

SHALLOW BAY DEVELOPMENT AREA REGULATION ZONING COMMITTEE

TERMS OF REFERENCE

INTRODUCTION

In 2014, Land Planning branch of the Yukon government received a request from some Shallow Bay property owners to consider possible zoning changes which would allow rural residential lots to be subdivided. This request follows a number of similar zoning changes which have been recently enacted in other areas to facilitate private-land subdivision of rural residential lots by lowering the minimum parcel size (Hotsprings Road, Ibex Valley, Golden Horn, Mayo Road, and Mount Lorne).

Shallow Bay is located in the Traditional Territories of the Ta'an Kwäch'än Council (TKC) and the Kwanlin Dün First Nation (KDFN) and is part of the Whitehorse Periphery Development Area where the current zoning regulation requires a six-hectare minimum parcel size for rural residential properties. So far, there have been two surveys and three public meetings to gauge the level of community support for this initiative. Area residents have been clear that any proposed changes to the minimum parcel size must be carefully considered to ensure the unique social, cultural, and ecological values of the Shallow Bay area are maintained. At a March 2017 meeting, community members expressed general support for the establishment of a committee to assist Land Planning branch in developing a new zoning regulation specific to the Shallow Bay area (the "Zoning Committee").

The Zoning Committee will include representation from the Ta'an Kwäch'än Council who consider the Shallow Bay area to be the cultural and geographical centre for the Ta'an Kwäch'än people. Ta'an Kwäch'än Council citizens have historically used and occupied the Shallow Bay area and continue to live, hunt, fish and gather in the area for subsistence purposes. The proposed zoning changes on non-Settlement Land are adjacent to Ta'an Kwäch'än Council Settlement Land parcels as well as a traditional camp used by the First Nation community. A consultation obligation also exists under the Compatible Land Use (Section 25) of the Ta'an Kwäch'än Council Self-Government Agreement, which states:

25.1.2 Where a proposed land use of Non-Settlement Land may have significant impact on the use of adjacent Settlement Land, the Yukon or the affected municipality, as the case may be, shall Consult with the Ta'an Kwäch'än Council for the purpose of resolving an actual or potential incompatibility in land use of the Non-Settlement Land and adjacent Settlement Land.

Parcels in the Ta'an Kwäch'än Council Self-Government Agreement which are noted in this case are R-12A, R-23B, R-24B, R-25B, and S-52B1.

Prior to a decision being made, the Yukon government and Ta'an Kwäch'än Council will each review the draft regulation recommended by the Zoning Committee and make reasonable attempts to reach consensus on any regulatory changes proposed, although Yukon government reserves the right to make decisions for its area of jurisdiction.

Kwanlin Dün First Nation has formally declined a seat on the Zoning Committee but will be kept apprised of activities and be able to provide comment throughout the process.

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MANDATE

- To work cooperatively with the Yukon government in developing a draft development area (zoning) regulation for Shallow Bay through a public process.
- To represent the Shallow Bay community in a fair, objective and equitable manner in committee discussions and decision-making.
- To promote an open, honest and cooperative discussion between the Shallow Bay community, Yukon government and Ta'an Kwäch'än Council.
- To give regard to community perspectives on key planning issues identified through public consultation to date.
- To give regard to Ta'an Kwäch'än Council perspectives on key planning issues, recognizing that the Yukon government will be required to undertake consultation on the potential adverse ecosystem effects of any proposed zoning changes on TKC's treaty rights and on actual or potential incompatibility in land use of the Non-Settlement Land and adjacent Settlement Land.
- To forward a draft zoning regulation to the Minister of Energy, Mines and Resources for review and consideration.

MEMBERSHIP

- The Zoning Committee shall consist of six (6) members, and include four (4) members as appointed by the Minister of Energy, Mines and Resources and two (2) members as appointed by TKC Chief & Council.
- Planning staff from Yukon government and the Ta'an Kwäch'än Council may participate as ex-officio members in a technical support capacity.

ALTERNATES

- Each participating government may choose to designate one (1) alternate member to assist in the work of the committee when regular members are not able to attend a meeting.
- The responsibilities of the regular members apply to the alternates when they are acting on behalf of the committee members.

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TERM

- The term of each committee member shall be ended when the draft zoning regulation is received by the Minister.
- In the event that any member of the committee resigns, a new member will be appointed by the Minister or TKC Chief and Council using the list of respondents to the original call for Expressions of Interest.
- It is anticipated that the process will take approximately one year.

MEETINGS

- The committee will meet in accordance with an agreed upon work plan to guide the process, but may propose additional meetings where necessary to perform its mandate.
- Public meetings will be held at a time and place determined by the committee to present draft regulations to the Shallow Bay community.

MEETING NOTES

- Yukon government will provide secretariat services for committee and public meetings.
- Meeting notes will be reviewed by the committee at the following meeting and made available for public review.

CHAIR

- A consultant will be hired to Chair committee meetings and facilitate the public process.

DECISION MAKING

- At least four (4) of the six (6) committee members or their informed and designated alternates must be present for quorum. Of these, at least one Ta'an Kwäch'än Council representative must be present.
- The committee will endeavour to reach decisions by consensus.

HONORARIUMS

- The committee is on a volunteer basis only.