be deleted and replaced with the Revised Schedule "A" attached hereto to this Modification of Land Use Contract.
20. Schedule "B" is to be deleted and replaced with Revised Schedule "B-96-9" with Annexures 1, 2 and 3 attached to this Modification of Land Use Contract.
21. Schedule "C" as attached to this Modification of Land Use Contract shall be added to and form part of the Land Use Contract.

This Amendment of Land Use Contract shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

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

This contract was adopted by an affirmative vote of a simple majority of the members of the Regional Board of the Regional District at the meeting at which the bylaw to authorize this Contract was adopted by the Regional Board of the Regional District on the _____ day of _____, 1997.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first written above.

THE CORPORATE SEAL OF THE REGIONAL DISTRICT OF CENTRAL OKANAGAN was hereunto affixed in the presence of:

seal

Chairman Authorized Signatory

Secretary Authorized Signatory

THE CORPORATE SEAL OF LAKE OKANAGAN RESORT LTD. was hereunto affixed in the presence of:

seal

Name:

Name:

REVISED SCHEDULE A

Specific Recreational & Residential Uses Permitted on the Land in
Conjunction with the Permitted Resort Use

1. FIRST PHASE

- a. Club House
- b. Swimming Pools and Whirlpools
- c. Tennis Courts
- d. Beaches
- e. Marina
- f. Nine Hole Golf Course
- g. Residential Accommodation (including not more than 18 housekeeping units, 10 guest units and 5 summer recreation chalets)
- h. Residential Accommodation for Maintenance Staff
- i. Single Family Residential Accommodation for Club Manager
- j. Garage and Maintenance Building
- k. Boat Launch

2. SUBSEQUENT PHASE

- a. In addition to the existing accommodation and rental units (as of the adoption of the Land Use Amendment Bylaw LUCA-95-44) which consist of the following:
 - * 2 chalets with 5 rental units each
 - * 20 chalets with 2 rental units each
 - * 18 housekeeping apartments with 2 rental units each
 - * 18 1 bedroom motel rental units
 - * 12 studio motel rental units
 - * 99 one-bedroom rental units

for a total of 169 rental units, there shall be permitted to be constructed in substantial compliance with the attached site plan marked "Revised Schedule B-96-9" a total of 331 additional accommodation and rental units as follows:

- * 63 hotel units as per attached floor plan of the hotel marked Annexure "1"
- * 48 time share units as per attached floor plan of building #200 marked Annexure "2"
- * 15 townhouse units as per attached floor plan of buildings #300, 400 and 500 marked Annexure "3"
- * 205 accommodation units in the form of chalets, housekeeping units, condominiums, townhouses, motel units, hotel units and time share units for future development in accordance with the overall general plan (Revised Schedule B-96-9)

for a total of 331 additional units.

The combined total number of rental units shall not exceed 500.

- b. Restaurant (at the marina)
- c. Maintenance Building (at the boat launch)
- d. Golf Cart Storage & Locker Room Building

.../11

REVISED SCHEDULE B-96-9

REVISED SCHEDULE C

Letter of Undertaking in the Matter of the Land Use Contract Amendment Bylaw LUCA-95-44 for Lake Okanagan Resort Ltd. To Amend Land Use Contract Bylaw #225

In connection with the application of Lake Okanagan Resort Ltd. ("LOR") to amend the existing Land Use Contract and in consideration of the consent of the strata owners who have an interest in the Contract (the "Strata Owners"), LOR covenants and agrees as follows:

1. LOR is committed to maintain the quality operation of the resort and facilities.
2. **Rights and Privileges of Strata Owners.** LOR acknowledges that the Strata Owners continue to have a guaranteed access to all recreational facilities including club house, beach, tennis courts, swimming pools, marina and golf course.

LOR agrees not to make unreasonable increases in user fees charged to the Strata Owners. The user fee will be increased only if the established user fees paid by the timeshare owners, hotel guests and Strata Owners do not cover actual operating costs of recreational facilities.
3. **Replacement - Tennis Courts.** LOR Agrees to install lights on one valley court immediately with the commencement of construction on Court 1, lights will be installed on the remaining courts as outlined in paragraph below. Two New Valley courts will be constructed as outlined in paragraph below.
4. **Removal or Upgrading of Unfinished Construction Site.** LOR agrees to remove the existing concrete foundations behind the Terrace Inn, or upgrade the site with landscaping during the first phase of construction.
5. **Marina and Beach.** If the existing marina and beach become over-stressed due to the additional development, LOR agrees to upgrade, expand, or add to the facilities in compliance with the requirements of the Ministry of Lands.
6. **Pools.** LOR has made provisions in the development plans for the addition of an indoor pool as part of the connecting link plus the addition of an outdoor pool at the north end.
7. LOR acknowledges the designated area for recreational use only as shown on the Revised Overall General Development Plan

7. LOR acknowledges the designated area for recreational use only as shown on the Revised Overall General Development Plan attached to LUCA-95-44 as Revised Schedule "B-96-9", and agrees and covenants that no construction on that area (except for recreational use) shall be permitted unless consented to by the Strata Owners.
8. LOR undertakes to landscape parking areas so that parked cars are substantially concealed from the view of existing units.
9. LOR undertakes and covenants to construct the access road, the parking area and building site of buildings #100, #200 and #600 in substantial compliance as shown on detailed site plan and cross sections of buildings #100, #200 and #600 attached to and forming part of the Modified Site Plan dated November 6, 1996, as Annexures 1 and 2.
10. LOR undertakes to build the recreational facilities so as to coincide with the construction of new units based on the following phasing schedule:

PHASE	#OF UNITS	RECREATIONAL FACILITY
Phase I	24 Units	* Construct one tennis court with lighting * Add lighting to one existing tennis court
Phase II	Hotel Link	* Construct indoor swimming pool
Phase III	24 Units	* No facility
Phase IV	Hotel-63 Units	* No facility
Phase V	15 Units	* Construct one tennis court with lighting * Construct soaker pool in Phase V common area
Phase VI	15 Units	* No facility
Phase VII	17 Units	* No facility
Phase VIII	17 Units	* Construct lighting on balance of existing tennis courts
Phase IX through Phase XIV	139 Units	* No facility
Phase IV	17 Units	* Construction swimming pool, spa, and children's play area

.../18

DATED at Kelowna, British Columbia, this _____ day of _____
_____ 1997

THE CORPORATE SEAL OF
LAKE OKANAGAN RESORT LTD.
was hereunto affixed in
the presence of:

seal

Name:

Name:

REVISED SCHEDULE D

SCHEDULE C

Land Title Act
Form C

(Section 219.81)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

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

Desseri Clowater, Porter Ramsay, Barristers
& Solicitors, 200 - 1465 Ellis St., Kelowna,
B.C., V1Y 2A3 Tel: (604) 763-7646
file: 51548-4 dev\51548.1

Signature of Applicant's Solicitor or Agent

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

(PID)
001-477-544

(LEGAL DESCRIPTION)
Lot 1 District Lot 3547 ODYD Plan 30301 Except Plan 32216

3. NATURE OF INTEREST:*

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Amendment of Land Use Contract N74468	Entire Instrument Pages 3 -	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) 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):*

LAKE OKANAGAN RESORT LTD. (Inc. No. 368733)

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

REGIONAL DISTRICT OF CENTRAL OKANAGAN of 1450 KLO Road, Kelowna, British Columbia, V1W 3Z4

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.

Execution Date

Officer Signature(s)

(as to both signatures)

Y	M	D
---	---	---

Party(ies) Signature(s)

Lake Okanagan Resort Ltd.
by its authorized signatory(ies):

Name:

Name:

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.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Page 2 of _____

Officer Signature(s)

Execution Date

Transferor/Borrower/Party
Signature(s)

--	--	--

Regional District of Central
Okanagan by its authorized
signatory(ies):

Name:
Title:

Name:
Title:

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.

PART 2 - MODIFICATION OF LAND USE CONTRACT N74468

THIS CONTRACT made the _____ day of _____, 1997.

BETWEEN: **REGIONAL DISTRICT OF CENTRAL OKANAGAN**
1450 KLO Road, Kelowna, British Columbia
V1W 3Z4

(the "Regional District")
OF THE FIRST PART

AND: **LAKE OKANAGAN RESORT LTD.**
2751 Westside Road, Kelowna, British Columbia
V1Y 8B2

(the "the Landowner")
OF THE SECOND PART

WHEREAS:

- A. The Regional District has declared with Area Zoning Amendment Bylaw #224, 1977 District Lot 3547 ODYD a Development Area covered by Land Use Contract Bylaw #225.
- B. The Regional District and the Landowner have entered into a certain Land Use Contract dated the 12th day of September, 1978, registered in the Land Title Office at Kamloops under N74468, and as modified pursuant to Section 31 of the **Conveyancing and Law of Property Act** on the 27th day of May, 1980, registered under R44169 and with proposed modifications made in 1981.
- C. The Regional District and the Landowner now wish to modify certain terms and conditions of the Land Use Contract as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Regional District and the Landowner covenant and agree with each other that the Land Use Contract is to be modified as follows:

- 1. All paragraphs numbered 1 to 32 inclusive are to be deleted and replaced with the following paragraphs:

1. **OWNERS:** The Landowner is the registered owner in fee simple of all and singular that certain parcel or tract of land and premises situate, lying and being in the Regional District of Central Okanagan, in the Province of British Columbia and being more particularly known and described as:

Lot 1, District Lot 3547, ODYD, Plan 30301, Except Plan 32216

(the "Land").
2. **CONSENT:** The Landowner has asserted that it has obtained the consent of a majority of the owners of the 169 strata units on Lots 2, 3, 4, 5 and A of the original lands affected by the Land Use Contract N74468.
3. **INCORPORATIONS:** The Schedules attached hereto hereinafter referred to are hereby incorporated into and made a part of this Contract.
4. **COSTS:** The Landowner shall pay to the Regional District on invoice by the Regional District, all legal, surveying, and advertising costs incurred by the Regional District in the preparation and registration of this contract.
5. **COMPLIANCE:** Except for the matters otherwise specifically provided for herein, the Landowner shall comply with all present and future bylaws of the Regional District, as amended from time to time, as the same apply to the Land.
6. **REPRESENTATIONS:** It is understood and agreed that the Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Landowner other than those set out in this Contract.
7. **REGISTRATION:** This Contract shall be construed as running with the Land and shall be registered in the Land Title Office by the Regional District pursuant to the provisions of Section 982(7) of the **Municipal Act** and the **Land Title Act**.
8. **INTERPRETATION:** Wherever 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 the parties so require.

9. **BINDING:** This Contract shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
10. **USES:** The Land, including the surface of water and any and all buildings and structures erected thereon, thereover, therein, pursuant to this Contract, shall be used for the purposes of a Resort.

Schedule "A" herein describes generally the first and future phases of the development of the Land. Amendments to the type of units required from time to time by the Landowner in the future, taking into consideration of the then prevailing market demand and conditions, shall be as approved by the Regional District.

For the purposes of this Contract, "Resort" shall mean and be deemed to mean the development, including the recreational facilities and accommodation units described generally in Schedule "A" herein and as amended by approval of the Regional District from time to time, and any service buildings necessary for the quality operation of the Resort, to be used by the Resort Hotel, hotel guests, time share owners and by the Strata Owners. The units may be leased to the Resort Hotel and be managed as hotel guest accommodation or may be used exclusively for the owners use and that of their guests for adult living.

Since the subject property has been zoned in 1978 for recreational purposes, the parties hereto acknowledge that the provision for the par 3, 9-hole golf course and the development of the Land into a resort with recreational facilities was an important feature of the development.

In order to ensure that the Landowner develops the Land in substantial compliance with the terms and conditions of the Land Use contract, the Landowner covenants and agrees that the development of the additional units will not change in any way or alter the development concept of the Resort and the quality operation of the recreational facilities, except as outlined in this amendment of Land Use Contract.

- 10A. **MANAGEMENT:** The Landowner and the Club Members may engage the services of a management company to operate the facilities as a Resort Hotel.

11. **SUBSEQUENT PHASES:** Phases subsequent to Phase 1 of the development shall be constructed in accordance with the general plans, specifications and descriptions set out in Revised Schedule "B-96-9" hereof and all detailed plans and specifications for buildings, structures, and recreational facilities contained in such phases shall first be approved by the Regional District and all other authorities having jurisdiction in such matters prior to the issuance of any building permits therefore.
12. **SITING:** No building, facility, or structure shall be constructed, reconstructed, altered, moved or extended upon the Land except in compliance with the specifications, plan and site plan set out in Revised Schedule "B-96-9" hereto.
13. **SIGNS:** the Landowner shall submit designs for signs to be erected upon the Land or any buildings or structures to the Board of the Regional District for approval.
14. **PARKING:** Off street parking spaces shall be provided and located in accordance with the site plan contained within Revised Schedule "B-96-9" hereto. All parking spaces shall be not less than six metres(6m) in length and two and seventy-five hundredths metres(2.75m) in width. Parking areas shall be surfaced with gravel and be graded to provide an even surface upon which surface water will not accumulate and drainage therefrom shall be contained upon the site or as approved by the Regional District.
15. **ROADWAYS:** All roadways, parking lots, accesses, boat launching ramps, and other vehicular carrying facilities shall be located and constructed in substantial compliance with and according to the plans and specifications set out in Revised Schedule "B-96-9" hereto or as approved by the Regional District.
16. **WESTSIDE ROAD:** The Landowner shall not alter any water course, cut down any tree or do earth moving or undertake any other work so as to effect the drainage and/or stability of the present or future highway known as Westside Road or its rights-of-way.

17. **CONSTRUCTION:** It is understood and agreed that Schedule "B-96-9" herein provides a general plan of the proposed buildings and structures which is to be used as a guide only in the preparation of the designs, plans and specifications for such buildings and structures. The final designs, plans and specifications shall be drawn in accordance with the overall general plan and concept of the development and shall be approved by the Regional District. All construction shall be in accordance with the Building Bylaws of the Regional District.
18. **BUILDING PERMITS:** No building permits shall be issued for the construction of any of the dwelling units or the clubhouse facility shown on Schedule "B-96-9" until the plans for sewage disposal facilities required herein have been approved by the Medical Health Officer or the Pollution Control Branch of the Province of British Columbia.
19. **OCCUPANCY:** No building or structure shall be occupied until an occupancy permit therefore has been issued by the Building Inspector. No dwelling unit or food serving facility shall be occupied on the Land until the water supply and the sanitary sewage disposal system have first been approved by the Medical Health Officer, or Pollution Control Branch.
20. **PERMANENT OCCUPANCY:** The units may be leased to the Resort Hotel and be managed as hotel guest accommodation or may be used exclusively for the owners use and that of their guests for adult living.
21. **GOLF COURSE:** The parties hereto agree that the Landowner has constructed a golf course on the land which satisfies the requirements of the Regional District.
22. **LANDSCAPING:** The Landowner shall landscape the Land in accordance with the site plan attached as Revised Schedule "B-96-9".
23. **SEWAGE DISPOSAL:** Sewage disposal systems coming within the purview of the Medical Health Officer for the disposal of Sanitary waste from any structure built upon the Land shall be constructed only in accordance with plans and specifications first approved by the Medical Health Officer of the South Okanagan Health Unit. If the Medical Health Officer is of the opinion that the average daily flow of any proposed sewage disposal system will exceed 5,000 gallons, the system must be approved by the Pollution control branch of the province of British Columbia prior to commencement of construction of such system.

Disposal fields for the sewerage system to be installed on the Land shall be located as specifically shown on the Plan contained in Schedule "D" attached hereto. All disposal fields shall be constructed according to the plans and specifications more particularly shown in Schedule "D" hereto. The Landowner may utilize any other method of sewage disposal of sewage treatment and disposal as approved by the medical Health Officer and such facilities are to be located on the Land at a site approved by the Medical Health Officer and the Regional District.

The Landowner shall install a water meter for the purpose of keeping an accurate record of water used in any and all facilities and structures constructed upon the Land for the purpose of assessing the adequacy of sewage disposal facilities relative to hydraulic loading. Should the volume of water used, in the opinion of the Medical Health Officer of the South Okanagan Health Unit or the Pollution Control Branch, exceed that volume for which the sewage disposal system is designed, then the Landowner shall, at the request of the Medical Health Officer or the Pollution control branch, immediately reduce the volume of water used, or immediately commence the alteration of the sanitary sewerage disposal field so that the field will, in the opinion of the Medical Health Officer or the Pollution Control Branch, be sufficiently enlarged to accommodate the anticipated additional volume of water being used on the Land.

Lysimeter test pipes, the number and location to be approved by the authority having jurisdiction, shall be installed, if required by the Medical Health Officer, below the sewage disposal field about three quarters of the distance to the high water mark of Okanagan Lake for the purpose of monitoring any movements of sewage effluent through the ground to the lake which might occur from overloading of sewage disposal fields or from excessive porosity of the soils. In the event that free movement of harmful effluent is found, appropriate steps shall be taken forthwith by the Landowner to either relocate the sewage disposal field or to install appropriate facilities to eliminate the movement of sewage effluent towards the lake.

24. **WATER SUPPLY AND DISTRIBUTION SYSTEM WORKS:** The water supply system is to be operated as a privately owned utility company in accordance with the provisions of the Water Utilities Act and Health Act of the Province of

British Columbia. All components of this system will be designed and constructed to meet the requirements of the aforesaid Acts and no connections will be made to such works until they are first approved by the authority having jurisdiction.

25. **FORESHORE:** The Landowner shall not, at any time, do any work upon the Land whatsoever that would cause any fill to move from the Land to any portion of foreshore or lake east of the legal easterly boundary of the Land. Should the Landowner by accident or otherwise cause or permit any fill to flow from the Land into the lake or onto the foreshore east of the legal boundary of the Land, then the same shall be removed forthwith at the cost of the Landowner. Should the Landowner fail to remove such fill, the fill may be removed by the Regional District at the cost of the Landowner who shall pay such cost forthwith upon invoice therefor.

The Landowner shall not at any time move any soil from or onto, or construct any structure on the Crown foreshore east of the legal boundary of the Land without first obtaining the written consent of the Lands Branch of the Ministry of Environment. Without restricting the generality of the foregoing, such prohibited work includes any grading of beaches, earth moving of any nature, and construction of piers, docks, seawalls, and retaining walls. The Landowner shall, with a minimum disturbance to surrounding areas, move all silty or dirty material and soil well back from the existing water level to avoid adding silt to the waters of Okanagan Lake.

26. **USE OF FORESHORE:** The Landowner shall not construct any fence on lands lying easterly of the legal boundary of the Land so as to prevent access thereto by the public unless first obtaining the written permission to do so from the Land Branch of the Ministry of the Environment of the Province of British Columbia.
27. **DOCKS AND WHARVES:** No pool, dock, boat launch, ramp or other structure or facility shall be built upon the Crown foreshore or water easterly of the legal boundary of the Land except at the locations shown on the site plan contained in Revised Schedule "B-96-9" hereto and in accordance with the plans and specifications first approved by the Lands Branch of the Ministry of Environment of the Province of British Columbia or as approved by the Regional District.

28. **DAMAGE INCURRED BY WILDLIFE:** The Landowner acknowledges that it has been recommended by the Fish & Wildlife Branch of the Ministry of Recreation and Travel Industry and the Regional District that the development authorized hereby be enclosed by the construction of fencing along its boundaries in order to better protect the development itself and users thereof from damage or injury to property or persons caused by straying wildlife in vicinity of the development. Notwithstanding this recommendation, the Landowner does not wish to construct such fencing and in consideration of the Regional District foregoing the requirement that such fencing be provided, the Landowner covenants and agrees to indemnify and save harmless the Regional District and Her Majesty the Queen in Right of the Province of British Columbia from and against all claims, demands, suits, and actions that may be brought or made against the Regional District or Her Majesty the Queen in Right of the Province of British Columbia by any person or persons for or by reason of any damage to persons or their property resulting from or caused by wildlife and in respect of any claims by the Landowner for such damage the Landowner waives, releases and discharges the Regional District and Her Majesty the Queen in Right of the Province of British Columbia therefrom. Provided always, however, that it is understood and agreed that in accepting the foregoing indemnity and waiver, the Regional District and Her Majesty the Queen in Right of the Province of British Columbia do not thereby acknowledge that either of them would otherwise be liable for any claims arising out of damage to persons or property caused by wildlife.
29. **INDEMNITY:** The Landowner covenants to save harmless and indemnify the Regional District against:
- a. all actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction, occupation or use of any of the facilities shown on Revised Schedule "B-96-9" hereto; and
 - b. all expenses and costs which may be incurred by reason of the execution of the said works resulting damage to any property owned in whole or in part by Her Majesty the Queen in Right of the Province of British Columbia.

30. **INTENT:** It is understood and agreed that the intent of this Land Use Contract is to permit the Landowner to construct a resort that shall be occupied only by members of the club and their guests, hotel guests, and adult residential occupants, and that the development shall enhance and not detract from the natural appearance and beauty of the Land and the adjacent lakeshore and lake. It is a condition precedent of the development proposed that the development not substantially affect the quality of the lake water adjacent to the Land or in any way encourage or promote the growth of weeds in the lake water adjacent to the Land.
31. **FLOOD CONTROL REQUIREMENTS:**
- a. for the purposes of this section, the following definitions shall apply: "Natural Boundary" - means the visible high-water mark of any lake, river, stream, or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the lake, river, stream, or other body of water, a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.
 - b. Notwithstanding any other provisions of this Contract, no building or part thereof shall be constructed, reconstructed, moved or extended, nor shall any mobile home or unit, modular home or structure be located:
 - i. with the underside of the floor system of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a mobile home or unit the ground level on which it is location, lower than elevation 1127.5 feet geodetic Survey of Canada datum.
 - ii. within 25 feet of the natural boundary of Okanagan Lake. If landfill is used to achieve the required elevation, no portion of the landfill slope shall be closer than the above distance from the natural boundary, and the face of the landfill slope shall be adequately protected against erosion from flood waters.

32. **INSPECTION:** Any officer or employee of the Regional District, the South Okanagan Health Unit, the Ministry of Highways, Fish & Wildlife Branch, Water Rights Branch, Pollution control branch, or Lands Branch of the Government of Canada or British Columbia may enter onto the Land to determine if the terms hereof are being complied with or to take any measurement from any meter or testing device installed pursuant to the terms hereof.

33. **RENTAL UNIT:** A rental unit is any living area that has an independent access, has its own three piece bathroom, and can be locked to provide a separate rental accommodation, as interpreted by the Regional District Chief Building Inspector.

II. Schedule "A" of the Land Use Contract is to be deleted and replaced with the Revised Schedule "A" attached hereto to this Modification of Land Use Contract.

III. Schedule "B" is to be deleted and replaced with Revised Schedule "B-96-9" with Annexures 1, 2 and 3 attached to this Modification of Land Use Contract.

IV. Schedule "C" as attached to this Modification of Land Use Contract shall be added to and form part of the Land Use Contract.

This Amendment of Land Use Contract shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

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

This Contract was adopted by an affirmative vote of a simple majority of the members of the Regional Board of the Regional District present at the meeting at which the bylaw to authorize this Contract was adopted by the Regional Board of the Regional District on the _____ day of _____, 1997.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first written above.

THE CORPORATE SEAL OF THE REGIONAL
DISTRICT OF CENTRAL OKANAGAN was
hereunto affixed in the presence of:

seal

Chairman Authorized Signatory

Secretary Authorized Signatory

THE CORPORATE SEAL OF LAKE
OKANAGAN RESORT LTD. was hereunto
affixed in the presence of:

seal

Name:

Name:

REVISED SCHEDULE A

Specific Recreational & Residential Uses Permitted on the Land in
Conjunction with the Permitted Resort Use

1. FIRST PHASE

- a. Club House
- b. Swimming Pools and Whirlpools
- c. Tennis Courts
- d. Beaches
- e. Marina
- f. Nine Hole Golf Course
- g. Residential Accommodation (including not more than 18 housekeeping units, 10 guest units and 5 summer recreation chalets)
- h. Residential Accommodation for Maintenance Staff
- i. Single Family Residential Accommodation for Club Manager
- j. Garage and Maintenance Building
- k. Boat Launch

2. SUBSEQUENT PHASE

- a. In addition to the existing accommodation an rental units (as of the adoption of the Land Use Amendment Bylaw LUCA-95-44) which consist of the following:
 - * 2 chalets with 5 rental units each
 - * 20 chalets with 2 rental units each
 - * 18 housekeeping apartments with 2 rental units each
 - * 18 1 bedroom motel rental units
 - * 12 studio motel rental units
 - * 99 one-bedroom rental units

for a total of 169 rental units, there shall be permitted to be constructed in substantial compliance with the attached site plan marked "Revised Schedule B-96-9" a total of 331 additional accommodation and rental units as follows:

- * 63 hotel units as per attached floor plan of the hotel marked Annexure "1"
- * 48 time share units as per attached floor plan of building #100 and building #200 marked Annexure "2"
- * 15 townhouse units as per attached floor plan of buildings #300, 400 and 500 marked Annexure "3"
- * 205 accommodation units in the form of chalets, housekeeping units, condominiums, townhouses, motel units, hotel units and time share units for future development in accordance with the overall general plan (Revised Schedule B-96-9)

for a total of 331 additional units.

The combined total number of rental units shall not exceed 500.

- b. Restaurant (at the marina)
- c. Maintenance Building (at the boat launch)
- d. Golf Cart Storage & Locker Room Building

REVISED SCHEDULE B-96-9

REVISED SCHEDULE C

Letter of Undertaking in the Matter of the Land Use Contract Amendment Bylaw LUCA-95-44 for Lake Okanagan Resort Ltd. To Amend Land Use Contract Bylaw #225

In connection with the application of Lake Okanagan Resort Ltd. ("LOR") to amend the existing Land Use Contract and in consideration of the consent of the strata owners who have an interest in the Contract (the "Strata Owners"), LOR covenants and agrees as follows:

1. LOR is committed to maintain the quality operation of the resort and facilities.
2. **Rights and Privileges of Strata Owners.** LOR acknowledges that the Strata Owners continue to have a guaranteed access to all recreational facilities including club house, beach, tennis courts, swimming pools, marina and golf course.

LOR agrees not to make unreasonable increases in user fees charged to the Strata Owners. The user fee will be increased only if the established user fees paid by the timeshare owners, hotel guests and Strata Owners do not cover actual operating costs of recreational facilities.

3. **Replacement - Tennis Courts.** LOR Agrees to install lights on one valley court immediately with the commencement of construction on Court 1, lights will be installed on the remaining courts as demand dictates. Two New Valley courts will be constructed as demand dictates.
4. **Removal or Upgrading of Unfinished Construction Site.** LOR agrees to remove the existing concrete foundations behind the Terrace Inn, or upgrade the site with landscaping during the first phase of construction.
5. **Marina and Beach.** If the existing marina and beach become over-stressed due to the additional development, LOR agrees to upgrade, expand, or add to the facilities in compliance with the requirements of the Ministry of Lands.
6. **Pools.** LOR has made provisions in the development plans for the addition of an indoor pool as part of the connecting link plus the addition of an outdoor pool at the north end.

7. LOR acknowledges the designated area for recreational use only as shown on the Revised Overall General Development Plan attached to LUCA-95-44 as Revised Schedule "B-96-9", and agrees and covenants that no construction on that area (except for recreational use) shall be permitted unless consented to by the Strata Owners.
8. LOR undertakes to landscape parking areas so that parked cars are substantially concealed from the view of existing units.
9. LOR undertakes and covenants to construct the access road, the parking area and building site of buildings #100, #200 and #600 in substantial compliance as shown on detailed site plan and cross sections of buildings #100, #200 and #600 attached to and forming part of the Modified Site Plan dated November 6, 1996, as Annexures 1 and 2.

DATED at Kelowna, British Columbia, this _____ day of _____
_____ 1997

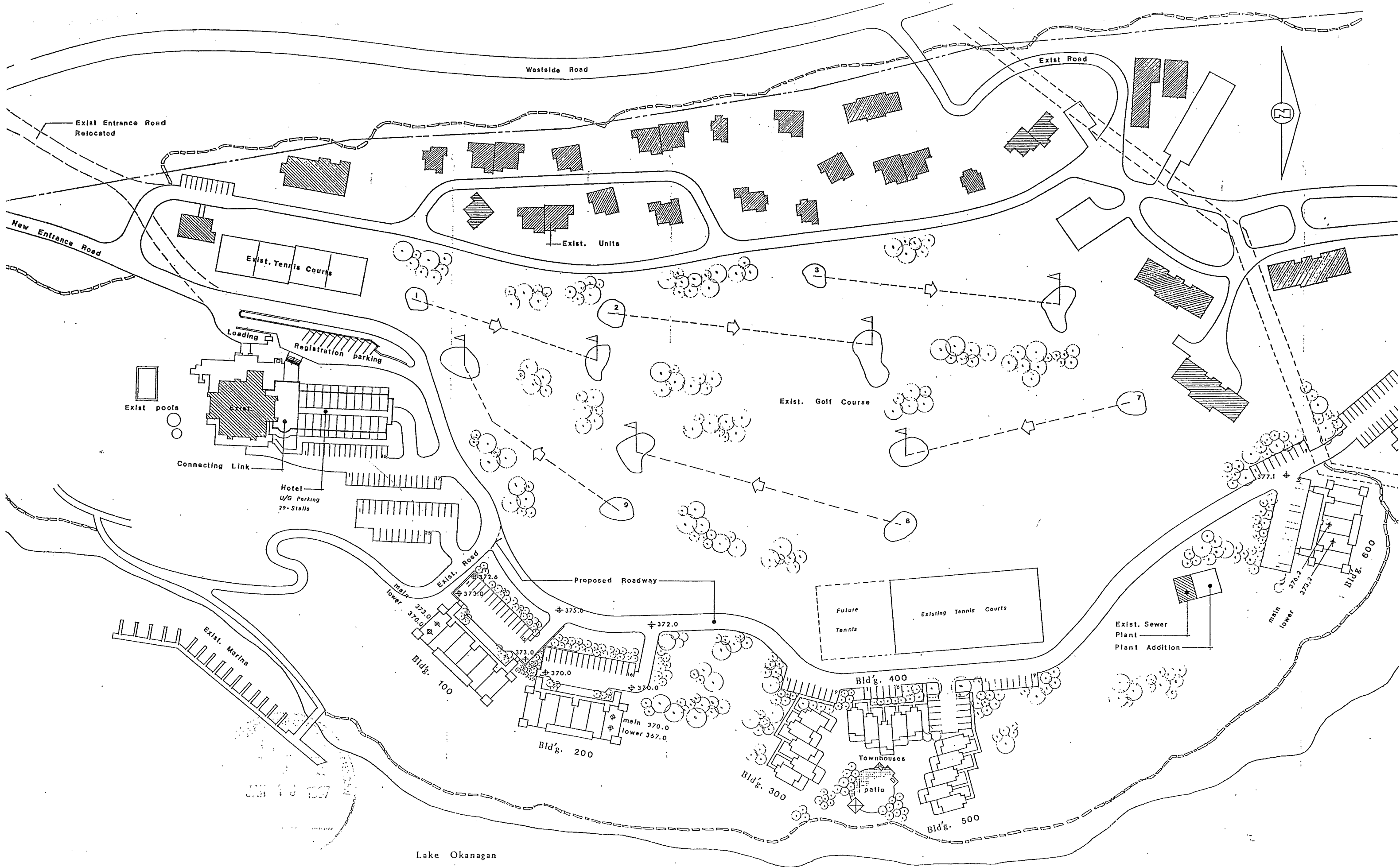
THE CORPORATE SEAL OF
LAKE OKANAGAN RESORT LTD.
was hereunto affixed in
the presence of:

seal

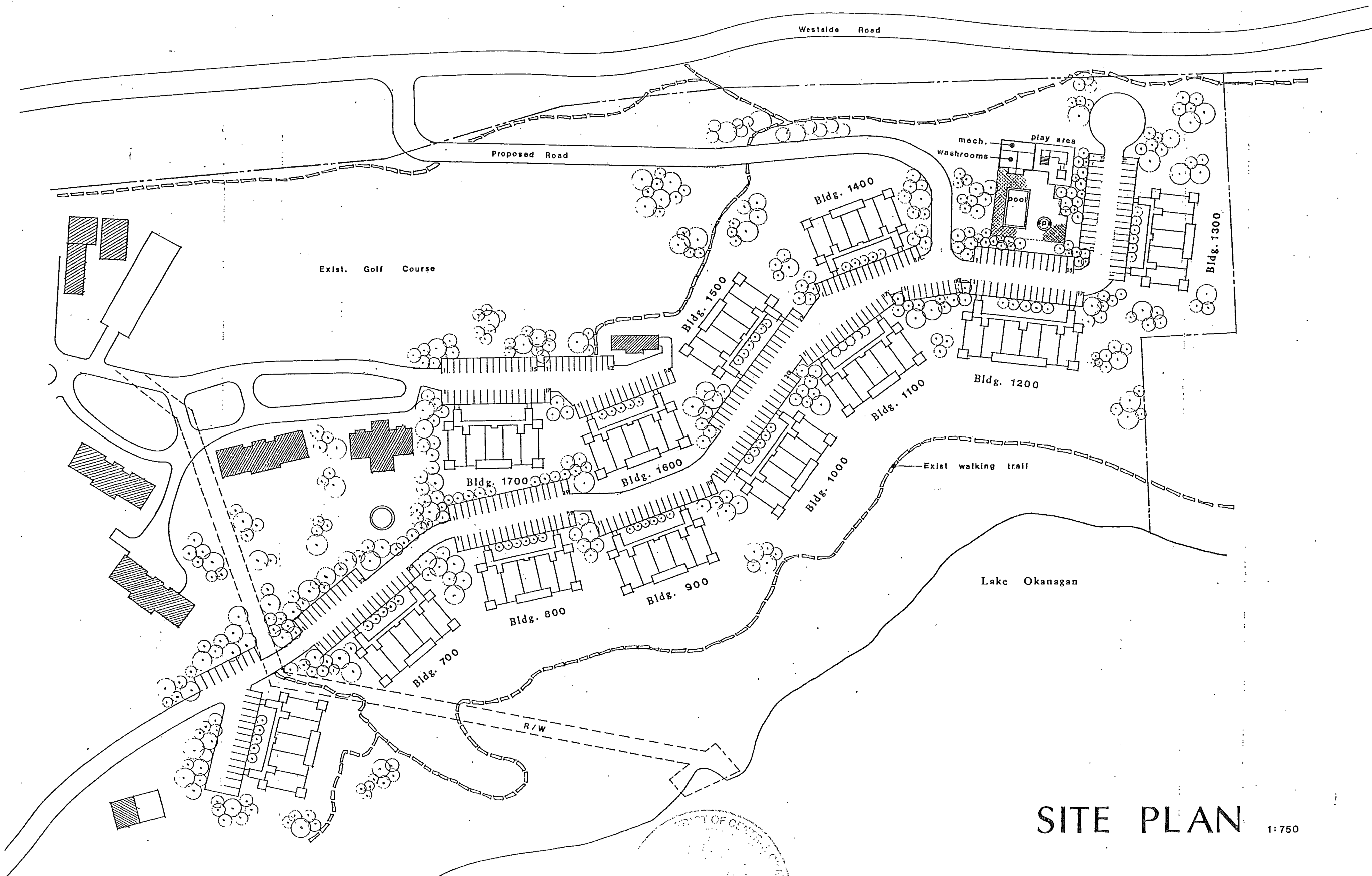
Name:

Name:

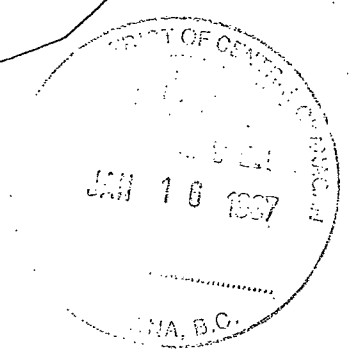
REVISED SCHEDULE D

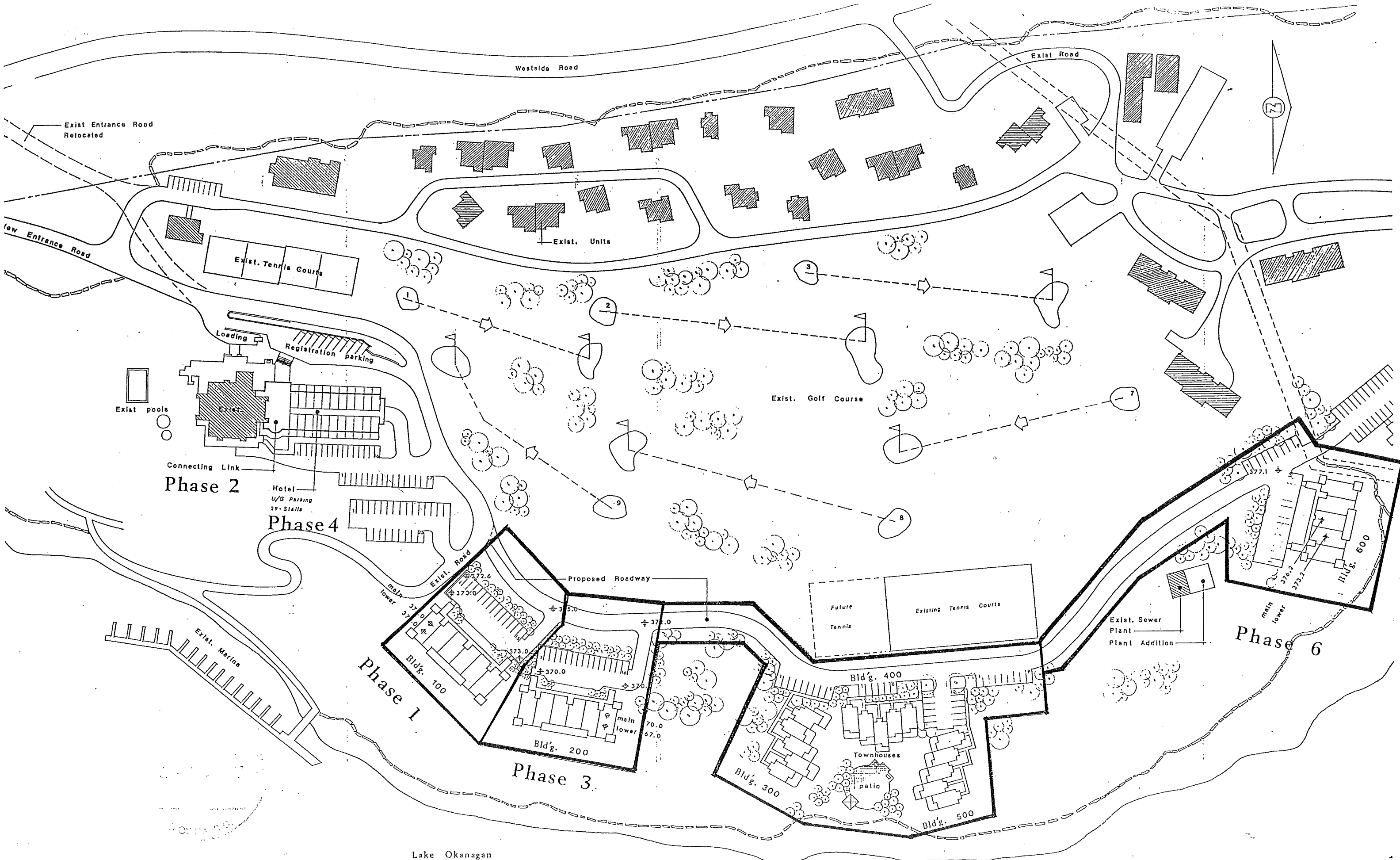


Lake Okanagan



SITE PLAN 1:750



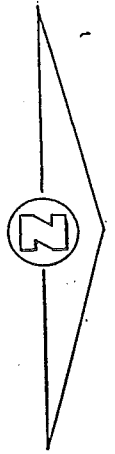
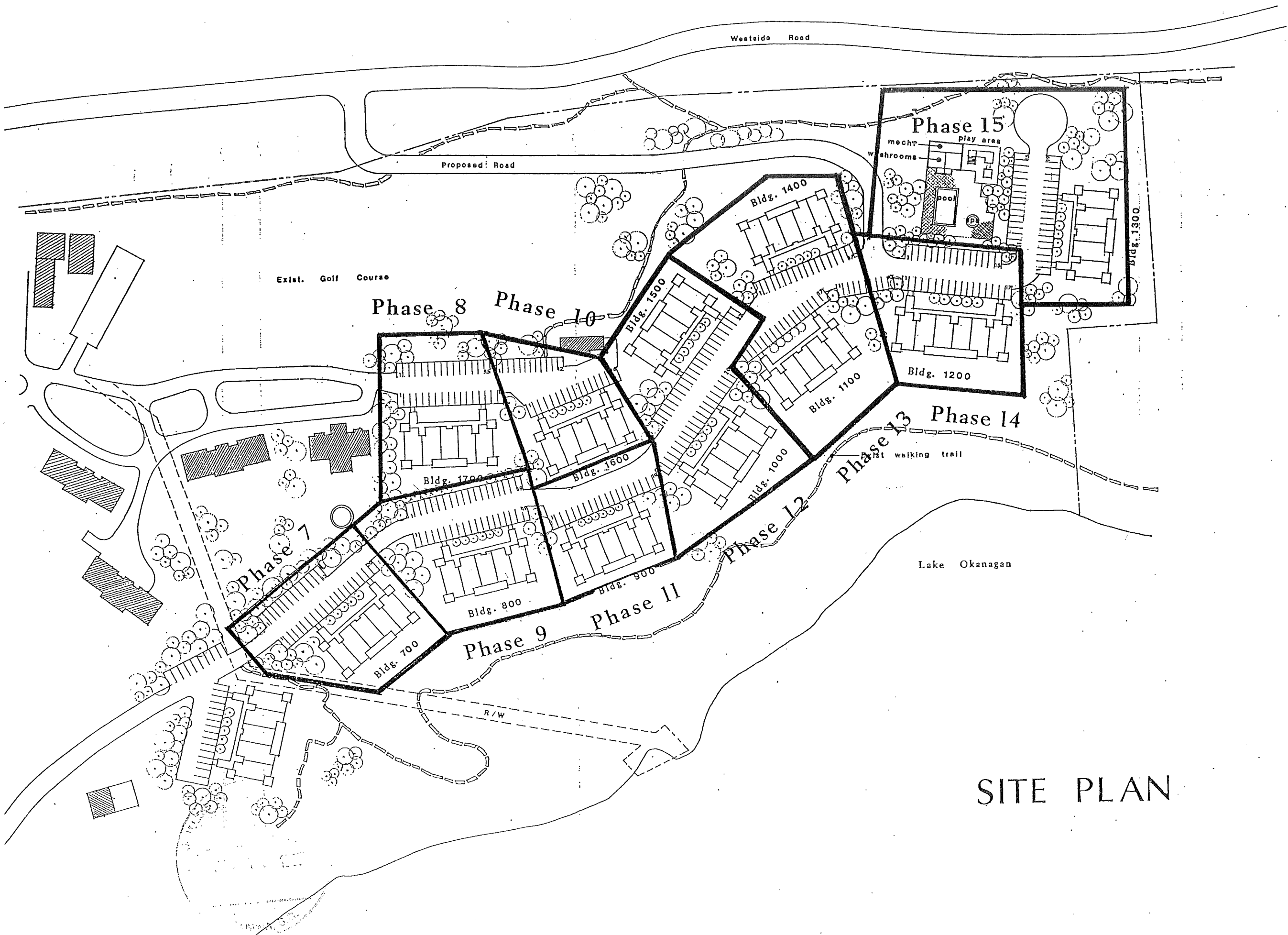


Lake Okanagan

Phase 5

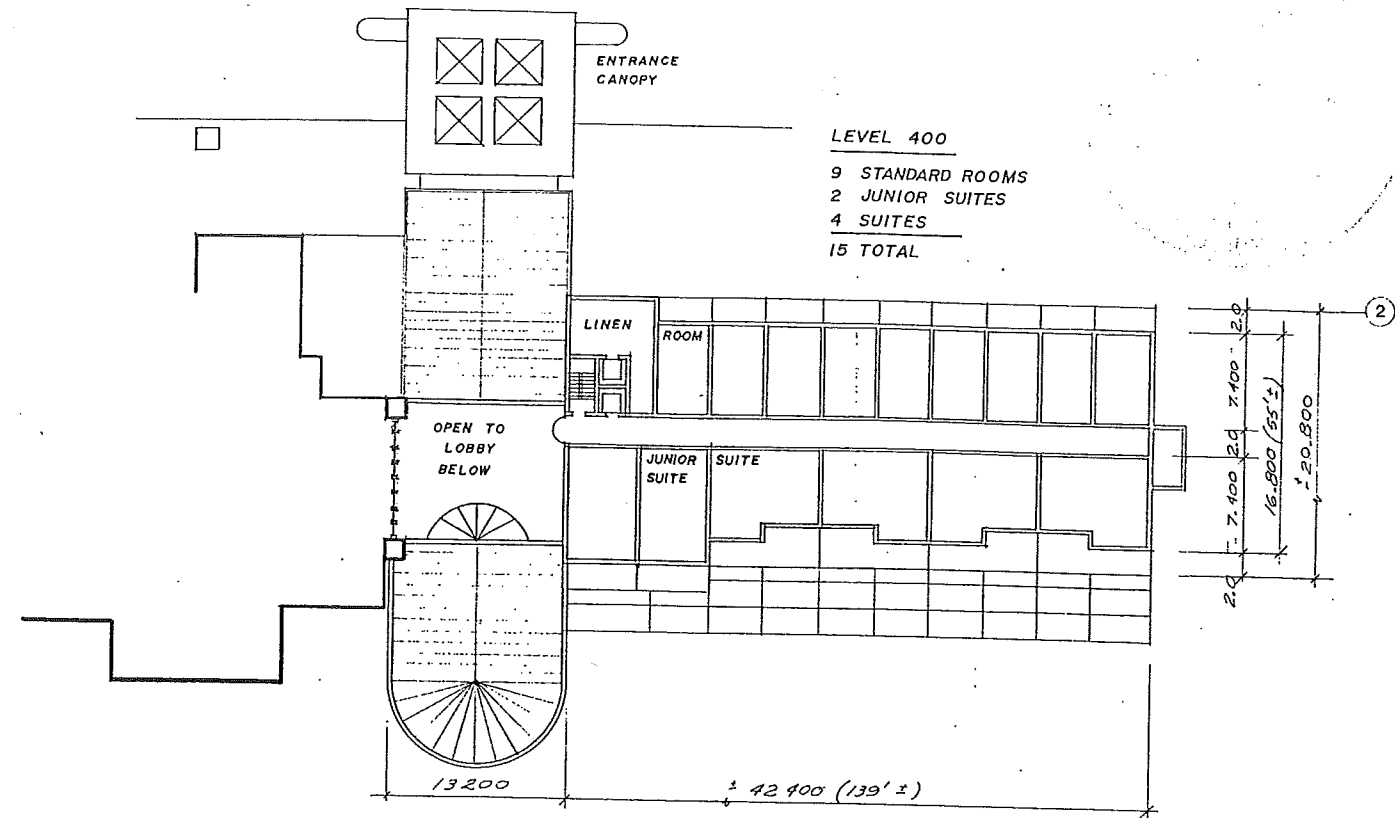
Phasing

Schedule: A



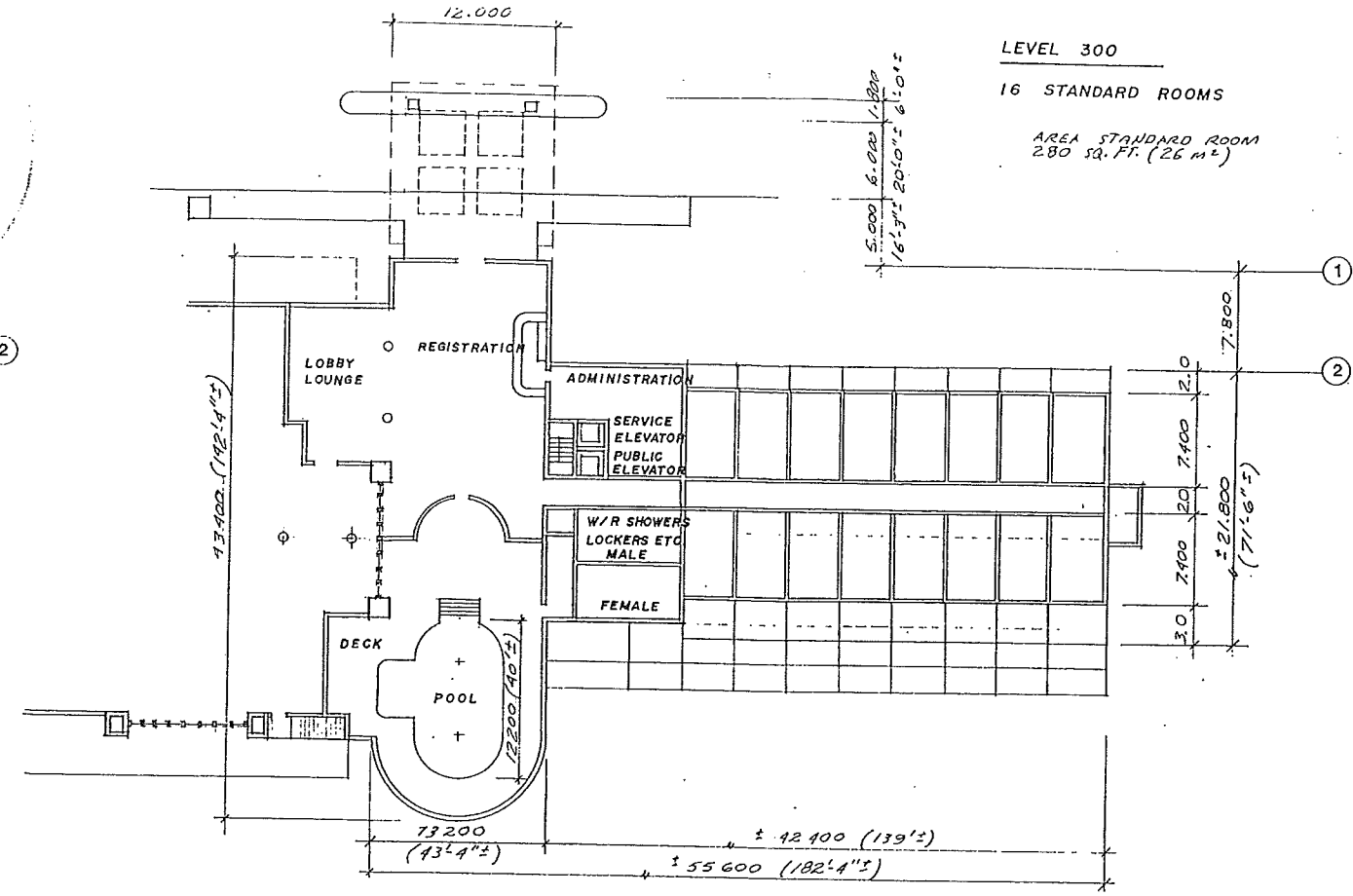
SITE PLAN

Phasing
Schedule: A



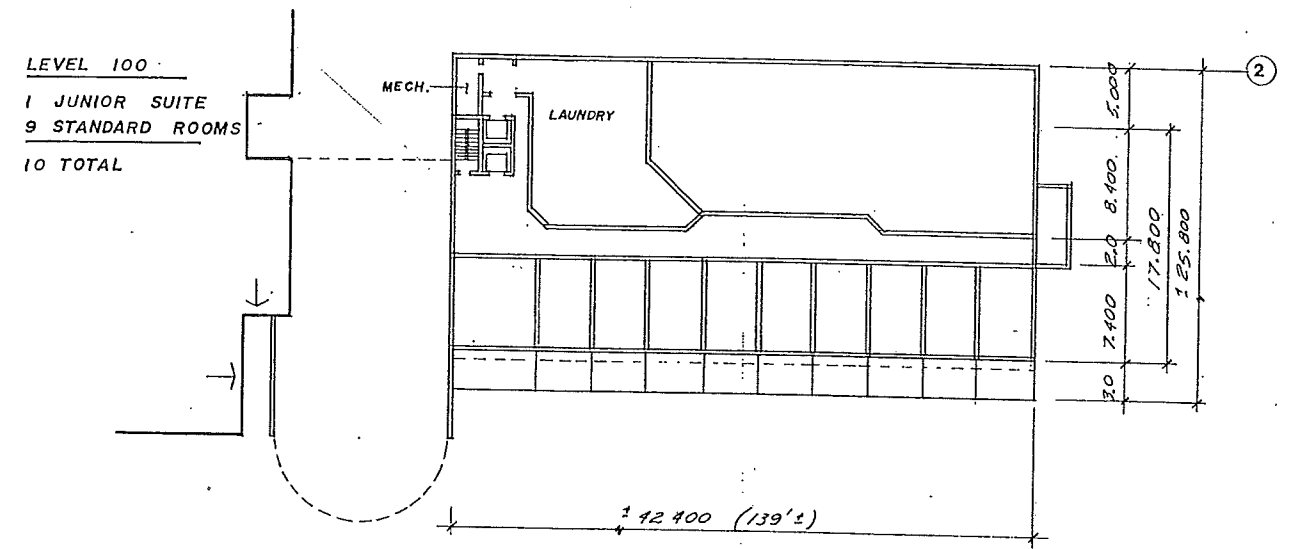
LEVEL 400
 9 STANDARD ROOMS
 2 JUNIOR SUITES
 4 SUITES
 15 TOTAL

LEVEL: 400 UPPER LEVEL



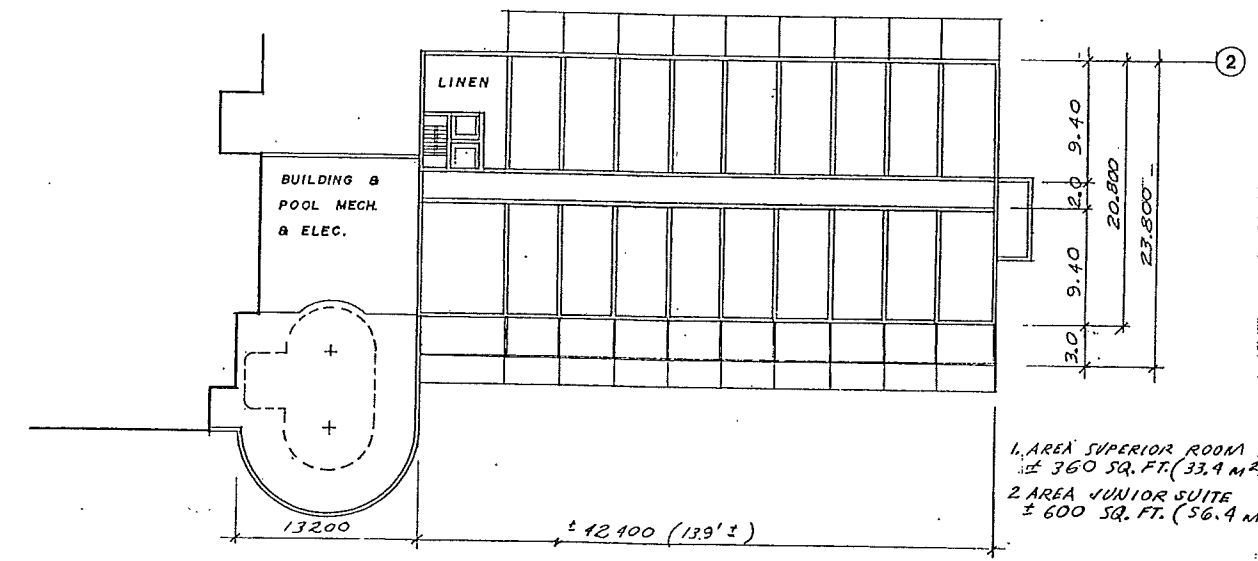
LEVEL 300
 16 STANDARD ROOMS
 AREA STANDARD ROOM
 280 SQ. FT. (26 M²)

LEVEL: 300 ENTRANCE LEVEL



LEVEL 100
 1 JUNIOR SUITE
 9 STANDARD ROOMS
 10 TOTAL

LEVEL: 100



LEVEL 200
 1 JUNIOR SUITE
 18 SUPERIOR ROOMS
 19 TOTAL

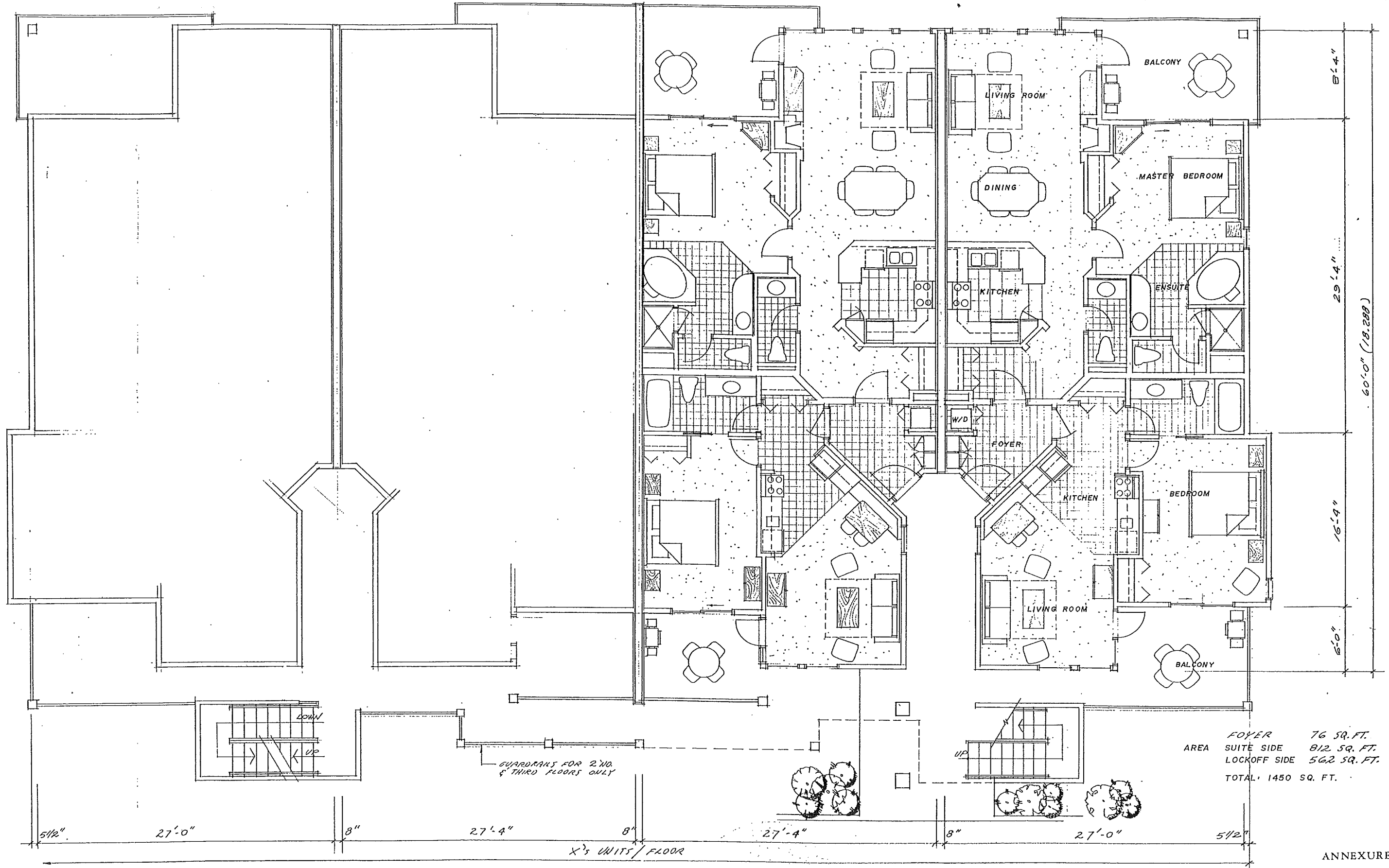
LEVEL: 200

1. AREA SUPERIOR ROOM
 ± 360 SQ. FT. (33.4 M²)
 2. AREA JUNIOR SUITE
 ± 600 SQ. FT. (56.4 M²)

SCALE: 1:250

ANNEXURE: 1

<p>The General Contractor shall check & verify all dimensions and shall report any errors or omissions to the design professional.</p>		<p>R. W. SCHEIDT DESIGN 446 - VIEWCREST ROAD KELOWNA B.C. V1Y 7R3 Tel: 784-5099 FAX: 784-5098</p>		<p>LAKE OKANAGAN RESORT KELOWNA, B.C.</p>	
<p>DESIGN: RS</p>		<p>DRAWN: RS</p>		<p>CHECKED: []</p>	
<p>SCALE: 1:250</p>		<p>DATE: []</p>		<p>FILE: []</p>	
<p>BY: []</p>		<p>DATE: []</p>		<p>SHEET No. A-3</p>	



ANNEXURE: 2

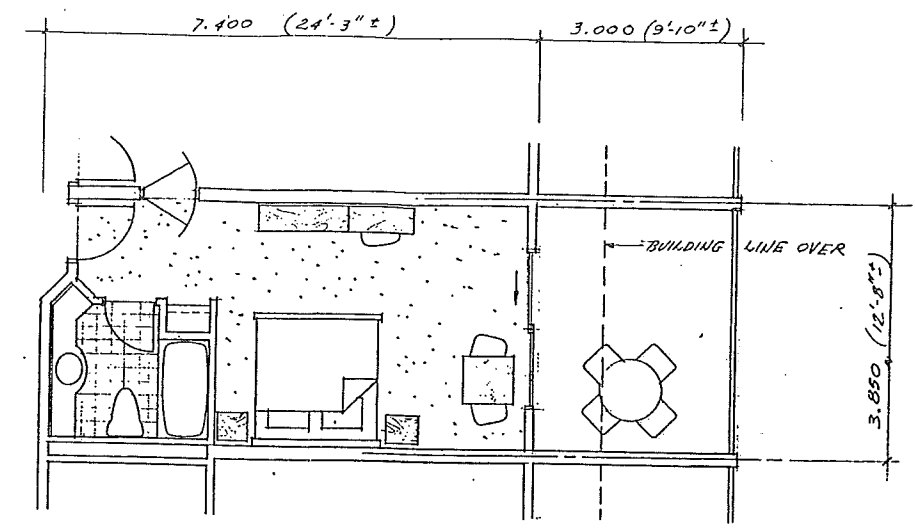
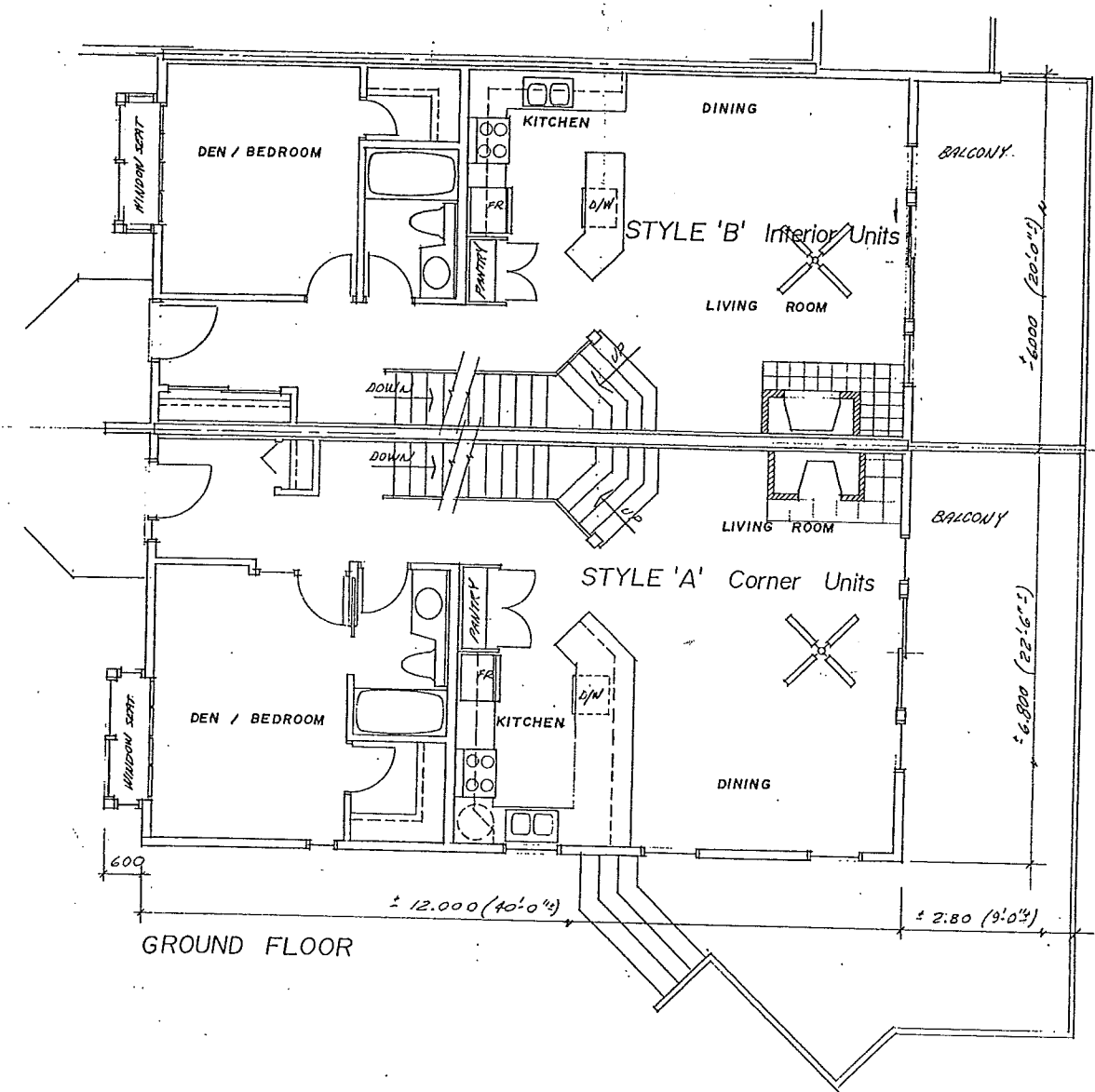
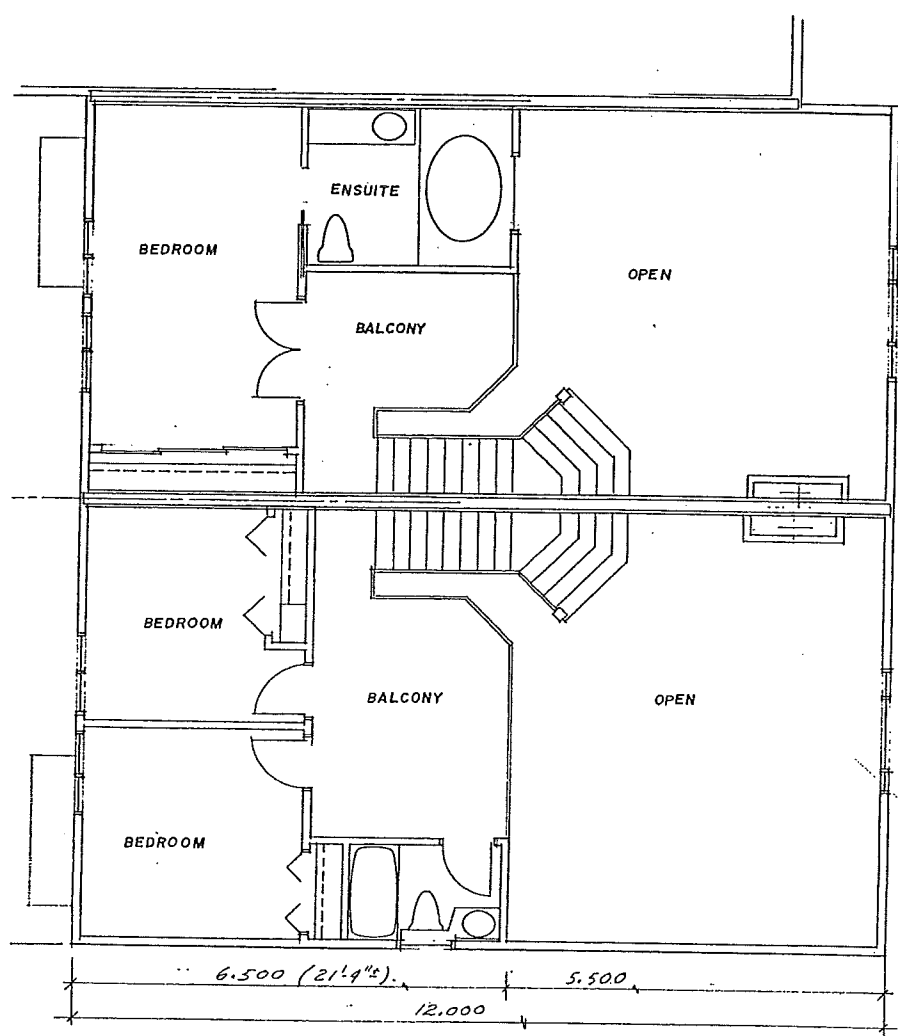
TIME SHARE VILLAS FLOOR PLAN 1/4" = 1'-0"

R. W. SCHEIDT DESIGN
 446 - VIEWCREST ROAD
 KELOWNA B.C. V1Y 7R3
 PH: 764-5099 FAX: 764-5098

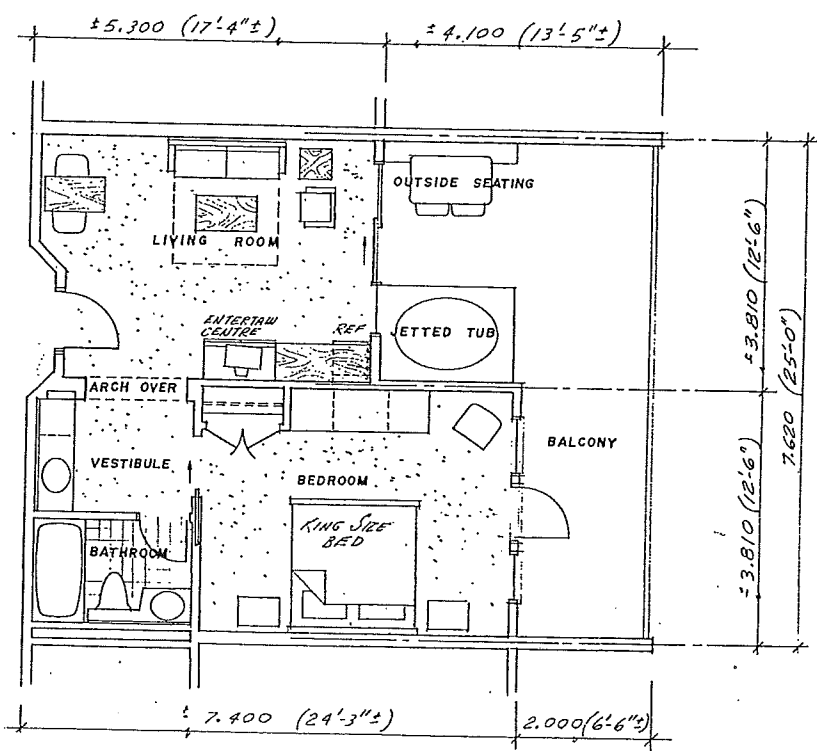
LAKE OKANAGAN RESORT
 KELOWNA, B.C.

DRAWING TITLE
FLOOR PLAN - TIMESHARE VILLAS

SHEET NO.
A



STANDARD ROOM (43 - THUS)
AREA: 28 m² (300 Sq. Ft.)



SUITE (4-THUS LEVEL 400)
AREA: 47.63 m² (512 Sq. Ft.)
SCALE 1:50

CONDOMINIUM FLOOR PLANS

AREA: UNIT 'A'

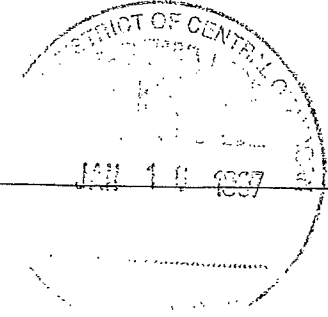
MAIN FLOOR	83 M2	= 893 SF
MEZZ.	40 M2	= 430 SF
TOTAL	123 M2	= 1220 SF

WALK OUT BASEMENT ADD 73 M2 (893 SF)

AREA: UNIT 'B'

MAIN FLOOR	73 M2	= 790 SF
MEZZ.	36 M2	= 385 SF
TOTAL	109 M2	= 1175 SF

WALK OUT BASEMENT ADD 73 M2 (790 SF)



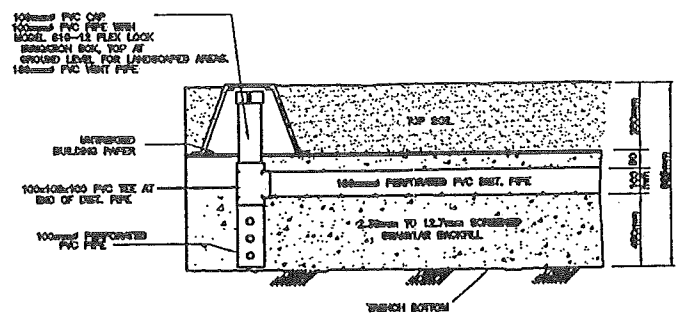
HOTEL ROOM / SUITES

ANNEXURE: 3

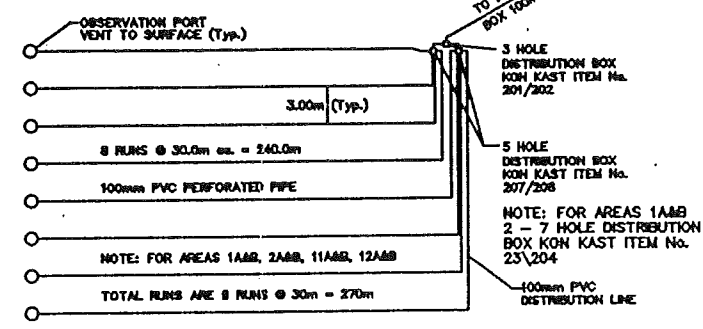
R. W. SCHEIDT DESIGN
446 - VIEWCREST ROAD
KELOWNA B.C. V1Y 7R3
PH: 764-5099 FAX: 764-5098

LAKE OKANAGAN RESORT
KELOWNA, B.C.
DRAWING TITLE
FLOOR PLANS, HOTEL & CONDOS
DESIGN DRAWN CHECKED SCALE DATE

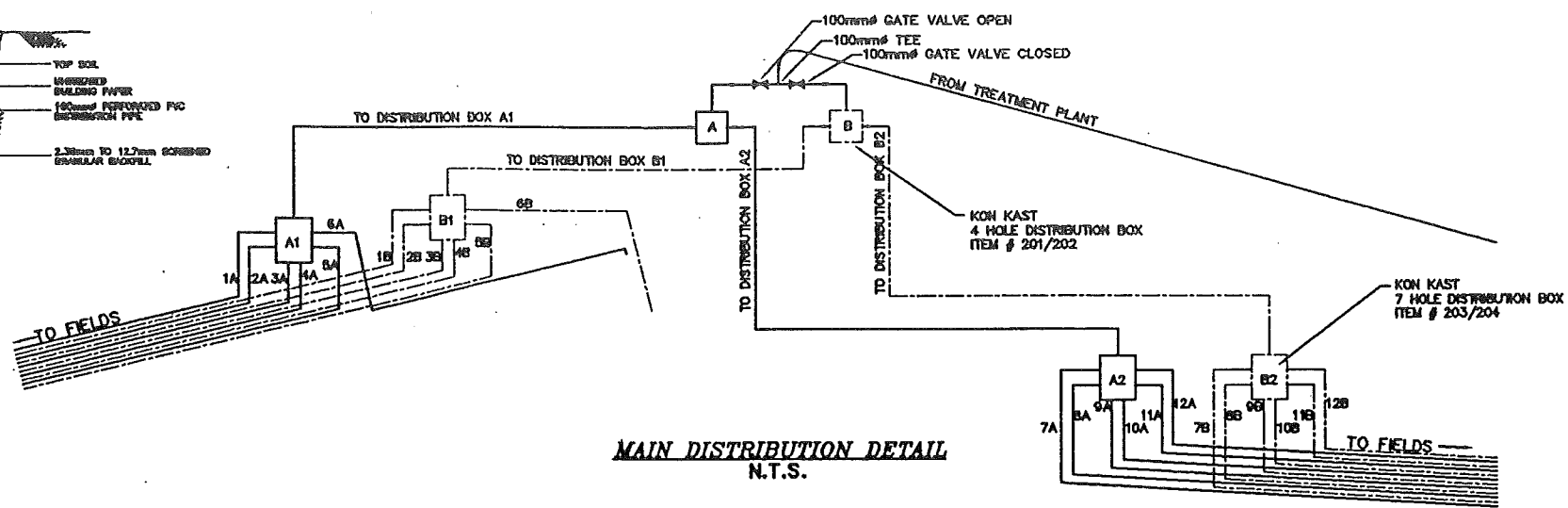
The General Contractor shall check & verify all dimensions and shall report any errors or omissions to the architect.



TYPICAL TRENCH DETAIL
N.T.S.



TYPICAL FIELD LAYOUT
N.T.S.



MAIN DISTRIBUTION DETAIL
N.T.S.

SEWAGE DISPOSAL FIELD DESIGN CALCULATIONS

PERCOLATION RATE - 10min/inch (GOLDER Assoc. Report of JUNE 1/95)

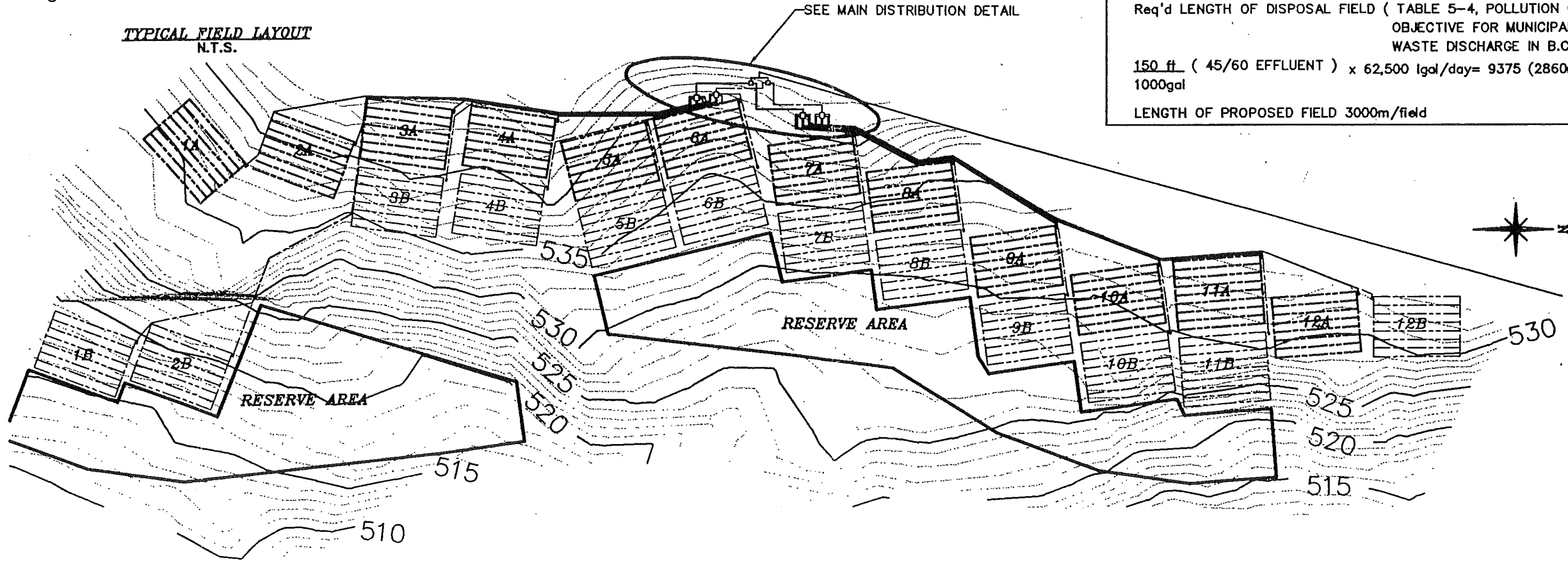
ESTIMATED DAILY SEWAGE FLOW - 284 m³/DAY (62,500 lpgd)

EFFLUENT QUALITY - 5 DAY B.O.D. - 20 mg/l
- S.S. - 30 mg/l

Req'd LENGTH OF DISPOSAL FIELD (TABLE 5-4, POLLUTION CONTROL
OBJECTIVE FOR MUNICIPAL TYPE
WASTE DISCHARGE IN B.C.)

150 ft (45/60 EFFLUENT) x 62,500 lgal/day = 9375 (2860m)
1000gal

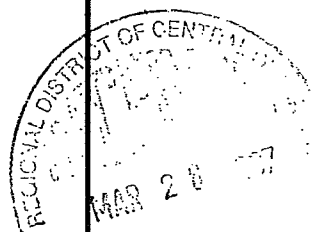
LENGTH OF PROPOSED FIELD 3000m/field



OVERALL SEPTIC FIELD LAYOUT

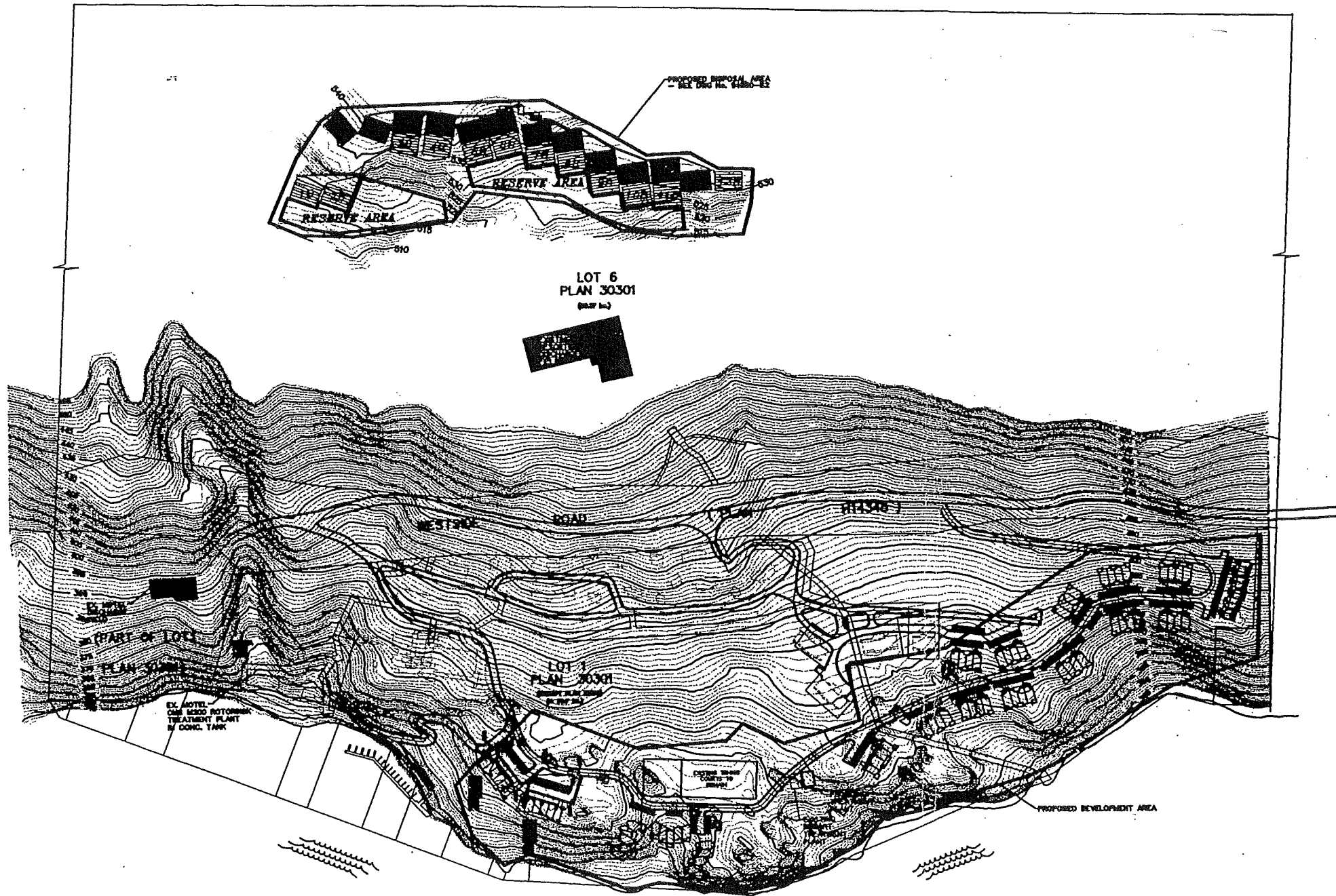
SCHEDULE "D"

LEGEND WATER VALVE SAN. SCHED. STORM SCHED. GAS U.S. TELEPHONE U.S. ELECTRICAL		HYDRANT WATER VALVE REDUCER SANITARY MH STORM MH CATCH BASIN DRYWELL		PERC. HOLE POWER POLE LAMP STD. TRAFFIC LIGHT TRANSFORMER TEL. SB ELECT. SB		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION		No. DATE BY REVISION	
C MAR. 26, 97 R.H. REVISED FOR SCHEDULE "D" B FEB. 06, 96 G.E. ADDED 120m OF FIELD A SEPT. 05, 90 G.E. REDESIGNED DISTRIBUTION BOXES																							
LEGEND DRAWN G.E./R.M. DESIGN P.A.G.E. APPROVED D.E.P. DATE JUNE 30, 1996 SCALE AS SHOWN												D. E. PILLING and ASSOCIATES CONSULTING ENGINEERING LTD. 2302, 548 BRIDGES AVENUE, MELBOURNE, B.C. V1Y-1Y7 TEL: 783-3284 FAX: 783-0889						DRAWING NO. 94860-S2 REV. NO. C PLOT DATE: 05-25-97 10:47 AM					



DESIGN SEWAGE FLOWS

DESCRIPTION	UNIT	1/DAY	TOTAL
	COUNT		1/DAY
HOTEL	63	518	20,034
BUILDING 100	12-2 bedroom units	12	1022
	6-A side 1 bedroom	6	750
	6-B side 1 bedroom	6	750
BUILDING 200	12-2 bedroom units	12	1022
	6-A side 1 bedroom	6	750
	6-B side 1 bedroom	6	750
BUILDING 300	5-1/2 bathroom	5	1136
BUILDING 400	5-1/2 bathroom	5	1136
BUILDING 500	5-1/2 bathroom	5	1136
BUILDING 600	5-2 bedroom units	5	1136
	5-A side 1 bedroom	5	750
	5-B side 1 bedroom	5	750
BUILDING 700	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 800	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 900	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1000	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1100	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1200	16-2 bedrooms units	16	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1300	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1400	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1500	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1600	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
BUILDING 1700	13-2 bedroom units	13	1022
	2-A side 1 bedroom	2	750
	2-B side 1 bedroom	2	750
			<u>224,624</u>



SCHEDULE "D"

LEGEND WATER SAN. PIPER STORM SEWER GAS V.S. TELEPHONE V.S. ELECTRICAL		NO. DATE BY REVISION	D MAR. 1994 R.H. REVISED FOR SCHEDULE "D"	O.E.P.		DRAWN G.E./R.H. DESIGN P.A.G.E.	D. E. PILLING and ASSOCIATES CONSULTING ENGINEERING LTD. 8751 WESTSIDE ROAD, KELOWNA, B.C. V7Y-8E8 TEL: 782-2308 FAX: 782-8088	DRAWING NO. 94860-S1
			C FEB. 1993 G.E. ADDED 120m OF FIELD	O.E.P.		APPROVED D.E.P.		DATE JUNE 30, 1998

