



PORT COLBORNE

**City of Port Colborne
Council Meeting Addendum**

Date: July 12, 2021
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

7. Staff Reports

7.3. Recommendation Report for a Draft Plan Extension Request for the Chippawa Estates Subdivision, 2021-197

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|-----|---|---|
| *a. | Delegation material from Kim Videcak, Zdenko Videcak, and Gerry Guitar, residents | 1 |
| *b. | Delegation material from Melissa Bigford and Christopher Lofquist, residents | 3 |
| *c. | Delegation from Frank Evangelista, applicant | |

July 12, 2021

Sent via Email:

Planning and Development Department
City of Port Colborne
66 Charlotte Street
Port Colborne, ON

To Whom It May Concern:

Re: Recommendation Report for a Draft Plan Extension Request for the Chippawa Estates Subdivision

We, the undersigned, are writing this letter on behalf of Kim Videcak, Zdenko Videcak and Gerry Guitar, in response to the report titled "Recommendation Report for a Draft Plan Extension Request for the Chippawa Estates Subdivision" that is being proposed before the council for the City of Port Colborne (herein after referred to as the "City").

We understand that the public is not required to be circulated on requests for the extension to the Draft Plan approval. However, we are writing as a stakeholder in this matter and potential party to future proceedings that may be necessary should the extension be granted, and Draft Plan approved.

Gerry Guitar, is the owner of Hubbard Drive. He has documentation from the City dated March 10, 1981 that states that the property rights and ownership of the site known as Hubbard Drive do not belong to the City. Should the City not have these documents readily available, we can provide them forthwith.

On page 4 of the City's Report # 2021-197, after internal consultation with the Public Works department, there is a "main point of concern with the development is clearing up legal ownership of Hubbard Drive". As we have previously stated, our family maintains the legal ownership of Hubbard Drive. Further, Public Works suggests that "City infrastructure may only be installed on Hubbard Drive if the City will be the sole owner of the right-of-way upon completion". In order for the City to become the sole owner of this right-of-way (also known as Hubbard Drive), either expropriation of the lands or litigation must take place. As my family is the rightful owner of this land, this directly involves us in the process of the Draft Plan extension and further development of these lands.

On page 3 of 6 of the City's Report # 2021-197, it is indicated that a redline revision is required for the Draft Plan. Since 2014, the option for access using the proposed right-of-way was eliminated. The Report further states that a court order was provided by the Applicant showing the future development has a legal right-of-way access via Hubbard Drive. No documentation, court ordered or otherwise, by either the City or the Applicant, has been provided to any of the named

persons of this letter. As the owners of Hubbard Drive, we are entitled to view and respond to any court orders or documentation that is contrary to the original ownership documentation we possess or that is directly adverse to our legal property interests. We respectfully request that if such documentation exists, it be provided without delay and with an explanation for the withholding of such documentation.

Nonetheless, the report goes on to state that the right-of-way access has not solved the issues in respect to servicing (page 3 of 6). The report clearly states "Municipal services are not permitted to be installed under a private laneway (Hubbard Drive)" (added for emphasis). This statement from the City clearly acknowledges the private ownership maintained by our family and casts doubts on any claims to right-of-way access or other claims of ownership over the land.

The Report further highlights the issue of expropriation of the lands. On page 3, the Report states "Planning staff would like to make Council aware that in order for the City to obtain ownership of Hubbard Drive, an expropriation process will need to be undertaken in conjunction with the City Solicitor." Expropriation of lands is a timely and costly legal process that directly involves the owners of Hubbard Drive. Not only would this further extend the proposed plan, but it would also embroil our family in a legal battle that has not been necessary or contested for over 36 years. This potentially places a great financial burden on our family with the additional requirements to obtain legal counsel and involve ourselves in potential legal proceedings. It is a stress that we have now been brought into and thus are direct stakeholders in the outcome of City council's decision.

We are aware that planning staff have expressed the above concerns with the Applicant, and that the Applicant claims that the redline revision will be moving forward with this in mind. Again, we have not been contemplated or consulted in this process and on any further revisions. This leaves us in a tenuous position with full reliance on the decisions of other parties.

Gerry Guitar has lived and owned Hubbard Drive since 1974. The land is important to our family and his heritage as an Indigenous person. We understand the City's position, the Niagara Region's position and the position of the Applicant. We respectfully request that the Planning department and City council consider the undue burdens and stress associated with the potential expropriation of Hubbard Drive. Not only will this impact us financially and legally, it will no doubt have a great impact on all parties involved.

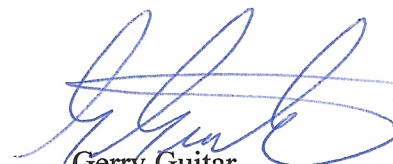
We further respectfully request that the owners of Hubbard Drive are consulted and included in any further discussions and decisions regarding the planning, development and potential expropriation of Hubbard Drive, its right-of-way access and/or ownership/use.

We thank you for your time in reading this letter. Should you have any questions or concerns, please feel free to contact us.

Sincerely,


Kim Videcak


Zdenko Videcak


Gerry Guitar

Melissa Bigford & Christopher Lofquist
173 Chippawa Rd.
Port Colborne, ON.
L3K1T6

July 12, 2021

To: Mayor and Members of Council,

We are writing this letter in regards to Report #2021-97 and why we believe that the extension of the Chippawa Estates Draft Plan of Subdivision should not be approved.

According to the Regional Report (Appendix B) the applicant has not provided any information to clear any of the existing draft plan conditions in the over 11 years since the original draft plan of subdivision application was approved by council. Council had to hold an emergency meeting on June 7, 2021 to again deal with the impending lapsing date (which for the second time was left to the last possible minute) and the applicant was granted a 45 day extension. So again, staff resources and time were required to review and gather information from the corresponding departments and agencies. When does this council stop applicants from continually using staff resources and “banking land” as stated by the CAO at the June 10, 2019 meeting? Considering the city is not in favour of granting extensions when no progress in meeting any of the draft plan conditions has occurred?

We are concerned about the added financial implications to the taxpayers for the expropriation of land (Hubbard Dr.) and the associated City Solicitor fees as stated in this report. This expropriation of land was never part of the original draft plan of subdivision that was approval by council. This is now another issue created by the applicant due to the fact that the applicant decided to build a house on the road access to the development. It was stated in the Committee of Adjustment Report dated June 4, 2014 that the creation of a building lot on this property would not leave sufficient width for a future easement to service the development on the property to the North.

At the June 10, 2019 council meeting during the discussion of another extension the above information was stated by the planning department. Due to the fact that the consent and minor variance to move the proposal forward were before the LPAT, council granted the two year extension. However, it was also stated that if the LPAT was denied in regards to consent and minor variance that the draft plan could go not go forward. Subsequently, on August 21, 2020, the applicant withdrew his LPAT application.

In conclusion, we believe that this extension should not be granted as the applicant has clearly demonstrated over the past 11 years that he has no intention of providing the required information and documentation to support meeting any of the original conditions of Draft Plan of Subdivision!

Sincerely,

Melissa Bigford & Christopher Lofquist