



Town of Newmarket  
395 Mulock Drive P.O. Box 328,  
Newmarket, Ontario, L3Y 4X7

Email: [info@newmarket.ca](mailto:info@newmarket.ca) | Website: [newmarket.ca](http://newmarket.ca) | Phone: 905-895-5193

## **Protection of Trees on Private Property Staff Report to Council**

Report Number: 2019-61

Department(s): Planning & Building Services

Author(s): Meghan White and Ted Horton

Meeting Date: June 17, 2019

### **Recommendations**

1. That the report entitled Protection of Trees on Private Property dated June 17, 2019 be received;
2. That staff be directed to take the proposed approach for internal and public consultation;
3. That following the internal and public consultation, issues identified in this report, together with comments from the public, and Committee, be addressed by staff in a comprehensive report to the Committee of the Whole with a draft by-law; and
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Executive Summary**

Newmarket has long employed Planning tools to ensure that new trees are planted during development and that the removal of trees is discouraged. However, despite their critical ecological benefits and important defining role in most neighbourhoods, the Town has no tools that prevent the removal of most privately-owned trees.

Council identified Environmental Stewardship as one of its Strategic Pillars for its Strategic Priorities for the 2018-2022 term. Specifically this pillar relates to leading proactive planning and action related to climate change and other environmental initiatives. A main focus of this Pillar is protection of trees in Newmarket.

This report lays out the many benefits of trees, the results of public consultation related to increasing the protection of privately-owned trees, and a framework approach for how this may be achieved. Subject to Council approval, staff will continue to refine the details of this approach and return with an enacting by-law.

## **Purpose**

The purpose of this report is to inform Council on the consultation to date on the matter of protecting trees on private property and propose a program for moving forward.

## **Background**

As population pressure and economic demand for development increases, the sustainability of urban forests is threatened. Trees are an intrinsic part of our Town. They play a vital role in creating and maintaining sustainable communities that attract and retain residents and businesses. A healthy urban canopy is an investment which only appreciates over time.

Under the *Municipal Act*, municipalities have the responsibility to pass by-laws for the

Economic, social and environmental well-being of the municipality, including respecting climate change; and the

Health, safety and well-being of persons s.10(2)

Trees are a vital part of each of these areas of responsibility, providing economic, social, and environmental benefits as are discussed in detail later in this report. Trees contribute to the wellbeing and success of all residents, although they are often impacted by the land development that also provides benefits to residents. Accordingly, it is important to develop an approach to tree protection that is both comprehensive by adequately reflecting the value of trees, but also balanced by ensuring that development and private property rights are not frustrated.

Tree protection can be achieved through the voluntary efforts from landowners, through municipal by-laws, and through considering them during the planning process. Since 2005, the Town's policies related to trees have advanced the state of tree protection and replanting in Newmarket. In recent years, Council has adopted a number of policy documents which reinforce the importance of tree protection. The Official Plan sets targets for woodlot tree cover, and in the recent Urban Forestry Study the Town, the Region, and the Lake Simcoe Region Conservation Authority outlined goals for growing overall tree canopy cover across the entire Town.

The *Municipal Act* gives municipalities the authority to enact by-laws to prohibit or regulate the destruction or injuring of trees. Such by-laws are created to protect trees and natural features from avoiding unnecessary injury, removal, or destruction of trees.

The Town currently uses a number of tools to manage canopy cover and the removal of trees, which will be discussed in the Discussion – Current Approach section below. However, these tools have gaps and flaws that leave natural heritage areas and the trees that define many neighbourhoods without any protections.

On November 7, 2016, a deputation to Committee of the Whole resulted in direction to staff to complete a review of the protection and regulation of trees. As the tools to influence tree protection can vary depending on property location (a forest versus a backyard), and a property's planning status (a small home addition versus a new subdivision), a complete review of tree preservation tools was necessary to consider how these tools can work together to protect this valuable asset.

On March 6, 2017, Council adopted the recommendations of Planning Report 2017-05 and directed staff to review three tools for tree preservation:

- The **Tree Policy** for properties subject to Planning Act applications
- A **by-law** regulating the removal of trees on Town-owned lands
- A **private** tree preservation by-law

Following this, staff presented two reports to Committee of the Whole. The recommendations of these reports updated the **Tree Policy** to refine the approach to compensation for trees removed during development. Pending Council's decision on whether to enact a by-law on the removal of privately-owned trees, further changes to the Tree Policy may also be required. These reports also led to the adoption of a **by-law** regulating the removal of trees on Town-owned lands, which was approved by Council on November 13, 2017.

This report is related to whether to adopt a **private** tree preservation by-law, and is the third branch in the Town's efforts to have a modern and comprehensive approach to the protection and enhancement of trees in Newmarket.

#### Context terms:

##### **Tree Policy:**

The Town's approach to tree compensation and protection during Planning Act applications. This only applies when a property is in a planning process, and cannot prevent tree removal or levy charges for the unauthorized removals.

##### **Tree By-law:**

A By-law that may be adopted by Council regulating when trees can be removed. A by-law can set conditions on the removal of trees, require permits, and levy fines for unauthorized removals. A by-law can apply to certain areas, sizes of trees, or numbers of trees.

## Discussion

This section will present (1) the value of trees, (2) the Town's current approach to regulating the removal of trees, (3) the role of trees in maintaining stable neighbourhoods, (4) a scan of other municipalities' approaches, and (5) the approach that is proposed by staff.

### Value of Trees

Trees are a capital asset; just as streets, buildings, and recreational facilities are a part of a community, so too are trees. The economic, environmental, and social benefits of trees are shared by their owners and surrounding residents, and thus while often privately-owned, they are akin to a public good. Moreover, trees increase resiliency against the effects of climate change.

### Air Quality

Trees filter particulate matter and air pollutants to improve local air quality.<sup>1</sup> Trees accomplish this by taking up from the atmosphere fine particulate matter (PM<sub>2.5</sub>) emitted by burning fossil fuels that has been linked to respiratory diseases, cardiovascular disease, and lung cancer among other effects. Trees in Newmarket remove 40 tonnes of air pollution annually, benefiting the health of Newmarket residents.

### Flooding

Trees intercept rain and help reduce local flooding. Extreme precipitation events in Southern Ontario are projected to increase in both frequency and intensity under future climate change scenarios.<sup>2</sup> This will lead to increased risks of flooding, erosion, and property damage. Trees in Newmarket help avoid 215,058 cubic metres of water of runoff each year.

### Temperature control

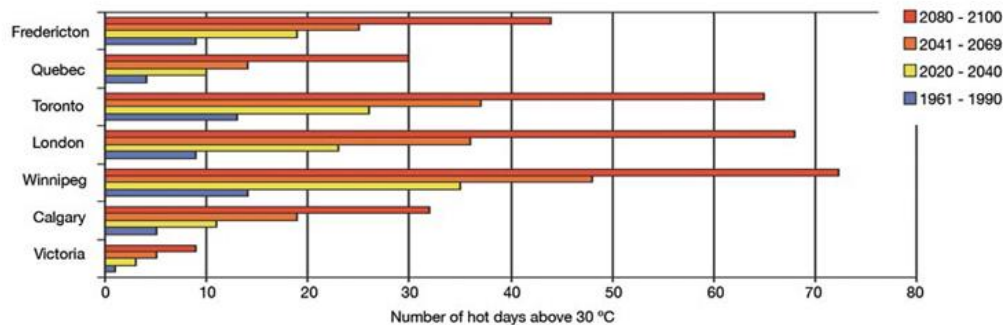
Trees reduce cooling costs in summer through providing shade and reduce heating costs in winter by blocking wind.<sup>3</sup> Climate change will cause Newmarket to face warmer temperatures and greater volatility in weather and temperatures. The number of summer days with temperatures exceeding 30°C has increased annually and is projected to continue to increase, which poses health challenges for vulnerable groups such as seniors. The image provided by Natural Resources Canada below illustrates this projected trend.

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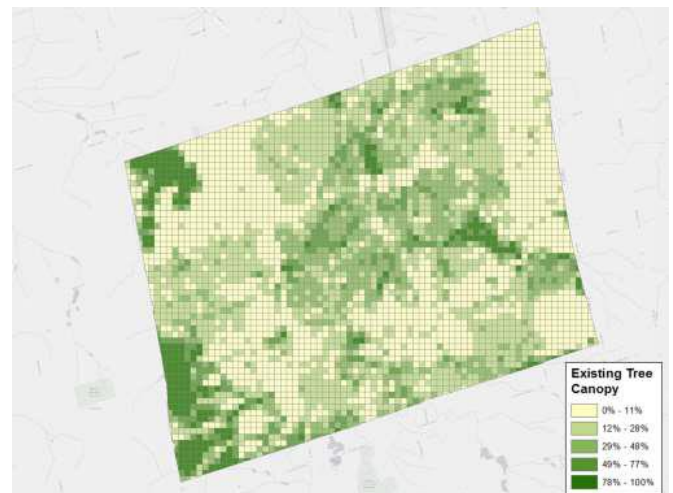
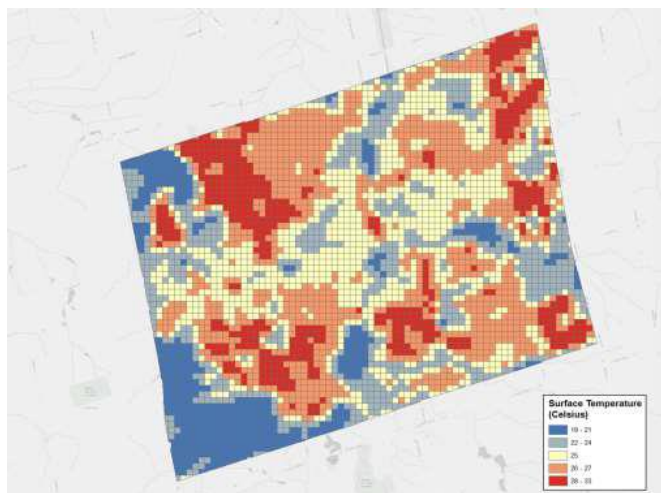
<sup>1</sup> D.J. Nowak et al. / Environmental Pollution 193 (2014) 119-129

<sup>2</sup> Hengeveld and Whitewood, 2005

<sup>3</sup> McPherson & Simpson, 2003



Areas in Newmarket with fewer trees and less canopy coverage display higher surface temperatures. This can be easily seen in the pair of images below from the Urban Forestry Study completed by the Lake Simcoe Region Conservation Authority, the Region, and the Town. Areas appearing in red on the left map display higher surface temperatures, with areas appearing in green on the right map having greater canopy coverage.



Trees in Newmarket save residents \$334,000 annually in energy costs and prevent the release of 457 tonnes of carbon emissions from heating and cooling.

### Property values

Trees increase property values. Whether located on public property adjacent to a home, on private residential property, or on an adjacent private property, the presence of mature trees increases the value of a property.<sup>4</sup> Mature trees are a defining element of many of Newmarket's neighbourhoods.

<sup>4</sup> Pandit, Ram & Polyakov, Maksym & Tapsuwan, Sorada & Moran, Timothy. (2013). The Effect of Street Trees on Property Value in Perth. Landscape and Urban Planning. 110. 134-142. 10.1016/j.landurbplan.2012.11.001.

## **Mental health and social benefits**

Although more difficult to quantify, trees provide a variety of important social benefits related to health care costs and social connections. For example, urban trees have been linked with reduced neighborhood crime levels. Some studies have found that apartment buildings with high levels of trees and gardens planted on the grounds witnessed 52% fewer crimes than those without trees.<sup>5</sup>

Research has also shown that trees have demonstrably positive effects on the physical and mental health of urban residents. Hospital patients were found to recover from major surgery more quickly and with fewer complications when provided with a view of trees from their hospital beds.<sup>6</sup>

Trees and urban parks also improve mental health and overall wellbeing by conveying a sense of calm, relieving stress, and facilitating relaxation and outdoor activity. For example, one study found that residents reported better personal health and stronger social bonds in areas where there was access to green space within one kilometer of the home.<sup>7</sup> Access to natural settings has also been linked to the improvement of children's mental health and academic performance,<sup>8</sup> lower weight and BMI in children and teens,<sup>9</sup> and increased longevity in seniors.<sup>10</sup>

## **Value conclusion**

Trees in Newmarket provide a tremendous range of value to Newmarket residents. Whether publicly or privately owned, the ecological, social and economic benefits of trees are shared by all of Newmarket. However, the impact of removing trees is also shared by all Newmarket residents and is only loosely regulated.

Other forms of change to a property that may have impacts on the surrounding area are generally regulated by the Town to manage and avoid negative effects. For example, the zoning by-law prevents overbuilding to maintain neighbourhood character. Equally so, site plan approval regulates matters like grading to avoid flooding and erosion. However, the removal of trees can change neighbourhood character, increase the effects of flooding, and negatively affect a neighbourhood but in most cases, there is no

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<sup>5</sup> Kuo, F.E. and Sullivan, W.C. 2001. Environment and crime in the inner city: does vegetation reduce crime? *Environmental Behavior* 33(3):343-365.

<sup>6</sup> Ulrich, R. 1984. View through window may influence recovery from surgery. *Science* 224: 420-421.

<sup>7</sup> Maas, J., van Dillen, S.M.E., Verheij, R.A., and P.P. Groenewegen. 2009. Social contacts as a possible mechanism behind the relation between green space and health. *Health & Place* 15: 586-595.

<sup>8</sup> Roe, J. and P. Aspinall. 2011. The restorative outcomes of forest school and conventional school in young people with good and poor behaviour. *Urban Forestry & Urban Greening* 10: 205-212.

<sup>9</sup> Wolch, J., Jerrett, M., Reynolds, K., McConnell, R., Chang, R., Dahmann, N., Brady, K., Gilliland, F., Su, J.G., and K. Berhane. 2011. Childhood obesity and proximity to urban parks and recreational resources: A longitudinal cohort study. *Health & Place* 17: 207-214.

<sup>10</sup> Takano, T., Nakamura, K., and M. Watanabe. 2002. Urban residential environments and senior citizens' longevity in megacity areas: the importance of walkable green spaces. *Journal of Epidemiology and Community Health* 56(12): 913-918.

oversight or regulation of this process. In the next section of this report, the Town's current approach to regulating tree removals will be discussed.

## **Current approach**

Newmarket currently has few restrictions on the injury or removal of trees. There are generally three categories in which a tree may be considered:

1. Town-owned trees
2. Private trees on lands that are subject to a development agreement
3. Trees on private lands generally

### **Town-owned trees**

Trees that are owned by the Town are protected by Public Tree By-law 2017-59, which prohibits the injury or removal of Town-owned trees without the consent of the Town and requires compensation for the trees injured or removed.

### **Trees during development**

Trees that are on lands that are subject to a development agreement (e.g. site plan approval) with the Town are generally required to be maintained. For example, a newly-built apartment building or retail store may be required to plant trees in a landscaped buffer between their parking lot and an adjacent resident's home. Or in a new subdivision, the Town may require a tree to be planted in the boulevard in front of each home.

In some cases these trees are important buffers between development and adjacent properties, or they are provided along streets to eventually develop into the mature tree canopy that characterizes many of Newmarket's neighbourhoods. As such, trees planted during development often form part of the expectations of residents of how their neighbourhood will grow and be maintained.

When a property is subject to a Planning Act application in Newmarket, the Town's Tree Policy applies. This Policy allows any tree to be removed to facilitate development. However, it does require either the replanting of a corresponding amount of trees or the payment of the value of the replanting to the Town for future plantings and tree enhancing programs. The proportionate amount of trees are calculated based on the diameter of a removed tree – a tree that is 30cm in diameter is required to be replaced with five 6 cm trees, or the cash equivalent.

However, while these trees are required to be maintained by the development agreement, the enforcement of such requirements is challenging as it requires litigation. For example, the Town may require the planting of trees as a landscaped buffer between an apartment and an established neighbourhood, as in the example above. However, if the trees are removed after development, the Town's only recourse is to sue the property owner and ask the courts to order that trees be replanted.

Neighbouring residents who reasonably expected that planted trees would be maintained have no recourse, and the Town's resources and willingness to engage in litigation over tree removals is limited and without guaranteed favourable results.

### **Privately-owned trees**

Trees on lands that are privately owned but not subject to a development agreement with the Town are generally not protected. Large mature trees on front yards may be a dominant feature that creates the character of a neighbourhood, but there is no requirement for a resident to retain them. Densely treed areas in backyards of large lots may be a feature that residents have come to expect to be retained but there are no controls in most areas of Town to prevent the clearcutting of such areas. A very limited number of properties are subject the 2008 Woodlot By-law regulating removal of trees in specific wooded areas, but even this by-law generally permits tree removals.

### **Current approach strengths and challenges**

The current approach does well when property owners voluntarily comply. When a property owner is applying for a Planning Act application and voluntarily delays removing trees until a decision is rendered and agreements are signed, the Town then gets the replanting and compensation required by the policy. When a property is developed and a property owner voluntarily retains the trees on the site and maintains them in a healthy state, the current approach works well.

The current approach does not work well when property owners want to remove trees outside of the limited duration of time that a Planning Act application is in process. By way of example, the Town currently has little ability to prevent the removal of trees:

- By the owner of a large wooded lot who wants to increase the ease of development or avoid compensation
- By a resident who has a large tree whose shade limits their garden
- By an investor who wishes to remove a grove of mature trees on a residential lot and build a larger house
- By a commercial property owner who wants to increase the visibility of their property.

Moreover, there are lands in private ownership that are designated Natural Heritage in the Town's Official Plan, which calls for the protection of vegetation. These may be densely forested areas, open space areas, or areas of ecological significance such as wetlands, floodplains, or steeply sloped areas. In these areas there is no additional protection of trees despite the Town's stated commitment in the Official Plan to desire to protect natural heritage, and despite the important role of trees in flood protection and ecological health.



## **Neighbourhood character**

The Town has long valued the stability of neighbourhood character and recently embarked on a study following the adoption of Interim Control By-law 2019-04 to ensure that new development respects the established character of neighbourhoods. Many of Newmarket's established neighbourhoods have character that can be defined in part by mature trees, extensive tree canopy, and densely wooded areas. This may vary between areas, but is an important consideration in the character of neighbourhoods.

However, as discussed above there are few controls on the removal of privately-owned trees. While the change of buildings is controlled over time through zoning by-laws and residents can expect a certain degree of consistency in their neighbourhood as a result, the loss of large mature trees can redefine a neighbourhood and has little oversight.

## **Private property rights and development**

Any discussion of protecting and regulating the removal of trees would be incomplete without recognizing private property rights and the rights of property owners to develop their lands. Property owners have the right to develop their lands and use them as they see fit, although this right is not absolute. It is limited through statutes such as the Planning Act and zoning by-laws, through controls to limit negative impacts through property standards by-laws under the Municipal Act, and in many jurisdictions through tree protection by-laws under the Municipal Act.

It should not be thought that a private tree by-law is a means to prevent or prohibit development. Development applications are reviewed under the Planning Act and the broad provincial planning regime. Development is an important part of Newmarket, and is critical for the Town to be able to achieve its goals of economic development, providing a diverse housing stock, and constraining outward urban growth. Regulating the removal of trees is a limit on private property rights, but one that is a means of ensuring the maintenance and growth of the Town's urban canopy rather than an attempt to frustrate growth and development.

## **Approaches of other municipalities**

Many municipalities take a more robust approach to tree preservation and regulation with both policies and by-laws to limit the removal of trees and promote the planting of new trees.

The majority of York Region's local municipalities, including the other urban municipalities (Richmond Hill, Markham, Vaughan, and Aurora), have a by-law regulating trees on private property. The more rural municipalities (King, Georgina and East Gwillimbury) have some Official Plan policies or wholly rely on the Region's Woodlot By-law for protecting trees. Newmarket is in the middle of the group by having a Tree Policy but not having a tree protection/removal by-law.

Aurora allows two trees of up to 30cm in diameter each to be removed from a property each year without a permit, and additional trees can also be removed for larger properties. Markham requires a permit for tree removals but charges no fee for the permits, preferring to emphasize customer service and providing professional public service advice to assist residents in voluntarily maintaining their trees. Richmond Hill issues permits for the removal of trees over 20cm in diameter and exemption permits for those which are dead, diseased, hazardous, or Ash trees, with an overall preference for encouraging compliance over punishment. Similarly, Vaughan issues permits for the removal of any tree over 20cm in diameter but waives the application fee for those that are dead, hazardous, or Emerald Ash Borer infected Ash trees.

Outside York Region, Brampton has an approach wherein they do not require permits to remove trees located within 2m of an occupied building. Trees with a diameter of under 30cm, do not require a permit to be removed. Otherwise, an application costs \$50 and takes approximately a month to process.

Pickering regulates which trees can be removed through specified tree protection areas; trees within the area require a permit, those outside do not require a permit to be removed. Their permit costs \$100.

Oakville requires a permit to remove a tree that is over 15cm in diameter. Their permit costs are scaled based on the number of trees being removed: \$50 for the first, and \$340 for each additional tree (larger than 24cm). There is no fee for a permit to remove a dead or dying tree.

Appendix A provides a more detailed jurisdiction scan through a chart comparing how other municipalities in and around York Region are protecting and regulating trees.

## **Proposed Program**

Staff's intent is that any new approach to tree protection be efficient, effective, and easily understood. As such, staff's draft framework includes a by-law which would have a tiered approach to the protection of trees on private property. The approach discussed below is based on three tiers that increase review and protection requirements based on the impact of tree removals in each tier's circumstances. Staff believes this approach will contribute to Council's Strategic Pillar of Environmental Stewardship and through tree protection.

### **Tier 1: Areas not subject to a development application**

The removal of trees in most residential areas of Newmarket has not traditionally been regulated by the Town. However, for the reasons discussed above, it may be worth implementing stronger tree protection measures. In order to create an easily managed system, staff are proposing that:

- Any small (less than 20cm in diameter) tree can be removed;
- The removal of any tree greater than 20cm requires replanting or compensation (similar to the compensation required under the Tree Policy); and
- Criteria be set under which the removal of trees be prohibited (e.g. healthy trees of large size and rare species, trees whose removal would significantly impact neighbouring properties or streetscapes).

#### **Tree Policy Compensation:**

Replant by Aggregate Inch  
Method: one 30cm tree requires five 6cm trees to be planted (or three 10cm trees)

Cash equivalent: \$450 per tree in the Fees & Charges By-law (this amount is indexed yearly).

Requiring replanting and compensation for removed mature trees during development has been common practice in Newmarket since 2005. Compensation funds may be used for future tree plantings by the Town, education programs which would assist residents in maintaining trees, and subsidies for new tree plantings by residents.

Such an approach would include the ability for residents to replant trees elsewhere on their property to reduce the need for monetary compensation. This approach reflects a deference to private property rights and the desire of homeowners to arrange their properties in a manner that suits them by allowing tree removals in almost all circumstances. This approach also seeks to discourage tree removal by requiring the replacement of trees or cash equivalent to ensure that each neighbourhood benefits from mature trees.

The by-law would outline exemptions from the permit process (i.e. hazardous trees). It would also outline a scale of cost for removal – the bigger the tree the higher the cost, thus discouraging removal of mature trees which provide greater benefits. There would be a permit application cost for the first tree plus additional fee per additional tree removed.

### **By-law administration**

Interviews with staff from other municipalities with private tree protection by-laws have provided Town staff with an indication of the volumes of applications and thus the resourcing required. For the by-law to be of any effect or success, qualified staff with adequate time to administer the by-law and assist residents in compliance are required.

Depending on Council's willingness to resource a private tree protection regime, the Town could adopt a by-law of varying levels of efficacy.

To minimize resources, Council could adopt a by-law that seeks to create a low administrative burden but provides little review or enforcement. Such a by-law could require no qualified arborist report for the removal of trees and simply require residents to replant or pay a replanting value to the Town. This approach would provide little review of the impacts of tree removal or whether there were other options to preserve

mature trees. This approach would rely largely on voluntary compliance, as without dedicated resources, follow-up or investigation and enforcement would be challenging.

A more robust protection system would require a qualified arborist employed by the Town to also act as an enforcement officer. This approach could require an arborist report for tree removal requests to reduce Town costs, or employ the Town's staff member to undertake the review to reduce the burden on individual residents. This approach would provide for a staff member to handle tree removal permits, follow-up to ensure replantings have been completed, and enforcement in the event of unauthorized tree removals.

Opportunities also exist to fund staffing for such an approach by moving the role of reviewing development arborist reports to such a position. The Town currently employs an external consulting arborist to review such reports and recoups the cost from development applicants. Combining this role with a tree protection staff could fund a portion of such a position through development review while also providing a more local and available development review service.

This staff person could also provide enhanced customer service such as Markham's approach. Ideally, the staff member would be a certified arborist and would be part of the Forestry Department in Public Works Services. He/she could work with residents who are unsure of a tree's health and advise on how to maintain a tree instead of removing it. They may offer suggestions about how to change a proposal to preserve a tree and offer advice on how to protect a tree during construction.

Subject to Committee's feedback on this report, Staff intend to review and refine this approach in terms of the strength of such a by-law and how funding for such a position may be managed.

## **Tier 2: Areas subject to a development application**

As properties subject to development are a larger change for a neighbourhood and can impact larger numbers of trees, they merit a higher standard of review to appropriately manage impact and change. As such, when a property is subject to a development application, it would be subject to a greater degree of scrutiny than Tier 1.

Newmarket has a policy in place which preserves trees or requires compensation for their removal due to development. The policy does not have the ability to leverage fines and penalties against developers who do not follow the policy. The Town currently has no method to respond when trees are removed prior to filing a development application (in an attempt to avoid paying compensation), and little recourse when trees are removed after a development is completed. A by-law could set out fines and penalties to enable staff to properly enforce the policy.

Staff are proposing to increase the ability of the Town to enforce its tree protection requirements by enacting a by-law that enables the Town to order remedial action or levy fines when trees are removed without proceeding through the Tree Policy process.

This would also allow the Town discretion to require that certain trees be retained during development to accomplish goals of providing appropriate buffering from existing neighbourhoods or to preserve an identified ecological function such as erosion and flood prevention. This is a more effective approach than suing property owners for not complying with their development agreements.

The Town's approach to tree protection continues to be permissive in a desire to facilitate the growth and development that is Newmarket's objective. The proposed 3-tired framework put forward by staff would retain this approach while providing tools to address the risk of trees being lost due to gaps in the Town's current approach to tree protection.

### **Tier 3: Areas subject to the Natural Heritage Designation**

Natural Heritage System areas include wetlands, floodplain, and woodlots. Council has adopted policies that state that these areas will be protected from development and be the site of efforts of reforestation and/or naturalization. These areas are intended to be preserved as green space, and the zoning by-law generally prohibits development in these areas.

Official Plan policies allow the review of trees to be protected during development applications however, if there is no Planning Act application on going, Official Plan policies do not have the legal authority to protect individual trees on private property.

Official Plan policies and zoning by-laws cannot prevent the removal of trees. The authority to regulate the removal of trees is from a by-law passed under the *Municipal Act*.

The effect of this is that large tracts of land that are located in areas vulnerable to flooding and erosion, or that have been designated by Council as being natural heritage areas to be protected, have no protection from the removal of trees. Large wooded areas could be deforested without any review by the Town.

Staff propose that any by-law approved by Council would require that trees cannot be removed in areas subject to the Natural Heritage Designation unless approved with studies demonstrating how the ecological functions of the area are protected, a proposal that would generally be reviewed during the development approval process. Where trees are proposed to be removed in such areas, property owners will be required to demonstrate the necessity of their removal (i.e. they are hazardous to human health or property) as these lands have been identified by the Official Plan as being of particular ecological importance for forest cover.

### **Other Possible Approaches**

Another approach could be to not have a by-law and spend resources on an education and awareness campaign(s). Education and awareness is a key element of any tree protection regime. These campaigns may reach many residents, however there can be a financial incentive for property owners to remove trees to increase the ease of

development, which may negatively impact other residents, and in that case the municipality should use its powers to protect the urban forest.

Staff have considered these other approaches and believe that the proposed 3-tierd approach is balanced and most likely to achieve all desired outcomes. Furthermore, staff are committed to ongoing consultation with residents, business owners, and developers and the continuous improvement of any adopted tree protection regime.

## **Consultation**

Since this topic was last before Council, staff have been engaging in various means to gather input from the community on this topic.

### **Phone Survey**

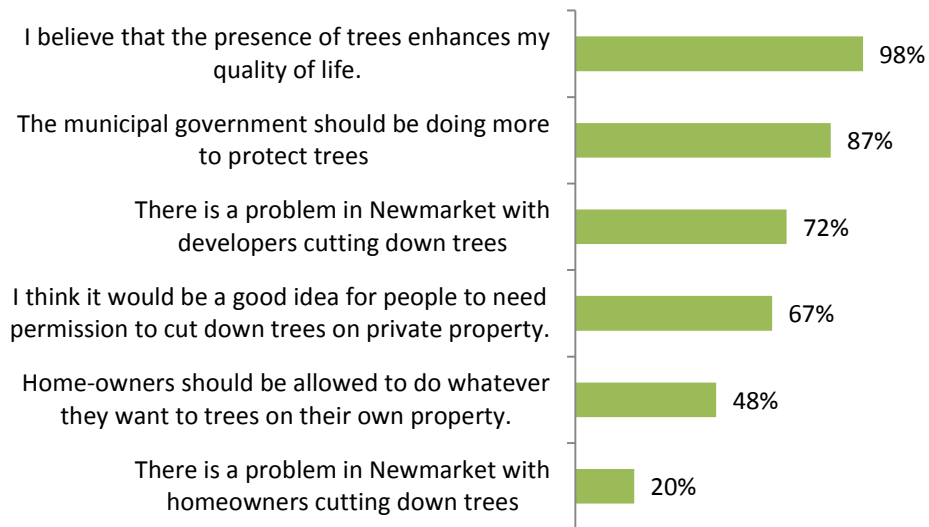
A phone survey was undertaken by MDB Insight. The research was conducted via live agent Computer-Assisted-Telephone-Interviewing from October 30<sup>th</sup> to November 8<sup>th</sup>, 2018. Results are considered accurate to within +/- 4.9%, 19 times out of 20.

- In total, 401 surveys were completed with residents of the Town of Newmarket 18 years of age or older.
- The sample was randomly collected evenly from each of Newmarket's seven wards (57 per ward)
- Final data used in the analysis were weighted by age and ward to represent the population of Newmarket.

The phone survey found that 61% of residents are in favour of putting in place a by-law to have fines and penalties for trees that are removed without permissions. Incentives and education programs are more preferred than by-laws with fines, but all have strong support.

The results of the survey showed a different perception of whether there was a problem of "homeowners" or "developers" cutting down trees. Only approximately one fifth of residents believe tree cutting by homeowners is a problem. It is worth noting that it is challenging to draw a line between the two, as individuals and families can act as a developer through additions to houses, demolitions and rebuilds, and through severing and creating new lots. There was strong support in the survey for requiring permission to remove trees, and for the Town taking a stronger role in protecting trees.

The below bar graph shows the percentage of respondents who agreed with each statement.

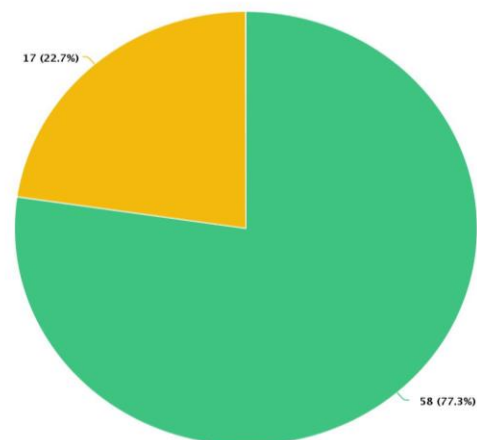


The entire survey report is attached as Appendix B.

## HeyNewmarket

HeyNewmarket is the Town's online digital engagement platform. It allows residents to share their opinions at their convenience on their own time and is not dependant on a Town-hosted in-person event. The platform invites residents to share their stories about trees and the impact they have had on their lives. The stories tend to lean towards protecting mature trees and their significant value to the Town. There are a few stories that highlight the value of allowing residents to determine how their plants are dealt with (i.e. a previous owner over-planting with large species of trees such that the backyard is in constant shade and covered with pine needles).

HeyNewmarket also provided a quick poll that 75 people responded to, with 17 respondents (22.7%) saying no and 58 (77.3%) saying yes to protecting trees on private property. The yes votes are shown in green and the no votes are shown in yellow.



Online poll support for private tree protection

An online survey was also offered through HeyNewmarket, 56 responses were received. The majority of respondents are in favour of protecting trees on private property, planting more trees and recognized the diversity of values (environmental, aesthetic, etc.) of trees. The online survey was open to all



residents and was not randomly selected.

### **Other public feedback**

Staff have been provided with a petition to protect trees on private property with 302 signatures. Staff have also been contacted directly by phone and email by concerned residents on this topic.

### **Future Consultation**

Based on comments received to date, staff have created the 3-tiered framework discussed in this report. Staff believe it is important to complete additional consultation over the spring and summer by re-contacting people who have expressed an interest in this topic through HeyNewmarket and direct emails to staff.

Staff propose to gather opinions on the 3-tiered framework for protecting trees on private property. Proposed consultations could involve holding a Public Information Centre, additional reaching out through HeyNewmarket, and promotion of the project through the Town's social media channels. Staff intend to hold at least one in-person event to share the proposed program, similar in style and tone as the Wayne Waratah stormwater management/park design event held in March of this year. There are many benefits to taking this enhanced approach to engagement for this topic. Staff have seen and heard that there are very divergent and passionate opinions on tree preservation. It is felt this approach is balanced and would benefit from the "out-of-the-box" style of engagement to reach both sides of the debate and have them understand this approach.

Staff will also be consulting with internal stakeholders, specifically other departments who would be responsible for enforcing and implementing the by-law. Staff will also reach out to the Region and the LSRCA for their input into the proposed program.

### **Conclusion**

Staff have heard passionate comments both for and against a tree protection or a tree cutting by-law. Our discussions with other municipalities have found that traditional tree cutting by-laws can be administratively difficult to manage and typically involve increasing the staff compliment with specialty knowledge of trees and by-law enforcement. Staff are seeking to strike a balance between protecting a valuable asset which benefits all residents and respecting the rights and desires of homeowners to control their own property. Staff believe that this 3-tiered approach achieves that balance and contributes to achieving Council's Strategic Priority of Environmental Stewardship through tree protection. If Council accepts the recommendations of this report, we will consult the community again and then bring forward a by-law for approval in the fall.



## **Business Plan and Strategic Plan Linkages**

Council's newly adopted Strategic Priorities speak to sound fiscal management and environmental stewardship. Trees were a specific focus of the environmental stewardship priority.

Staff believe that the approach outlined herein achieves a balance between environmental stewardship and sound fiscal management thus contributing to achieving two strategic priorities.

## **Human Resource Considerations**

An ultimate adoption of a by-law may have staffing and enforcement resource implications. This will be further outlined in a subsequent staff report.

## **Budget Impact**

An ultimate adoption of a by-law may have staffing and enforcement resource implications. This will be further outlined in a subsequent staff report. There may be some minor use of the Planning Department's existing budget to fund some consultation activities (i.e. promoting social media posts).

If directed by Council, staff can host an enhanced 'iWonder' style PIC. It could cost approximately \$3,000 to \$5,000. Currently, there is no budget allocated for this event.

## **Attachments**

Appendix A – Jurisdiction Scan

Appendix B - Phone survey results

## **Approval**

Jason Unger, MCIP RPP, Acting Director Planning and Building Services

Peter Noehammer, P. Eng, Commissioner Development & Infrastructure Services

## **Contact**

Meghan White, MCIP RPP - [mwhite@newmarket.ca](mailto:mwhite@newmarket.ca) or 905-953-5300 x 2460

Ted Horton, MCIP RPP - [thorton@newmarket.ca](mailto:thorton@newmarket.ca) or 905-953-5300 x 2458