

**Subject:** RE: MNRF Clearance for Butternut Approach, Blue Water & Avondale, Burlington (proj2198) (AMS10950)  
**From:** "Dowhaniuk, Tania" <Tania.Dowhaniuk@burlington.ca>  
**Date:** 2019-03-13, 2:58 p.m.  
**To:** 'Selva Chelliah' <selva@bloomfieldhomes.ca>, 'Joseph Lance' <jlance@nr.si.on.ca>  
**CC:** "Minaji, Rosalind" <Rosalind.Minaji@burlington.ca>, "'Adam.Huycke@halton.ca'" <Adam.Huycke@halton.ca>, 'Emma DeFields' <edefields@hrca.on.ca>, "'bohdan.kowalyk@ontario.ca'" <bohdan.kowalyk@ontario.ca>

Hello Joseph and Selva,

I just spoke with Bohdan Kowalyk, who clarified the MNRF requirements and restrictions under Section 23.7 of the Ontario Regulation 242/08.

Based on my phone conversation with Bodhan, the Tree Inventory and Preservation Plan (January 2019) prepared by Natural Resource Solutions Inc., and Bodhan's email confirmation, I understand that the latest proposed design would sufficiently protect the two Category 3 Butternuts (#8 and 10).

I also understand that an exemption from the requirements of a section 17(2)(c) permit process under the *Endangered Species Act* allowing the removal of one (#2) and harm to two (#3 and 12) Category 2 Butternuts would require compensation, as outlined in Section 23.7 of the Ontario Regulation 242/08. As noted in Bodhan's email, and as described in the Tree Inventory and Preservation Plan, the compensation requirements for this proposal would include the planting of at least 40 Butternut seedlings in a secure location within three years of submission of the relevant "Notice of Butternut Impact" (to be completed at least 30 days before any harm is done to the trees), to be followed by the required monitoring and tending activities which are to be recorded.

In order to approve the latest proposal that includes the removal and harm of three Category 2 Butternuts, a compensation plan should be submitted that outlines how the applicant will provide the required compensation to permit an exemption, in accordance with Section 23.7 of the Ontario Regulation 242/08.

As I discussed with Bodhan, the compensation planting does not have to be on the subject site, but has to meet the criteria set out in Section 23.7 of the Ontario Regulation 242/08, which includes the following:

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3. Every butternut seedling that is planted must have been grown from seed that originated from the seed zone in which it is planted.
4. All butternut seedlings must be planted within three years of the person submitting the relevant notice of butternut impact form under subparagraph 4 i of subsection (4).
5. Butternut seedlings must be planted in an area with the following characteristics:
  - i. the soil must be greater than one metre deep, moist but well-drained and have a fine to medium texture with a recognizable organic layer and with a pH ranging from 6.8 to 7.2, and
  - ii. the area must provide full sunlight conditions to the butternut seedlings.
6. In order to avoid a monoculture of butternut, the person shall plant deciduous trees and shrubs that are not butternut seedlings and that are native to the area in which the seedlings are planted in such numbers to ensure that there are an equal number of butternut trees and other native Ontario species in the area.
7. Every butternut seedling and companion tree or shrub referred to in paragraph 6 must be planted either between March 1 and May 15 or between September 20 and October 30 of any year, except for a butternut seedling or companion tree or shrub that was grown in a container which may be planted between May 16 and May 25 of any year.
8. No more than 200 butternut seedlings shall be planted in a hectare.

9. Butternut seedlings must be planted at least,
  - i. three metres from other planted butternut seedlings,
  - ii. two metres from other trees or shrubs that are likely to be the same height or shorter than the butternut tree at full growth,
  - iii. four metres from other trees or shrubs that are likely to be taller than the butternut tree at full growth,
  - iv. five metres from the canopy drip line of trees that are greater than four metres in heights at the time of planting, and
  - v. 100 metres from a highway consisting of two or more lanes in either direction.
10. Every butternut seedling that is planted under this subsection must be monitored once annually between May 15 and September 20 for two years after it is planted to assess the health of the tree and its habitat conditions.
11. In order to ensure the good growth and health of the butternut tree, every butternut seedling that is planted under this subsection must be tended to in accordance with the following rules:
  - i. tending activities shall take place once a week from May 15 to September 20 during the first growing season after the butternut seedling is planted,
  - ii. tending activities during the first growing season after the butternut seedling is planted will include,
    - A. maintenance of tree guards to protect the lower stem from rodents,
    - B. vegetation control 60 centimetres around the base of the tree until the tree is above the herbaceous vegetation, and
    - C. watering during drought or low rainfall periods, and
  - iii. tending activities shall take place during the second growing season after the butternut seedling is planted as required to ensure that,
    - A. vegetation is controlled 60 centimetres around the base of the tree until the tree is above the herbaceous vegetation, and
    - B. the tree is watered during drought or low rainfall periods.
12. The person must plant a butternut seedling to replace any butternut seedling planted under this subsection that dies within two years of the planting of the seedling and must do so in accordance with the planting requirements of this subsection.
13. For each butternut seedling planted under this subsection, the person must maintain a record of the planting, monitoring and tending activities required under this subsection, which record shall include,
  - i. the date the butternut seedling was planted,
  - ii. the date of each time a person attended to monitor or tend to the butternut tree,
  - iii. a description of every monitoring and tending activity,
  - iv. an assessment of the health status of the butternut seedling every time it is monitored or tended to indicate if its health is good, poor or whether it is dead, and
  - v. whether the butternut tree shows evidence of butternut canker and, if so, a description of the extent to which the tree is affected by butternut canker.

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The proposed compensation plan should be submitted for review to the MNRF and the city. If the requirement for compensation cannot be met, the plan should be revised to avoid the removal or harm to the three Category 2 Butternuts.

Please let me know if you have any questions or require additional information.

Kind Regards,

**Tania Dowhaniuk OALA, CSLA**  
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**From:** Selva Chelliah [mailto:[selva@bloomfieldhomes.ca](mailto:selva@bloomfieldhomes.ca)]

**Sent:** Tuesday, March 12, 2019 4:36 PM

**To:** Dowhaniuk, Tania; Minaji, Rosalind

**Subject:** Fwd: MNRF Clearance for Butternut Approach, Blue Water & Avondale, Burlington (proj2198) (AMS10950)

Hi Roz and Tania;

Please see below from MNRF and let me this what you are looking for?

Regards,  
Selva

Sent from my iPhone

Begin forwarded message:

**From:** "Kowalyk, Bohdan (MNRF)" <[bohdan.kowalyk@ontario.ca](mailto:bohdan.kowalyk@ontario.ca)>

**Date:** March 12, 2019 at 3:32:21 PM EDT

**To:** Joseph Lance <[jlance@nrsi.on.ca](mailto:jlance@nrsi.on.ca)>

**Cc:** Katharina Richter <[krichter@nrsi.on.ca](mailto:krichter@nrsi.on.ca)>, "McAllister, Aurora (MNRF)" <[Aurora.McAllister@ontario.ca](mailto:Aurora.McAllister@ontario.ca)>, Selva Chelliah <[selva@bloomfieldhomes.ca](mailto:selva@bloomfieldhomes.ca)>

**Subject:** RE: MNRF Clearance for Butternut Approach, Blue Water & Avondale, Burlington (proj2198) (AMS10950)

Hello Joseph Lance,

It is not clear what the City of Burlington would consider to be "MNRF clearance".

I can confirm that the latest proposed development design provided appeared to indicate that two Category 3 Butternuts (#8 and 10) would be sufficiently protected from harm if there is no intrusion beyond the proposed apparent new lot boundaries.

Three Category 2 Butternuts would be affected, one (#2) would be removed and two (#3 and 12) would be harmed. Since tree #12 is on a neighbouring property, an appropriate accommodation would need to be reached with the owner(s) of that property.

A "Notice of Butternut Impact" registration does not need to be completed within 30 days following submission of the Butternut Health Assessment to the Ministry, but it does need to be completed at least 30 days before any harm is done to the trees. Section 23.7 of the Ontario Regulation 242/08 outlines the requirements for compensation that must be followed in order to be exempt from the requirements of a section 17(2)(c) permit process under the *Endangered Species Act*. The compensation requirements for this proposal would include the planting of at least 40 Butternut seedlings in a secure location within three years of submission of the relevant Notice of Butternut Impact, to be followed by the required monitoring and tending activities which are to be recorded. Since a planting plan has not been submitted, no further comment can be provided on that aspect.

If there are any questions, please let me know.

Regards,

Bohdan Kowalyk, R.P.F.

District Planner, Aurora District, Ontario Ministry of Natural Resources and Forestry  
50 Bloomington Road, Aurora, Ontario L4G 0L8  
Phone: 905-713-7387; Email: [Bohdan.Kowalyk@Ontario.ca](mailto:Bohdan.Kowalyk@Ontario.ca)

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**From:** Joseph Lance <[jlance@nrsi.on.ca](mailto:jlance@nrsi.on.ca)>

**Sent:** March-12-19 12:38 PM

**To:** Kowalyk, Bohdan (MNRF) <[bohdan.kowalyk@ontario.ca](mailto:bohdan.kowalyk@ontario.ca)>

**Cc:** Katharina Richter <[krichter@nrsi.on.ca](mailto:krichter@nrsi.on.ca)>; McAllister, Aurora (MNRF) <[Aurora.McAllister@ontario.ca](mailto:Aurora.McAllister@ontario.ca)>;  
Selva Chelliah <[selva@bloomfieldhomes.ca](mailto:selva@bloomfieldhomes.ca)>

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Hello Mr. Kowalyk,

You will recall the consultations that NRSI has had with you over the last few years regarding Butternuts on the properties at 143 Blue Water Place and 105 Avondale Court in Burlington. We spoke last week about the City of Burlington having rejected our client's application as incomplete, in part because there was not explicit MNRF clearance for the proposed development layout, resulting take/harm of some Butternut trees, and required compensation.

In the hope that you can easily provide 'clearance' for the City, I have composed the attached letter that summarizes the project history and Butternut management approach. Enclosed with the letter is a map by NRSI and some email communications you have had with our office. Please have a look at the attached, and let me know if you have questions or need something revised in order to give clearance.

Thanks in advance,  
Joseph

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**Our main office in Waterloo has moved! Please note change of address below.**

cid:image001.png@

**Joseph Lance** B.E.S. Certified Arborist  
Terrestrial and Wetland Biologist

**Natural Resource Solutions Inc.**

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— Attachments: —

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