

January 25, 2015

**Update on the Oakville Private Tree Bylaw:
Amendments to the Private Tree Protection By-law 2008-156**

Town Staff commenced last year a review and update of the current Private Tree Protection By-law, which was established in 2008, and engaged the public in its review process.

JCRA has been very active this year in representing our residents in this public process. JCRA participated in each public session, surveyed our members, met with other interest groups and residents associations, attended committee meetings and met with Town staff to provide our comments.

Protection of the tree canopy is a concern of general interest to our members and the Board has devoted significant time, and will continue to do so, to this issue. You will see the impact this spring on the tree canopy in our neighbourhoods as trees are removed along our streets and in Joshua Creek due to the emerald ash borer disease. The protection of the private tree canopy will be even more important after this cutting is complete. We heard of antidotal accounts of healthy trees being removed from private property simply because the homeowner believes the leaves are a nuisance or for no apparent reason. The impact of the loss of a single mature tree can be far reaching on neighbours as the skyline is altered and the tree canopy is diminished.

Also, we heard about, and have seen, increasing instances of infill development resulting in removal of many mature trees to make room for larger new builds. The issue of tree loss on infill building sites is complex because the Town treats Planning Act applications as exempt and not subject to the terms of the Private Tree Protection By-Law, but rather as a development site governed by the provincial Municipal Planning Act. JCRA is working with the Town, your councilors and MPP to address how to better preserve trees on property under development.

The Town's commitment is to reach its 40% canopy coverage goal by 2057 through a number of initiatives. While JCRA and our neighbouring residents' associations support strengthening the private tree by-law, we believe that it is equally important, if not of greater priority, to address the loss of canopy coverage on development lands in order to achieve this target. JCRA does not support more onerous requirements on private individuals who wish to remove a tree for personal reasons, such as installing a pool or deck, than that which is placed on property owners whose land is under redevelopment. With this in mind, we have sought assurances from the Town that it will take action with the provincial government to change the *Municipal Planning Act*, if required, to provide Oakville with control over tree protection on development lands.

The current Private Tree Protection By-law permits the removal of four trees between 20 cm and 76 cm measured at the diameter of the tree at breast height (DBH) , each calendar year from private property.

The Town simply requires notification of the removal. It is possible under the current Private Tree Protection By-law for a homeowner to remove as many as eight mature trees in December/ January with only the need to notify the Town of the removal.

In its review, the Town noted several deficiencies in the effectiveness of the Private Tree Protection By-law:

- Town staff noted that approximately 1% (329,082 sq. m.) of the tree canopy has been reduced through removal of trees on private property under the current by-law with its notification system.
- Under the notification system there is no opportunity to discuss with the homeowner alternatives to the removal of a healthy tree or to discuss replacement planting.
- The notification system does not allow tracking of the replacement planting, if any. In contrast, limited statistics provided by the Town indicate that there was replacement planting in the case of trees removed under a permit.

Proposed amendments to the Private Tree Protection By-law:

JCRA has offered the following comments to the Town which the JCRA believes will strengthen private tree protection while balancing private property rights:

Definition of Private Regulated Tree:

We support the Town's recommendation to regulate smaller trees by reducing the regulated dimension to 15 cm instead of 20 cm DBH.

Permit Process to replace Notification:

We support the elimination of the "notification" process and the implementation of a "permit" system for all tree removals from 15 cm DBH. Since the term "permit" and the intent of the process may be misinterpreted by or confusing to residents, we proposed that "permit" be replaced with another word or terminology such as "certificate of approval".

JCRA seeks to balance homeowners' property rights and tree preservation by reducing the number of regulated trees that can be removed from 4 per year to 2 to 3 trees 15cm DBH and under 56 cm DBH every two years from the date of tree removal, instead of each calendar year. The reduction from 76 cm DBH to 56 cm DBH will preserve larger trees, while not unduly restricting homeowners.

Tree Replacement:

The “permit” system will encourage dialogue between Town staff and homeowners before tree removal so alternatives to cutting may be identified as well as tracking. In order to encourage tree replacement, we have proposed incentives to encourage replacement and that costs associated with tree replacement not be onerous on property owners. A strong case can be made to justify incentives for replacement given the benefits to the environment of the tree canopy. See the June 9, 2014 Special Report TD Economics, a copy of which is posted.

Penalties:

Staff informed us that they strive for the maximum fee for illegal tree removals. However, we believe that the \$450 fine requiring Justice Minister approval is insufficient and that the Town should explore additional avenues to deter such practices.

Enforcement and Communication Tools:

- 1.1. Outside of business hours, there should be a means for the public to contact by-law enforcement regarding tree removals.
- 1.2. We recommend that the Town provide the public with online access to a database of tree removal permits. This may reduce the number of inquiries to Town Staff and make it easier for residents to identify trees that have received permits for tree removal.
- 1.3. We also propose that the Town consider posting signs, similar to the application for variance signage, to advise residents that a permit application has been filed and approved. This may also reduce the number of inquiries to Town Staff and help increase public awareness of Oakville’s tree canopy and the requirement to comply with the Town’s Private Tree Protection By-law

There is a serious lack of information about the tree canopy. The 2006 Urban Forest Effects Model Report provided the Town with a comprehensive picture of Oakville’s urban forest that included the canopy coverage, as well as its health and benefits to our community. We support the Town’s decision to update this report and strongly urge that it be updated every four years, since this is a critical tool to evaluate the progress of the Town’s tree protection initiatives.

You can access the background information collected by the Town at the Town’s website:

<https://securepwa.oakville.ca/eams/>

(Select March 24, 2014 CSC meeting and go the Tree By-Law item on the agenda.)

Please see our earlier postings on this issue in the archives on this website and look for continued updates.

As always, we welcome your comments.

Regards,
The JCRA Board