

Item No. 2 – OFFICIAL PLAN AMENDMENT – PROVINCIALY SIGNIFICANT WETLANDS

Ms. Rebecca Lau (student) makes the presentation of the Wetlands report.

The Chair requests clarification of the recommendation for a buffer of 120 m. The equivalent to approximately 394 ft.

Ms. G. Growe – regarding identified heritage areas – is there a search for endangered species/plants and if so, is a log kept? Ms. Lau is unaware of what criteria is used to designate lands as heritage areas. Mr. Robertson advises that criteria to identify heritage areas are stipulated within the policy as outlined by the Province. In terms of endangered species of plants and animals is also something that's determined by the province. The Province has provided commentary advising that they're not willing to provide mapping of said species. When a new proponent comes forward, there are requirements that must be met in order to proceed with development. Because the Province refuses to map out the area, they would determine the habitat area of the species in question and provide information as to whether a development may or may not occur. Policies are in place to protect the area as well as the surrounding areas which prohibits certain types of development, depending on the type of heritage designation has been assigned.

Ms. Growe interprets the Province is suggesting a 120 m buffer zone beyond the designated lands.

Mr. Robertson clarifies the report. An extensive discussion regarding the definition of 'trigger' and 'buffer' commences between Neil Robertson and Ms. G. Growe.

Trigger – In this case anything within 120 m – surrounding the Provincially Significant Wetland (PSW). Anything proposed within this area is to “trigger” the preparation of an evaluation report that will determine that there will be no negative impact caused by the development on the natural feature. Part of that report will be the appropriateness of a “buffer”. The buffer is determined on a case by case basis.

Buffer – which can be whatever distance deemed appropriate based on the Environmental Evaluation Report (EER) – is a width of space in which there is no development permitted due to the impact said development may have on the environment/species/area. The ultimate width recommended by the professional that prepares the EER may be more or less than 120 metres that triggered the requirement for the EER.

Ms. Growe suggests to broaden/enhance the buffer area in order to possibly recoup the approximately 70% wetlands lost over the past several years.

Mr. Robertson advises Ms. Cross-Leal that the Province provided the City with the location of the local Provincially Significant Wetlands direction to protect them through the Provincial Policy Statement. Also, the municipality does not designate Provincially Significant Wetlands, only the Province can add additional PSWs. The City's current Official Plan policies allow the City to designate locally significant environmental features and protect them through a variety of mechanisms up to and including designating the land use Natural Heritage.

Mr. Baker how is this going to impact on DRIC? Mr. Robertson is not sure. There is one ministry designating the wetlands and another that is proposing a significant transportation route

in the vicinity of the wetlands. The Municipality must protect the area as directed by the Province. Mr. Baker asks if the Province is able to trump an act the City has done through the Official Plan or will they have to comply as well? Mr. Robertson advises that a Federal or Provincial undertaking can overrule any Municipal regulation or requirement.

Mr. Sleiman asks for further clarification if a development shows that it would have no negative impact on the wetlands, would they be permitted to build? Mr. Robertson advises yes.

Mr. McMahon quotes Report 2.2 of the Provincially Significant Wetlands which advises that the Province or City own 82% of these areas. Is the other 18% owned privately? Ms. Lau advises that yes, the remainder is privately owned. Mr. McMahon inquires whether he, as an owner of a designated wetland, would receive any compensation? Mr. Robertson is unable to advise exactly who is eligible or what compensation would be given. In some cases the City has expropriated lands at which time the owner was compensated. Mr. McMahon asks if there is one significant owner among the 18%? Mr. Robertson advises there doesn't appear to be.

Mr. McMahon asks how many people are affected by the designated wetlands and how were they notified? Due to the large amount of surrounding residents, all were notified publicly through the newspaper announcement. No individual notices have been issued. Mr. Robertson also refers back to a previous question regarding the 18% privately owned areas and informs that a number of those properties have been purchased by the Ministry of Transportation. Ms. Lau informs the committee that there is a letter being prepared by the Planning Department advising land owners that parts of their property have been designated as Provincially Significant Wetlands by the Province.

Ms. Growe seeks clarification on what area is listed as the trigger for the study? Is it via a radius point or is it from the edge of the PSW? Mr. Robertson advises the trigger area is from the edge of the PSW. The scope of the study doesn't stop at 120 m, however. It can go beyond that point. Any development that falls within the 120 m distance of the PSW would "trigger" the study. The study and the nature of the development would then determine the appropriate "buffer" wherein no development can occur. Ms. Growe then suggests that the "trigger" be amended to read 240 m so that any development set within 240 m would "trigger" the study. Mr. Robertson advises that 120 distance is based on science and recommended by the Province. Extending the 120 metres would not accomplish much since the probability of the development having a negative impact on the PSW is greatly reduced. He also advises there is a cost associated with these studies which are incurred on the developer/property owner. A minor development outside the recommended area could end up costly due to the need of said study.

Additionally, the policies being proposed and already in place in some cases allows the City to require an EER if the nature of the development warrants it. Also, when a development is circulated to different agencies and ministries, they have the opportunity to suggest that the City require an EER because of the potential impact that development may have. This recommendation is not necessary bound by the 120 metres that triggers the EER.

Mr. Robertson confirms for Mr. Asmar that any development within 120 m of a PSW would trigger an EER. The 'buffer' is determined based on the outcome of the EER. The buffer being the area between the edge of the PSW and the proposed development.

Councillor Hatfield asks Mr. Robertson if he's aware of the motion passed by the City-County Environmental Committee regarding the Windsor Airport lands calling for a buffer of 240 m

surrounding the Provincial Significant Wetlands at the airport. Mr. Robertson advises he is aware of the motion that recommended a 'buffer' (not 'trigger') of 240 m..

Councillor Hatfield asks if PAC could request an amendment recommending a buffer of 240 metres around the airport PSWs? Mr. Robertson advises that PAC can bring forward that recommendation to Council for consideration. He suggested that the recommendation be worded to provide Planning with specific direction about the inclusion of the 240 meter buffer.

Councillor Hatfield touches on a comment made by Ms. Growe regarding 70% lost wetlands. Councillor Hatfield points to a marsh area and asks if this marsh may eventually creep into the trigger or buffer areas causing that area to expand? He goes on to mention the airport wood lots nearby that are privately owned, which would make it reasonable to recommend the 240 m buffer towards that area and not affect the future employment lands at the airport and still allow for the marsh to expand. Mr. Robertson advises that it is very possible when and if left undisturbed for the marsh area to expand and reclaim the lands around it, however there is no indication (or requirement) to suggest that the current agricultural use of these lands will cease. Mr. Robertson doesn't believe increasing the buffer would impact much on PSWs since the Official Plan designations of the three PSWs (and woodlots) already protect the land between and should encourage connectivity between the individually mapped PSWs over the long term

Councillor Hatfield brings up the concern of residents over the DRIC project. As a municipality, we are providing the protection of the PSWs required by the Planning Act and recommended by one or more ministries that have the responsibility of identifying and protecting Provincially Significant Natural Heritage Features. Another ministry, that is responsible for transportation infrastructure, is looking to construct a roadway in the vicinity of some of these Provincially Significant Wetlands. It would be pertinent for the two ministries to communicate and come up with an alternative plan that would appease both. Mr. Robertson advises it would be up to the ministry to determine how they're going to address the issue and possibly re-route the planned roadway around the protected area(s).

Mr. Andre Lalonde (resident) – 2030 Spring Garden, Windsor, ON N9E 3P9 – Discusses concerns for his neighbourhood, Greenlink, water retention & drainage and the proximity to the proposed DRIC roadway. The residents have contacted municipal and provincial leaders for assistance and have received none to date. Would like to see some municipal representation and support for the residents of that area.

The Chair asks Mr. Robertson to assist Mr. Lalonde and area residents with some direction, noting emphasis on the water detention and drainage problem in the area. Mr. Robertson advises he has been in touch with Mr. Lalonde during the week unfortunately is unable to answer his questions mainly due to the fact that the issues raised should more appropriately be directed to the Provincial ministries responsible. Unfortunately, these ministries are not providing area residents with the answers they're looking for. It is suggested and encouraged that the residents contact their local MPP for additional assistance and to continue to contact the ministries involved.

Councillor Hatfield inquires of Mr. Robertson whether these ministries that play different roles and have the responsibilities of protecting the wetlands and providing the route for the new proposed infrastructure respectively, if purchasing property from the residents may satisfy all parties involved? Mr. Robertson advises that he cannot answer on behalf of the existing residents and suggests that it may satisfy some but not others. Mr. Robertson stresses that level of protection being put in place as a result of the proposed policies subject of the attached report is the implementation of the direction being provided by the Province and that the Natural Heritage

land use designation is the appropriate land use designation for PSWs since it only allows for only two (2) land uses; a nature reserve and conservation area.

Councillor Hatfield reconfirms with Mr. Robertson that the area residents' concerns are more appropriately addressed by the Province. Mr. Robertson confirms that this is not a municipal construction project taking place and therefore it would be necessary to contact the provincial ministries involved in the project.

The Chair reiterates that although she sympathizes with the residents, however, this is a provincial matter.

Mr. Anton Peakovic – 995 Silverdale Dr., Windsor, ON N9G 2R6 – brings forth a few points pertaining to the wetlands at Windsor Airport. Mr. Peakovic provides a presentation pertaining to an OMB Appeal filed in 2007 by Mr. Peakovic connecting the wood lots and the corridors to the wetlands. He provides copies of the OMB settlement.

Mr. Peakovic presents a report from the Ministry of the Environment regarding how much (wetlands) is enough, the benefits to the area, flora and fauna but also the improvement in drainage and flooding which Mr. Lalonde mentioned was a problem in his area. The report brings forth the critical function zone which was the predecessor to what is noted as the “trigger” in Planning’s report. He goes on to mention the protection zone which is now referred to as the “buffer”. In short, Mr. Peakovic’s presentation reiterates the function of the Official Plan Amendment – Provincial Significant Wetlands.

Mr. Peakovic urges the committee to maintain a minimum of 120 m buffer to those wetlands in addition to the OMB Settlement that requires the connection of the wetlands with green space as well as increasing the “trigger” amount in this area.

Councillor Hatfield clarifies the OMB Settlement was specific to the residential area at Ray & Joy Roads, extending the buffers, corridors and recreational use north and south of the area. Mr. Peakovic confirms this was a portion of the settlement. The purpose of the appeal was for protection of the residents and the significant wetlands. Primarily maintaining and protecting all species in the area.

Mr. Asmar notes concern regarding birds at the airport. Questions whether there would be a scenario where those wetlands could be eliminated because of the safety hazard large birds incur at the airport? The answer given by Mr. Robertson was no.

Mr. Asmar mentions the OMB hearing and asks if that settlement has any affect on the properties which Mr. Lalonde spoke for? Can that appeal override what decision has been made at Spring Garden? The Chair continues and advises that this OMB settlement dealt with East Pelton area (Annexed Lands) and does not relate to land to the west.

Mr. Sleiman asks Mr. Robertson regarding the buffer. If a buffer is put in place of 120 m and no development is permitted, will that increase the size of the wetland in time? Mr. Robertson advises not necessarily. The buffer is listed as a distance. The buffer itself can be green space such as grassed area or perhaps treed or with berming. Depending on how the buffer is managed, if not disturbed, then yes...the wetland could expand over time.

Mr. Bruno Sfalcin – 3661 Howard Ave., Windsor, ON N9E 3N6 – Mr. Sfalcin discusses the importance of the wetlands to the area. Notes that these areas are not square, as shown on the

maps, but irregular in shape. Mr. Sfalcin continues to advise the importance and relevance of such wetlands and the need for their protection due to its impact on the area flora, fauna and drainage. He gives an example of a town in Italy where a small, mountain lake existed at one time and was neglected and destroyed and the impact it made on that town. Mr. Sfalcin also mentions a natural canal that existed at Ojibway but that was dug deeper which now allows for the Detroit River to spill into it, destroying some of the natural species of wildlife (ie frogs) that resided there. Protection of these wetlands are necessary to protect ground levels, drainage, wildlife and flora.

The Chair brings attention to additional comments received (blue sheets) from ERCA and the Ministry of Natural Resources.

That the City Planner BE DIRECTED to review the impact of the recently identified Provincial Significant Natural Features on the Spring Garden Secondary Plan.

Moved by Mr. M. Baker. Seconded by Councillor Hatfield.

- I. That Chapters 5 and 6 of the Official Plan BE AMENDED to include policies intended to protect and enhance Provincially Significant Wetlands (see Appendix A as amended ERCA & MNR August 19, 2010 Blue Sheets comments).
- II. That Schedule D: Land Use of Volume 1 of the Official Plan BE AMENDED to designate the lands that have been identified as Provincially Significant Wetlands as Natural Heritage.
- III. That Schedule B: Greenway System and Schedule C: Development Constraint Areas BE AMENDED to delineate the newly designated Natural Heritage areas.
- IV. That Volume 1 of the Official Plan BE AMENDED to add Schedule C-2: Provincial Significant Natural Features that identifies Provincially Significant Wetlands and Habitat as a development constraint (see Appendix B).
- V. That section 5.3 Background of the Spring Garden Secondary Plan BE AMENDED to make reference to Provincially Significant Wetlands and Volume I of the Official Plan (see Appendix C).

Motion to approve recommendation of the Planning Department, subject to additional recommendations as listed on the blue sheets.

In Favour: T. McMahon, E. Sleiman, C. Asmar, P. Hatfield, M. Baker and C. Cross-Leal

Opposed: G. Growe

Motion **CARRIED**.

Moved by Councillor Hatfield. Seconded by C. Cross-Leal.

Motion to amend the recommendation as included in the report to include a mandatory 240 m buffer (allowing no development in that area) around the Provincially Significant Wetlands on the airport property.

Mr. M. Baker opposes the motion for a couple reasons:

- 1) Fears it can do more damage than intended. The current system would work. The trigger would encourage the study which would then determine the size of the buffer. But not to simply prohibit any development without knowing what it is and how it would affect the area. Shouldn't pre-judge something which could cause long-term damage to the City.
- 2) Doesn't feel it's fair to single out the airport lands and not the other wetlands within the city's boundaries.

Ms. G. Growe is disturbed by all of the information. Feels there are presumptions being made that the best is being done for these lands when we don't even have the full picture or knowledge. Feels it's a much broader picture and deserves more than just meters to determine protection. Is pleased that the Province is coming forward and designating these protected wetlands, whether it's the source of the water or the type of clay that creates them, feels more information is required.

Mr. T. McMahon is in support of Mr. Baker's comments and feels the Planning Department has put forth a reasonable recommendation.

Mr. C. Asmar is not comfortable with anything until he has more clarification on what the study entails. Are any of the items that Mr. Sfalcin mentioned taken into account in these studies (ie type of clay, source water, drainage, etc.). Mr. Robertson notes that the environmental policy does take into consideration geomorphology, drainage, natural features and functions, etc.

In Favour: P. Hatfield, C. Cross-Leal

Opposed: T. McMahon, E. Sleiman, C. Asmar and M. Baker

Abstained: G. Growe

Motion **DENIED**.