

MINUTES

LAND APPLICATION REVIEW COMMITTEE
Large Boardroom, 419 Range Road
Whitehorse
September 7, 2005
TIME: 9:00 a.m.

NOTE TO READER: These minutes are only a synopsis of what has transpired with respect to an application.

Present:

Bryony McIntyre, Chair	E.M.R., Lands
Janice Bruton	E.M.R., Lands
Colin Beairsto	E.M.R., Lands
Tanya Groundwater	E.M.R., Lands
Eric Petersen	E.M.R., Lands
Roger Horner	E.M.R., Lands
Randy Lamb	Environment
Pat Scott	C.S, Building Safety
Dwayne Muckosky	Forest Management Branch
David Murray	Lands, Agriculture Branch
Edward Lee	Lands, Agriculture Branch
Patricia Smith	Lands, Agriculture Branch
Todd Pinkess	Environmental Health Services
Greg Hare	Heritage, Archaeology
Judy Linton	C.S., Land Planning
Bernie Cross	H.P.W., Transportation Engineering
Pam Vust	E.M.R., Land Use
Cathryn Paish	Tourism
Shanna Epp	Tourism
Dan Cresswell	Carcross Tagish First Nation
Gillian McKee	Kwanlin Dun First Nation
John Pattimore	Ta'an Kwäch'än Council
Pat Ross	City of Whitehorse
Branden Bouquot	Applicant #2004-0350
Dawn Bouquot	Mother of Branden Bouquot
Wendy Fournier, Ian McDougall & Gary Burdess	Application #14560
Scott McDougall & Joanne McDougall	Applicants #2005-0061 (Kanoë People Ltd.)
Rob Hewer	DCAC - Lake Laberge
Philip Gifford	Applicant #2005-0186
Don Brewster, Agent P.A.L.A. Management Corp.	Application #2005-0170
Albert Vaillancourt & Sarah Musil	Applicants #2005-0190
Karla DesRosiers & Len Walchuk	Ag Application #787
Joyce Bachli	Recording Secretary

Review of Agenda

Delegates scheduled: Branden Bouquot is scheduled at 9:15 a.m., Representatives from Skyhigh Wilderness Ranch - Wendy Fournier, Ian McDougall & Gary Burdess at 9:45 a.m., Scott McDougall & Joanne McDougall, Kanoë People, at 10:15, the Gifford's at 10:30 a.m.; P.A.L.A. Management Corporation rep at 10:45 a.m., Mr. Vaillancourt at 11:00 a.m. and Karla DesRosiers at 11:15 a.m.

Minutes-August 10 and 11, 2005, Regular LARC Meeting

August 10, 2005

Building Safety clarified:

- Page 1, Agriculture Application #792 - There are Agriculture Regulations, so development permits and building permits will be required for any new structures.
- Top of Page 3 - to read "Building Safety advised development and building permits will be required for any new structures."
- Page 5, last paragraph under "NRO COMMENTS" - change "sire" to "site".

Environmental Health Services questioned:

- Pages 2-3 - whether the application covered part of the premises for the Cavanagh and Sykes' application for a septic system as well as legitimizing the outhouse. Chair Bryony McIntyre advised the outhouse is on the other side of the enlargement, and the applicants will move the structure. This area is unsuitable, so they are expanding in the other direction. Septic is planned for the future.

August 11, 2005

Building Safety clarified:

- Pages 10 and 14, Recommendations to include "Building permits will be required for any new structures."

Approval of the August 10 and 11, 2005, minutes as amended.

OLD BUSINESS

1. 2004-0350: Branden Bouquot – 6 ha parcel, Km 8.3 South Klondike Highway, Quad 105D/10 Rural Residential – Appeal from March 10, 2005

Letter from Director of Lands was provided. The Chair of the Hamlet of Mt. Lorne was unable to attend but will be submitting an e-mail.

Branden Bouquot and Dawn Bouquot, attended at 9:10 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Points for appeal by the Bouquot's:

- Applied for a piece of land on the Carcross Road (South Klondike Highway) in October, 2004.
- Was born and raised in the area at Mile 5.5, parents chose to purchase a piece of land in the area and raised their family, quite a different way to obtain land as opposed to squatting and obtaining land in return for paying taxes.
- Application was denied in March, 2005, and he decided to appeal LARC's recommendation.
- Would like to obtain some land to build his dreams and get out of his present situation, i.e. being almost 30 years old, he would like to get some property of his own in the area to build a household beyond the family home.
- Zoning and conflicts with animals and neighbours were the reasons for LARC's denial.
- Chose the land because of easy access to the road and power, plus it has a great view, there will be a lot of work involved to accomplish these items.
- Peter Carr, closest neighbour and role model for Mr. Bouquot, is in agreement with the application. Boundaries can be moved to meet the neighbours' needs.
- Trails in the area are becoming overgrown through lack of use.

- The designation of “Open Space” in the Mt. Lorne Plan - Mr. Bouquot stated there is a lot of misunderstanding of due process and procedures in terms of the ability to gain access to the land; he recommended have the Hamlet rezone the parcel to Rural Residential, which would take some time. He understands Mark Stephens is on record saying the hamlet has no problem with the application. They question the fairness of the process.
- There was confusion over two other applications up the road a couple of kilometres that were approved, which the Bouquots’ allege were in the “Open Space” zoning.
- There is very little selection of available land in the area, and the unclearness of the maps complicates the matter.
- Ms. Bouquot spoke to Community Services about changing the designation to RRS and was advised that the hamlet would have to do a whole shift, rather than spots; that this would happen after the plan was adopted and be done in conjunction with other changes that were to be made.
- Mrs. Bouquot advised their children are the first group of kids who have grown up in the area without a break. She feels that there will be a lot more children who grew up in the area eventually wanting to settle there. In order to retain the community, land must be made available for them if they choose to remain there.

Comments & Questions from LARC:

- Chair Bryony McIntyre advised Mr. Stephens had indicated there were comments about the RRS designation of the two neighbours. After the last LARC review, he went back to Council and determined an infill lot would be a good idea; however, it may not work in the RRS designation because of the spacing. The two applications Mr. Bouquot referenced in the area went through LARC and were supported by the Hamlet at that time. The mapping is not the greatest, and there are discrepancies in it. The Hamlet has been requested to update this information.
- Community Services provided an explanation of a plan amendment process for the hamlet and applicant - the department does not agree with amending the plan simply for a spot application, because that starts to undermine the plan and whittle away at it. They suggest the applicant waits until there is a minor plan review. As soon as the zoning regulations have been adopted, the hamlet will probably go into a major review of its plan (hopefully this fall). The zoning regulations implement the plan as it has been for the last 10 years. The plan has not been able to respond to the recent interest in rural residential land in an adequate way, which is causing problems. The applicant can approach the Hamlet Council to determine if there are a number of similar situations in the same area, and the hamlet can propose more than one amendment to the plan, i.e. a location-specific review. Mr. Cote’s application is in an area that is shown in the plan for rural residential development.
- Ms. Bouquot asked if the zoning is changed whether Mr. Bouquot can then reapply or if no one will be allowed to apply once denied twice. Community Services responded that through the plan review, if it is determined by the community and Government of Yukon that the land should be re-designated to residential, the land would be open for some form of residential development; however it is a planning process and Government policies that determine whether this will occur through spot applications or planned development [i.e. a lottery]. In order to ensure fairness, this process would be decided before the actual plan amendment occurs.
- Environment reiterated the parcel is within the caribou core winter range and appears to not fit into the zoning [RRS] for the area.
- Kwanlin Dun First Nation - the caribou winter range is a concern.

The Bouquots’ left the meeting at 9:35 a.m.

Chair Bryony McIntyre advised this application was brought back to committee review based on the appeal submitted to Lands. The Director’s letter requested that Community Services provide information to the client and to the Hamlet on the plan amendment process. The Hamlet of Mt.

Lorne indicated they do not support the application because of the fact that even if it went to Rural Residential Secluded; it would not fit under that designation in the plan because the way the RRS is described. The larger issue is the plan amendment process.

Notice of the appeal was sent to all original intervenors, and a letter was received from John Reeve on September 1, 2005, reiterating serious concerns about loss of recreational opportunity and trail access (especially the one that follows the powerline). Mr. Reeve expressed unhappiness with representations by the Council of the Hamlet of Mt. Lorne. Mr. Bouquot's agreement to adjust the boundaries of his application to leave a 15-metre buffer between properties would protect an important viewpoint adjacent to the rear corner of his property; and with that provision, he is prepared to accept the application.

Kwanlin Dun First Nation raised the issue of consistency in applications that require a plan amendment. It appears that there is not a standard process for review of local area plans, with each hamlet having their own approach. Community Services explained with the McDougall application at Lake Laberge, the applicant has been operating in the area for some time. They originally had a commercial lease; however the Deep Creek local area plan did not recognize any commercial use of their property. Through the development of the Deep Creek zoning regulations, it was recognized there was an error with the plan and there is an attempt to correct it through the zoning. Their existing lot will be zoned commercial. The application will go through due process in terms of public consultation. The Local Advisory Council supports the application. In the case of Mr. Bouquot, where there has been denial of a spot application, amendments to the plan will not be accepted. They can be dealt with at the time of a minor planning review or a full review of the plan. Community Services reviewed how applicants have been given the expectation that one opportunity is to apply for a plan amendment as part of the ongoing appeal process.

Chair Bryony McIntyre responded that every individual has the right to know what the process is in relation to local area plans. The majority of the plan amendments recommended by LARC were made to protect other resources, and the hamlet has not been advised how they can accomplish that, i.e. to change areas into EOS or park to complete the circle. Plans are a document approved by the minister as an advisory document. The regulations are legal and binding on the government once passed.

The Agriculture Branch commented that although local area plans can be quite helpful, there are so many variables at play that things get very complicated very fast. Most plans have local advisory councils but some do not, some councils are active and some are not.

Lands noted that plan amendments often start from the community level, and they indicate such by supporting an application or by representations by residents to the hamlet council.

It was noted that there is frustration when mixed messages are received from local area advisory councils. Fairness and support of the community are important aspects. Grouping of plan amendments should be encouraged.

Tourism, Transportation Engineering, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Heritage Archaeology, Building Safety, Carcross Tagish First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Uphold the denial which supports the Hamlet of Mt. Lorne Plan, which indicates that this area is within an Open Space designation.

Action #1: Chair Bryony McIntyre will provide Branden Bouquot a copy of the Hamlet of Mt. Lorne rep's e-mail, when received.

Action #2: Community Services will provide Lands a consistent process in writing and guidelines regarding minor plan amendments and the seven steps required for consultation, which can be provided to the hamlets and the LACs and applicants.

Action #3: Lands will provide Tourism a list of local area/community plans and their status vis-à-vis zoning, et cetera.

2. 14560: Sky High Wilderness Ranch, 30.31 ha, Parcel C, Fish Lake Road, Quad 105D/11 – Commercial – Lease expansion – deferred June 8, 2005 LARC

Wendy Fournier, Ian McDougall & Gary Burdess attended at 9:55 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

The application was deferred from June LARC to complete: archaeological initial assessment work and determination by the Heritage Branch as to whether the parcel configuration will be affected and whether heritage salvage will be required, complete with estimate of costs. Applicants should meet with Kwanlin Dun First Nation and Tourism to go over the numbers and off-site impacts, management and mitigation of the business activity on the parcel, with a report back to LARC, to include use of the trails and any resultant wildlife impacts. The new alignment for the Fish Lake Road is to be plotted out to determine its impacts on the configuration of Parcel C-1. After the initial heritage assessment and new alignment, Lands is to work with the client to reconfigure property boundaries and rationalize lot lines. The zoning process is to continue.

The following has occurred to date:

- The Heritage Branch has completed its archaeological work.
- Mapping, reflecting a reserve for the realignment of Fish Lake Road.
- Applicants have met with Kwanlin Dun First Nation on a few occasions to determine sections of Kwanlin Dun land they will be crossing. The applicant does not plan on renting off-road vehicles like ATVs. The higher-end cabins will be trapper style. Skidoos are used for dog team support and checking on horses, but they stay on the maintained trails that the general public uses. They hope to work with the First Nation in their developments. Dog cart rides in the summer were not seen as a problem. Signage will ensure no trespassing on the First Nations' heritage dig sites. The trapline is not an issue. Fencing material comes from the McLean Lake Road and not from the Fish Lake area. They are working with training the First Nations and working with their youth in activities such as skiing and rental of remote cabin units.
- The application represents an upgrading in order to cater to higher-end clients.
- The relationship with the First Nations has been good over the years.
- Kwanlin Dun First Nation confirmed they had a really good discussion with Sky High reps, and mitigation includes: No motorized off-road trips using ATVs are being considered, horses are used on trips with experienced guides, staying on the trails, winter snowmobile traffic is on existing trails, use of signage. Some of the concerns regarding protection of wildlife and cumulative impacts are better addressed through a broader-scale planning initiative, rather than the specific application, to take into account broader issues of backcountry recreational use and horse riding, protection of key habitat areas, et cetera.
- NRCAN is doing the surveying of the Kwanlin Dun site specifics, and a large part of this area south of Lot 319 is under water. This will no doubt affect the road alignment.
- Transportation Engineering advised they selected the horizontal alignment. Swamp will be padded over. No geotech has been done. It is all gravel base. Detailed environmental and heritage assessments would have to occur before any work is undertaken.
- There is a big hill to consider, as well.
- Road frontage and issues related to left-over slivers were discussed.

- Heritage, Archaeology advised they had a documented site on Parcel C-1, which was identified by Ian. Extensive testing throughout the parcel revealed no other cultural materials. Therefore, they have no further concerns.
- Community Services advised the zoning application is in progress for Parcel C. Any amendment to reflect the increased boundaries could be taken care of administratively or another public notification issued.
- C-2 was not used for fencing; instead they put a large fence on the bottom of Parcel A.
- The interest is purchase of Parcels C-1 and A; long-term lease with Parcel C-2 as a holding area for the horses [rotation] and trail protection.
- As this was an old application that was reinstated, the rural residential applications at Fish Lake have no impact on parcel configurations. The boundary on C-1 could be straightened.
- Parcel C-1 is suitable for secluded cabins. The more condensed housing would be on Parcel A, with a fire pit and cabins and a couple of tents

Sky High representatives left the meeting at 10:13 a.m.

Environment indicated they do have some ongoing concerns over wildlife movement in the area and questioned whether the parcels could be reconfigured to take out some of the sharp sides. With all the parcels abutting each other and the grazing lease fenced, it may become an impasse. The department does support the operation. Chair Bryony McIntyre advised Parcel A and Parcel C-1 will be one lot and the boundaries will be realigned. Parcel C-2 will be a lease. The R-V idea has been dropped from the proposal.

Tourism advised there has not been a regional tourism study for this area. The applicant have worked closely with the department over the summer and are developing good partnerships with others to offer tours off their property. They received information on what their property should look like to appeal to mid-to-high-end clients. Sky High is tied to their own values on how they want to deliver product. They want to work closely with Kwanlin Dun First Nation and involve them in the business. Property like this close to Whitehorse has really good potential to be a high quality facility for visitors.

Community Services Land Planning supports the application. The current zoning application will be amended. The parcel should be reconfigured, based on the road reconfiguration. Once there is a disposition and the zoning is in place for the parcel, application for subdivision approval can be made. Not a lot of comments have been received on the zoning.

There was considerable discussion regarding wording of recommendations in relation to other regulatory requirements ie zoning. The standard approval wording, i.e. conditional approval or approval in principle, subject to does recognize that other potential regulatory requirements must be met ie conditions of approval prior to finalization. The Director of Community Services had asked that the wording does not bind government to the disposition, i.e. approval based on a zoning amendment approval by Cabinet. All approvals that are subject to or conditional recognize that other approvals will be necessary. However, it is incumbent upon committee members to effectively represent their regulatory requirements and ensure that any major concerns or items that could potentially derail an application are brought forward through LARC not later at permitting or subdivision approval stage.

Building Safety recommended approval in principle; and once the zoning is in place, development and building permits will be required for any new structures. The applicant is up-to-date on permits.

Heritage Archaeology have no further concerns but request if the applicant finds any artifacts or archaeological material, they notify Heritage Branch.

Kwanlin Dun First Nation outlined there are outstanding concerns about wildlife that need to be addressed in a broader exercise.

Land Policy, Transportation Engineering, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Carcross Tagish First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Conditional approval for:

- lease and purchase of C-1 to be consolidated with Parcel A. Lands will amend lease documents.
- request that Environment work with Lands and clients on the configuration and boundaries, required to meet development conditions.
- Parcel C-2 to remain as an unsurveyed lease,
- Zoning application will be amended by application from Sky High to Land Planning, CS to include parcels C-1 and C-2.

Action #4: Tourism will provide notes to Lands on Sky High Wilderness Ranch.

3. 2005-0061: Scott & Joanne McDougall (Kanoë People) – 10. ha, parcel adjoining Lot 1066, near the Western Shore of Lake Laberge, Quad 105E/03 – Commercial Lot Enlargement – deferred June 8, 2005 LARC

Scott & Joanne McDougall and Rob Hewer, Deep Creek LAC, attended at 10:15 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

This application was reviewed initially by LARC June 8, 2005, and it was deferred to September LARC to address the local area plan amendment. A meeting was to be organized between Tourism, the Deep Creek Advisory Council, Community Services Land Planning and the applicants over the summer to talk about the plan and the process required to amend the plan, as well as the riparian setback from the shoreline and wildlife protection issues. Heritage was to perform an inspection in the area. The applicants were to ensure they comply with the requirements from Building Safety regarding outstanding permits and fire safety plan. Parcel configuration boundary and size requirements to be discussed with the applicants. A minimum 40-metre setback is to be maintained. Community Services was to provide a process document on amendment to the plan.

It was difficult to get folks together, but a meeting was held September 6, 2005, to discuss how a plan amendment would proceed. Community Services had met individually with the clients over the summer. The land surrounding this parcel is not designated Commercial under the Deep Creek Community Plan, so a process has been developed to deal with it as follows:

- Confirmation of the boundary of the parcel.
- A letter from the client, requesting a re-designation or plan amendment. Currently there are residential, shoreline and open space areas that will require re-designation.
- Community Services will develop a consultation strategy, which will require ministerial approval, including 30 days notice in the newspaper, notice to First Nations and Government agencies and local advisory councils. The process will include a public meeting at Deep Creek. The notice will be sent to all residents in the planning area. A report to the minister will include a roll-up of the results of the consultation.
- This is different from a zoning process, which requires cabinet approval.

Two items that have arisen since the June LARC: one with respect to the heritage assessment and the other to do with the fence line [Agriculture Branch]. An archaeological site was found on the hill to the north side of the property. Test holes revealed a stratified site, which means there is material above and below the white river ash, which appears to have been well used in the

past. The department recommends the boundaries be reconfigured to exclude this site at the top of the hill. This was still allow for use of the site for such activities as aurora viewing.

Agriculture Branch reported there is a grazing lease immediately adjacent to this application, plus an overlap of the application and the existing fenceline. The Branch is requesting that the existing fenceline be considered to be the boundary of the application. This has been a grazing lease since 1970; and at that time was administered by the Federal Government. No fencing was required. When it was transferred to YTG in 1985, there was no correct sketch to define the metes and bounds, and there was no survey. At this time, there was a fencing requirement. This was complied with, and the grazing coordinator discovered the fence was off the boundary, and the grazing rights holder was required to bring the fence back. The fence was inspected and approved in about 1995 "without a legal survey, this is as accurate as possible." The Agriculture Branch feels given the technology available at the time, the grazing rights holder built the fence to the best of their ability.

- Rob Hewer stated that having lived in the area for the last 35 years, he is not aware that any part of the fence was moved, despite their request that such be done. The Agriculture Branch believes that sections on the southern boundary, as well as sections adjacent to this application, were moved. They agreed to provide information from the file on this matter. Environment confirmed that the southwest corner, the southern boundary, the southeast corner and parts of the eastern boundary were all relocated. There were also access issues in the southeast corner related to non restrictive gates. These sites were confirmed on the sketches.
- Mrs. Thompson, a representative of the grazing lease, came to Lands and advised they had moved the fenceline once already and that is where the boundary of the lease should be. Mrs. Thompson advised it would be better if Kurt Thompson dealt with this matter, but he won't be back from his outfitting business until October. However, Mrs. Thompson indicated she is totally on-side with the application in general.
- Scott McDougall advised that his application included a "natural boundary", and this is new information on the fenceline. His inspection reveals that once the 40-metre setback is complied with and where the fence is located, it leaves 13 meters of land in some places, restricting any future development, especially in the meadow area. Mr. McDougall stated he would like to work with his neighbours and volunteered to put in the sweat equity and move the fence himself in any areas that would enhance his future plans of being able to offer a world class experience. The work would be done in a timely fashion so as to not affect the operations on the grazing lease. The estimated length of fence required to be moved is between 500 and 700 meters. This will also provide a firebreak and enable the trail access requested by the DCCA. What Mr. McDougall is proposing requires lots of space. Mr. McDougall has several times attempted to phone Mrs. Thompson but has not succeeded in contacting her. Mr. Hewer confirmed that the fence is very restrictive in some areas. The grazing lease encompasses about 1,000 acres of land, so moving the fence will not have a significant effect.
- Mr. McDougall advised he is excited about the archaeological discoveries, and they have no problem excluding this site. This can still be used as a viewing area and preserves it from other activities.
- Deep Creek Community Association supports Mr. McDougall's offer to move the fence; when comparing a commercial operation versus a few horses grazing, the fence should not hold anything up.
- Community Services advised that the titled lot is now being shown as commercial on the draft zoning.
- Environmental Health Services requested the applicants attend at his office to discuss his present shower house, septic system and waste water disposal system for existing cabins, plus future plans. Mr. McDougall advised he had tried to contact the department in the spring.
- Building Safety queried whether Mr. McDougall contacted the fire marshal, and Mr. McDougall has contacted the department, as well as Total Fire Protection. Mr.

McDougall advised the committee of his fire plan. Mr. Hewer advised that the DCCA is currently applying for a Fire Smart Program.

The group left the meeting at 10:50 a.m.

Environment noted that access for fence maintenance for the grazing lease holders must be maintained. The 100-metre shoreline protection area should be maintained.

Tourism commented taking into account Archaeology's comments, they support the application and the applicant's proposal to remove the fence, confirmed by GPS. The company is working closely with the department and is genuine in their intentions.

Agriculture Branch advised clarification of the tenure is required. Tenure is held by Trophy Stone, and Mrs. Thompson is not a principal of the company. The applicants' offer to relocate the fence is very reasonable. The Agriculture Branch's objection to the boundaries of the grazing lease was never about the loss of the small amount of land, it was just about moving the fence. There is some concern regarding when the fence is moved and how far, and they suggest that a survey be done to confirm boundaries. It is not up to the Thompsons' whether the fence is moved or not. The Agriculture Branch has the right to change the boundaries of a grazing lease with due notice to the lease holders. The AUM was calculated on the paper boundary, not on the fenced boundary.

Community Services Land Planning supports the application. It will have to go through the plan amendment process and a resolution of the fenceline boundary. Subdivision approval will be required.

Environmental Health Services requested the applicant work with the department on the future development and existing facilities and the drinking water system.

Building Safety does not object to the proposal and advises all permits are in place and up-to-date. The fire safety plan for the property and health and safety of the customers is important.

Heritage Archaeology request the north-eastern boundary be reconfigured to exclude the high terrace.

Lands Policy asked about the possibility of putting in a user-friendly gate to access the grazing lease. Environment advised there is already at least one gate.

Transportation Engineering, Land Use, Forest Management Branch, Deep Creek Community Association, Carcross Tagish First Nation, Kwanlin Dun First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Conditional approval, subject to the applicant proceeding through the plan amendment process, as outlined by Community Services. Reconfiguration of the parcel to include: excluding the heritage site on the northeast boundary, working with the client on the appropriate location for the boundary. The applicant to contact Environmental Health Services to deal with public health issues. A two-metre public trail to be maintained between the parcel and the grazing lease to allow for access to fix the fence and serve as a firebreak. Subdivision approval will be required. Lands to organize a meeting with Agriculture Branch, Trophy Stone and the applicants regarding the fence matter, which will determine final boundaries.

Action #5: The Agriculture Branch agreed to provide information, such as inspection reports, from the file to the DCCA regarding fencing changes made to the grazing lease.

NEW BUSINESS

1. 2005-0186: Philip & Joanne Gifford – 3.99 ha, adjoining Lot 1007, 90-017 LTO, near Jakes Corner, Quad 105C/05 – Rural Residential

Philip Gifford attended at 10:55 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Gifford advised he chose the parcel because it is right next door and handy. It is a nice piece of property with a good view. They have been at Jakes Corner for four years and have met quite a few people. They like the area and would like to stay there. It is away from town, yet accessible. The Giffords' are the owners of Jakes Corner. They would like to have one of their children take over the business, and this would allow them to be close enough to help but far enough away so they don't interfere. Regarding a spot to install septic, there is an outcropping of sand on the east end of this piece of property. The gravel pit is on the east end of the piece applied for.

Regarding access, presently there is a trail going through the middle of the parcel through the gravel outcropping. Transportation Engineering advised that access will be tight, and there is probably only one spot on the Whitehorse side of the parcel but is doable.

Mr. Gifford advised he may build a garage, in addition to a residence, on the parcel. They are presently living in the old restaurant on Lot 1007.

Mr. Gifford left the meeting at 11:00 a.m.

Written submissions: We own Jakes Corner and would like to continue to live in the area after we retire and sell the business. This would give us the opportunity to live close but apart from the business and develop the property before we sell.

NRO COMMENTS

No existing improvements; soil: silt, clay, some fluvial sands and gravels, thin organic mat; vegetation cover: mature lodge pole pine, spruce, aspen, various herbs and shrubs; terrain: sloping toward Alaska Highway <10%; waterbodies: small creek drainage to west of the application area; exposure: southern; access roads: Alaska Highway; suitable for Building foundation and septic; distance to water supply: 400 meters to creek; not subject to flooding; no environmentally sensitive areas. General comments: area is suitable for intended purpose. Recommend 50m buffer between Lot 1007 and application area. See attached map to provide for privacy and to include preferred septic site. (preferred septic site has fluvial sands and gravels.

LCIS: The application area is within the traditional territory of Carcross/Tagish First Nation. The area being applied for is not in conflict with the traditional territory of that First Nation.

Property Assessments: No RETP concerns

Land Use: Land Use Permit for construction of power line and access

Laberge Renewable Resource Council: Our council did not receive a copy of this application, but from its location we assume that potential impacts on wildlife and habitat will be low.

No comments were received from the Tagish Advisory Council.

Lands Policy asked for clarification re: site plan and parcel configuration. Apparently the configuration involves the sand/gravel at the end being ideal for septic, plus access. This nodal

development is at a junction of two roads; and the caribou map does not indicate there are a lot of animals right in this vicinity.

Building Safety had no concerns. Building permits will be required for any new structures. They do not agree with the 50-metre buffer.

Transportation Engineering advised an access permit will be required. The slope is within the right-of-way. The only suitable spot for access is at the north corner.

Community Services Land Planning advised there is no planning or zoning in the area. They queried whether or not there should be a buffer between this parcel and Lot 1007. The parcel should be less than four hectares. Subdivision approval will be required.

Environment does not support this application primarily because it is within the winter range of the Carcross caribou herd. Interest in the development of this area will result in additional pressure to develop other rural residential sites in this area. This site is surrounded by key lichen-bearing habitat for caribou and within caribou key winter range. The resulting zone of influence will extend westwards and northwards where there is radio collar data for caribou. The caribou recovery program ends in 2008, with the goal to get the population up to 2,000. A lot enlargement would be easier to deal with. Moving the application to the back of the lot could be looked at, as it would have less impact. However, access may not be possible. The department acknowledged that Mr. Gifford has been an ally to the caribou recovery program.

Chair Bryony McIntyre commented that being at a development node, this is where it makes sense for people to apply through the rural residential policy. However, every application in this area has been denied because of caribou habitat over the years. Need to look at the precedent of allowing a stand alone parcel go forward and the potential for other new applications.

Lands suggested the parcel boundaries could be reconfigured and the size reduced to two hectares; or in the alternative subdivide his present lot or enlarge the lot to provide area for a residence.

There was extensive discussion by the committee regarding the merits of either a stand-alone RR parcel or an enlargement to the existing commercial property. Pros and cons were discussed, as balancing the fact that this individual is the current commercial property owner and therefore has a legitimate need for a residential site near his business, countered with the past history of no applications for any types of stand-alone uses other than enlargements of existing lots have been approved in this sensitive caribou area on the Alaska Highway.

Mining Recorder, Tourism, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Heritage Archaeology, Carcross Tagish First Nation, Kwanlin Dun First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Approval in principle only for an enlargement of Lot 1007 to meet the applicant's residential needs, rather than creation of a stand alone lot through spot application . The rationale is based on past decisions on protection of the caribou habitat, consistency of the committee's reviews of applications in the area and recognition that if there is future lot development in this area is should be undertaken in a planned way that recognizes the impacts on the wildlife. Lot configuration to ensure avoidance of lichen-covered area. Lands to work with the applicant on a parcel configuration to meet his needs. Access to be constructed to meet safety and sight lines. Subject to subdivision approval.

Action #6: Lands will keep Carcross Tagish First Nation informed of configuration of boundaries of enlargement to Lot 1007, Jakes Corner.

2. 2005-0170: P.A.L.A. Management Corp. – 3.3 ha, parcel north adjacent to Northland Trailer Park, City of Whitehorse, Quad 105D/11 – Commercial Enlargement

Don Brewster, agent, attended at 11:04 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Brewster read a letter from Mr. Chalifour, apologizing for not being able to attend the meeting and expressing very clearly he is not applying for the land for a commercial enlargement. Because 14 more lots are being developed, the appearance is that this land is being applied for that purpose. A letter has been sent to all residents, explaining the purpose is as a buffer between the trailer park and neighbouring land claim land. The intention of the application is for “other”, namely walking trails. Mr. Brewster outlined the work, time and money to date Mr. Chalifour has invested in cleaning up the area and establishing trails.

A number of phone calls, indicating support, were received; and letters of support were tabled from Cecil and Ann Spinks and others.

Whether they prefer lease or licence of occupation was discussed. A few years ago, the City of Whitehorse offered them the property for \$350,000 for seven acres. That is too expensive for a recreation area.

Chair Bryony McIntyre reviewed past negotiations for this parcel and the need for green space for the trailer parks in the area. Land value for a potential mobile home park is very expensive, and as an option, land use authorization was given to P.A.L.A. by YTG to clean up the parcel and continue to utilize it for trails.

Regarding Kwanlin Dun First Nation’s query vis-à-vis the bylaw review undertaken by the City of Whitehorse, it was uncertain what decision was made regarding whether or not this parcel would be left as park.

Community Services confirmed that the public would still be ensured access to the property.

Mr. Brewster left the meeting at 11:13 a.m.

Written Submission: We are reapplying for this parcel for the same reasons expressed in the July 10, 1997, letter enclosed. Now, eight years later, a new subdivision has been created and filled. More people than ever live on this Takhini plateau and the need for a walking trails park to service this area is now greater than ever.

Our long-term vision for this area is that of past and current use. These bush trails have been used extensively by Northland and Takhini trailer park residents for over twenty years. The trails provide a natural setting and a habitat for birds, squirrels and wild flowers.

Once fully developed, this land plateau will house 2500+ residents bordered by river cliffs and a main road artery, making it necessary for these residents to commute to a (trail) park site, if there isn’t one here.

We believe 3.3 hectares is minimally consistent to that area of land which is zoned open space in Porter Creek and newer subdivisions, and feel this is the vision to follow. It’s easy to do it now, and impossible to accomplish by hindsight. Ideally, 16% of land should be zoned open space in any community, especially a community with firm boundaries, and particularly, in a community such as Whitehorse.

We have done the cleaning and clearing and wish to reapply for this parcel.

July 1989 – Larry Chalifour proposed to the City of Whitehorse that he acquire Group 804 lot 262-6, apparently zoned RMH, and establish a clean park like environment on it

March 1995 – Gary Annau made a commercial/industrial application for the property, intending development as a mobile home park. LARC defers for further First Nation comment and to decide method of disposition. Land application advertised for any other expressions of interest.

January 1996 LARC denies Annau application. March 15, 1996 Chalifour applies for the lot as a lot expansion. April 16, 1996 LARC approves for a three-year commitment to develop lot through a development agreement with City of Whitehorse. Property evaluated at 273,500. Sale did not complete

June 6, 1997-YG Letter of authorization (for 1 year) to clear brush, clean up and maintain area for purpose of natural enhancement and promotion of passive recreational pursuits. Similar City of Whitehorse letter

1998 – Authority to clear brush and maintain is renewed however PALA now wants to protect this investment. Inquiries made as to whether City would like the land as a park; City did not take up the offer

1999 - Another inquiry made as to whether City interested in the land as a park; apparently some interest by city; was going to recommend a rezoning to Park. Land claims issues put the matter on hold.

NRO COMMENTS

No existing improvements; soil: fluvial sands/gravels, thin organic mat; vegetation cover: immature lodgepole pine, spruce, aspen, various shrubs and herbs, 50-60% crown closure; terrain: flat to undulating, some areas are sloping less than 10%; no waterbodies noted; no exposure; access roads: via Range Road; suitable for building foundation and septic; distance to water supply: unknown; not subject to flooding; no environmentally sensitive areas. General Comments: Application area is adjacent to existing trailer park. Terrain and soil conditions would be suitable for intended purpose. No conflicts with adjacent lands noted. No further concerns with application area.

LCIS: The application area is within the traditional territories of Kwanlin Dun First Nation and Ta'an Kwach'an Council. The area is not in conflict with the settlement land of either First Nation, and in fact is an identified "not including" in the land appendix description of KDFN C-15B. The KDFN Self-Government Agreement identifies the Land Use and Development Designation for C-15B as residential, as defined in the KDFN agreement which is described under Appendix B, Part 1 of the Self Government Agreement.

Laberge Renewable Resources Council: This proposal is located within a residential area and no significant impacts on wildlife are anticipated. In fact, park development may lead to an enhancement of habitats for certain species and improved wildlife viewing possibilities.

Letter from Stephan Graham & Cindy Kellington – 109 Northland (received in Lands September 6, 2005) indicating in support of no development of the 3.3 hectare parcel north of Northland Park, as they use the walking trails that are in this area all the time and do not want to see them disappear.

Two letters of support: Mary Lynn Drul – 146-986 Range Road (received in Lands September 6, 2005) and also from Gerrilynn Drul & Thomas Fraser 187-986 Range Road support PALA being given the area to retain as a park, as the area contains so many trails, berries and small flock of little birds.

Pat Ross, City of Whitehorse attended the meeting during the discussions of the application. City of Whitehorse indicated the Official Community Plan identifies this parcel as residential urban, so the City does not support an attempt to designate park-type, greenbelt zoning which would restrict residential development. A park area is not a problem, as under the Zoning Bylaw, it is designated residential mobile home park, the principal use of which is mobile home parks and parks. The City does not have an issue with the lot being purchased as an enlargement to Northlands development or as a standalone parcel, although it may have to be consolidated to the existing lot. Parks Department has no plans to develop this area as a park, although it does support continued use of the parcel as a trail network for the area. The type of tenure is not an issue, i.e. licence or lease to enable P.A.L.A. to maintain as a park buffer. Under the new Zoning Bylaw, it appears it will be taken to a future development-type zoning.

NOTE: On September 15, 2005, the City of Whitehorse confirmed that the draft zoning bylaw depicts the subject area remaining as RP- Residential Mobile Home Park, and note future development.

Kwanlin Dun First Nation advised this parcel was of great interest to their First Nation and Ta'an Kwäch'än Council. The negotiators notes indicate that the parcel was under application [initiated by the Government] for a zoning change to park open space and there was a lot of discussion on maintaining it as such, particularly if it was not to become a land claims parcel. Kwanlin Dun's boundary goes to the edge of the parcel.

Chair Bryony McIntyre advised the lease fee will depend on the use, i.e. if the lease or licence terms are restrictive, it reduces the value. A licence will not restrict access, as it does not grant an interest in the land.

Community Services Land Planning support a lease with no option to purchase, restricting the use to continuing park. There should be a guarantee that the land is open to the public for their use. There appears to be a conflict with the City of Whitehorse wishing to maintain the parcel for future development and the community's preference to maintain it as park and walking trails.

There was considerable discussion as to what would occur should the designation be changed in future, i.e. whether or not the City would be obliged to purchase and maintain the lot as a park, as well, what occurs when the Zoning Bylaw is amended vis-à-vis the OCP.

Ta'an Kwäch'än Council supports Kwanlin Dun's comments and favours a short-term lease or licence.

Mining Recorder, Land Policy, Tourism, Transportation Engineering, Environment, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Heritage Archaeology, Building Safety and Carcross Tagish First Nation and had no concerns.

Recommendation: Approval for a five-year licence of occupation for continued park type uses, status quo to be maintained in light of the Zoning Bylaw and OCP issues being discussed with Kwanlin Dun First Nation, Ta'an Kwäch'än Council and the community.

Action #7: Lands will forward draft minutes to the City of Whitehorse before the final copy is distributed.

3. 2005-0184: YG Highways – 0.4 ha, near km 12 Takhini River Road, Quad 105D/14 – Silt Pit Reserve

Transportation Maintenance has a need for silt to blend with coarser material from their 3 Mile Pit on the Klondike highway. The blended material will be used for surfacing material on local gravel roads.

This new pit location is at Kilometre 3 of the Takhini River Road on the right hand side.

NRO COMMENTS

No existing improvements: soil: silt; vegetation cover: aspen (immature) various shrubs; terrain: sloping hillside; waterbodies: near Takhini River, drainage to west of application area; exposure: south; access roads: Takhini River Road; not suitable for building foundation or septic; Distance to water supply: n/a; subject to flooding: n/a; environmentally sensitive areas: stream to west. General Comments: Suitable for intended purpose – silt reserve. Stream bank stabilization may need to be implemented on drainage to the west of the application area. No lands conflicts. No further concerns with application area.

The application area is within the traditional territories of Kwanlin Dun First Nation and Ta'an Kwach'an Council. The area under application is not in conflict with the settlement land of either First Nation.

Property Assessments: No RETP concerns

Laberge Renewable Resources Council: This general area at the Takhini River has a good mule deer population, and elk have occasionally also been observed. The small size of the proposed pit will not have significant impacts on wildlife and their habitat, but we repeat recommendations made to Lands on previous occasions that every pit proposal should include an abandonment and revegetation plan, so that damage to habitat during the excavating phase will eventually be made up for.

Email received from Wayne Grove on August 19, 2005, states, he has no objection with the development with the silt pit reserve, although Mr. Grove does have a concern with management practice(s) with unwanted weeds, specifically Barley Foxtail, a common weed which costs us thousands of dollars and hundreds of man hours per year to control.

Letter received from Gary & Pamela Zgeb dated August 22, 2005, outline the following concerns: noise from the operation of the pit to which we are the closest house. Will this be regulated as to hours of operation, whether or not the pit will be locked to prevent campers from using it, decreased visibility on the road from the clouds of dust that are raised when traffic passes over its highly silty base, increased traffic of heavy equipment on an already incredibly poorly maintained road will damage the road even further and worst of all, either spill or leave a trail of silt every time a load exits the pit, the silt dust from this pit will undoubtedly affect the wildlife living in the stream, e.g. frogs.

Transportation Engineering commented if they make a mess of the road, they will fix it. The only source of gravel for road construction is the Three Mile Pit. The department crushes to a high-grade spec, and for gravel surface roads, it has to be blended with silt. This is a continuation of a previous cut, on a small scale compared to the slopes that have already been opened up. The area is buffered back from the creek, and the dig would be going up the hill. Rehab and development plans will be put in place once the reserve is established. The silt pit will probably be long-term, i.e. as long as there are gravel roads in the area. Slopes are always revegetated with grass seed.

Environment noted the Takhini Hot Springs Road Plan identifies this area as a wildlife corridor and unless there is a way to mitigate the concerns, the department recommends rejection of this application. There has been gradual erosion of this corridor from the disposition of lands to agriculture on both sides of the corridor.

Community Services Land Planning noted the parcel is in the Takhini Hot Springs Road planning and zoning area. The plan designates the two streams as a wildlife corridor and it is designated

and zoned Environmental Open Space, which allows public utility. A strict interpretation of the zoning would be that this type of activity is not permitted.

Building Safety agreed with Community Services that the area would have to be a permitted use under the zoning.

Heritage Archaeology confirmed there is a small archaeological site across the road, but it appears from the photos that the area to be developed as a pit is either already disturbed or a side slope.

Kwanlin Dun First Nation echoed the wildlife concerns and noncompliance with the Takhini Hot Springs Road Plan.

Mining Recorder, Land Policy, Tourism, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Carcross Tagish First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Deferral to December, 2005 to allow discussions between Transportation Engineering, Environment and Community Services, re: planning and zoning in the wildlife corridor issues. If Transportation Engineering is to proceed the department is encouraged to have discussions with neighbours to address their concerns.

4. 2005-0190: Albert Vaillancourt & Sarah Musil – 2 ha, adjoining Lot 1200, Plan 89-107, Quad 105D/14, Old Alaska Highway, Ibex Valley – Residential Lot Enlargement

Albert Vaillancourt & Sarah Musil attended at 11:15 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Ms. Musil advised that the lot is smaller than the six hectares specified under the residential zoning. With the land claims, there is land left over, so they are applying for it. Their lot is surrounded by settlement land.

Community Services noted the eventual size of the lot would not result in a six-hectare parcel, as the maximum land available would result in a four-hectare parcel. A legal opinion should be obtained whether or not this is permissible. Rezoning to rural residential will be required, as the area applied for is zoned hinterland under the Ibex Valley Zoning Regulations, which are presently going through approval.

Kwanlin Dun First Nation asked about trails and an old Alaska Highway right-of-way through KDFN parcels, and Mr. Vaillancourt advised there are no trails.

Mr. Vaillancourt and Ms. Musil left the meeting at 11:25 a.m.

Applicants state: 'Our lot is small and this will bring our lot size up to the six-hectare lot size.'

NRO COMMENTS

Existing improvements: fox den; soil: silt clay loam, sands and gravels, thin organic mat; vegetation cover: immature aspen, mature lodge pole pine, some spruce; terrain: rolling; waterbodies: none noted; exposure: southern; access roads: Old Alaska Highway; suitable for building foundation and septic; distance to water supply: unknown; not subject to flooding. General Comments: Fox den found on site. Area is rolling in nature with suitable building sites. Good aspect. Access of Old Alaska Highway may be a problem due to visibility. All other aspects were found to be suitable.

The application area is within the traditional territory of Kwanlin Dun First Nation and Ta'an Kwäch'än Council. The area being applied for is not in conflict with the settlement land of Ta'an Kwäch'än Council and is actually listed as a "not including" Sketch 1 related to Kwanlin Dun's S-13B/D. It has been confirmed with the KDFN negotiator that S-13B/D is to be a 36 ha s-site and the current sketching of the s-site is at approximately 38 hectares. That, together with the fact that mapping is digital suggests that there should not be a problem surveying the two-hectare lot enlargement prior to survey of KDFN S-13B/D, should the one precede the other.

Property Assessments: No RETP concerns

Laberge Renewable Resources Council: This parcel is surrounded by other residential sites and impacts on wildlife and their habitats will be insignificant.

Kwanlin Dun First Nation requested they be assured enough room is provided for their site.

Transportation Engineering advised the old Alaska Highway right-of-way could be incorporated in the new lot. No new access will be allowed. A reduction of the right-of-way to 60 metres could be considered.

Community Services Land Planning stated the applicants cannot meet the six-hectare minimum size, and the Subdivision Act requires that lots meet the minimum lot size when creating lot enlargements. It is uncertain how much the road right-of-way could potentially add to the size. A legal opinion should be obtained, and there is the option to wait until there is a plan amendment or a discussion in the community of reducing the minimum lot size for a RR zone.

Mining Recorder, Land Policy, Tourism, Environment, Land Use, Forest Management Branch, Agriculture Branch, Environmental Health Services, Heritage Archaeology, Building Safety, Carcross Tagish First Nation and Ta'an Kwäch'än Council had no concerns.

Recommendation: Deferral to December 2005. Lands will request an opinion from Justice in regard to interpretation of the regulations, the mandatory minimum lot size of six hectares and advice in regard to when it cannot be reached as there is not enough available land to enlarge to the minimum. The case at Jackson Lake and enlargement down the S. Klondike Highway (Lera) were both referenced to be part of the legal review.

5. Ag App 787: Karla DesRosiers – approx. 40 ha, near Shallow Bay, in Quad 105 D/14 - Agricultural

Karla DesRosiers and Len Walchuk attended at 11:27 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Walchuk tabled and read into the Record: "LARC Presentation by Applicant", dated September 7, 2005, requesting the change of an existing grazing lease into an agriculture parcel. Photos of work that has been carried out on their adjacent property over the past two years were also circulated.

Questions/Comments:

- Ta'an Kwäch'än Council asked for clarification of the 15 or 30-metre setback from Horse Creek. Mr. Walchuk advised the current setback on the grazing lease is 15 meters. A lot of the fencing was done in the '70's, and there are a couple of places where the fence does encroach on the 15 meters where it would have to be changed. The current setback between Lot 787 and Shallow Bay is 60.96 meters, so any increase in the setback would require moving of the fence. Ta'an Kwäch'än Council opposes the application for the same reasons as identified previously, i.e. they want to get the time to look at Shallow Bay wetland as a special management area. The applicants indicated an

- interest to be the stakeholders in this process through some sort of stewardship agreement. The First Nation would like to do some research regarding setbacks and size of parcel. Mr. Walchuk advised since they started to work the land, the amount of wildlife and birds in the area has increased significantly. The creek that runs through the property has not been affected, and there continues to be lots of water even with their withdrawals for irrigation use.. Special meters are put on their pumps to regulate usage, and they are well under permitted water licence withdrawals due to the efficiency of their computerized irrigation system. Their preference is to not have environmental impacts.
- ALARC recommended that the parcel is to remain outside the willow border of the lake. Agriculture Branch inspections indicate the fence is largely outside the willow border of the lake except for one obvious section. It is difficult to judge the actual distance of the fence from the OHWM, but a couple of checks were in the 80-to-100-metre range.
 - Community Services clarified that the proposed road right-of-way would be surveyed out of the existing grazing lease and not Ta'an Kwäch'än Council land.
 - Heritage noted the option of reconfiguring 15 meters off the boundary along the northeast corner of the existing fenceline to exclude an archaeological site, as compared to the option to salvage the site, and the applicants indicated they prefer the salvage option. Salvage in this case means hiring a qualified archaeologist to comprehensively assess and collect heritage material
 - Kwanlin Dun First Nation asked for clarification of the stages of proposed development, and Mr. Walchuk advised that Lot 787-2 is the next stage or subject to agreement down the road if 787-1 is approved. 786 is a separate application not connected to this application review..
 - The applicants advised they would like to eventually reside on Lot 1096, the property that is titled and has been in their family for quite some time, as it is closer to power, the highway and existing infrastructure.

Karla DesRosiers and Mr. Walchuk left the meeting at 11:45 a.m.

The parcel is approximately 40 hectares. It has passed soil criteria for soil-based agriculture. The parcel is located on the applicant's grazing lease. There is an archaeological site on the parcel, and the applicant prefers salvaging. Concerns:

- Access should be along the road right-of-way along the northern boundary of Lot 787-2 from the highway, across the creek and then connecting with Lot 787-1.
- Required setback and buffer from Horse Creek and Shallow Bay - feel that the 30-metre setback from Horse Creek and 100-metre from Shallow Bay should be adequate.
- Letter of opposition from Canadian Wildlife Service - recommend 100-metre riparian buffer zone from the high water mark of Horse Creek and 200-metre from the high water mark/willow/grass interface of Shallow Bay. Letter outlined concerns with Ta'an Kwäch'än Council interest in having Shallow Bay wetland declared an SMA, important bird area site [letter contained details on numbers and types of birds], cumulative impacts of further development around Shallow Bay. The CWS request deferral until various habitat protection processes are completed.
- The site is good, no timber concerns, verified by the NRO's report. The NRO recommends a 50-metre buffer from Lot 1178 to the north. There is fencing on the site due to the existing grazing lease. There are no other concerns.
- No opposition or support was received to the public notice published on August 12, only one query for more information.
- Letter from Laberge Renewable Resource Council - Concerns are similar to those in Agriculture Application 786, March 3, 2005: wetland and migratory bird staging area, at least 65 species of birds confirmed to date, was once a duck and goose-hunting area; need to retain public access; wildlife-friendly fencing to prevent livestock from getting into contact with the water; traditional use and culture; use of buffer strip or corridor to protect sensitive areas.

- The agencies that are making a strong case for the value of the area do not identify any timelines to take concrete steps to protect the values identified.

Ta'an Kwäch'än Council opposes the application for the same reasons they opposed Agriculture Application 786: value of the wetland for traditional, cultural reasons and waterfowl. They wish to pursue the establishment of an SMA that would include Shallow Bay itself and some portion of the uplands along the shoreline, 30-metre setback not adequate. The grazing leases carry public access provisions. Interest in all the lands in the area are held by the same family, and they question how much land they require. TKC requested that changes in land tenure should be delayed at the very least, as a couple of months during the summer is not adequate time for SMA deliberations to occur.

Environment supported Environment Canada, Laberge Renewable Resource Council and Ta'an Kwäch'än Council comments and deferral to allow some action on the items proposed. Through ALARC, it was recommended that the thickly-willowd margins, tied into the high water areas along the lake margin, be removed. A 30-metre setback from Horse Creek was discussed. A buffer for encroachment or runoff from proposed agriculture activities should be provided to avoid surface water contamination. If the applicant was willing to develop Lot 787-2 before 787-1, it would allow time for the potential SMA interests and to address issues raised today; as well, whether the boundary was fixed or if the applicant would be flexible on that.

Community Services Land Planning commented there is no planning in this area, but it is under the Whitehorse periphery or agriculture area development regulations. Discussions revolved around whether converting the grazing lease to an agriculture parcel is the best use of the land. It appears the access plan is acceptable. The department supports a deferral of a decision on this parcel, with the applicant considering developing one of their other parcels first, until more work occurs on a potential SMA.

Agriculture Branch advised their new policy has shifted the emphasis on the agriculture program away from lifestyle dispositions towards more commercially-oriented agriculture. These applicants have invested a great deal in their operations and they are exactly the kind of applicant the Branch wants to support. The setback requirements are a step in the right direction for this site.

Transportation Engineering noted that access is not from the Klondike Highway but rather from an existing frontage-type road, so that is not an issue. The access plan is great, and the applicant has done everything properly, maintaining access to Horse Creek.

Building Safety concurred with a deferral until the studies can be completed, maintaining the grazing lease.

Forest Management Branch supported deferral to consider the values. Adequate buffers on streams are important.

Heritage Archaeology advised they conducted an overview survey last year with Ta'an Kwäch'än Council and found one small archaeological site in the northeast corner. Normal practice would be to reconfigure the boundary to exclude the site but the applicant has indicated they are willing to bear the costs of salvage, rather than redo their fences and boundaries. If a 200-meter buffer from Shallow Bay is being considered, the heritage site may be captured in that buffer.

Land Policy supported further study to determine how much buffer is required and what impact agriculture might have on migratory birds in terms of waste, fertilizers and pesticides runoff into Shallow Bay, recognizing that there are 65 breeding species. It is important to maintain public access to enable viewing of migratory birds. On the other hand, the applicants have obviously invested huge amounts of money in their irrigation system, the result being production of a good crop.

Kwanlin Dun First Nation requested deferral to give some time to consider the issues raised by Ta'an Kwäch'än Council and CWS and the cumulative nature of land disposition in the area. The involvement of the applicant in stewardship should be welcomed and formalized.

In terms of the agriculture land application review process, Chair Bryony McIntyre noted the large number of applications that have been denied through ALARC over the years due to wildlife values and inquired about the ALARC approval in principle in this instance. Environment responded they felt they had provided sufficient buffers by removing the willow margin (100 meters). The actual wetlands in Shallow Bay are noted key wildlife habitat polygons for staging, moulting and nesting. They were unaware of the issues raised by CWS in their letter. They feel that this application has the potential to address all three interests, i.e. significant wetlands, an agriculture producer with a track record of doing a good job and an SMA with management guidelines stated. Agriculture Branch added that Lot 1096 has been farmed intensively since 1984 at a 60.96-metre buffer from Shallow Bay without any reported impact. That is "the perfect test case". There was a discussion whether an application of this nature would trigger YESAA, and it was pointed out that agriculture applications will be YESAAed once the regulations are adopted.

Tourism, Land Use, Environmental Health Services and Carcross Tagish First Nation had no concerns.

Recommendation: Deferral to December, 2005, Agriculture to provide an update of discussions at that time. The Agriculture Branch to discuss with clients the option of focusing on a parcel closer to the highway while discussions of the interests is being undertaken. Ta'an Kwäch'än Council, CWS, Agriculture Branch, Kwanlin Dun First Nation and applicant to discuss options for protection of the habitat.

Action #8: Ta'an Kwäch'än Council will convene a meeting of the stakeholders, including the applicants, asap to look at options for a study.

The next LARC meetings are Wednesday, October 12 and Thursday, October 13, 2005, 9:00 a.m. the large boardroom at 419 Range Road, Whitehorse.