

**Town of Trinity Municipal Plan
Commissioner's Report on the Public Hearing
July 5, 2012, 7:00PM; Lion's Club, Goose Cove**

In accordance with Section 18 of the Urban and Rural Planning Act (the Act), the Trinity Town Council hosted a public hearing at the Lion's Club in Dunville on July 5, 2012 from 7:00 PM to 8:45 Pm to consider objections and representations relating to the adoption by Council of the proposed Municipal Plan and Development Regulations, 2012-2022.

The commissioner for the hearing was John Baird, M.Sc., MCIP, who was appointed commissioner by the Trinity Town Council under subsection 19(1) of the Act.

Attendees:

Mr. Jim Miller, Mayor of Trinity

Ms. Linda Sweet, Town Clerk of Trinity

Mary Bishop, FCIP, St. John's, Planning Consultant for the Town of Trinity

Gerald Hiscock, resident landowner, 5 Bugden Lane, Trinity

The Hearing

Participants were welcomed and introduced. The Commissioner explained the purpose of the hearing and the role of the Commissioner. The Town's planner, Mary Bishop, was asked to provide an overview of the planning process and public consultations to date.

Overview of Planning Process - Mary Bishop

- The review of the Municipal Plan was initiated during the winter of 2011.
- The first public consultation meeting took place on March 10, 2011 in Trinity.
- An additional consultation meeting took place in St. John's on June 2, 2011. This meeting was initiated because a significant number of Trinity homeowners live in the St. John's area.
- An on-line survey placed on the Town's website got a good response.
- The draft plan and development regulations were presented to a public meeting on December 9, 2012. The draft was also posted on the Town's website, which resulted in the receipt of additional comments.
- Council adopted the Municipal Plan and Development Regulations on June 4, 2012.

Written Submission

One letter was tabled by Council at the Public Hearing from Mr. Gerald Hiscock, who was in attendance. The letter identified sections of the Municipal Plan and Development Regulations that Mr. Hiscock requested time to comment on orally at the hearing.

Review of Presentation by Mr. Gerald Hiscock

Mr. Hiscock was the only person to make a presentation. A resident of 5 Bugden's Lane, Trinity, Mr. Hiscock raised a number of general concerns as well as specific objections. Each of these is addressed below in the order that they were raised by Mr. Hiscock.

1. Fort Point Area

Document References

Municipal Plan – Policies H-2 (page 19); H-11 (page 21); H-12 (page 21)

Development Regulations 9.7.4 and 9.7.6 (pages 32-33)

Background

Policy H-2 states:

“...development in...the Fort point area shall be limited to seasonal residences, recreational trails, and the conservation, presentation, and interpretation of the Trinity Lighthouse and other historical and archaeological sites at Fort point.”

“Here, a lack of piped services will require wells and septic systems and hence larger lot sizes and separation between buildings...”

Policy H-11 states:

“Council shall support the endeavours of the Trinity Historical Society to develop and promote [Fort Point] as a historic site.”

Policy H-12 states:

“...it is Council's intention that the road to Fort Point shall not be significantly upgraded or publicly maintained for year round usage.” and

“...it shall be a policy of Council that municipal piped water and sewer to service development in the area that may be permitted will not be provided.”

Development Regulation 9.7.4 states:

Development in the Fort Point area “shall be limited to seasonal residential dwellings...”

Submission

Mr. Hiscock's family owns land in the Fort point area. In his opinion, residential development in the area should not be restricted to seasonal dwellings only. Historically the area had a significant amount of housing along with fishing stages and wharves. He stated year-round housing should be permitted, and that this would be beneficial for the local economy. He agreed that municipal servicing of the area would not be affordable for the Town, but argued that landowners could pay for their own onsite water and sewer systems and snowclearing of the road. He suggested that Council could avoid responsibility for servicing the area by stating on building permits that Council will not provide piped services or winter road maintenance to the area.

He also objected to the minimum residential lot size of 4,050 m² at Fort Point, saying that lots of half that size or smaller should be permitted.

Comments

The Municipal Plan is clear in stating Council's intent to limit residential development at Fort Point, citing the need to avoid financial burden on the Town, preserve the historic character of the area, and maintain a low residential density due to the lack of municipal services. Town representatives at the Hearing reiterated that Council's main rationale for the development restrictions at Fort Point is to prevent the level of development that would create environmental problems and create the need for unaffordable municipal infrastructure and services.

Mr. Hiscock suggested that this concern could best be addressed by Council stating on any development permit for the Fort Point area that no municipal piped services or winter road maintenance will be provided in the area.

In my opinion, the rationale for allowing only low-density seasonal development on Fort Point is sound. It is recommended that Municipal Plan Policy H-2 and the accompanying Development Regulations 9.7.4 and 9.7.6 remain unchanged.

2. New Town Hall

Document References

Municipal Plan - Policy MS-3 (page 28) and Section 7.3 (page 31)

Background

Policy MS-3 states: "It shall be a policy of Council to...identify a suitable location for construction of a new town hall. Consideration will also be given to preparing a redevelopment plan for the public park in the Heritage Area which could incorporate a plan for a new Town Hall."

Submission

Mr. Hiscock supports the development of a new Town Hall but believes it should not be located near the Rising Tide Theatre because this area would be too congested. He said Council should consult with residents on the location for the Town Hall.

Comments

I concur with Mr. Hiscock that Council should consult with residents on the location of a new Town Hall. Although Policy MS-3 does not make such a commitment, a general commitment to consult with citizens on important matters is provided in Section 7.3 (page 31), which states:

"Council is committed to consultation with citizens and will seek input from the public on planning and development matters that:

Require an exercise of Council discretion in arriving at a decision on a development application;

Involve significant development proposals that are of interest to the community at large;

Would require a change of Town policy, amendment to the Plan or Development Regulations; and

Would result in significant expenditures of Town resources for implementation.

Section 7.3 explicitly states Council's intention to engage citizens when major decisions such as the development of a new Town Hall are being taken. Therefore no recommendation on this concern of Mr. Hiscock's is necessary, although Council may choose to reinforce its commitment by including a statement to this effect in Policy MS-3.

3. Protection of Archaeological Resources

Document References

Municipal Plan – Policy G-6 (page 15)

Development Regulation 4.5 (page 17)

Background

Policy G-6 and Regulation 4.5 commit Council to protecting archaeological resources. When reviewing development applications on land Policy G-6 commits Council to consulting with the Provincial Archaeology Office on developments proposed for areas where archaeological resources are known to exist or areas that have not been previously disturbed. Regulation 4.5 empowers Council to require an archaeological assessment before allowing a development to proceed and to apply development conditions designed to protect and preserve any archaeological resource.

Submission

Stating that the whole town has already been “dug up”, Mr. Hiscock expressed concern that the archaeological provisions are excessive and could unduly impede the ability of landowners to develop their properties.

Comments

While Policy G-6 and Regulation 4.5 provide significant authority to Council for the protection of archaeological resources, these provisions are generally standard in most Municipal Plans and are in accord with the Provincial Archaeology Office's recommended wording. The Mayor commented that these provisions are already contained in the existing Municipal Plan and are applied by Council in areas where resources are known to exist or are likely to exist.

It is recommended that Municipal Plan Policy G-6 and Development Regulation 4.5 remain unchanged.

4. Size and Lot Coverage of Accessory Buildings

Document Reference

Development Regulation 9.7.14

Background

Regulation 9.7.14 (1b) states that “The total of all accessory buildings associated with a residential use shall have lot coverage no greater than 10% up to a maximum of 70 m²...”

Submission

Mr. Hiscock objected to this size restriction, which he said limits accessory buildings to a size and lot coverage that is much lower than existed historically in Trinity. He stated that larger accessory buildings should be permitted.

Comments

The proposed size standard for accessory buildings in the Heritage Area Use Zone remains unchanged from the existing Development Regulations. While the size limitation is fairly restrictive, it is not inconsistent with accessory building standards in many municipalities in Newfoundland and Labrador. Furthermore, it is not inconsistent with Policy H-6 (page 20) of the Municipal Plan, which states that accessory buildings in the Heritage Area “must be smaller (in size and height) than the principal buildings and complement the design of these buildings.”

It is recommended that the policies and standards for accessory buildings in the Heritage Area remain unchanged.

5. House Size and Height Standards

Document References

Municipal Plan – Policies H-3 and H-4 (pages 19-20)

Development Regulations 9.7.6, 9.7.15, 9.7.16, and 9.8.3

Background

Policy H-3 states that new development will be consistent with the current style, size, scale, and form of development in the town with special consideration given to the designated Heritage Area. Within the Heritage Area, proposals for new development or alterations to existing buildings will be reviewed for consistency with those features that contribute to the historic townscape of the Heritage Area, including the scale of buildings and structures and the massing of buildings and structures in relation to each other.

Policy H-4 states that development within the Heritage Area must be compatible with the historic building form, scale, height, setbacks and architectural features that are unique to Trinity.

Development Regulation 9.7.6 establishes a minimum building height of “8 metres or consistent with adjacent dwellings” in the in the Heritage Area Use Zone. Development Regulation 9.8.3 sets a minimum height of 8 metres for buildings in the Mixed Development Use Zone.

Submission

Mr. Hiscock objected to the minimum building height of 8 metres, which effectively disallows the construction of one-storey homes.

He indicated that in his own survey of homes in Trinity, 42 percent of existing occupied houses are one-storey structures. If this is indeed the case, the minimum height restriction of 8 metres is inconsistent with a significant number of existing homes in the town. He also made a compelling case that this restriction discriminates against people, such as himself, who, because of their limited mobility, are unable to climb stairs.

Comments

I concur with Mr. Hiscock's two key arguments that support his contention that there should be no restriction on the construction of one-storey dwellings. First, almost half of existing homes in the town are one-storey structures, therefore why would new one-storey homes be more incompatible with the historical character of the town than these existing homes.

Second, and in my view more important, this restriction will discriminate against people with limited mobility for whom a second storey would be difficult, if not impossible, to access. Council's desire for a high heritage standard should be balanced with consideration for the mobility needs of disabled and elderly residents. A primary objective in current efforts to develop more age-friendly communities is to reduce barriers to mobility. The restriction against one-storey homes flies in the face of this objective.

Although not raised as an issue by Mr. Hiscock, the restriction against one-storey dwellings can be considered an impediment to the development of affordable housing. It requires homeowners to build a second storey even if they do not need or cannot afford this space. In my opinion, this restriction flies in the face of the objective of ensuring affordable housing choices are available for citizens of all income levels.

It is recommended that the minimum height restriction that prohibits one-storey homes be repealed. While this may compromise Council's desired heritage standard, it is more important in my opinion that the Plan includes a high mobility standard for physically disabled and elderly persons and adequate provision for affordable housing choices for all income groups.

6. Environmental Restrictions

Document Reference

Development Regulations 4.19 and 4.20

Background

Regulation 4.19 restricts soil removal from properties and the altering of slopes greater than 30 percent. Regulation 4.20 prohibits development within 15 metres of a watercourse or wetland without the approval from the Department of Environment and Conservation and, if fish habitat is affected, from the Department of Fisheries and oceans.

Submission

Mr. Hiscock objected to the provisions in Regulation 4.19 that would restrict soil removal from properties and the altering of slopes greater than 30 percent. He felt such activities are often necessary for the development of land and could be mitigated through proper construction

techniques. He also felt that the restrictions in Regulation 4.20 against development within 15 metres of a watercourse are unnecessary because this is addressed by Provincial and Federal regulations.

Comments

In my opinion, these provisions are essential to ensure prevention of environmentally damaging land development practices that are all too common in many Newfoundland and Labrador communities. It is not sufficient to rely on Provincial and Federal regulations, which are often poorly enforced due to inadequate staffing and other resources in responsible government agencies.

It is recommended that Regulations 4.19 and 4.20 remain unchanged.

7. Building Heritage Standards

Document References

Development Regulations 9.7.15 to 9.7.20 (pages 35-37)

Background

Regulations 9.7.16 to 9.7.20 in the Heritage Area zone outline specific design and materials standards for new building construction and building alterations. These standards are intended to ensure that prevailing massing, scale, forms, and styles of historic buildings and landscapes in Trinity are maintained. Regulation 9.7.15 addresses design standards. Regulation 9.7.16 addresses the general form and scale of buildings. Regulation 9.7.17 and 9.7.18 address the materials, scale, proportion and scaling of windows and doors. Regulation 9.7.19 addresses the design and materials for roofs. Regulation 9.7.20 addresses requirements for finish materials and detail including colour, textures, and direction of siding, trim, and corner boards.

Submission

Mr. Hiscock objected to these design and materials standards, describing them as too rigid and prescriptive. He argued that residents should have greater freedom and flexibility to build houses of their chosen design and appearance.

Comments

The development of this Municipal Plan involved significant consultation with Trinity residents and landowners, including early public meetings, an online survey, and a public presentation of the draft plan and development regulations. According to the Council representatives and planning consultant, the consultations showed strong public support for the proposed heritage preservation policies and building development standards. It was also pointed out that the proposed heritage standards are not entirely new, but rather are revisions to the policies and standards set out in the existing Plan and Development Regulations.

It is recommended that the proposed heritage policies and building standards for the Heritage Area Use Zone remain unchanged except for the minimum height restriction that does not allow the construction of one-storey dwellings (see No. 5 above).

8. Development of the Trinity Loop Area

Document References

Municipal Plan – Policy RU-2 (page 25)

Development Regulation – Section 9.9.3

Background

Policy RU-2 states that Council will encourage the redevelopment of the Trinity loop property for tourism and/or residential development. It states that development of the site will be required to integrate and preserve the Trinity Loop historical structure as part of the development plan and provide for public access to the Loop. Regulation 9.9.3 states that proposals to develop the site will show how the development will integrate the structure and provide for public park areas.

Submission

Mr. Hiscock objected to the requirement that the Trinity Loop must be preserved as part of any future development. He felt this would be prohibitively costly and this impede the area's development potential.

Comments

Council's desire to preserve the Trinity Loop complements the overall historic preservation theme emphasized in the Municipal Plan. Only time will tell if this will enhance or be an impediment to the development of the site. In my view, it is a worthy objective that should be pursued. If it proves to be an impediment to development, this will become obvious with time and Council can then re-evaluate the policy.

It is recommended that Policy RU-2 and Development Regulation 9.9.3 remain unchanged.

Conclusion

I thank Council for the opportunity and privilege to serve as Commissioner of the Public Hearing and to offer recommendations on the Municipal Plan and Development Regulations. I am grateful for the advice and helpful assistance of land use planner, Ms. Mary Bishop. I also commend Mr. Gerald Hiscock who dutifully participated in the consultation process and helped focus attention on important land use issues.

John Baird, MCIP

July 9, 2012