

# Staff Report



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To	<b>Committee of the Whole</b>
Service Area	Infrastructure, Development and Enterprise Services
Date	Monday, October 4, 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 regulated trees 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 August 18, 2021 with the required supporting documentation.

Staff (an Inspector under the Bylaw) reviewed the application 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

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.

## **Background**

On April 27, 2021, the Inspector received an application 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. 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.

This application was refused by the Inspector concluding that though the trees along Scottsdale Drive 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. A refusal letter was issued to the owner

and under the provisions of the bylaw the owner appealed and delegated Committee of the Whole (COW) with the goal of overturning the refusal. The appeal resulted with COW supporting staff's recommendation and Council adopting the recommendation on July 19, 2021.

## **Introduction**

Shortly following the Council meeting held on July 19, 2021, the owner engaged staff again to discuss the issue further. The owner was provided two options by staff:

1. Tree #B.1 noted on the Tree Inspection Report could be removed without permit as it was considered exempt under the Bylaw due to its overall health. They could also apply for a permit to prune the five Colorado Blue Spruce fronting Scottsdale Drive that are to remain, in an effort to open views into the site from the right-of-way.
2. Apply to remove the five Colorado Blue Spruce again. However, staff would have to refuse the application for the same reasons as those noted in report 2021-207 (The Private Tree Bylaw does not consider the removal of trees for marketing reasons). To help justify the destruction of the trees ensure the application clearly demonstrates that you plan to meet or exceed the compensation ratios required by the City.

Shortly following discussions with staff, a new application signed by the owner accompanied by a Cover Letter from the consulting Landscape Architect (Attachment 3), a Tree Inspection Report (Attachment 4) and revised Landscape Plans (Attachment 5) were submitted to the City on August 18, 2021.

The new application deletes the proposal to remove the seven Scots Pine along Cole Road, but continues to propose removal of the six Colorado Blue Spruce fronting Scottsdale Drive. The revised Landscape Plans propose eight new Ivory Silk Lilac trees as part of the required compensation, with the remaining compensation provided as cash in lieu (\$2,000). This does meet the compensation requirements of the Tree Bylaw and Tree Technical Manual.

However, after reviewing the application and supporting documentation provided, the Inspector concluded again that though the six Colorado Blue Spruce 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 six 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 August 24, 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 2021-289

### **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 Cover Letter and 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**

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

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