

NEW WESTMINSTER LAND TITLE OFFICE

LAND TITLE ACT
FORM C (Section 233) CHARGE

Aug-04-2017 15:30:46.001

CA6203744 CA6203746

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 15 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Jay Gilbert Lancaster W33X2C	Digitally signed by Jay Gilbert
	Lancaster W33X2C
	DN: c=CA, cn=Jay Gilbert Lancaster
	W33X2C, o=Lawyer, ou=Verify ID at www.juricert.com/LKUP.cfm? id=W33X2C Date: 2017.08.04 12.02.06 -0700'

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

Joanna Track, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 103-261

Flood Hazard Covenant

Document Fees: \$214.74

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULE

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

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

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

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

TOWN OF GIBSONS

A MUNICIPAL CORPORATION UNDER THE COMMUNITY CHARTER

PO BOX 340

GIBSONS

BRITISH COLUMBIA

V0N 1V0

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

John G.R. Third

Barrister & Solicitor

Dentons Canada LLP

20th Floor, 250 Howe Street

Vancouver, B.C. V6C 3R8

Telephone: (604) 687-4460

(as to all signatures)

Execution Date

Y	M	D
17	06	30

Transferor(s) Signature(s)

THE GEORGE GIBSONS
DEVELOPMENT LTD. by
authorized signatory(ies):

Name: Klaus Fuerniss

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. 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
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

John G.R. Third
Barrister & Solicitor
Dentons Canada LLP
20th Floor, 250 Howe Street
Vancouver, B.C. V6C 3R8
Telephone: (604) 687-4460

Y	M	D
17	06	30

KLAUS FUERNISS

MONIKA FUERNISS

(as to all signatures)

John R. (Jack) La Van
Barrister & Solicitor
1800 - 401 West Georgia Street
Vancouver, BC V6B 5A1
Tel: 604-687-1323

17	07	12
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CIBC MORTGAGES INC. by its
authorized signatory(ies):

Name: Sean Bell

Name:

(as to all signatures)

John R. (Jack) La Van
Barrister & Solicitor
1800 - 401 West Georgia Street
Vancouver, BC V6B 5A1
Tel: 604-687-1323

17	07	12
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CANADIAN IMPERIAL BANK OF
COMMERCE by its authorized
signatory(ies):

Name: Sean Bell

Name:

(as to all signatures)

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
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Ian C. Poole

Y	M	D
17	07	27

TOWN OF GIBSONS by its authorized signatory(ies):

Commissioner for Taking Affidavits in British Columbia

Town of Gibsons
Box 340
Gibsons, BC V0N 1V0

Name: Wayne Rowe, Mayor

17	07	27
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Name: Selina Williams, Corporate Officer

(as to all signatures)

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.

Status: Registered

Doc #: CA6203744

RCVD: 2017-08-04 RQST: 2020-05-27 13.17.06

FORM_E_V22

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 4 OF 15 PAGES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

011-118-202 LOT 1, EXCEPT THE EAST 157 FEET BLOCK A DISTRICT LOT 685 PLAN 5579

STC? YES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

011-118-211 LOT 2 BLOCK A DISTRICT LOT 685 PLAN 5579

STC? YES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

007-359-829 LOT 1 BLOCK A DISTRICT LOT 686 PLAN 14197

STC? YES

**LAND TITLE ACT
FORM E**

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

007-359-870 LOT 2 BLOCK A DISTRICT LOT 686 PLAN 14197

STC? YES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

011-117-524 LOT A (SEE 450146L) OF LOT 1 BLOCK A DISTRICT LOT 685 PLAN 5579

STC? YES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

STC? YES

Status: Registered

Doc #: CA6203744

RCVD: 2017-08-04 RQST: 2020-05-27 13.17.06

FORM_E_V22

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 6 OF 15 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant numbered one less than this instrument priority over Mortgage CA3527722 [as to PID: 011-918-202], and Mortgage CA2177624 [as to PID: 011-117-524] in favour of CIBC Mortgages Inc.

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant numbered two less than this instrument priority over Mortgage CA3995724 and Assignment of Rents CA3995725 [as to PID: 011-118-211], and Mortgage BW231206 and Assignment of Rents BW231207 [as to PID: 007-359-829 and PID: 007-359-870] in favour of Canadian Imperial Bank of Commerce

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Status: Registered

Doc #: CA6203744

RCVD: 2017-08-04 RQST: 2020-05-27 13.17.06

FORM_E_V22

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 7 OF 15 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

4. OWNER(S):

THE GEORGE GIBSONS DEVELOPMENT LTD. (Inc. No. BC0323021) [as to covenant]

KLAUS FUERNISS and MONIKA FUERNISS [as to covenant]

CIBC MORTGAGES INC. (Inc. No. A33457) [as to priority]

CANADIAN IMPERIAL BANK OF COMMERCE [as to priority]

TERMS OF INSTRUMENT – PART 2**SECTION 219 COVENANT (FLOOD HAZARD)**

This Agreement dated for reference July 4, 2017 is

BETWEEN:

THE GEORGE GIBSONS DEVELOPMENT LTD. (Inc. No. BC0323021), PO Box 570, Gibsons, British Columbia, V0N 1V0

("GG Development")

AND:

KLAUS FUERNISS and **MONIKA FUERNISS**, PO Box 570, Gibsons, British Columbia, V0N 1V0

(the "Fuernisses")

(together, GG Development and the Fuernisses comprise the "Grantor")

AND:

TOWN OF GIBSONS, PO Box 340, Gibsons, British Columbia, V0N 1V0

(the "Town")

GIVEN THAT:

- A. GG Development is the registered owner in fee simple of those lands and premises located in Gibsons, British Columbia, legally described as: Parcel Identifier: 011-118-202, Lot 1, Except the East 157 Feet Block A District Lot 685 Plan 5579; Parcel Identifier: 011-118-211, Lot 2 Block A District Lot 685 Plan 5579; Parcel Identifier: 007-359-829, Lot 1 Block A District Lot 686 Plan 14197; Parcel Identifier: 007-359-870, Lot 2 Block A District Lot 686 Plan 14197 (together, the "GG Development Lands");
- B. The Fuernisses are the registered owners in fee simple of those lands and premises located in Gibsons, British Columbia, legally described as Parcel Identifier: 011-117-524, Lot A (See 450146L) of Lot 1 Block A District Lot 685 Plan 5579 (the "Fuerniss Lands");
- C. Together, the GG Development Lands and the Fuerniss Lands comprise the "Development Lands";
- D. The Development Lands are subject to or are likely to be subject to flooding;
- E. The Grantor intends to construct on the Development Lands and on adjacent lands on which it has a lease and/or licence of occupation from Her Majesty the Queen in Right of

the Province of British Columbia (together, the "Adjacent Lands"), a multi-use development consisting of a residential building, hotel building, and conference centre (together, the "Development"), a waterfront public walkway (the "Sea Walk"), and a pier with a restaurant (the "Pier Supported Restaurant"), as shown generally on the sketch attached as Schedule "A";

- F. Section 219 of the *Land Title Act* provides that there may be registered as a charge against the title to any land, a covenant in favour of a municipality, that land is to be used in a particular manner, or that land is not to be subdivided except in accordance with the covenant; and
- G. The Grantor wishes to grant and the Grantee hereby accepts the section 219 covenant contained in this Agreement over the Development Lands.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of ONE DOLLAR of lawful money of Canada and other good and valuable consideration paid by the Grantee to the Grantor, the receipt of which is hereby acknowledged, the Grantor does hereby covenant and agree with the Grantee under section 219 of the *Land Title Act* of the Province of British Columbia as follows:

1. The Grantor agrees that the Development Lands shall not be used or developed, and no buildings or structures shall be erected thereon, except in compliance with the conditions herein.
2. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, hereby covenants and agrees with the Grantee, as a covenant in favour of the Grantee pursuant to section 219 of the *Land Title Act*, it being the intention and agreement of the Grantor that the provisions hereof be annexed to and run with and be a charge upon the Development Lands, that from and after the date hereof, the Grantor shall:
 - (a) not locate any area used for habitation, commercial sales, business, or storage of goods damageable by floodwaters or any furnace or other fixed equipment damageable by floodwaters within any building, modular or manufactured home, or other structure on the Development Lands, at an elevation such that the underside of the floor system is less than elevation 5.37 metres, Geodetic Survey of Canada datum. In the case of a modular or manufactured home or structure, the ground level or top of any structural surface on which it is located shall be no lower than the above-described elevation. The required elevation may be achieved by structural elevation or by adequately compacted landfill on which any building, modular manufactured home or structure is to be constructed or manufactured home or unit located, or by a combination of both structural elevation and landfill, provided that no area below the required elevation shall be used for the installation of furnaces or other fixed equipment damageable by floodwaters; and

- (b) not locate the Sea Walk at an elevation that is less than 4.97 metres, Geodetic Survey of Canada datum, unless the Sea Walk is being used for coastal flooding protection in which case the elevation shall be as set out in subsection (a).
3. Notwithstanding section 2(a), the Grantor may locate the third level of the parking structure for the Development such that the underside of the floor system is less than elevation 5.37 metres, Geodetic Survey of Canada datum, subject to satisfactory confirmation from a professional engineer or a professional geoscientist with experience or training in geotechnical study and geohazard assessments that the Development Lands may be used safely for the use intended, and subject to the Grantor covenanting with the District to use the Development Lands only in the manner certified by the professional engineer or professional geoscientist as enabling the safe use of the Development Lands for the use intended, and subject to the Grantor granting the Town a further covenant under section 219 of the *Land Title Act* to that effect.
4. Notwithstanding section 2(a), the Grantor may locate the Pier Supported Restaurant at an elevation such that the underside of the floor system is not less than elevation 4.97 metres, Geodetic Survey of Canada datum.
5. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, acknowledges that the Grantee does not represent to the Grantor, nor to any other person that the Development, the Sea Walk, the Pier Supported Restaurant, and any building, modular manufactured home, manufactured home or unit, improvement, chattel or other structure, including the contents of any of them, built, constructed or placed on the Development Lands will not be damaged by flooding or erosion, whether or not the provisions of this Agreement are complied with. In the event any person is injured, or the Development Lands or the Adjacent Lands, or any building or structure or any part or contents thereof located on the Development Lands or the Adjacent Lands is damaged, by flooding, the Grantor shall not commence any legal proceedings or third party proceedings against the Grantee or its elected officials, officers or employees related to such injury or damage.
6. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, with full knowledge of the potential flood or erosion danger:
- (a) agrees to indemnify and to save harmless the Grantee and its elected officials, officers, employees, contractors, and agents in respect of; and
- (b) does remise, release and forever discharge the Grantee and its elected officials, officers, employees, contractors, and agents from

all manner of actions, causes of action, suits, debts, accounts, covenants, contracts, claims and demands which the Grantor or any of his heirs, executors, administrators, successors and assigns or any other person may have against the Grantee or its elected officials, officers, employees, contractors, or agents for and by reason of any personal injury, death or loss or damage to the Development Lands or the Adjacent Lands, or to the

Development, the Sea Walk, the Pier Supported Restaurant, or any building, modular manufactured home, manufactured home or unit, improvement, chattel or other structure, including the contents of any of them, built, constructed or placed on the Development Lands or the Adjacent Lands, including existing buildings not constructed or located in compliance with this Agreement, caused by flooding, erosion or some such similar cause.

7. Subject to the provisions of section 219 of the *Land Title Act*, the Grantor's covenants contained in this Agreement shall burden and run with the Development Lands and shall enure to the benefit and be binding upon the Grantor, his heirs, executors, administrators, successors and assigns and the Grantee and its assigns.
8. Nothing in this Agreement shall prejudice or affect the rights, powers and remedies of the Grantee in relation to the Grantor, including his heirs, executors, administrators, successors and assigns, or the Development Lands under any law, bylaw, order or regulation or in equity all of which rights, powers and remedies may be fully and effectively exercised by the Grantee as if this Agreement had not been made by the parties.
9. The Grantor will do or cause to be done at his expense all acts reasonably necessary for the Grantee to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Development Lands save and except those in favour of the Grantee and those specifically approved in writing by the Grantee.
10. The parties agree that this Agreement shall not be modified or discharged except in accordance with the provisions of section 219 of the *Land Title Act*.
11. The Grantor shall do or cause to be done all things and execute or cause to be executed all documents and give such further and other assurance which may be reasonably necessary to give proper effect to the intent of this Agreement.
12. The Grantor or any of his heirs, executors, administrators and assigns, as the case may be, shall give written notice of this Agreement to any person to whom he proposes to dispose of the Development Lands or any portion of the Development Lands, which notice shall be received by that person prior to such disposition. For the purposes of this section 11, the word "dispose" shall have the same meaning given to it under section 29 of the *Interpretation Act*.
13. Wherever the singular or masculine or neuter is used herein, the same shall be construed as including the plural, feminine, body corporate or politic unless the context requires otherwise.
14. If any section or any part of this Agreement is found to be illegal or unenforceable, then such sections or parts shall be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, shall be unaffected thereby and shall remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.

15. This Agreement shall be interpreted according to the laws of the Province of British Columbia.
16. Where there is a reference to an enactment of the Province of British Columbia in this Agreement, that reference shall include a reference to any subsequent enactment of the Province of British Columbia of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

CONSENT AND PRIORITY AGREEMENT

WHEREAS CIBC MORTGAGES INC. (Inc. No. A33457) ("CIBC") is the holder of a mortgage registered in the New Westminster Land Title Office under number CA3527722 (the "Lot 1 Mortgage") encumbering the lands legally described as Parcel Identifier: 011-118-202, Lot 1 Except Lot A (450146L), Block A District Lot 685 Plan 5579 ("Lot 1"), and a mortgage registered in the New Westminster Land Title Office under number CA2177624 (the "Lot A Mortgage") encumbering the lands legally described as Parcel Identifier: 011-117-524, Lot A (See 450146L) of Lot 1 Block A District Lot 685 Plan 5579 ("Lot A") (together the Lot 1 Mortgage and the Lot A Mortgage comprise the "CIBC Charges");

NOW THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO CIBC:

1. CIBC hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the "Agreement") and CIBC hereby agrees that the Agreement shall be binding upon its interest in and to Lot 1 and Lot A.
2. CIBC hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Agreement over CIBC's right, title and interest in and to Lot 1 and Lot A, and CIBC does hereby postpone the CIBC Charges and all of its right, title and interest thereunder to the Agreement as if the Agreement had been executed, delivered and registered prior to the execution, delivery and registration of the CIBC Charges.

IN WITNESS WHEREOF, CIBC has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS CANADIAN IMPERIAL BANK OF COMMERCE ("CIBC") is the holder of a mortgage and an assignment of rents registered in the New Westminster Land Title Office under numbers CA3995724 and CA3995725, respectively, (together, the "Lot 2 Charges") encumbering the lands legally described as Parcel Identifier: 011-118-211, Lot 2 Block A District Lot 685 Plan 5579 ("Lot 2") and a mortgage and an assignment of rents registered in the New Westminster Land Title Office under numbers BW231206 and BW231207, respectively, (together, the "Lots 1 and 2 Charges") encumbering the lands legally described as Parcel Identifier: 007-359-829, Lot 1 Block A District Lot 686 Plan 14197 and Parcel Identifier: 007-359-870, Lot 2 Block A District Lot 686 Plan 14197 ("Lots 1 and 2") (together the Lot 2 Charges and the Lots 1 and 2 Charges comprise the "CIBC Charges");

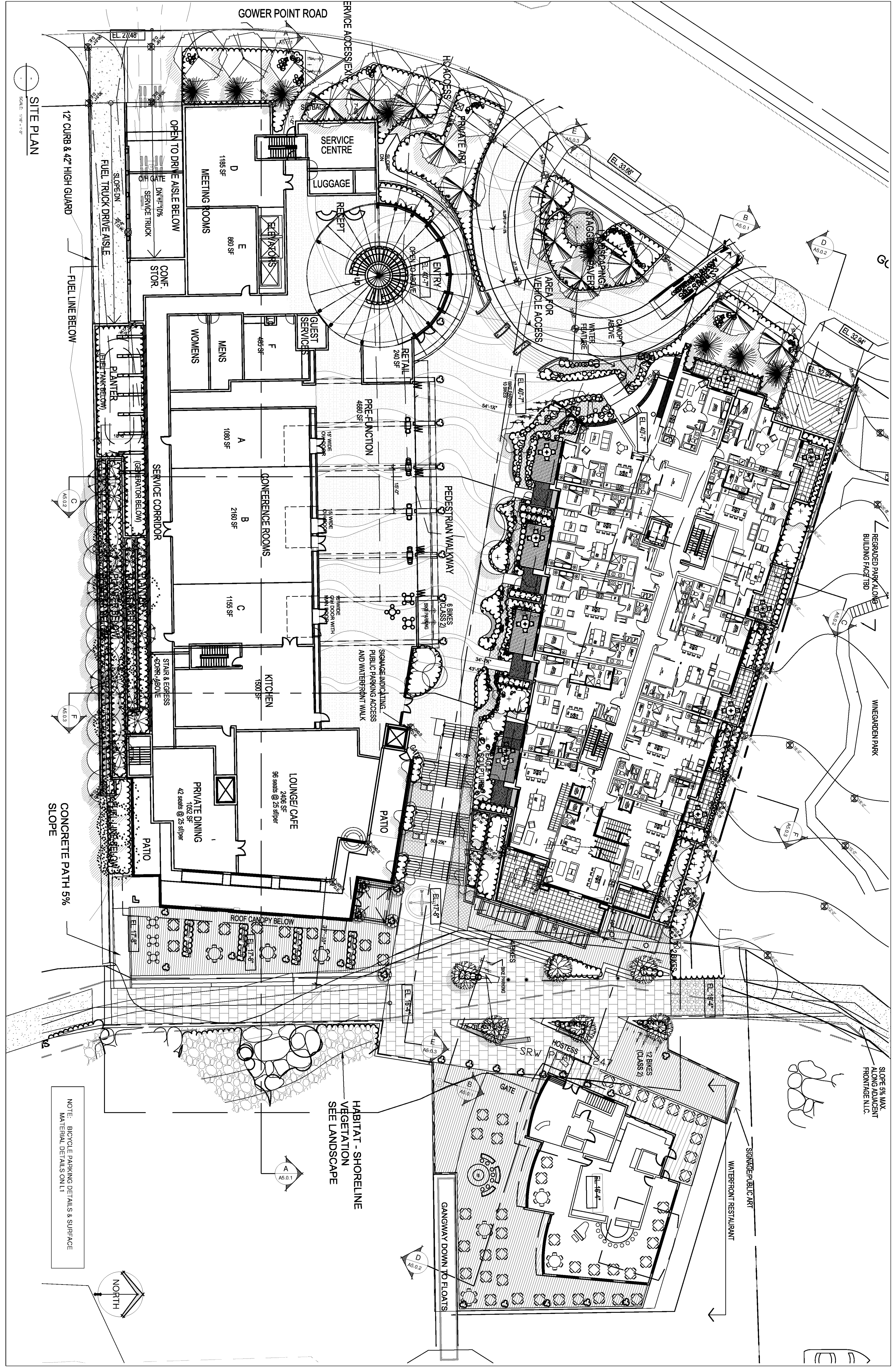
NOW THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CIBC:

1. CIBC hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the "Agreement") and CIBC hereby agrees that the Agreement shall be binding upon its interest in and to Lot 2 and Lots 1 and 2.
2. CIBC hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Agreement over CIBC's right, title and interest in and to Lot 2 and Lots 1 and 2, and CIBC does hereby postpone the CIBC Charges and all of its right, title and interest thereunder to the Agreement as if the Agreement had been executed, delivered and registered prior to the execution, delivery and registration of the CIBC Charges.

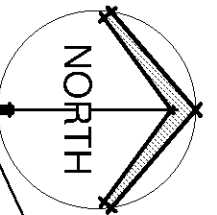
IN WITNESS WHEREOF, CIBC has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

SCHEDULE "A" - SKETCH

JUNE 01, 2007 14:05 P:\AutoCAD\Architect\templates\MP_24x36_Plane.dwg



NOTE: BICYCLE PARKING DETAILS & SURFACE MATERIAL DETAILS ON LT



OMICRON ARCHITECTURE ENGINEERING CONSTRUCTION LTD.
 The company is a registered professional engineering and architectural firm. It is a member of the Professional Engineers and Architects Association of British Columbia. The company is a member of the International Brotherhood of Teamsters, Local 115. The company is a member of the International Union of Bricklayers and Allied Craftworkers, Local 115. The company is a member of the International Union of Painters and Allied Trades, Local 115. The company is a member of the International Union of Shipwrights, Local 115. The company is a member of the International Union of United Brotherhood of Carpenters and Joiners of America, Local 115. The company is a member of the International Union of Marine and Shipbuilding Workers of America, Local 115. The company is a member of the International Union of Painters and Allied Trades, Local 115. The company is a member of the International Union of Shipwrights, Local 115. The company is a member of the International Union of United Brotherhood of Carpenters and Joiners of America, Local 115. The company is a member of the International Union of Marine and Shipbuilding Workers of America, Local 115.

NOT FOR CONSTRUCTION

SITE PLAN

A1.0.1

KLAUS FUERNISS ENTERPRISES INC.
THE GEORGE HOTEL & RESIDENCES
 GOWER POINT ROAD, GIBSONS, BC

Issued for Form & Character - DP

ISSUED	Date	Remarks
1	2013.12.20	Issued for Review / JP
2	2014.05.10	Revised for Review / JP
3	2015.02.17	Issued for Client Review / JP
4	2015.03.04	Revised for Client Review / JP
5	2015.03.04	Revised for Client Review / JP
6	2016.02.17	Revised for Form & Character / JP
7	2016.03.07	Revised for Form & Character / JP
8	2016.03.11	Revised for Form & Character / JP
9	2016.03.18	Revised for Form & Character / JP
10	2016.04.29	Revised for Form & Character / JP
11	2016.05.06	Revised for Form & Character / JP

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