

**The Semiahmoo Band
By-law Number 3
Being a By-law to repeal and replace
By-law No. 1
Enacted on the 20th day of June 1970.**

WHEREAS the Council of the Semiahmoo Band desires to make a new by-law dividing the reserve into zones and regulating the use of land;

AND WHEREAS the Council of the Semiahmoo Band is empowered to make such by-law pursuant to paragraphs 81(1)(g), (q) and (r) of the Indian Act;

AND WHEREAS it is considered necessary for the development of the reserve lands of the Semiahmoo Band to regulate the use of reserve lands;

AND WHEREAS the Council of the Band did enact By-law Number 1 on the 20th day of June, 1970, and wishes to repeal the said By-law Number 1 and replace it with this by-law;

NOW THEREFORE the Council of the Semiahmoo Band hereby adopts the following by-law:

PART I - GENERAL

Short Title

1. This by-law may be cited as the "Semiahmoo Band Zoning By-law".

Interpretation

2. This by-law and the following definitions apply only in the context as set out in sections 4.4.1, 4.4.2 and 4.4.3 in the report prepared for the Semiahmoo Band by David Nairne & Associates appended as Schedule "A" to this by-law titled "Fundamental Semiahmoo First Nation Principles" - "We Are Keepers of the Land". The principles as set out in Schedule "A" form the basis of an Official Community Plan.

"*Accessory building or structure*" means a detached *building or structure*, the use of which is incidental or secondary to that of the main *building*;

"*Accessory use*" means a use customarily incidental and subordinate to the principal use;

"*Agriculture*" means a use of land, *buildings or structures* for the purpose of field crops or fruit, market gardening, dairy farming, animal husbandry, poultry raising, bee keeping and such uses as are customarily and normally related to *agriculture*;

"*Aquaculture*" means the growing or harvesting of fish, shellfish, mollusca, crustaceans and marine algae, which:

- a) includes the cleaning, icing, and storage of fish, grown on the on the same lot, for a period of 90 days and includes the cleaning, storage, shucking and packaging of shellfish, mollusca, crustaceans and marine algae; and
- b) This also may include: the rendering, canning, smoking, cooking, and other processing not included in this definition, of fish, mollusca, crustaceans and marine algae;
- c) But excludes the following:
 - i. The manufacture of fish feed or the mixing of fish offal and fish feed;
 - ii. The disposal on the same lot of fish offal;
 - iii. The outdoor storage of fish offal; and
 - iv. The use of float houses or suction or dredging harvesting methods;

"*Assembly hall*" means a *building* or part of a *building* in which facilities are provided for such purposes as meetings for civic, education, political, religious or social purposes, and includes a banquet hall;

"*Attached*" means a *building* otherwise complete in itself, which depends for structural support, or complete enclosure, upon a division wall or walls shared in common with an adjacent *building* or *buildings*;

"*Band*" means the Semiahmoo *Band* that is often referred to as Semiahmoo First Nation;

"*Building*" means any *structure* used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels;

"*Building height*" means the vertical distance measured from the average *finished grade* level at all *building* faces surrounding a *building* to:

- a) the highest point on a flat roof; or
- b) the average level between the eaves and ridge of a gable, hip or gambrel roofed *building*; or
- c) the greater of the two measurements referred to in (a) and (b) above in the case of the *building* with more than one type of roof;

**Elevator service rooms, air conditioners and similar equipment shall not be included in the measurement of *building height*;

"*Business and Professional office*" means an office in which any business is carried on or any profession is practised;

"*Child care centre*" means a facility for children which includes group day care, family day care, pre-school, out of school care, child minding, specialised day care and emergency child care all as defined, licensed and regulated under the Community Care Facility Act R. S. B.C. 1979, c 57 and Child Care Regulations set out under B.C. Reg. 319/89;

"*Community centre*" means any tract of land or *buildings* or any part of any *buildings* used for community activities, whether used for commercial purposes or not, and the control of which is vested in the *Band* council, a local board or agent thereof;

"*Conservation area*" means the maintenance of the natural environment for the purpose of preservation, research, observation and outdoor uses such as hiking, hunting and fishing. These areas include the erection and use of trail shelters and other similar *structures* ancillary to the foregoing uses, but does not include the use of a *dwelling house*, a *mobile home*, a tourist vehicle or a tourist trailer;

"*Convenience store*" means a retail commercial establishment supplying groceries, sundries and other daily household necessities to the immediate surrounding area;

"*Cottage industry*" means a use accessory to a *single family dwelling*. The following alternative uses may be included: a carpentry shop, a craft shop, a plumbing shop, a metal working shop, an electrical shop, a welding shop, a storage use may also be included; *building* for buses, boats or snowmobiles. A repair shop for farm equipment, or any similar use;

"*Council*" means the Council, as defined in the *Indian Act*, of the Semiahmoo *Band* (Semiahmoo First Nation);

"*Density*" means a measurement of development intensity on a *lot*, which shall be in either *Floor Area Ratio (FAR)* or *unit density*;

"*Density - unit*" means the figure obtained when the total number of *dwelling units* constructed or proposed to be constructed on a *lot* is divided by the total area of that *lot*;

Unless otherwise permitted in the Zone, the calculation of *unit density* shall exclude the *undevelopable area* from the total *area* of the *lot*.

"*Density - Floor Area Ratio*" means the figure obtained when the area of all the floors of the *buildings* constructed or proposed to be constructed on a *lot* is divided by the area of the *lot*;

"*Dwelling apartment house*" means the whole of a *building* not otherwise defined herein, which contains four or more *dwelling units* served by a common entrance, in which the occupants have

the right to use in common any corridors, stairs or elevators contained therein, and the land appurtenant thereto;

"*Dwelling duplex*" means a *building* that is divided horizontally into two *dwelling units*, each of which has an independent entrance;

"*Dwelling - one family*" means a separate *building* containing only *one dwelling unit*;

"*Dwelling two family*" means a separate *building* containing only two *dwelling units*;

"*Dwelling triplex*" means the whole of a *building* that is divided horizontally into three separate *dwelling units*, each of which has an independent entrance, either directly from the outside, or through a common vestibule;

"*Dwelling -semi-detached*" means a *building* that is divided vertically into two *dwelling units*;

"*Dwelling unit*" means one or more rooms designed for use and occupancy by not more than one family; and in which separate kitchen and sanitary facilities are provided for the exclusive use of such a family. There shall be a private entrance from outside the *building* or from a common hallway or stairway inside the *building*;

"*Dwelling unit area*" means the floor area of a *dwelling unit* measured between the exterior faces of the exterior walls of the *dwelling unit*;

"*Eating establishment*" means a *building* or part of a *building* where food is offered for sale to the public either for immediate consumption therein or for take-out. It may also include a restaurant, cafe, tea or lunch room, dairy bar, and refreshment room or stand, but does not include a boarding or lodging house;

"*Erect*" means build, construct, reconstruct, or relocate, and includes any preliminary physical operations such as cutting, grading, excavating, filling or draining, and any altering of an existing *building* by an addition, extension or other *structural* change;

"*Farm*" means land used for the tillage of soil and the growing of vegetables, fruits, grains and other staple crops, and includes land used for livestock raising, dairying or woodlots;

"*Finished grade*" means the following:

- a) the rough grading elevation as identified on a *lot* grading plan where such a plan has been approved by Semiahmoo First Nation; or:
- b) Where there is no approved *lot* grading plan, the lowest ground elevation existing prior to construction, such ground elevation to include fill materials placed on the *lot* to raise the ground elevation up to but not above the average elevation of adjacent *lots* at the adjoining *lot lines*;

"*Forestry*" means the management, development and cultivation of timber resources to ensure the continuous production of wood or wood products, provision of proper environmental conditions for wildlife, protection against floods and erosion, protection and production of water supplies, and preservation of the recreation resource;

"*Garage, commercial*" means a *building, structure* or lot where commercial vehicles are stored or where vehicles are repaired or maintained;

"*Gravel pit*" means any open excavation made for the removal of any soil, earth, clay, marl, sand, gravel or unconsolidated rock or mineral in order to supply material for construction, manufacturing or industrial purposes;

"*Group home*" means a single housekeeping unit in a residential dwelling in which three to ten residents live as a family under responsible supervision and shall be licensed under Provincial or Federal Statute, and may also include a non- residential special needs group facility such as a group school;

"*Hazard land*" means land which is not suitable to be used for the erection of any *building* because it is on a flood plain, is subject to erosion, has steep slopes, has organic soil or has a high water table; also see "*undevelopable land*"

Height - see also "*Building height*"

"*Home occupation*" means an occupation, trade, business profession or craft carried on as an *accessory use* to the use of a *dwelling* that is the private residence of the person carrying on the occupation, trade, business, profession or craft;

"*Mobile home*" means any *dwelling* that is made to be mobile, and constructed or manufactured to provide a permanent residence, office or other such use, for one or more persons. However this does not include a travel trailer or tent trailer or trailer otherwise designed, and does not include a modular home;

"*Non-conforming*" means anything that does not conform, comply or agree with the provisions of this by-law as of the date it was made;

"*Noxious use*" means any use which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter;

"*Nursery*" means land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail trade;

"*Official Community Plan*" means a document that sets out proposals for future development on the reserve and is accompanied by maps and charts;

"*Owner*" means any person lawfully in possession of land, *buildings* or *structures*;

"*Person*" for purposes of this By Law, includes an individual, an association, a chartered organization, a firm, a partnership and a corporation;

"*Place of entertainment*" means a motion picture or other theatre, arena, auditorium, public hall, billiard or pool room, bowling alley, ice or roller skating rink, dance hall, music hall, bingo hall, amusement arcade, but does not include any place of entertainment or amusement otherwise defined or classified herein.

"*Restaurant*" means a *building* or part of a *building* where food is offered for sale or sold to the public for immediate consumption therein or for take-out, but does not include a boarding or lodging home;

"*Reserve*" means the *reserve of the Semiahmoo Band* and includes the *Band's Reserves No. 0*. It also refers to any land that may be designated in the future as a reserve (or reserves) of the Semiahmoo Band. The documents that designate any future lands as "reserve" shall be appended to this by-law upon such designation;

"*Retail store*" means a *building* or part of a *building* in which goods, wares, *merchandise*, substance, articles or any other thing is offered or kept for sale at retail;

"*Roadside stand*" means a retail store not exceeding nineteen square metres in *floor area*, in which the goods displayed or offered for sale are produced on the same land from *agricultural* uses;

"*Structure*" means anything constructed or erected, the use of which requires location on or in the ground or attached to something having location on or in the ground;

"*Undevelopable Area*" means the portion of a *lot* containing any of the following features:

- a) Utility rights-of-way, excluding city services: or
- b) Ravines, swamps, river banks and similar features which make the said portion of the *lot* unsuitable for the placement of *buildings* and *structures* of which the boundary shall be determined by a line 5 metres [16 ft.] inland from the top of bank;

"*Water setback*" means the straight line horizontal distance from the high water mark of a watercourse, bay, ocean or lake to the nearest part of any excavation, *building*, *structure* or open storage use on the land;

"*Yard*" means an *area* created by *setback*.

a) "*Yard front*" means a *yard* that extends across the full width of the *front lot line*.

b) "*Yard rear*" means a *yard* that extends across the full width of the *rear lot line*.

c) "*Yard side*" means a *yard* that extends across the full width of the *side lot line*.

"Zone" means a designated area of land use shown on Schedule "B" hereto;

"Zoning Administrator" means the person appointed or designated by the Council under this by-law and charged with the duty of administering and enforcing this by-law;

"Special Development Permit" means a permit issued by the Semiahmoo Band Council for any new development or proposed redevelopment on Semiahmoo Lands that is not otherwise covered by this by-law. A Special Development Permit shall comply with the principles of development as outlined in the opening paragraph of this Interpretation section and also does not fall within any Prohibition section outlined herein.

Application of By-law

3. (1) This by-law applies to all *reserve* lands of the *Semiahmoo Band* as shown on Schedule "B"; with proper documentation specific sections of this by-law may be made applicable to any Semiahmoo lands that may in future be designated as *reserve* land.
- (2) Schedule "B", or any schedule that may be approved by the Council of the *Semiahmoo Band* in future, and attached hereto, is a part of this by-law as fully and to all intents and purposes as though recited in full herein.

PART II - ADMINISTRATION

Zoning Administrator

- 4.(1) The Council may, by resolution, appoint or designate a person as *Zoning Administrator* whose duty it shall be to administer and enforce this by-law.
- (2) The Council may, in the resolution, provide for reasonable remuneration to be paid to the *Zoning Administrator*.

PART III - GENERAL ZONING PROVISIONS

Prohibition

- 5.(1) No *building* or *structure* shall hereafter be erected or altered, nor shall the use of any land, *building* or *structure* hereafter be changed, in whole or in part, except in conformity with the provisions of this by-law.
- (2) Notwithstanding any other by-law of the Council, no *building permit* shall be issued where the proposed *building, structure* or use would be in violation of any provision of this by-law.
- (3) The entire *reserve* lands of the Semiahmoo are hereby zoned as a *Special Development Permit* area to accommodate further study, negotiations and the development of long-term solutions to the following challenges:
 - a) Infrastructure Planning and Development
 - b) The development of an equitable process for reconciling Certificate of Possession (as defined in the Indian Act revised statutes of Canada) lands with *Band* Lands and also Private interests with community standards.
 - c) Comprehensive environmental review and policy development.

Non-Conforming Uses

- 6.(1) Subject to subsection (2), nothing in this by-law prevents the use of any land, *building* or *structure* for any purpose prohibited by the by-law if such land, *building* or *structure* was lawfully used for such purpose on the day this by-law was made. For this provision to apply the use must continue for the same purpose as originally.

- (2) Where a *building or structure* that does not conform with the requirements of this By-law with respect to use, lot occupancy, or *height* is destroyed, said *building or structure* may be restored to its original dimensions and strengthened to a safe condition. This restoration or strengthening activity shall not further increase the extent of non-conformity of such *building or structure* provided that all other applicable provisions of this By-law are complied with and its use is not a noxious use.
- (3) Where land with a prior *non-conforming use* ceases to be used for that purpose for a period of ninety (90) days or ceases to be used for any purpose whatsoever the *Zoning Administrator* may apply to the Semiahmoo *Band Council* for a declaration that the former use no longer applies. Any use of the land is subject to an application for new use either in compliance with this by-law or the criteria for a *Special Development Permit*.
- (4) Any *buildings* or other improvements upon land for which Council has issued the declaration specified in subsection (3) shall at that time also be declared unusable and the *Council* can order that the *owner* remove them in a proper and safe manner.
- (5) If the *owner* fails to remove them or the *owner* is not available to remove them, *Council* can order that they be razed by a third party and invoice the *owner* for the cost of removal.

Prior Building Permits

7. Nothing in this by-law prohibits the erection of a *building or structure* for which a *building* permit was issued prior to the date this by-law was made.

Exceptions to Height Limitations

8. The *height limitations* of this by-law do not apply to chimneys, church spires, public *buildings*, water tanks, elevator enclosures, flag poles, television or radio antennae, electrical transmission facilities, ventilators or skylights.

Accessory Buildings and Structures

9. *Accessory uses, buildings and structures*, including business parking, public parking, and private garages may be permitted in any zone so long as they are a specified use either in this by-law or within a development or special development permit. However they shall not:
 - a) Be used for human habitation, except where a *dwelling unit* is a permitted accessory use;
 - b) Exceed four metres in height in any residential zone;
 - c) Be built within two metres of the main *building*; or
 - d) Be considered an accessory *building* attached to the main *building* in any way.

Temporary Construction Uses Permitted

10. This by-law does not prevent uses incidental to construction, such as a construction camp or other such temporary work camp, a tool shed, scaffold or other *building or structure* incidental to the construction. The By-law also allows a sign not more than four and one-half (4.5) square metres in area incidental to the construction, if these uses are permitted, only for so long as they are necessary for work in progress which has neither been finished nor abandoned.

Occupancy of Incomplete Buildings

11. In any zone, for health and safety reasons, no occupancy of new *buildings* shall be permitted until the inspection requirements specified in the Special Development Permit have been met. In the case of a *dwelling*, kitchen, heating and sanitary conveniences shall have been installed and rendered useful.

Setbacks

12. *Buildings and structures* erected in any *zone* shall conform to the *yard sizes* set out in this bylaw. Any applicable *setback* requirements from road centre lines and high water marks of any water course, salt water bay or lake that are not covered herein shall be specified in the relevant *Special Development Permit*.

Occupation of Vehicles

13. No car, truck, coach or bus body shall be used for permanent human habitation in any *zone*, whether or not mounted on wheels.

Mobile Homes

14. *Mobile homes* are permitted on the *reserve* in any *zone* that specifies residential as a permitted use or the *mobile home* is being used as an office or other use that may be permitted in particular *zones*.

Home Occupations

15. A *home occupation* is permitted in any *zone* that has *residential* as a permitted use if:
- a) Only members of the family are employed in the *home occupation*;
 - b) There is no external display or advertising other than a non-illuminated sign, not more than three tenths of a square metre (.3m²) in area, to indicate to persons outside that any part of the dwelling unit or lot is being used for a purpose other than residential;
 - c) Not more than 50% of the *dwelling unit area* is used for the purpose of the *home occupation*;
 - d) The *home occupation* is secondary to the main residential use and does not change the residential character of the *dwelling home* or *dwelling unit*;
 - e) There are no goods, wares or merchandise, other than arts and crafts produced on the premises, offered or exposed for sale or rent on the premises;
 - f) The *home occupation* does not create or become a nuisance, in particular, in regard to noise, traffic or parking;
 - g) The home occupation does not interfere with television or radio reception; and
 - h) A private garage is not used for the *home occupation*.

Noxious Uses

16. No use is permitted which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter. This also applies to any use which, from its nature or the materials used therein, is declared to be a noxious trade, business or manufacturer under the Public Health Act, (British Columbia) and regulations thereunder or the Environmental Protection Act, (British Columbia) and regulations thereunder].

Cottage Industry

17. A *cottage industry* is permitted in a residential or *urban zone* if
- a) Not more than 10% or ten square metres of the dwelling unit area, whichever is the lesser, is used for the purposes of the *cottage industry*;
 - b) Not more than fifty square metres of the gross floor area of all accessory buildings are used for the purposes of the *cottage industry*; and
 - c) Not more than five persons, other than those residing on the premises, are engaged on the premises in the *cottage industry*.

Railway Crossings

18. Where any road crosses a railway, no *building* or *structure* shall be erected closer to the point of intersection of the centreline of both the railway and the road than forty-six (46) metres.

Gravel Pits, Stone Quarries

19. *Gravel pits and stone quarries* are prohibited, except in an industrial zone.

Multiple Uses

20. Where any land or *building* is used for more than one purpose, all provisions of this by-law relating to each use shall be satisfied and, where there is a conflict, the higher or more stringent standard shall prevail.

PART IV - SPECIFIC ZONING PROVISIONS

21. The reserve is divided into the following *zones*, as shown on Schedule "B" (Zoning map).

<u>Zones</u>	<u>Zone Symbols</u>
Commercial	Zone Com
Residential (multiple)	Zone R
Urban	Zone U1
Urban Recreational	Zone U2
Agriculture	Zone A
Industrial	Zone I
Conservation	Zone Con

Commercial (Com) Zone Permitted Uses

22. Land may be used and *buildings* and *structures* may be erected, altered or used in a Commercial (Com) Zone only for
- a) An automobile service station, commercial garage or automobile business, including sales and rentals, a car wash and gas bar;
 - b) A bank or other financial institution;
 - c) A personal service shop;
 - d) A boat, snowmobile, trailer or cycle business, including sales and rentals;
 - e) A business or professional office;
 - f) A convenience store;
 - g) A restaurant or other eating establishment;
 - h) A hotel;
 - i) A parking lot or covered parking;
 - j) A place of entertainment;
 - k) A taxi stand;
 - l) A retail store; or
 - m) A use accessory to any of the foregoing permitted uses.

Commercial (C) Zone Specifications

23. As may be set out in an applicable *Special Development Permit*.

Residential (R) Zone Permitted Uses

24. Land may be used and *buildings* and *structures erected*, altered or used in a Residential (R) Zone only for
- a) A multiple-family residential *dwelling*;
 - b) An *apartment dwelling*;

- c) A triplex dwelling;
- d) A park or playground;
- e) A use accessory to any of the foregoing permitted uses.

Residential (R) Zone Specifications

25. As may be set out in the applicable *Special Development Permit*

Urban (U) Zone Permitted Uses

26. Land may be used and *buildings* and *structures* may be erected, altered or used in an Urban (U) Zone only for
- a) A single family dwelling;
 - b) A mobile home dwelling;
 - c) A cemetery;
 - d) A golf course;
 - e) A use accessory to any of the foregoing permitted uses.

Urban (U) Zone Specifications

27. As may be set out in the applicable *Special Development Permit*.

Urban Recreational (U2) Zone Permitted Uses

28. Land may be used and *buildings* and *structures* may be erected, altered or used in an Urban Recreational (U2) Zone only for
- a) An assembly hall;
 - b) A school;
 - c) A park;
 - d) A church;
 - e) A community centre or arena;
 - f) A senior citizen apartments;
 - g) A Band Council office or other administrative office of the *Band*;
 - h) A fairground;
 - i) A use accessory to any of the foregoing permitted uses.

Urban Recreational (U2) Zone Specifications

29. As may be set out in the applicable *Special Development Permit*.

Agriculture (A) Zone Permitted Uses

30. Land may be used and *buildings* and *structures* may be erected, altered or used in an Agriculture (A) Zone for:
- a) Bio-Tech activities

- b) Green House
- c) Aqua-culture
- d) A retail *roadside stand* to sell fruit and vegetables

Agriculture (A) Zone Specifications

31. As may be set out in the applicable *Special Development Permit*.

Industrial (I) Zone Permitted Uses

32. Land may be used and *buildings* and *structures* may be *erected*, altered or used in an Industrial (I) Zone only for:

- a) A high-tech industry or manufacturing establishment, except one involving the danger of fire or explosion or likely to create a nuisance by reason of fumes, dust, odour, or excessive noise;
- b) A warehouse or storage establishment as a complementary use for the type of industry in paragraph (a);
- c) A retail outlet, wholesale outlet or business office accessory to a permitted use;
- d) A yard for storage of materials and equipment required to fulfil any permitted use that might include: fuel, lumber, *building*;
- e) A parking lot or parking garage;
- f) A *dwelling* for the owner, or for the use of a watchman or other employee whose residence on the premises is essential;
- g) A use accessory to any of the foregoing permitted uses.

Industrial (I) Zone Specifications

33. As may be set out in the applicable *Special Development Permit*.

Conservation (Con) Zone Permitted Uses

34. Land may be used and *buildings* and *structures* may be *erected*, altered or used in a Conservation (Con) Zone only for:

- a) An existing *dwelling* at the date this by-law was made;
- b) Conservation;
- c) Forestry;
- d) Hunting, fishing or trapping for ceremonial purposes only;
- f) A structure for the prevention of erosion or for flood control;
- g) A boathouse or dock;
- h) A use accessory to any of the foregoing permitted uses.

Conservation (Con) Zone Specifications

35. As may be set out in the applicable *Special Development Permit*.

PART V - OWNER APPLICATIONS

Minor Variance

36. The owner of any land, building or structure affected by this by-law may apply to the Council for a minor variance from the provisions of this by-law, in respect of the land, *building* or *structure*, or use thereof.

Non-Conforming Uses

37. Where any land, *building* or *structure*, on the day this by-law was made, was used for a purpose prohibited by the by-law, the owner of any land, *building* or *structure* may apply to the Council for authorization to:
- a) Enlarge or extend the *building* or *structure*, if the land, *building* or *structure* continues to be used in the same manner and for the same purpose as it was used on the day this by-law was made;
 - b) To use such land, *building* or *structure* for a purpose that is similar to the purpose for which it was used on the day this by-law was made, or is more compatible with the uses permitted by the by-law than the purpose for which it was used previous to this.

Amendment

- 38.(1) The owner of any land, building or structure may apply to the Council for an amendment to this by-law.
- (2) An owner who applies under subsection (1) must set out in the application the reasons for the amendment and submit detailed site plans, where applicable.

Special Development Permit

39. A *Special Development Permit* is required for any land use that is not provided for by this by-law. The SFN Council shall frame the *Special Development Permit* within the definitions and general criteria set out in the Interpretation section and the specific criteria set out following.

Criteria For Special Development Permits

40. Whether proposed by *Semiahmoo First Nation* or by a private *owner* of land an application for *Special Development Permit* must address the following:
- a) The application must clearly and conclusively demonstrate that the proposed land use is innovative and not covered by any provision of this by-law;
 - b) The applicant shall have completed a feasibility study and business plan. The business plan shall demonstrate not only the viability of the proposed use but shall also demonstrate the overall benefit to the Semiahmoo community.
 - c) Where specifications and prohibitions may otherwise be covered by this by-law on proposed lands pertinent to a *Special Development Permit* they shall be adopted and specified in the *Special Development Permit*.
 - d) In a *Special Development Permit* development area the SFN Council has the authority to provide any required specifications or prohibitions that may be deemed necessary and that are not provided for in this by-law.

Time in which to call a Hearing

41. Within ninety days of the filing of a properly completed application under section 36, 37 or 38, or section 40, the Council shall hold a hearing with respect to the application.

Notice

42. At least fourteen days prior to the hearing, the *Zoning Administrator* shall:
- a) Give notice to the applicant of the date, time and place of the hearing and informing the applicant, and any other resident of the *reserve*, that they have the right to appear at the hearing and to be heard in respect of the application; and
 - b) Post in the *Band* Office a copy of the notice.

Hearing Process

43. At the hearing, the Council shall:
- a) Provide the applicant with an opportunity to present evidence and to make oral or written submissions in support of the application; and
 - b) Provide any resident present at the hearing with an opportunity to be heard.

Rules of Procedure

44. The *Council* may make rules of procedure governing the hearing of applications and shall keep records of its proceedings.

Decision

45. After it has heard all of the evidence and submissions, the *Council* shall meet in private to consider the application.

Criteria - Minor Variance

46. In determining whether an application for a *minor variance* should be granted, the Council shall take into consideration:
- a) Whether the minor variance is desirable for the appropriate development or use of the land, *building* or *structure*;
 - b) Whether the general intent and purpose of this by-law and the *Official Community Plan*, if any, will be maintained; and
 - c) Other factors so identified.

Criteria - Non-Conforming Use

47. In determining whether an application for an extension or modification of a *non-conforming use* should be granted the *Council* shall take into consideration:
- a) Whether the extension or modification is desirable for the appropriate development or use of the land, *building* or *structure*;
 - b) Whether the general intent and purpose of this by-law and the *Official Community Plan*, if any, will be maintained; and
 - c) Other factors so identified.

Criteria - Amendment

48. In determining whether an application for an amendment to this by-law should be granted, the Council shall take into consideration
- a) Whether the amendment is desirable for the appropriate development or use of the land, *building* or *structure*;
 - b) Whether the general intent and purpose of this by-law and the *Official Community Plan*, if any, will be maintained; and
 - c) Other factors so identified.

Notice of Decision

- 49. Within ten days after the hearing, the Council shall render its decision on the application and shall give a written notice of its decision to the applicant that incorporates written reasons in support of its decision.

Posting Decision

- 50. Within five days after disposing of the application, the Council shall post a notice of its decision in the Band office.

PART VI - ENFORCEMENT

Inspection

- 51. The Zoning Administrator may, at all reasonable hours, enter and inspect any land, building, structure or other property for the purpose of determining whether this by-law is being complied with.

Offence

- 52.(1) A person who uses land, or who erects or uses any building or structure or any part of land or a building or structure, in a manner contrary to any provision of this by-law, or who causes or who permits such use or erection, or who otherwise violates any provision of this by-law or causes or permits any such violation, commits an offence.
- (2) A person who interferes with or obstructs the Zoning Administrator in the administration and enforcement of this by-law commits an offence.
- (3) Where an act or omission in contravention of this by-law continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

Penalty

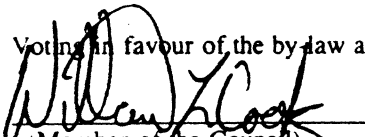
- 53. A person who commits an offence under Section 52 is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding 30 days, or to both.

Repeal

- 54. By-law number 1 enacted on the 20th day of June 1970, and being a By-law to regulate zoning, be and the same is hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Semiahmoo Band this 15th day of November, 2000.

Voting in favour of the by-law are the following members of the Council:


(Member of the Council)

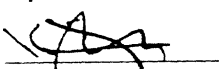
(Member of the Council)


(Member of the Council)

(Member of the Council)

Being the majority of those members of the Council of the Semiahmoo Band present at the aforesaid meeting of the Council. The quorum of the Council is two members.

Number of members of the Council present at the meeting: ~~THREE~~ *Two* etc.
I, Willard Cook Chief Councillor of the Band, 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 Headquarters office of the Department pursuant to subsection 82(1) of the Indian Act, this 15TH day of November, 2000.


Witness)


(Chief/Councillor)

SCHEDULE "A"
FUNDAMENTAL SEMIAHMOO FIRST NATION PRINCIPLES
"WE ARE KEEPERS OF THE LAND"

/Schedule "A"
Semiahmoo Band By-law Number Three (3)

The following sections 4.4.1, 4.4.2 and 4.4.3 are quoted from the Report prepared for Semiahmoo by David Nairne & Associates that the general membership of the Semiahmoo approved in 1998.

4.4.1 Fundamental Semiahmoo First Nation Principles

The First Nation identified the following major principle to guide the use and development of their lands. This principle demonstrates an integral First Nation philosophy that views land as an extremely special, non-renewable resource that must be respected and used in a wise, sustainable way by the current generation and for future generations.

We Are the Keepers of the Land as We pass Through Time

This principle demonstrates an integral First Nation philosophy that views land as a very special, non-renewable resource that must be respected and used in a wise, sustainable way by the current generation and for future generations.

4.4.2 Development Goals

The First Nation also formulated the following broad development goals
For the use and development of Reserve No. 0

- A. New development must be sustainable, for the Semiahmoo First Nation as well as from a regional perspective.
- B. New development should showcase Semiahmoo, including its history and culture, location, climate and orientation.
- C. New development should incorporate innovation.
- D. New development should provide a continuing sustainable stream of revenue and employment.
- E. New development should encourage the public to visit but not live in Semiahmoo.
- F. The total permanent population including First Nation and non-First Nation residents and employees on businesses on the reserve should not exceed 1,000 people.
- G. New development should incorporate flexibility and allow for future change.

These goals provide a framework for assessing and evaluating specific land use and development initiatives. For example, Goal E suggests that residential development may be discouraged or alternatively tourism type uses may be encouraged. Goal D suggests that temporary uses may be discouraged.

4.4.3 Land Use & Development Objectives

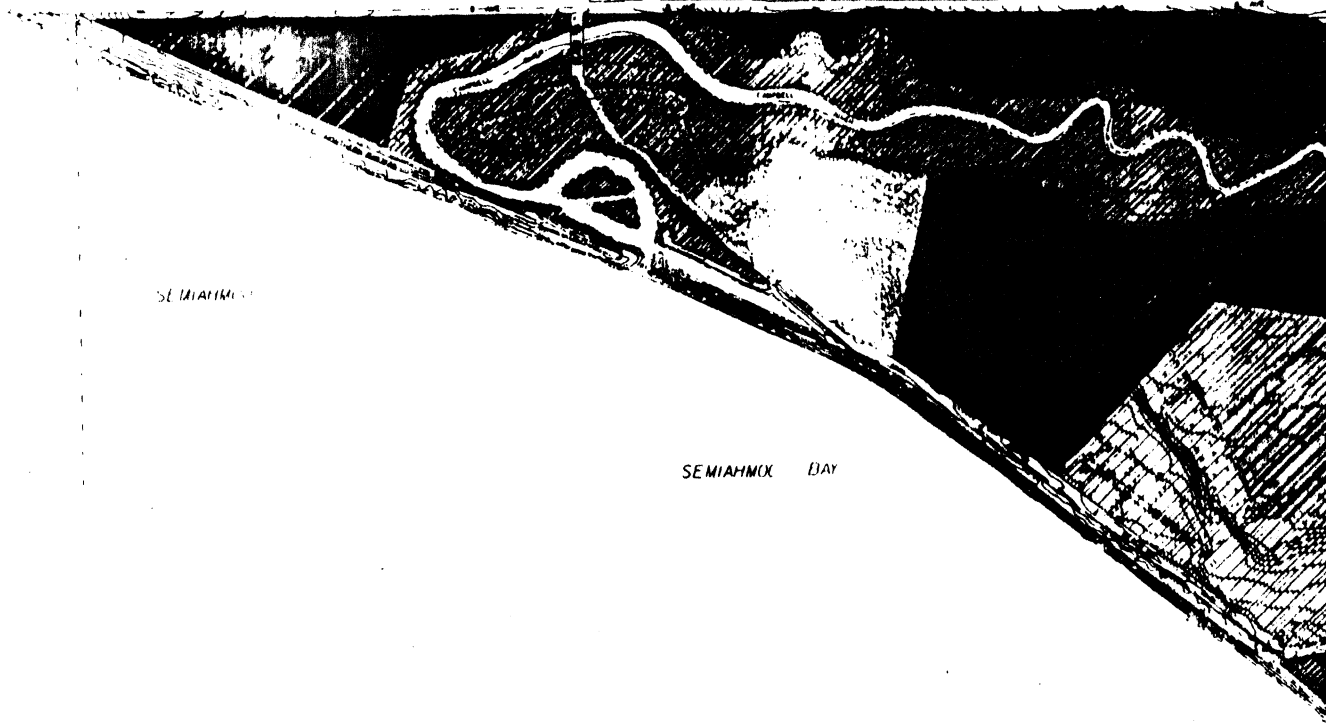
The First Nation identified the following general land use and Objectives:

- A. New development should allow for the future growth of the Semiahmoo people first and foremost including accommodating the return of members to the community
- B. Lands should be designated for Semiahmoo First Nation Community needs including indoor and outdoor facilities.
- C. New development must respect the environment and the Sensitive lands and water features on the Reserve.
- D. New development must take into account and respect existing Land uses.
- E. Where feasible, new water and sewer systems should be First Nation owned and operated.
- F. New development should avoid creating additional traffic in established residential areas.
- G. New development should be well screened from existing residential areas.
- H. Ways for co-ordinating new development initiatives to benefit All members of the Semiahmoo First Nation should be explored.

These development objectives offer more specific direction as to the nature and type of land use development that may be acceptable on the Reserve as well as clearly stating that the current and future needs of the First Nation must come first.

SCHEDULE "B"
ZONING MAP OF THE RESERVE OF THE
SEMIAHMOO BAND

CITY OF WHITE ROCK

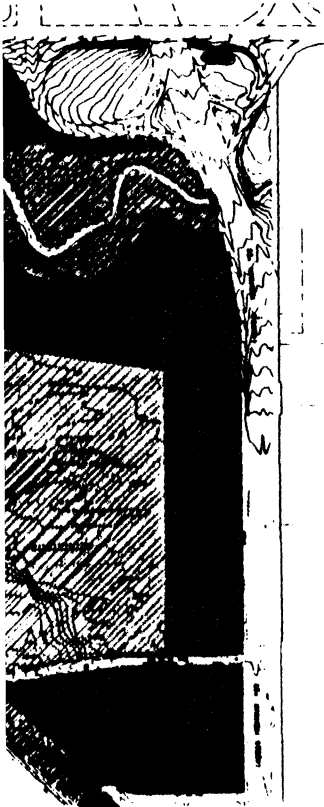


SEMAHMOX

SEMAHMOX BAY

SEMAIHMOO FIRST NATION

LAND USE DESIGNATIONS PRELIMINARY



COMMERCIAL



TOURIST ACCOMMODATION
RESTAURANTS
SHOPS
ACTIVE PARK USE
ASSEMBLY USES

MULTIPLE RESIDENTIAL



10 TO 100 UNITS PER ACRE

URBAN



4 TO 10 UNITS PER ACRE

URBAN RECREATIONAL



PARKS
SINGLE FAMILY COTTAGES
TEMPORARY USES PERMIT

AGRICULTURE



BIO TECH
GREEN HOUSES
AQUACULTURE

INDUSTRIAL



HI-TECH INDUSTRY
LOW IMPACT
ENVIRONMENTALLY FRIENDLY

CONSERVATION



RIVER RIPARIAN AREAS
LINEAR GREEN WAYS
TIDAL FLATS