

STAFF REPORT: Engineering & Public Works Department

REPORT TO: Council
MEETING DATE: July 11th, 2011
REPORT NO.: EPW.11.066
SUBJECT: Drainage Petition – 960121 Ontario Inc.
PREPARED BY: Jim McCannell, Manager of Roads and Drainage Division

A. Recommendations

THAT Council not proceed with the drainage works under the Drainage Act as a request under a Petition for Drainage Works by Owners received June 14, 2011, because the Petition is non-compliant with the provisions of the Drainage Act

AND THAT Council authorize Staff to send notice of this decision to the Petitioner; as considered in Staff Report EPW.11.066, "Drainage Petition – 960121 Ontario Inc."

B. Background**Drainage Petition**

The Town received a Petition for Drainage Works by Owners signed by Ken Havens on behalf of 960121 Ontario Inc. on June 14, 2011. The Petition was prepared and submitted by D.C. Slade Consultants Inc. on behalf of the Petitioner. The Petition is made under the Drainage Act, R.S.O. 1990, Chapter D.17 (the Act). The lands subject to the Petition are shown on an area map attached hereto. **(Attachment 1)**

The lands are subject to a draft plan of subdivision and were formerly referred to as the McKee subdivision.

The Petition for Drainage Works by Owners features a single Owners name and is attached hereto. **(Attachment 2)**

A previous site meeting on November 12, 2010 between Dan Hurley of C.C. Tatham & Associates and Reg Russwurm, Director of Engineering and Public Works, reviewed the area drainage characteristics, specifically with regard to a culvert crossing Brophy's Lane.

Ontario Drainage Act.

Subsection 4.(1) of the Act prescribes four methods by which a Petition for Drainage Works may be made. These four methods are as follows:

4.(1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;
- (c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, despite subsection 61 (5);
- (d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director.

The Petition for Drainage Works as submitted is not in compliance with subsection 4.(1).a of the Act, as the subject drainage area, while not defined, would include many properties. Lands drained or used for outlet in the area would include the Terrasan lands and existing cottage properties on Brophy's Lane to the south and north. A single Owner is shown on the Petition, which would not represent a majority of the Owners in the area.

The Petition for Drainage Works would not be in compliance with subsection 4.(1).b of the Act, as the subject drainage area, while not defined, would include many properties, as noted above. A single property is indicated on the Petition, which would not represent the Owners of 60% of the hectarage of land in the area.

The Petition for Drainage Works would not be in compliance with subsections 4.(1).c and 4.(1).d of the Act, as the Petition was not presented by the municipality as being responsible for the public highway in the area and the proposed drainage is not for agricultural purposes.

It should be noted that while interpretations vary among groups, there are issues relating to wetlands designation in the area. In Grey County Official Plan Amendment No. 85, approximately the north half of the subject property is designated as Wetlands. **(Attachment 4)**

Council Decision

Subsection 5.(1) of the Act notes Council shall make one of two available decisions within thirty days of receipt of a Petition for Drainage Works:

5.(1) Where a petition in accordance with section 4 has been filed, the council shall forthwith consider the petition and shall, within thirty days after the filing of the petition,

- (a) if it decides not to proceed with the drainage works, send notice of its decision to each petitioner; or
- (b) if it decides to proceed with the drainage works, send notice of the petition and of its decision to each petitioner, the clerk of each local municipality that may be affected, and the conservation authority that has jurisdiction over any lands in the area or, if no such conservation authority exists, the Minister of Natural Resources.

The Petition, dated June 13 was received by the Clerk on June the 14, 2011, and was not received in time to be presented at the June 14 Infrastructure and Recreation meeting. This report along with their delegation will be presented to Council on July 11, 2011.

If Council were to direct the Manager of Roads and Drainage to conduct a review of the operation of the current drainage infrastructure in and along Brophy's Lane. This would be performed by a consulting Engineer. The estimated cost of this review is between \$10,000 and \$15,000. Consultation with the Grey Sauble Conservation Authority would be required.

The Town does not own any shorefront property in the Brophy's Lane area through which a drainage outlet might be established. Purchase of such land to establish a drainage outlet would be cost-prohibitive. Currently a section of the road side drainage outlets through a lot shown as Block "C" on attachment #1

Appeal of Decision

It should be noted the Petitioner has the right to appeal Council's decision in this matter. The appeal can be made to the Ontario Drainage Tribunal. The tribunal is similar in operation to the Ontario Municipal Board.

The former Township of Collingwood was involved in four Petitions in 1994. These Petitions were filed by the Ministry of Transportation for drainage outlet improvements along Highway 26. All four Petitions were appealed to the Ontario Drainage Tribunal and all landowners in each catchment area were assessed, depending on the level of benefit received. All four catchment areas were defined as extending to the top of the Niagara Escarpment and a significant number of landowners were involved.

Staff are recommending that Council decide not to proceed with the drainage works under the Act as a result of the Petition being non-compliant and authorize Staff to send notice of the decision to the Petitioner.

C. The Blue Mountains' Strategic Plan

Review and assessment of existing drainage infrastructure would represent efforts to further the Town's Strategic Goal No. 2, "*Addressing the Town's Infrastructure Needs*".

D. Environmental Impacts

Where drainage concerns or problems do in fact exist, review and assessment of existing drainage infrastructure would be appropriate. Regard must be had for any areas designated as significant wetlands and municipal drainage works should function to drain such areas.

E. Financial Impact

Unknown until a review of the current drainage infrastructure in and along Brophy's Lane has been completed by the Manager of Roads and Drainage.

F. Attached

1. Mapping excerpt, lands subject to the Petition for Drainage Works by Owners.
2. Petition for Drainage Works by Owners.
3. E-mail message and sketch with engineering notes from Dan Hurley, C.C. Tatham & Associates, Consulting Engineers.
4. Grey County Official Plan Amendment No. 85, Schedule A.

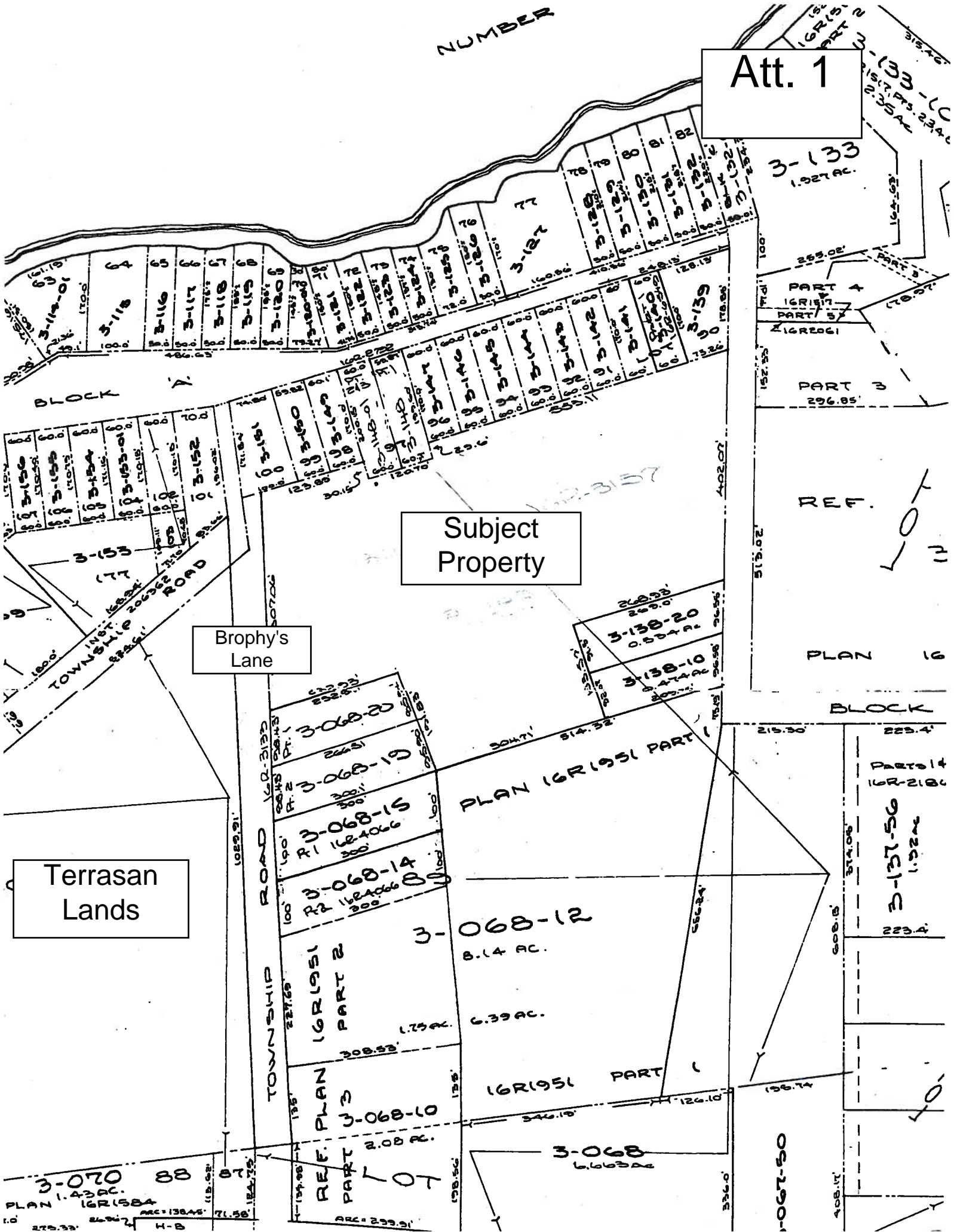
Respectfully submitted,

Jim McCannell
Manager of Roads and Drainage Division

Reg Russwurm
Director of Engineering and Public Works

NUMBER

Att. 1





D.C. Slade Consultants INC.
Planning & Development
243 Hurontario St., Collingwood, ON L9Y 2M1

Att. 2

JUN 14 2011

Phone: (705)444-1830
Fax: (705)444-0012
Email: dslade@dcslade.ca
Web: www.dcslade.ca

PETITION FOR DRAINAGE WORKS

TO: Corrina Giles, Town Clerk

Town of The Blue Mountains
P.O. Box 310
32 Mill Street
Thornbury, Ontario
N0H 2P0

FROM: Andrew Pascuzzo

DATE: June 13, 2011

RE: Part of Lot 89, Plan 529
Lot 21, Concession 1
Town of The Blue Mountains

D.C. Slade Consultants is submitting a Petition for Drainage Works on behalf of Mr. Ken Havens, who maintains signing authority of the numbered company 960121 Ontario Inc., the owner of the above mentioned lands.

Please find the following attached:

1. One (1) copy of the Petition for Drainage Works by Owners signed by Ken Havens.
2. One (1) copy of email correspondence between Mr. Dan Hurley of C.C. Tatham & Associates re: a meeting between Dan and Reg Russworm
3. One (1) copy of the proposed Brophy's Lane Subdivision Preliminary Grading Plan
4. One (1) copy each of aerial photos of the subject lands in 1976, 1989 and 1999.

cc: J. McCannell
D. Finbow

We would request that the Town of The Blue Mountains Council and Staff review the historical drainage problems created by a Municipal culvert which directs water from lands west of Brophy's Lane through a culvert under Brophy's Lane to Mr. Havens property. This culvert appears to redirect a large amount of water on to Mr. Havens property, when instead the water should be directed towards Georgian Bay. The intent of this petition is to eliminate external drainage flows to Mr. Havens property, which are not permitted by the Drainage Act.

Kind Regards,

D.C. Slade Consultants Inc. Planning & Development

Andrew Pascuzzo MCIP, RPP

cc. Ken Havens

PETITION FOR DRAINAGE WORKS BY OWNERS

We, being owners, as shown by the last revised assessment roll, of lands in the

Town of The Blue Mountains, County of Grey.

(Insert name of municipality or names of municipalities)

requiring drainage, hereby petition that the area more particularly described as follows:

(Describe the area by metes and bounds, giving each lot and part of lot, number of concession or street, and hectares in each lot or part of lot. Attach extra sheet if required.)

Part of Lot 21, Concession 1, Town of Blue Mountains.

Part Lot 89, Plan 529. (as shown on attached map.)

Area = 3.48 ha.



Att. 3

Andrew Pascuzzo

From: "Dan Hurley" <DHURLEY@cctatham.com>
To: "Ken Havens" <kenhavens@bmts.com>
Cc: "Andrew Pascuzzo" <apascuzzo@dcslade.ca>
Sent: Monday, November 15, 2010 2:17 PM
Subject: Re: Brophies lane

Hi Ken - met with Reg Russwurm, TOBM Engineering Manager on Friday.

It was a beneficial meeting although at the end of the day not sure how much he is able/willing to help. Summary of points/discussions is as follows:

- it was a good opportunity to review the existing drainage condition with Reg. He was not too familiar with the specifics of the area so this really helped. He now understands that changes were made in the mid-eighties (adding cross culvert across Brophy's) that is resulting in more water crossing your property. Unfortunately we did not have definitive proof of when this cross culvert went in but Reg was not questioning that this happened. We used the additional survey information we picked up which confirmed this condition. We discussed the condition / path of the outlet from your property to the roadside ditch then to Georgian Bay as well.

- he understands that this additional water is now proving to be a problem for you as it relates to your property now being considered wetland and requiring greater setbacks etc.

- he does not like the idea or see a solution of removing the culvert or redirecting water away from your property. There is no other good outlet available without requiring a lot of work and it has been 'working' for +-20 years. He didn't think the Town owned land to the Bay on this stretch of Brophy's to create another outlet for this water and they do not want to just remove it and allow upstream lands to flood.

- he considered and we discussed some improvements the Town could make to the existing outlet from your property to the bay that would help you by improving how water leaves the site. He was clear that he could not work on your property but seemed to be willing to consider an improved outlet right to your property line and remove any berming or blockages that might exist along the roadside ditch along the east property limit. He would leave the opportunity to extend the improvements onto your property up to you but I would expect that there would not be much you would be allowed to do because it is now classified as wetland.

In summary there is some recognition of the drainage problem which the Town has some hand in that could be used with the agencies to aid in the resolution of the wetland classification/setbacks on your property. Diverting water away from your property does seem difficult but the recognition that the site condition is not natural should be considered and Town engineering may help support that idea.

If you wish give me a call to discuss further.

6/13/2011

Dan Hurley, P.Eng.
Vice President
C.C. Tatham & Associates
705-444-2565

6/13/2011

TOWN OF THE BLUE MOUNTAINS
(GEOGRAPHIC TOWNSHIP OF COLLINGWOOD)



**OFFICIAL PLAN AMENDMENT
NUMBER 85**
to the
GREY COUNTY OFFICIAL PLAN
Schedule A, Map 2
Land Use Designations

SCHEDULE A



THE COUNTY OF GREY PLANNING AND DEVELOPMENT
2009 - rgs - 11x17

LEGEND

- Lanes Subject to Official Plan Amendment
- Property Boundary
- Agricultural
- Special Agriculture
- Rural
- Hazard Lands
- Wetlands
- Mineral Resource Extraction
- Space Extensive Commercial
- Space Extensive Industrial
- Escarpment Recreation Area
- Niagara Escarpment Area Boundary
- Niagara Escarpment Plan Area
- Urban
- Urban Fringe
- Hamlet
- Inland Lakes & Shoreline



SCALE = 1:4,000

DISCLAIMER:
This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation. It has not been designed or certified for planning or surveying purposes. This map may contain cartographic errors or omissions.

Source: Universal Transverse Mercator Grid Zone 17, North American Datum 1983. Base Derived from the Ontario Digital Topographic Database, Scale 1:10,000.