

## CITY OF VAUGHAN

### EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 27, 2017

Item 10, Report No. 26, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on June 27, 2017, as follows:

***By approving that the comprehensive protocol for the protection of trees be provided at the earliest possible date.***

#### **10 REVIEW OF CITY PROCESSES FOR PROTECTION OF TREES ALL WARDS - CITY WIDE**

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Deputy City Manager, Planning and Growth Management, Deputy City Manager of Public Works, Deputy City Manager of Community Services, and Deputy City Manager of Legal and Human Resources, dated June 20, 2017:

##### **Recommendation**

The Deputy City Manager, Planning and Growth Management, Deputy City Manager of Public Works, Deputy City Manager of Community Services, and Deputy City Manager of Legal and Human Resources, in consultation with the Director of Financial Planning and Development Finance, Deputy City Treasurer, recommend:

1. THAT Staff be directed to continue work to improve tree protection processes by introducing the framework for the development of a new "Tree Protection Protocol for Construction" (Attachment #1), and to undertake external consultation with community stakeholders including Ratepayers Associations and Community Organizations, the York Chapter of the Building Industry and Land Development Association (BILD), York Region, and the Toronto and Region Conservation Authority (TRCA) prior to finalizing this comprehensive protocol for Council consideration in the 4<sup>th</sup> quarter of 2017;
2. THAT Council endorse the "Replacement Tree Requirements" for private tree removals, (Attachment #2);
3. THAT Council authorize Staff to review the feasibility of implementing a "Tree Protection Agreement" which may include associated fees and changes for the inspection process;
4. THAT Council authorize Staff to bring forward draft amendments to the Private Property Tree Protection By-law No. 185-2007 and Site Plan Control By-law 123-2013 for Committee and Council consideration in a form satisfactory to the Deputy City Manager, Legal and Human Resources.

##### **Contribution to Sustainability**

This report contributes to the following goals and objective within Green Directions Vaughan, which is reinforced through several high level commitments, including Vaughan Vision 20/20.

Goal 1: To significantly reduce our use of natural resources and the amount of waste we generate.

Goal 2: To ensure sustainable development and redevelopment.

*Objective 2.2 "To develop Vaughan as a City with maximum greenspace and an urban form that supports our expected population growth".*

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This report is also consistent with the priorities set out on the Term of Council Service Excellence Strategy Map, specifically “Re-establish the urban tree canopy”.

#### **Economic Impact**

Prior to the implementation of the Tree Protection Protocol for Construction staff will assess the additional resources required to administer the Protocol including implementation costs and any new revenues that will be generated. A cost recovery analysis will be undertaken to ensure any additional costs incurred for administering the Protocol will be recovered through the collection of fees. This analysis will take place as the application volumes and the impact on City department staff resources are better understood. Any new fees associated with the new protocol will be addressed in the 2018 budget process and through an update to the User Fee By-law. The analysis will determine if additional resources will need to be considered as part of the budget process.

#### **Communications Plan**

The communication plan for this project focused on the creation of a Tree Protection Working Group which included representatives from the following departments: Development Planning including Urban Design and Cultural Heritage, Policy Planning and Environmental Sustainability, and Transportation Services, Parks and Forestry Operations. This Working Group was established to identify the roles and responsibilities of each department for tree protection, and to identify improvements to current activities for tree protection. The Working Group identified a need for establishing standards or protocols that would assist staff and external stakeholders in City-wide tree protection efforts through the development review and the tree permitting processes.

For the purpose of developing the Tree Protection Protocol for Construction, staff will also undertake external consultation with stakeholders including Ratepayers Associations and Community Organizations, including the York Chapter of the Building Industry and Land Development Association (BILD), York Region, and the Toronto and Region Conservation Authority (TRCA).

#### **Purpose**

The purpose of this report is to provide Council with a framework for the development of a Protocol that will address Council's direction to improve and standardize tree protection processes throughout the City. This report examines the current role and responsibilities of City departments regarding tree protection, specifically identifying department protocols for tree protection, and removal permitting. The Protocol will provide direction on technical report requirements needed for staff to assess how proposed development will impact the viability of existing trees in the landscape and how proposed tree protection will impact site design. Finally, the Protocol will examine the feasibility of implementing a “Tree Protection Agreement” that would allow for greater standardization of the technical requirements for tree preservation in the landscape and trees proposed to be removed. Overall, the Protocol will be a resource for both City staff and external stakeholders on how to manage the preservation and protection of trees City-wide.

#### **Background – Analysis and Options**

##### **Originating Council Action**

On June 28, 2016, Council directed staff to report on opportunities to improve protocols relating to the requirements for tree inventories, arborist reports and/or on-site inspections to better ensure the future protection of large mature trees, particularly within the City's Heritage Conservation

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Districts. Through the Tree Protection Working Group discussions it was identified that not only a review of mature trees protection requirements needed to be examined, but that the review of processes needed to address City-wide Tree and Woodland preservation and protection within and outside of Heritage Conservation Districts. While all of the City's processes were examined by the Tree Protection Working Group, the focus of this staff report is to formalize a Protocol to preserve and protect trees in the development review and permitting processes while addressing some areas, for improvement with other processes.

#### Basis for Tree Protection

##### York Region Strategic Forest Management Plan

The York Region Forest Management Plan, approved by York Region Council in November 2016, was developed to work towards net gains in trees and woodlands to maximize the benefits of all trees in the Region and to combat threats to them. Two key pillars of the plan are:

- Recognizing the value of all trees, not just those in woodland areas, and taking them into account as living, green infrastructure assets; and
- Working to increase the tree canopy cover and woodland cover in all areas.

The York Region Forest Management Plan (2016) establishes a vision and goals for trees and woodlands in the Region and will be delivered through a series of objectives, strategies and short, medium and long term actions. It builds on current strategic direction in York Region Vision 2051, York Region Official Plan 2010, the 2015-2019 Strategic Plan, and current programs such as the Greening Strategy.

A commitment to green infrastructure has multiple benefits towards advancing York Region Council's goals, and is aligned with current and future initiatives. For example tree protection support, cooling of our urban environments in summer months, improvements in air quality and other direct and indirect public health benefits including complimenting priority initiatives of the Region's Seniors Strategy.

The Forest Management Plan includes a review of the current York Region Official Plan 2010 woodland cover target of 25 per cent by 2031, and includes a total canopy cover target at the Regional level supported by target canopy cover ranges for local municipalities.

York Region's Forest Conservation (Bill 70) By-law 2013-68 protects forests in York Region. Under the By-law, landowners require a permit from York Region before they can remove any trees from treed areas greater than 0.2 hectares (0.5 acres).

#### City's Existing Tree Protection By-law

The City regulates trees on private property through Private Property Tree Protection (PPTP) By-law #185-2007 (Attachment # 3) and the Property Standards (PS) By-law #231-2011. The intent of PPTP By-law is to provide specific rules that protect trees over a certain caliper size (20 cm), while identifying a permitting process to obtain authorization for their removal. This permitting tree removal process is administrated by the Transportation Services, Parks and Forestry Operations Department. The PPTP By-law provides the delegated authority to the Director of Transportation Services, Parks and Forestry Operations to issue Orders to address contraventions of the By-law requirements. In addition, the PS By-law includes language that permits the issuance of an Order to Comply for a tree determined to be "unsafe" and/or where conditions "obstruct the safety of the public". Enforcement of both By-laws is carried out by the By-law and Compliance, Licensing & Permit Services (BLCLPS) Department.

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The City's PPTP By-law sets out penalties for anyone who damages a protected tree and is currently enforced through the issuance of an Order to cease the injury or destruction of the tree or the laying of a charge where warranted. While the imposition of a penalty and the initiation of a prosecution are available options to the BLCLPS enforcement staff, the recovery of damages by a property owner (owner of the tree) remains a civil matter that requires the property owner to seek independent legal advice and initiate a civil proceeding against the party that may have been the cause or origin of the damage. This includes the recovery of any related costs (e.g. tree removal expenses). Where disputes arise over a tree having shared ownership, civil proceedings may also include seeking a court order to protect or prevent the removal of a tree located between two neighbouring properties/lands.

Notwithstanding, pursuant to the *Ontario Building Code Act*, S.O. 1992, C.23, the City of Vaughan PS By-law, sections 5.1 Maintenance of Yards and 5.3 Planting also provide the ability for an Order to Comply to be issued to address any identified unsafe conditions or where trees obstruct the safety of the public. This includes the ability to prosecute for Failing to Comply with an Order, and remedy the contravention and recover the costs associated with the work through property tax. This authority can be applied to all owners of a tree in cases where shared ownership has been determined.

Bill 68, Modernizing Ontario's Municipal Legislation, introduced new tree protection requirements under the *Municipal Act*, 2001. A municipality is required to address the new requirements subsection 270 (1) which includes "the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality". The City effort to identify standards through the Protocol and By-law updates will ensure that the City will satisfy this legislative requirement.

#### Current Tree Protection Review Process

Two departments at the City of Vaughan provide permissions for individual tree removals. The Transportation Services Parks, Forestry Operations Department issues tree removal permits for private property. In addition, the Development Planning Department, in particular the Urban Design and Cultural Heritage division provides approvals under the development application review process, Committee of Adjustment, Cultural Heritage and Fill Permit processes. Policy Planning and Environmental Sustainability staff provide input on approval processes pertaining to natural heritage features such as Woodlands.

#### 1. Transportation Services Parks and Forestry Operations (TSPF)

In terms of tree preservation, the Transportation Services Parks and Forestry Operations (TSPFO) is responsible for the installation of Tree Protection Zone (TPZ) for City-owned trees when construction takes place near those trees as well as conducting inspections for the TPZ of private trees.

For a private tree removal the property owner must obtain a permit from the Transportation Services Parks and Forestry Operations Department. TSPFO directly manages the permit process for the majority of circumstances that are outside of the development approval process. However, with development applications, multiple departments can be involved. The TSPFO department will not issue a Tree Removal Permit for lands subjects to a planning application infill development that has been submitted to the Development Planning Department. Currently there are four types of Private Tree Removal Permits:

1. Private Tree Removal Permit for Dead, Hazardous or Ash Tree: This application for if for anyone who requires a permit to remove a privately owned tree that is dead, hazardous or an Ash Tree anywhere in the City of Vaughan.

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2. Private Tree Removal Permit Residential: This application is for anyone who requires a permit to remove a total of five (5) or less trees that are privately owned anywhere in the City of Vaughan.
3. Private Tree Removal Permit Construction or Infill: This application is for anyone who requires a permit to remove five (5) or more trees that are privately owned anywhere in the City of Vaughan.
4. City-owned Tree Removal Permit: For a City tree removal request, the City Arborist will inspect the tree and its location on the site. The Arborist will perform a tree evaluation and the Department will approve or deny the permit based on this evaluation and a number of factors including but not limited to health, species, size, and significance of the tree and comments from other departments. If the application is approved and the tree is healthy the tree is assessed through the City tree valuation process and a cost for the tree is established. The requestor of the permit will then pay for the value of the tree. In order to enhance the City's tree canopy the funds received from this process are held in the City's tree reserve account and within a one-year period the Department will plant trees within the proximity of the tree that was removed or in an area of need. The trees will be replanted on City-owned lands (e.g. boulevards, parks). The Private Property Tree Removal - Residential Application process is currently under review.

#### 2. Development Planning Department

##### Urban Design and Cultural Heritage Division

For development applications, tree preservation and removal permissions are currently administrated by the Urban Design and Cultural Heritage Division, in consultation with other City Departments such as Policy Planning and Environmental Sustainability and Urban Forestry. Urban Design staff assess tree protection measures as part of their review of Block Plans, development applications e.g. Draft Plans of Subdivision, Site Development Application, Cultural Heritage, Committee of Adjustment and Fill Permits.

##### a. Block Plans

Policy Planning and Environmental Sustainability lead the review of the Block Plan process and take into account the VOP 2010 Policies and Natural Heritage Network (NHN) Strategy findings and other studies to inform their review and advice to protect trees, Master Environmental Servicing Plan (MESPs) and Environment Impact Studies (EIS) documents are a typical requirement and these studies include information that is assessed to help inform tree protection. At the early stage of a Block Plan process, Urban Design and Cultural Heritage staff are engaged in the review and development of the Block Plan as members of the Technical Advisory Committee for the particular Block Plan process.

##### b. Development Applications (Draft Plans of Subdivision and Site Development Application)

At the early stage of a development review process, Urban Design staff provide applicants with urban design requirements at the Pre-Application Consultation (PAC) meeting. At this stage based on the nature and location of the development, the following items may be requested:

- Arborist Report/ Tree Inventory and Preservation Plan;
- Landscape Plans and Cost Estimate;
- Edge Management Plan (if adjacent to natural heritage feature); and
- Restoration Planting Plan.

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The above items if provided, in a form satisfactory to the City typically provide sufficient information for Urban Design staff to review a development application and to provide comments on any proposed tree removal and for tree replacements. The following is a summary of the information needed to appropriately evaluate a development proposal:

- A description and identification of the specific trees for preservation through a detailed inventory;
- An evaluation and analysis of the possible impact the proposed development will have on existing trees;
- The identification of dead and or hazardous trees which may pose public safety or liability concerns;
- A description of the extent of the tree preservation measures to be installed including temporary and permanent buffers, and the type of preservation fencing to be installed, to the satisfaction of the City;
- Identification of a justification for those trees which are proposed to be removed as a result of the development proposal;
- A detailed “Edge Management Plan and Restoration Planting Plan” that includes a detailed remediation planting and monitoring program;
- A cost estimate for the proposed tree preservation works to the satisfaction of Urban Design staff; and,
- All plans and reports must be prepared and sealed by a qualified Arborist or Landscape Architect.

In a case when an owner declares that there are no trees within the property boundary (including a 6 meter buffer on the surrounding land), Urban Design and Cultural Heritage staff request that a stamped declaration from a licensed landscape architect or an arborist be provided to the City, which confirms that there are no trees within the property boundary.

#### Urban Design Tools

Urban Design and Cultural Heritage staff review all plans, reports and cost estimates for development applications. As the review advances, based on the nature and location of the development, Urban Design staff may request additional information regarding tree preservation. To support the review of development applications, Urban Design staff rely on various tools such as guidance documents and manuals to provide technical support on such matters including preferred tree species, height replacement standards, the depth of topsoil required, and replacement costs. The following is a list of guidance documents used by Urban Design staff:

- a) *City-wide Streetscape Implementation Manual and Financial Strategy*: Provides an integrated design and financial framework to manage the design and costing of streetscapes in Intensification Areas and Heritage Conservation Districts in the City of Vaughan;
- b) *Area-specific Urban Design Guidelines*: These guidelines adopted by Council to advance the policies, goals and objectives of the Plan and help translate these directions into desired outcomes for the design of streets, parks, open spaces and buildings;

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- c) *Area-specific Streetscape Plans*: Plans developed to guide the design, construction and maintenance of sidewalk and boulevard improvements on Vaughan's arterial road network. The Plan emphasize design quality and amenity in the pedestrian realm with specifications for paving, trees, medians, lighting and street furniture;
- d) *Cultural Heritage District Guidelines*: These documents identify the boundary of a Heritage Conservation District, the Heritage Character and contributing heritage attributes, and establish a Plan and guidelines for future development within the HCD area;
- e) *Block Landscape Master Plan*: This plan provides the direction of the detailed design of landscape elements within the public domain to convey a clear and cohesive community identity; and
- f) *Architectural Design Guidelines*: These guidelines provide design criteria for the private realm physical elements of the proposed development (i.e. building design and siting criteria);

Once Urban Design and Cultural Heritage staff concur with all the details of the proposed development concept, including tree preservation, tree compensation and the landscape plan, a clearance is provided to the Development Planning Department. The Planner managing the development application will prepare a Site Plan Agreement / Letter of Undertaking, which includes tree preservation plans and securities or conditions of draft approval for Plans of Subdivision, which include tree preservation plans and/or fees.

#### Tree Replacement Requirements

Urban Design and Cultural Heritage staff is currently using the Transportation Services Parks and Forestry Operations Department's "Replacement Tree Requirements for private trees", included in Attachment #2. This compensation standard is required as a condition of all individual private tree removals. The requirements do not apply to woodlots, ravine edge restoration plans and City owned lands (such as parks and open space lands) which are assessed on a site-specific basis.

In addition, Urban Design and Cultural Heritage staff are working on establishing Woodland Compensation Guidelines that will be based on natural heritage feature protection, management and replacement requirements. This is a collaborative project that includes staff from the Policy Planning and Environmental Sustainability, Urban Design and Cultural Heritage Division, Development Planning, Urban Forestry, Parks Development and Real Estate Departments.

Tree preservation administered through the planning application review process has proven to be generally successful in preserving trees and woodlots. Urban Design and Cultural Heritage staff diligently require all necessary reports and plans to be prepared by licensed professional consultants to ensure appropriate tree protection and preservation is being integrated with development recognizing neighborhood character.

#### Letter of Credit and Site Inspections

The property owner is required as a condition of approval for a Draft Plan of Subdivision or Site Development application, to provide the City with a Letter of Credit that will serve as a warranty for the implementation of the Landscape Plan. Upon completion of a development project, Urban Design staff conduct site inspections focused on the works identified in the approved Landscape Plan. The Letter of Credit is released in two inspection stages. Upon inspection and acceptance of the plantings, 80% is released. The remaining 20% is released a minimum 12 months to 24

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months after the first inspection once it is determined that the trees are healthy and thriving. Site inspections at this time do not look at the tree protection requirements needed to protect adjacent trees, if applicable.

#### c. Cultural Heritage Application

Designation of an area as a Heritage Conservation District (HCD) is an important means of protecting a Cultural Heritage Landscape to control new development and site alteration within the district. A Cultural Heritage Coordinator will review all development applications within an HCD to ensure that the heritage landscape will be protected and conserved through the proposed development. The Heritage Coordinator will consider/prioritize the merits of the Heritage Permit application based on applicable heritage policies/law and collaborate with the Urban Designer to make sure that Cultural Heritage comments are complementary. Any tree removals for a Cultural Heritage application are subject to the Urban Design Tree Replacement Requirements.

#### d. Committee of Adjustment Application

Committee of Adjustment Minor Variance or Consent applications may require Urban Design and Cultural Heritage staff to provide approvals for tree removals. Urban Design and Cultural Heritage staff request an Arborist Report/ Tree Inventory and Preservation Plan on a property which contains private and/or public trees that may not be subject to a related Site Development application process.

When the Urban Design and Cultural Heritage staff concur with all the proposed recommendations, conditions may often be provided to Development Planning to accompany Minor Variance approval recommendations. These conditions will assure that tree preservation and tree compensation will happen based on the recommendations of the Arborist Report. Development Planning staff will not issue the clearance of any conditions until such time as the conditions are reviewed to the satisfaction of the Urban Design and Cultural Heritage staff. Furthermore, a Building Permit cannot be issued until all requirements for clearing as a Notice of Fulfillment of Conditions for the subject Minor Variance and Consent Applications are issued by the Office of the City Clerk. Any tree removals for a Minor Variance or Consent application are subject to the Urban Design Replacement Tree Requirements.

A Letter of Credit is not required for a Committee of Adjustment Application; therefore a site inspection is typically not conducted. This situation is a potential opportunity for improvement to ensure the protection of trees related to Committee of Adjustment applications.

#### e. Fill Permit Application

Fill Permit review and inspection is led by the Development Engineering and Infrastructure Planning Department (DEIP). DEIP staff engage other City staff for input particularly Urban Design and Cultural Heritage staff.

As part of the Fill Permit process Urban Design and Cultural Heritage staff review the application to ensure that the placement of fill in areas of the City will not affect any trees or vegetation within the project boundary and provide a recommendation(s) to protect retained trees prior to issuance of a Fill Permit. Any tree removals for Fill permits are subject to the Urban Design Tree Replacement Requirements.

#### Policy Planning and Environmental Sustainability

The Policy Planning and Environmental Sustainability Department is responsible for two overarching policy documents that guide urban growth and environmental management in the City:



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the Vaughan Official Plan 2010 (VOP 2010); and, the Community Sustainability and Environmental Master Plan (Green Directions Vaughan). Specific responsibilities of the department in relation to woodland management and tree protection are noted below:

- Developing environmental, natural heritage and green infrastructure policies as part of the VOP 2010 and supporting guidelines such as the Environmental Management Guide. This responsibility includes delineation of the Natural Heritage Network (NHN) in Schedule 2 of the VOP 2010 and maintenance of the inventory of natural features in a GIS database, including woodlands;
- Developing policies for woodland protection and woodland compensation pertaining to the maintenance of the NHN;
- Implementing NHN policies and delineation through the review of development applications under the *Planning Act* and infrastructure projects under an Environmental Assessment process;
- Supporting improvements in the broader urban canopy, such as through the review of environmental matters related to development applications, the development of the Sustainability Metrics, and future efforts regarding the provision of “green infrastructure” (as now defined in the Provincial Policy Statement);
- Researching policy direction and best practices for green infrastructure and the urban canopy and connections to community health, the provision of ecosystem services, and in relation to the maintenance of biodiversity; and
- Reviewing Master Environment and Servicing Plan (MESP) submissions for Block Plans and/or Secondary Plans and reviewing Environmental Impact Study (EIS) submissions related to Draft Plan and Site Development applications.

Policy Planning and Environmental Sustainability staff provide natural heritage planning advice in the development review process (i.e., Draft Plan of Subdivision, Site Development, Committee of Adjustments applications etc.) At the Pre-Application Consultation meeting, staff will request an Environmental Impact Study/Natural Heritage Evaluation for any proposed projects that may potentially impact natural heritage features such as woodlands. It is important to place the tree protection procedure and protocol within the context of policy protection for woodlands and maintenance of significant woodlands. Where a stand or clusters of trees meets the definition of a woodland under the VOP 2010, then woodland policies should be reviewed to determine the appropriate steps for protection and/or compensation. Where a stand of trees does not meet the criteria to be defined as woodland, then protocols for addressing individual trees are followed.

#### Framework of the Protocol

Staff were directed by Council to report on opportunities to improve protocols, and requirements to ensure the protection of mature trees. The intent of the improvements were primarily to protect mature trees from development impacts particularly within Heritage Conservation Districts. As a result of the discussions with City staff and Members of Council, it was recognized that not only mature trees warranted preservation and protection but all trees require the same level of attention.

The purpose of the proposed Protocol is to outline the required actions to protect City-owned and private trees in pre-construction and during construction. In addition, this Protocol represents the City's standard specifications for tree protection as part of the review of development applications, Cultural Heritage, Minor Variance and Consent Applications and Fill Permit Applications. These standards will also apply to private and public tree removal permits

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administered by Urban Forestry. Higher standards of tree protection may be imposed by the City where warranted, having regard to the size, species, location and health of the tree, and any circumstances surrounding the ensuing construction which requires additional tree protection measures.

The proposed Protocol provides an appropriate framework to address requirements of new legislation (Bill 68), which is recommending amendments to the *Municipal Act*. While the City cannot regulate higher levels of authority, this Protocol may also be applied to inform projects led or regulated by other levels of government including the Federal Government, Province of Ontario, Region of York, their agencies such as Metrolinx. This document responds to increasing community concern related to loss of trees prior to development approval being granted.

Key findings from the work of the Tree Protection Working Group that have been considered in drafting this report:

- The tree protection practices of other municipalities such as City of Toronto, City of Mississauga, City of Hamilton, Town of Richmond Hill, City of Markham and the City of Barrie were reviewed;
- Staff determination that woodland protection and compensation guidelines shall be examined at a later date, taking into account new Provincial policies and inform the municipal comprehensive review;
- Tree protection involves activities designed to preserve and protect tree health by avoiding damage to the tree roots, trunk, or crown. Site development planning prior to site disturbance must include delineating Tree Protection Zones (TPZs) for all trees designated for retention;
- Acknowledging Federal and Provincial requirements under the *Migratory Birds Convention Act*, *the Species at Risk Act*, and, *the Endangered Species Act*;
- Defining or regulated department roles and responsibilities clearly;
- Reviewing on a City wide basis current inspection processes from the various departments and developing a standardized process for the development review and permitting processes. For instance, Development Engineering and Infrastructure Planning will examine the potential of having pre-development inspections of a property as part of the Fill Permit and as part of obtaining a Building Permit. This process has been found to be an effective measure in reducing the number of trees that are illegally being removed without approvals;
- By-law and Compliance, Licensing and Permit Department will continue to address all public complaints and inter-departmental referrals as priority calls, attending within 48 hours or less; where possible; and shall ensure alignment of current practices to the adoption of the Protocol; and
- Standardize tree inventory and preservation plan/Arborist Report requirements;
- Establish a “Tree Protection Agreement” that requires that the Letter of Credit be collected to ensure all obligations are fulfilled to the satisfaction of the City (e.g. tree protection and preservation).

Some potential achievements of the proposed Protocol include:

- Maintaining and re-establishing the City’s tree canopy;
- Providing an opportunity to align internal processes to ensure consistency in the application of Tree Protection Zones;
- Increasing public awareness toward the benefits of the preservation of mature trees;
- Promoting public education and investment in the protection of the City’s urban tree canopy.

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The Framework of the Protocol is summarized below. For specific details of the framework refer to Attachment #1:

- Introduction
- Policy Context
- Application of Protocol
  - Development Review Processes
  - Urban Forestry Permitting Processes
- Tree Protection and Removal Agreement
  - Tree Preservation
  - Tree Removal
  - Securities
  - Inspections
  - Penalties/Enforcement
- Technical Requirements
- Technical Specifications
- Regulatory Requirements
- Glossary
- Appendix

#### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report is consistent with the priorities set out on the Term of Council Service Excellence Strategy Map, specifically “Re-establish the urban tree canopy”.

#### **Regional Implications**

Copies of this report will be provided to York Region, York Region Rapid Transit and other agencies to inform their related Tree Protection policies and future investments in Tree Protection.

#### **Conclusion**

In accordance with Council's direction, City staff collaborated in preparing this report for Council's consideration. Based on this draft Framework and draft framework of the Protocol, the Tree Protection Working Group will continue to work with stakeholders to develop a Tree Protection Protocol for Development Review and Construction along with any required changes to current City By-laws so as to provide City staff and the community with updated guidance, procedures, standards, and policies to protect both City-owned and private trees.

#### **Attachments**

1. Framework for Tree Protection Protocol for Construction
2. City of Vaughan Replacement Tree Requirements
3. Private Property Tree Protection By-law #185-2007

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

## **COMMITTEE OF THE WHOLE    JUNE 20, 2017**

### **REVIEW OF CITY PROCESSES FOR PROTECTION OF TREES ALL WARDS - CITY WIDE**

#### **Recommendation**

The Deputy City Manager, Planning and Growth Management, Deputy City Manager of Public Works, Deputy City Manager of Community Services, and Deputy City Manager of Legal and Human Resources, in consultation with the Director of Financial Planning and Development Finance, Deputy City Treasurer, recommend:

1. THAT Staff be directed to continue work to improve tree protection processes by introducing the framework for the development of a new “Tree Protection Protocol for Construction” (Attachment #1), and to undertake external consultation with community stakeholders including Ratepayers Associations and Community Organizations, the York Chapter of the Building Industry and Land Development Association (BILD), York Region, and the Toronto and Region Conservation Authority (TRCA) prior to finalizing this comprehensive protocol for Council consideration in the 4<sup>th</sup> quarter of 2017;
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This report is also consistent with the priorities set out on the Term of Council Service Excellence Strategy Map, specifically “Re-establish the urban tree canopy”.

#### **Economic Impact**

Prior to the implementation of the Tree Protection Protocol for Construction staff will assess the additional resources required to administer the Protocol including implementation costs and any new revenues that will be generated. A cost recovery analysis will be undertaken to ensure any additional costs incurred for administering the Protocol will be recovered through the collection of fees. This analysis will take place as the application volumes and the impact on City department staff resources are better understood. Any new fees associated with the new protocol will be addressed in the 2018 budget process and through an update to the User Fee By-law. The

analysis will determine if additional resources will need to be considered as part of the budget process.

### **Communications Plan**

The communication plan for this project focused on the creation of a Tree Protection Working Group which included representatives from the following departments: Development Planning including Urban Design and Cultural Heritage, Policy Planning and Environmental Sustainability, and Transportation Services, Parks and Forestry Operations. This Working Group was established to identify the roles and responsibilities of each department for tree protection, and to identify improvements to current activities for tree protection. The Working Group identified a need for establishing standards or protocols that would assist staff and external stakeholders in City-wide tree protection efforts through the development review and the tree permitting processes.

For the purpose of developing the Tree Protection Protocol for Construction, staff will also undertake external consultation with stakeholders including Ratepayers Associations and Community Organizations, including the York Chapter of the Building Industry and Land Development Association (BILD), York Region, and the Toronto and Region Conservation Authority (TRCA).

### **Purpose**

The purpose of this report is to provide Council with a framework for the development of a Protocol that will address Council's direction to improve and standardize tree protection processes throughout the City. This report examines the current role and responsibilities of City departments regarding tree protection, specifically identifying department protocols for tree protection, and removal permitting. The Protocol will provide direction on technical report requirements needed for staff to assess how proposed development will impact the viability of existing trees in the landscape and how proposed tree protection will impact site design. Finally, the Protocol will examine the feasibility of implementing a "Tree Protection Agreement" that would allow for greater standardization of the technical requirements for tree preservation in the landscape and trees proposed to be removed. Overall, the Protocol will be a resource for both City staff and external stakeholders on how to manage the preservation and protection of trees City-wide.

### **Background – Analysis and Options**

#### **Originating Council Action**

On June 28, 2016, Council directed staff to report on opportunities to improve protocols relating to the requirements for tree inventories, arborist reports and/or on-site inspections to better ensure the future protection of large mature trees, particularly within the City's Heritage Conservation Districts. Through the Tree Protection Working Group discussions it was identified that not only a review of mature trees protection requirements needed to be examined, but that the review of processes needed to address City-wide Tree and Woodland preservation and protection within and outside of Heritage Conservation Districts. While all of the City's processes were examined by the Tree Protection Working Group, the focus of this staff report is to formalize a Protocol to preserve and protect trees in the development review and permitting processes while addressing some areas, for improvement with other processes.

#### **Basis for Tree Protection**

York Region Strategic Forest Management Plan

The York Region Forest Management Plan, approved by York Region Council in November 2016, was developed to work towards net gains in trees and woodlands to maximize the benefits of all trees in the Region and to combat threats to them. Two key pillars of the plan are:

- Recognizing the value of all trees, not just those in woodland areas, and taking them into account as living, green infrastructure assets; and
- Working to increase the tree canopy cover and woodland cover in all areas.

The York Region Forest Management Plan (2016) establishes a vision and goals for trees and woodlands in the Region and will be delivered through a series of objectives, strategies and short, medium and long term actions. It builds on current strategic direction in York Region Vision 2051, York Region Official Plan 2010, the 2015-2019 Strategic Plan, and current programs such as the Greening Strategy.

A commitment to green infrastructure has multiple benefits towards advancing York Region Council's goals, and is aligned with current and future initiatives. For example tree protection support, cooling of our urban environments in summer months, improvements in air quality and other direct and indirect public health benefits including complimenting priority initiatives of the Region's Seniors Strategy.

The Forest Management Plan includes a review of the current York Region Official Plan 2010 woodland cover target of 25 per cent by 2031, and includes a total canopy cover target at the Regional level supported by target canopy cover ranges for local municipalities.

York Region's Forest Conservation (Bill 70) By-law 2013-68 protects forests in York Region. Under the By-law, landowners require a permit from York Region before they can remove any trees from treed areas greater than 0.2 hectares (0.5 acres).

#### City's Existing Tree Protection By-law

The City regulates trees on private property through Private Property Tree Protection (PPTP) By-law #185-2007 (Attachment # 3) and the Property Standards (PS) By-law #231-2011. The intent of PPTP By-law is to provide specific rules that protect trees over a certain caliper size (20 cm), while identifying a permitting process to obtain authorization for their removal. This permitting tree removal process is administrated by the Transportation Services, Parks and Forestry Operations Department. The PPTP By-law provides the delegated authority to the Director of Transportation Services, Parks and Forestry Operations to issue Orders to address contraventions of the By-law requirements. In addition, the PS By-law includes language that permits the issuance of an Order to Comply for a tree determined to be "unsafe" and/or where conditions "obstruct the safety of the public". Enforcement of both By-laws is carried out by the By-law and Compliance, Licensing & Permit Services (BLCLPS) Department.

The City's PPTP By-law sets out penalties for anyone who damages a protected tree and is currently enforced through the issuance of an Order to cease the injury or destruction of the tree or the laying of a charge where warranted. While the imposition of a penalty and the initiation of a prosecution are available options to the BLCLPS enforcement staff, the recovery of damages by a property owner (owner of the tree) remains a civil matter that requires the property owner to seek independent legal advice and initiate a civil proceeding against the party that may have been the cause or origin of the damage. This includes the recovery of any related costs (e.g. tree removal expenses). Where disputes arise over a tree having shared ownership, civil proceedings may also include seeking a court order to protect or prevent the removal of a tree located between two neighbouring properties/lands.

Notwithstanding, pursuant the *Ontario Building Code Act*, S.O. 1992, C.23, the City of Vaughan PS By-law, sections 5.1 Maintenance of Yards and 5.3 Planting also provide the ability for an Order to Comply to be issued to address any identified unsafe conditions or where trees obstruct the safety of the public. This includes the ability to prosecute for Failing to Comply with an Order,

and remedy the contravention and recover the costs associated with the work through property tax. This authority can be applied to all owners of a tree in cases where shared ownership has been determined.

Bill 68, Modernizing Ontario's Municipal Legislation, introduced new tree protection requirements under the *Municipal Act*, 2001. A municipality is required to address the new requirements subsection 270 (1) which includes "the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality". The City effort to identify standards through the Protocol and By-law updates will ensure that the City will satisfy this legislative requirement.

#### Current Tree Protection Review Process

Two departments at the City of Vaughan provide permissions for individual tree removals. The Transportation Services Parks, Forestry Operations Department issues tree removal permits for private property. In addition, the Development Planning Department, in particular the Urban Design and Cultural Heritage division provides approvals under the development application review process, Committee of Adjustment, Cultural Heritage and Fill Permit processes. Policy Planning and Environmental Sustainability staff provide input on approval processes pertaining to natural heritage features such as Woodlands.

##### 1. Transportation Services Parks and Forestry Operations (TSPF)

In terms of tree preservation, the Transportation Services Parks and Forestry Operations (TSPFO) is responsible for the installation of Tree Protection Zone (TPZ) for City-owned trees when construction takes place near those trees as well as conducting inspections for the TPZ of private trees.

For a private tree removal the property owner must obtain a permit from the Transportation Services Parks and Forestry Operations Department. TSPFO directly manages the permit process for the majority of circumstances that are outside of the development approval process. However, with development applications, multiple departments can be involved. The TSPFO department will not issue a Tree Removal Permit for lands subjects to a planning application infill development that has been submitted to the Development Planning Department. Currently there are four types of Private Tree Removal Permits:

1. Private Tree Removal Permit for Dead, Hazardous or Ash Tree: This application for if for anyone who requires a permit to remove a privately owned tree that is dead, hazardous or an Ash Tree anywhere in the City of Vaughan.
2. Private Tree Removal Permit Residential: This application is for anyone who requires a permit to remove a total of five (5) or less trees that are privately owned anywhere in the City of Vaughan.
3. Private Tree Removal Permit Construction or Infill: This application is for anyone who requires a permit to remove five (5) or more trees that are privately owned anywhere in the City of Vaughan.
4. City-owned Tree Removal Permit: For a City tree removal request, the City Arborist will inspect the tree and its location on the site. The Arborist will perform a tree evaluation and the Department will approve or deny the permit based on this evaluation and a number of factors including but not limited to health, species, size, and significance of the tree and comments from other departments. If the application is approved and the tree is healthy the tree is assessed through the City tree valuation process and a cost for the tree is established. The requestor of the permit will then pay for the value of the tree. In order to enhance the City's tree canopy the funds received from this process are held in the City's tree reserve account and within a one-year period the Department will plant



trees within the proximity of the tree that was removed or in an area of need. The trees will be replanted on City-owned lands (e.g. boulevards, parks). The Private Property Tree Removal - Residential Application process is currently under review.

## 2. Development Planning Department

### Urban Design and Cultural Heritage Division

For development applications, tree preservation and removal permissions are currently administrated by the Urban Design and Cultural Heritage Division, in consultation with other City Departments such as Policy Planning and Environmental Sustainability and Urban Forestry. Urban Design staff assess tree protection measures as part of their review of Block Plans, development applications e.g. Draft Plans of Subdivision, Site Development Application, Cultural Heritage, Committee of Adjustment and Fill Permits.

#### a. Block Plans

Policy Planning and Environmental Sustainability lead the review of the Block Plan process and take into account the VOP 2010 Policies and Natural Heritage Network (NHN) Strategy findings and other studies to inform their review and advice to protect trees, Master Environmental Servicing Plan (MESPs) and Environment Impact Studies (EIS) documents are a typical requirement and these studies include information that is assessed to help inform tree protection. At the early stage of a Block Plan process, Urban Design and Cultural Heritage staff are engaged in the review and development of the Block Plan as members of the Technical Advisory Committee for the particular Block Plan process.

#### b. Development Applications (Draft Plans of Subdivision and Site Development Application)

At the early stage of a development review process, Urban Design staff provide applicants with urban design requirements at the Pre-Application Consultation (PAC) meeting. At this stage based on the nature and location of the development, the following items may be requested:

- Arborist Report/ Tree Inventory and Preservation Plan;
- Landscape Plans and Cost Estimate;
- Edge Management Plan (if adjacent to natural heritage feature); and
- Restoration Planting Plan.

The above items if provided, in a form satisfactory to the City typically provide sufficient information for Urban Design staff to review a development application and to provide comments on any proposed tree removal and for tree replacements. The following is a summary of the information needed to appropriately evaluate a development proposal:

- A description and identification of the specific trees for preservation through a detailed inventory;
- An evaluation and analysis of the possible impact the proposed development will have on existing trees;
- The identification of dead and or hazardous trees which may pose public safety or liability concerns;
- A description of the extent of the tree preservation measures to be installed including temporary and permanent buffers, and the type of preservation fencing to be installed, to the satisfaction of the City;

- Identification of a justification for those trees which are proposed to be removed as a result of the development proposal;
- A detailed “Edge Management Plan and Restoration Planting Plan” that includes a detailed remediation planting and monitoring program;
- A cost estimate for the proposed tree preservation works to the satisfaction of Urban Design staff; and,
- All plans and reports must be prepared and sealed by a qualified Arborist or Landscape Architect.

In a case when an owner declares that there are no trees within the property boundary (including a 6 meter buffer on the surrounding land), Urban Design and Cultural Heritage staff request that a stamped declaration from a licensed landscape architect or an arborist be provided to the City, which confirms that there are no trees within the property boundary.

### Urban Design Tools

Urban Design and Cultural Heritage staff review all plans, reports and cost estimates for development applications. As the review advances, based on the nature and location of the development, Urban Design staff may request additional information regarding tree preservation. To support the review of development applications, Urban Design staff rely on various tools such as guidance documents and manuals to provide technical support on such matters including preferred tree species, height replacement standards, the depth of topsoil required, and replacement costs. The following is a list of guidance documents used by Urban Design staff:

- City-wide Streetscape Implementation Manual and Financial Strategy:* Provides an integrated design and financial framework to manage the design and costing of streetscapes in Intensification Areas and Heritage Conservation Districts in the City of Vaughan;
- Area-specific Urban Design Guidelines:* These guidelines adopted by Council to advance the policies, goals and objectives of the Plan and help translate these directions into desired outcomes for the design of streets, parks, open spaces and buildings;
- Area-specific Streetscape Plans:* Plans developed to guide the design, construction and maintenance of sidewalk and boulevard improvements on Vaughan’s arterial road network. The Plan emphasize design quality and amenity in the pedestrian realm with specifications for paving, trees, medians, lighting and street furniture;
- Cultural Heritage District Guidelines:* These documents identify the boundary of a Heritage Conservation District, the Heritage Character and contributing heritage attributes, and establish a Plan and guidelines for future development within the HCD area;
- Block Landscape Master Plan:* This plan provides the direction of the detailed design of landscape elements within the public domain to convey a clear and cohesive community identity; and
- Architectural Design Guidelines:* These guidelines provide design criteria for the private realm physical elements of the proposed development (i.e. building design and siting criteria);

Once Urban Design and Cultural Heritage staff concur with all the details of the proposed development concept, including tree preservation, tree compensation and the landscape plan, a clearance is provided to the Development Planning Department. The Planner managing the

development application will prepare a Site Plan Agreement / Letter of Undertaking, which includes tree preservation plans and securities or conditions of draft approval for Plans of Subdivision, which include tree preservation plans and/or fees.

#### Tree Replacement Requirements

Urban Design and Cultural Heritage staff is currently using the Transportation Services Parks and Forestry Operations Department's "Replacement Tree Requirements for private trees", included in Attachment #2. This compensation standard is required as a condition of all individual private tree removals. The requirements do not apply to woodlots, ravine edge restoration plans and City owned lands (such as parks and open space lands) which are assessed on a site-specific basis.

In addition, Urban Design and Cultural Heritage staff are working on establishing Woodland Compensation Guidelines that will be based on natural heritage feature protection, management and replacement requirements. This is a collaborative project that includes staff from the Policy Planning and Environmental Sustainability, Urban Design and Cultural Heritage Division, Development Planning, Urban Forestry, Parks Development and Real Estate Departments.

Tree preservation administered through the planning application review process has proven to be generally successful in preserving trees and woodlots. Urban Design and Cultural Heritage staff diligently require all necessary reports and plans to be prepared by licensed professional consultants to ensure appropriate tree protection and preservation is being integrated with development recognizing neighborhood character.

#### Letter of Credit and Site Inspections

The property owner is required as a condition of approval for a Draft Plan of Subdivision or Site Development application, to provide the City with a Letter of Credit that will serve as a warranty for the implementation of the Landscape Plan. Upon completion of a development project, Urban Design staff conduct site inspections focused on the works identified in the approved Landscape Plan. The Letter of Credit is released in two inspection stages. Upon inspection and acceptance of the plantings, 80% is released. The remaining 20% is released a minimum 12 months to 24 months after the first inspection once it is determined that the trees are healthy and thriving. Site inspections at this time do not look at the tree protection requirements needed to protect adjacent trees, if applicable.

#### c. Cultural Heritage Application

Designation of an area as a Heritage Conservation District (HCD) is an important means of protecting a Cultural Heritage Landscape to control new development and site alteration within the district. A Cultural Heritage Coordinator will review all development applications within an HCD to ensure that the heritage landscape will be protected and conserved through the proposed development. The Heritage Coordinator will consider/prioritize the merits of the Heritage Permit application based on applicable heritage policies/law and collaborate with the Urban Designer to make sure that Cultural Heritage comments are complementary. Any tree removals for a Cultural Heritage application are subject to the Urban Design Tree Replacement Requirements.

#### d. Committee of Adjustment Application

Committee of Adjustment Minor Variance or Consent applications may require Urban Design and Cultural Heritage staff to provide approvals for tree removals. Urban Design and Cultural Heritage staff request an Arborist Report/ Tree Inventory and Preservation Plan on a property which contains private and/or public trees that may not be subject to a related Site Development application process.

When the Urban Design and Cultural Heritage staff concur with all the proposed recommendations, conditions may often be provided to Development Planning to accompany

Minor Variance approval recommendations. These conditions will assure that tree preservation and tree compensation will happen based on the recommendations of the Arborist Report. Development Planning staff will not issue the clearance of any conditions until such time as the conditions are reviewed to the satisfaction of the Urban Design and Cultural Heritage staff. Furthermore, a Building Permit cannot be issued until all requirements for clearing as a Notice of Fulfillment of Conditions for the subject Minor Variance and Consent Applications are issued by the Office of the City Clerk. Any tree removals for a Minor Variance or Consent application are subject to the Urban Design Replacement Tree Requirements.

A Letter of Credit is not required for a Committee of Adjustment Application; therefore a site inspection is typically not conducted. This situation is a potential opportunity for improvement to ensure the protection of trees related to Committee of Adjustment applications.

e. Fill Permit Application

Fill Permit review and inspection is led by the Development Engineering and Infrastructure Planning Department (DEIP). DEIP staff engage other City staff for input particularly Urban Design and Cultural Heritage staff.

As part of the Fill Permit process Urban Design and Cultural Heritage staff review the application to ensure that the placement of fill in areas of the City will not affect any trees or vegetation within the project boundary and provide a recommendation(s) to protect retained trees prior to issuance of a Fill Permit. Any tree removals for Fill permits are subject to the Urban Design Tree Replacement Requirements.

Policy Planning and Environmental Sustainability

The Policy Planning and Environmental Sustainability Department is responsible for two over-arching policy documents that guide urban growth and environmental management in the City: the Vaughan Official Plan 2010 (VOP 2010); and, the Community Sustainability and Environmental Master Plan (Green Directions Vaughan). Specific responsibilities of the department in relation to woodland management and tree protection are noted below:

- Developing environmental, natural heritage and green infrastructure policies as part of the VOP 2010 and supporting guidelines such as the Environmental Management Guide. This responsibility includes delineation of the Natural Heritage Network (NHN) in Schedule 2 of the VOP 2010 and maintenance of the inventory of natural features in a GIS database, including woodlands;
- Developing policies for woodland protection and woodland compensation pertaining to the maintenance of the NHN;
- Implementing NHN policies and delineation through the review of development applications under the *Planning Act* and infrastructure projects under an Environmental Assessment process;
- Supporting improvements in the broader urban canopy, such as through the review of environmental matters related to development applications, the development of the Sustainability Metrics, and future efforts regarding the provision of “green infrastructure” (as now defined in the Provincial Policy Statement);
- Researching policy direction and best practices for green infrastructure and the urban canopy and connections to community health, the provision of ecosystem services, and in relation to the maintenance of biodiversity; and

- Reviewing Master Environment and Servicing Plan (MESP) submissions for Block Plans and/or Secondary Plans and reviewing Environmental Impact Study (EIS) submissions related to Draft Plan and Site Development applications.

Policy Planning and Environmental Sustainability staff provide natural heritage planning advice in the development review process (i.e., Draft Plan of Subdivision, Site Development, Committee of Adjustments applications etc.) At the Pre-Application Consultation meeting, staff will request an Environmental Impact Study/Natural Heritage Evaluation for any proposed projects that may potentially impact natural heritage features such as woodlands. It is important to place the tree protection procedure and protocol within the context of policy protection for woodlands and maintenance of significant woodlands. Where a stand or clusters of trees meets the definition of a woodland under the VOP 2010, then woodland policies should be reviewed to determine the appropriate steps for protection and/or compensation. Where a stand of trees does not meet the criteria to be defined as woodland, then protocols for addressing individual trees are followed.

#### Framework of the Protocol

Staff were directed by Council to report on opportunities to improve protocols, and requirements to ensure the protection of mature trees. The intent of the improvements were primarily to protect mature trees from development impacts particularly within Heritage Conservation Districts. As a result of the discussions with City staff and Members of Council, it was recognized that not only mature trees warranted preservation and protection but all trees require the same level of attention.

The purpose of the proposed Protocol is to outline the required actions to protect City-owned and private trees in pre-construction and during construction. In addition, this Protocol represents the City's standard specifications for tree protection as part of the review of development applications, Cultural Heritage, Minor Variance and Consent Applications and Fill Permit Applications. These standards will also apply to private and public tree removal permits administered by Urban Forestry. Higher standards of tree protection may be imposed by the City where warranted, having regard to the size, species, location and health of the tree, and any circumstances surrounding the ensuing construction which requires additional tree protection measures.

The proposed Protocol provides an appropriate framework to address requirements of new legislation (Bill 68), which is recommending amendments to the *Municipal Act*. While the City cannot regulate higher levels of authority, this Protocol may also be applied to inform projects led or regulated by other levels of government including the Federal Government, Province of Ontario, Region of York, their agencies such as Metrolinx. This document responds to increasing community concern related to loss of trees prior to development approval being granted.

Key findings from the work of the Tree Protection Working Group that have been considered in drafting this report:

- The tree protection practices of other municipalities such as City of Toronto, City of Mississauga, City of Hamilton, Town of Richmond Hill, City of Markham and the City of Barrie were reviewed;
- Staff determination that woodland protection and compensation guidelines shall be examined at a later date, taking into account new Provincial policies and inform the municipal comprehensive review;
- Tree protection involves activities designed to preserve and protect tree health by avoiding damage to the tree roots, trunk, or crown. Site development planning prior to site disturbance must include delineating Tree Protection Zones (TPZs) for all trees designated for retention;
- Acknowledging Federal and Provincial requirements under the *Migratory Birds Convention Act*, *the Species at Risk Act*, and *the Endangered Species Act*;

- Defining or regulated department roles and responsibilities clearly;
- Reviewing on a City wide basis current inspection processes from the various departments and developing a standardized process for the development review and permitting processes. For instance, Development Engineering and Infrastructure Planning will examine the potential of having pre development inspections of a property as part of the Fill Permit and as part of obtaining a Building Permit. This process has been found to be an effective measure in reducing the number of trees that are illegally being removed without approvals;
- By-law and Compliance, Licensing and Permit Department will continue to address all public complaints and inter-departmental referrals as priority calls, attending within 48 hours or less; where possible; and shall ensure alignment of current practices to the adoption of the Protocol; and
- Standardize tree inventory and preservation plan/Arborist Report requirements;
- Establish a “Tree Protection Agreement” that requires that the Letter of Credit be collected to ensure all obligations are fulfilled to the satisfaction of the City (e.g. tree protection and preservation).

Some potential achievements of the proposed Protocol include:

- Maintaining and re-establishing the City’s tree canopy;
- Providing an opportunity to align internal processes to ensure consistency in the application of Tree Protection Zones;
- Increasing public awareness toward the benefits of the preservation of mature trees;
- Promoting public education and investment in the protection of the City’s urban tree canopy.

The Framework of the Protocol is summarized below. For specific details of the framework refer to Attachment #1:

- Introduction
- Policy Context
- Application of Protocol
  - Development Review Processes
  - Urban Forestry Permitting Processes
- Tree Protection and Removal Agreement
  - Tree Preservation
  - Tree Removal
  - Securities
  - Inspections
  - Penalties/Enforcement
- Technical Requirements
- Technical Specifications
- Regulatory Requirements
- Glossary
- Appendix

### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report is consistent with the priorities set out on the Term of Council Service Excellence Strategy Map, specifically “Re-establish the urban tree canopy”.

### **Regional Implications**

Copies of this report will be provided to York Region, York Region Rapid Transit and other agencies to inform their related Tree Protection policies and future investments in Tree Protection.

## **Conclusion**

In accordance with Council's direction, City staff collaborated in preparing this report for Council's consideration. Based on this draft Framework and draft framework of the Protocol, the Tree Protection Working Group will continue to work with stakeholders to develop a Tree Protection Protocol for Development Review and Construction along with any required changes to current City By-laws so as to provide City staff and the community with updated guidance, procedures, standards, and policies to protect both City-owned and private trees.

## **Attachments**

1. Framework for Tree Protection Protocol for Construction
2. City of Vaughan Replacement Tree Requirements
3. Private Property Tree Protection By-law #185-2007

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Attachment #1

## **Framework for Tree Protection Protocol for Construction**



## INTRODUCTION

Purpose of Protocol

Policy Context

York Region Forest Management Plan

Vaughan Official Plan (City Tree Canopy Objectives)

Woodland Features (woodland, significant woodlands, plantations)

Individual Trees (City-owned, Private, Heritage)

Planning Act – under the development review process trumps the tree protection by-law

Tree Protection By-law

## TREE PROTECTION PROTOCOL

Application of Protocol

1. Development Review Process (Site Plan, Plans of Subdivision, CofA)
  - a. Applicable
  - b. Agreement (Conditions)
  - c. Inspections
2. Private Tree Removal Process (Site Alteration Permit, Residents, ?)
  - a. Applicable
  - b. Agreement (Conditions)
  - c. Inspections

Tree Protection and Removal Agreement Process

Step 1 Tree Preservation

Apply TPZ

Calculate

Step 2 Tree Removals

Cash in Lieu

Replanting

Inspections (Monitoring and Securities)

Compliance with the Procedure/Penalties

## TECHNICAL REQUIREMENTS AND SPECIFICATIONS



## Requirements

- Arborist Report
- Tree Protection Plan
- Tree Protection Zone
- Tree Protection Barrier
- Tree Protection Audit
- Landscape Plan
- Compensation

## Specification

- Regulatory Requirements (Endangered Species Act and Migratory Bird Convention Act)
- Timing of planting
- Tree locations and utilities
- Soil Quality
- Spatial Requirements
- Species Specification
- Tree Pests and Diseases
- Tree maintenance
- Tree damages

## Streetscape Plans

## GLOSSARY

## APPENDIX

- List of Native Species
- List of Invasive Tree Species
- Sample of Tree Inventory Chart
- Sample of Tree Protection Plan Map

## REFERENCES



## Replacement Tree Requirements

Replacement Trees are **required** as a condition of **all** Individual Tree Removals. This does not apply to Woodlots, Edge Restoration plans and City owned lands (such as parks and open space lands).

The number of replacement trees required will be determined by the diameter at breast height (DBH) of the removed tree, as outlined in the following chart:

DBH of Tree to be Cut or Removed	Number of Replacement Trees Required
20cm to 30cm	1
31cm to 40 cm	2
41cm to 50cm	3
51cm or greater	4

The scaled tree replacement ratio acknowledges the increased environmental and community benefits provided by larger trees, and enables a more rapid recovery of those benefits after a permitted tree removal.

The City specifies whether the replacement tree(s) be deciduous or coniferous. Replacement trees must be:

1. For evergreen (coniferous) trees, at least 200 cm (6.5 ft.) tall.
2. For leafy (deciduous) trees, have a caliper of at least 60mm (2.3in).
3. If fruit trees are desired, you must plant two trees for each regular replacement.
4. Planted within one year of the issuance of the tree removal permit.
5. Not a shrub or low growing variety.
6. Not an invasive species.
7. Good quality, number one (1) grade, nursery grown stock and installed as per City approved details and standards.
8. Shall meet the highest horticultural standards of the Canadian Nursery Trades Association with respect to grading and quality, and shall be in strict accordance with the approved Plant List and Specifications

Notwithstanding the provision #3 above, replacement trees for fruit bearing and ornamental trees may be of a similar species.



Replacement tree species are to be selected by the project arborist from a list of recommended replacement tree species available from the City, or as recommended by the arborist, provided the recommended species are non-invasive to the satisfaction of the City. The City encourages replacement trees that are of a species that will not block desired views or otherwise negatively impact neighboring properties.

### ***Cash-in-lieu Contribution***

In instances where more replacement trees are required than can reasonably be accommodated on the development site, a 'cash-in-lieu' payment may be made to the ***Forestry Tree Reserve Fund (Account # 6810001.3550.03)*** to fund tree planting on city owned properties in the same community.

**Note:** 'Cash-in-lieu' payments can only be made if all the required replacement trees cannot be planted on the development site; City staff will determine if the site can or cannot accommodate all of the required replacement trees and if a 'cash-in-lieu' payment is appropriate in each case. The amount of the security for the provision and maintenance of replacement trees or cash-in-lieu of planting replacement trees shall be:

- \$550 per replacement tree where the replacement tree is a deciduous tree.
- \$550 per replacement tree where the replacement tree is a coniferous tree.

**Please note that the replacement rate for deciduous and coniferous trees will be reviewed annually every spring.**

# ***THE CITY OF VAUGHAN***

# ***BY-LAW***

## **BY-LAW NUMBER 185-2007**

**A by-law to prohibit or regulate the destruction or injuring of trees located on private property in the City of Vaughan.**

**WHEREAS** section 135(1) of the of the *Municipal Act, 2001* authorizes a local municipality to prohibit or regulate the destruction or injuring of trees;

**AND WHEREAS** section 135(7) of the *Municipal Act, 2001* provides that a by-law passed may require that a permit be obtained to injure or destroy trees and may impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

**AND WHEREAS** the Council of The Corporation of the City of Vaughan recognizes the ecological and aesthetic value of trees and is desirous of managing the destruction and injuring of trees;

**NOW THEREFORE the Council of the Corporation of the City of Vaughan enacts as follows:**

### ***DEFINITIONS***

1. In this by-law,

"application" means a tree permit application form provided by the City;

"arborist" means a person with a diploma or degree involving arboriculture from an accredited college or university, a Registered Professional Forester, an accredited Certified Arborist under the International Society of Arboriculture, or a person with a demonstrated history of tree preservation experience;

"arborist report" means a report prepared by an arborist which provides details on the species, size and health of a tree to be destroyed, injured or removed;

"base diameter" means the measurement of the diameter of the trunk of a tree from outside the bark at the existing grade of the ground adjoining its base or where there are multiple stems on a tree, means the total of the diameters of the three (3) largest stems measured at existing grade;

"City" means The Corporation of the City of Vaughan;

"Clerk" means the Clerk of The Corporation of the City of Vaughan or duly appointed designate;

"Council" means the Council of The Corporation of the City of Vaughan;

"dead" means a tree that has no living tissue;

"dying" means a tree that is infected by a lethal pathogen or where 70% or more of its crown is dead;

"emergency work" means the work necessary to terminate an immediate threat to life or property;

"golf course" means an area of land laid out and operated as a golf course and includes putting greens and driving ranges;

"hazard" means a tree that is a potential hazard to property or life but not an immediate threat;

"injure or destroy a tree" means the injury or destruction of a tree by removal, cutting, girding of the tree or roots, interfering with the water supply, application of chemicals, compaction and regrading within the drip line of the tree, or by other means including irreversible injury which may result from neglect, accident or design but does not include pruning;

"lands" means a lot only and does not include a building;

"lot" means a parcel of land having specific boundaries which is capable of legal transfer;

"Manager" means the Director of Parks Operations & Forestry or his/her duly appointed designate;

"nursery" means a lot on which the principal business of selling plants, shrubs and trees occurs;

"officer" means a person authorized to perform inspections pursuant to this by-law;

"Owner" means the registered owner of a lot, his/her respective successors and assigns or his/her duly authorized agent;

"permit" means a permit required by this by-law to injure or destroy a tree on private property within the City;

"person" means an individual, his/her executors and administrators and his/her respective successors and assignees and includes a corporation and its directors and officers;

"private property" means any property not owned by the City;

"pruning" means the appropriate removal in accordance with good arboricultural practices of not more than one-third of the live branches or limbs of a tree or more than one-third of the live branches or limbs on a tree as part of a consistent annual pruning program;

"tree" means a self-supporting woody plant which has reached or will reach a height of at least 4.5 metres at maturity;

"tree diameter" means the measurement of the diameter of the trunk of a tree from outside the bark 1.4 metres above existing grade of the ground adjoining its base or where there are multiple stems on a tree, means the total of the diameters of the three (3) largest stems measured approximately 140 centimetres above existing grade.

## **SCOPE**

2. This by-law shall apply to all private property located in the City of Vaughan.

## **PERMIT REQUIREMENTS AND EXCEPTIONS**

3. (1) No person shall, within the City's boundaries, injure or destroy any one (1) or more trees having a tree diameter of twenty (20) centimetres or more or having a base diameter of twenty (20) centimetres or more unless authorized by permit to do so pursuant to this by-law.
- (2) Despite subsection (1), a permit is not required:
- (a) for emergency work;
  - (b) for the pruning of a tree;
  - (c) for the removal of dead branches;
  - (d) to injure or destroy trees located on rooftop gardens, interior courtyards, or solariums; or
  - (e) to injure or destroy trees on a nursery or golf course.

#### **FILING FOR A PERMIT**

4. An Owner who applies for a permit shall submit to the Manager the following:
- (1) a completed application;
  - (2) a plan or drawing of the lot to the satisfaction of the Manager illustrating which trees are to be injured or destroyed;
  - (3) payment of the required fees as prescribed by the City;
  - (4) an arborist report, if required by the Manager;
  - (5) where the base of a tree straddles a property line, the written consent to the permit issuance from the affected adjacent property owner; and
  - (6) where the person is not the Owner, the written authorization of the Owner consenting to the application.

#### **REVIEW OF PERMIT APPLICATIONS; CRITERIA**

5. (1) The Manager shall review all completed applications based on the following criteria:
- (a) the application form is complete;
  - (b) the applicant has paid all required fees;
  - (c) the condition of the tree;
  - (d) the location of the tree;
  - (e) the protection of environmentally sensitive areas;
  - (f) the protection of natural landforms or contours;
  - (g) the protection of ecological systems;
  - (h) erosion and flood control;
  - (i) the protection of significant vistas;
  - (j) the trees are a hazard;
  - (k) the tree location conflicts with any of the following:
    - (i) proposed building permit plans that comply with the zoning of the land;
    - (ii) a proposed pool enclosure; or
    - (iii) the expansion of parking areas that complies with the zoning of the land;
  - (l) whether or not a tree is a heritage tree or should be protected as a heritage tree; and
  - (m) the lot is designated under the *Ontario Heritage Act*.

#### **APPLICATIONS: FORM AND CONTENT**

6. An owner who wishes to injure or destroy a tree shall submit to the Manager an application on the prescribed form and shall provide the following:
- (a) the name, address and telephone number of the applicant;
  - (b) the purpose for which the permit is required;
  - (c) a tree survey showing the location of trees on the property;
  - (d) an arborist report identifying the location, species, size and condition of trees on the property and describing protection measures to be implemented;

- (e) a tree protection plan identifying the location, species and size of trees on the property and illustrating details of protection measures including protective barriers and hoarding to be implemented to protect trees that are to be retained;
- (f) landscaping and replanting plans.

#### **POWERS AND DUTIES OF MANAGER**

7. The Manager is authorized to:

- (a) issue permits for the destruction of trees in accordance with the criteria and subject to the conditions set out in this by-law;
- (b) issue permits for the injury of trees in accordance with the criteria and subject to the conditions set out in this by-law;
- (c) refuse to issue permits for the injury or destruction of trees; and
- (d) subject to the provisions of any other by-law, the Manager may provide relief from the requirements of these tree protection measures or require tree protection measures above and beyond the tree protection measures prescribed in this by-law having regard to the variety and location of the tree and any circumstances surrounding the site alteration that may pose a particular hazard to the tree.

#### **CONDITIONS OF THE ISSUANCE OF A TREE PERMIT**

8. The City of Vaughan may issue a permit and impose conditions.

#### **PERMIT REFUSAL**

9. The City of Vaughan shall not issue a permit for the injury or destruction of trees where:

- (a) the application form is not complete;
- (b) the information required has not been provided to the satisfaction of the Manager;
- (c) the information received from the Owner is false or incorrect;
- (d) an alternative planting plan has not been submitted and the existing trees are healthy and not exempt under Sections 3 & 18;
- (e) environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved;
- (f) erosion or flood control will be negatively impacted; or
- (g) significant vistas will not be adequately protected and preserved.

#### **PERMIT APPROVALS**

10. The approval of a permit shall be valid for only six (6) months from the date of issuance. In extenuating circumstances a permit may be extended by the Manager.

#### **POSTING OF PERMIT**

11. The approved tree permit shall be posted on the lot from which the trees are to be injured or destroyed in a location visible from the street edge for the period during which the trees are being injured or destroyed.

#### **INSPECTION**

12. The City may from time to time designate officers to carry out the administrative functions of this By-



law including the enforcement thereof.

13. An officer may at any reasonable time enter and inspect any lands to which this by-law applies to determine whether the by-law, an order or a condition to a permit is being complied with.
14. An officer, in carrying out an inspection, can be accompanied by assisting personnel.
15. Where an officer is satisfied that a contravention of this by-law has occurred, the officer may make an order requiring the person who contravened the by-law or who caused or permitted the injuring or destruction of trees in contravention of the by-law to stop the injuring or destruction of trees.
16. An order issued pursuant to section 15 shall set out the municipal address or legal description of the land, reasonable particulars of the contravention, and the period within which there must be compliance with the order.
17. A person shall comply forthwith with an order as issued by the officer.

#### **EXEMPTIONS**

18. This by-law does not apply to:
  - (a) any activities or matters undertaken by the City, the Regional Municipality of York, a school board for the development of a school, or any other government authority, conservation authority, or utility corporation;
  - (b) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*;
  - (c) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
  - (d) the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision, or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
  - (e) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
  - (f) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or distribution system, as those terms are defined in that section;
  - (g) the injuring or destruction of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; or
  - (h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
    - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and

- (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*.

### **OFFENCES**

19. (1) Any person who contravenes any provision of this by-law is guilty of an offence and is liable:
- (a) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
  - (b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- (2) Any corporation that contravenes any provision of this by-law is guilty of an offence and is liable:
- (a) on a first conviction, to a fine of not more than \$50,000 or \$5,000 per tree, whichever is greater; and
  - (b) on any subsequent conviction, to a fine of not more than \$100,000 or \$10,000 per tree, whichever is greater.

### **SEVERABILITY**

20. In the event that a court of competent jurisdiction declares any section or part of a section of this by-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this by-law that the remainder of this by-law shall continue in full force and effect and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

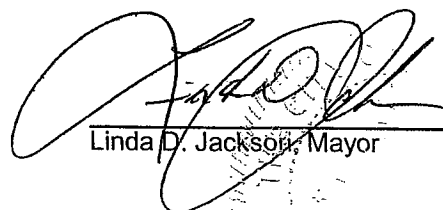
### **GENERAL**

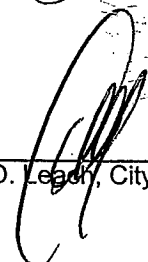
21. In this by-law, unless the context otherwise requires, words in the singular number shall include the plural, and words in the masculine gender shall include the feminine, and further, the converse of the foregoing also applies when the context so requires.

### **SHORT TITLE**

22. This by-law may be referred to as the "Private Property Tree Protection By-law".

READ a FIRST, SECOND and THIRD time and finally passed this 11<sup>th</sup> day of June, 2007.

  
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Linda D. Jackson, Mayor

  
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J. D. Leach, City Clerk