

24 Highgate Road – Application to Remove a Private Tree

Date:	April 22, 2014
To:	Etobicoke York Community Council
From:	Jason Doyle, Director, Urban Forestry, Parks, Forestry and Recreation
Wards:	Ward 5 – Etobicoke-Lakeshore
Reference Number:	P:\2014\Cluster A\PFR\EY32-051314-AFS#19442

SUMMARY

This report requests that City Council deny the application for a permit to remove one (1) privately owned tree located in the rear yard of 24 Highgate Road. The applicant is requesting tree removal due to falling walnuts and concerns associated with potential injury to children.

The subject tree is a twin-stemmed black walnut (*Juglans nigra*) with the stems measuring 67cm and 80 cm in diameter. The tree is healthy and in good condition. Urban Forestry does not support removal of this tree.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation recommends that:

1. City Council deny the request for a permit to remove the privately owned black walnut tree at 24 Highgate Road.

Financial Impact

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

COMMENTS

An application was received from the property owner for the removal of a twin-stemmed black walnut tree, with stems measuring 67 cm and 80 cm in diameter, located in the rear yard of 24 Highgate Road. As stated on the application form, the property owner is

requesting tree removal as the "tree drops walnuts on backyard in large quantities, tree is very tall and family has 2 small children". The property owner is proposing to plant one (1) replacement tree, a sugar maple (*Acer saccharum*).

Upon inspection of the subject tree by staff, Urban Forestry concludes that the tree is healthy and in good condition.

As required under *Section 813-19, of City of Toronto Municipal Code, Chapter 813, Trees, Article III*, a Notice of application sign was posted on the subject property for the minimum 14 day period in order to provide an opportunity for comment by the community. No comments were received in response to the notice.

A permit to remove the tree was denied by Urban Forestry. The owner is appealing the decision to deny the permit.

Should City Council approve this request for tree removal, in accordance with *Section 813-20 of City of Toronto Municipal Code Chapter 813, Trees, Article III*, approval must be conditional upon the owner providing satisfactory replacement planting. In this instance, it is appropriate for the applicant to provide at least five (5) trees as replacement, which can be achieved in a combination of on-site planting and cash-in-lieu of planting.

The policies of the City of Toronto do not support removal of walnut trees due to falling fruit. These policies have been consistently upheld by City Council since 2004. A sampling of Council's support for this policy include:

178 Bellamy Road North -December, 2013, SC28.5, Decision Document
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.SC28.5>;

12 Lockie Avenue – October, 2007, SC8.4, Decision Document
<http://www.toronto.ca/legdocs/mmis/2007/sc/reports/2007-09-10-sc08-cc-dit4.pdf>;

127 Douglas Drive – March 2004, Toronto South Community Council Report 2, Clause 10, Decision Document
<http://www.toronto.ca/legdocs/2004/agendas/council/cc040301/ts2rpt/cl010.pdf>; and

6 Edgar Avenue – December, 2004, Toronto and East York Community Council Report 9, Clause 18, Decision Document
<http://www.toronto.ca/legdocs/2004/agendas/council/cc041130/ts9rpt/cl018.pdf>.

The City's canopy study which was published in "Every Tree Counts" estimated that walnut and butternut trees comprise 0.4% of the city's tree population. This represents approximately 40,800 trees. Toronto's street tree inventory includes 756 walnut and butternut trees.

Urban Forestry occasionally receives complaints about walnut trees on private and public property. Such complaints involve the nuisance qualities related to nuts falling on property and the risk of nuts falling on people below. In 2013 the City's Risk Management Unit reported that a search of their records found that they have not received claims for damages or personal injury related to walnuts falling from City trees. Urban Forestry has not received such a claim since the 2013 review of claims. If the City accepts that the nuisance and risk factors of these trees outweighs their environmental and health values, this could lead to the potential removal of 756 street trees and thousands of private walnut trees in Toronto. There are thousands of other nut bearing trees across the city which could also be the subject of similar concerns.

All trees shed debris such as leaves, twigs and fruit that some consider to be undesirable. This factor, however, is a matter of personal perspective. Some view raking leaves as an onerous, unpleasant task, while others see it as an opportunity to have fun and enjoy the autumn air while getting some healthy exercise.

It is extremely difficult to establish a line at which nuisance and/or potential hazard becomes a legitimate justification for tree removal. This is why, for example, the Tree By-laws use "imminent hazard" as a yardstick. Considering each case individually, it becomes a matter of unwillingness to, or belief in the inability to deal with the nuisance or perception of a potential hazard.

Walnuts arguably can be more challenging to maintain than other tree species that only require leaf clean up. However, there are many instances of people who successfully manage the problems attributed by others to falling walnuts.

Toronto's Official Plan policy 3.4.1 supports the preservation of significant trees, citing their many benefits:

- (1) To support strong communities, a competitive economy and a high quality of life, public and private city-building activities and changes to the built environment, including public works, will be environmentally friendly, based on:
 - (d) preserving and enhancing the urban forest by:
 - (i) providing suitable growing environments for trees;
 - (ii) increasing tree canopy coverage and diversity, especially of long-lived native and large shade trees; and
 - (iii) regulating the injury and destruction of trees.

Trees improve the quality of urban life and contribute greatly to our sense of community. They are aesthetically pleasing and soften the hard lines of built form and surfaces in an urban setting. Trees contribute to the overall character and quality of neighbourhoods. Studies suggest that social benefits such as crime reduction and neighbourhood cohesion can be directly attributable to the presence of trees.

The environmental benefits of trees include cleansing of air, noise and wind reduction, and protection from ultraviolet radiation. Trees reduce rain water runoff thereby reducing soil erosion and lowering storm water management costs. They also contribute to moderation of temperature extremes and reduction of the urban heat island effect by providing shade during the summer.

Trees provide many economic benefits, including the enhancement of property values. Homes with mature trees have higher value when compared to similar types of homes in similar locations without trees. Mature trees are associated with reduced home energy consumption. Air conditioning costs are lower in a home shaded by trees and heating costs are reduced when trees break the winter cooling effects of wind.

Trees are a community resource, which can make the city more attractive to investors, tourists and prospective residents, thus contributing to growth and prosperity.

When reviewing applications for tree removal, Urban Forestry staff are guided by City policies and by-laws. In consideration of the intent of Municipal Code Chapter 813, Trees; Council support of staff recommendations over a number of years to preserve walnut trees; and Council's approval of the City's Strategic Forest Management Plan, all of which support maintenance and the preservation, and discourage the unnecessary removal of trees, Urban Forestry cannot support the removal of walnut trees based on falling walnuts.

The black walnut tree at 24 Highgate Road is a significant and valuable part of the urban forest. With proper care and maintenance it should continue to provide benefits to the property owner and the surrounding community for many years to come.

CONTACT

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SIGNATURE

Jason Doyle
Director of Urban Forestry
Parks, Forestry and Recreation Division

ATTACHMENT

Attachment 1 – Photo of twin-stemmed black walnut tree at rear of 24 Highgate Road.

Black walnut tree at the rear of 24 Highgate Road

