

61 Pepler Avenue – Request to Remove a City-Owned Tree

Date:	June 5, 2007
To:	Toronto – East York Community Council
From:	Brenda Librecz, General Manager, Parks, Forestry and Recreation
Wards:	Ward 29 – Toronto-Danforth
Reference Number:	

SUMMARY

To report on a request that has been received for removal of one (1) City-owned Colorado blue spruce tree that is 49 centimetres in diameter located on the street allowance fronting 61 Pepler Avenue. The request has been received from the property owners of 59 Pepler Avenue who feel the tree is a nuisance due to falling needles that require clean up. The owners of 59 Pepler Avenue also have concerns regarding the tree's suitability to the site and its health and would like the tree removed and replaced with an alternate species.

Inspection of the tree by Urban Forestry staff revealed that the tree is quite healthy, there are no structural issues with the tree, and the amount of needle drop is normal for a blue spruce. With proper care and maintenance, the tree should continue to provide benefits to the community for years to come. Urban Forestry cannot support removal of this tree.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation recommends that Council deny the request to remove one (1) City-owned Colorado blue spruce tree fronting 61 Pepler Avenue.

Financial Impact

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

In accordance with *City of Toronto Municipal Code, Chapter 813, Trees, Article II*, a written request has been made to remove one (1) City-owned street tree located on the street allowance fronting 61 Pepler Avenue. The request for tree removal has been made

by the owners of 59 Pepler Avenue who no longer wish to clean up debris from this tree and would like it replaced with a tree they feel is more suited to the location.

COMMENTS

A written request for the removal of a City-owned Colorado blue spruce that is 49 centimetres in diameter fronting 61 Pepler Avenue has been received from the property owners of 59 Pepler Ave. The tree is located 2.1 metres from the sidewalk and 2.4 metres from the driveway of 59 Pepler Ave.

An inspection of the tree by Urban Forestry staff has confirmed that the tree has a well balanced, upright healthy crown with only very minor deadwood. The tree does not overhang the roof of 59 Pepler Avenue. This tree has been pruned by staff over the past few years. All trees have an element of maintenance associated with their placement in a manicured lawn or landscape setting. All trees, regardless of species, will shed foliage, fruit, twigs and branches periodically. Removal of the tree due to an increased maintenance requirement is not justifiable.

Under *Section 813-5.J. of City of Toronto Municipal Code, Chapter 813, Trees, Article II*, Urban Forestry is authorized to refuse the removal of trees located on a City street and refer the matter to the appropriate Community Council. Urban Forestry has sent a letter to the applicants informing them of our refusal to schedule the removal of the spruce tree.

Should the request for the removal of the City-owned Colorado blue spruce tree fronting 61 Pepler Avenue be approved, approval must be conditional upon the applicant arranging for the removal at their expense and paying all applicable costs and complying with all other requirements as set out in *City of Toronto Municipal Code, Chapter 813, Trees, Article II*.

The subject tree is significant and is a valuable part of the forest community that exists within this area. With proper care and maintenance, the tree should continue to provide benefits to the property and to the community for many years to come. Urban Forestry cannot support removal of this tree.

CONTACT

Richard Ubbens, Director, Urban Forestry, Tel: 416 392-1894, Fax: 416 392-1915, Email rubbens@toronto.ca

SIGNATURE

Brenda Librecz
General Manager, Parks, Forestry and Recreation

ATTACHMENTS

Attachment 1 - Photographs of Colorado Blue Spruce
Attachment 2 - Letter of Complaint / Request for Removal

Attachment 1 – Photographs of Colorado Blue Spruce





RECEIVED APR 10 2007

59 Pepler Avenue
Toronto, Ontario
M4J 2Y7
5 April 2007

Delivered

Ms. Brenda Librecz, General Manager
Parks, Forestry and Recreation Department
City Hall
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Ms. Librecz:

Re: City-owned tree in front of 61 Pepler Avenue

I am forwarding a copy of a letter (dated December 17, 2006) I recently sent to our neighbour at 61 Pepler Avenue regarding the City-owned blue spruce in front of her house.

As your files will show, this tree has been a problem for our family for more than 20 years and has even negatively affected the enjoyment we derive from our home and property. In response to our requests, your staff has trimmed the tree of its deadwood, lower branches and the branches which overhang our driveway on at least two previous occasions. Although this has made a small difference, it is by no means a permanent solution as it does not address all of our concerns regarding the tree.

We are now once again appealing to you for help in rectifying this situation. After having had to sweep our verandah, private approach, driveway and backyard patio of needles on a weekly basis for the past 20 years I am at my wits end and can no longer tolerate its mess or devote so much time to keeping our property free of debris.

Since the tree is not planted in the centre of my neighbour's property, and perhaps due to wind conditions, almost all of its needles land on our driveway and not on hers so she does not appear to comprehend the irritation, inconvenience and time required to clean up these needles. It would not be an issue if its needles landed on our lawn, but because they land on the "paved" portions of our property they are unsightly and also end up in our home. I should like to point out that when, in frustration, I threw the needles I swept off our driveway back onto her property she did not like their mess and reported my actions to the Police Department, and two police officers arrived on the scene to investigate (this occurred in March of this year).

The new owners of 63 Pepler Avenue are also indirectly inconvenienced by this City tree. They have a young family (three children under the age of 10) and I am positive they would welcome more space between their property and No. 61 Pepler Avenue. For your information, 63 Pepler Avenue was approved for front yard parking prior to their taking ownership. However, since they share a mutual driveway with 61 Pepler Avenue and the owner of 61 Pepler Avenue continues to park her car beyond the front wall of her house, utilizing a large portion of the mutual driveway, the space around their cars is very restricted.

The owners of 63 Pepler Avenue, in my opinion, would benefit if the owner of 61 Pepler could legalize her parking arrangement by obtaining front yard parking. The additional parking space which would be created would improve safety and convenience for everyone involved. This can only happen if the City agrees to remove this obnoxious spruce.

I should like you to be aware of the fact that my neighbour had a similar blue spruce in her backyard, and several years ago when she decided she wanted a larger deck, and it was in the way, she had no qualms about having it cut down.

In light of all of the above, we believe this tree should be removed for the following reasons:

1. It is too big for the size of the lot;
2. It is not healthy, has lots of deadwood and drops its needles daily;
3. It is leaning and may pose a safety hazard;
4. It clogs our eavestroughs with its needles and because of the height of our two-storey house makes it very risky for anyone cleaning our eavestroughs;
5. It negatively impacts on the enjoyment we derive from our property;
6. It prevents the owner of 61 Pepler Avenue from getting front yard parking; and lastly,
7. It is the source of the poor relationship we have with our neighbour.

I hope that you will agree that these arguments prove that extenuating circumstances exist which support the removal of this tree. Therefore, we would strongly urge the City to remove this tree and plant a more appropriate tree in its place.

Both my husband and I are aware of and support the City's policy to increase the number of trees in the City and you may argue that our request to have this tree cut down is contrary to this policy. However, the fact that we had the City plant a maple tree in our front yard a couple of years ago and the fact that our landscaping plan for our backyard includes the planting of one or two medium-sized trees demonstrates we support the City's policy. I should point out that my neighbour also planted a ginkgo tree in her backyard as part of her landscaping improvements just two years ago. Therefore, the removal of the blue spruce in front of 61 Pepler can be more than justified by the number of new trees that have and will be planted.

This tree also continues to be a safety concern for our family because it appears to be leaning more and more and we are afraid that during a severe storm or high winds it could topple over and cause considerable property damage and even personal injury.

The needles from this tree also clog our eavestroughs and my husband has to clean them twice a year to keep them flowing. Due to the height of our two-storey house this is a very risky practice which could lead to serious injury or death. As you know, clogged eavestroughs can cause damage to the roof and any ponding of water in the eavestroughs creates a breeding ground for mosquitoes and potentially West Nile virus; and therefore, regardless of risk, they need to be cleaned.

In discussions with our neighbour, we have indicated our willingness to pay any reasonable replacement cost for this tree enabling the City to remove it and plant one that is more suitable for the size of my neighbour's front lawn. Our decision to commit a significant amount of money to try to ensure that this tree is removed shows the strength of our commitment to resolve the problems caused by this City tree. Our complaints are not frivolous, they are very serious.

Just because someone lacked good judgment when this tree was first planted should not mean that my family has to endure its mess and negative impact upon our lives on a daily basis. Furthermore, it is my opinion that as global warming raises temperatures in the City, this tree will be under greater stress and will suffer even more. Already, I have noticed that the amount of dead needles and dead branches has been increasing over the years, and that its present environment is compromised due to the fact that the lawn is now smaller (as a result of past construction work carried out by the owner of 61 Pepler Avenue and the former owner's of 63 Pepler Avenue) and is surrounded by the sidewalk/roadway and driveways on either side.

Our experience has shown me that deciduous trees are by far more appropriate for City lots than coniferous. We deal with the dead leaves of deciduous trees only once a year during the fall. However, this blue spruce drops its dead needles daily and periodically it leaks sap. It even damaged the paint on one of our previous cars and we risk damage to our existing car which we park in our driveway.

As your records will show, my neighbour tried to convince the City to cut this tree down when she tried to obtain front yard parking a couple of years ago. Unfortunately, at that time she did not make reference to the difficulties this tree presents for my family nor did she enlist our support for her request to have it cut down and her application for front yard parking was denied based on the proximity of the tree to the proposed front yard parking pad.

Her present parking arrangement may or may not be legal and I have asked the Manager of Right-of-Way Management to investigate (please see attached letter dated April 5, 2007). In the course of your review of this matter, I would respectfully ask that you consult with the Manager of Right-of-Way Management since the issue of the tree seems to affect both of your jurisdictions.

Hopefully, your review of this matter will support the removal of the tree. If, however, it is your opinion that the tree not be removed, we wish to request that (1) bore testing be done to prove conclusively that the tree is healthy; (2) testing be done to ensure its root system is adequate enough to prevent it from toppling over during a storm; and (3) determine why the tree has been leaning more and more over the past few years.

Thank you in advance for your help and favourable review of this matter. If you need to discuss this matter with us, we can be reached at (416) 429-5264.

Sincerely,

59 Pepler Avenue
Toronto, Ontario
M4J 2Y7
17 December 2006

Delivered

61 Pepler Avenue
Toronto, Ontario
M4J 2Y7

Dear Sharon,

Re: City-owned tree in front of 61 Pepler Avenue

You may think I am being unreasonable when I dispose of the needles, branches and pine cones that fall off the above-mentioned tree, and that I sweep off our driveway, onto your property. However, I believe that you are being unreasonable in refusing to recognize and/or rectify the great inconvenience these needles cause—they are unsightly and a nuisance and I have spent many, many hours over the past 20 years sweeping them off our driveway and I have reached a point where I have no choice but to dispose of them onto your property. These needles also clog our eavestroughs which are difficult to clean due to the height of our house, and, as you know, clogged eavestroughs can cause damage to the roof.

You have been repeatedly unneighbourly and uncaring about the great inconvenience these needles cause my family. You have repeatedly refused to acknowledge and accept that the city tree, which is your responsibility, needs to be pruned of its deadwood and dead lower branches. You have taken this position despite the fact that the City has, at our request, trimmed it on at least two previous occasions.

I have even offered to pay one-half the replacement value of the tree. As you know, I strongly believe that the City will consent to cutting it down if we pay the replacement value of this tree and you agree to plant one that is more suitable for the size of your front lawn. I know for a fact that you explored the possibility of having the City cut down the tree when you tried to obtain a front yard parking permit.

Both you and I would appreciate it if you could take the initiative and ask the City to trim the tree this Spring or sooner if possible. Perhaps you might also want to enquire about what steps you can take to help reduce the amount of dead branches and consequently needles that it sheds (i.e. give the tree more water and fertilizer). And lastly, please reconsider having the city remove the tree. I assure you that if you agree to take the initiative to help alleviate the situation, as suggested above, I will stop my current practice and will apologize for my past behaviour.

Sincerely,

59 Pepler Avenue
Toronto, Ontario
M4J 2Y7
5 April 2007

Delivered

Right-of-Way Management
55 John Street
17th Floor
Toronto M5V 3C6

Dear Ms. Antoniou:

Re: 61 Pepler Avenue

By copy of the attached letter addressed to Ms. Brenda Librecz, dated April 5, 2007, I am asking that your staff ensure that there are no violations of the City's Front Yard Parking By-law at the above-noted address.

As the above-noted letter states, the owner of 61 Pepler Avenue applied for front yard parking a couple of years ago, but her application was rejected because there is a City-owned tree on her property. After her application was rejected, she proceeded to widen her driveway and has been parking her car partially in front of her house and utilizing some of the mutual driveway which she shares with the owners of 63 Pepler Avenue. Apparently, the former owners of 63 Pepler Avenue had given their permission for her to utilize the mutual driveway for parking.

Since I am currently trying to convince the City's Parks, Forestry and Recreation Department to remove the tree in front of 61 Pepler Avenue for the reasons outlined in the attached letter to Ms. Librecz, dated April 5, 2007, I am questioning the legality of my neighbour's parking arrangement since she is still technically parking in front of her house (i.e., not strictly on the mutual driveway).

I am questioning whether this arrangement complies with the City's By-law regarding front yard parking and/or driveway widening? Or, is the existing arrangement a way of circumventing the spirit of the City's by-law/s?

I would respectfully ask that you review this matter, in consultation with officials of the Parks, Forestry and Recreation Department, and subsequently clarify, in writing, the conditions of any licensing agreement between the City and the owners of 61 Pepler Avenue. Thank you for your assistance.

Sincerely,

c.c. Ms. Brenda Librecz, General Manager