

# Staff Report



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To	<b>Committee of the Whole</b>
Service Area	Infrastructure, Development and Enterprise Services
Date	Monday, July 5, 2021
Subject	<b>649 Scottsdale Drive – Refusal to Issue Permit</b>

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## Recommendation

1. That Council support the staff issued Refusal to Issue Permit, as per the Private Tree Bylaw for 649 Scottsdale Drive.
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## Executive Summary

### Purpose of Report

To provide Council with information about the staff-issued refusal to permit the injury or destruction of a regulated tree on property municipally known as 649 Scottsdale Drive.

### Key Findings

The Private Tree Bylaw regulates the injury or destruction of trees at least 10 centimeters in diameter at 1.4 meters above the ground, on lots larger than 0.2 hectares.

An application for a permit under the Private Tree Bylaw was received on April 27, 2021 with the required supporting documentation.

Staff (an Inspector under the Bylaw) reviewed the application and attended the site to complete an inspection and concluded that the permit application should be refused in accordance with the provisions of the Bylaw.

The inspector is of the opinion the Letter of Refusal issued for 649 Scottsdale Drive, is in keeping with the intent of the Private Tree Bylaw and supported by the City's Urban Forest Management Plan and the Official Plan Policies, which speak to preservation and protection of our urban forest canopy.

### Financial Implications

None

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## Report

### Background

City Council passed the latest version of the Private Tree Bylaw in 2010. The purpose of the bylaw is to help protect our existing canopy cover and mitigate injury and destruction of any tree measuring at least 10 centimeters in diameter at

1.4 meters above the ground, on lots larger than 0.2 hectares, to be known as a Regulated Tree. Trees on lots 0.2 hectares or smaller are not regulated by the City. Some trees are exempt from the bylaw and can be removed without a permit including dead or dying trees, trees posing danger to life or property, or trees impacted by unforeseen causes or natural events. A full list of exemptions can be found on page 4 of [the bylaw](#).

When reviewing a Permit Application for the injury or destruction of a Regulated Tree, the Inspector considers the following criteria:

- (a) The species of each Regulated Tree, and particularly whether it is native to the area, is considered regionally or locally significant or is an endangered species or threatened species as defined in the Endangered Species Act, 2007, S.O. 2007, c.6, as amended or replaced from time to time, or in the Species at Risk Act, S.C. 2002, c. 29, as amended or replaced from time to time;
- (b) The condition of the Regulated Tree;
- (c) The location of the Regulated Tree;
- (d) The reason or reasons for the proposed Destruction or Injuring of the Regulated Tree;
- (e) Whether the Regulated Tree is a Heritage Tree;
- (f) The presence, within the Regulated Tree, of breeding birds as contemplated in the Migratory Birds Convention Act, 1994, S.C. 1994, c.22, as amended or replaced time to time;
- (g) The protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna;
- (h) Erosion, flood control and sedimentation of watercourses;
- (i) The submissions of such persons or agencies as the Inspector may consider necessary to confer with the proper review of the Application;
- (j) Any other legislation that may apply of approvals that may be required.

## **Introduction**

Early February, 2021 and again in mid-March, the City received and replied to inquiries from two separate representatives of the property owner requesting information on the process to remove trees along the frontage of the subject site (Attachment 1 and Attachment 2). At the time of both inquiries an Inspector provided information to the representative as to how to apply for a permit to injure or destroy private trees under the Private Tree Bylaw. However, on both occasions the Inspector did inform the representative that support for tree removal would more than likely not be provided solely on reasons related to concerns of low hanging branches impeding the public sidewalk and a disease diagnosed on one of the trees, both of which could be mitigated without destroying the trees. Further concerns raised during the Mid-March inquiry stating the trees were causing building and signage visibility issues internal to the site, were also met with hesitancy by the Inspector as supportable reasons to destroy trees. The Inspector also mentioned to the representative that proposing to replant on the site as part of a compensation plan would not guarantee approval to remove trees, and that reasons for removal needed to meet the criteria and/or exemptions of the bylaw first, followed by discussions of compensation if support for removal was provided by the Inspector.

On April 27, 2021, the Inspector received an email from the representative of the property owner which included, a signed application to Injure or Destroy Trees by the property owner, a Tree Inspection Report by a Certified Arborist and Landscape Plans prepared by a Landscape Architect, showing new trees to replace those proposed to be destroyed (Attachment 3, Attachment 4, Attachment 5). The Inspection Report noted thirteen mature trees inventoried and proposed for removal – six Colorado Blue Spruce, average diameter at breast height of 33cm, existing along the Scottsdale Drive frontage and seven Scots Pine, average diameter at breast height of 21cm, existing along the building fronting Cole Road. The Landscape Plan proposed a total of thirteen new trees, 60mm caliper in size – eight deciduous trees along Scottsdale Drive and five deciduous trees along Cole Road, along with shrub and perennial grasses.

After reviewing the application and supporting documentation provided, visiting the site and consulting City Forestry staff, the Inspector concluded that though the trees were potentially causing some sightline issues into the site, the overall health and condition of the trees was considered to be fair to good, with only one of the thirteen trees inventoried considered to be in poor condition by the Certified Arborist. Further, there were no known structural or hazard issues noted in the application that could be a health or safety risk to the City or property owner, and the location of the trees were not preventing an active development application or the existing daily activities of the site. Therefore, the Inspector supported preservation and protection of the trees (Attachment 6).

On May 4, 2021, the Inspector replied to the representative and owner by email to inform them the application had been refused, and provided a formal Refusal Letter (Attachment 7).

As per the Bylaw, if the Inspector refuses to issue a Permit, or if the Applicant objects to a Condition attached to the Permit by an Inspector, the Applicant may appeal to the Committee of the Whole. Upon considering the appeal, the Committee may recommend to support the Refusal to Issue Permit, require the issuance of a Permit based on the current application or require issuance of the Permit with such Conditions as the Committee considers appropriate. Council shall consider the Committee's recommendation and make the final decision on the appeal.

The owner objected to the Refusal to Issue Permit within the required timeframe of the bylaw and requested an appeal. Staff have acknowledge the request and provided this report 2021-207

### **Financial Implications**

None.

### **Consultations**

Public Services: Parks, Parks Operations and Forestry

### **Strategic Plan Alignment**

The Private Tree Bylaw aligns with the Strategic Plan priority of Sustaining our Future – Create and execute an ambitious and achievable climate adaptation plan – Increasing Guelph's tree canopy.

### **Attachments**

Attachment-1 Location Map of Subject Site

Attachment-2 Aerial Photograph of the Subject Lands

Attachment-3 Completed Application Form

Attachment-4 Tree Inspection Report

Attachment-5 Proposed Landscape Plans

Attachment-6 Images of Trees

Attachment-7 Refusal to Issue Permit Letter

### **Departmental Approval**

Melissa Aldunate, Manager of Policy Planning and Urban Design

### **Report Author**

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### **This report was approved by:**

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### **This report was recommended by:**

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