

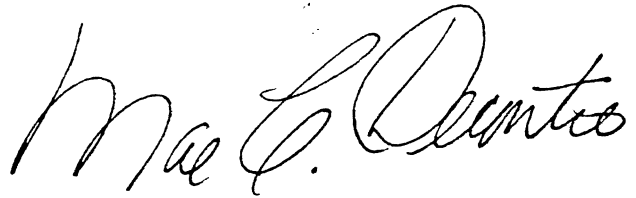
CANADA

Province of Quebec

TO WIT

I, MAE C. DECONTIE, residing at Nepean, Ontario make oath and swear that the paperwriting to which this affidavit is attached is a true copy of a document produced and shown to me and purporting to be the original by-law pursuant to the Indian Act and signed by the Chief and Council of the Qualicum Band of Indians and dated January 23, 1985, the said copy having been compared by me with the said original document.

Sworn to before me at the city of
Hull in the Judicial District of
Hull this *6* day of *March*, 1985



Isser Smith
Commissioner of the Taking of Oaths
Pursuant to Section 108 (a) of the
Indian Act

SOR/85-283 Man 22/85
Enacted Jan 23/85.

BAND COUNCIL RESOLUTION

PASSED THE 23RD DAY OF JANUARY, 1985

BY THE COUNCIL OF THE QUALICUM INDIAN BAND

OF THE DISTRICT OF NANAIMO

IN THE PROVINCE OF BRITISH COLUMBIA

The Council of the Qualicum Indian Band DOES HEREBY RESOLVE at a meeting of the Band Council held on the 23rd day of January, 1985 that the following By-Law be made pursuant to Section 81 of the Indian Act:

QUALICUM RESERVE ZONING BY-LAW, 1985, NO. 1

PART 1 - INTERPRETATION AND APPLICATION

Definitions.

1. In this By-Law, unless the context otherwise requires, the following words and expressions shall have the meaning assigned to them below and other grammatical forms or parts of speech of the same words and expression shall have corresponding meanings:

- (a) "Accessory Building" in relation to a building permitted by this By-law, means a building located on the same lot as the permitted building, the use of which building constitutes and Accessory Use to the permitted use of the permitted building;
- (b) "Accessory Use" in relation to a use of land or buildings permitted by this By-law, means a use which is subordinate and customarily incidental to

the permitted use of land within or buildings on the same lot;

- (c) "Band" means the Qualicum Indian Band;
- (d) "Band Building" means a building which is owned or operated by or on behalf of the Band and which is used for the purposes of Band government or administration or is otherwise used for the general benefit of the members or of a class of the members of the Band;
- (e) "Band Building Inspector" means the person holding such office under an appointment made by the Band Council pursuant to the provisions of the Qualicum Reserve Building By-law, 1984, No. 1;
- (f) "Band Council" means the council of the Band;
- (g) "Commercial Building" means a building which is occupied or which is intended to be occupied exclusively for Commercial Use;
- (h) "Commercial Use" means a use consisting of the carrying on of any business, trade or calling of any class and includes any use which constitutes an Accessory Use to any such use;
- (i) "Commercial Zone" means an area of the Reserve outlined on the Zoning Map and designated thereon by the letter "C";
- (j) "Home Occupation Use" means a small-scale Commercial Use carried on in a Residential Dwelling

which

- (i) is of a kind customarily carried on in Residential Dwellings on the Reserve,
 - (ii) is carried on by a person or persons each of whom reside in the Residential Dwelling,
 - (iii) is clearly incidental and subordinate to the use of the Residential Dwelling for residential purposes, and
 - (iv) does not create and is not accompanied by any noise, vibration, smoke, dust, odour, parking congestion or other condition which is offensive or unduly annoying to occupants of neighbouring property;
- (k) "Nonconforming Use" means a lawful use of a building, which use and which building existed at the time of adoption of this By-law by the Band Council, and which use of such building does not conform to the provisions of Part 3 of this By-law;
- (l) "Reserve" means the tract of land known as the Qualicum Indian Reserve that has been set aside by Her Majesty for the use and benefit of the Band;
- (m) "Residential Dwelling" means a building which is occupied or which is intended to be occupied for Residential Use;
- (n) "Residential Use" means use principally as a dwelling place for persons and includes a use which constitutes an Accessory Use to such use and also includes a Home Occupation Use;

- (o) "Residential/Commercial Zone" means an area outlined on the Zoning Map and designated thereon by the letters "R/C";
- (p) "Zone" means a zone created pursuant to Part 3 of this By-law;
- (q) "Zoning Map" means the map of the Reserve which is attached as a schedule to this By-Law and which shows outlined and designated thereon the Zones into which the Reserve is divided by Part 3 of this By-law.

Zoning Map.

2. The Zoning Map is hereby made and declared to be an integral part of this By-law.

Application.

3. This By-law shall apply to all land and water areas included within the boundaries of the Reserve and to all buildings situate thereon.

PART 2 - ADMINISTRATION

Band Building Inspector.

4. The Band Building Inspector shall be responsible for the administration and enforcement of this By-law.

Power to Enter.

5. The Band Building Inspector may enter upon any land

and may enter any building at any reasonable time for the purpose of administering or enforcing this By-law.

Obstruction of Band Building Inspector.

6. No person shall prevent or obstruct the Band Building Inspector in the exercise of his powers or the performance of his duties under this By-law, or any person acting in aid of the Band Building Inspector.

PART 3 - ZONES

Creation of Zones.

7. The Reserve is hereby divided into the Residential/Commercial Zones and the Commercial Zones shown outlined and designated on the Zoning Map.

Division (1) - Residential/Commercial Zones

Prohibited Classes of Buildings.

8.(1) Except as permitted by subsection (2), the construction and maintenance of all classes of buildings is prohibited in a Residential/Commercial Zone.

(2) The construction and maintenance of the following classes of buildings is permitted in a Residential/Commercial Zone:

- (a) Residential Dwellings;
- (b) buildings which constitute an Accessory Building to a Residential Dwelling;

- (c) Commercial Buildings;
- (d) buildings which constitute an Accessory Building to a Commercial Building; and
- (e) Band Buildings.

Prohibited Uses of Residential Buildings.

9. No person shall use or occupy any building permitted by paragraphs (a) or (b) of subsection 8(2) for any use or purpose other than Residential Use.

Prohibited Uses of Commercial Buildings.

10. No person shall use or occupy any building permitted by paragraphs (c) and (d) of subsection 8(2) for any use or purpose other than Commercial Use.

Division (2) - Commercial Zones

Prohibited Classes of Buildings.

11.(1) Except as permitted by subsection (2), the construction and maintenance of all classes of buildings is prohibited in a Commercial Zone.

(2) The construction and maintenance of the following classes of buildings is permitted in a Commercial Zone:

- (a) Commercial Buildings;
- (b) buildings which constitute an Accessory Building to a Commercial Building; and
- (c) Band Buildings.

Prohibited Uses of Commercial Buildings.

12. No person shall use or occupy any building permitted by paragraphs (a) or (b) of subsection 11(2) for any use or purpose other than Commercial Use.

PART 4 - NONCONFORMING USES

Permission to Continue.

13. Notwithstanding the provisions of Part 3 of this By-law but subject to the provisions of this Part, a Nonconforming Use of a building may be continued.

Discontinuance.

14. If a Nonconforming Use of a building is voluntarily discontinued for a period of more than ninety (90) days, such Nonconforming Use shall not thereafter be resumed and any subsequent use of the building shall conform to Part 3 of this By-law.

Destruction or Damage.

15.(1) If a building, the use of which is a Nonconforming Use, is destroyed or damaged to the extent of seventy-five (75%) percent or more of its above-foundation value (the extent of the damage to be determined by the Band Building Inspector), the building shall not be repaired or reconstructed except for a use which conforms to Part 3 of this By-law.

(2) Any person adversely affected by any determination made by the Band Building Inspector under subsection (1) may appeal such determination to the Band Council within thirty (30) days after the date of the determination, and the Band Council may confirm, reverse or vary the determination appealed from on such terms and conditions as the Band Council deems just.

PART 5 - GENERAL PROVISIONS

Prohibitions.

16.(1) No person shall construct or maintain any building within any Zone where the construction and maintenance of that class of building is prohibited by this By-law.

(2) No person shall use or occupy any building within any Zone where such use or occupation of buildings of that class is prohibited by this By-law.

Offence and Penalty.

17.(1) Any person who contravenes any provision of this By-law is guilty of an offence punishable on summary conviction and, on conviction, is liable to a fine of not more than one hundred (\$100.00) dollars or to imprisonment for not more than thirty (30) days, or to both.

(2) Where any contravention of this By-law is committed on more than one day or is continued for more than one day, then the contravention on each day shall be deemed to

Constitute a separate offence for each day on which the contravention is committed or continued.

(3) All penalties imposed in respect of an offence under this By-law shall be recoverable and enforceable by summary proceedings taken under the provisions of the Criminal Code of Canada relating to summary convictions.

Severability.

18. If any part of this By-Law is declared or adjudged to be invalid or unenforceable by any court, such invalidity or unenforceability will not affect the validity or enforceability of any other part of this By-law.

Citation.

19. This By-law may be cited for all purposes as the "Qualicum Reserve Zoning By-law, 1985, No. 1".

Considered, passed and adopted by the Council of the Qualicum Indian Band on the 23rd day of January, 1985.

(Signed) M. Recalma
Chief R. Mark Recalma

(Signed) A.P. Recalma
Councillor Arnold P. Recalma

(Signed) David J. Reid
Councillor David J. Reid

B
M

PLAN 872 RW

"B"
PLAN M4091.

ISLAND
HIGHWAY

C

ROAD

QUALICUM

COCHRANE

QUALICUM
RIVER

INDIAN RESERVE

R/C

MUNTS
CREEK

PRIVATE ROAD

x