

21 and 23 Mastwood Crescent (formerly Buttermill Subdivision, East Side of East Avenue) – Protection and Removal of Private Trees

Date:	September 18, 2009
To:	Scarborough Community Council
From:	Richard Ubbens, Director, Urban Forestry, Parks, Forestry and Recreation
Wards:	Ward 44 – Scarborough East
Reference Number:	

SUMMARY

This report recommends that Council deny the request for the removal of two (2) privately-owned trees, and approve the request for removal of three (3) privately-owned trees. Staff from Urban Forestry, Technical Services and Toronto Building have been working with the applicant's arborist and engineer to determine if the site can be graded to allow for the preservation of five (5) privately-owned trees.

The grading plan for the site is being revised by the applicant to allow for the preservation of two (2) of the five (5) privately-owned trees. The remaining three (3) trees have been severely injured and require removal. Ninety-seven (97) trees are proposed for planting at the site.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation recommends that Council deny the request for a permit to remove two (2) privately-owned trees, 30 and 46 cm diameter willow trees, and approve the request to remove three (3) privately-owned trees, a 33 cm diameter silver maple and two poplar trees with diameters of 43 and 46 cm, located at the rear of 21 and 23 Mastwood Crescent.

FINANCIAL IMPACT

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

DECISION HISTORY

A report was before Scarborough Community Council, at their meeting of April 21, 2009, with a recommendation that Council approve the request for a permit to remove five (5) privately-owned trees. The following is a link to this report:

<http://www.toronto.ca/legdocs/mmis/2009/sc/bgrd/backgroundfile-20077.pdf>

An information report was before Scarborough Community Council, at their meeting of May 14, 2009, providing an update on the status of revised plans to permit retention and protection of the trees. The following is a link to this report:

<http://www.toronto.ca/legdocs/mmis/2009/sc/bgrd/backgroundfile-21176.pdf>

ISSUE BACKGROUND

A report requesting that Council approve a request to remove five (5) privately-owned trees was before Scarborough Community Council at their meeting of April 21, 2009. Scarborough Community Council referred the report back to Urban Forestry, requesting a plan to preserve the trees, with a report back to Scarborough Community Council for its meeting on May 14, 2009.

Through consultation with staff from Technical Services, the applicant's arborist and engineer, it was agreed that it may be possible to revise the grading plans for the site to allow for the protection and retention of two (2) of the five (5) trees. The applicant's engineer was to explore other options in order to retain the remaining trees.

Three (3) of the trees have been severely injured to the point where their health will decline and it is expected that they will be dead within two (2) years. Inspections by Urban Forestry staff did not produce any evidence that would allow for charges to be laid under the provisions of the private tree by-law. There were no witnesses to the tree injury and no other evidence was available to determine who was responsible for injuring the trees in question. These three (3) trees require removal and this report requests that Council approve their removal.

COMMENTS

Tree Protection

At the request of Scarborough Community Council, staff from Urban Forestry, Development Engineering and Toronto Building met with the developer's engineer to discuss grading on the site and how it could be done to protect the five (5) privately-owned trees.

At a site meeting on April 28, 2009, it was agreed that it may be possible to revise the grading plan to permit adequate protection for two (2) of the trees, and the applicant was

directed to prepare and submit revised grading plans to the City for review. The two (2) trees that could be preserved are both willow trees with a diameter of 30 and 46 centimetres. Grading of the site near the other three (3) trees presented more of a challenge, with storm water drainage being the key issue. The construction of raised decks was one option discussed, in order to increase the useable backyard area for the homeowners. Toronto Building advised that a deck cannot be more than 2 feet (0.6m) off the ground. Given the grading required, this cannot be achieved on this site.

Another option presented involved stepping the rear of the property down, to avoid having to construct a retaining wall. This option would decrease the useable space in the backyard further. Neither of these options adequately addressed the issue of storm water drainage. In order to create feasible grading for 21 Mastwood Crescent, the grading for lots to the north and for the lot immediately to the south would need to be adjusted which may lead to requiring further approval from the Committee of Adjustment as well as further review by Toronto Building. Additionally, the new grading would need to be reviewed by Development Engineering as a result of the impact it would have on rainfall runoff.

Revised grading plans have yet to be submitted by the applicant for review and approval by City staff.

Tree Injuries

At the site meeting on April 28, 2009 with the applicant, their engineer and arborist, and staff from Urban Forestry and Development Engineering, it was discovered that two (2) of the five (5) trees had been injured. A ring of bark, around the entire circumference of the two (2) trees had been removed (girdled). The trees injured consisted of a 33 centimetre diameter silver maple and a 46 centimetre diameter willow tree. The willow tree should be able to survive the injury it has sustained. The injury to the silver maple tree is more severe and it requires removal in the opinion of staff. There were no witnesses to the tree injury and no evidence was available to determine who was responsible for injuring the trees.

In August, staff were informed that further injury had taken place to the trees. Upon inspection it was discovered that two additional trees had been severely injured. The trees are Carolina poplars with diameters of 46cm and 43cm located at the rear of 23 Mastwood Crescent. Both of these trees, as well as the silver maple tree that was previously injured, have sustained such serious damage that the trees can no longer be maintained. The vascular system around the entire trunk of each tree has been severed and the trees cannot recover from such injury. It is expected that the three (3) trees will be dead within two years. Branches will die off, and likely fall, creating a potential hazard to several properties, including the rear yards of houses on Broadbridge Drive and Mastwood Crescent. There is no evidence to suggest that any of the trees are imminent hazards, however removal is recommended before winter. This report recommends that a permit be issued for the removal of these three (3) trees.

Replacement Tree Planting

The landscape plans, submitted to the City for this site, propose the planting of sixty-seven (67) trees on private property and thirty (30) on the City-owned street allowance. The approved landscape plans already exceed the private tree replacement requirements of three replacement trees for each tree approved for removal. The entire perimeter of the new subdivision is to be planted with trees, according to the approved landscape plans. The tree planting proposed for the site will utilize all of the suitable planting locations and there is no space to incorporate any additional planting to what is currently proposed.

Laying of Charges Under the Provisions of the Private Tree By-law

An investigation by Urban Forestry staff into the injury of the four (4) trees that were to be protected was conducted. There was no evidence to indicate who had carried out the tree injury.

The circumstances surrounding the tree injury were presented to City Legal and their opinion was that there was insufficient evidence to lay charges under the private tree by-law, and if charges were laid against the applicant, and/or the current home-owners, the prospects of a successful prosecution were negligible due to a lack of evidence.

Resolution

The report regarding tree removal that was before Scarborough Community Council at their April 21, 2009, meeting recommended approval to remove five (5) privately-owned trees. Urban Forestry became aware after the submission of that report that the applicant had made a commitment to retain the five (5) trees as a buffer, and retention of the buffer is referred to in Ontario Municipal Board (OMB) decision rendered December 14, 2006. The applicant argued that the trees could not be retained due to the grading that was required on the site. This issue was being addressed and progress was being made that would have allowed the retention of the trees with some revisions to the grading plan for the site.

The subsequent severe injury inflicted upon three (3) of the trees was not permitted by the City. Without evidence or witnesses to the injury, charges will not be laid under the provisions of the private tree by-law.

Three (3) of the five (5) trees will be dead within the next two years and they should be removed as soon as possible to avoid any damage to persons or property. The two (2) willow trees can be incorporated into the development and protected from the construction required to grade the site.

The owners of both properties 21 and 23 Mastwood consider the trees a risk and are anxious for tree removal to commence. Correspondence supporting tree removal has been received from both owners, copies of which are attached.

CONTACT

Donna Cormier, Urban Forestry Planner, Tel: 416 338-5056 Fax: 416 396-4248, Email dcormier@toronto.ca

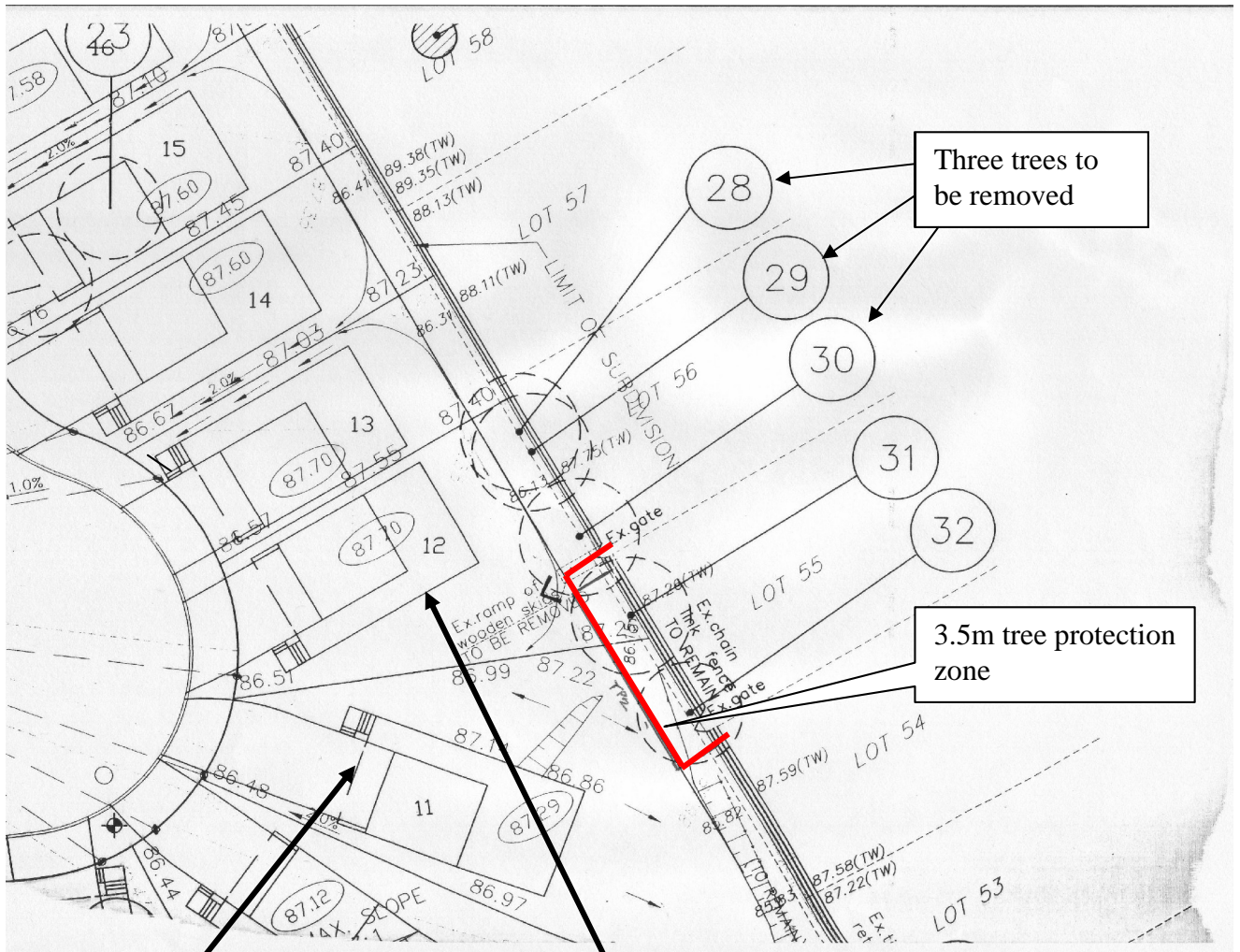
SIGNATURE

Richard Ubbens, R.P.F.
Director, Urban Forestry, Parks, Forestry and Recreation

ATTACHMENTS

Attachment 1 – location of trees and proposed tree protection zone
Attachment 2 – e-mail from owner of 21 Mastwood Crescent
Attachment 3 – e-mail from owner of 23 Mastwood Crescent

Attachment 1



21 Mastwood Crescent

23 Mastwood Crescent

Attachment 2

From: GEORGE TSAGARIS <gtsagaris@rogers.com>
To: <dcormier@toronto.ca>
Date: August 10, 2009 10:38 PM
Subject: Permits for Tree Removal at 23 Mastwood Crescent, Toronto

Hello Ms. Cormier,

I am following up regarding the permits requested for the removal of trees in my backyard. These permits were requested by my builder, Genesis Homes, some time ago. Prior to the recent strike I personally attended a hearing at the Scarborough Civic Centre. At that time we received approval for one tree to be removed however the fate of two others was left unresolved.

Since that time our property and the trees have suffered further vandalism. These invasions into our private property have left my family feeling uncomfortable in our own home. I am also increasingly concerned that the current state of the two remaining trees make them a hazard to my family and my home.

At the previous hearing, I did voice my concerns about the health and stability of these trees, however that issue is even more urgent at present.

Please contact me at your earliest convenience as I would like an update on the status of our request.

Thank you for your attention to this matter,

George Tsagaris
Royal LePage Connect
4218 Lawrence Ave. E
416.284.4751
gtsagaris@trebnet.com

Attachment 3

From: Gumdrop Canada <gumdropbookscanada@yahoo.ca>
To: Donna Cormier <dcormier@toronto.ca>
CC: David Altshuller <daltshuller@teplitskycolson.com>
Date: August 11, 2009 11:04 AM
Subject: 21 Mastwood Crescent

Good morning Ms Cormier,

First let me thank you for attending onsite. It is unfortunate that the Bureacrats you report to are not willing to take the same initiative.

As you understand I and my wife are quite passionate about this issue. We attempted to address the trees in question prior to closing and taking title to the property. Now as TAX PAYERS I / we demand proper attention. Simply, the trees are damaged and dying. You candidly agreed that if one of the recent high wind storms had touched down on Mastwood and the major poplar trees fell liability could be attached to the city. This immediately begs the question WHY? The Developer is ready willing and able to address the matter now - at HIS cost. My solicitor has advised me any action taken would succeed especially considering the original site plan agreement addresses and authorizes the tree removal. Futhermore the Developer is prepared to replace removed trees at a ratio I believe of 7 to 1. Stop the politics and take the appropriate action before there is serious damage or God forbid injury. The two houses affected are the homes of 4 children.

If an additional meeting is required I have a substancial in home office with a Board Table for 8 any future discussions should be held on site at my office with the affected parties present.

Past present and any future correspondence, dialogue is being shared with legal council. This matter demands proper prompt attention and resolution.

Franca Genco - Registered Owner

Brian H. Smith - Spouse

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