

# **Proposed zoning for the Shallow Bay / Màn Tl'át area**

**December 2020**

**Shallow Bay Zoning Committee**

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*“They [Ta’an people] relied  
on Shallow Bay quite a bit.  
It identifies us as a people”  
—Ta’an citizen*



# Zoning in Shallow Bay / Màn Tl'át

A group of area residents, the Shallow Bay Zoning Committee, began working in June 2018 to develop area development regulations for Shallow Bay. The committee was appointed by the Government of Yukon and Ta'an Kwäch'än Council. Development area regulations create zones in a community that allow for different land uses.

## Why are we working on new zoning in the Shallow Bay area?

Located in the heart of Ta'an Kwäch'än Council Traditional Territory, Shallow Bay has been and remains important for Ta'an Kwäch'än citizens. Shallow Bay is also in the Traditional Territory of Kwanlin Dün First Nation. Past land use decisions and changes have had major impacts on the Ta'an citizens and their way of life. Today, there is an active resident community in Shallow Bay and a range of activities and uses of the land.

Shallow Bay is part of the Whitehorse Periphery Development Area with a six-hectare minimum parcel size for rural residential properties.

The *Whitehorse Periphery Development Area Regulation* was developed as an interim measure for providing development controls back in the 1970s. The expectation was that areas in the periphery would eventually be developed under the guidance of land use plans. Shallow Bay is one of the few areas that has yet to have a local area plan.

In 2014, the Government of Yukon received a request from some Shallow Bay property owners to consider zoning changes to allow rural residential lots to be subdivided.

### **Màn Tl'át**

*(pronounced Mun-Tlut)  
is the traditional Southern  
Tutchone name for what is  
now called Shallow Bay.*

### **Täa'an Män**

*(pronounced Taa-un Mun)  
refers to Lake Laberge.*

### **Mbay Ätür Chü**

*(pronounced My Ah-lur Choo)  
is the name for Horse Creek.*



Between 2015 and 2017, Shallow Bay residents told the government — through meetings and surveys — that there was an interest in lowering the minimum lot size for rural residential properties and any zoning changes must reflect the unique social, cultural and ecological values of the Shallow Bay area.

This is the first time that the Government of Yukon and Ta'an Kwäch'än Council have worked together on regulation development in this area. Collaboration will help ensure that zoning reflects input from Ta'an Kwäch'än citizens.

## The Shallow Bay area is the heart of 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. This is the cultural and geographical centre of their Traditional Territory, a significant wetland, and an important area for birds, fish and wildlife.

Ta'an citizens share that they have yet to heal from the displacement of their people from the Shallow Bay area. This displacement and alienation from their land and home is central to discussions about land uses at Shallow Bay.

## How was the draft zoning created?

Developing new zoning for Shallow Bay is hard work. There are many interests in the area, and people have different ideas about how the land should be used. Committee members wanted to understand the area's history as it is important in determining how to move forward. They are trying to balance the traditional use of the area with the current land use.

*“That’s where we lived. To be closer to family was the main thing. If you got over 50 fish, you need help right.”  
—Ta’an citizen*



The committee reviewed input collected from previous surveys, information gathered from Ta’an Kwäch’än citizens, current and past land uses, existing research and expert opinion. They used technical, local and traditional knowledge, and community values to develop draft zoning for the Shallow Bay area.

Through discussions held at 20 meetings, the zoning committee listened to multiple perspectives, learned from one another, and tried to find ways to address some of the complex challenges through zoning. To learn more about the basics of a zoning regulation visit [yukon.ca/shallow-bay-area-development-regulations](http://yukon.ca/shallow-bay-area-development-regulations).

The proposed zoning changes on Non-Settlement Land are adjacent to Ta’an Kwäch’än Council Settlement Land parcels and traditional areas used by the First Nation community. There is also a consultation obligation that exists under the Compatible Land Use (Section 25) of the Ta’an Kwäch’än Council Self-Government Agreement.

## About the Shallow Bay zoning committee

In 2018, the Government of Yukon and Ta’an Kwäch’än Council struck a zoning committee to develop draft zoning regulations for the Shallow Bay area. The zoning committee was asked to:

- Work cooperatively through a public process to develop a draft zoning regulation for review and consideration;
- Represent the Shallow Bay community in a fair, objective and equitable way through committee discussions and decisionmaking;
- Promote an open, honest and cooperative discussion between the Shallow Bay community, the Government of Yukon and Ta’an Kwäch’än Council; and
- Incorporate Ta’an Kwäch’än Council and Shallow Bay community perspectives on key planning issues.

### Members of the Committee

Government of Yukon appointees:

- Don Allen
- Pat Hogan
- Nellie Dale

Ta’an Kwäch’än Council appointees:

- Ruth Massie
- John Bunbury
- Betsy Jackson

The committee is supported by technical planning staff from each government and an independent facilitator.



## Guiding principles

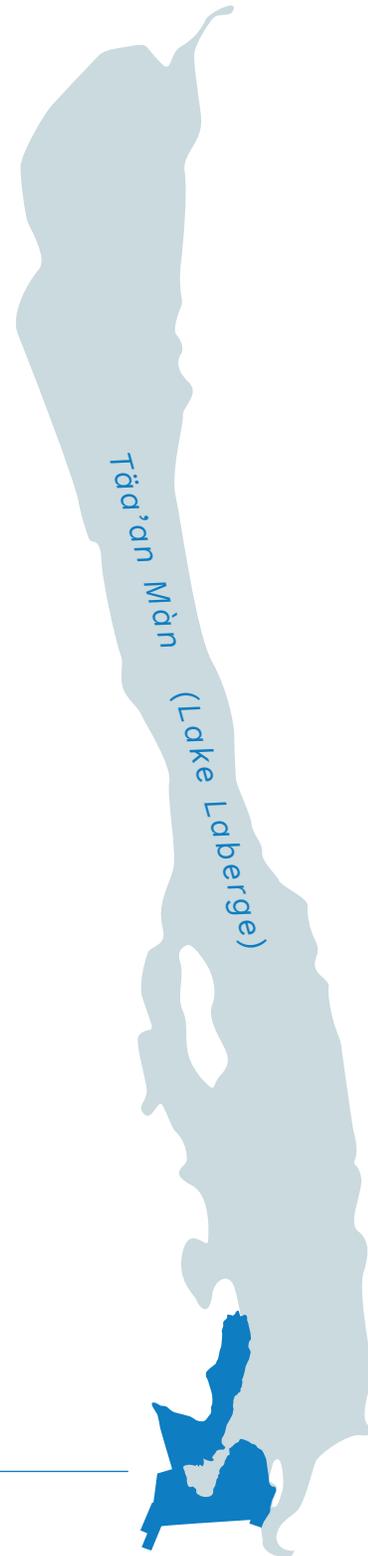
The zoning committee developed these guiding principles to assist them in their decision making.

1. Zoning should include Rural Residential, Agricultural and Environmental Reserve zones.
2. Lakefront lots, including agriculture properties and grazing rights agreements, should be zoned to manage potential impacts of subdivision and/or land development on Shallow Bay and its tributaries.
3. Zoning should recognize the importance of Shallow Bay and its tributaries to both humans and wildlife and apply a precautionary approach in regards to their protection.
4. Zoning should consider overall residential density and how it relates to environmental and off-site impacts, private property interests, and the historical and present-day interests of the Ta'an citizens.
5. Zoning should generally promote a broader range of permitted land uses on privately titled lots compared to the existing *Whitehorse Periphery Development Areas Regulation* and *Agriculture Development Areas Regulation*.
6. Zoning should reflect current land use.
7. Zoning shall promote land use compatibility between Non-Settlement Lands and adjacent Settlement Lands as per the First Nation Final Agreement and Self Government Agreement.

## The proposed development area

Màn Tl'át is the traditional Southern Tutchone name for what is now called Shallow Bay.

Tăa'an Măn refers to Lake Laberge, and Mbay Ätür Chü is the name for Horse Creek.



# Key issues

There are complex issues related to past, current and future land use in the Shallow Bay area. The committee worked from a principle of fairness, attempting to find a balance between protecting the bay, Ta'an interests and property owners' interests. The committee had to consider and understand many factors including the following.

## Ta'an Kwäch'än traditional and cultural use and the history of occupation and land disposition

Ta'an Kwäch'än people have a deep connection with the Shallow Bay area. Ta'an Kwäch'än citizens paint a vivid picture of what life was like in the area. It was a gathering and transit hub for Ta'an Kwäch'än people and their neighbours who were able to move without restrictions to fish, hunt and gather in the area. Ta'an Kwäch'än citizens continue to live in the area and spend time on the land at Shallow Bay.

Land use changed near Shallow Bay after the settlement of the non-Indigenous population in the area. In the mid 1980s, agriculture was a common land use. Later, some of the larger agriculture parcels were subdivided, resulting in the current residential settlement. These changes at Shallow Bay further displaced the Ta'an people. There are deep feelings amongst Ta'an citizens about being pushed off the land.

Ta'an Kwäch'än Council committee members feel that further disposition of land can be perceived as not being in the spirit of reconciliation.

## Ecological and wildlife values

Shallow Bay is a significant wetland and recognized globally as an important spring and fall waterfowl staging area. Swans, geese, ducks and other birds rest and feed in Shallow Bay during their migration. Some ducks and other shore birds stay and breed in the area all summer. It is also a very rich habitat for many other birds, small mammals and fish.

## Rights and interests of private property owners

Residents of Shallow Bay have interests around how they would like to use their properties and whether they can be subdivided. Past surveys indicate many residents want the opportunity to subdivide their land. The committee considered these interests and is trying hard to balance these values with the potential impacts of increased human density on the bay and the surrounding area.

## Importance of agriculture

Farming and agriculture have taken place for many years near Shallow Bay and food security is becoming more of a priority for both governments and the public. Farming activities are an important source of local food and livelihood for families and the committee feels strongly that areas historically or currently used for agriculture should be maintained. Accessory uses can provide supplementary income for farmers as well.

## Rural character and resident lifestyles

Shallow Bay is a quiet rural community, and residents value peace, privacy and good neighbors. The impact of increased population on the land, community, travel routes and overall infrastructure needs are important considerations.

## Off-site impacts

The zoning committee recognized that increased population and density around Shallow Bay has the potential to impact things like highway traffic volumes, safety, recreational use of surrounding areas, and water, air and the environment.

## Multiple Rural Residential zone

There is currently one lot zoned Multiple Rural Residential in the Shallow Bay area, which means that up to four dwelling units are allowed as either a single-family dwelling or duplex. The committee is recommending eliminating this zone. This means that the property currently zoned in this manner will be legally non-conforming. The current development would still be permitted and can be maintained; however, it could not be rebuilt in the future.

*"I feel like an intruder in some sense."  
—Ta'an citizen*



### Lack of a land use plan

The Ta'an Kwäch'än Council is cautious about changing the zoning in the area without a land use plan in place to guide decision making and off-site impacts. The concern is that lowering the minimum lot size will result in more subdivision and more people moving into the area.

In the absence of a land use plan, this may increase the cumulative impacts on the bay and off-site impacts. Ta'an committee members feel strongly about limiting the amount of subdivision opportunities in the rural residential zone until land use planning is complete.

## The connection of the Ta'an people to the Shallow Bay area<sup>1</sup>

The Ta'an Kwäch'än Council consider the Shallow Bay area to be the heart of the Ta'an Kwäch'än people. The Ta'an Kwäch'än Council interviewed citizens in the spring of 2019. They asked people to speak about the historic, cultural and traditional use of the area, and to provide opinions on past and future development and the zoning process. It was difficult for citizens to speak about their experiences. People felt distrust based on previous experiences with government decisions about land at Shallow Bay. Citizens spoke about their memories and the oral history they hold from ancestors, and about living freely on the land near Tää'an Män (Lake Laberge) and Mbay Ätür Chü (Horse Creek). They described a deep connection with Män Tl'àt (Shallow Bay) and memories of family living there and harvesting the plentiful fish, rabbits, gophers and other animals. Winters were hard and people gathered in the area to survive, where the land and water could sustain their families.

*“People knew that if the winter was hard, or you didn't get much food on the land, that you come to the bay and get all the food you need to survive. And they would share. As a thank you for their survival.”*

*—Ta'an citizen*

Ta'an citizens shared about the impacts of settlement in the area on families, the land and the Ta'an people's way of life over the last 100 years.

Citizens would like to see the return of Ta'an families to Settlement Land in the area, possibly in some form of housing development in the Ta'an Village. Ta'an people see themselves as part of the Shallow Bay community, and expressed that they would like to know their neighbours.

The citizens interviewed had concerns about changes that have taken place at Män Tl'àt (Shallow Bay). Agriculture land use is a concern, due to larger scale changes to the land and potential impacts on water quality and quantity. Citizens are concerned about damage to the land from increased population in the area and in the bush, as well as increased traffic on the highway. Citizens want their land to be respected: creation of new trails, off-road vehicle damage and illegal woodcutting were mentioned as harmful.

Citizens hope that land use planning will help reduce conflict amongst users of this land. They want people to be educated on the Ta'an people's history at Män Tl'àt and the land claim agreements, and they want the loss of land and community at Shallow Bay to be acknowledged.

Citizens were pleased about the zoning committee process and are hopeful for their community's future. They also have underlying concerns about loss of culture, traditional land uses and Ta'an voices being disregarded. While expressing sorrow and loss, some citizens also expressed hope that future generations of Ta'an people can learn to reconnect with this traditional land and the teachings it can bring.



# Draft zoning

The zoning committee established draft zones that permit different land uses, taking into account factors such as current and historical uses, compatibility of uses in nearby lots and other values in the Shallow Bay area.

## What is the purpose of the regulation?

- To recognize the importance and history of the area for Ta'an Kwäch'än people, local residents and other Yukoners.
- To manage the potential impacts of subdivision and land development on Shallow Bay wetlands.
- To favour a precautionary approach when evaluating potential impacts on community values.
- To maintain public access to Shallow Bay.
- To ensure permitted activities take place on-property and to limit the impacts of activities on neighbouring parcels.
- To promote activities that create a sense of community among neighbours.
- To promote a broader range of permitted land uses while reflecting current use.
- To promote the compatibility of land uses between public land, private land and Settlement Land.

## Outline of the draft zones for Shallow Bay

The zoning committee is recommending a set of new zones that permit different land uses than what currently exist under the *Whitehorse Periphery Development Area Regulation*.

The following pages illustrate the recommendations.

## About the zones



### Agricultural zone

The Agricultural zone is intended to provide larger parcels of land for agriculture uses and a broad range of complementary activities.



### Rural residential zone

The Rural Residential zone is intended to accommodate single-family residences and accessory uses in a rural environment.



### Environmental reserve zone

The Environmental reserve zone is intended to protect and preserve areas of environmental significance from incompatible development along the shores of Shallow Bay and Horse Creek while allowing for low-impact recreational and traditional uses.



### Ta'an Kwäch'än Council Settlement Land

Parcels of land owned and managed by Ta'an Kwäch'än Council.

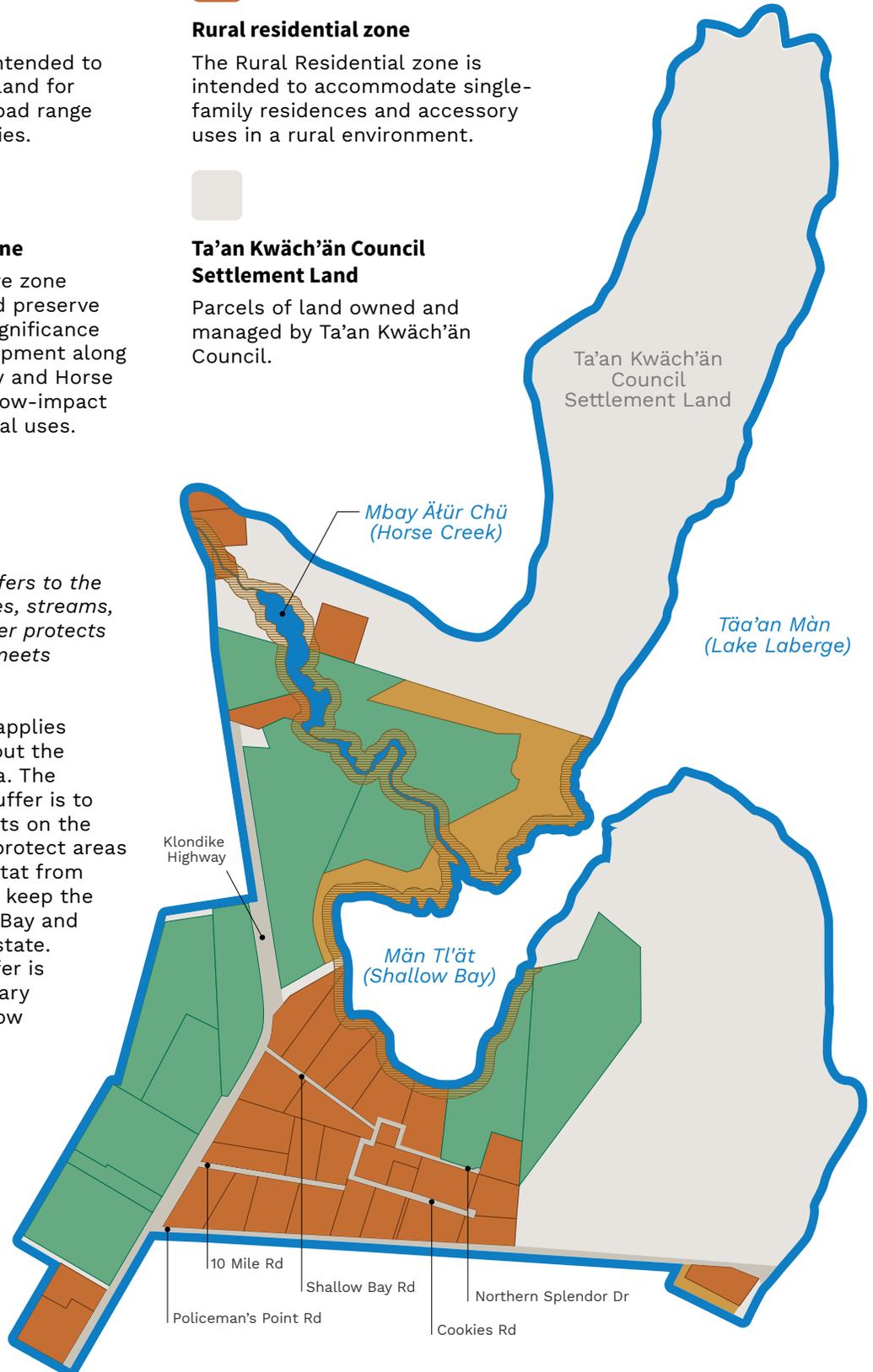


### Riparian buffer

*Riparian is a word that refers to the wetland areas beside lakes, streams, and rivers. A riparian buffer protects the area where the land meets the water.*

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 metres from the ordinary high-water mark of Shallow Bay and Horse Creek.

Development includes the construction of any buildings or structures, docks, drainage, water or sewer systems, roads or trails.



# Rural residential zone

Minimum lot size: 3, 4 or 6 hectares\* with one-time only subdivision

## PRIMARY USE

# One single-family dwelling unit

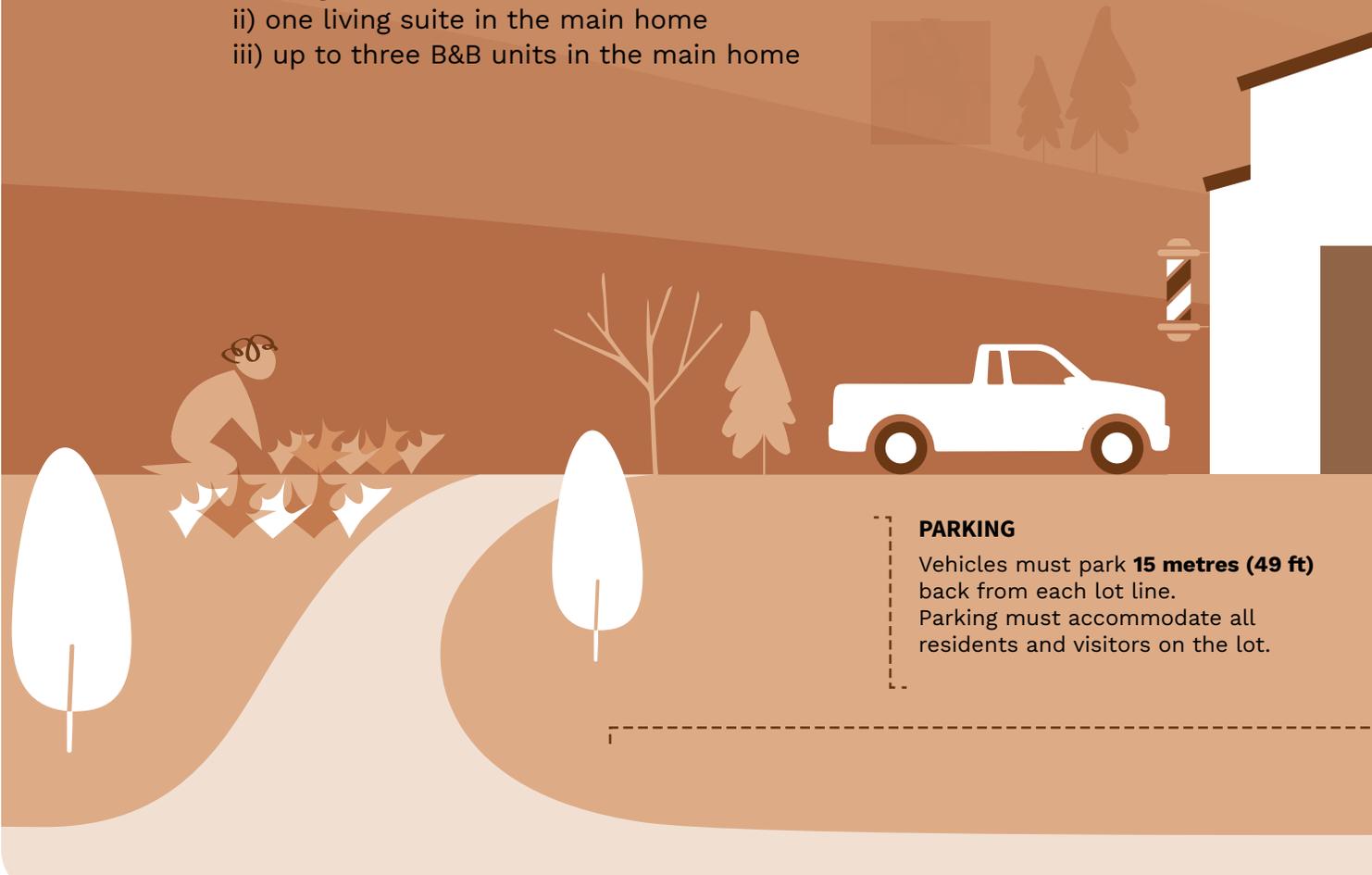
## ACCESSORY USES

### What else is allowed?

- Family day home
- Home occupation
- Minor agricultural pursuits
- Personal service establishment
- Accessory buildings
- Only one of the following:\*
  - i) one guest cabin
  - ii) one living suite in the main home
  - iii) up to three B&B units in the main home

### PARKING

Vehicles must park **15 metres (49 ft)** back from each lot line. Parking must accommodate all residents and visitors on the lot.



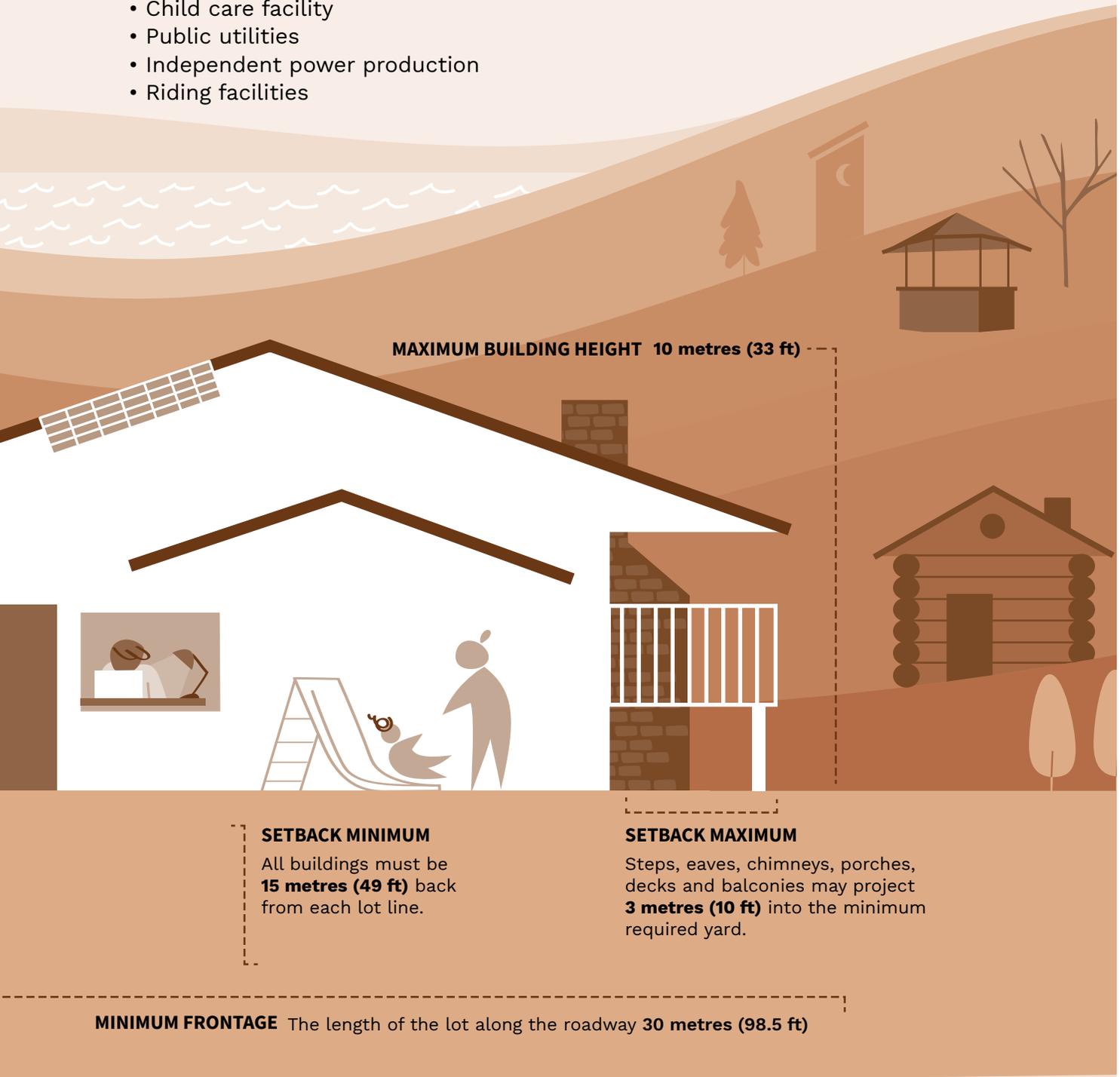
**DISCRETIONARY USES**

**What uses may be approved after public consultation?**

- Child care facility
- Public utilities
- Independent power production
- Riding facilities



A star means we need public input to help us come to agreement. See page 13 for further details.



**MAXIMUM BUILDING HEIGHT 10 metres (33 ft)**

**SETBACK MINIMUM**

All buildings must be **15 metres (49 ft)** back from each lot line.

**SETBACK MAXIMUM**

Steps, eaves, chimneys, porches, decks and balconies may project **3 metres (10 ft)** into the minimum required yard.

**MINIMUM FRONTAGE** The length of the lot along the roadway **30 metres (98.5 ft)**

# Agricultural zone

Minimum lot size: 6 hectares with one-time only home site subdivision

## PRIMARY USE

# Agricultural production

## ACCESSORY USES

### What else is allowed?

- Agriculture supply sales outlet
- Agricultural tourism
- Staff accommodation
- Accessory buildings
  
- One single-family dwelling unit, home occupation, or family day home centre program
  
- Only one of the following:\*
- i) One guest cabin
- ii) One living suite in the main home
- iii) Up to three B&B units in the main home



U-PIC

### PARKING

Vehicles must park **15 metres (49 ft)** back from each lot line. Parking must accommodate all residents and visitors on the lot.

**DISCRETIONARY USES****What uses may be approved after public consultation?**

- Boarding and riding facility
- Guest ranches
- Equestrian centre
- Public utilities
- Independent power production



A star means we need public input to help us come to agreement. See page 13 for further details.



# Environmental reserve zone

## PURPOSE

### Preserve habitat



## ACCESSORY USES

### What is allowed?

- Existing trails, roads and walkways
- Non-motorized recreation
- Non-commercial activities, including:
  - i) wildlife viewing
  - ii) hiking
  - iii) hunting
  - iv) fishing
  - v) skiing
- Trapping for subsistence or resource management
- Snowmobiling for travel or trapping

## DISCRETIONARY USES

### What uses may be approved after public consultation?

- Interpretive displays and viewing areas

## PROHIBITIONS

### What is not allowed?

- Cutting of fuel wood
- Horseback riding
- Off-road vehicles in spring/summer
- Recreational use of off-road vehicles
- Commercial recreational activities



## Areas of the zoning that are not yet resolved

The zoning committee struggled to agree on how much future population growth and development should occur in the Shallow Bay area. As a result, the committee is having difficulty reaching a consensus on recommendations for specific aspects of the zoning regulation, including:

- the minimum lot size and subdivision in the rural residential zone; and
- uses related to temporary and long-term accommodation in the rural residential and agriculture zones.

The committee's discussions on population and development density focused on key themes.

- **Fairness:** Some feel that fairness means providing rural residential property owners with equal opportunities to subdivide. Others feel that fairness means recognizing that the current level of development occurred as part of the displacement of Ta'an citizens from the area, and that minimizing further development and impacts to the natural environment is a small step to redressing harms and repairing relations.
- **Environmental and off-site impacts:** Some feel that the proposed 60-metre buffer is sufficient to provide environmental protection for the bay. Others feel that, although the buffer is an important step for protecting the bay, the impacts of having more people in the Shallow Bay area could not be well managed without a land use plan for the broader area.

*“Going ahead I would like to see more responsible planning, and good in-depth studies to try and make responsible decisions.”*

*—Ta'an citizen*



The committee members agreed to propose options related to these themes and present them to Shallow Bay residents and Ta'an Kwäch'än citizens. The proposed options are as follows.

- Three different minimum lot sizes as options for subdivision. This includes keeping the minimum lot size the same (6 hectares), allowing a limited amount of subdivision (4 hectares), or allowing all rural residential properties the opportunity to subdivide (3 hectares).
- Allowing both rural residential and agriculture properties a limited amount of options for short- and long-term accommodations as accessory uses including suites, bed and breakfast units or guest cabins. The committee is considering zoning that would allow property owners to have one of these options on their property, but not all.

The committee will consider the input gathered on these proposed options to determine its final recommendations.

Some committee members want to propose interim zoning that may be revised after land use planning is completed.

# Definitions

**Accessory use:** a use which is incidental and subordinate to the main use or building and is located on the same lot with such main use or building.

**Agriculture supply sales outlet:** the sale and storage of seed, feed and fertilizer.

**Agricultural tourism:** the provision, through an operation that is accessory to an existing agricultural business on an agricultural parcel, of a range of day-use-only social or recreational activities focused on small groups and learning opportunities.

**Bed and breakfast lodging:** an accessory use of one or more accommodation units used for providing temporary accommodation and breakfast.

**Boarding and riding facilities:** a commercial establishment providing accommodation for horses and riding facilities for a fee-for-service use with limited off-lot impacts.

**Discretionary use:** means the use of land or a building for which a development permit may be issued by the Development Officer based on results of a public consultation process.

**Equestrian centre:** a commercial establishment providing accommodation for horses, riding facilities, riding instruction, or hosting equestrian events with limited off-lot impacts.

**Guest cabin:** an accommodation unit that is not used for permanent habitation.

**Guest ranches:** an accessory use of an existing agricultural parcel, operated by the property owner on a seasonal basis, which provides cabin-type accommodation and a limited range of social and recreational activities including trail rides with limited off-lot impacts.

**Home occupation:** an occupation, trade, professional practice or craft carried out by a resident of the lot as a use incidental or subordinate to the residential use and of a nature that does not generate traffic. This use does not include small-scale manufacturing.

**Independent power producer:** a person or business who generates electricity using renewable energy sources and sells it to Yukon's Independent Power Production Policy.

**Minor agricultural pursuits:** small-scale agricultural operations that can be carried out on a small tract of land, and includes nurseries, greenhouses, market gardens, bee-keeping and raising personal livestock.

**Personal service establishment:** commercial services of a personal nature that are low impact, including beauty and hair salons, therapeutic, health and fitness services, handcraft and hobby instruction and similar uses.

**Principal use:** the primary purpose for which the building or lot is being used.

**Public utilities:** the use of land for small-scale public utilities for the public benefit including sewerage, water, telecommunications, electricity, or transportation system.

**Staff accommodation:** staff accommodation units for temporary lodging.

# Your feedback

The zoning committee wants to hear from Shallow Bay residents and Ta'an citizens. This process allows people from the community to have a say in how the land is used and how it is protected.

The zoning committee is hosting a public meeting to talk with the community about the draft zoning. Check the committee website at [yukon.ca/shallow-bay-area-development-regulations](http://yukon.ca/shallow-bay-area-development-regulations) for meeting dates and location details.

Following the public meeting, the zoning committee will issue a survey to Shallow Bay residents and Ta'an citizens.

Committee members, Government of Yukon and Ta'an Kwäch'än Council staff are available to answer questions and record your feedback.

**Please contact:**

- Government of Yukon's Manager of Community Land Use Planning, Michelle Sicotte at [Michelle.Sicotte@gov.yk.ca](mailto:Michelle.Sicotte@gov.yk.ca) or
- Ta'an Kwäch'än Council's Land Use Planning Coordinator, Natalie Leclerc at [nleclerc@taan.ca](mailto:nleclerc@taan.ca).



More information is available at  
[yukon.ca/shallow-bay-area-development-regulations](http://yukon.ca/shallow-bay-area-development-regulations)

*Thank you for your interest and participation  
 in this process.*

## What happens after the community consultation?

The zoning committee will review the feedback received. After consideration, the committee will make final recommendations to the Government of Yukon and the Ta'an Kwäch'än Council. The final recommendations of the committee will be shared with residents.

The Government of Yukon and the Ta'an Kwäch'än Council will review the draft regulation recommended by the zoning committee.

The Government of Yukon will consult with property owners, Ta'an Kwäch'än Council, and Kwanlin Dün First Nation prior to making a final decision on new zoning for the Shallow Bay area under the Yukon's *Area Development Act*.



