



**Regional Municipality of Waterloo**  
**Licensing and Hearings Committee**  
**Minutes**

Tuesday, August 9, 2016

1:02 p.m.

Regional Council Chamber

150 Frederick Street, Kitchener, Ontario

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Present were: Chair J. Mitchell, L. Armstrong, G. Lorentz, J. Nowak, and K. Seiling

Absent: D. Craig

**Declarations of Pecuniary Interest Under The Municipal Conflict of Interest Act**

None declared.

**Public Hearing**

**PDL-CPL-16-36**, Woodland Removal Permit Application at 2219 Ottawa Street South, Kitchener

Chair J. Mitchell provided opening remarks on the purpose of the hearing.

**Opening Remarks – A. Apfelbaum, Region of Waterloo**

Angelo Apfelbaum, Manager, Licensing and Enforcement Services, provided an overview of the report. He noted that all residents located within 120 meters of the property were provided with notice in accordance with the Woodland Conservation by-law.

Albert Hovingh, Principal Planner, provided a history of the property and noted that the applicant has previously obtained a good forestry practices permit but has applied for a woodland removal permit in order to remove a larger number of unhealthy trees. He

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explained that the trees that the applicant would like to remove are largely a pine plantation that has not been well maintained.

A. Hovingh noted that the staff recommendation is designed to protect the wetland and breeding birds. Staff have received input from the City of Kitchener and the Grand River Conservation Authority (GRCA). Based on those comments staff recommended that the Committee amend the recommendation contained in the report to move the silt fencing in item iii to the buffer area limits; add a requirement to conduct an ecological functions assessment with respect to wildlife prior to tree removal; and add a requirement to retain healthy trees on slopes wherever possible to protect from soil erosion.

### **Opening Remarks – Stephen Moxey, Applicant**

Stephen Moxey stated that the application is only looking to remove trees from approximately 3 hectares of the 10.5 hectare property. He noted that two studies have been done on the property and that staff from the City of Kitchener and the Region have visited the site. He explained that he is focused on removing the trees from the plantation area that were originally planted for the purpose of harvesting. The trees are no longer healthy and will only get worse if they are left alone.

In response to a question from the Committee, S. Moxey stated that he is unsure of the specific zoning at this point but noted that in 2013 the City of Kitchener had contacted him about rezoning it to residential. He stated that he is not interested in planting more trees in the area at this point.

Chair J. Mitchell asked staff to clarify the current zoning on the property. Chris Gosselin, Manager, Environmental Planning, stated that zoning is determined by Kitchener and that they are currently undergoing a review of the by-law. He noted that the Region has deemed it an urban area, so it could be rezoned by Kitchener.

Chair J. Mitchell requested that S. Moxey work to restore more natural plants to the buffer area.

### **Delegations**

#### a) Bruce Burgoyne

Bruce Burgoyne appeared on behalf of residents on Woodbridge Drive. He noted that the majority of residents have lived there for fifteen years and are opposed to the permit. He distributed letters from his neighbours indicating their concerns. A copy of [his remarks and the letters](#) are appended to the original minutes. He expressed concerns with the method and timing of the notice that was delivered.

B. Burgoyne noted that when the houses were purchased, residents were informed that this was a significant woodland that would not be cut down. It now appears that the designation is being changed with no environmental assessment. He stated that they see this as an effort to change the area into a subdivision.

In response to a question from the Committee, C. Gosselin stated that staff regularly issue permits for tree removal but that larger projects, such as this, require Committee approval. A separate public meeting is not required.

### **Committee Discussion**

The Committee discussed whether the additional request from the GRCA for an ecological functions assessment would defer the permit. It was noted that the assessment would need to be conducted prior to the issuing of the permit, and it would only come back to the Committee if the assessment found the need for additional mitigations.

The Committee requested clarification of the area that the trees would be removed from. A. Hovingh explained that tree removal would be permitted beyond the 30 meter buffer that is marked by the dotted line on the image on page 25 of the report.

### **Closing Remarks – A. Hovingh, Region of Waterloo**

A. Hovingh stated that the tree removal is unfortunate, the pine plantation is declining due to poor management.

### **Closing Remarks – Stephen Moxey, Applicant**

S. Moxey noted that the buffer will cover the area that is visible from Trussler Road and that a large number of the trees that are visible to the neighbours will remain.

### **Recommendation of Committee**

Moved by G. Lorentz

Seconded by L. Armstrong

That the Region of Waterloo take the following actions with regard to a Woodland Removal Permit application as described in Report PDL-CPL-16-36, dated August 9, 2016:

- a) Approve Woodland Removal Permit 15-51 to allow Stephen Moxey to remove approximately 4 hectares of declining conifer plantation at 2219 Ottawa Street South, Kitchener, subject to the following conditions:

- i. That the wetland boundary (as delineated by Dougan & Associates) be confirmed by the GRCA;
- ii. That a 30 metre buffer be established around the wetland feature and that only limited tree removal be permitted within the buffer area, and that no stump removal, grubbing or grading be permitted within the buffer area;
- iii. That silt fencing be erected at the buffer area limits prior to any tree clearing and maintained in good order until the cleared areas revegetate and soils are stabilized;
- iv. That protective fencing or clear demarcation of the 30 metre wetland buffer zone be established prior to any tree clearing;
- v. That any proposed conifer or invasive hardwood trees to be removed within the 30 metre buffer be marked beforehand and approved by the GRCA, the City of Kitchener and the Region;
- vi. That tree removal be done outside of bird breeding season in conformity with the Migratory Birds Convention Act, or upon demonstration, by a qualified professional, that no breeding bird activity is occurring within the plantation or wetland area;
- vii. That an assessment of the ecological functions, especially with respect to wildlife, of the plantation/wetland be undertaken prior to tree removal and, if required, that any recommended mitigation be put into effect; and
- viii. That where possible, healthy trees on slopes be retained to provide protection from erosion.

Carried

## **Reports – Planning, Development, and Legislative Services**

### **PDL-CAS-16-11, Conditional License Renewal for Dundee Recycling Ltd.**

J. Mitchell provided opening remarks on the report.

A. Apfelbaum provided an overview of the report. He explained that the business is no longer in compliance with the Wilmot Township zoning by-law. Staff are recommending a conditional approval of the salvage license for Dundee Recycling. He explained that the conditions of recommendation will allow the business to continue operating while it works on complying with the Township's zoning by-law.

Chair J. Mitchell called for remarks from Dundee Recycling.

Stephen Kropf appeared on behalf of Dundee Recycling. He stated that they want to collect e-waste but have been found to be too big. He noted that they want to work with the Township and the Region to ensure compliance.

L. Armstrong informed the Committee that Township staff have been working with Dundee Recycling to allow them to continue operations; but he noted that they need to comply with the by-law in a timely manner. A. Apfelbaum stated that the recommendation requires Dundee Recycling to meet all requirements by May 31, 2018.

S. Kropf stated that the environmental impact assessment is complete and that phase 2 is underway.

Moved by L. Armstrong

Seconded by G. Lorentz

That the Region of Waterloo take the following actions with respect to the Salvage Yard License renewal application for Dundee Recycling Ltd:

- a) Place Dundee Recycling Ltd, License #917, 1092 Bridge Street, New Dundee, on Probation and approve the 2016 Salvage Yard License renewal application subject to the following special conditions:
  - i. The applicant shall supply an interim Spills Management and Containment Plan to Regional Planning staff within 30 business days of this report and;
  - ii. The applicant shall supply a revised Environmental Impact Statement to Regional Planning staff within 30 business days of this report and;
  - iii. The applicant shall supply a Phase 1 Environmental Site Assessment to Regional Planning staff within 30 business days of this report and;
  - iv. The applicant shall supply a Work Plan to Regional Planning staff within 30 business days of this report and;
  - v. The applicant shall supply quarterly updates to Regional Planning staff beginning October 1<sup>st</sup>, 2016 and;
  - vi. The applicant shall provide all required final documentation and Ministry approvals and meet all requirements of Wilmot Township By-law 2014-38 to the satisfaction of Regional and Township Planning staff by May 31, 2018.
- b) That Regional staff continue to work with Township of Wilmot in order to ensure that all requirements of the local zoning by-law are satisfied.

Carried

**Information/Correspondence**

- a) Regional Clerk Licensing Hearings Minutes – July 6, 2016 was received for information.

**Adjourn**

Moved by G. Lorentz

Seconded by L. Armstrong

That the meeting adjourn at 2:00 p.m.

Carried

**Committee Chair**, J. Mitchell

**Committee Clerk**, T. Brubacher

## **BRUCE R. BURGOYNE CPA, CMA**

245 Woodridge Drive  
Mannheim, ON

August 9, 2016

Committee Members  
Angelo Apfelbaum  
Stephen Moxey

### **RE: PDL-CPL-16-36, Woodland Removal Permit Application – 2219 Ottawa St S, Kitchener**

Thank you for giving me the opportunity to represent a number of the residents of Woodridge Dr, directly opposite the property under discussion on Trussler Drive. Most of us have been residents of this area for over 15 years and have seen many changes during this time. Unfortunately, this is one change we do not want to see happen. I would like to have included more residents in my response; however, due to the 2 weeks of notice during the busy summer vacation period, I have been limited in the ability to solicit further comments.

There are a number of common concerns from the local residents:

1. Timing of the notice with no public meeting to present and discuss plans
2. Clearing what is currently designated as Significant Woodland
3. Impact on the environment, wetlands, aquifer for ROW and wildlife
4. Comments from staff and experts employed by ROW
5. Future plans for the property

### **Timing of the Notices**

Notices were hand delivered to impacted residents on July 25<sup>th</sup> with a deadline for submitting comments 2 weeks later. These notices were taped to resident doors if there was no answer. Most of the people I talked to had either not received the notice, were not aware of the notice or did not read the notice as it was a low priority with the other demands upon the return from holidays. In fact, it was not until The Record reported on the clearing that many became aware of the situation. As a result, I have attached letters/comments from 4 local neighbours. I would request that a more informative means be used to communicate this application to the local residents before a formal decision be made.

### **Significant Woodland**

What is deemed a Significant Woodland? This property has been deemed a significant woodland for many years. In fact, in speaking with most residents, they were informed that the woodland across Trussler Rd. was protected by The Region of Waterloo and would never be allowed to be cut down. Up until someone wanted to clear the property, it was deemed a Significant Woodland. Now that someone wants to clear the property, a further review deems that since it does not consist of "primarily native species", it is no longer a significant woodland. It seems that it is a woodland until somebody doesn't want it as a woodland and they go about proving why it isn't a woodland so they can do what they want with it. If this is the case, I am sure there are very few Significant Woodlands remaining in the area, particularly in the City of Kitchener and soon they will be all part of a new development.

### **Impact on the Environment**

Nowhere in the report do I see any environment assessment of the clearing of this woodland. Since this property or plantation was developed in the 1960's there have been many changes to the area. The Mannheim recharge station has been built on a neighbouring property. A subdivision directly

adjacent to the property has been built but further expansion has been suspended due to the impact on the local aquifers. A newer subdivision, Mannheim Village Estates has been developed but was only allowed to proceed with the condition that sewers be installed and pumped into the City of Kitchener. But with all this, we have an application to clear a significant woodland with no environment assessment. Whether the trees are native or not, clearing of them will have an impact on the local ecosystem. As mentioned, returning to agriculture, where do the pesticides and fertilizers go? As mentioned in the report, agriculture was discontinued in the 60's due to the poor quality of the soil. What makes anyone think it will be better today? As many of us in our development are aware, there is an underground river in this area. We have all had flooded basements. How is the redevelopment of this land going to impact on this and again, the impact on the environment? Also, as many of my neighbours have commented, this woodland is home to a large population of wildlife...just spend some time in the evening or night time sitting in our backyards and you will realize how much wildlife there really is. Have any **conservationists** been consulted in the application for clearing this significant woodland? There is no mention of it in the report.

### **Comments from Region of Waterloo staff**

Why are all the consultants in the report hired by the applicant? Did the region do their own assessment? If so, where is their report? Staff has reviewed and approved the reports but have they done their own assessment? There is no mention of this in the report. Why are there no recommendations as to what could be done to improve and sustain the woodland or portions of it and why is this direction not being pursued?

### **Future Plans for the Property**

Mr. Moxey purchased the property in 2012 with the knowledge that at that time it was deemed a Significant Woodland. The City of Kitchener rezoned the land residential in 2013. Has he applied to the City of Kitchener for a zoning change to agricultural? Can the trees be removed with the property zoned as residential? In 2014 a permit was granted to remove 1.3 acres of trees. Once those trees were removed, the inside trees became vulnerable to the prevailing winds and began to fall. Of course, this is to be expected. Why was he not forced to maintain the plantation rather than promote further destruction of it? Now he says he wants to turn it back to agriculture. Does this give him a better route to be able to remove all the trees and clear the land? Once they are all cleared, what prevents him from redeveloping the property? If the zoning is changed to agricultural, can there be restrictions as to how long it has to remain as agricultural, 10,20,50 years? Yes there is no land development application on file now, but what in the near future. What type of agriculture is he planning? What type of development would be allowed on the property if rezoned? Why is the buffer only 30M and not 100M as suggested? There are a lot of unanswered questions.

Does Mr. Moxey have any direct or indirect interest in 808 Trussler Rd or 2159 Ottawa St S? Both of these properties border 2219 Ottawa St. S and both have been sold within the past few years. Are they owned in a holding or numbered company that Mr. Moxey has any association? Is this part of his master plan to develop the entire area?

### **Conclusion**

We, the residents of Woodridge Drive, see this process as part of a long term plan to develop the property. We see the future of turning needed woodland property that is good for the environment into a subdivision or some other development for personal profit. Mr. Moxey bought the property knowing what the zoning and woodland restrictions were. He is now looking to step around these restrictions for personal gain. Is this how the Region of Waterloo and the City of Kitchener protect our precious resources?

Bruce R. Burgoyne

Angelo Apfelbaum

Manager, Licensing and Enforcement Services.

Regional Municipality of Waterloo.

This letter is being delivered by Mr. Bruce Burgoyne, spokesman for Woodridge Drive Property Owners Registered Delegation.

My wife Doreen and I own the property at 239 Woodridge Drive adjacent to the property in question and we are opposed to this application.

Our reasons for opposing it are as follows:

-Negative impact on the value of our property if the trees are removed. The trees offer a valued backdrop and setting for our property and is one of the reasons we decided to build here. We believe the removal proposal will detract from the surrounding landscape and esthetics of the area thus negatively impacting our property values.

-Negative impact on our property from weather, particularly from wind, if the trees are removed. This area receives a lot of high wind particularly in the winter and these trees offer great resistance to that.

-This application does not make sense from an agricultural perspective. With more than thirty years of direct experience in agriculture that I have, the expense to clear and level the property in question is foolish. There has to be another agenda the applicant has in mind for the future which we are not being told.

-The timing and lack of notice for this application is questionable. Why was there not more notice given and why in the middle of prime summer vacation time? People make plans and need more than two weeks' notice in order to attend a meeting of this magnitude.

Grantham and Doreen Rush

239 Woodridge Drive.

## Bruce Burgoyne

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**From:** John Vanasselt <[john.vanasselt@sympatico.ca](mailto:john.vanasselt@sympatico.ca)>  
**Sent:** Friday, August 05, 2016 9:22 AM  
**To:** 'Bruce Burgoyne'  
**Subject:** RE: Woodlot Clearing

Bruce

Thanks for your willingness to serve as spokesman.

Just a couple of observations.

It seems, (Report p.3), that the property has been zoned residential. The possibility of "urban creep" has already been approved by Regional Council.

It's strange that an area deemed (up until now) "significant woodland," would now be "insignificant," and approved for clearing. Why not encourage or require the owner to manage the property to restore its significance? Other landowners in the Region (e.g. on Witmer Road), have been required to replace trees they removed for building a house on their own property.

We are of the opinion that leaving the area as woodland is both ecologically and aesthetically superior to clearing the land. The disruption of life for birds and animals will be devastating.

Barb and John Vanasselt  
223 Woodridge Drive  
RR2 Petersburg

-----Original Message-----

**From:** Bruce Burgoyne [<mailto:bruce.burgoyne@sympatico.ca>]  
**Sent:** August 4, 2016 9:20 AM  
**To:** [john.vanasselt@sympatico.ca](mailto:john.vanasselt@sympatico.ca); [dbourdon@rogers.com](mailto:dbourdon@rogers.com)  
**Subject:** Woodlot Clearing

Did either of you have comments.

I have not heard from anyone else and their concerns.

Bruce

## Bruce Burgoyne

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**From:** Dan Bourdon <Dan.Bourdon@gerdau.com>  
**Sent:** Monday, August 08, 2016 2:32 PM  
**To:** Bruce Burgoyne (bruce.burgoyne@sympatico.ca)  
**Subject:** Woodlot

Hello Bruce,

Here are my concerns regarding the woodlot property across the street.

Today the property is designated as a woodlot and it is for a reason. Certainly there may be sections where the trees are unhealthy but everything should be done to preserve it as such and that may include clearing of some trees and planting of others. My first choice is always to preserve what we have to protect the wildlife in these areas.

If the property is re zoned as agriculture what will be planted and how much of the woodlot will be destroyed? A fairly large portion should be preserved if the wildlife are to remain here. What is the impact on the wetlands? Will there be fertilizers used that could contaminate the wetlands and the underground river? What controls will be put in place to preserve the healthy habitat for all these wildlife species?

How long will the property be zoned Agriculture before an opportunity arises to be re zoned again for residential? This is obviously a big concern and threat to this woodlot. If by chance it does get rezoned to agriculture will there be a minimum years such as 99 years before a rezoning can be considered?

These are just a few concerns and hopefully we can get a better idea after this meeting on the intentions for the property.

Thanks

Dan

259 Woodridge Drive

RR#2 Petersburg, Ontario

August 8, 2016

To Committee members

As much as I recognize the futility of trying to delay or prevent the mass destruction of this woodlot, I would still like to make some comments about this application.

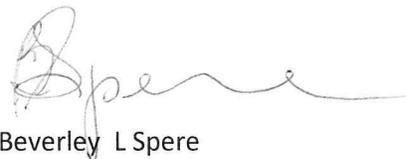
In a nutshell, Mr Moxey purchased this property knowing that it was designated as a Core Environmental Feature- a Significant Woodland- in the ROP which would preclude ANY development or site alteration, such as woodland clearing. He then commissioned 2 studies to show that this designation is not valid, because he maintains that the trees are unhealthy. Why does he want these trees removed?.....so he CAN develop this property. If his intention is to use this property for agricultural purposes, does he plan to farm it, raise cattle, open a garden center? Clearly, his next application, after this area is razed, these trees are destroyed, will be for a subdivision permit.

I do appreciate the effort to protect and maintain the wetland area. An even larger buffer zone could help to ensure the longevity of this area. According to your report, some sections of this woodlot (sections 2.4 and 2.5), support trees in fair to moderate condition. Perhaps the healthier trees could be identified and allowed to live.

This area provides habitat for foxes, owls, deer and turkeys, as well as raccoons. The continuing expansion of housing creeping up Ottawa Street is having an impact on these animals, as they struggle to relocate, many of them into residential neighbourhoods.

We cannot stop progress, but Mr Moxey seems to be taking a conspiratorial path to gain his end. He knew when he purchased this land that development was precluded, yet he devised a plot to manipulate around the official plan. Now he is attempting to change an official plan to his own benefit. If I were able to attend this committee meeting, I would ask Mr Moxey to state his clear intentions!

Please consider declining his woodland removal application, or at least, defer this destruction for several years.



Mrs Beverley L Spere