

EXPLANATORY PLAN TO  
 ACCOMPANY A COVENANT  
 ON PART OF LOT 3,  
 PLAN PGP 47842,  
 DISTRICT LOT 2003,  
 CARIBOO DISTRICT.

PLAN NO. PGP 47843

Deposited in the Land Title Office at Prince  
 George this 18 day of *Mar.* 2002.

*LK*

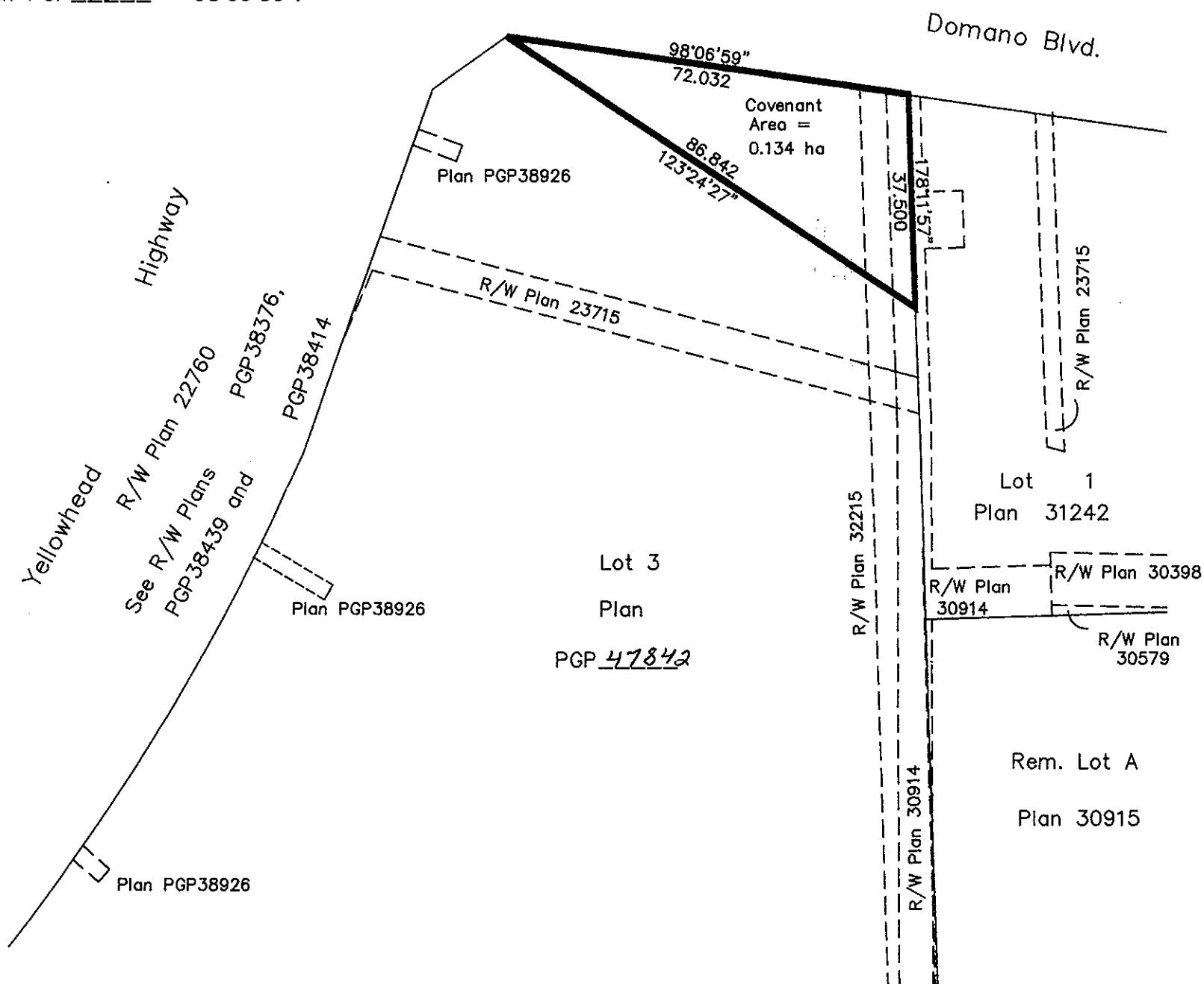
REGISTRAR

Pursuant to Section 219  
 of the Land Title Act.  
 B.C.G.S. 93G.097

Scale: 1 : 1000 (Distances are in metres)



Bearings are astronomic, derived from  
 Plan PGP 47842 = 98°06'59".



Certified Correct, according to  
 Land Title Office Records.  
 This 21st day of January, 2002.

*Gordon Kilbride*  
 Gordon Kilbride, B.C.L.S.

This plan lies within the Fraser-Fort  
 George Regional District.

<b>KILBRIDE LAND SURVEYING LTD.</b> British Columbia Land Surveyors Prince George, B.C. Ph: (250) 562-1196 Fax: 562-3656		
F.B.-	D.L.- 2003	File No. - 010120C

15/17 55C

PT010069

LAND TITLE ACT  
FORM C

(Section 233)

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)  
Walter Babicz, Solicitor, Wilson King & Company, Barrister & Solicitors, 1000-299 Victoria Street, Prince George, B.C.  
V2L 5B8 Telephone: (250) 960-3234  
NORTHERN REGISTRY SERVICES  
1-800-292-8388 P1659  
Burchell

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*(LEGAL DESCRIPTION)  
No PID 025-373-943 Lot 3, District Lots 753 and 2003, Cariboo District, Plan PGP 47842 ✓

3. NATURE OF INTEREST:\*(DESCRIPTION) DOCUMENT REFERENCE (PAGE AND PARAGRAPH) PERSON ENTITLED TO INTEREST  
Section 219 Covenant over part shown on Plan PGP 47843 Entire Instrument Transferee

4. TERMS: Part 2 of this instrument consists of (select one only):  
(a) Filed Standard Charge Terms  D.F. Number: ●  
(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.  
01 02/03/18 14:55:12 01 P6 239460  
CHARGE \$55.00

5. TRANSFEROR(S):\*  
FIRST PRINCE GEORGE DEVELOPMENTS LIMITED (Reg. No. A56164)


6. TRANSFEREE(S): (including postal address(es) and postal code(s))\*  
CITY OF PRINCE GEORGE, a municipal corporation, 1100 Patricia Boulevard, Prince George, British Columbia, V2L 3V9

7. ADDITIONAL or MODIFIED TERMS:\*\br/>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.

USE BLACK INK ONLY

Officer Signature(s)

  
Glynis Goebel  
Barrister & Solicitor  
259 Yorkland Road, Suite 300  
Toronto, Ontario M2J 5B2

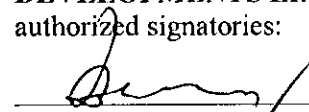
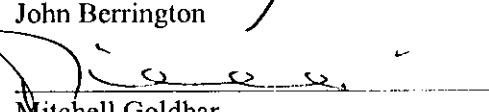
(as to the signature of Mitchell Goldhar)

Execution Date

Y	M	D
02	02	01

USE BLACK INK ONLY

Party(ies) Signature(s)

FIRST PRINCE GEORGE DEVELOPMENTS LIMITED by its authorized signatories:  
  
John Berrington  
  
Mitchell Goldhar

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.  
\*\* If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

USE BLACK INK ONLY

Officer Signature(s)

*W. Babicz*

**WALTER BABICZ**  
Barrister & Solicitor  
#1000-299 Victoria Street  
Prince George, B.C.  
V2L 5B8 960-3200

(as to both signatures)

Execution Date

Y M D

02	02	08
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USE BLACK INK ONLY

Party(ies) Signature(s)

**CITY OF PRINCE GEORGE**  
by its authorized signatories:

*[Signature]*  
Acting Mayor Donald Grantham  
*[Signature]*  
Clerk  
Don Schaffer

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

Page 3 of 7 pages

**SECTION 219 COVENANT (SETBACK)**

THIS AGREEMENT made this 1st day of February, 2002.

BETWEEN:

**CITY OF PRINCE GEORGE**  
1100 Patricia Boulevard  
Prince George, British Columbia  
V2L 3V9

(the "City")

AND:

**FIRST PRINCE GEORGE DEVELOPMENTS LIMITED**  
#210, 11791 Machrina Way  
Richmond, British Columbia  
V7A 4V3

(the "Owner")

**WHEREAS:**

- A. The Owner is the owner of or has the right to purchase the lands and premises (the "Lands") within the City of Prince George, in the Province of British Columbia, more particularly known and described in item 2 on the Form C hereto and proposes to construct a commercial development (the "Development") currently known as "WestGate" thereon.
- B. The Owner has entered into a development agreement (the "Development Agreement") with the City registered against title to, *inter alia*, the Lands under instrument no. PT 10060.
- C. Section 35 of the Development Agreement requires that the Owner grant this covenant in favour of the City.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of ONE DOLLAR (\$1.00) paid by the Owner to the City and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant, agree, represent and promise as follows:

### 1. GRANT OF COVENANT

The Owner covenants and agrees with the City and the Owner that the portion of the Lands (the "Setback Area") outlined in bold in the Explanatory Plan prepared by Gordon Kilbride, B.C.L.S., a reduced copy of which is attached hereto and filed concurrently herewith, may not be built on except in accordance with section 2 below.

PLAN PGPH7843

### 2. SETBACK

The Owner covenants and agrees with the City that it may not construct, build, erect, place or maintain any building within the Setback Area in order that the buildings (the "Dominant Improvements") existing as of the date of this Agreement on the lands adjacent to the Lands located at 5090 Domano Boulevard and legally described as PID: 005-215-030, Lot 1, District Lot 753, Cariboo District, Plan 31242, and located at 5100 Domano Boulevard and legally described as PID: 004-521-579, Lot 1, District Lot 753, Cariboo District, Plan 30933, respectively, remain reasonably visible from the intersection of Highway 16 and Tyner Boulevard.

### 3. DISCHARGE

Upon the demolition or destruction of the Dominant Improvements, the Owner may apply to Council for the City for a discharge of this Covenant, which discharge may or may not be granted, at the sole discretion of Council for the City, acting reasonably. In considering whether the discharge is to be granted, the Council for the City may consider, amongst other things, the purpose of this Covenant as set out in section 2 above, and the possibility that the Dominant Improvements may be reconstructed. Notwithstanding the foregoing, the Owner acknowledges and agrees that nothing is intended to fetter the Council's discretion in any way in determining whether or not to grant the discharge. In the event that the Council agreed to grant the discharge, the City will execute and deliver such discharge forthwith upon receipt thereof to the Owner provided that Owner shall, at its own cost and expense, prepare and register such discharge.

### 4. INDEMNITY

The Owner releases, and covenants and agrees at all times to indemnify and save harmless, the City, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, suits, damages, expenses, costs, legal fees, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Covenant, from the performance by the Owner of this Covenant, or any default of the Owner under or in respect of this Covenant. The Owner will at all times indemnify the City and save it harmless from and against all loss, cost, expense and damage, including costs on a solicitor and client basis, that may be suffered or incurred by the City in enforcing this Covenant as a result of any default or breach hereof.

## 5. MUTUAL AGREEMENTS

The parties agree as follows:

- (a) the burden of the covenants herein provided for shall run with the Lands and will be personal and binding upon the Owner during the Owner's seisin of or ownership of any interest in the Lands;
- (b) notwithstanding anything to the contrary, the Owner shall not be liable under any breach of any covenants and agreements contained herein after the Owner ceases to have any further interest in the Lands;
- (c) the Owner will deliver, after execution hereof, this Agreement to the City in a form acceptable as a Section 219 Covenant and concurrently such instruments of priority as may be necessary to give this Agreement priority over all financial charges and encumbrances which may have been registered against the title to the Lands at the time of submitting this Agreement for registration in the applicable Lands Title Office, save and except those specifically approved in writing by the City or in favour of the City;
- (d) the fee simple estate in and to the Lands will not pass or vest in the City under or by virtue of these presents and the Owner may fully use and enjoy the Lands except only for the requirements provided for in this Agreement;
- (e) the covenants and agreements on the part of the Owner and herein provided for have been made by the Owner as contractual obligations as well as having been made pursuant to Section 219 of the *Land Title Act* and as such will be binding on the Owner, subject to subsection 5(b);
- (f) nothing herein provided for shall be deemed to constitute waivers of any lawful requirements with which the Owner would otherwise be obligated to comply with;
- (g) no amendment of, addition to, or discharge of this Agreement shall be binding upon the parties hereto unless it is in writing and executed by the parties hereto;
- (h) if any provision provided for in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions of this Agreement, which shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained therein and such other provisions shall be enforceable to the fullest extent permitted by law;
- (i) the City, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies, including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement;

- (j) the Owner shall pay for the preparation and registration, if applicable, of this Agreement together with any concurrent instruments of priority as herein provided for and any amendment, addition or discharge thereof;
- (k) wherever the singular, masculine or neuter is used herein, the same shall be construed as meaning the plural, feminine or the body corporate or politic according to the context in which it is used;
- (l) the parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement; and
- (m) this Agreement shall enure to the benefit of and be binding upon the Owner, the City and their respective successors and assigns.

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 1 of the *Land Title Act* Form C and Form D to which this Agreement is attached and which forms part of this Agreement.

EXPLANATORY PLAN TO ACCOMPANY A COVENANT ON PART OF LOT 3, PLAN PGP \_\_\_\_\_, DISTRICT LOT 2003, CARIBOO DISTRICT.

PLAN NO. PGP \_\_\_\_\_

Deposited in the Land Title Office at Prince George this day of 2002

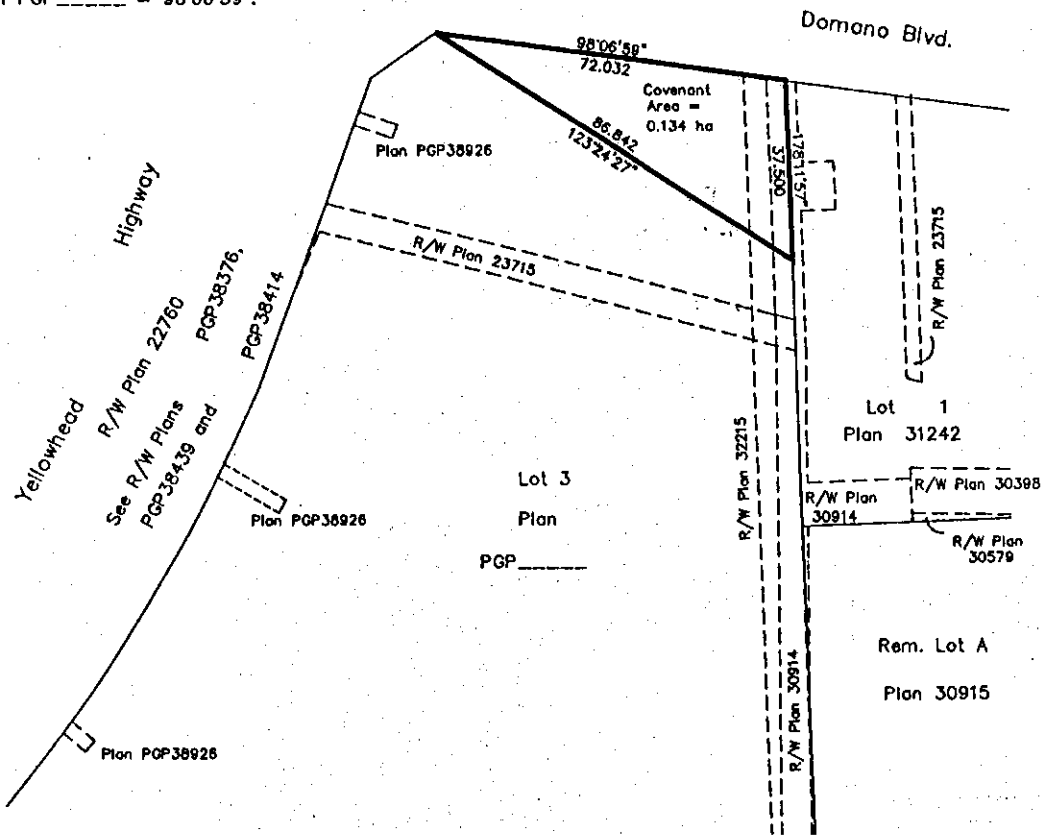
REGISTRAR

Pursuant to Section 219 of the Land Title Act. B.C.G.S. 93G.097

Scale: 1 : 1000 (Distances are in metres)



Bearings are astronomic, derived from Plan PGP \_\_\_\_\_ = 98°06'59".



Certified Correct, according to Land Title Office Records. This 21st day of January, 2002.

Gordon Kilbride (signature) Gordon Kilbride, B.C.L.S.

This plan lies within the Fraser-Fort George Regional District.

KILBRIDE LAND SURVEYING LTD. British Columbia Land Surveyors Prince George, B.C. Ph: (250) 562-1196 Fax: 562-3656 F.B.- D.L.- 2003 File No. -010120C