

Enhancements to the Tree Protection Process

Date:	December 10, 2008
To:	North York Community Council
From:	Brenda Patterson, General Manager, Parks, Forestry and Recreation
Wards:	8, 9, 10, 15, 16, 23, 24, 25, 26, 33 & 34
Reference Number:	

SUMMARY

North York Community Council, on October 7, 2008, requested a report on the feasibility of enhancements to the tree protection process to be implemented on a trial basis in the North York District.

Improving the relationship between Urban Forestry and the builders and developers who work in North York District will improve the current state of tree protection. In order to accomplish this, additional funding for Improved Development Review and Tree By-Law Enforcement requested in the 2009 operating budget process to administer and monitor tree protection will have to be approved.

Financial Impact

There are no financial implications resulting from this report.

DECISION HISTORY

In September 2006, a report titled “Process to Address Tree Preservation Requirements Related to Development and Construction Applications” was adopted by City Council. The report provided recommendations on how to improve tree protection where construction has the potential to impact trees. The report can be viewed at the following link: <http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/plt6rpt/cl019.pdf>

This current report was requested at the October 7, 2008, meeting of North York Community Council when reviewing Item NY 19.20, which can be viewed at the following link:

ISSUE BACKGROUND

Currently, a property owner in North York District is able to proceed with a demolition and new home construction without necessarily providing the required protection for existing trees. North York Community Council sought information on how this could happen and what could be done to enhance the tree protection process. North York Community Council requested information on six (6) items which is included in the comments section of this report.

Tree protection requires cooperation among residents, builders and City Divisions. The resources required to monitor every site where construction has the potential to impact a tree are not in place. Improved education and awareness of the tree protection by-laws must be promoted so that trees are considered in the initial stages of project design. Monitoring and enforcement of tree legislation are key components to protecting our urban forest and additional funding for the Tree Protection and Plan Review section would dramatically improve this function.

We have consulted with Toronto Building and their comments have been included in the preparation of this report.

COMMENTS

Tree Declaration Forms

Individuals applying for a Building permit are required to complete a Tree Declaration form indicating whether any protected City, private or ravine and natural feature area trees will be impacted by the proposed construction. The current Tree Declaration form is in the process of being revised by adding the following statement: ***“An inspection by Urban Forestry staff may be carried out at the site in question. If the inspection reveals protected trees that have not been declared on the Tree Declaration form, a Stop Work Order may be issued and charges may be laid under the provisions of the City’s tree by-law legislation. A person convicted of an offence is liable to: 1) a minimum fine of \$500.00 per tree and to a maximum fine of \$100,000.00. 2) a special fine of 100,000.00”.***

In the North York District, Urban Forestry and Toronto Building are located in the North York Civic Centre. Questions regarding the completion of the Tree Declaration form can be answered by staff from both Divisions when the customer is applying for a permit from Toronto Building to construct or demolish a building.

Tree protection is clearly affected by development. Whereas, Toronto Building and Urban Forestry have set in place processes to provide notice where tree protection issues may be affected by development and construction, there are situations where Toronto Building is required to issue permits without requiring the clearance of Urban Forestry. This is a result of the statutory obligation, under section 8 (a) of the *Building Code Act*, of

the Chief Building Official to issue a permit where all applicable law has been met. Toronto's tree by-laws enacted under *the Municipal Act* are currently not listed as applicable law for the purposes of issuing a building permit under the *Building Code Act*.

Site Visits – Additional Staff Resources

Additional funding for staff resources has been requested in the 2009 Operating budget process for the purpose of improved application review, site monitoring and by-law enforcement where construction is close to protected trees. The initial request for this funding was made in 2006. The report can be viewed at the following link:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/plt6rpt/cl019.pdf>

Computer Terminal – City of Toronto Mono Viewer

Urban Forestry has committed to purchasing an additional computer terminal for the North York Civic Centre. The terminal will be located so that it is accessible to counter service staff in Urban Forestry and Toronto Building. The terminal will provide a visual record of trees existing on the subject property or adjacent properties. This will assist applicants with the completion of the Tree Declaration form when they are at the service counter and assist staff in identifying sites where the form has been completed incorrectly.

Funding Recommendations

At their meeting of October 7, 2008, North York Community Council requested recommendations for funding enhancements to the tree protection process including the use of fines or cash-in-lieu payments that are received from tree removals on new residential sites.

If approved, the funding requested in the 2009 Operating Budget process for Improved Development Review and Tree By-Law Enforcement, will provide for additional staff to perform tree inspections where construction is proposed near protected trees.

Fines that are imposed by the court after a successful prosecution under the provisions of the City's tree by-laws are deposited into a City-wide general revenue account. Urban Forestry does not have the authority to spend revenues generated by such fines for enhanced development review or tree protection. The collection of cash-in-lieu occurs when replacement tree planting is not possible on or near the site in question and is allocated directly into tree planting in an alternate suitable location.

Feasibility of Securing Deposits to Ensure Compliance

City of Toronto *Municipal Code, Chapter's 658 and 813*, provide the authority for the General Manager of Parks, Forestry and Recreation to require tree security deposits to secure tree planting on the City-owned street allowance and as a condition to ensure tree protection is implemented and maintained for City and private trees.

The current practice in Urban Forestry is to collect tree planting guarantee deposits to secure all required tree planting on the City-owned street allowance. The amount

collected is \$583/tree to cover the cost of planting with a balled and burlapped tree, as well as a minimum two (2) year warranty and maintenance period. The deposit is refunded if trees are well established and in excellent condition two (2) years from the time of planting. Tree security deposits are also consistently collected for the protection of all City-owned trees when construction is proposed nearby. The tree value, removal and replacement costs are held for the duration of all construction activity and refunded in full if the trees are healthy and unaffected by the construction two to three (2 – 3) years after all construction has been completed, or sooner, depending on the scale of the construction project and the effectiveness of the tree protection measures implemented during the project.

For privately-owned trees the General Manager of Parks, Forestry and Recreation has the authority to collect a letter of credit as a condition of permit issuance. Letters of credit are currently secured for private trees in situations where the trees to be protected are mutually owned or on a property adjacent to where construction activity is taking place.

New Tree Protection Initiatives

Through the tree protection by-law process there are a number of builders in Toronto who have come to understand the value trees add to a property and they retain qualified tree experts who work with staff to protect trees during their construction projects. Beginning in May 2009, in the North York district, Forestry will recognize the builders and developers who protect the integrity of their tree protection zones as environmental stewards by featuring them on the Forestry website. Photographs of the tree protection zones will be displayed on the website to show the proper method of protecting trees during construction. This information can be kept current and will not require any additional funding. It will also help to improve our relationships with builders and developers as we endeavour to protect our existing tree resource.

The implementation of the initiatives documented in this report will improve the relationship we have with the building community, allow for accurate completion of Tree Declaration forms, and result in better protection of our tree resource.

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SIGNATURE

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