

SKWAH FIRST NATION
ZONING AMENDMENT BYLAW NO.3, 2002-01

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A By-law to further amend Skwah Indian Band Zoning By-Law No.2, 1990

WHEREAS on November 13, 1990, the Skwah Indian Band Council did pass Skwah Indian Band Zoning By-Law No.2, 1990 (the "Zoning By-Law") that being a by-law designating the reserves of the Skwah Indian Band or portions thereof as special Development Zones and to prohibit the construction or maintenance of any buildings, or any use of land, or the carrying on of any business, profession, trade or vocation within such Special Development Zones except to the extent that such construction or maintenance of any class of buildings or such use of land, or the carrying on of any such class of business, profession, trade or vocation conforms to the requirements of Skwah Indian Band Zoning By-Law No.2, 1990 and any amendments thereto;

AND WHEREAS on April 19, 1991, the Chief and Council of the Skwah Indian Band amended Skwah Indian Band Zoning By-Law No.2, 1990;

AND WHEREAS as a result of an application by Adam Mussell, the Certificate of Possession holder of Lot 50-2 Skwah Indian Reserve No. 4 ("Lot 50-2"), the Zoning Bylaw was further amended by way of Skwah First Nation Zoning Amendment By-Law No.2, 1998-01 (the "1998 Amending By-law) to allow for gravel extraction on Lot 50-2.

AND WHEREAS Adam Mussell, as the Certificate of Possession holder of Lots 49 ("Lot 49"), 50-2 ("Lot 50-2") and 51 ("Lot 51"), of Skwah Indian Reserve No.4, has made a further application for the further amendment of the Zoning By-Law in order to allow for the following:

- (a) with respect to Lot 49:
 - (i) the storage of overburden, top soil, sand, and inert and other approved fill arising from the excavation and removal of sand and gravel from Lots 50-2 and 51; and
 - (ii) the reclamation of the land upon which the said storage is to take place forthwith upon that storage no longer being required.
- (b) with respect to Lot 50-2:
 - (i) the excavation and removal of sand and gravel;
 - (ii) the reclamation of the pit created by the excavation and removal of sand and gravel by way of filling the cavity of the pit with inert and other approved fill material approved by the Skwah First Nation and the

Department of Indian Affairs and Northern Development to the 200 year flood level plus 100 centimeters or to a higher level by using other approved fill to an elevation above the 200 year flood level plus 100 centimeters;

- (iii) the storage of equipment, temporary structures and other personal property required for the excavation and removal of sand and gravel from Lots 50-2 and 51; and
 - (iv) the storage of overburden, top soil, sand, gravel and inert and other approved fill required for the reclamation of the pits created by the excavation of Lots 50-2 and 51.
- (c) with respect to Lot 51:
- (i) the excavation and removal of sand and gravel;
 - (ii) the reclamation of the pit created by the excavation and removal of sand and gravel by way of filling the cavity of the pit with inert and other approved fill material approved by the Skwah First Nation and the Department of Indian Affairs and Northern Development to the 200 year flood level plus 100 centimeters or to a higher level by using other approved fill to an elevation above the 200 year flood level plus 100 centimeters;
 - (iii) the storage of equipment, temporary structures and other personal property required for the excavation and removal of sand and gravel from Lots 50-2 and 51; and
 - (iv) the storage of overburden, top soil, sand, gravel and inert other approved fill required for the reclamation of the pits created by the excavation of Lots 50-2 and 51.

AND WHEREAS the Council of the Skwah First Nation has agreed to further amend the Zoning By-law in accordance with the request of Adam Mussell;

AND WHEREAS the Council of the Band is empowered to make such a By-law and the imposition of a penalty for the violation thereof pursuant to paragraphs 81(1)(f), (g), (h), (i), (l), (m), (p), (p.1), (q) and (r) of the *Indian Act*.

NOW THEREFORE BE IT RESOLVED we the Chief and Council of the Skwah First Nation, formerly known as the Skwah Indian Band, at a duly convened meeting, herewith enact as a by-law the following amendments to the Zoning By-Law:

Title

1. This By-law may be cited as the "SKWAH FIRST NATION ZONING AMENDMENT BY-LAW NO.3, 2002-01".

Definitions

2. In this By-law:

"Band" means the Skwah First Nation (Skwah Indian Band), a band of Indians as defined under the *Indian Act*;

"Band Council Resolution" or "Resolution" means a motion, as recorded in the minutes of the meeting, passed and approved at a duly convened meeting of the Band Council pursuant to the consent of a majority of the councillors of the Band present at that meeting;

"Chief and Council" or "Band Council" or "Council of the Band" means the Chief and Council of the Band elected pursuant to sections 2(1) and 74 of the *Indian Act* or any amendments or successors thereto;

"*Indian Act*" means the *Indian Act* R.S.C. 1985, c. I-5, as amended or re-enacted from time to time or any regulations promulgated thereunder;

"Reserve" means Skwah Indian Reserve No. 4;

Additions to the Zoning By-Law and Permitted Uses

3. Section 6B is hereby added to the Zoning By-Law:

The storage of overburden, top soil, sand and inert and other approved fill arising from the excavation and removal of sand and gravel from Lots 50-2 and 51 and the reclamation of the land upon which the said storage is to take place forthwith upon that storage no longer being required is hereby a permitted use for Lot 49 on the Reserve until such time as this By-Law is revoked.

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4. Section 6C is hereby added to the Zoning By-Law:

- (a) the excavation and removal of sand and gravel;
- (b) the reclamation of the pit created by the excavation and removal of sand and gravel by way of filling the cavity of the pit with inert and other approved fill material approved by the Skwah First Nation and the Department of Indian Affairs and Northern Development to the 200 year flood level plus 100 centimeters or to a higher level by using other approved fill to an elevation above the 200 year flood level plus 100 centimeters;
- (c) the storage of equipment, temporary structures and other personal property required for the excavation and removal of sand and gravel from Lots 50-2 and 51; and
- (d) the storage of overburden, top soil, sand, gravel and inert and other approved fill required for the reclamation of the pits created by the excavation of Lots 50-2 and 51

is hereby a permitted use for Lot 50-2 on the Reserve until such time as this By-Law is revoked.

5. Section 6D is hereby added to the Zoning By-Law:

- (a) the excavation and removal of sand and gravel;
- (b) the reclamation of the pit created by the excavation and removal of sand and gravel by way of filling the cavity of the pit with inert and other approved fill material approved by the Skwah First Nation and the Department of Indian Affairs and Northern Development to the 200 year flood level plus 100 centimeters or to a higher level by using approved fill to an elevation above the 200 year flood level plus 100 centimeters;
- (c) the storage of equipment, temporary structures and other personal property required for the excavation and removal of sand and gravel from Lots 50-2 and 51; and
- (d) the storage of overburden, top soil, sand, gravel and inert and other approved fill required for the reclamation of the pits created by the excavation of Lots 50-2 and 51

is hereby a permitted use for Lot 51 on the Reserve until such time as this By-Law is revoked.

- 6. It is a requirement that all of the foregoing permitted uses set forth in sections 3, 4 and 5 must conform with all applicable laws, by-laws, Band Council Resolutions and policies of the Band, Canada and British Columbia. In addition, the Band must consent to the terms of any permit or lease which it is proposed be entered into respecting Lots 49, 50-2 and 51 of the Reserve regardless of whether or not that permit or lease conforms with the permitted uses allowed by this By-Law.

This By-Law, known as the Skwah First Nation Zoning Amendment Bylaw No.3, 2002-01, is hereby enacted at a duly convened meeting of the Council of the Band held this 28 day of June, 2002.

Voting in favour of the By-Law are the following members of the Band Council:

Russell
Chief

Luc Marshall
Councillor

Violet George
Councillor

Dean Williams
Councillor

Dennis Marshall
Councillor

being the majority of those members of the Council of the Skwah First Nation present at the aforesaid meeting of the Band Council.

The quorum of the Band Council is three (3) members.

Number of members of the Band Council present at the meeting: _____

I, _____, Chief/Councillor of the Skwah First Nation, do hereby certify that a true copy of the foregoing By-Law was mailed to the Minister of Indian Affairs and Northern Development at the District offices at 600 - 1138 Melville Street, Vancouver, British Columbia, V6E 4S3 in accordance to section 82 (1) of the *Indian Act*, this _____ day of _____, 2002.

BANDAD/8047/bylaws/zoningno3