



Shallow Bay Zoning Committee

Report #2

July 17th, 2018

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Background

In 2018, Yukon government (YG) created the *Shallow Bay Development Area Regulation Zoning Committee* (Committee) to provide a draft zoning regulation for YG to consider. The Committee includes property owners of the Shallow Bay community and Ta'an Kwäch'än Council (TKC) citizens. The Committee held its second meeting July 17th, 2018, at the Hootalinqua Fire Hall.

Attendees

Don Allen	(YG member)	Ruth Massie	(TKC member)
Pat Hogan	(YG member)	Betsy Jackson	(TKC member)
Florian Lemphers	(YG member)	Natalie Leclerc	(TKC staff)
Nellie Dale	(YG member)	John Glynn-Morris	(Facilitator)
Roy Neilson	(YG staff)		

Meeting objectives

1. Reflection on initial June meeting.
2. Reflection on 'important questions' identified in June that require consideration.
3. Understand zoning considerations (existing regulation, subdivision models, number of dwellings, accessory uses, lakefront lots, agricultural lots and servicing issues).
4. Consideration past community survey results.
5. Start to understand TKC's interests.
6. Determine information gaps.
7. Consider next steps.

This Report

The following report outlines the workshop outcomes as-was-said and written by the facilitator on flip-charts at the meeting. This report makes no attempt at synthesis or analysis.

Reflections from Committee Meeting #1

- Sense there is a willingness to listen to others and explore ideas.
- Past public meetings seemed very divisive. History of meetings with strong positions and no flexibility. This process, so far, has patience.
- Importance of understanding fundamental values and interests.
- Feels like a safe and cooperative space.
- Importance of being invited as TKC.
- This process has strength based on YG and TKC process partnership.
- Feels like the overall process has traction.

Important questions that require consideration

Key questions from meeting #1 (June 2018) revisited

What is the current regulatory regime in place?
What are the government's future plans for green spaces in Shallow Bay area and how does compatibility of land use fit in with TKC land use planning?
What are the key community / First Nation values that the existing regulation(s) are not addressing?
What is an acceptable density of development in the Shallow Bay area? Will there need to be different zones with different densities?
How do we reach consensus, or, can it be reached?
How is the integrity of the natural environment to be protected should this committee suggest a subdivision policy be implemented?
How long will this process actually take?

Discussion

- **What is the expected timeline?**
 - The ToR anticipates a timeline of approximately one year. There is some flexibility, but there is interest from some residents to have a resolution.
 - Perhaps some issues cannot be addressed in this process and that is OK. Regulations can be amended based on new information and changing community needs or values.
 - TKC is pursuing several land-related planning activities and one-year does feel tight for a joint YG-TKC process.
- **How will this process interact with TKC's future Land Use Planning process?**

What is the connection to the compatibility clauses in the Agreement(s)?

 - The proposed regulation would apply only to privately-titled lots under the jurisdiction of YG.
 - The Compatible Land Use clauses (Section 25) require that YG consult with TKC where a proposed land use may impact the use of adjacent Settlement Land. Part of the rationale for a joint YG-TKC process is to better understand potential compatibility issues prior to formal consultation.
- **How does this conversation fit in the larger regulatory framework (e.g. Federal, TKC's Agreement, etc.)**
 - YG will provide additional information on relevant legislation, and the Committee can request external clarification as needed.

- **What is the level of understanding in the community? Amongst both government staff? Amongst TKC citizens?**
 - We need to development effective communication and engagement materials to promote common understanding on key issues.
- **Why wasn't the community notified during the 2013 amendments to the Whitehorse Periphery Development Area Regulation?**
 - In 2013, the regulation was amended to allow for secondary dwellings as a discretionary use on certain lots within the Lewes Lake area. As part of the amendment process, the original regulation was redrafted to be more consistent with the format of other zoning regulations. The new regulation contained no substantive changes to the content of the regulation, excepting those which apply specifically to the Lewes Lake area. As such, TKC and Shallow Bay property owners were not directly consulted with during the amendment process.
- **What is the relationship between agricultural and grazing leases and this process?**
 - This is an important question that requires clarity, however, the suggestion was focus the July meeting on rural-residential zoning.

Zoning Committee binder

Existing regulations

- Zoning within the Shallow Bay area is currently governed by two regulations: *Whitehorse Periphery Development Area Regulations* (WPDAR) for residential parcels, and *Agricultural Development Areas Regulation* (ADAR) for agricultural parcels.
- The proposed *Shallow Bay Development Area Regulation* would replace both of the existing zoning regulations.
- Under WPDAR, a rural residential property in the Shallow Bay area may have:
 - one single family dwelling;
 - one secondary dwelling unit within the principal dwelling (living suite); and
 - one secondary single family dwelling on a lot larger than 2 hectares.
- WPDAR also provides for a limited range of accessory uses which must relate to the principal residential use.
- The minimum rural residential lot size is 6 hectares.
- There are no development setbacks under WPDAR, beyond what is required under the National Building Code.

Zoning considerations

Minimum lot size

- Consideration of rural residential subdivision in the Shallow Bay area is one of the key questions the Committee is tasked to address.
- The number of new lots that could be created through subdivision is determined by the minimum lot size. The existing minimum lot size for rural residential lots is 6 hectares.
- Community feedback suggests those Shallow Bay residents who support rural residential subdivision prefer a 2 hectare minimum lot size.
- In the absence of more detailed geotechnical information, a 2 hectare lot size is considered sufficient to meet all requirements for on-site sewage disposal and private wells.

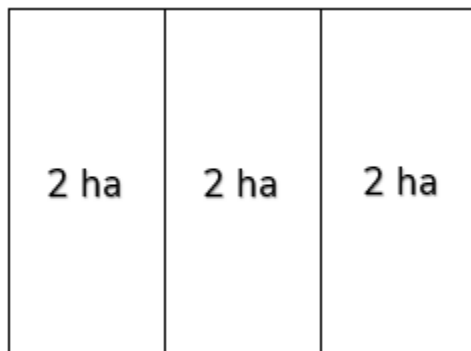
Subdivision Models

- There are a number of different subdivision models for the committee to consider.
- Models may be selected based on desired settlement patterns, community values and interests.
- Different models may be applied to different areas to “manage” density - for example, lakefront parcels compared to inland parcels.



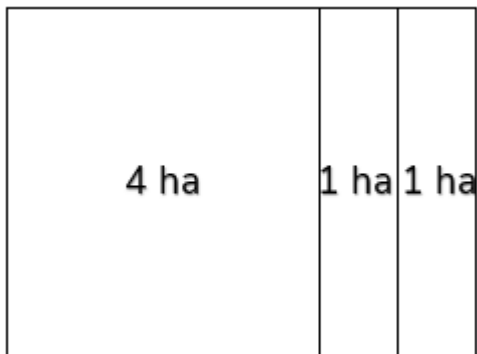
Status Quo

- Lots can be subdivided multiple times based on the existing minimum lot size (6 ha).
- This model would result in the fewest number of new lots created.



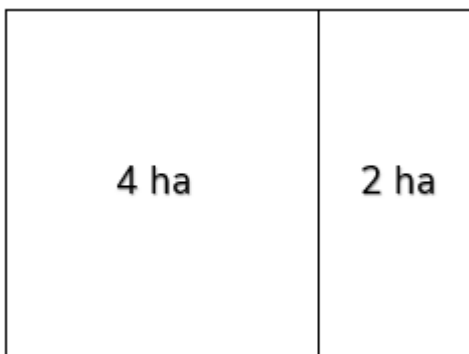
Multiple lot model

- Lots can be subdivided multiple times based on a new minimum lot size (<6 ha).
- This model usually results in a greater number of new lots created.



Multiple – flexible lot model

- Same as multiple lot model, except lots may be less than the minimum lot size provided the total number of new lots is the same.
- This model may be desirable where there is an interest in preserving larger areas of land within a single lot.



One-time only model

- Lots can be subdivided once based on a new minimum lot size (<6 ha).
- Neither of the new lots can be divided again, regardless of size or who owns them.
- This model would result in a smaller number of lots compared to the multiple lot model.

Number of Dwellings

- Currently, secondary dwellings are permitted on most rural residential lots in the Shallow Bay area.
- In some communities, secondary dwellings are permitted on smaller, subdivided lots, while other areas restrict secondary dwellings to larger lots which have not been subdivided.
- Regulating secondary dwellings can help to manage overall density by providing property owners with the option to: (a) subdivide and construct one dwelling on each lot; or (b) construct multiple dwellings on a single lot.

Lakefront Parcels

- Community feedback suggests most residents support zoning options that would further protect the Shallow Bay wetlands.
- Potential zoning options for lakeshore properties are presented in the November 2015 backgrounder and will be discussed in further detail.

Agricultural Parcels

- Subdivision of agricultural parcels is regulated under the *Subdivision Act*.
- The Act restricts subdivision of agricultural parcels where it can be demonstrated that the land was sold for agricultural purposes (with some exceptions).
- Subject to specific criteria, the Act allows for one-time subdivision of agricultural lands with the intention of providing retiring farmers an opportunity to create a home site parcel.
- Committee noted that much of the privately-owned land in the Shallow Bay area was originally sold for agricultural purposes but not subject to prohibitions on agricultural subdivision.
- Committee may recommend applying agricultural zoning to some parcels to better reflect current land use. This would require careful consideration in the context of community values, interests and individual property rights.
- Rezoning a property to agriculture will not prevent subdivision. Whether or not the subdivision prohibitions under the Act apply is related to the history of disposition.

Servicing Issues

- A 2016 study conducted by EBA identified what data is available and what additional information would be required in order to assess the potential impact that further residential development in the Shallow Bay area may have on water quality (groundwater and surface water).
- Potential impacts of higher residential density on water quality could include release of contaminants from septic systems, use of fertilizers, pesticides and/or herbicides, leaks and spills from fuel tanks, and over extraction of groundwater through private wells.
- The Committee will not have “all the information” before making a recommendation; however, there is comparatively more data compared to similar process. The Committee can also identify key information gaps.

Past community survey results

- To date, there have been three public meetings and two surveys to gauge the level of community support for rural residential subdivision.
- Survey analysis indicates the majority of area residents support zoning changes which would allow for subdivision of rural residential properties, however community input with respect to specific zoning options has been less conclusive.
- As per the Terms of Reference, the Committee is mandated to consider community feedback received to date.
- It was noted that surveys were only distributed to Shallow Bay property owners, and input was not received from TKC or TKC citizens.

TKC interests - a primer

- Shallow Bay is at the heart of the TKC's traditional territory.
- The area has a long, rich and important history to TKC citizens.
- TKC has 419 citizens many of whom have experience and values in and for the area.
- TKC is the largest private landowner in the Shallow Bay area.

Information gaps identified by the Committee

- This process needs to understand TKC citizen perspectives and interests. This was a gap in past processes.
- During the Fox Lake planning process, TKC citizens were invited to review maps, share experiences, and answer questions which strengthened that process.
- Need to better understand the overall regulatory framework including federal legislation, and how it relates to zoning under the *Area Development Act*. We should not strive to be experts in all regulations or sources of information, however, we need to acknowledge their existence and understand their meaning.
- Let's not stop at the geographic boundaries of the study area and be sure we consider what happens outside those boundaries in our deliberation, for example, transportation to and from the area and the lake.

Next steps

Publicizing Report #1 (June 2018)

- The Committee made minor changes to Report #1 and approved it to be shared publicly by being posted on the project webpage.
 - <http://goto.gov.yk.ca/shallowbayzoning>

External communication

- The Committee agreed to send a letter to Shallow Bay property owners to notify them of the website updates, and invite them to share their email on a direct list-serve.
- YG and TKC agreed to coordinate mail outs to property owners and TKC citizens.

Active public engagement

- As part of completing the process work plan in August, the Committee agreed to determine when and for what purpose, the Committee will engage the broader public more directly including TKC citizens.

Next meetings

- The Committee agreed it would be worthwhile to participate in an unstructured field trip August 8. YG and TKC will seek Committee direction on agenda.
- The Committee agreed the next meeting would be August 27th, 500-730 PM.