

Shallow Bay Zoning Committee: Answers to questions from the public – February 5, 2021

The zoning committee committed to provide responses to questions that were asked at the public meeting on January 21, 2021. Other questions that have been submitted in writing have also been included. The committee will update the document as we receive new questions.

Questions about the process

How were the committee members selected?

There are six members on the zoning committee for Shallow Bay. Three members of the committee were appointed by the Government of Yukon and three members were appointed by Ta'an Kwäch'än Council. Community members and Ta'an Kwäch'än citizens were asked to put their names forward to participate on the committee. All the committee members live in or near Shallow Bay.

Do any of the committee members own agricultural or large rural residential lots?

The committee is looking forward to input from the community, including agriculture and large lot owners, on the proposed zoning to inform their final zoning recommendation.

Can I access all of the minutes of the committee meetings?

The committee meeting notes are posted and available at yukon.ca/en/shallow-bay-area-development-regulations.

Who received the surveys? How will the survey results be considered by the committee?

Surveys were sent to all property holders in the Shallow Bay area and to Ta'an Kwäch'än citizens. The committee will consider all input provided by the community through survey results, public meetings and other means when drafting final recommendations. The committee encourages all residents to provide comments to help inform its final recommendations.

What consultation has the committee done with lot owners before releasing their draft recommendations?

Interviews were conducted with Ta'an Kwäch'än citizens regarding their use and value of the area. The results of previous surveys and meetings held with local property owners were also reviewed. The committee then developed the proposed zoning and is now conducting a public consultation with community members. The feedback received will help inform the committee's final recommendations.

General questions about the zoning

Why didn't the committee include a commercial zone?

One of the committee's guiding principles is to promote a broader range of permitted land uses while reflecting current use. The committee wants to maintain the current quiet, rural community nature of Shallow Bay. The committee supports a limited amount of accessory commercial uses that respect and maintain the quiet nature of the area.

Are there other examples of similar changes to zoning in Yukon? We are worried that the changes will reduce the value of our property.

New and amended zoning is a common practice in Yukon. The *Whitehorse Periphery Development Area Regulation* is intended to be an interim regulation and many areas in the Whitehorse periphery have new zoning that replaced both the Whitehorse Periphery regulations as well as the *Agriculture Development Area Regulation*. The committee encourages residents to provide comments on the proposed zoning as it will help inform its final recommendations.

If a lot owner subdivides once, could the owner of one of the new lots subdivide again?

No, the committee is recommending one-time subdivision for both agriculture and rural residential lots. If a one-time subdivision is permitted, there will be a caveat registered on title for the two resulting lots, preventing further subdivision.

If a lot is subdivided, can a residence be built on each new lot?

Yes. The drafting zoning allows one residence on each lot.

Two residences are permitted under the current regulations. If the new regulations only permit one residence, will landowners need approval to keep the second residence?

No, existing improvements that are compliant with the current regulations do not require any additional permits. Uses existing prior to a regulation coming into force are considered legally non-conforming, provided that use is continuous and not discontinued for a period of one year. Legally non-conforming uses can continue but structures cannot be rebuilt.

Questions about the agriculture zone

Why there is not more consistency with the Mayo Road zoning when it comes to horse issues and principal dwellings on agricultural properties?

The committee feels the Shallow Bay area is unique. The committee wants to hear from community members about specific concerns related to the proposed zoning as it will help inform their final recommendations.

Why is the proposed agricultural zoning more restrictive when guiding principle five states that this new zoning should promote a broader range of permitted land uses? Does that principle only apply to rural residential lots?

The committee believes agricultural land should be primarily used for farming activities and identified uses that best align with agriculture. The committee wants to hear from community members about the draft zoning and encourages residences to provide comments on the zoning that will help inform their final recommendations. The committee will assess all feedback received and determine its final recommendations through the lens of its guiding principles.

Why are the recommendations for guest cabins the same for rural residential and agricultural lots? In the Mayo Road regulations, the size of the agricultural property determines the number of guest cabins.

The committee is concerned about more people moving into the area and is trying hard to consider the potential impacts of increased human density on the bay and the surrounding area. The potential for off-site impacts is considered the same, regardless of what type of property they originate from. The committee believes agricultural lands should be primarily used for agricultural activities. Guest cabins are for temporary overnight accommodation. They are primarily used to provide income supplement which can benefit agricultural properties and their operations.

Why are horse boarding and riding facilities discretionary uses on agricultural land?

The committee wants to ensure permitted activities take place on property and limit the impacts of activities on neighbouring parcels and on nearby Settlement Land.

Why are dog kennels not included as discretionary use on agricultural land?

The committee wants to ensure permitted activities take place on property and limit the impacts of activities on neighbouring parcels and on nearby Settlement Land. Feedback we received identified high support for farming activities as the primary use of agriculture land.

How will the regulation define agricultural production?

Agricultural property owners must establish agriculture as a primary use before permitting accessory or ancillary uses. The 2020 Yukon agriculture policy defines primary agricultural use as 60% of the land is in production, or gross farm sales of at least \$15,000 for the previous two of three year, or enrollment in the federal Agri-Stability program.

Is it possible to subdivide agriculture land?

The committee is proposing a one-time, six hectare home site subdivision for agriculture lots.

Is there a detailed list of primary, accessory, and discretionary uses for agriculture land?

The primary, accessory and discretionary uses for agriculture properties are listed on page 10-11 of the [report](#). Definitions for many of the terms can be found on page 14.

Questions about the environmental reserve zone

Why is horseback riding prohibited in the environmental reserve zone?

The committee recognizes that Shallow Bay is a significant wetland and recognized globally as an important spring and fall waterfowl staging area. The committee felt it was important to limit the impacts of recreational activities on the bay and the surrounding area. The purpose of this zone is to reduce impacts from people so the shores and wetland systems along the bay have undisturbed opportunities to function as a natural ecosystem, adding to the overall protection of Shallow Bay.

Questions about the riparian buffer

Both sides of Horse Creek appear to be within the riparian zone. How does this affect Lot 100 where the creek flows through the middle of the lot?

Land uses, lots and buildings that exist before area development regulations are completed are called non-conforming if they do not comply with the new zoning. Non-conforming uses and buildings are legal and can remain under new regulations. These developments can be maintained but they cannot be re-built. Renovations to an existing structure are allowed but improvements to the foundation, footing, or enlargements of the footprint would not be allowed. When zoning regulations are drafted, thresholds can be established to define when a development must come in to compliance with a new regulation. They identify when a damaged legal non-conforming development can be repaired and when it cannot. New developments would need to be outside of the buffer.

How does the riparian zone compare to others in Canada for agriculture properties?

The committee will research this issue and the information will inform the final recommendation.

Would insurance, mortgages or building permits be impacted for existing developments in the riparian buffer?

Development and building permits would not be issued for new developments in the riparian buffer but existing permits would not be impacted. The committee will discuss the concern related to insurance and mortgages for existing developments and will determine how to best draft the recommendations to address that concern.

How many homes, buildings, wells, fences, irrigation infrastructure and septic fields are in the proposed riparian buffer?

The proposed regulation applies a riparian buffer throughout the Shallow Bay planning area. The purpose of the riparian buffer is to avoid development impacts on the Shallow Bay wetland, to protect areas of important wildlife habitat from new development, and to keep the shorelines along Shallow Bay and Horse Creek in a natural state.

The no-development buffer is 60 meters from the ordinary high-water mark of Shallow Bay and Horse Creek. Land uses, lots and buildings that exist before area development regulations are completed are called “non-conforming” if they do not comply with the new zoning. These non-

conforming uses and buildings are legal and can remain under the new regulation. These developments can be maintained but they cannot be re-built.