TORONTO

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In reply please quote:
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October 2, 2006

BUDGET COMMITTEE:

Subject: Planning and Transportation Committee Report 6, Clause 19
Process to Address Tree Preservation Requirements Related to Development and Construction Applications

City Council on September 25, 26 and 27, 2006, adopted this Clause without amendment, and in so doing, Council has recommended that to properly address tree preservation requirements related to development and construction applications, the Parks, Forestry and Recreation Division's Urban Forestry base operating budget increase of $1.06 million and $0.19 million (annualized) in 2007 and 2008 respectively, together with an additional capital expenditure of $0.11 million, be referred to the Budget Advisory Committee for consideration during the 2007 budget approval process.

for City Clerk

M. Toft\gc

Attachment

Sent to: Budget Committee
City Manager
General Manager, Parks, Forestry and Recreation
Chief Planner and Executive Director, City Planning
City Solicitor
Committee of Adjustment

c. Deputy City Manager Sue Corke
Acting Deputy City Manager

Consolidated Clause in Planning and Transportation Committee Report 6, which was considered by City Council on September 25, 26 and 27, 2006.

19

Process to Address Tree Preservation Requirements Related to Development and Construction Applications

City Council on September 25, 26 and 27, 2006, adopted this Clause without amendment.

Council also considered additional material, which is noted at the end of this Clause.

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The Planning and Transportation Committee recommends that City Council:

(1) adopt the staff recommendations in the Recommendations Section of the report (August 21, 2006) from the General Manager, Parks, Forestry and Recreation, subject to the following amendments:

(a) Recommendation (1) be amended to read:

(1) "the Chief Planner and Executive Director be directed to revise the application process to require applicants to include in their submitted plans and applications, along with the presently required tree information for the subject property, details on the portion of the City road allowance fronting their property and any trees, hydro poles, hydrants, etc., located thereon; as well as trees located on neighbouring properties within 6 metres of the subject property;";

(b) Recommendation (2) be deleted and replaced with the following:

"(2) until such legislative changes take effect, the Committee of Adjustment be requested to include the following wording in their Notices of Decisions:

'that the approval is conditional on the applicant meeting the requirements of the City's Tree Protection By-law' "; and

(c) adding the following new Recommendation:

"the City of Toronto actively pursue changes to the City of Toronto Act to make the City's tree by-laws applicable law as soon as possible";

(2) direct staff to report to the appropriate Committee on fee increases necessary to ensure sufficient staff to provide adequate protection of City and private trees affected by applications for planning approvals; and

(3) receive the confidential report (August 23, 2006) from the City Solicitor.

The Planning and Transportation Committee submits the report (August 21, 2006) from the General Manager, Parks, Forestry and Recreation:

Purpose:

To report as requested, on existing and developing processes related to tree protection and development and construction applications.

Financial Implications and Impact Statement:

Parks, Forestry and Recreation submitted a Service Improvement Priorities Report to the Economic Development and Parks Committee on October 7, 2004, which was considered at City Council on October 26/27/28, 2004. The report laid out a budget priority for extra Urban Forestry staff for tree protection and plan review for the 2006 budget. During budget deliberations for the 2006 budget, the request was not approved by Council.

For Urban Forestry to properly address tree preservation requirements related to development and construction applications, approval for $1.06 million and $0.19 million (annualized) operating funds in 2007 and 2008 respectively and a one time Capital expenditure of $0.11 million in 2007 is required. These funds will be requested as part of Parks, Forestry and Recreation's 2007 operating and capital Budget submissions and will be referred for consideration during the 2007 budget process.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

(1) the Committee of Adjustment be requested to require applicants to include in their submitted plans and applications, along with the presently required tree information for the subject property, details on the portion of the City road allowance fronting their property and any trees, hydro poles, hydrants, etc., located thereon; as well as trees located on neighbouring properties within 6 metres of the subject property;

(2) the Committee of Adjustment include the following wording in their Notice of Decisions: "By granting this permission, the Committee of Adjustment does not relieve the applicant of meeting all of the requirements of the City's tree protection by-laws;"

(3) to properly address tree preservation requirements related to development and construction applications, the Parks, Forestry and Recreation Division's Urban Forestry base operating budget increase of $1.06 million and $0.19 million (annualized) in 2007 and 2008 respectively together with an additional capital expenditure of $0.11 million be referred to the Budget Advisory Committee for consideration during the 2007 budget approval process; and

(4) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

At its meeting on April 4, 2006, North York Community Council requested that:

(i) "the City Solicitor report to the Planning and Transportation Committee on any liabilities which may be incurred by the City in approving a plan which may indicate a tree to be removed and which may not have received City approval."

(ii) "the General Manager, Parks, Forestry and Recreation, report to the Planning and Transportation Committee on whether or not Toronto Hydro is consulted on the cost to relocate the hydro pole in front of a property; and"

(iii) "the Chief Building Official and Executive Director, Building Division, the General Manager, Parks, Forestry and Recreation, the Chief Planner and Executive Director, City Planning Division, and the General Manager, Transportation Services, meet to determine a process so that the type of situation that occurred for 245 Princess Avenue will be avoided in the future; and that a report thereon be submitted to the next meeting of the Planning and Transportation Committee on May 1, 2006."

This report addresses Items (ii) and (iii) above. Item (i) will be the subject of a separate report prepared by the City Solicitor.

Comments:

Consultation with Toronto Hydro:

In reference to North York Community Council's second request (ii), the following is provided for information: As a standard practice, Urban Forestry staff do not consult with Toronto Hydro as to the cost or feasibility of relocating a hydro pole in front of a property when reviewing requests concerning tree preservation issues. When reviewing

requests for City tree removal, staff identify sites where hydro pole or other infrastructure relocation could be an alternative to City tree removal. Alternative suggestions are provided to applicants as options to consider when developing plans for their property.

Coordination of Tree Protection Issues with other Divisions and with Committee of Adjustment and Building Permit Applications:

In reference to North York Community Council's third request (iii), the following is provided for information:

Committee of Adjustment Applications:

The four panels of the Committee of Adjustment (C of A) hear approximately 3,500 applications per year. Due to the high number of applications received by the C of A and limits on staffing (both at the C of A and in Urban Forestry) it is not possible for Urban Forestry to review all C of A applications that may impact trees. The following describes the mechanisms by which the C of A and Urban Forestry attempt to coordinate their respective application processes.

The first page of the C of A application provides information to applicants on the various Tree By-laws. All applicants submitting C of A applications are required to complete an "Arborist Report for Development Applications" form (Attachment 1) indicating whether or not City owned trees, privately owned trees or trees in a Ravine Protection Area exist on the property. At the time of submission owners are encouraged to contact Urban Forestry as soon as possible to initiate the relevant permit application, if required.

In ravine protected areas, Urban Forestry seeks to review all applications, providing comment where negative impacts are identified in relation to trees or the ravine feature. Such comments may state a requirement for application or may seek conditions that provide compensation or protection of features should the Committee choose to grant the requested variances.

The Committee of Adjustment circulates meeting Notices of Public Hearings to Urban Forestry staff. For applications that are not in a ravine and where Urban Forestry is able to identify a pending tree permit application or a tree protection concern, staff provides comments to the C of A. Such comments may recommend that the C of A application be denied, or that conditions be included if the Committee approves the requested minor variance or consent.

At its meeting of July 25, 26 and 27, 2006, City Council adopted the following recommendation:

"In order to achieve one tree in front of every dwelling, the Committee of Adjustment be requested to impose a condition requiring that; for consent applications involving the creation of one or more new lots and for minor variance applications involving a proposal to construct a new dwelling unit (e.g. detached, semi-detached, townhouse, etc.), where

no street tree exists, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting the site to the satisfaction of the General Manager, Parks, Forestry and Recreation."

City Council amended this clause by adding the following:

"that the Chief Planner and Executive Director, City Planning, and the General Manager, Parks, Forestry and Recreation, be requested to develop a working protocol for Committee of Adjustment staff to ensure that the spirit of the policy statement is achieved."

Building Permit Applications:

In accordance with the Building Division's policy, a Tree Declaration Form, (Attachment 2), must be completed by the applicant and submitted to the Building Division with an application for Building Permit where Construction Activity, including demolition, excavation and new construction is proposed. The applicant must declare if the construction activity will occur within the minimum tree protection distances, trees of all sizes on City land or in ravine protected areas and trees on private property that are 30 cm or larger in diameter. The form was recently revised to provide more information on the Urban Forestry processes involved when trees will be impacted by proposed construction and to make it easier for construction applicants to complete.

Copies of completed Tree Declaration forms are forwarded to Urban Forestry for their review and follow-up with the owner/applicant. The applicant and the Building Division each retain copies of the completed form.

Written clearance from Urban Forestry is required prior to the issuance of a building permit, where the removal or injury of a tree located outside the proposed building envelope is necessary for a proposal to comply with applicable law (as specified in the Ontario Building Code) such as the Zoning By-law, conditions of the Committee of Adjustment and notice of approval conditions on a Site Plan application.

The current process relies on the accuracy of the information provided by the applicant on the Tree Declaration Form (Attachment 2), and the drawings submitted with the Building Permit application. Consultation between Urban Forestry and the Building Division has recently taken place regarding updating the Building Division's Tree Protection Bulletin in response to the situation at 245 Princess Av. The proposed revisions will provide increased notification of tree related issues to Urban Forestry and ensure that applicants are made aware of potential tree issues at their first contact with Building Division staff. If an applicant indicates a tree or ravine protection issue on the Tree Declaration form, Building Division staff will refer them to the appropriate Urban Forestry contact and send an electronic notification of the building permit application to Urban Forestry. However, as in the case of C of A applications, Urban Forestry only has sufficient staff to review building permit applications outside of ravines only where a tree permit application has also been submitted.

Staff will monitor whether the above-noted measures, which are designed to enhance the City's ability to protect trees also need to be complemented by legislative change by the Province. This will be considered further as the City continues its dialogue with the Province about the authorities granted under the City of Toronto Act, 2006 and additional powers that may be requested when the legislation is reviewed at the end of two years as required by the Act.

Tree Protection and Plan Review Staffing requirements:

As a result of the recent Parks, Forestry and Recreation reorganization, Urban Forestry has combined staff resources related to the Private Tree and the City Street Tree By-laws. This is intended to allow for more effective use of staff resources and provide more timely responses. Staff are currently reviewing development and construction applications with our existing staff complement and as a result are unable to review every application where construction will affect trees. To improve this situation, as part of the Parks, Forestry and Recreation service priority report to the Economic, Development and Parks Committee at its October 7, 2004 meeting, a budget priority was laid out which included extra staff for tree protection and plan review for the 2006 budget. This Parks and Recreation Services Improvement Priorities for 2005-2006 Report (Clause 7-EDPC, October 7, 2004) was considered by City Council on October 26/27/28, 2004. During budget deliberations for the 2006 budget, the request was not approved by Council.

Urban Forestry requires 14 additional staff to be able to adequately review applications where construction has the potential to impact trees. Current staffing levels of 20 staff City-wide to handle all applications concerning private and city trees is inadequate in order to meet legislated tree protection requirements and associated responses to Divisions receiving the applications. The processing time for tree permits take several weeks and often months longer than Demolition or Building permits, Planning application review processes or permits for work within the public right of way.

$1.06 million and $0.19 million (annualized) in operating funds are required for 2007 and 2008 respectively and a one time Capital expenditure of $0.11 million in 2007 is needed for improved bylaw enforcement, tree inspection, development application processing and adequate re-inspection follow up, which is currently at a rate of approximately 25%. An additional 14 staff would bring the re-inspection follow-up rate on tree protection permits to approximately 75%.

Tree Protection Policy Statement:

At its meeting of July 25, 26 and 27, 2006, City Council adopted the following policy statement. "The City of Toronto has implemented by-laws to protect trees on both public and private lands in recognition of the multitude of social, economic and environmental benefits trees provide and as a means of protecting and enhancing the City's natural heritage. Through its Official Plan policies and various tree protection by-laws, the City of Toronto has demonstrated its desire and intent to protect healthy trees. In particular,

the City recognizes that long-lived, large-growing tree species are an important component of a healthy, diverse urban forest. These trees are therefore regarded and recognized as a priority for protection and staff will work in communities to encourage responsible development that protects these and other significant trees."

Urban Forestry, in cooperation with the Building Division, City Planning and Transportation Services have processes currently in place that address issues of City, private and ravine tree protection related to development and construction applications. The processes are continually reviewed and improved upon for the purpose of ensuring efficient and informative service to the public with the intent to:

(a) Allow Urban Forestry to have the earliest possible notification of the intent of an applicant seeking to undertake construction that may affect trees situated on either City or privately-owned property (including Ravine designated lands).

(b) Provide applicants with information on the tree protection processes involved and advise when permission is required to injure or destroy City, private or ravine trees that cannot be protected in accordance with the City of Toronto's Tree Protection Policy and Specifications for Construction Near Trees.

Conclusions:

There are processes in place that allow for the review of tree by-law issues in conjunction with development and construction applications. There are also situations where, in accordance with applicable law, the Building Division is required to issue permits without requiring the clearance of Urban Forestry as related to issues of tree injury and destruction. Due to the small number of staff available for tree protection and plan review in Urban Forestry, it is not possible to review every construction related application which impacts trees and staff are currently only able to re-inspect approximately 25% of tree protection projects.

While the process is improving as a result of the recent Divisional reorganization, 14 additional Forestry staff are required to be able to adequately review applications where construction has the potential to impact trees. Current Urban Forestry staffing levels of 20 staff city-wide to handle all applications concerning private and city trees is inadequate in order to meet legislated tree protection requirements and associated responses to the Divisions coordinating these applications. Tree permit processes are weeks and often months longer than Demolition or Building permits, Planning application review processes or permits for work within the public right of way. Urban Forestry's goal is to improve the service provided to the public while increasing awareness of the importance of the urban forest and the requirements of the City for tree retention and protection.

This report was drafted in consultation with the City Manager's office and the Building, City Planning, and Transportation Divisions.

Contact:

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(Attachments 1 and 2 referred to in the report were forwarded to all Members of Council with the September 5, 2006 agenda of the Planning and Transportation Committee, and copies thereof are also on file in the Office of the City Clerk.)

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The Planning and Transportation Committee also considered the confidential report (August 23, 2006) from the City Solicitor.

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Recorded Vote to request the Committee of Adjustment to consider the option of deferring the hearing of an application until all the tree applications respecting that property are settled :

FOR : Councillors Filion and Jenkins - 2

AGAINST : Councillors Milczyn, Minnan-Wong, Moscoe, Ootes, Thompson - 5

ABSENT : Councillor Stintz

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City Council – September 25, 26 and 27, 2006

Council also considered the following:

- *Confidential report (August 23, 2006) from the City Solicitor [Confidential Communication C.21(a)]. This report remains confidential in its entirety, in accordance with the provisions of the Municipal Act, 2001, as it contains information which is subject to solicitor-client privilege.*