

NOV. 22 2010

**Ministry of
Municipal Affairs
and Housing**

**Ministère des
Affaires municipales
et du Logement**



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November 22, 2010

By Email and Regular Mail

Reeve David Moore and Council
Township of McKellar
P.O. Box 69
701 Highway 124
McKellar ON P0A 1C0

Attention: Mr. Shawn Boggs, Clerk-Treasurer

**Subject: Amendment No. 7 to the Official Plan of the Township of McKellar-
Decision
MAH File No. 49-OP-0108-007**

This is to advise you of the approval, with modifications, of Official Plan Amendment No. 7 to the Official Plan of the Township of McKellar.

MAH provided proposed modifications to the Township on June 28, 2010, and we have carefully considered the revisions proposed by the Township's consultant on October 1, 2010.

In the Township's response to the proposed modifications, the application of the Lakeshore Capacity Assessment Handbook and associated model was questioned for lakes in McKellar, due to the generally shallow nature of McKellar Lakes, and their proposed resiliency to incremental changes. The Township therefore prefers to apply a trophic level approach to lake capacity, and implement various mitigation measures and best management practices for lakes in the Township. The Decision recognizes the Township's preferred policy approach but includes modifications recognizing that there may be circumstances where it is appropriate to apply the Lakeshore Capacity Assessment Handbook. Modifications also include policy direction discouraging development on lakes where the phosphorus concentration exceeds the Provincial Water Quality Objective's upper limit of 20 ug/L, but recommending that if development is proposed on these lakes, then the Ministry of the Environment should be contacted for technical advice.

The policies of the OPA as adopted restricted the implementation of protective water quality measures and best management practices to those development applications requiring zoning by-law amendments. This policy approach would overlook applications to create lots through severance, plan of subdivision, or condominium that might not need a zoning by-law amendment. These applications have the potential to negatively impact water quality, and therefore modifications are included which provide this policy direction for any development

application with the potential to negatively impact water quality.

Similarly, several modifications ensure the proper assessment of development impacts on known natural heritage features.

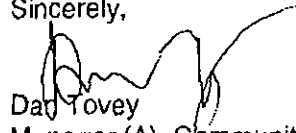
These modifications are required to ensure that the OPA is consistent with the natural heritage and water policies of the Provincial Policy Statement. These modifications also support the principles and objectives of the OPA that indicate that the protection of water quality and the natural environment are to be a prime consideration for proposed waterfront development in the Township.

A copy of the Decision and Notice of Decision is attached for your information and use.

The last date of Appeal to the decision on this planning application is **December 12, 2010**. After the appeal period has expired, and provided no appeals have been received, we will forward you a Duplicate Original copy of approved Official Plan Amendment No. 7. We are also required under the Environmental Bill of Rights to post the decision, with the last date of appeal, on the Environmental Bill of Rights Registry, for additional public information.

If you have any questions on this decision, please do not hesitate to contact Bridget Schulte-Hostedde, Planner, at (705) 564-6817 or 1-800-461-1193, x46817.

Sincerely,



Dan Tovey
Manager (A), Community Planning and Development
Northeastern Municipal Services Office

encl.

cc: John Jackson
Paula Allen (MOE)
Dorothy Shaver (MNR)

File No.: 49-OP-0108-007
Municipality: Township of McKellar

Date of Decision: November 22, 2010
Date of Notice: November 22, 2010
Last Date of Appeal: December 12, 2010

Subject Lands: All recreational waterfront lands in the Township of McKellar, District of Parry Sound.

NOTICE OF DECISION

**With respect to an Official Plan Amendment
Subsection 17(35) and 21 of the Planning Act**

A decision was made on the date noted above to approve with modifications all of Amendment No. 7 to the Official Plan of the Township of McKellar as adopted by By-law 2009-22.

Purpose and Effect of the Official Plan Amendment

This official plan amendment revises development and redevelopment policies for recreational waterbodies in the Township of McKellar, with particular emphasis on tourist commercial development. Lake specific policies and complete application requirements are also included. Modifications are required to ensure consistency with the natural heritage and water quality policies of the Provincial Policy Statement, as well as to clarify policy direction for proposed multiple dwelling tourist commercial developments. A copy of the decision is attached.

When and How to File An Appeal

Any appeal to the Ontario Municipal Board must be filed with the Minister of Municipal Affairs and Housing no later than 20 days from the date of this notice as shown above as the last date of appeal.

The appeal should be sent to the attention of the Area Planner, at the address shown below and it must,

- (1) set out the specific part of the proposed official plan amendment to which the appeal applies,
- (2) set out the reasons for the request for the appeal, and
- (3) be accompanied by the fee prescribed under the Ontario Municipal Board Act in the amount of \$125.00 payable by certified cheque to the Minister of Finance, Province of Ontario.

Who Can File An Appeal

Only individuals, corporations or public bodies may appeal the decision of the Ministry of Municipal Affairs and Housing to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf. No person or public body shall be added as a party to the hearing of the appeal unless, before

the plan was adopted, the person or public body made oral submissions at a public meeting or written submissions to the council, or, in the opinion of the Ontario Municipal Board, there are reasonable grounds to add the person or public body as a party.

When the Decision is Final

The decision of the Minister of Municipal Affairs and Housing is final if a Notice of Appeal is not received on or before the last date of appeal noted above.

Other Related Applications: N/A

Getting Additional Information

Additional information about the application is available for public inspection during regular office hours at the Ministry of Municipal Affairs and Housing at the address noted below or from the Township of McKellar.

Mailing Address for Filing a Notice of Appeal

Ministry of Municipal Affairs and Housing
Northeastern Municipal Services Office
159 Cedar Street, Suite 401,
Sudbury ON P3E 6A5

Submit notice of appeal to the attention of Bridget Schulte-Hostedde, Planner, Northeastern Municipal Services Office
Tele: (705) 564-6817 Fax: (705) 564-6863

DECISION

With respect to Official Plan Amendment No. 7 for the Township of
McKellar
Subsection 17(34) and 21 of the Planning Act

I hereby approve Amendment No. 7 to the Official Plan of the Township of McKellar, adopted by By-law No. 2009-22 subject to the following modifications:

Modification 1

Page 3, B.1 Section 4.0 Objectives- McKellar Official Plan, Item 3

Add "**Such growth in the rural and waterfront areas should emphasize resource-based recreational activities and limit residential development.**" as a new sentence after "*environmental impacts,*".

Modification 2a

Page 7, B.11 Section 17.01.9 Basis for Waterfront Policies

Delete ", *in the nature of fractional development project use, condominium use, and similar uses*".

Modification 2b

Page 7, B.11 Section 17.01.10 Basis for Waterfront Policies

Replace "*nature*" with "**land use**" in the 8th line.

Modification 3

Page 11, B.11 Section 17.4.5 Character Preservation in the Waterfront Designation

In the last sentence, delete ", *in the nature of fractional development project use, condominium use, and similar uses*".

Modification 4

Page 11, B.11 Section 17.5.2 General Standards for Residential Development in the Waterfront Designation

In the second sentence, add "**or**" between "*form*" and "*scale*" and delete "*or nature of use*".

Modification 5

Page 12, B.11 Section 17.5.5 General Standards for Residential Development in the Waterfront Designation

Add "**where a zoning by-law amendment or minor variance has been deemed not necessary**" at the end of the paragraph.

Modification 6

Page 13, B.11 Sections 17.7.3, 17.7.4, and 17.7.5 Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project use, condominium use, and similar uses*" in both sections 17.7.3 and 17.7.4. Delete Section 17.7.5 in its entirety.

Modification 7a

Page 14, B.11 Section 17.7.8, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project use, condominium use, and similar uses*";. Replace "*in the form of servicing responsibility agreements; increased intensified uses, in nature and form, controls*;" with "**and Intensified use controls through zoning and through agreements arising from approval of the proposed development**".

Modification 7b

Page 14, B.11, Section 17.7.9, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project use, condominium use, and similar uses*";.

Modification 7c

Page 14, B.11, Section 17.7.10, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project use, condominium use, and similar use, as defined in By-law 95-12, as amended, for the Township of McKellar*";.

Modification 7d

Page 14, B.11, Section 17.7.11, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project use, condominium use, and similar use, as defined in By-law 95-12, as amended, for the Township of McKellar*";. Delete "*nature and*" in the first sentence.

Modification 8

Page 15, B.11, Section 17.7.12, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete this section in its entirety.

Modification 9a

Page 15, B.11, Section 17.7.13, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*fractional development project description, or similar use descriptions, as defined in By-law 95-12, as amended, for the Township of McKellar*," in the first paragraph. In Item (b) delete "*fractional development project description, or similar use descriptions*". In Item (c) delete "*use in the nature of fractional*".

development project uses, condominium uses, or similar uses, as defined in By-law 95-12, as amended, for the Township of McKellar".

Modification 9b

Page 15, b.11, Section 17.7.13(a), Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Replace "*Ministry of the Environment*" with "**approval agency/authority**".

Modification 10a

Page 16, B.11, Section 17.7.15, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project uses, condominium uses, or similar uses, as defined in By-law 95-12, as amended, for the Township of McKellar,*"

Modification 10b

Page 16, B.11, Section 17.7.17, Tourist Commercial and Commercial Development and Redevelopment in the Waterfront Designation

Delete "*in the nature of fractional development project uses, condominium uses, or similar uses, as defined in By-law 95-12, as amended, for the Township of McKellar,*" and add "**proposed and existing**" before "*multiple dwelling unit*" and after "*all*".

Modification 11

Page 16, B.11, Section 17.8.1, Water Quality Protection

Delete "*and proposed by way of an amendment to the zoning by-law*" in the third-last line.

Modification 12a

Page 17, B.11, Section 17.8.3.1.3 Lake Trophic State

Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan or Zoning By-Law**"

Modification 12b

Page 18, B.11, Section 17.8.3.1.4 Lake Trophic State

Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan or Zoning By-Law**"

Modification 13a

Page 19, B.11, Section 17.8.3.3.1 Shoreland Development Capacity

Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan and/or Zoning By-law**".

Modification 13b

Page 19, B.11, Section 17.8.3.3.2 Shoreland Development Capacity

Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan and/or Zoning By-law**".

Modification 13c

Page 20, B.11, Section 17.8.3.3.2.1 Shoreland Development Capacity

Replace "*10 metres*" with "**15 metres**" in the second and fourth lines. Add "**This setback may be increased to 30m where Type 1 fish habitat is present.**" at the end of the paragraph.

Modification 13d

Page 20, B.11, Section 17.8.3.3.2.4 Shoreland Development Capacity

Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan and/or Zoning By-law**".

Modification 14

Page 20, B.11, New Section 17.8.3.4 Lakeshore Capacity Assessment.

Add "**17.8.3.4 Lakeshore Capacity Assessment**

Should Council determine that a lakeshore capacity assessment is appropriate for determining the development capacity of a lake in the Township, such assessment will be undertaken in accordance with the Lakeshore Capacity Assessment Handbook and Model and prior to the creation of new lots on that lake. Should the assessment determine that the lake is at capacity, development shall only occur under the conditions permitted by the Handbook."

Modification 15

Page 21, B.11, Sections 17.9.2 and 17.9.2.1 Where Development May Not Be Permitted

Replace "*May*" with "**Shall**" in the section heading. Replace "*may or may*" with "**shall**" in the first sentence. Delete the second sentence.

Modification 16

Page 21, B.11, Section 17.9.3.1 Where Development May Be Permitted

Delete "*more than 3'*" and "*, excluding the retained,*". Replace "*and proposed by way of an amendment to the zoning by-law*" with "**including those requiring an amendment to the Official Plan and/or Zoning By-law**". Add "**demonstrating that there will be no negative impacts on the natural features or their ecological functions**" after "*as described in Section 17.19.2.*"

Add "**e.g.,**" before "*Deer Yard*" and "**, nesting sites**" after "*Deer Yard*" in the second bullet.

Modification 17

Page 23, B.11, new Section 17.12.5 Shoreline Structures

Add **"No buildings or structures should be permitted below the elevation of 242 metres above Canadian Geodetic Datum, within 800m of Lake Manitouwabing, except for accessory docks, non-habitable boat houses, flood or erosion structures and small pump-houses."** as a new section after 17.12.4.

Modification 18

Page 24, B.11, Section 17.18.1 Complete Application

Replace *"required"* with **"enabled"**.

Modification 19

Page 25, B.11, Section 17.19.1.2 and 17.19.1.2.1 Studies or Demonstrations Required, General Policies

Add **"part of a complete application, prior to a decision, or as"** after *"met to Council's satisfaction as"*. Replace *"approval"* with **"decision"**.

Add **"Where appropriate,"** before *"ask the relevant provincial or federal agency"*.

Modification 20

Page 26, B.11, Section 17.19.2.1, 17.19.2.1.5, Site Evaluation Report

Replace *"and proposed by way of an amendment to the zoning by-law"* with **"including those requiring an amendment to the Official Plan and/or Zoning By-law"**.

Add **"through a natural heritage evaluation as per Official Plan section 17.19.5"** after *"the 2007 Endangered Species Act"*.

Add a new Section 17.19.2.1.7 below Section 17.19.2.1.6 as follows: **"17.19.2.1.7 archaeological potential"** and renumber subsequent sections accordingly.

Modification 21

Page 27, B.11, Section 17.19.4.1, Trophic State Capacity Study

Add **"or Lakeshore Capacity Assessment, if appropriate,"** after *"study, if requested"*, in the first line. Replace *"and proposed by way of an amendment to the zoning by-law"* with **"including those requiring an amendment to the Official Plan and/or Zoning By-law"**.

Modification 22

Page 27, B.11, Section 17.19.5.1 Natural Heritage Evaluation

Add **"residential"** between *"proposed"* and *"development"* and delete *"of more than 3 new residential lots, excluding the retained"*. Add **", an official plan amendment, or an application for lot creation by way of consent or plan of**

subdivision" after *"and proposed by way of an amendment to the zoning by-law"*.

Modification 23

Page 29, B.11, Section 18.0, Specific Lake Policies

Add **"Lakes with total phosphorus measured above 0.02 milligrams per litre (20 micrograms per litre) are deemed to be at capacity for development in accordance with the Provincial Water Quality Objective. The Lakeshore Capacity Assessment Handbook states that a cap of 20 µg/L of phosphorus is to be maintained to protect against nuisance algal blooms. For the lakes identified in the following sections that are at or exceed this phosphorus level, development should be discouraged. Should development be proposed on such lakes, the Ministry of the Environment should be consulted for technical advice."** as a new second paragraph.

Modification 24

Page 32, B.11, Section 18.5.4, Fresque Lake

Replace *"will"* with *"may"* after *"Council"*

Modification 25

Page 32, B.11, Section 18.6.4, Grey Owl Lake

Replace *"will"* with *"may"* after *"New lot creation"*

Modification 26

Page 33, B.11, Section 18.7.3, Hydes Lake

Replace *"will"* with *"may"* after *"or re-development"*.

Modification 27

Page 34, B.11, Section 18.8.9 Lake Manitouwabing

Replace *"ability"* with **"potential"** in the second line.

Modification 28

Page 34, B.11, Section 18.9.4, Little Ruebottom Lake

Replace *"will"* with *"may"* after *"Council"*.

Modification 29

Page 42, B.12, Section 24.4 Definitions, Tourist Establishment

Delete *"but does not include a fractional development project use, condominium use, and other similar uses, as defined in Zoning By-law No. 95-12, as amended, for the Township of McKellar"*. Add **"Tourist Commercial Establishments may include multiple dwelling unit developments and multiple dwelling development uses."** at the end of the paragraph.

Modification 30

Page 43, B.12, Section 24.6 and 24.7 Fractional Development Project Interest and Fractional Development Project

Delete these sections.

Modification 31a

Schedule 'A' Land Use Plan, Township of McKellar

- Identify the villages of McKellar, Broadbent and Hurdville on the schedules.

Modification 31b

Schedule 'A' Land Use Plan, Township of McKellar

- Carry over Environmentally Sensitive designation with Flood Plain and Wetland components from current OP Schedule to proposed new Schedules.

Modification 31c

Schedule 'A' Land Use Plan, Township of McKellar

- Change legend item from "Non-Waterfront" to "Inland Development"

Modification 31d

Schedule 'A' Land Use Plan, Township of McKellar

- Carry over Road "symbols" from current OP Schedule to proposed new Schedules.

Dated at Greater Sudbury this 22nd of November, 2010



Lynn Buckham
Regional Director
Northeastern Municipal Services Office
Ministry of Municipal Affairs and Housing