



SHALLOW BAY ZONING COMMITTEE

REPORT #10

December 17, 2019 Meeting

Submitted by
Groundswell Planning

January 2020

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 tenth meeting on December 17, 2019 at TKC offices in Whitehorse.

ATTENDEES

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

MEETING OBJECTIVES

1. Share YG’s record of land disposition for the large lots and discuss implications for the process
2. Share TKC’s Citizen Interview findings and discuss implications for the process
3. Co-create a draft agenda for the first 2020 SBZC meeting
4. Review and approve outstanding draft meeting reports from April, September, and November

DISCUSSION

Large Lot History

- **Disposition History** – Michelle and Graham shared the information that is available publicly regarding the land disposition history for Lots 1096 and 65, noting that additional information exists but could not be shared due to the *Access to Information and Protection of Privacy Act* (ATIPP). The information provides a chronological timeline of when title was raised for both parcels and the ownership of them since, along with any subdivisions.
- **Committee Response** - Some Committee members commented that the information did not give them complete context and that questions and gaps in the timeline remain. One such question/gap is why the lots weren’t subject to agricultural policy when it is understood that most of the grazing leases around the same time were classified as agricultural when they transitioned from federal leases to titled lots.
- **Follow-Up** – The Committee requested more information about the *Access to Information and Protection of Privacy Act* and how it might apply to the release of the additional information. The Certificates of Title for both lots were requested, as was a visual or pictorial history showing how the original parcels changed over the years.

Natalie indicated that she is beginning the process of tracking down information on the lots in TKC’s files; realistically, this will take time. What she has seen so far has raised some

questions and potential concerns around land dispositions in the Lake Laberge area in the years immediately preceding TKC's Final Agreement.

Citizen Interviews

- **Process** – Natalie shared her experience undertaking the citizen interviews and noted that the process had been modeled after a previous, similar effort for the Fox Lake Local Area Plan. Various citizens with known present or past family residency and/or connections were contacted and invited to participate, with one individual or interview sometimes leading to the next. She encountered considerable reluctance from citizens due to a combination of difficult memories and feelings being triggered and distrust of the Yukon government and/or that their input would have any bearing on the government's final decisions.
- **Past Use/Connections** – Natalie noted that interviewees shared many fond memories of living in the Shallow Bay area, with family connections and a strong ethos of resource sharing being central themes. The area was a real provider to people living there; while some would go east or west to hunt big game, they didn't need to leave the area often to meet their needs.
- **Changes/Concerns/Issues** – Citizens' discussion of changes to the area usually centered around agriculture and livestock and how prevailing practices of the time around livestock in riparian areas and water withdrawals conflicted with the protection of what had been a bountiful fisheries resource to TKC citizens. Interviewees talked about being barred from traveling along traditional trails or using certain areas practically overnight as new private owners installed fencing, etc. The interviews reinforced the fundamentally different worldview around land ownership for Indigenous peoples. Citizens felt alienated from this special area and the loss of connection not only to the land but to "new" neighbours.
- **Current and Future Land Uses** – Citizens were asked what land uses they could potentially support or not. There were a lot of "no's" and "enough" but also some "if it's planned right". Natalie commented that she heard quite a bit of interest in residential development, tourism and agriculture for TKC citizens and a strong desire to reinstate TKC use and stewardship of the area through public education, etc. TKC citizens are concerned about the impacts of increased residential density partly because more people places more pressure on nearby Settlement Lands via trails, recreation, etc. Just because Settlement Land isn't developed doesn't mean it is de facto greenspace. There is a real opportunity for YG/TKC partnership on education regarding land use and management north of Whitehorse.
- **Committee Reflections** – Committee members felt that the interviews had been helpful in providing a different perspective on history and pressures in the area. Some commented that it was vital that the public knows this history and that sharing it, similar to how property owner survey results were shared, was important to building a "foundation" of understanding for all.

- Committee members shared some of their key “takeaways” from the report, which included:
 - The commonality of TKC interests with those of non-citizen residents in the area (i.e., tourism, agriculture, etc.);
 - Need for enforcement of regulations around dwellings, sewage disposal, etc.;
 - Need for better dialogue;
 - Concerns about highway access at Horse Creek and general highway safety concerns (which reiterate those previously shared by non-citizen residents); and,
 - Hope that TKC’s long occupation of the area could be better reflected and understood in the future through measures such as adoption of Southern Tutchone place names.

In regards to citizens’ questions for the Committee, some noted that they were excellent questions but potentially difficult to answer because of their very broad scope. Some of the more detailed/quasi-prescriptive questions could potentially be addressed through supplementary Committee recommendations.

Jurisdiction and Aboriginal Rights Issues

- TKC has had frustrations in the past with the way Settlement Land in the traditional territory has been zoned by YG. YG and TKC are committed to working together to change the zoning for Settlement Land in existing development areas in the traditional territory and ensure that Settlement Land in the Shallow Bay area is zoned based on TKC’s interests. Once TKC undertakes planning of its Settlement Lands, land use designations and zones may change.
- Natalie noted that there’s a disconnect and frustration in regards to traditional territory and broader Aboriginal rights and title versus Settlement Land. Citizens don’t see their concerns and interests stopping at Settlement Land boundaries; however, there is a feeling that these concerns are largely ignored if they apply outside of Settlement Land.

Meeting Minutes

- The Committee approved the April and September minutes. A correction was requested for the November minutes to more accurately capture the laws of general application discussion topic.

Timing Pressures on SBZC Process

- A Committee member asked whether there was a connection between the reported deferral of a zoning application in the Shallow Bay area and the Committee’s work. Michelle explained that the Minister had decided to defer the application on the understanding that the SBZC process was nearing its conclusion.
- Michelle commented such a deferral is unusual and emphasized that there are pressures from the community for the committee to complete its work. Jane commented that she was

surprised that the Committee felt it was only 1/3rd of the way through its process when she asked in November.

- Some Committee members felt that the group is close to making recommendations on numerous zoning aspects. In general, the Committee articulated a desire to expedite the process and reach a conclusion as soon as is practicable.

NEXT STEPS

Website Updates

- The Committee requested that the approved meeting reports be posted on the website as soon as possible, along with the most recent version of the Guiding Principles (with a "DRAFT" watermark to reflect this document's ongoing evolution).

Briefing: Aboriginal Rights/Title, Laws of General Application, Etc.

- Natalie mentioned that her preliminary research into the topic suggests that Aboriginal rights and title will not be impacted by SBZC recommendations as they have already been dealt with through the land claims process. She indicated that is still working with legislation and implementation staff on this.
- Florian and Ruth agreed to work with Natalie and Michelle to identify candidates who could provide the Committee with a briefing on aboriginal rights and title, laws of general application, and other land claims-related content that may be pertinent to its work. The briefing is envisioned for the second meeting in 2020.

January Meeting

- The Committee felt that it would make better progress if it scheduled two back-to-back meetings, with the first one used to recap/review background information as needed and the second dedicated to developing content (i.e., draft regulations).
- Committee and staff agreed to January 28th/29th from 5-7:30 pm as the next dates. The venue will be determined by TKC/YG staff.
- Committee requested that any background material be forwarded in advance so that it can review ahead of time.
- At a minimum, the agenda will include:
 - December meeting minutes
 - Brief summary of public reserves
 - Updated maps/calculations for aquatic buffers
 - Guiding Principles definitions
 - Initial drafting of Committee zoning recommendations

Action Items

Action Items not implied by the draft January meeting agenda above include:

- Candidate(s) for briefing on Aboriginal rights and title (YG/TKC/Committee)
- Information on ATIPP process
- Pictorial history for large lots
- Certificates of Title for Lots 65 and 1096