



**STAFF REPORT
ACTION REQUIRED**

38 Deloraine Avenue– Application to Remove a Private Tree

Date:	September 22, 2016
To:	North York Community Council
From:	Jason Doyle, Director, Urban Forestry, Parks, Forestry and Recreation
Wards:	Ward 16 – Eglinton-Lawrence
Reference Number:	P:\2016\Cluster A\PFR\NY17-101316-AFS#23520

SUMMARY

This report requests that City Council deny the request for a permit to remove one (1) privately-owned tree located at 38 Deloraine Avenue. The application indicates the reasons for removal are to address concerns regarding injury and property damage due to falling walnuts, restricted use of the backyard and the alleged imminent hazard that the tree poses.

The subject tree is a black walnut (*Juglans nigra*) measuring 60 cm in diameter. Urban Forestry does not support removal of this tree as it is healthy and maintainable.

RECOMMENDATIONS

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

1. City Council deny the request for a permit to remove one (1) privately-owned tree located at 38 Deloraine Avenue.

FINANCIAL IMPACT

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

COMMENTS

Urban Forestry received an application to remove one (1) privately-owned tree situated in the rear yard of 38 Deloraine Avenue. The subject tree is a black walnut tree measuring 60 cm in diameter. The application for tree removal has been made to address the property owner's concerns regarding injury and property damage due to falling walnuts and subsequent restricted use of the backyard. Additionally, the application was made to address concerns regarding juglone, a natural substance produced by walnut trees that is released into the soil surrounding the tree inhibiting the growth of other plants.

The arborist report which accompanied the application assessed the tree to be in fair condition. It also indicates the tree has a big hole on the main trunk and that the roots of the tree may be damaging the house foundation.

A "Site Observation Report" was also provided on behalf of the owner by an architect expressing the opinion that the tree presents an imminent hazard of falling branches that could be exacerbated by potential future ice accumulation. "Imminently hazardous tree" is defined by the Private Tree By-law as "a destabilized or structurally compromised tree that is in imminent danger of causing damage or injury to life or property."

Urban Forestry staff inspected the tree and determined it is healthy and maintainable. No cavities were visible on the main trunk. Pruning scars were observed on the main trunk, however, no decay was observed. These scars are not negatively impacting structural integrity of the tree.

No evidence of foundation damage caused by the tree was provided or observed by Urban Forestry staff. Roots are not physically capable of exerting the force required to lift, crack or otherwise damage a properly constructed foundation. Roots are however capable of growing into any available space that offers water and air. If proper foundation drainage has not been provided, cracking may occur and become worse over time due to natural freeze thaw cycles creating space that tree roots may grow into. Roots do not and cannot go where there is no water.

The international standard for determination of tree risk is the International Society of Arboriculture's (ISA) Tree Risk Assessment Qualification (TRAQ). Accredited City of Toronto Urban Forestry Staff have performed a TRAQ assessment of this tree and found it to be a low hazard risk. The architect who provided the "Site Observation Report" did not provide any credentials indicating an expertise in arboriculture, nor were any qualifications or training in performing tree risk assessments noted. A verification search indicates that this architect holds no ISA credentials.

This potential for falling branches due to ice accumulation or otherwise exists with all trees when a rare weather event such as the 2013 ice storm occurs. Therefore, this would not qualify the tree as being imminently hazardous, justifying its removal under *City of Toronto Municipal Code Chapter 813, Article III*, more commonly referred to as the Private Tree By-law.

Moreover, when reviewing applications for tree removal, Urban Forestry staff are guided by City policies and by-laws. This includes the Private Tree By-law; Council's past support of staff recommendations over a number of years to preserve walnut trees; and the City's Strategic Forest Management Plan, all of which support preservation, and discourage the unnecessary removal of healthy trees.

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. Examples of Council's recent support for this policy include:

11 Brooke Avenue – May, 2016, NY14.9, Decision Document

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.NY14.9>

251 McKee Avenue – August, 2014, NY34.19, Decision Document

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.NY34.19>, and

178 Bellamy Road North – December, 2013, SC28.5, Decision Document

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.SC28.5>;

The results of the City's tree canopy study which was published in Every Tree Counts, estimated that walnut and butternut trees (*Juglans cinerea*) which produce similar fruit, 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 walnuts falling on property and the risk of walnuts 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 park and private walnut trees in Toronto. Additionally, there are thousands of other nut-bearing trees across the city which could also be the subject of similar concerns.

Although it is well documented that juglone does inhibit the growth of some plants; there are many plants that are not sensitive to juglone and will thrive under walnut trees. Information on these species that will thrive is easily found through an internet search including The Ontario Ministry of Agriculture, Food and Rural Affairs website which provides helpful information for gardening under walnut trees.

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

As required under Section 813-19, of City of Toronto Municipal Code, Chapter 813, Trees, Article III, a Notice of application was posted on the subject property for the minimum 14-day period in order to provide an opportunity for comment by the community. Three (3) comments supporting the tree removal were received.

Urban Forestry received further emails from the residents of 36, 38 and 40 Deloraine Avenue in support of the appeal when it was submitted with the property owner's above-mentioned site observation report of July 21, 2016. Two of these residents had already submitted letters of support for the tree removal.

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, permit approval must be conditional upon the provision of satisfactory replacement planting. As a condition of permit issuance, the applicant is proposing to plant one (1) replacement tree. However, in this instance, it would be appropriate for the owner to provide five (5) replacement trees which can be achieved in a combination of on-site planting and cash-in-lieu of planting.

Trees improve the quality of urban life and contribute greatly to our sense of community. They help to 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 attributed 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 rainwater 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 mitigate the cooling effects of wind in winter. Trees are a community resource which can make the city more attractive to investors, tourists and prospective residents thus contributing to growth and prosperity.

It is the goal of the City of Toronto to increase the city's tree canopy to 40 per cent. The loss of trees in the city due to the ice storm experienced in late December 2013, compounded with additional tree loss due to the presence of the Asian longhorned beetle and the emerald ash borer make the preservation of all healthy trees more necessary now than ever.

The black walnut tree at 38 Deloraine Avenue is a valuable part of the urban forest. With proper care and maintenance this tree has the potential to provide the property owner and

the surrounding community with benefits for many more years. Urban Forestry, therefore, does not support removal of this tree.

CONTACT

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SIGNATURE



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ATTACHMENTS

Attachment 1 – Photograph of the subject tree in the rear yard of 38 Deloraine Avenue.