

Tree Preservation in the Town of Markham

PROPOSED TREE PRESERVATION BY-LAW UPDATE

**DEVELOPMENT SERVICES COMMITTEE
PART A**

November 27, 2007

Status Update

- ♦ **On May 8, 2007, staff presented an update to Development Services Committee on the proposed Tree Preservation By-law**
- ♦ **Prior to Council exercising its powers to pass a by-law, staff recommended that a further Public Information Meeting be held.**
- ♦ **The intention was to gain further public input on the “draft” Tree Preservation By-law, and to revise the “draft”, as appropriate, based on additional public input.**

Second Public Information Meeting

- ♦ **Staff was directed to hold a second public information meeting on June 14, 2007 to solicit public opinion on two options:**
 - 1. Two different standards: 30 cm (12") DBH in the urban area and 20 cm (8") DBH in Heritage Areas and Hamlets; or**
 - 2. Single standard across Town: 30 cm (12"); 25 cm (10") or 20 cm (8")**
- ♦ **Only a small number of residents attended. Of those attending, majority support was for a single standard.**
- ♦ **There was no consensus on what the standard should be.**

Neighbouring Municipality's By-laws

- ♦ In March 2007, the Town of Richmond Hill enacted a Tree Protection By-law (No. 41-07) with a standard of 20 cm (8") DBH or greater within the municipality.
- ♦ In June 2007, the City of Vaughan enacted a Tree Protection By-law (No. 185-2007) with a standard of 20 cm (8") DBH or greater within the municipality.

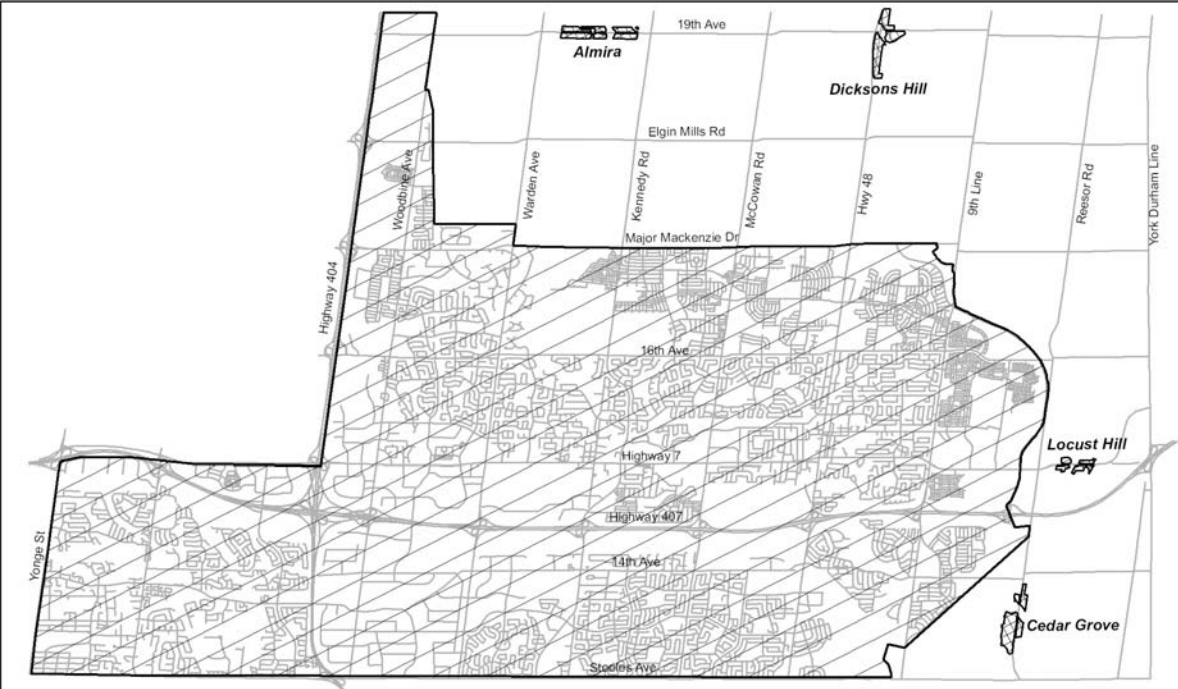
Tree Growth Data

- ♦ Tree growth (height and diameter) correlates with age and species.
 - ♦ Slow growing trees (like oaks) typically grow at half the rate of fast growing trees (like ash or silver maple).
1. Fast growing trees: 20 cm DBH = 20 years old; 30 cm DBH = 30 years old.
 2. Slow growing trees: 20 cm DBH = 35 – 40 years old; 30 DBH = 45 – 50 years old.

Recommended Standard for Markham

- ◆ To achieve a healthy urban forest, it is important to protect trees that are younger in age so that more trees can grow to maturity.
- ◆ **Staff recommend that a 20 cm (8") DBH standard be adopted for in the urban area and in Hamlets, which is consistent with the neighbouring municipalities.**
- ◆ Markham is also covered by the Region of York By-law which protects all woodlots 0.2 ha (0.5 acres) or greater in area.

Draft Schedule 'A'




MARKHAM


Town of Markham Tree Preservation Bylaw

THIS IS SCHEDULE 'A' TO BY-LAW _____
PASSED THIS _____ DAY _____.

MAYOR

CLERK

 BOUNDARY OF AREA COVERED BY THIS BY-LAW

 HAMLET

NOTE: 1) DIMENSIONS ARE IN METERS
2) REFERENCE SHOULD BE MADE TO THE ORIGINAL BY-LAW LODGED IN THE OFFICE OF THE CLERK

SCALE 1:85000

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Exemptions

- ♦ **Some activities are exempt by statute under subsection 135 (12) of the *Municipal Act, 2001*, including activities that are:**
 - 1. undertaken by a municipality or local board**
 - 2. a condition of approval of a site plan**
 - 3. a condition of a plan of subdivision or consent**
 - 4. a condition of a development permit now authorized by the *Planning Act***

Exemptions

- ◆ **Additional exemptions staff recommend include:**
 - 1. federal or provincial government activities**
 - 2. woodlands or woodlots in York Region By-law**
 - 3. hazard tree or property standards order removal**
 - 4. emergency work tree removal**
 - 5. maintenance or pruning in accordance with Good Arboricultural Practice**
 - 6. tree removal on rooftop gardens, in interior courtyards, solariums or raised podiums**
 - 7. nursery trees**

Permit System

- ♦ **A Permit System is recommended to administer and enforce the proposed by-law.**
- ♦ **A permit may be issued for removal of a tree where:**
 - 1. it is dead, diseased or severely damaged, as certified by a qualified tree expert or administrator / coordinator of the By-law;**
 - 2. it is causing structural damage to load bearing structures, drains or buildings;**
 - 3. it is an “invasive tree species”, eg. Manitoba Maple etc.**

Permit System Cont'd

4. a demolition permit requires tree removal;
5. a building permit for construction of a building or building addition/extension 10 m² or greater requires tree removal;
6. a pool enclosure permit for installation of a in-ground pool requires tree removal, provided there is no reasonable alternative location for the pool;
7. is a substantial nuisance amounting to a hazard, that is causing property damage (but not including seasonal loss of leaves or fruit).

Permit Conditions

- ♦ The *Municipal Act* contains general powers related to a municipality's “economic, social and environmental well-being” (subsection 11(2), para. 5). In addition, the Act includes specific powers regarding tree by-laws related to permits and permit conditions (subsection 135(7)).
- ♦ Conditions could relate to:
 1. provision of a qualified tree expert's report
 2. manner in which destruction/removal occurs
 3. qualifications of persons authorized to destroy/remove

Permit Conditions:

4. subject to Council approval, in limited circumstances, a condition could require a “*payment in lieu of tree preservation*” or **a per tree removal rate** to be deposited in a special reserve fund for future tree replacement activities

♦ A *payment-in-lieu* condition could be applied, for example, **for any Town approved tree removal** due to:

1. infill redevelopment
2. construction of minor additions or extensions to a building
3. construction of rear yard accessory structures
4. installation of a swimming pool

Suggested “Payment-in-lieu”

- ◆ Suggested “payment-in-lieu” rate is \$50 per inch (2.4 cm) of caliper to a maximum of \$2,000 (total payment):
 - 24” tree = \$1,200
 - 18” tree = \$900
 - 12” tree = \$600
 - 10” tree = \$500
 - 8” tree = \$400
- ◆ **Payments-in-lieu are recommended to towards the planting of new trees to support the Town’s proposed “Trees for Tomorrow” Program**

Permit Fees

Examples:

<i>Town of Richmond Hill:</i>	\$150 + \$50 for each extra tree
<i>City of Mississauga:</i>	\$200 - \$400 (depending on # trees)
<i>City of Pickering:</i>	\$100
<i>City of Stoney Creek:</i>	1 tree \$0; 2-10 trees \$25; 11-20 trees \$50, +20 trees \$100
<i>City of Vancouver:</i>	\$25 for 1 tree/year; \$45 for 2nd tree; \$74 for each tree after that
<i>City of Victoria:</i>	\$30
<i>Region of York:</i>	\$25 - \$500 depending on type of cutting

Recommended Permit Fee

- ◆ **Staff recommend a permit fee of \$100 for the first tree and \$50 for each additional tree**
- ◆ **No charge for confirming permit exemptions**
- ◆ **Fee revenue would be used to offset administration costs**

Appeals

- ◆ **Appeals to OMB from permit refusals or conditions under Tree Preservation By-laws are no longer available (former section 136 repealed).**
- ◆ **Staff recommend that an appeal to Council should be considered only for applications for a permit involving the removal of 5 or more trees on a property and only where the officer has refused the permit.**
- ◆ **No appeal would be available in any other circumstances from a decision of the officer.**

Staffing Implications

Based on a survey of other municipalities with tree by-laws, the consultant recommends that:

- ♦ **One new full-time position be created (Technical Coordinator in Parks Operations) to administer the by-law and manage the associated educational program**
- ♦ **Staff at the Contact Centre and Town by-law enforcement officers be trained in the scope, application and enforcement of this by-law.**
- ♦ **Future staffing requirements will be determined based on annual monitoring of permit applications, permits approved and enforcement activities.**

Staffing Implications cont'd

- ♦ **Community and Fire Services supports the creation of a new staff position in Operations – Parks.**
- ♦ **Position Title: Tree Preservation By-law Technical Coordinator.**
- ♦ **This new position is requested in the 2008 Budget Process, subject to enactment of the Tree Preservation By-law.**

Other Staffing Implications cont'd

- ♦ **Bylaw Enforcement has agreed to enforce the By-law using existing resources.**
- ♦ **The Contact Centre has agreed to: be the first point of contact; answer resident inquiries; and take in permit applications.**
- ♦ **Corporate Communications has agreed to assist with the promotion of the educational program using existing marketing tools only.**

Next Steps

- ◆ **Staff will prepare a “final” Tree Preservation By-law depending on Council direction.**
- ◆ **The 2008 staffing request to be confirmed when the by-law is enacted, with the date the By-law comes into force to coincide with the timing of filling the additional position.**
- ◆ **Further report with recommended By-law to be brought forward to Development Services Committee in January 2008.**