

**CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
BY-LAW 2005-102**

A by-law to prohibit or regulate the destruction or damage of trees located in the front yard of a built property or on any part of a vacant property, on significant woodland and for subdivision agreement.

WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, s. 135, allows that by-laws be passed by the Council of local municipalities in order to prohibit or regulate the destruction or damage of trees.

AND WHEREAS it is considered desirable to regulate the destruction or damage of trees on the territory of Clarence-Rockland.

NOW THEREFORE the Council of the City of Clarence-Rockland enacts as follows:

1. SHORT TITLE

This by-law may be cited as the Tree Cutting By-law.

2. SCOPE

- a) The provisions of this by-law shall prohibit the destruction or damage of trees located in the front yard of a built property or on any part of a vacant property along:
- i) Laurier Street (Annex A)
 - ii) Landry Road, Labonté Road or Champlain Road within the limits of the Community Policy Area of Clarence Creek (Annex B)
 - iii) St-Pascal Road or Du Lac Road within the limits of the Community Policy Area of St-Pascal (Annex C)
 - iv) Laval Road or Champlain Road within the limits of the Community Policy Area of Bourget (Annex D)
 - v) Lacroix Road, Gagné Road or Gendron Road within the limits of the Community Policy Area of Hammond (Annex E)
 - vi) Indian Creek Road, Drouin Road or Russell Road within the limits of the Community Policy Area of Cheney (Annex F).
- b) The provision of this By-law shall regulate the clear cutting within the limits of:
- i) The significant woodland designation of the Official Plan of the United Counties of Prescott and Russell.

- c) The provisions of this by-law shall preserve trees on site subject to:
- i) A subdivision approval (see clause 9).
 - ii) An existing subdivision (regulated by the applicable subdivision agreement).

3. DEFINITIONS:

In this by-law:

“Building” means any structure used or intended for sheltering any uses or occupancy;

“Built property” means a part of land on which there is a building;

“By-law Enforcement Officer” means a person duly authorized to carry out the enforcement of this by-law;

“Circumference” means the measurement of the perimeter of the stem or of the tree with such measurement including the bark of the stem;

“City” means the City of Clarence-Rockland;

“Clear-cutting” means the harvesting of all merchantable trees from area of forested land representing the lesser of 4,047 square meters (1 acre) or 20% of the total area of the lot, within a 3 years period.

“Council” means the Council of the City;

“DBH” means the diameter of the stem of a tree measured at a point that is 1.3 meter above the ground (diameter breast height);

“Dead” deprived of life; - opposed to alive and living; reduced to that state of a being in which the organs of motion and life have irrevocably ceased to perform their functions as a dead tree;

“Destroy” means any action which causes or results in the irreversible injury or death to a tree;

“Diameter” means the diameter of stem of a tree measured outside the bark at a specified point of measurement;

“Director” means the Director of the Planning Department for the City;

“Emergency work” includes work associated with drain repairs, utility repairs and structural repairs to a building or any other work of an emergency nature;

“Front yard” means the space extending across the full width of a lot between the front line and the nearest part of any main building or structure on the lot;

“Good forestry practice” means the proper implementation of harvest, renewal, and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;

And good forestry practices permit the destruction or injuring of trees that:

- Have been damaged by disease, insects, wind, ice, fire, lightning, or other natural causes to an extent that the health of such trees is likely to further deteriorate;
- Should be cut or removed to prevent disease or insects from spreading to other trees;
- Are cut in accordance with the provincial Silvicultural Guidelines as referred to in the Forest Operations and Silviculture Manual and its revisions prepared under the authority of the Crown Forest Sustainability Act, S.O. 1994, c. 25.

“Harvest” means the removal of a tree or trees by cutting which results in destruction of a tree by design for the purposes of extraction of some type of product;

“Owner” means a person having any right, title, interest or equity in land;

“Permit” means the written authorization from the Director;

“Person” means an individual, association, partnership, corporation, farming business as defined in the Farm Registration and Farm Organization Funding Act, 1993, S.O. 1993, c. 21, as amended, a municipal, provincial or federal agency, or an agent or employee thereof;

“Qualified practitioner” means someone who is operating within the generally accepted scope of practice of a natural resources technician, a certified tree marker or an urban forester or an arborist or a landscape architect or a Managed Forest Plan Approver certified under the Assessment Act, S.O. 1990, c. 31, as amended, or the regulations thereto;

“Significant woodland” means treed areas that provide environmental and economic benefits such as erosion prevention, water retention, provision of habitat, recreation and the sustainable harvest of woodland products. Woodlands include treed areas, woodlots or forested areas and vary in their level of significant;

“Silviculture” means the theory and practice of controlling forest establishment, compositions, growth and quality of forests to achieve the objectives of management;

“Tree” means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity;

“Vacant property” means a part of land on which there is no building;

“Watercourse” means the natural channel for a perennial or intermittent stream of water.

4. PERMIT REQUIRED

Properties identified in clause 2a)

- a) No person shall cut or damage a tree that is 50 cm or more in circumference (15 cm in diameter) measured at 1.3 meter above ground (DBH) and is located in the front yard of a built property or on any part of a vacant property without first obtaining a permit from the Director.

Properties identified in clause 2b)

- b) No person or Corporation shall clear-cut on a property identified in clause 2b) without first obtaining a permit from the Director.

5. NO PERMIT IS REQUIRED FOR PROPERTIES IDENTIFIED IN CLAUSE 2a) UNDER THE FOLLOWING CIRCUMSTANCES:

- a) the tree is located in the rear yard, side yard or external side yard of a built property.
- b) the tree is of less than 50 cm in circumference (15 cm in diameter) measured at 1.3 meter above the ground (DBH).
- c) the tree intended for removal is dead;
- d) the tree intended for removal represents a potential health hazard for the property owner and the general public;
- e) the tree is a species of willow (“Salix”), a poplar (“Populus”), a silver maple (“Acer saccharinum”), an American elm (“Ulmus americana”), a Manitoba maple (Acer negundo), and is located less than 10 meters from each property line, unless the property line abuts to a water course;
- f) the tree is damaging a public or private property (perforated or obstructed pipe, cracked foundation etc.);
- g) the tree constitutes an inevitable obstacle to the realization of a construction project on a property that is not subject to Site plan control or to the development of a parking area for which a permit was already issued;
- h) the purpose of the tree removal is for the thinning within a woodlot to promote the growth of the remaining standing trees and where the selective thinning has been authorized by a qualified practitioner and/or is part of an approved Forest Management Plan for the woodlot;
- i) emergency work;
- j) activities or matters undertaken by a municipality or a local board of a municipality;

- k) the injuring, destruction or harvesting of trees is intended to prevent disease or insects from spreading to other trees;
- l) an individual or farm business owner of a site carrying on the injuring, destruction or harvesting of trees for fuel wood or own uses purposes;
- m) orchards, Christmas tree plantation or tree nurseries;
- n) routine maintenance and tree cutting activities within established golf course.

6. REPLACEMENT TREE

- a) A permit to destroy or injured a tree on a property identified in clauses 2a) shall be subject to the following requirement:
 - i) replacement trees shall be planted and maintained to the satisfaction of the Director.

7. PROTECTION AND MAINTENANCE OF TREES

- a) Any actions or works likely to have a negative effect on the health of trees, particularly backfilling, are prohibited. However, if backfilling or other works are necessary, the owner shall have to provide a document to the Director providing a list of protective measures proposed to avoid damage to trees that should be preserved on the property (e.g. protection cage)

8. SIGNIFICANT WOODLANDS

- a) Clear-cutting is authorized on property designated “significant woodlands” or on adjacent lands within 50 meters, only if it has been demonstrated through an environmental impact assessment, in accordance with provision 3.3.7 of the Official Plan of the United Counties of Prescott and Russell, that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified.
- b) Notwithstanding paragraph 8a) above, agricultural activities including plowing, seeding, harvesting, grazing, animal husbandry and minor expansions to existing buildings and structures associated with farming operations are permitted on adjacent lands without an environmental impact assessment.
- c) Notwithstanding paragraph 8a) above for significant woodlands, agricultural activities such as maple syrup production and the harvesting of mature trees, and works such as recreational trails are considered appropriate in woodlots and therefore are permitted without an environmental impact assessment. Such activities are to be carried out and such works shall be constructed in an environmentally sensitive manner so as to preserve the overall woodlot function.

9. PRELIMINARY TREE CONSERVATION AND PLANTING PLAN FOR LAND SUBJECT TO SUBDIVISION APPROVAL

- a) No tree shall be cut prior to the submission of the subdivision application.
- b) All applications for subdivision shall be supported by a tree conservation and planting plan.
- c) The tree conservation and planting plan shall be prepared by a qualified practitioner.
- d) Where the subdivision is within a designation requiring an environmental impact assessment, much of this work could be done as part of that study.
- e) The tree conservation and planting plan shall be prepared in accordance with “Annex H” of this by-law.

10. ADMINISTRATION

- a) This by-law shall be administered by the Director.

11. ENFORCEMENT

- a) This by-law shall be enforced by the By-law Enforcement Officer.

12. CONDITIONS IMPOSED WHEN ISSUING A PERMIT

- a) The Director may impose special conditions to a permit relating to:
 - i) evidence, in the form of pictures or of a study undertaken by a Qualified Practitioner to justify the application for a permit.
 - ii) environmental impact assessments in accordance with provision 3.3.7 of the Official Plan of the United Counties of Prescott and Russell, for clear-cut activities on a property identified in clause 2 b) i) of this by-law.

13. FACTOR TO BE CONSIDERED

- a) The Director shall have regards to good forestry practices as defined in the *Forestry Act*, 2001, c. 25. 135 (5); 2002, c. 17, shed. A, p. 27 (1).

14. APPEAL TO THE ONTARIO MUNICIPAL BOARD

- a) An applicant for a permit as required by section 5 of this by-law may appeal to the Ontario Municipal Board:
- i) if the Director refuses to issue a permit, within 30 days after the refusal;
 - ii) if the Director fails to make a decision on the application, within 45 days after the application is received; and
 - iii) if the applicant objects to a condition in the permit, within 30 days after the issuance of the permit.

15. APPLICATION FOR A PERMIT

- a) An application for a permit shall be accompanied by the required information as set out in “Annex H” of this by-law.

16. FEES

No fees are required (Annex G).

17. OFFENCES ON A PROPERTY IDENTIFIED IN CLAUSE 2a) OF THIS BY-LAW

- a) Any person who contravenes the by-law is guilty of an offence and is liable:
- i) on a first contravention, to a written or a verbal warning and must replace the tree. The replacement tree shall be planted and maintained to the satisfaction of the City;
 - ii) on any subsequent conviction, to a fine of not more than \$10,000.00 or \$1,000.00 per tree, whichever is the lesser;
 - iii) on any subsequent conviction, to a fine of not more than \$25,000.00 or \$2,500.00 per tree, whichever is lesser.

18. OFFENCES ON A PROPERTY IDENTIFIED IN CLAUSE 2b) OF THIS BY-LAW

- a) Any person who contravenes the by-law or an order issued under paragraph 137(3) of the *Municipal act* is guilty of an offence and is liable:
- i) on a first conviction, to a fine of not more than \$10,000.00 or \$1,000.00 per tree, whichever is the lesser;

- ii) on any subsequent conviction, to a fine of not more than \$25,000.00 or \$2,500.00 per tree, whichever is lesser.
- 19.** If a person to whom the order is directed is not satisfied with the terms of the order, the person may appeal via the Council within thirty (30) days after the date of the order. The Council may confirm, alter or revoke the order and the decision of the Council shall be final.
- 20.** By-law 2005-11 is hereby repealed.
- 21.** This by-law shall come into force and effect on the date on which its adoption becomes complete.

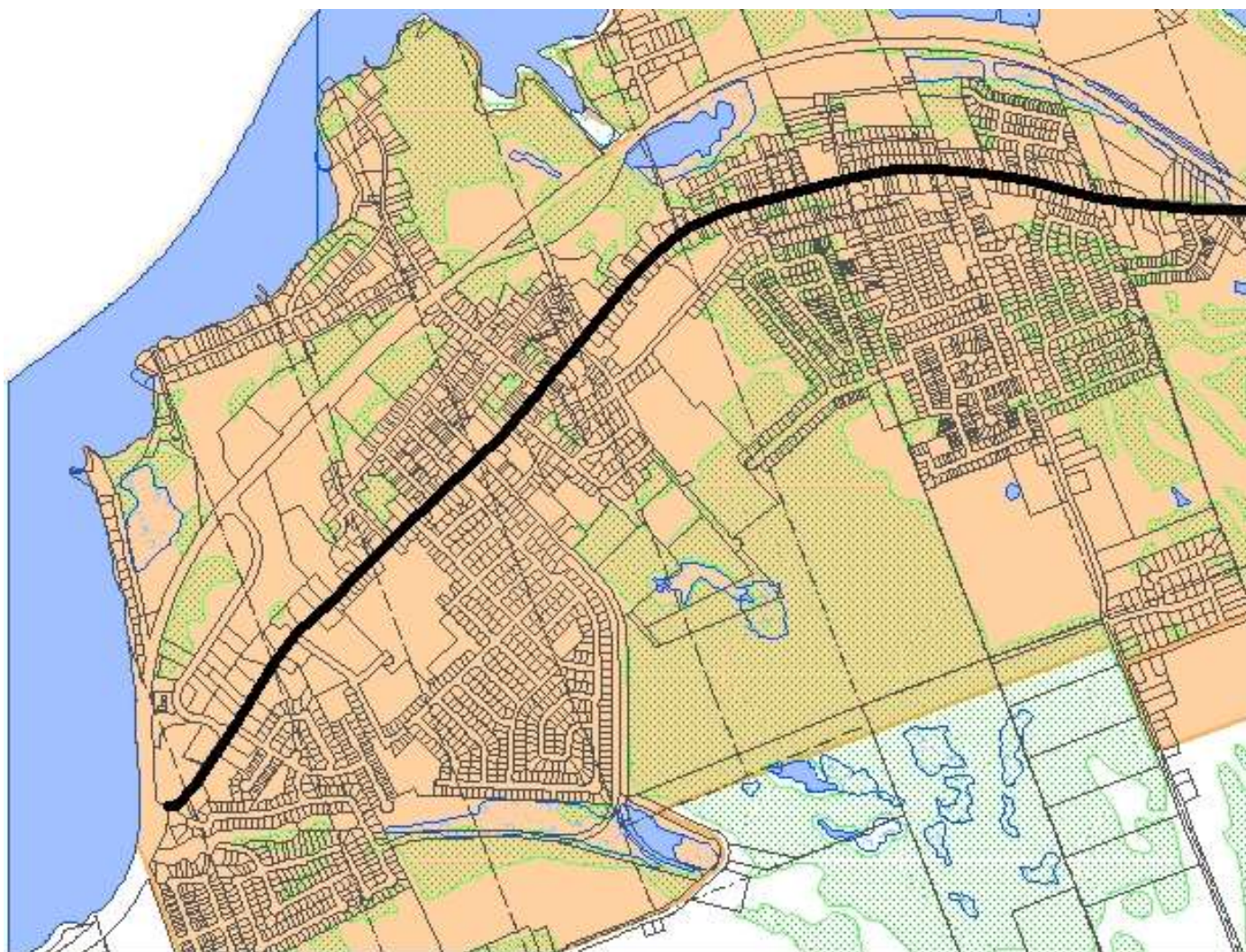
ENACTED AND PASSES IN OPEN COUNCIL, THIS 11TH DAY OF JULY 2005.

(Original signed by)
Richard Lalonde, Mayor

(Original signed by)
Daniel Gatien, Clerk

Annexe / Annex A

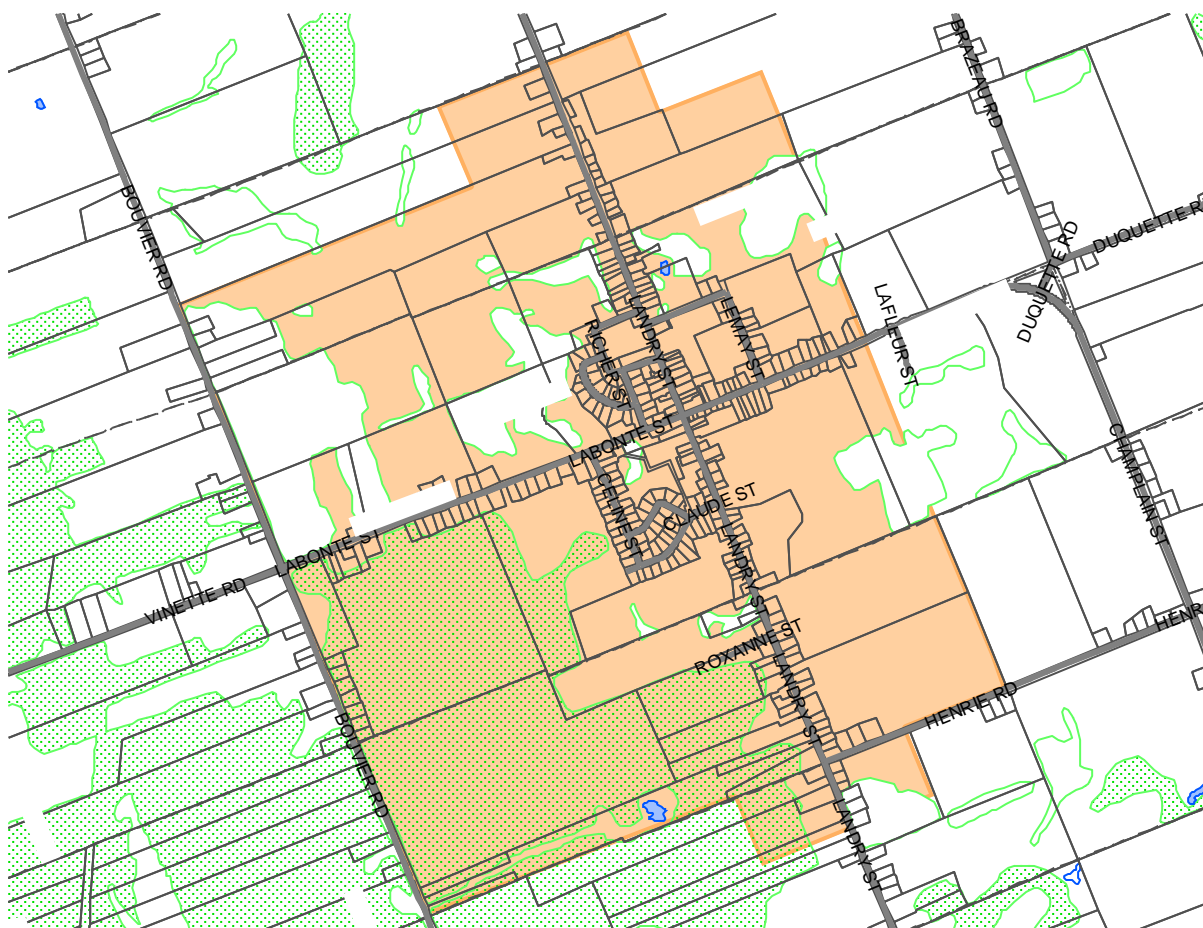
Sur la rue Laurier / On Laurier Street



Annexe / Annex B

Chemins Landry, Labonté et Champlain dans les limites du secteur des politiques communautaires de Clarence Creek (tel que défini à l'annexe A du Plan officiel des Comtés unis de Prescott et Russell)

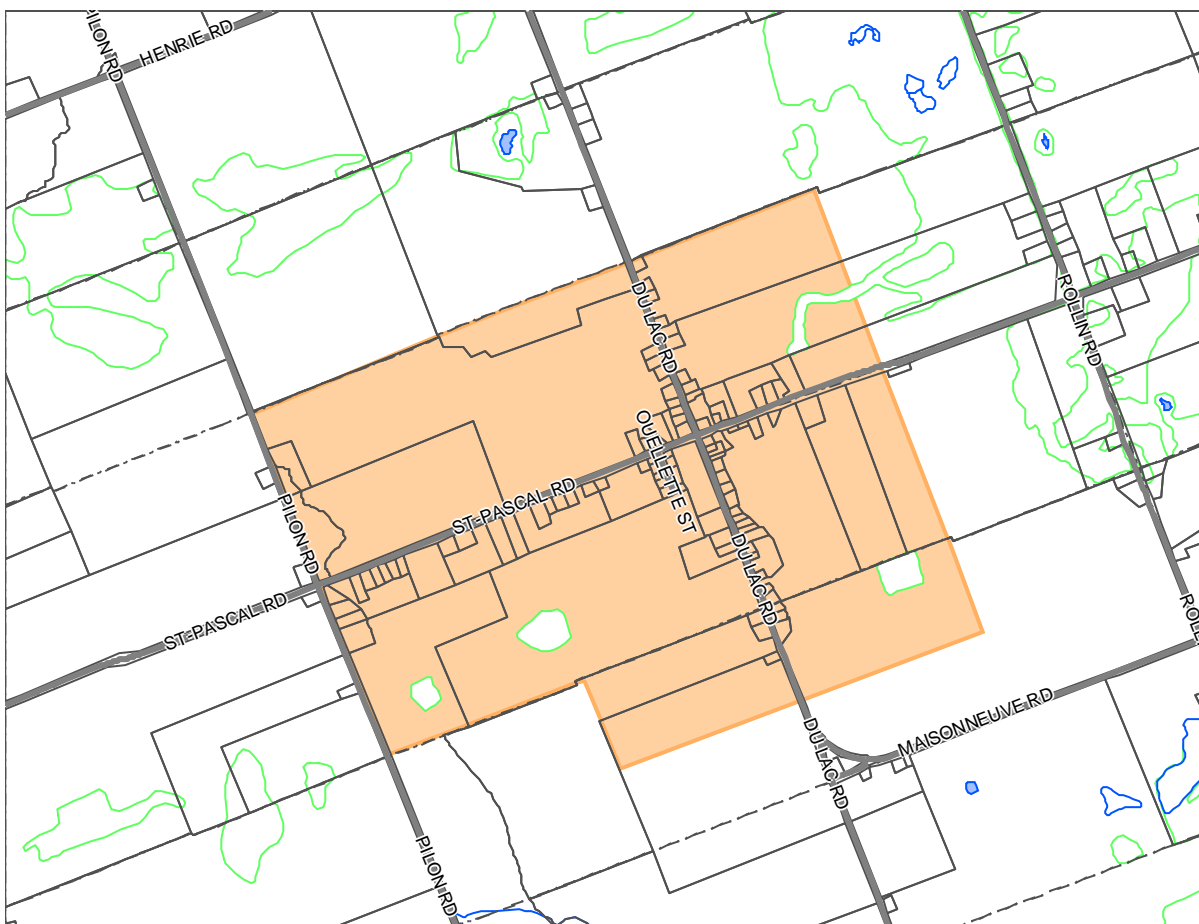
Landry Road, Labonté Road and Champlain Road within the limits of the Community Area of Clarence Creek (as defined in schedule A of the Official Plan of the United Counties of Prescott and Russell)



Annexe / Annex C

Chemins St-Pascal et du Lac dans les limites du secteur des politiques communautaires de St-Pascal (tel que défini à l'annexe A du Plan officiel des Comtés unis de Prescott et Russell)

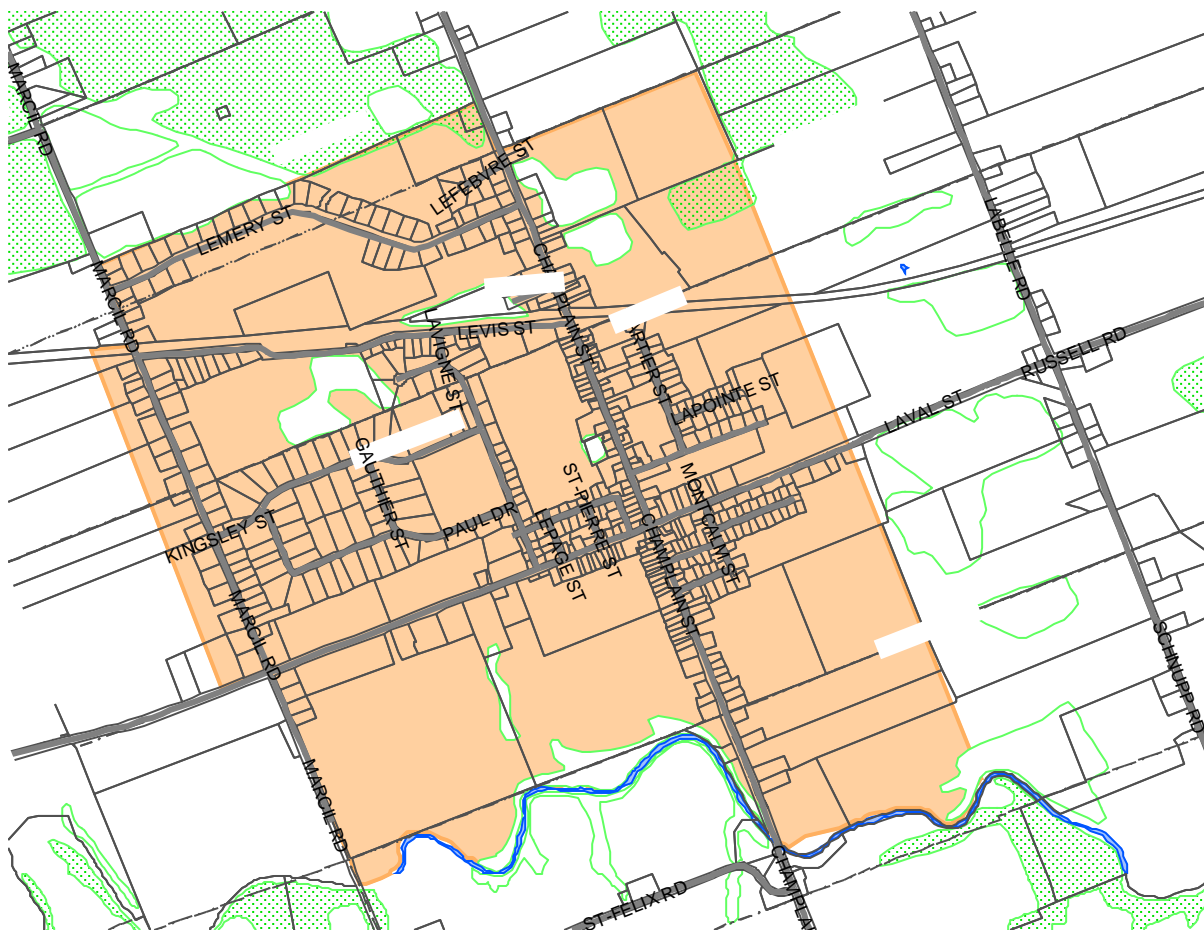
St-Pascal Road and du Lac Road within the limits of the Community Policy Area of St-Pascal (as defined in schedule A of the Official Plan of the United Counties of Prescott and Russell)



Annexe / Annex D

Chemins Laval et Champlain dans les limites du secteur des politiques communautaires de Bourget (tel que défini à l'annexe A du Plan officiel des Comtés unis de Prescott et Russell)

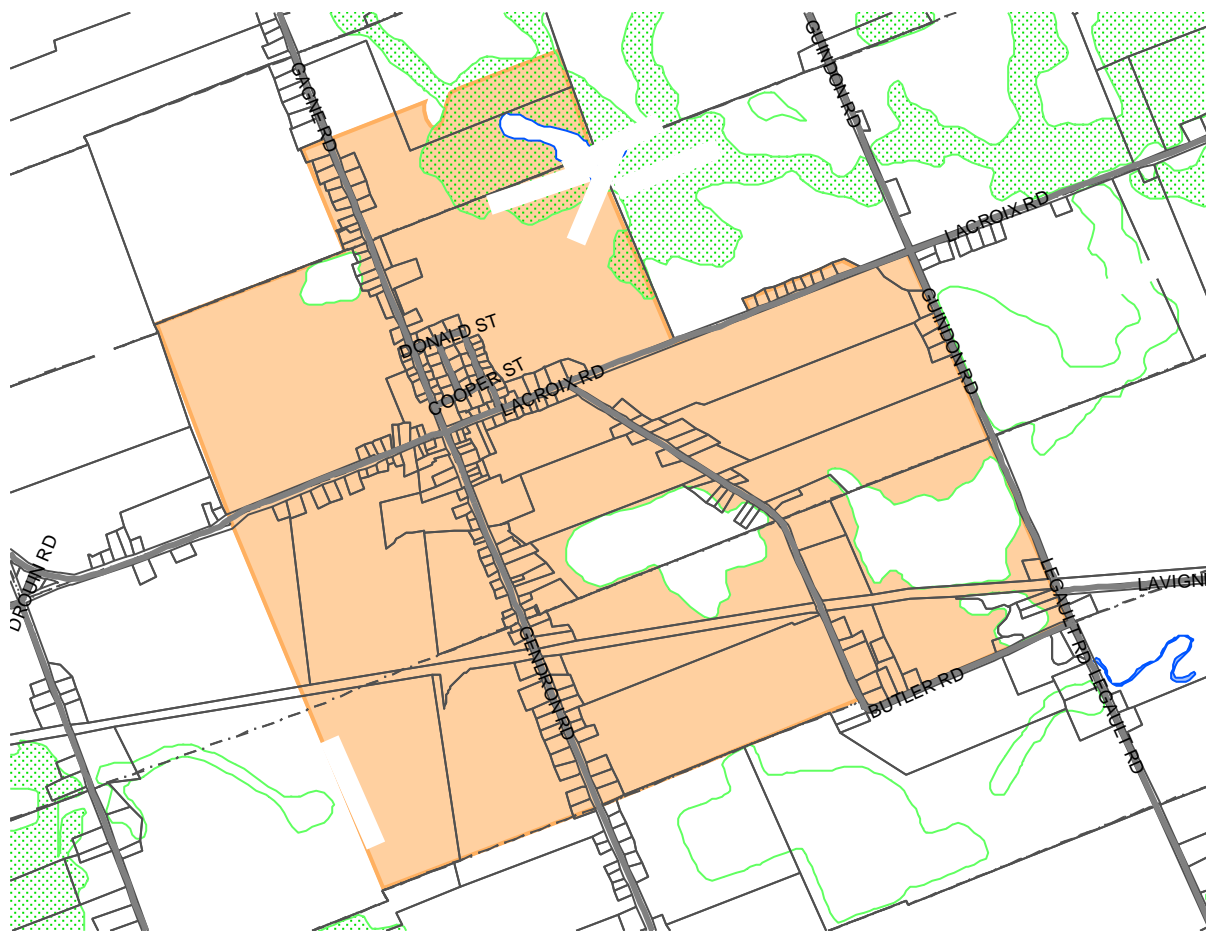
Laval Road and Champlain Road within the limits of the Community Policy Area of Bourget (as defined in schedule A of the Official Plan of the United Counties of Prescott and Russell)



Annexe / Annex E

Chemins Lacroix, Gagné et Gendron dans les limites du secteur des politiques communautaires de Hammond (tel que défini à l'annexe A du Plan officiel des Comtés unis de Prescott et Russell)

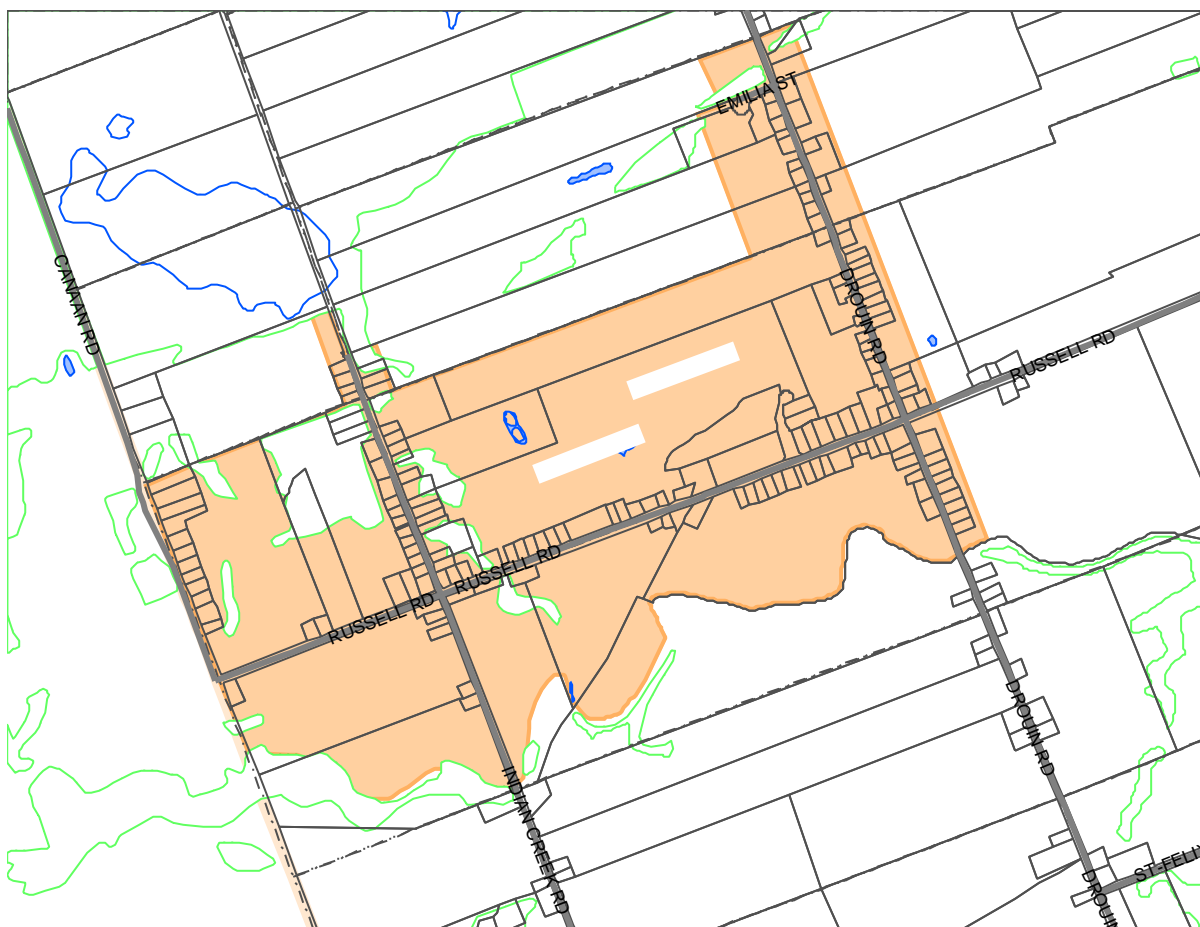
Lacroix Road, Gagné Road and Gendron Road within the limits of the Community Policy Area of Hammond (as defined in schedule A of the Official Plan of the United Counties of Prescott and Russell)



Annexe / Annex F

Chemins Indian Creek, Drouin et Russell dans les limites du secteur des politiques communautaires de Cheney (tel que défini à l'annexe A du Plan officiel des Comtés unis de Prescott et Russell)

Indian Creek Road, Drouin Road and Russell Road within the limits of the Community Policy Area of Cheney (as defined in schedule A of the Official Plan of the United Counties of Prescott and Russell)



*Annexe / Annex G**Demande de permis*

Application for a permit

Permis d'abattage d'arbres
Cutting tree permit

sans frais
no charge

Renouvellement de permis d'abattage d'arbres
Cutting tree permit renewal

sans frais
no charge

Annex H

Application for a permit

1. Registered Owner of the affected property: _____

2. Mailing address of owner: _____
City: _____ Postal code: _____ Phone#: _____

3. Legal description of affected property: _____

4. Existing land use(s): _____

5. Official Plan designation: _____ Existing Zoning: _____

6. Purpose of proposed tree cutting activity: _____

7. Commencement / Completion date: _____

8. Description of proposed activity and description of the replacement tree:

9. Contracted (if different from the owner): _____

10. It is necessary to attach a plan of the affected area drawn to scale, accurately delineating:

- a) property boundaries, buildings and structures;
- b) localization/dimension of the proposed tree cutting or removal activities (including the location of access roads or other associated works).

11. Time required to do the work: _____

Signature of Owner or authorized agent

Date (day/month/year)

Annex I

Preliminary Tree Planting and Conservation plan

Stage 1: Preliminary Tree Planting and Conservation Plan (Submit with Application Form)

Stage 1 is intended to ensure that the layout and design of the proposed subdivision incorporates the best advice with regard to conserving the existing vegetative cover. In some circumstances there will be few opportunities to save trees and emphasis will be placed on Stage 2 (Planting).

Stage 1 consists of two elements:

- a plan identifying the vegetative cover on the site prior to development; and
- a professional opinion with regard to tree saving.

It is intended that this work be limited to two to three pages of description and opinion. Specifically, it will consist of:

1. *A plan at the same scale as the draft plan of subdivision, showing the existing vegetative cover on the site.* This would include wooded areas and smaller tree stands as well as major groupings of other natural vegetation. Such a plan would be prepared with reference to an aerial photograph, any background data already on hand at the City and a site visit.
2. *A brief description of the species composition, age and condition of the wooded areas.* This is a visual assessment based on a site visit. If there are any unusual species or particular specimens that due to their size/age are worthy of note, these should be included. Otherwise, this is intended to focus on clusters of vegetation.
3. *A professional opinion as to the priority that should be given to the conservation of each wooded area/stand.* This section of the report should include an assessment of what existing vegetation is likely to be left on the site once it is developed. It should consider such matters as:
 - the existing health and quality of the wooded area
 - its degree of sensitivity to grade changes, drainage disruption, changes in the water table and so on
 - opportunities for tree planting to mitigate loss of wooded area.
4. An indication of how the preliminary assessment of vegetative cover will influence the design of the subdivision. This may include:
 - the location of parkland dedication to protect woodlands;
 - the location of road alignments to increase the opportunity for tree preservation;
 - recommendations to be applied during construction: e.g. snow fencing during construction, areas for stockpiling and storage of construction debris which will not affect tree preservation;
 - modifications to preliminary lot structures to increase the opportunity for tree preservation;

- recommendations regarding storm water management on the site; and
- strategic planting recommendations (e.g. along stream corridors).

Any recommendations of Stage 1 of this work will be implemented as follows:

1. Some may be reflected in the subdivision design submitted for circulation (e.g. roads, lot layout, parkland location)
2. Some may be translated into conditions of draft plan approval (e.g. grading of the lots, advice during construction (although this should be transmitted to the contractor before any site preparation begins))
3. Some will be incorporated into a specific condition of draft plan approval concerning tree planting and saving (The owner shall prepare a tree planting and conservation plan in accordance with the preliminary tree planting and conservation plan.)

Stage 2: Detailed Plan (Prepare as a Condition of Draft Approval)

The condition of draft plan approval will require a detailed tree planting and conservation plan. It will be in accordance with the preliminary plan and will include:

1. an analysis of any individual trees to be conserved in and around development envelopes or infrastructure with recommendations to ensure their survival such as dry welling or root feeding.
2. a description of measures designed to ensure the health of wooded areas such as selective removal for edge preparation.
3. a tree planting plan that:
 - implements any planting recommendations of the preliminary plan (e.g. along slopes, along watercourses, to screen the development in the rural area)
 - identifies specifies tree and shrub species and locations.
 - includes a recommendation concerning monitoring of tree health (when to monitor, indicators of stress or vigor etc.)
4. a tree conservation plan in everyday language to assist the property owner in maintaining trees on private property (anticipated to be the back and front of one sheet of paper). This should include such information as:
 - a description of the species and why it was selected (native species, hardiness, specific site limitations and so on)
 - any pruning, watering, staking, mulching advice etc.
 - common pests with this species, or due to the location, and how to manage them (e.g. tree collars, spraying, companion planting etc)
 - indicators of stress and vigor of the vegetation.