

Tree Preservation Workshop

July 11th, 2017

Community & Fire Services – Operations Department
Development Services – Planning Department
Corporate Services – Legislative Services
CAO Commission – Legal Department

Agenda

- Purpose and Principles
- Background and Update
- Planning Process – Tree Preservation
- Tree By-law Issues and Recommendations
- Next Steps
- Questions and Discussions

Purpose of Tree Preservation Workshops

- Continuous Improvement Objectives – review of By-law effectiveness and determine if there are improvements available
- Opportunity to address concerns with process
- Opportunity to share data on actual experiences in all areas including permitting, appeals and enforcement
- Opportunity to align internal processes to ensure consistency in application of tree preservation strategies
- Seek direction from Council on next steps

Principles to Guide Future Changes

- Staff are guided by the following principles for the internal review:
 - Prioritizing preservation before replacement and compensation
 - The protection and preservation of the urban forest should be done in a manner to achieve consistent outcomes
 - Ensure transparency and fairness in application of the By-law and processes
 - The calculations of tree compensation should be done in a consistent manner using the best urban forestry practices, with the premise that the urban forest is a high value City Asset
 - Achievement of a tree canopy cover of 30% or greater

Background – Workshop #1

- Urban Forest Policies and Principles
- Tree Preservation and Protection in Markham
 - Where trees fit with various legislation
 - tree permitting and development processes
 - Tree Preservation By-law
 - number of application and permit results
 - By-laws in other municipalities
- Replanting and Compensation
- By-law Appeals, Enforcement and Prosecution

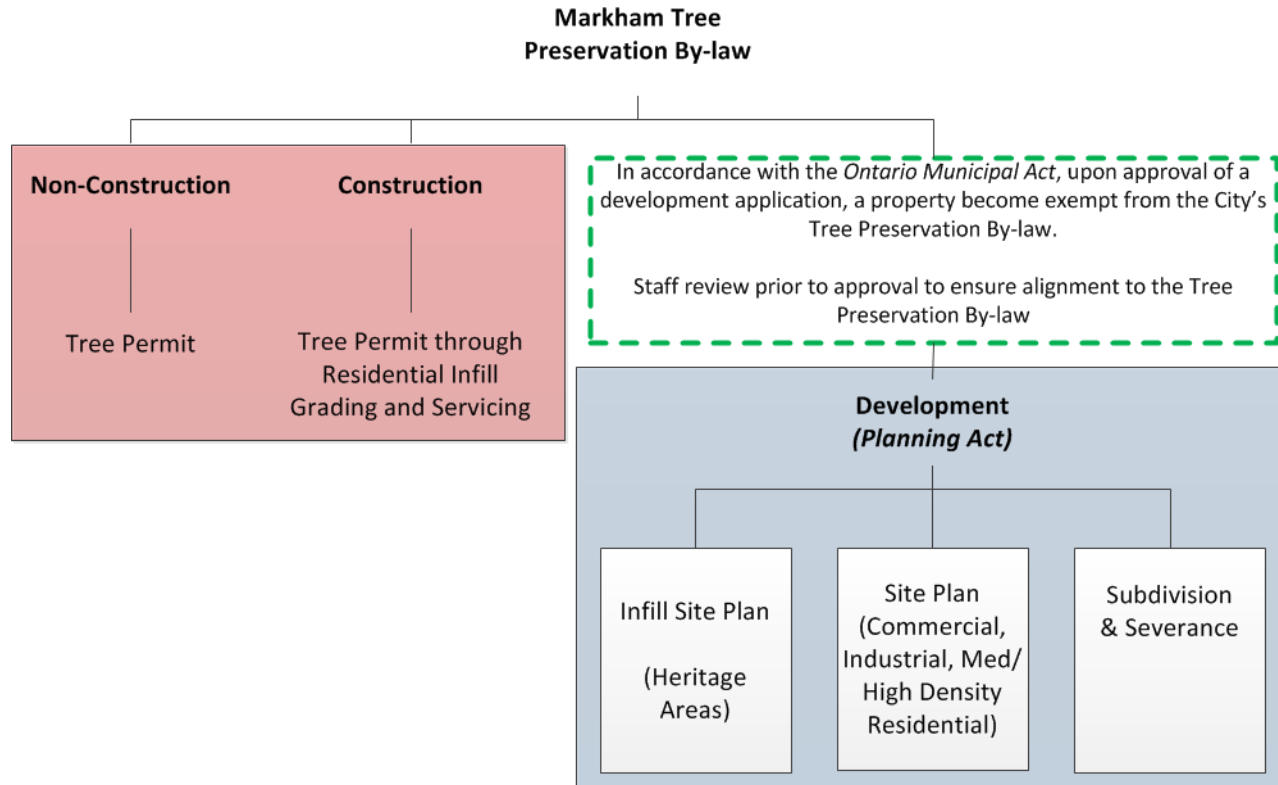
Update on Changes Since Last Workshop

- On May 9, 2017, Markham City Council passed an amendment to the Tree By-law to make property owners ultimately responsible for the destruction of trees on their property (Rebuttable Presumption Clause). This amendment will assist with enforcement/prosecution of the Tree By-law.
- On May 30, 2017 Bill 68 (Modernizing Ontario's Municipal Legislation Act) was proclaimed. One of the requirements of this Act is for all Ontario municipalities to develop and maintain policies regarding "the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality".*

*This clause is not yet in force.

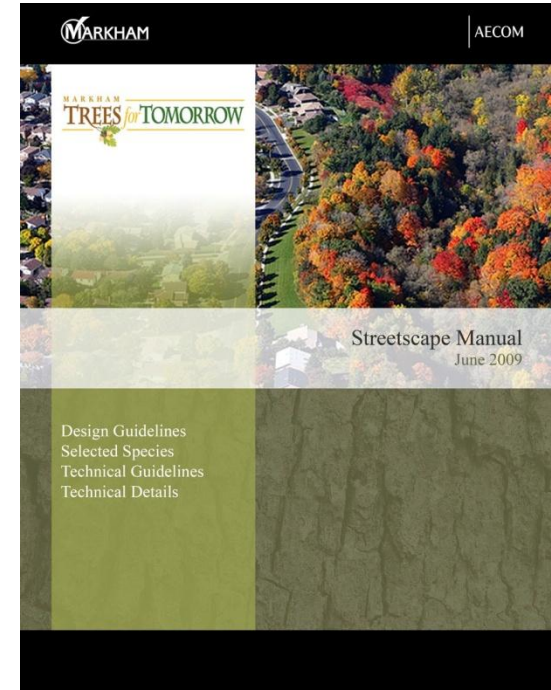


Tree Preservation By-law Applicability



Tree Preservation & Compensation - Planning Process

- Trees are exempt from the Tree By-Law when property is subject to Site Plan, Subdivision and Severance Approval
- Trees for Tomorrow Streetscape Manual guides review and approval of development applications
- Goal for no net loss of trees or canopy cover
- Applicant required to submit tree inventory and preservation plan for all trees over 20 cm in diameter at breast height (DBH)
- Specifications for tree preservation, planting, and compensation



Tree Preservation

- **Tree Preservation** is a priority, especially for large caliper, healthy, native trees
- Proposed Plans are reviewed with the Arborist report to maximize opportunities for tree preservation:
 - Minimize grade changes
 - Parks and open spaces locations
 - Realign infrastructure
 - Reconfigure lots and layout
 - Redesign building footprint



Williamstown Park

Beckett Farm



Tree Compensation

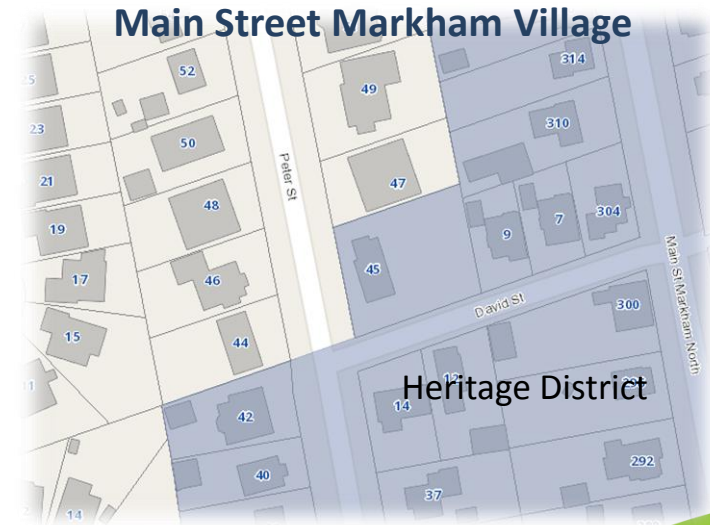
- Where trees have to be removed as a result of development, compensation is required.
- **Replanting** is first consideration before cash compensation. This can occur in:
 - Subject development land (including private residential lots)
 - Parks, open spaces, and the adjacent valleylands
 - Off-site locations
- **Cash Compensation** is taken when tree replacements cannot be fulfilled. Cash value is determined based on:
 - Ratio (2:1 for trees 20cm to 40cm DBH)
 - Appraisal (\$ for trees 40cm DBH and greater)

Tree Compensation – Current

Tree DBH (measured at 1.37m)	Non-Construction Tree Permit	Infill Tree Permit & Minor Variances	Subdivisions, Site Plans, Severances, & Heritage Infill
≥20 cm up to 40 cm	2:1	2:1	2:1
>40 cm up to 60 cm	3:1	3:1	Negotiated amount based on Appraisal
>60 cm up to 80 cm	4:1	4:1	
>80 cm	5:1	5:1	
Minimum Size for Replanting	6 cm Ø deciduous or 300 cm tall conifers	6 cm Ø deciduous or 300 cm tall conifers	6 cm Ø deciduous or 300 cm tall conifers
Cash-in-Lieu Rate	\$300 per tree	\$600 per tree	\$600 per tree
Replanting ratio of 6:1 applied when removed without a permit and ordered to replant.			

Amendment to Compensation Approach


- **Recommendation** – That site plan applications for Heritage Infill be subject to the same compensation requirement as the Tree By-law by using the Ratio method
- This Amendment would help achieve greater consistency and fairness for all small scale developments across the City



Amendment to Compensation Approach

- **Recommendation** – For Site Plans, Subdivisions and severances only, that compensation for large trees (over 40cm) be replaced with the Caliper method over the Appraisal method we currently use.
- Caliper Method is between Ratio and Appraisal methods. It utilizes a standard chart of values based on size, condition, species, structure and replacement values. It is a preset value for a tree based on formulas determined by Council of Tree & Landscape Appraisers.
- This Amendment would help achieve greater consistency, fairness, transparency, and efficiency.
- Also helps reduce subjectivity, lengthy negotiations, processing and approval delays

Trees >40 cm

Ratio	3:1, 4:1, 5:1, etc.				
Caliper 	--	--	--	--	--
	--	\$	\$	\$	\$
	--	\$	\$	\$	\$
	--	\$	\$	\$	\$
Appraisal	\$ by Arborist				

Tree Compensation – Proposed

Tree DBH (measured at 1.37m)	Non-Construction Tree Permit	Infill Tree Permit, Heritage Infill & Minor Variances	Subdivisions, Site Plans & Severances
≥20 cm up to 40 cm	2:1	2:1	2:1
>40 cm up to 60 cm	3:1	3:1	Caliper Method
>60 cm up to 80 cm	4:1	4:1	
>80 cm	5:1	5:1	
Minimum Size for Replanting	6 cm Ø deciduous or 300 cm tall conifers	6 cm Ø deciduous or 300 cm tall conifers	6 cm Ø deciduous or 300 cm tall conifers
Cash-in-Lieu Rate	\$300 per tree	\$600 per tree	\$600 per tree
Replanting ratio of 6:1 applied when removed without a permit and ordered to replant.			

Tree Preservation By-law Review

- The purpose of the By-law is to preserve significant trees on all properties within the City in order to sustain Markham's urban forest
- This review will align with the City's principles as affirmed earlier:
 - (i) Preserve (ii) Replant (iii) Compensate
 - Consistency in application
 - transparency and fairness
 - consistent tree compensation for valuable City assets
 - tree canopy cover of target of 30% or greater
 - Bill 68 compliance

Tree Preservation By-law Review

Issue	Current	Recommendation
Permit Signage	Not required.	Upon approval, tree permit to displayed on front yard.
Permit and Application Fees	No application fees. Permit fees not collected to ensure compliance.	Collect both application and permit fees.
Collect Securities for Replanting and Tree Preservation	No securities (e.g. letters of credit or cash deposit) required.	Collect securities to support tree preservation and ensure timely fulfillment of replanting conditions.

Tree Preservation By-law Review

Issue	Current	Recommendation
Replanting Survival Guarantee	No survival guarantee. Only one replanting inspection.	Include follow-up provision within By-law
Trees located in Proposed Building Footprint	Exempt from the Tree Preservation By-law.	Remove the exemption. Encourage building designs that preserve trees, but require replanting when unable to do so.
Licensing of Tree Companies/Arborists	Not required.	Review the feasibility of licensing tree removal companies and/or arborists

Tree Preservation By-law Review

Issue	Current	Recommendation
Size Threshold of Trees Protected under By-law	All trees ≥ 20 cm DBH.	Maintain current size threshold in By-law.
Protection of Shrubs and Hedges	Not protected by Tree Preservation By-law.	Continue to exclude shrubs and hedges from the By-law.
Trees in Rear Yards	Protected by Tree Preservation By-law.	Continue to protect trees in rear yards.
Proximity of Trees to Building or Infrastructure	There is no exemption in the Tree Preservation By-law based on proximity. Each tree is evaluated on a case-by-case basis.	Continue to address each tree based on the validity of the situation

Tree Preservation By-law Review

Issue	Current	Outcome
Appeal process	Recommendation from the Licensing Committee goes to Council for resolution (i.e. Two Appeal Hearing)	Staff providing report and recommendation as part of proposed By-law amendments in September
Prosecution of offences	Challenges in respect to assigning accountability for the destruction or injury of trees.	On May 9, 2017, Markham City Council passed an amendment to the Tree By-law which added in the Rebuttable Presumption Clause.

Next Steps and Timelines

- Implement a standardized approach for tree replanting and compensation
- A cross commission Working Group comprised of Staff from all four commissions will report back to General Committee with proposed amendments to the City's Tree Preservation By-law, including the appeal body composition and processes
- Implement a public education and awareness campaign utilizing Public Realm, Trees For Tomorrow and Forestry's Tree Talks



BUILDING MARKHAM'S
FUTURE TOGETHER



Thank You

Questions and Discussion

