Dear [REDACTED]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MA/45/2016]

On June 1, 2016, the Department of Municipal Affairs received your request for access to the following records/information:

"E-mail dated February 6, 2015 from Geralyn Lynch, Senior Planner, Department of Municipal Affairs to Arvo McMillan regarding comments on draft Municipal Plan Cupids by Jerry Dick, Director of Heritage, Department of Tourism."

I am pleased to inform you that a decision has been made to provide you access to the requested information. Enclosed you will find a copy of the requested records.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.
If you have any further questions, please feel free to contact me by telephone at 729-6528 or by e-mail at scottwinters@gov.nl.ca.

Sincerely,

[Signature]

Scott Winters
Manager of Accountability / ATIPP Coordinator
Hi Arvo,

The Town of Cupids Municipal Plan and Development Regulation have been reviewed, as per section 15 of the *Urban and Rural Planning Act, 2000*. It is under the authority of s15(6) that our office makes comments and recommendations as provided in the attached documents that have been compiled in consultation with other government Departments and Agencies.

The planning documents were referred to the Department of Business, Tourism, Culture and Rural Development for consideration; the Department’s detailed responses are also enclosed.

The comments should be given appropriate consideration by Council. If that consideration requires further consultation with the specific government Departments or Agencies that is certainly the prerogative of the Council and yourself.

Having said that, I will make a recommend that the draft Plan and Regulations be released.

I trust this is satisfactory. If you have any questions, I would be happy to meet with you.

Regards,

Geralyn Lynch, MCIP
Senior Planner
Municipal and Intergovernmental Affairs
Tel: 709-729-0422
Fax: 709-729-0477
Hi Geralyn:

Here are some of my comments on the draft Cupids Municipal Plan. In the new year I would be happy to sit down with you to discuss.

Cheers,

Jerry

Jerry Dick
Director of Heritage
Dept. Business, Tourism, Culture & Rural Development
P.O. Box 6700
St. John's, NL
A1E 1J3
Tel. 709-729-7589
Fax. 709-729-0870

Good morning,
Enclosed is a draft copy of the Town of Cupid's planning documents. I will forward the associated maps in a separate email.
Could you review and provide your comments, at your earliest convenience.
Thank you,
Geralyn

Geralyn Lynch, MCIP
Senior Planner
Municipal and Intergovernmental Affairs
Tel: 709-729-0422
Fax: 709-729-0477
Comments on Draft Municipal Plan Cupids
Jerry Dick, Director of Heritage

P. 1 – Introduction – is it possible to include something a little loftier in the opening statement than “ensure that development occurs in an orderly and transparent fashion...?” Perhaps something like:

“to ensure that land resources are managed in a way that provides a sustainable future and quality of life in accord with the aspirations of its residents.”

P. 3 - 2nd paragraph: I would add: “This designation has been carried out to protect and foster the development of the town’s significant heritage resources, including its archaeological sites and the overall character...”

3rd paragraph: - would change to: “more recently Cupids has begun to develop its tourism potential, based largely on work, begun in 1995, to uncover the remains of several early 17th century buildings and features of the original 1610 Cupers Cove settlement . . .

Under tourism development might want to mention the establishment of the Perchance Theatre which provides classical summer theatre programming in a recreated Elizabethan-era type theatre in Burnt Head Loop and which was a legacy of the Cupids 400 celebrations.

P. 4 – I would go into greater detail about what physically characterizes the historic core of Cupids:

Cupids maintains much of its early linear pattern of settlement with houses situated close to the water on long, narrow lots that extend back from the harbor front. This reflects the community’s fishing past in which individual fishing plantations provided much-needed water access and land for fishing premises, houses, outbuildings such as root cellars and gardens. Many of these properties extend back as far as Cupids Pond. This is characterized today by residential structures that are situated in close proximity to each other and fairly near to the road, contributing to the distinctive character of Cupids.

Furthermore, Cupids has some significant cultural landscapes, comprising a number of abandoned house sites and communities in Burnt Head-Morgan’s Cove-Greenland on the west side of Cupids and Caplin Cove, Goat’s Cove and Spectacle Head on the east. There is ample evidence of former gardens, building foundations and roadways all of which speak to Cupids past. With their protected trails (Burnt Head and Spectacle Head) and paths, these have become attractive places for hikers and add to the community’s tourism assets. As well, traditional rights of way extend throughout the community that provide evidence of former ways of living (i.e., access to resources in the community) and that have the potential for recreation. The protection and development of these resources can significantly support Cupids’ quality of life and making it a good place to live, visit and invest in.

P. 9 – second paragraph: “Also if any major development is proposed, including the installation or repair of services, the Provincial Archaeology Office, . . .”

p. 11 – 2.2.7 Site Development – In evaluating development proposals the over-all character of a particular area shall be considered to maintain a consistent scale, building setbacks and usage
P. 12 – 2.4 Cupids Cove Heritage Overlay – I think there is an opportunity here to go beyond “can adopt policies” and recommend a process that will fully protect and capitalize on the assets of this area. Would suggest something like:

Within this area the Town will consider strategies and policies to both protect and develop the special characteristics and heritage resources. This could include:

1) heritage mapping including an assessment of building and landscape typologies;
2) design guidelines or bylaws* (employing graphic images of recommended design practice) to ensure that the design of buildings maintains the scale, placement and overall character of the area;
3) the preparation of development plan that considers opportunities for public improvements and amenities, infill, and other potential developments that capitalize on heritage and community assets and resources (physical, historical, cultural and human)

Furthermore, the municipality will consider the distinctive settlement patterns found within this area to inform future development in the rest of the community, particularly in areas along the harbor front. As an example, the traditional practice of building houses close to the road with additional houses located behind these while still oriented toward the water, could provide a way for Cupids to increase residential densities without radically changing the character of the community through more suburban types of cul-de-sac development.

*Note – I would not recommend that design guidelines necessarily encourage “historical type recreations” but that the scale, setbacks and materials of traditional buildings be considered to inform new design to ensure harmony and reinforce the general traditional character of the heritage area.

P. 14 – section 2.8 – Trails and Trail Buffers I would add Traditional Rights of Way – an inventory/mapping of traditional rights of way (TOW) is recommended to ensure that these are not encroached on and that they are considered for possible recreational and leisure purposes

Would add a section on “Cultural Landscapes” something to the effect:

When reviewing applications for development the protection of cultural landscapes, comprising abandoned communities and sites of past human activity, will be considered to ensure that these places are protected and that future development is compatible with their heritage and leisure/recreational values.
Hi there,

Ken suggested I send our comments as is. If you find them too confusing, Ken and I would be happy to meet with you to discuss.

Thanks,
Martha

Martha Drake
Provincial Archaeologist
Business, Tourism, Culture and Rural Development
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Fax: (709) 729-0870
e-mail: mdrake@gov.nl.ca

Martha,

Section 2.2.2 Archaeological and Heritage Resources is found on pages 9 of the plan. The 2nd last paragraph of this section states “The area that appears to have the highest degree of archaeological potential is identified as ‘Cupids Cove Heritage area’ under Section 2.4 ..., requires approval by the Provincial Archaeology Office before a permit is issued by the Town”. The Comprehensive Development Plan areas are also locations of historic resource interest and should be added to this section. The regs., section 36, pages 13 & 14 basically reiterate what is in the Plan. We should add our interest in reviewing development plans for the Comprehensive Development Areas, again the 2nd last paragraph on page 14 seems like the best place to state this. This paragraph also has the following in brackets (see Regulation 44) it should read (see Regulation 45). In the Regs. Comprehensive Development is discussed under Reg. 43, so we should be mentioned in reg 43 and going back to reg. 36 reg. 43 should be added as well as Reg. 45 (Regulation 44 is Coordination of development).

Ken
Hi Ken,

I am preparing the comments to send to Geralyn. What do you mean by the sentence highlighted in red below?

Thanks.

1. Pgs. 12-13 under 2.4.
   
   Cupids Cove Heritage Area Overlay objective b) protect and appropriately develop the archaeological, heritage and community resources of this historic core. It further states that “Development within this area shall be reviewed by the Town to ensure that these objectives are being met regardless of the underlying designations and zones. In doing so it may consult with the Heritage Division and other agencies as needed.

   This goes against what is stated on Pg. 9, 2.2.2 Archaeological and Heritage Resources where it states that the Provincial Archaeology Office will be advised if any major development is proposed (agree with Delph that it should be all referred at least within 2.4 & 2.2.5 – see below). Both sections should state the same requirements.

2. What exactly is the Heritage Division? Again this term is used in a number of instances, does it refer to PAO or Sites or both?

3. Pg. 10 2.2.5 Comprehensive Development – 2nd paragraph

   “The development should provide a higher quantity and quality of open space and environmental protection than is otherwise achievable under the standard requirements and, the Town can use this provision to protect heritage sites and culturally significant landscapes”.

Under Schedule C – Comprehensive Development Area 1, 2, 3 in their Development Regulations 2014, pg. 77 is the following:

The Comprehensive Development Area Plan shall be prepared by a competent professional engineer, town planner, landscape architect and/or other such qualified person and shall include at the minimum:

- Road and Services
- Land Use
- Lotting
- Historic Resources and Trails
- Waterways and Wetlands
- Other matters deemed necessary by the Town

No mention in either of how the Town will protect Historic Resources. Cultural Landscapes should also be added to the list and that the competent individual preparing the Comprehensive Development Area Plan should have to consult with the Provincial Archaeology Office and also that the Town refers all proposals for development within these planning areas to the Provincial Archaeology Office. Also Comprehensive Development Plan areas would be added to Section 2.2.2 of the Plan and Section 36 of the Regulations.
I noted that the index for the General Development Regulations was missing Section 36 Archaeological and Heritage Resources.

Ken

From: Mercer, Delphina
Sent: Wednesday, December 17, 2014 9:08 AM
To: Drake, Martha; Reynolds, Ken; Hull, Stephen H.
Subject: FW: Cupids Municipal Plan and Development Regulations

For the most part I have no concerns with the Plan. I think the protection of archaeological resources is covered adequately, but I want to point out a couple of things.

1. Page 9 – “These sites are protected by buffers where all development entailing excavation except for surface landscaping and fencing, must be reviewed and approved by the PAO before a permit is issued by the Town.” Same information is on page 14 in Regulations. Shouldn’t we review projects that involve landscaping and fencing as well?? They can very easily disturb sites too.

2. Page 9 - Department’s name should be changed to BTCRD.

3. Page 18, Section 45 - “The Town may consult with the Heritage Division and other agencies and groups as needed when reviewing development applications.” Should we require consultation in this area and request it be changed to “The Town will consult with the Heritage Division”? Or is it okay as is?

Delph

From: Drake, Martha
Sent: Tuesday, December 16, 2014 1:24 PM
To: Reynolds, Ken; Mercer, Delphina; Hull, Stephen H.
Subject: FW: Cupids Municipal Plan and Development Regulations

Martha Drake
Provincial Archaeologist
Business, Tourism, Culture and Rural Development
Telephone: (709) 729-2462
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e-mail: mdrake@gov.nl.ca

From: Lynch, Geralyn
Sent: Tuesday, December 16, 2014 11:48 AM
To: Dick, Jerry A.; Drake, Martha
Subject: Cupids Municipal Plan and Development Regulations

Good morning,
Enclosed is a draft copy of the Town of Cupid’s planning documents. I will forward the associated maps in a separate email.
Could you review and provide your comments, at your earliest convenience.
Thank you,
Geralyn

Geralyn Lynch, MCIP
Senior Planner
Municipal and Intergovernmental Affairs
Tel: 709-729-0422
Fax: 709-729-0477
Town of Cupids Municipal Plan and Development Regulations

Urban and Rural Planning Act, 2000, Section 15 Review

A review of the Cupids Municipal Plan and Development Regulations, submitted as per Section 15 of the Urban and Rural Planning Act, 2000 (URPA), has been completed. The following comments are offered for consideration.

Municipal Plan

- URPA, S. 13 (2) (a) requires a statement of the Plan’s objectives. Are the opening statements in each land use designation intended to be the Plan objectives?

- Plan 2.2.2 Archaeological and Historic Resources:
  - Policies state archaeological sites are protected by buffers. It’s not clear where/how this is to be implemented. What is the extent or size of the buffer?
  - Comments from the Department of Business, Tourism, Culture and Rural Development on the draft Plan are enclosed as separate documents.

- Plan 2.4 Heritage Overlay
  - The municipal plan and development regulations are the most effective tool to provide legal protection to the town’s historical significance. Given the significant investments by the Province into the Town’s resources, one would expect that Council would want to add policy respecting such matters as property and building design, form, scale, building height, setbacks, street pattern, etc. The current Plan does not clearly demonstrate how Council will highlight and protect heritage structures and its environs?
  - As per the requirements of URPA, the Plan and Regulations have been forwarded to Tourism Recreation and Culture for consideration. (The Departments comments on the draft plan are enclosed)

- Plan 2.9 Protected Water Body – this section appears to be the same as section 2.7, which also considers protection of water bodies.

- 3.1 Residential Mixed (RM) Designation
  - The RM designation is applied to large tracts of undeveloped land on the north and south side of Seaforest Drive that are currently zoned as Rural. Council is encouraged to consider how these lands are to be developed to discourage an expansion of existing, ad-hoc, development.
  - It is recommended that large tracts of undeveloped lands be subject to comprehensive planning as described in Section 2.2.6, Coordination of Development, so as to protect the financial and material resources of the Municipality.
  - The broad range of commercial, public and industrial uses that are proposed in the areas that are currently zoned as Rural, and are now re-designated as Residential Mixed, may detract from the Town’s traditional community core area. The Cupids Integrated Community Sustainability Plan (ICSP) identified the Town’s commercial centre as being located along Seaforest Drive and includes the land that is identified in the draft Plan as “Cupids Cove Heritage Area”.


It is not clear if the references on page 16 of the Plan to businesses being carried out on "residential properties" is intended to mean a home-based business or a stand-alone commercial development. The Development Regulations lists "home business" as a Permitted Use in the Residential Mixed Use Zone Table, which is limited in Schedule "B" to business and personal services uses.

It is recommended that the Plan policies in Section 3.1 clarify the distinction between businesses that may be considered as "home-based" and those that stand-alone and are exclusively commercial in nature.

The Plan indicates (Section 2.2.2) that archaeological and heritage resources will be protected by a buffer – there is no reference to a buffer requirement in the policies under section 3.1.

The Residential Mixed Use Zone Table allows for a campground as a discretionary use. As this form of development is generally considered incompatible with residential neighbourhoods, it is recommended that the Plan and Regulations contain policies to minimize potential impacts on adjacent residential dwellings as well and the areas heritage resources.

• 3.2 Comprehensive Development Area (CDA)
  ➢ What area the requirements of a Comprehensive Development Area Plan?
  ➢ What are factors should consider when determining an application - there is no policy direction on what is to be protected.
  ➢ What is the referral process and who are the "relevant" agencies – Service NL, Provincial Archaeology Office? Others?
  ➢ Will the CDA area require rezoning before a permit to develop can be issued?
  ➢ Paragraph is not clear. Are the permitted and discretionary limited to those listed for the Residential Mixed designation?
  ➢ Schedule "C" Use Zone Table CDA 1,2,3 – this table is inconsistent with the policies of Section 3.2

• 3.5 Rural
  ➢ There are no policies directed at protecting the natural environment.
  ➢ Schedule “C” states a seasonal dwelling is not required to front on a publicly maintained road. This policy can only apply to private property as development on Crown land requires full frontage on a public road.
  ➢ Should cottage development be restricted to designated areas within the Rural designation.

Cupids Development Regulation

➢ Regulation 28 Appeals – Perhaps reference to URPA could be made here including S. 46 concerning appeals of a Board’s decision.
Regulation 33 (8) could the requirement of the National Building Code for separation distance for a commercial accessory structure be included. Many towns do not have access to up-to-date versions of the Code.

Regulation 36, Archaeological and Historic Resources – refers to a “buffer” for archaeological sites which is not defined in terms of size or area. How is this regulation implemented, without clarification on the separation distance? Does this section only apply to land located within the heritage overlay?

Regulation 37 Backlot Development – policies are required in the Plan to support this regulation. Is the intention to allow backlot development in all zones?

Regulation 38 Bed and Breakfast – This regulation appears to be contrary to the intent of the Municipal Plan, which only provides for business to be carried out on a residential property. There is no provision for a stand-alone business in the Plan. The definition in schedule “A” also suggests this type of business can be owner-managed, which suggests a B&B can occur in any zone on non-residential properties.

Regulation 39 Building Line and Setback – item 39 (3) appears to be contrary to the definition in the Minister’s Regulations.

Regulation 45 Cupids Heritage Overlay – final paragraph states permitted/discretionary uses may be prohibited, at Council’s discretion. Perhaps this could state how this is possible. Reference per discretionary powers set out in Regulation 11.

Regulation 54 Lot Frontage – This states a seasonal dwelling is exempt from direct road frontage. Is this the intention or should this apply to remote cottages, only?

Regulation 92 (3) Subdivision Design Standards: where does Council derive the authority to extend a cul-de-sac beyond the standards set out here? Should this be limited to a 10% variance?

Regulation 92 (15) – under what condition can lots be allowed to abut at both the front and rear yard?

Subdivision Development Agreements is not included as a requirement – these agreements are necessary to protect the financial interests of the municipality.

Provincial Development Regulations (Ministers’ Regulations) are required to be contained in Development Regulations.

Mapping

Future Land Use and Zoning Maps are MIMS compliant.