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To: **Committee of the Whole**

Agenda Section: Corporate Services  
Division: Engineering, Planning and Environment  
Department: Planning

Item Number: **CCW - 2021-267**

Meeting Date: August 10, 2021

Subject: Request for Approval – Township of Tiny Official Plan  
- McMahan Woods Non-Decision

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### **Recommendation**

That Item CCW- 2021-267, dated August 10, 2021 regarding Request for Approval – Township of Tiny Official Plan McMahan Woods Non-Decision, be received; and

That the Greenlands designation for the McMahan Woods Development Ltd. lands located at Part of Lot 23, Concession 4, Plan 51M-1064, Block 21, as shown on Schedule A Land Use to the new Township of Tiny Official Plan, as adopted by Township of Tiny Council on November 26, 2018 by By-law No. 2018-098, and as identified on *Schedule 4 and Schedule 5 to Item CCW-2021-267* dated August 10, 2021, be approved; and

That Notice of Decision of the approval be provided in accordance with the *Planning Act*.

### **Executive Summary**

The Township of Tiny Official Plan (OP) was adopted by the Township of Tiny Council on November 26, 2018 by By-law No. 2018-098, and approved by County Council as per CCW-2021-015, on January 26, 2021. The County Council Decision indicated that the OP approval was save and except for two (2) categories of non-decisions. The first category of non-decisions were placed on lands within and abutting the Settlement Area Boundaries of Perkinsfield, Wyevale, Lafontaine, Wyebridge and Toanche as shown on Schedules A-E and Appendices 1-5 within Schedule 3 to Item CCW 2021-015. The second category of non-decisions relate to two (2) outstanding Ontario Land Tribunal (OLT) appeals located at 2 Darby Road referenced as CRH Canada Group Teedon Pit, and Part of Lot 23, Concession 4, Plan 51M-1064, Block 21, referenced as the McMahan Woods Lands. All of

the non-decisions are identified in *Schedule 1 to Item CCW-2021-267* (Approved Tiny OP Schedule A with Non-Decisions).

The Notice of Decision regarding the Township of Tiny OP was issued by the County and a Section 17(40) appeal was submitted by McMahan Woods, as noted in previous report CCW-2021-110. This appeal is associated with one of the second category of non-decisions noted above, as it is also an outstanding appeal of the County's OP. Refer to *Schedule 2 to Item CCW-2021-267* (McMahan Woods Property Location Map). Due to the outstanding appeal of the County's OP, the County and Township support this new appeal to be consolidated with the outstanding appeal on the same lands.

During the first OLT Case Management Conference (CMC) on June 22, 2021, the OLT Member indicated that the appeal may be invalid as Section 17(40) of the *Planning Act* no longer allows non-decision appeals, unless they are filed by a municipality or the Minister. Therefore, the Tribunal may not have the jurisdiction over the McMahan Woods appeal. Please refer to *Schedule 3 to Item CCW-2021-267* (OLT Memorandum of Oral Decision) for further information.

We have received advice on an approach to move forward with this appeal from our legal counsel and supported by the Township's legal counsel and the OLT Member. The approach includes taking a report to County Council to recommend approval of the Greenlands designation on the McMahan Woods lands according to the Land Use Schedule that was adopted by the Township.

Therefore, this report is recommending Council approve the Greenlands designation for the McMahan Woods lands as per *Schedule 4 and Schedule 5 to Item CCW-2021-267*, and that the Notice of Decision be provided in accordance with the *Planning Act*.

### **Background/Analysis/Options**

The following provides a summary of the Township's Official Plan:

<b>Proponent:</b>	Township of Tiny
<b>Appellant:</b>	McMahan Woods Development Ltd.
<b>Subject Lands:</b>	Part of Lot 23, Concession 4, Plan 51M-1064, Block 21 (Roll # 436800000408436)
<b>OLT Case#:</b>	PL210153
<b>Proposal:</b>	The purpose of the approval of the McMahan Woods Non-Decision as part of the Tiny Official Plan update is: <ol style="list-style-type: none"> <li>1. To bring the Tiny Official Plan into conformity with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth</li> </ol>

- Plan 2020) and the County of Simcoe Official Plan (SCOP 2016), and
2. To ensure the Official Plan is consistent with the Provincial Policy Statement (PPS 2020).

**County File:** TI-OP-1801

The Township of Tiny OP was adopted by the Township of Tiny Council on November 26, 2018 and approved by County Council as per CCW 2021-015. The County OP approval was save and except for two (2) categories of non-decisions. The first category of non-decisions were placed on lands within and abutting the Settlement Area Boundaries of Perkinsfield, Wyevale, Lafontaine, Wyebridge and Toanche as shown on Schedules A-E and Appendices 1-5 within Schedule 3 to Item CCW 2021-015. The second category of non-decisions relate to two (2) outstanding OLT appeals located at 2 Darby Road referenced as CRH Canada Group Teedon Pit, and Part of Lot 23, Concession 4, Plan 51M-1064, Block 21, referenced as the McMahan Woods Lands.

The Notice of Decision regarding the Township of Tiny OP was issued by the County on January 29, 2021. One (1) Section 17(40) appeal was received on February 16, 2021 regarding the non-decision for the McMahan Woods lands as noted in our previous report CCW-2021-110. This is a site-specific appeal regarding approximately 62 acres of property identified as Part of Lot 23, Concession 4, Registered Plan 51M-1064, Block 21, Township of Tiny. The appeal is associated with one of the second category of non-decisions noted above, as it is also an outstanding appeal of the County's OP over the same site-specific lands, which has been adjourned *sine die*. The lands are proposed to be designated Greenlands in both the local and County OP's. The appellant wishes to maintain a Shoreline designation in the local OP and is seeking a Rural designation in the County OP. In the previous Tiny OP 2001, the entire McMahan Woods property was designated as Shoreline with an Environmental Protection II overlay.

During the first OLT Case Management Conference on June 22, 2021, the OLT Member indicated that the appeal may be invalid as Section 17(40) of the *Planning Act* no longer allows non-decision appeals unless filed by a municipality or the Minister.

We have received advice from our legal counsel and supported by the Town's legal counsel and the OLT Member to move forward using the following approach:

- County will ask the Tribunal (OLT) to dismiss the current appeal filed by McMahan Woods as not being authorized under section 17(40);
- County will use section 17(45) of the *Planning Act* as the vehicle to ask the Tribunal to dismiss the current appeal without a hearing;
- County will ask the Tribunal, on dismissing that appeal, to order the Tiny OP (i.e. that part that was approved by the County) to be in effect as of the date of the Tribunal decision dismissing the McMahan appeal;

- County Council will be asked to make a decision on the designation of the McMahan Woods lands according to what has been currently proposed by the Township. It will be recommended to Council that the site specific lands be designated Greenlands.
- A Notice of Decision for the McMahan Woods lands will be issued by the County;
- McMahan Woods will appeal Council's decision, which the County and Township support;
- County will then ask the Tribunal to consolidate that new appeal with the County OP appeal at the next CMC scheduled for October 15, 2021, as well as declare the Tiny OP in force and effect in its entirety except for the appealed land use schedule mapping on a site-specific basis over the McMahan Woods lands, and the remaining non-decisions.

County Planning Staff have reviewed the Greenlands designation as it applies to the McMahan Woods lands and can confirm that the Greenlands designation is appropriate as it is consistent with the Provincial Policy Statement, 2020; in conformity with A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020, and with the goals, objectives and policies of the County of Simcoe Official Plan, 2016.

The Township of Tiny staff also supports the approval of the Greenlands designation for the McMahan Woods lands, as the designation shown on the Township of Tiny OP Schedule A – Land Use, as adopted by Township Council.

Therefore, County Planning Staff are recommending that the Greenlands designation for the McMahan Woods Development Ltd. lands located at Part of Lot 23, Concession 4, Plan 51M-1064, Block 21, as shown on Schedule A Land Use to the new Township of Tiny Official Plan, as adopted by Township of Tiny Council on November 26, 2018 by By-law No. 2018-098, and as identified on *Schedule 4 and Schedule 5 to Item CCW-2021-267* dated August 10, 2021, be approved; and that Notice of Decision be provided in accordance with the *Planning Act*.

### **Financial and Resource Implications**

There are no financial implications associated with this Item, however, if the County's decision is appealed to the OLT there may be legal costs associated with that process. In the event of an appeal, staff will report back seeking authority to proceed with involvement in related OLT proceedings.

### **Relationship to Corporate Strategic Plan**

No direct relationship to corporate strategies.

### **Reference Documents**

- **CCW 2021-110** (April 13, 2021) Notice of LPAT Appeal regarding the Township of Tiny Official Plan.
- **CCW 2021-015** (January 12, 2021) Request for Approval – Township of Tiny Official Plan

**Attachments**

- Schedule 1 – Township of Tiny OP Schedule A with Non-Decision Lands
- Schedule 2 – McMahan Woods Property Location Map
- Schedule 3 – OLT Memorandum of Oral Decision, June 25, 2021
- Schedule 4 – Township of Tiny OP Schedule A - Greenlands designation on the McMahan Woods lands
- Schedule 5 - Township of Tiny OP Schedule A - Greenlands designation on the McMahan Woods lands – large scale map

**Prepared By** Kristin D. Pechkovsky, MCIP RPP  
Senior Policy Advisor

**Approvals**

	<b>Date</b>
David Parks, Director of Planning, Economic Development, Transit and Airport Services	July 22, 2021
Rob Elliott, General Manager, Engineering, Planning and Environment	July 26, 2021
Trevor Wilcox, General Manager, Corporate Performance	July 29, 2021
Mark Aitken, Chief Administrative Officer	July 30, 2021