

REGIONAL DISTRICT OF NORTH OKANAGAN

BY-LAW NO. 289

A By-law for the ratification of an agreement with Nick Boyanchuk to provide for the development of certain lands.

The Regional Board of the Regional District of North Okanagan in open meeting assembled enacts as follows:

- (1) The Agreement made between the Regional District of North Okanagan and Nick Boyanchuk to provide for the development of

Lot 41, Plan 1362, Section 13, Township 8, O.D.Y.D.

AND attached hereto as Appendix "A" is hereby ratified and the Chairman and Secretary are hereby authorized to execute same on behalf of the Regional District.

- (2) This By-law may be cited as "Land Use Contract Agreement By-law No. 289, 1978, No. 5".

READ A FIRST TIME this 25th day of October, 1978.

READ A SECOND TIME this 25th day of October, 1978.

READ A THIRD TIME this 8th day of November, 1978.

Advertised on the 31st day of October, 1978 and the 1st day of November, 1978, and a Public Hearing held pursuant to the provisions of Section 798A (3a) of the Municipal Act on the 8th day of November, 1978.

Received the approval of the Minister of Municipal Affairs and Housing this 5th day of January, 1979.

RECONSIDERED, FINALLY PASSED, AND ADOPTED this 10th day of January, 1979.

[Signature] SECRETARY-TREASURER

[Signature] CHAIRMAN

I hereby certify the foregoing to be a true and correct copy of By-law No. 289, cited as "Land Use Contract Agreement By-law No. 289, 1978, No. 5" as read a third time by the Regional Board on the 8th day of November, 1978.

[Signature] SECRETARY-TREASURER

APPROVED pursuant to the provisions of section 798A of the "Municipal Act" this 5th day of JAN. 1979. [Signature] Minister of Municipal Affairs APPROVAL No. 790055

I hereby certify the foregoing to be a true and correct copy of By-law No. 289 cited as "Land Use Contract Agreement By-law No. 289, 1978, No. 5" as reconsidered, finally passed, and adopted by the Regional Board on the 10th day of January, 1979 upon affirmative vote in accordance with the provisions of Section 778(2) of the Municipal Act.

[Signature] SECRETARY-TREASURER

LAND USE CONTRACT

THIS AGREEMENT made the 10 day of ^{January} ~~October~~, A.D. 1978. *[Signature]*

BETWEEN:

THE NORTH OKANAGAN REGIONAL DISTRICT, a body corporate duly Incorporated under the laws of the Province of British Columbia having an office at 2903 - 35th Avenue, Vernon, British Columbia

(hereinafter called the "District")

OF THE FIRST PART

AND:

NICK BOYANCHUK, of R.R. #5, Rimer Road, Vernon, British Columbia

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the District pursuant to Section 798A of the Municipal Act may on the application of an owner of land within a development area designated as such by By-laws of the District, enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon and thereafter the use and development of that land shall be in accordance with such Land Use Contract.

AND WHEREAS the Municipal Act requires that the District Board in exercising the powers given by the Municipal Act shall have due regard to the consideration set out in Section 702 (2) and Section 702A(1) in arriving at the use and development permitted by any land development contract on the terms and conditions and considerations thereof.

AND WHEREAS the Developer has presented to the District a scheme of use and development of the within described lands and premises and has made application to the District to enter into this Land Use Contract under the terms, conditions and for the considerations hereinafter set forth.

AND WHEREAS the Board of the District having due regard to the considerations set forth in Section 702 (2) and 702A(1) of the Municipal Act has agreed to the terms, conditions and considerations herein contained.

AND WHEREAS the Developer acknowledges that he is fully aware of the provisions and limitations of Section 702A of the Municipal Act and the District and the Developer mutually acknowledge and agree that the Board of the District cannot enter into this Agreement until the Board has held a public hearing thereon

In the manner prescribed by law, has duly considered the representations made and the opinions expressed at such hearing, and unless a majority of all members of the Board vote in favour of the District entering into this Contract.

AND WHEREAS a Land Use Contract is deemed to be a zoning By-law for the purposes of the "Controlled Access Highway Act" and if the land is so situated that it is subject to such Act, the approval of the Minister of Highways to the use set forth in this Agreement must first be obtained before the District can enter into same.

NOW THEREFORE this Agreement witnesseth that in consideration of the premises and conditions and covenants hereinafter set forth the District and the Developer covenant and agree as follows:

1. In this Agreement unless contract otherwise requires:

"District Engineer" shall be construed to mean and include the District Engineer for the District and his duly authorized assistants or such consulting or other professional Engineers as may be appointed to act for the District;

"Complete" or "completion" or any variations of these words when used with respect to the work or works referred to herein shall mean completion to the satisfaction of the District Engineer of the District when so certified by him in writing;

"Work" shall be construed to mean and include all work services, utilities, building structures and any other improvements required to be constructed and erected or installed under the provisions of this Agreement;

"Approving Officer" shall be construed to mean the appropriate approving officer designated under Section 91 of the Land Registry Act or under any Provincial Government legislation passed in substitution therefore from time to time.

2. The Developer is the registered owner of an estate in fee simple of all and singular that certain parcel or tract of land and premises situated lying and being in the North Okanagan Regional District, in the Province of British Columbia and being more particularly known and described as: Lot 41, Section 13, Township 9, Osoyoos Division Yale District, Plan 1362, except the West 306.834 feet thereof,

Vernon Assessment District and Vernon Irrigation District.

3. The Developer has obtained the consent of all persons holding any registered interest in the land except registered holders of Utility Easements and Mortgages of such Easements, which such consents shall be attached hereto and incorporate agreements from such persons granting priority to this Land Use Contract over such registered interest prior to the registration of this Land Use Contract.
4. The land shall be used for the purposes specified in Schedule "A" hereto and for no other purposes.
5. Subject to the approval of the approving officer the land may be subdivided into eight parcels in accordance with the particulars set forth in Schedule "B" hereto. Subject to the approval of the approving officer the land may be further subdivided as and when each lot or proposed lot to be created by any such subdivision is serviced by a common sewage collection and disposal system constructed and installed in accordance with all applicable governmental statutes, by-laws and regulations, and with a domestic water supply from a common domestic water system constructed and installed in accordance with the applicable provisions of all governmental statutes, by-laws and regulations, applicable provisions of the District's zoning, building, and subdivision by-laws in force and applicable to single family residential lots supplied by common sewer and water systems as aforesaid.
6. Subject to the approval of the approving officer the initial subdivision of the land shown in Schedule "B" hereto may be carried out in three phases as follows:
 - Phase I - the creation of Lots 1, 2, and 3 and the remainder parceled to Rimer Road;
 - Phase II - the creation of Lots 4 and 5 and the dedication and construction of the road to Phase III;
 - Phase III - the creation of Lots 6, 7, and 8 and the dedication and construction of the balance of the road.
7. No building structure or other improvement shall be constructed or erected on or brought on to Lot 8 of the proposed subdivision shown on Schedule "B" hereto and no building permit shall be issued in respect of the said Lot 8 without the prior consent in writing of the District Engineer first had and obtained. The developer further covenants and agrees that as and when the said Lot 8 is created as a separate parcel by way of a subdivision of the land, the developer will forth-

with upon demand made by the District Engineer, execute in registerable form and at the developer's expense a restrictive covenant in favour of the District and to encumber the title to the said Lot 8, prepared in form and content by and acceptable to the District's solicitors provided that the restrictions contained in such restrictive covenant shall be consistent with the restrictions set forth in this paragraph.

8. No building or structure improvement shall be sited upon the land except in compliance with the site plan and more particularly as set out in Schedule "B" attached hereto, the said siting of the houses to be specified to facilitate future subdivision consistent with the District by-laws for sewer and watered lots.

9. Siting of the tile fields on each lot shall be in accordance with Plans and specifications as set out in Schedule "B" hereto and shall be done to conform to the topography, water table conditions and health ministry regulations.

10. It is understood and agreed that the District shall not be required to issue to the developer any Building Permits for the work prior to the registration of this Land Use Contract at the Kamloops Land Registry Office provided however that the District may issue such building permits following the Public Hearing, adoption of this Land Use Contract by by-laws of the District and execution of this Contract by the District and the developer. Provided further that no permit whatsoever shall be issued under the provisions of the District's building by-law for any lot proposed to be subdivided from the land until the plan creating such lot has been approved by the approving officer and registered in the appropriate Land Registry Office, and then only in accordance with the provisions of the District's building by-law and other applicable by-laws of the District then in force.

11. All utilities including water, sewer, gas, telephone and electricity shall be placed, provided and constructed by the developer in accordance with the provisions of the relevant by-laws and regulations of the District.

12. The developer shall pay to the District the sum of FIVE HUNDRED DOLLARS (\$500.00) (being imposed fees imposed by the District) for each lot at the time it is created. The developer shall not submit any plan of subdivision of the land to the approving officer unless the aforesaid sum has been paid to the District for each lot created by such subdivision plan.

13. It is understood and agreed that save as specifically provided by the provisions

of this Contract that all by-laws of the District and regulations made thereunder shall apply to the Development, use, ownership and maintenance of the land including and without restricting the generality of the foregoing provisions of the Building by-laws of the District.

14. All Schedules attached hereto or referred to in this Contract including without restricting the generality of the foregoing, Schedules "A" and "B" inclusive are hereby incorporated into or make part of the Contract.

15. The Developer covenants and agrees to pay all costs including legal fees and disbursements incurred directly or indirectly with result of the preparation and registration of this Land Use Contract and any by-law required to influence the terms hereof.

16. The Developer covenants and agrees to indemnify and save harmless the District, its servants, agents and employees from and against all actions proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought or made against the District or its servants, agents and employees resulting directly or indirectly from the failure of the Developer to perform his covenants herein contained.

17. It is understood and agreed that the District has made no representations covenants, warranties, guarantees, promises or agreements or otherwise with the Developer other than those contained in this Contract.

18. The developer acknowledges and agrees with the District that damages are not a sufficient remedy to the District in the event of the breach of this Land Use Contract or any of the provisions hereof by the developer, and the developer further acknowledges and agrees that in the event of any such breach, the District shall be entitled to and receive from a Court of competent jurisdiction a mandatory or restraining order as such Court may see fit to grant as relief for such breach.

19. Subject to proper and complete performance by the developer of its covenants herein contained the District hereby covenants and agrees to permit the developer to use the land in accordance to the terms and conditions herein contained.

20. Wherever the singular and masculine is used herein the same shall be construed as meaning the plural, feminine or body corporate or body politic with the contract to the parties hereto.

21. This Contract shall enure to the benefit of and be binding upon the parties

hereto and their respective heirs, executors, administrators, successors and assigns of this Contract and all the covenants herein contained shall be construed as running with the land.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their hands and seals or being corporations have hereunto affixed their corporate seals in the presence of their duly authorized officers on that behalf at the City of Vernon, Province of British Columbia the day and year first above written.

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

[Signature])
CHAIRMAN)
[Signature])
SECRETARY-TREASURER)



SIGNED, SEALED AND DELIVERED)
in the presence of:)

[Signature])
Witness)
[Signature])
Address)
[Signature])
Occupation)

[Signature]
NICK BOYANCHUK

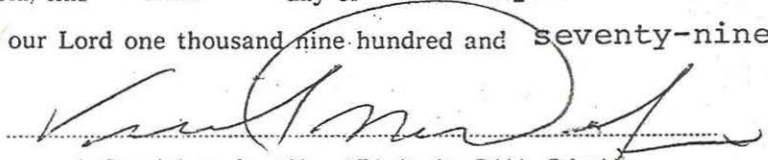
For Maker

I HEREBY CERTIFY that, on the 9th
City of Vernon
NICK BOYANCHUK

day of January, 19 79 at
, in the Province of British Columbia,

~~personally known to me,~~ appeared
before me and acknowledged to me that he is the person mentioned in the annexed instrument
as the maker thereof, and whose name is subscribed thereto as part Y, that he knows the
contents thereof, and that he has executed the same voluntarily, and he is of the full age
of twenty-one years.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,
at City of Vernon in the Province of
British Columbia, this 9th day of January
in the year of our Lord one thousand nine hundred and seventy-nine.


A Commissioner for taking Affidavits for British Columbia.
V. M. Dantzer

SCHEDULE "A"

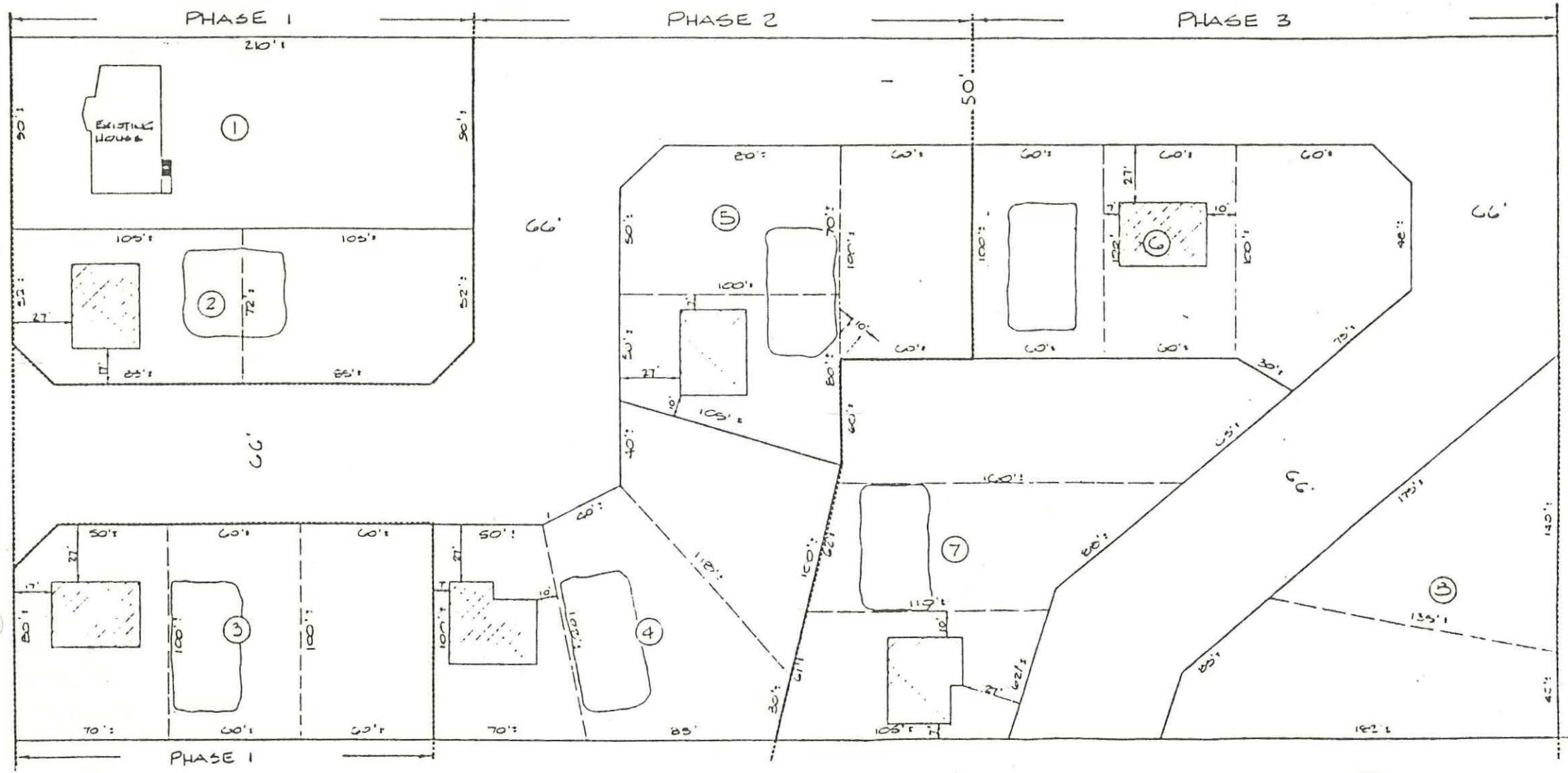
Schedule of Permitted Land Use

A. Until such time as the land is subdivided into two or more parcels by way of a subdivision plan prepared, approved, and registered in accordance with the Land Registry Act, the land shall be used for country residential zone.

B. Upon subdivision of the land as aforesaid by one or more subdivision plans, each newly created and registered parcel shall be used for single family residential purposes and such use shall be governed by the provisions of By-law #229 being the District's zoning by-law in force as of the date of the registration of the Land Use Contract at the appropriate Registry office, save and except that the use of Lot 8 shown on Schedule "B" hereto shall be restricted in accordance with the provisions of this Land Use Contract - see Paragraph 7.

SCHEDULE "B"

RIVER ROAD



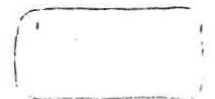
LOT AREAS: (APPROX. ONLY)

- | | |
|---------------------------|---------------------------|
| 1. 18,900 FT ² | 2. 19,300 FT ² |
| 2. 14,720 " | 2. 19,570 " |
| 2. 18,200 " | 1. 24,050 " |
| 1. 21,080 " | 2. 18,620 " |

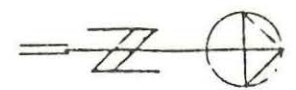
----- FUTURE PROPERTY LINE



PROPOSED BUILDING SITE



PROPOSED TILE FIELD AREA - MIN 17' FROM LOTTING, SHALL APPROXIMATE ONLY



BOYANCHILIC SUBDIVISION
DRAWING NO. 0753-C