
HALDIMAND COUNTY

Report FPC-01-2025 Forest Conservation By-law Minor Exception Permit Application for George Street, Dunnville



For Consideration by Council in Committee on March 18, 2025

OBJECTIVE:

To consider an application for a Minor Exception permit under the Forest Conservation By-law 2204/20, submitted by 5038743 Ontario Inc. and their agent Hedley, McLachlin & Attema for the clear-cutting of woodlands located at PLAN 1407 LOT 3 PT LOTS 2 AND 4 RP 18R7797 PART 1 (George Street), Dunnville.

RECOMMENDATIONS:

1. THAT Report FPC-01-2025 Forest Conservation By-law Minor Exception Permit Application for George Street, Dunnville be received;
2. AND THAT the application for a Minor Exception Permit to the By-law 2204/20 at PLAN 1407 LOT 3 PT LOTS 2 AND 4 RP 18R7797 PART 1 (George Street), Dunnville be denied.

Prepared by: Adam Chamberlin, Project Manager, Forestry

Reviewed by: Jeremy Misner, Manager Facilities, Parks, Cemeteries and Forestry Operations

Respectfully submitted: Dan McKinnon, General Manager, Public Works Operations

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

The Forest Conservation By-law 2204/20 outlines a process for an owner or their agent to seek a minor exception to the regulations for the injury or destruction of trees in a woodland. The by-law provides the authority to Council to approve or deny an application for a minor exception to clear-cut an area of woodlands greater than one (1) hectare (2.47 acres) in size and to include any conditions desirable to Council on a minor exception permit.

Staff have presented two options for Council's consideration:

1. Deny the application (recommended); or
2. Approve the application with permit conditions.

Option 1 is recommended as staff view the requested application as an attempt to circumvent the rigours of the planning process. The impact of the clear-cutting cannot be considered in conjunction with other development considerations such as the stormwater plan; evaluation of the ecological function of the wetlands on the subject property for amphibian breeding; and archaeological assessments. Approving the clear-cutting of these woodlands would destroy the unregulated wetland and environmental features thereby removing them from consideration in a future planning application.

The young woodlands on the subject property currently provide wildlife habitat; sequester carbon which helps to reduce the effects of climate change; purify the air; absorb run-off; recharge and purify

groundwater. Approving the clear-cutting outside of the planning process will result in a vacant lot with no active use or a lot that can be sold. The effect will be the loss of the environmental benefits provided by the woodlands without the commitment to develop the lands for another beneficial use such as housing.

The Grand River Conservation Authority, Six Nations of the Grand River and Mississaugas of the Credit First Nation have all provided comments opposing the minor exception until such time as a development application is submitted so considerations are holistic.

BACKGROUND:

On January 16, 2025, staff received an application for a minor exception under the Forest Conservation By-law 2204/20 for the property described as PLAN 1407 LOT 3 PT LOTS 2 AND 4 RP 18R7797 PART 1 (George Street), Dunnville from 5038743 Ontario Inc and their agent Hedley, McLachlin & Attema. The property is currently vacant with a total lot area of 2.79 hectares (6.91 acres); it was part of a former farm located at the northeast corner of Cross Street West and George Street within the urban boundary of Dunnville (attachment 1).

The owner intends to clear-cut 1.42 hectares (3.51 acres) of young woodlands consisting of young Scots Pine, Trembling Aspen, Freeman Maple, Bur Oak, Green Ash and Willow that has been naturally growing on the property since the early 2000s. Following the clear-cutting the owner intends to construct new drainage works on the property; utilize the cleared area to stockpile soil and materials from the construction site on the south side of Cross Street West; and may submit a future site plan application to develop the property. The owner identified that removing the woodlands would also protect the existing residential homes adjacent to the subject property from the risk of fire.

On November 16, 2019, the owner anticipated submitting a planning application for six, quadruplex residential buildings on the subject property and attended a pre-consultation meeting with County staff. During the pre-consultation meeting, staff from various divisions and other organizations identified that the proposal was incomplete. The owner was provided with a list of items, including plans and reports, that would have to be provided as part of the application for consideration such as a detailed site plan, grading and stormwater management, planting impact analysis, archaeological assessment, landscaping details, photometric plan and zoning amendments.

Forestry staff identified that the woodlands on the property are regulated under the Forest Conservation By-law and an Environmental Impact Study would be required to clear-cut an area of the woodlands greater than 1 hectare (2.4 acres) in size. A General Vegetation Inventory report was also required to identify the County-owned trees abutting the subject property and a Tree Protection Plan for the protection of any County-owned street trees. Since the 2019 pre-consultation meeting, the owner has attempted to complete the pre-consultation requirements piecemeal without a clearly defined development proposal for the property, or proceeding with a complete planning application.

In 2020, an Environmental Impact Study (EIS) was completed by Beacon Environment (attachment 2) for the property which identified an Eastern Flowering Dogwood (Endangered Species) on the property. In 2022, staff worked with the owner to transplant the Eastern Flowering Dogwood to the Thompson Creek Arboretum within the County-owned Centennial Park in Dunnville. The transplanting and planting of additional Eastern Flowering Dogwood seedlings were completed under a Ministry of the Environment, Conservation and Parks permit. The transplanting failed, and staff have made several unsuccessful attempts to work with the owner to obtain approval from the Ministry of the Environment, Conservation and Parks to have the dead tree removed from the County park.

In 2022, staff received a Minor Exception application from the owner to clear-cut 0.18 hectares (0.44 acres) of the woodlands located in the southeast corner of the property. A minor exemption application

to clear-cut an area less than one hectare in size can be approved by staff and does not require an EIS. The owner identified the expedient need to install a temporary sales office trailer for the development on the south side of Cross Street West as the need for a minor exception. The application was approved by staff and a permit was issued which included conditions:

1. Afforestation payment in the amount of \$4,248 to the County for the destruction of 0.18 hectares (0.44 acres) of young woodlands;
2. No injury or destruction of trees shall occur during the migratory bird nesting season from April 1 to August 31.
3. Protection of the remaining woodlands.

The 0.18 hectare (0.44 acre) of woodlands were clear-cut over the winter of 2022-2023 to facilitate moving the temporary sales trailer onto the site however, the trailer was not moved onto the site until two (2) years later during the winter of 2024-2025.

Included in the current January 16, 2025 application, the owner's agent Hedley, McLachlin & Attema submitted a letter describing the reasons for the minor exception and reasons why the woodlands on the property should be exempt from the by-law regulations and the standard afforestation requirement under a minor exception permit (attachment 4).

1. The treed area does not meet the definition of a woodlands and is not regulated under the by-law;
2. The owner's intent to improve the drainage of the property should be included under by-law exemption 5.9 the Injuring or Destruction of Trees for the construction of drainage works under the Drainage Act, R. S. O. 1990, c. D.17, as amended;
3. The property is zoned D (Development Zone) under the County's Zoning By-law and is planned to be developed should be included under by-law exemptions:
 - a. 5.4 the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to the approval of a site plan, a plan of subdivision or consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
 - b. 5.5 the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
4. The property owner is affiliated with the owners of adjacent properties under development which have entered into an External Works Development Agreement with the County which should be included under by-law exemptions 5.4 and 5.5.

ANALYSIS:

Staff inspected the subject lands in 2021 and 2025 to assess if the treed area met the definition of a woodlands under the by-law. Staff measured the size of the treed area using GPS, identified the tree species, inspected nine (9) randomly placed assessment plots throughout the treed area and counted the number of trees within each plot. For a treed area to meet the definition of a woodland it must meet all of the following conditions:

1. The treed area must be at least one (1) hectare (2.47 acre) or more in size. For this by-law, the boundary of a woodlands is defined by the ecological limit of the woodlands and not by property boundaries. The woodlands boundary shall include the area up to the drip line and the boundary

of the woodlands shall be deemed to cross any corridors, natural features, roads, trails, or paths up to and including twenty (20) meters in width.

2. The definition of a tree in the by-law means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metres (14.7 feet) at physiological maturity, provided that where multiple stems grow from the same root system, the number of trees shall be the number of stems that can be counted at a point of measure 1.37 metres from the ground.
3. The treed area must have a minimum number of trees with at least:
 - a. 1,000 trees of any size, per hectare; or
 - b. 750 trees, measuring over five (5) centimetres at diameter at breast height (DBH), per hectare; or
 - c. 500 trees, measuring over twelve (12) centimetres at DBH, per hectare; or
 - d. 250 trees, measuring over twenty (20) centimetres at DBH, per hectare.

but does not include a cultivated fruit or nut orchard or a plantation established to produce Christmas trees.

Staff's inspection of the property confirms that the treed area meets all three (3) criteria to be considered a woodland and regulated under the by-law.

1. The area of the woodland is 1.42 hectares (3.51 acres) which exceeds the one-hectare minimum threshold;
2. The species of trees counted in the assessment plots meet the definition of a tree. Invasive European Buckthorn, dead Ash trees and other dead trees were not included in the tree quantities.
3. The average tree density within the treed area in 2021 was 2,071 trees of any size, per hectare and 1,312 trees, of any size, per hectare in 2025. The reduction in tree density is due to the decline and death of Ash trees from Emerald Ash Borer. It is unlikely that the tree density will decrease further due to the recruitment and growth of new Maple and Poplar trees in the understory.

The treed area is not a cultivated fruit or nut orchard or a plantation. Plantation in the by-law means the intentional planting of trees that are maintained or established to produce Christmas trees as part of an agricultural operation, this does not refer to plantations that have ceased being managed or harvested for their intended purpose for fifteen (15) years or more.

By-law exemption 5.9 only applies to drainage works conducted under the Drainage Act. This act enables the creation and administration of drainage infrastructure with three classifications of drains. If drainage works are not created under one of these sections, then the Drainage Act does not apply. The classifications of drainage work within the Drainage Act are as follows:

1. Mutual Agreement Drains (see Section 2)
2. Requisition Drains (see Section 3)
3. Petition Drains (see Section 4)

Since the proposed drainage works are not for the construction or maintenance of a Mutual Agreement Drain, Requisition Drain, or Petition Drain as defined in the Drainage Act, cutting the trees to improve the drainage on the property is not exempt, and only permitted under the by-law with a permit.

The Forest Conservation By-law provides an exemption for the injury or destruction of trees as a condition to the approval of a site plan, plan of subdivision or consent under Planning Act sections 41, 51, 53; or a development permit under section 70.2.

The owner may conceptually and logistically consider all the developments occurring on the adjacent properties and the possible future development on the subject property as one project however, the approved planning applications and external works development agreement for the lands south of Cross Street West have been submitted separately from the subject property and are only applicable to the properties where they have been issued. The temporary use permit for installing the sales trailer on the property is not an approved site plan. Staff have not received or approved a site plan, plan of subdivision or development permit for the subject property therefore exemptions 5.4 and 5.5 of the by-law do not apply to the subject property at this time.

The risk of wildfire developing in the woodlands and threatening the neighbouring properties is low. The property is located within the urban boundary of Dunnville and accessible by the fire department and fire fighting equipment. A fire hydrant is located on the Cross Street West side of the property for quick access to suppress any fire at the property.

Staff received letters of objection to the approval of this application from the Grand River Conservation Authority, The Mississaugas of the Credit First Nation and the Six Nations of the Grand River (attachments 5-7). The following objections were raised.

1. Lack of the owner's effort to avoid, minimize or mitigate the negative impacts of the clear-cutting;
2. The owner's application is ad hoc and does not clearly show their intentions for the cleared property; and
3. The clear-cutting needs to be more rigorously considered through a formal planning application so its impacts can be considered in conjunction with other development considerations such as the stormwater plan, evaluation of the wetlands ecological function for amphibian breeding and archeological assessments.

Staff agree with the objections to the application raised by the Grand River Conservation Authority, Mississaugas of the Credit First Nation and Six Nations of the Grand River. The application conflicts with the County's Minor Exception Guidelines that minor exception applications should not be approved that would amend or circumvent the requirements of a planning application. Approving the clear-cutting of these woodlands would destroy the unregulated wetland and environmental features thereby removing them from consideration in a future planning application. This young forest continues to provide wildlife habitat; sequesters carbon to help reduce the effects of climate change; purifies the air; absorbs run-off, recharges and purifies groundwater. Approval of this application would provide the owner with a cleared lot which could be left vacant or sold resulting in the loss of the key environmental benefits provided by the woodlands without the commitment to develop the lands for another beneficial use such as housing.

Option 1: Deny the application

Staff recommend that Council deny this minor exception application and encourage the owner to submit a comprehensive planning application to address the concerns raised by staff, the Grand River Conservation Authority, Six Nations of the Grand River and Mississaugas of the Credit First Nation.

Option 2: Approve the application with permit conditions

If Council approves the application the following standard conditions should be included as part of the permit.

General Conditions of the Permit:

1. This permit is subject to conditions stated on this Minor Exception Permit, Minor Exception Permit Application and Forest Conservation By-law 2204/20.
2. Haldimand County roads shall be maintained free from any damage, equipment, material or mud tracked onto the road arising from any works undertaken as a result and remain in the same condition that existed before the commencement of the work.
3. This permit may be suspended or revoked by the General Manager of Public Works Operations or their designate if conditions are not being complied with.
4. This permit does not release the owner or their agent from the responsibility to obtain or adhere to any other federal, provincial, conservation authority, county, or municipality's legislation, regulations, acts, by-laws, or required approvals, regarding the injury or destruction of trees or habitat.
5. This permit is issued in conjunction with Haldimand County Forest Conservation By-law 2204/20 being a by-law to prohibit or regulate the injury or destruction of trees in woodlands.

Conditions for the Injury or Destruction of Trees:

1. Before the start of tree cutting, the owner shall provide an afforestation payment of \$36,621.80 as outlined in the County's Minor Exception Guidelines and User Fee By-law to Haldimand County, for the destruction of 1.42 hectares (3.51 acres) of young woodlands.
2. Before the start of tree cutting, the owner shall provide Haldimand County with the name and contact information of the agent who will be responsible for tree cutting.
3. Before the start of tree cutting, the owner shall identify the limits of the clear-cutting and the trees to be cut on-site to the satisfaction of Haldimand County.
4. Before the injury or destruction of trees under this permit, a copy of the Minor Exception Permit placard shall be posted and displayed in a prominent location along an open public road at the nearest practical location to the affected site area. The placard shall remain on display until the work for which the permit was issued has been completed.
5. The agent/person in charge of tree cutting must notify the Project Manager, Forestry twenty-four (24) hours before the start of the injury or destruction of trees by emailing forestry@haldimandcounty.on.ca
6. The agent/person in charge of tree cutting must notify the Project Manager, Forestry twenty-four (24) hours before the completion of the injury or destruction of trees by emailing forestry@haldimandcounty.on.ca
7. No injury or destruction of trees shall occur during the migratory bird nesting season from April 1 to August 31.
8. The injury or destruction of trees shall not result in any tree or part of a tree being left in a watercourse including any trees pushed, knocked over or otherwise ended up in a watercourse.

FINANCIAL/LEGAL IMPLICATIONS:

- Option 1: There are no financial implications for the County.
- Option 2: Approving the application would generate permit revenues based on the approved user fees, contributing to reserves.

STAKEHOLDER IMPACTS:

The required notification process for the application outlined in the by-law was completed with signs posted at the subject property and a written letter mailed to the immediately adjacent landowners abutting the subject property, the Grand River Conservation Authority, Six Nations of the Grand River and Mississaugas of the Credit First Nation.

Staff received letters objecting to the approval of this application from the Grand River Conservation Authority, Six Nations of the Grand River and Mississaugas of the Credit First Nation (attachments 5-7).

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

REFERENCES:

1. Haldimand County Forest Conservation By-law [2204/20](#)
2. Haldimand County [User Fee Schedule O](#)

ATTACHMENTS:

1. PLAN 1407 LOT 3 PT LOTS 2 AND 4 RP 18R7797 PART 1 Site Map
2. Environmental Impact Study
3. Pictures
4. Hedley, McLachlin and Attema Letter
5. Grand River Conservation Authority Letter
6. Six Nations of the Grand River Letter
7. Mississaugas of the Credit First Nation Letter