



Energy, Mines and Resources
Lands Branch

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LOT ENLARGEMENT

Land Application Policy

OBJECTIVE

To facilitate provision of land for residential and recreational lot enlargements.

PURPOSE

This policy provides direction regarding the review of applications for lot enlargements to titled residential and recreational properties. The purpose of the policy is to:

- ✓ Allow people to apply to enlarge residential or recreational lots to accommodate legitimate land use activities;
- ✓ Ensure community interests are protected with respect to the management and disposition of public land;
- ✓ Meet development standards as defined in the *Subdivision Act* and Regulations, planning schemes (see Definitions), other regulatory authorities, and resource management plans and policies.

BACKGROUND

From the 1950s to late 1970s, areas developed for recreational purposes were generally no more than 0.2 hectares (1/2 acre), with many lots being smaller. Greenbelts, setbacks, access corridors and other development criteria varied significantly from subdivision to subdivision. Providing enlargements in keeping with the character of the subdivision facilitates increased use while protecting the character of existing neighborhoods and communities.

Local area plans or zoning regulations guide lot enlargements. In areas with no local area plan or zoning regulations, residential enlargements up to 3.99 hectares can be provided, consistent with the *Subdivision Act* and Regulations. Residential enlargements that include minor commercial or non-commercial agricultural pursuits are accepted under this policy consistent with the Rural Residential land application policy. Applications in remote areas or on shorelines are dealt with on a case by case basis based on the sensitivity of the area and future subdivision considerations.

DEFINITIONS

Residential

For the purpose of this policy, residential means serving as a principal residence. Residential does not include recreational. A residential designation within a plan or zoning may allow for bed and breakfast, home occupation or minor agricultural pursuits. Other commercial uses are not normally permitted under a residential designation.

Recreational

For the purposes of this policy, recreational describes a location/lot that is not used as a primary residence. The definition includes original planned subdivisions where no zoning is in place and private lots on lake bodies.

Cumulative Effects

Changes of an environmental, social, or economic nature caused by the combination of past, existing, proposed, and reasonably foreseeable future development.

Grouping of Applications

If more than one application (of any type) exists in an area and have not yet received decisions, or if there are particular sensitivities in an area, applications may be grouped together in order to consider social, economic and environmental information and to ensure that consistent information is considered in each application.

Pre-planning Process

A process coordinated by the Lands Branch, Yukon Government to assess an area for its suitability for development, which may involve input from the departments of Environment, Highways and Public Works, and Community Services, and any other department with responsibilities or interests in the area. A pre-planning process may consider social, economic, and environmental information in areas experiencing heightened interest, such as where multiple applications are received; where multiple sensitivities are identified through a land application review; where planning is occurring or anticipated; or where consultation with other governments, such as First Nations, is advisable. A pre-planning process may result in Lands Branch closing off an area to applications, or deferring or denying applications pending more comprehensive review.

Planning Scheme

A regional plan; sub-regional plan; district plan; community plan; local area plan; or land use policies and regulations made under the *Area Development Act*, the *Highways Act*, the *Lands Act* or the *Territorial Lands (Yukon) Act*. Also includes Special Management Area plans created to fulfill obligations under the applicable First Nation Final Agreement, Habitat Protection Areas under the *Wildlife Act*, and Parks under the *Parks Act*.

PRINCIPLES

Land dispositions must comply with existing and proposed planning schemes.

Land applications must demonstrate a need for additional land, which can include providing for human health and safety; or continuing existing, established land uses that are consistent with zoning or planning parameters.

Requests for land where the purpose is to subsequently subdivide the parcel into multiple lots will not be considered.

Land tenures are only authorized in an amount reasonably necessary to satisfy the purpose for which the land is needed. Residential land parcels will normally be limited to a total of 2 to 3.99 hectares (4.94 to 9.8 acres) unless otherwise required by existing planning and zoning.

Land required to facilitate public recreation and multiple use of land and natural resources will normally be retained for public use rather than alienated for private use.

POLICY PARAMETERS

A. Form of Tenure

1. Tenure will be provided under a one year agreement for sale.
2. The following conditions apply:
 - ✓ Legal survey by a Canada Lands Surveyor is to be registered within 1 year of entering into the agreement for sale. Subdivision approval is required prior to survey. Survey costs are the responsibility of the purchaser.
 - ✓ Development is to meet any *Area Development Regulation* and other regulatory requirements.
 - ✓ Title is provided when survey is registered, all terms and conditions of the agreement for sale have been met, and the full purchase price has been received by Lands Branch.

B. Cost of Land

- ✓ Land will be sold at market value.
- ✓ All development costs are the responsibility of the applicant, including survey costs.

C. Area of Tenure

- ✓ Enlargements will be limited to the size required to meet demonstrated needs and to create rational lot boundaries.
- ✓ Enlargements will be limited to a size that will not enable future subdivision. In areas without a planning scheme, the maximum total lot size is 3.99 ha, which acknowledges the 2-hectare minimum parcel size within the *Subdivision Regulations*. In areas with a planning scheme, the minimum lot size in the planning scheme will guide the enlargement limit.
- ✓ Enlargements will normally be no more than double the size of the original lot.
- ✓ Enlargements shall reflect the pattern and character of existing development and be consistent with a planning scheme or area development regulations.

D. Site Criteria

1. Applications may be considered if they:
 - ✓ Are suitable for their intended purpose, including having regard to the evaluation criteria outlined in Section 8, *Subdivision Regulations* (See Appendix A).
 - ✓ Comply with existing and proposed planning schemes.
 - a) Local area plans (where they exist) are the primary screen for the review of applications.
 - ✓ Are not located in areas identified in Section 7, below.
2. Applications requiring a new highway access road will be subject to approval of an access permit by the Department of Highways & Public Works. These applications will also be considered according to the provisions of the *Yukon Environmental and Socio-*

Economic Act (YESAA) and regulations to determine whether an environmental assessment will be required.

3. In situations where driveway/access road relocation affects a neighbouring lot and the existing access is not posing an immediate safety concern, the relocation must be resolved and confirmed in writing to the satisfaction of both parties. The applicant is responsible for ensuring support from the affected party and costs of relocation.
4. Land management factors such as the ability to extend the road to service additional lots will be considered in the review of applications.
5. The interests of adjacent land owners will be considered in the review of any application that restricts the enlargement capability of adjacent lots.
6. As a general rule, road, lake or river frontage shall not be more than 25% of the overall parcel boundary.
7. Applications will not be considered if they:
 - ✓ Encroach on developed highway rights-of-way and other public infrastructure corridors.
 - ✓ Are on lands unsuitable for proposed purposes, e.g. slopes exceeding 15% or in sub-alpine or alpine areas.
8. Enlargement applications that are received from a group of applicants, in an area that has development potential, or within an area being used by other residents, may undergo an area-specific subdivision planning exercise.
9. Enlargement applications that propose changes to existing land uses (e.g. commercial/industrial), will be reviewed in for compatibility and may require re-zoning and/or more comprehensive consultation to legitimize the proposed use.

E. Resource Management Criteria

- ✓ Parcels will normally be set back a minimum of 60 metres from the ordinary high water mark (OHWM) of lakes and rivers and a minimum of 10 metres from creeks.
 - ✓ The setback may be decreased to as little as 30.48 metres where the additional reserve is not required to address the interests of existing or potential public recreation or other resource users, and is not required for environmental protection purposes.
- ✓ Unique or representative landscape features, environmentally sensitive areas, shorelines, public trails, and archaeological sites are normally retained for public use rather than alienated for private use.
- ✓ Sites that accommodate public access to, and use of land or water resources are normally retained for public use rather than alienated for private use.
- ✓ Applications under this policy will comply with existing and proposed planning schemes and resource management plans, such as forestry and wildlife plans, where applicable.
- ✓ Applications are reviewed to ensure that the needs of other public and commercial resource users are considered in an equitable manner.

ELIGIBILITY

The applicant must be:

- ✓ The title holder of the lot or the lessee.
- ✓ Nineteen (19) years of age or older.

APPLICATION REVIEW PROCEDURES

1. Applications for lot enlargements will be reviewed as required under the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* and Regulations or under the Yukon government land review process.
 - ✓ The Yukon government land application review process is outlined in the document “Guide to the Spot Land Application Process.”
2. Applications within municipalities require written acknowledgement from the municipality that the application may proceed to public review.
3. An application review may result in an approval, a conditional approval, a denial, or a deferral pending more information.
4. If development pressures are experienced in an area, the Yukon government may choose to:
 - ✓ conduct a pre-planning process (see definitions);
 - ✓ group applications (see definitions) to consider the cumulative effects of multiple applications;
 - ✓ learn the outcomes of a planning process already underway; or
 - ✓ initiate a neighbourhood plan or similar plan.

Any of the above actions may result in a decision to not accept applications in an area, which will be communicated by a public means, and to the applicant in writing. For applications that have already been reviewed through the public review process, the above process may also result in the deferral or denial of an application.

AUTHORITIES

Acts / Regulations

Yukon Lands Act / Regulations
Territorial Lands (Yukon) Act / Regulations
Subdivision Act / Regulations
Area Development Act / Regulations
Municipal Act / Regulations
Highways Act / Regulations
Building Standards Act / Regulations

Public Health and Safety Act
Public Health Regulation
Sewage Disposal System Regulation
Environment Act / Regulations
YESAA / Regulations
Wildlife Act / Regulations
Waters Act / Regulations
Park & Lands Certainty Act

Policy

Land Value Appeal Policy

APPENDIX A: Section 8, Subdivision Regulations, Application Evaluation Criteria

In making the decision required by paragraph 7(c), the approving officer shall consider comments submitted pursuant to paragraph 7(b) and the suitability of the land having regard to:

- (a) its topography;
- (b) its soil characteristics;
- (c) its surface and subsurface drainage;
- (d) any potential hazards such as flooding, erosion, subsistence, landslides, wildland fires, avalanches, or similar risks;
- (e) quality of the water and availability and adequate supply;
- (f) availability and adequacy of sewage disposal system and solid waste disposal;
- (g) existing and prospective uses of the land proposed for subdivision and land in the vicinity;
- (h) provision for and number of existing and proposed accesses to a highway;
- (i) layout and lighting of roads and accesses from lots to roads;
- (j) design and orientation of the subdivision including the size and shape of each lot;
- (k) anticipated need for school sites, recreational facilities and parks;
- (l) protection of sensitive environmental areas and critical fish and wildlife habitat;
- (m) protection of significant natural, historical and heritage features;
- (n) protection against pollution and other environmental and public health risks;
- (o) the completed development checklist; and
- (p) compliance with applicable planning scheme.