



# SHALLOW BAY ZONING COMMITTEE

**REPORT #9**

**November 13, 2019 Meeting**

Submitted by  
*Groundswell Planning*

**December 2019**

## BACKGROUND

In 2018, Government of Yukon (YG) created the Shallow Bay Zoning Committee (hereinafter referred to as “the Committee”) to develop a draft zoning regulation for consideration for the area. The Committee includes Shallow Bay property owners and Ta’an Kwäch’än Council (TKC) citizens. The Committee held its ninth meeting on November 14, 2019 at the Hootalinqua Firehall.

## ATTENDEES

Don Allen (YG member)	John Bunbury (TKC member)
Nellie Dale (YG member)	Bessie Jackson (TKC member)
Pat Hogan (YG member)	Ruth Massie (TKC member)
Florian Lemphers (YG member)	Natalie Leclerc (TKC staff)
Michelle Sicotte (YG staff)	Jane Koepke (Facilitator)
Graham White (YG staff)	

## MEETING OBJECTIVES

1. Present progress on previous Action Items
2. Ensure Committee has a solid understanding of the regulatory tools and any decision-making supports available to them
3. Determine how “close” Committee is to presenting options (and/or recommendations) to the public

## DISCUSSION

### Process Updates

- **TKC Citizen Interviews** – Natalie is circulating the report within TKC and has shared it with TKC Committee members. The draft report will likely be presented to the other Committee members at the next meeting. The report includes questions to the Committee. A lot of discussion time will be needed to determine how the content should be integrated into the Committee’s work and how the report (or its findings) should be shared outside of the Committee.
- **Large Lot Disposition History** – Michelle indicated that YG is still working to gather information on the history of the large lots.

### Outstanding Action Items (from September)

- **Laws of General Application** – This issue relates to where YG and TKC jurisdictions lie in regards to the Shallow Bay area. The Committee’s Terms of Reference implies that YG jurisdiction is limited to Commissioner’s Lands; however, the *Yukon First Nations Land Claims Settlement Act (1994)* (S. 13.1) speaks to laws of general application on Settlement Land. Some government administrators with both territorial and First Nation governments

are unaware of this legislation, part of a broader challenge around retaining the institutional memory tied to the Umbrella Final Agreement and individual Final Agreements in Yukon.

- **Guiding Principles** – The updated Guiding Principles were reviewed by the Committee. Members requested that a provision for a First Nation Land Use zone be included and that definitions be developed to provide more clarity around subjective terms like “density”.
- **Aboriginal Rights and Title** – The Committee wants to better understand how Aboriginal rights and title may impact its work. Once draft zones have been determined there should be a follow-up consideration of how zoning impacts Aboriginal rights and title.

### Committee Process “Pathway”

- **Incomplete Context/Foundation** – There is general agreement that the lack of understanding/information about the history of large lots in the area poses an ongoing barrier to the Committee in making forward progress.
- **Progress** – The Committee estimates that it is about 1/3 of the way to completion. However, there is a feeling that the resolution of information gaps could hasten progress considerably.
- **Public Meeting Deliverables** – The Committee wants the public to see and understand the area’s history, draft zoning concepts, and definitions. The Committee needs to share the full history as well as help residents understand how it factored that history into its recommendations.
- **Intergovernmental Cooperation** – Both TKC and YG staff reiterated their commitment to working together to find solutions.

### Buffers/Modeling

- Michelle shared some draft maps that visually demonstrate the implications of different buffers from the bay’s OHWM (50m being the smallest and 200m being the largest). The concept is that no development could occur within the buffer. YG also calculated the subdivision potential that each buffer would result in if applied against various minimum lot size options.
- Pat explained that the original intent of the buffer concept (as discussed with Roy last spring) was that no subdivision would be allowed within it, versus development.
- The Committee agrees that a minimum 50-metre buffer needs to be applied from OHWM for any development and that a buffer should be consistently applied to all waterfront properties. The potential application of a buffer not just to the bay but also Horse Creek may be an option.
- The Committee felt that mapping is a useful tool and YG committed to explore several mapping options (i.e. LPB, Pat’s scenario, and status quo) to assist the Committee further.

## Large Lot Options

- Michelle shared two tools the committee may consider – public reserve and density bonusing. It was noted that TKC has not vetted these tools internally and they remain subject to ongoing discussion between governments.
- **Public Reserve** – there is a provision in the *Subdivision Act* that allows for the government to reserve 10% of the subdivided area as public land (typically for easements for services, etc. but could also apply to conservation). Questions were raised as to whether the reserved land could be managed by TKC. In general, the Committee was open to exploring this option further through a brief discussion paper or similar.
- **Density Bonusing** – density bonusing could theoretically allow for higher density (than normally allowed) in exchange for a increased percentage of land being dedicated to public (i.e. conservation) reserve. This concept caused the Committee some concern due to the higher density aspect and the long-term implications perhaps not being fully understood.
- Committee members expressed a preference for less complicated approaches and indicated that a one-time 6-hectare subdivision option under Agriculture zoning may be the best option. YG outlined potential challenges with this option.

## NEXT STEPS

### December Meeting

- The Committee agreed to schedule its next meeting for December 17<sup>th</sup>.

### Action Items

- Minutes from September meeting will be distributed to the Committee (YG)
- Disposition history of large lots (YG)
- Map showing 6-ha lot layout on large lots using Pat's, LPB and status quo scenario and buffers (YG)
- One-page summary of public reserves (YG)
- Draft list of definitions to accompany Guiding Principles (YG)
- Pursue idea of a briefing on Aboriginal rights and title (YG/TKC)
- Update Guiding Principles with a First Nation Land Use zone (YG/TKC)

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