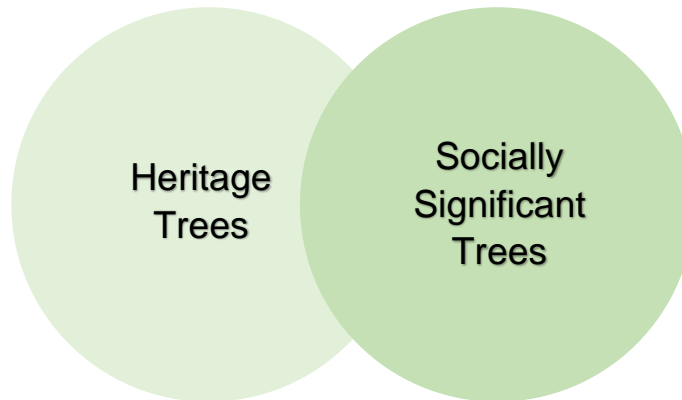


Protection of Trees on Private Property Staff Report to Council

Appendix 2

“Heritage Trees” vs “Socially Significant Trees”

Some may consider “Heritage Trees” and “Socially Significant Trees” as one and the same. In some cases, this may be true but in others, there may be stark differences between the two.



For the purposes of this Report, “Heritage Trees” are those which are designated by municipal by-law under Part IV or Part V of the Ontario Heritage Act, 1990. These trees are designated based on their Cultural Heritage Value or Interest. The Ontario Heritage Act, 1990, provides that in order to be designated, one or more of the criteria grouped into the following three (3) categories must be satisfied:

1. Design or Physical value
2. Historical or Associative value
3. Contextual value

The term “Socially Significant Tree” is a contemporary reference. As such, there is no widely-accepted or Newmarket-made definition that currently exists. In order to define the term, additional engagement with the public, local stakeholders, Indigenous leaders and industry professionals is required. Once a Newmarket-made definition of “Socially Significant Trees” is determined, staff recommend passage of a “Socially Significant Tree Protection By-law”. The purpose of this By-law is to protect trees that may not satisfy the requirements for designation under the Ontario Heritage Act, 1990 but are still considered important to the community and need to be protected. Furthermore, this By-law would allow for more efficient, localised and effective protection of trees deemed valuable to the community.

Heritage Trees: Protection Options

There are a number of protection options and regulatory tools that currently exist to protect Heritage Trees. Each option and tool considered below provides a varying degree of protection:

1. Transfer of Ownership

This option provides the highest level of protection but is contingent on transfers of privately-held land to a Conservation Land Trust or similar organization (e.g. the Ontario Heritage Trust). Staff do not consider this a feasible option as transfers of privately-held land are beyond the Town's authority.

2. Designation

Designation by municipal by-law under Part IV or Part V of the Ontario Heritage Act, 1990 requires property owners to apply for Council consent, by way of a Heritage Permit, prior to carrying out alterations to a designated tree. Staff feel a property-owner or town-initiated designation process should remain the primary vehicle in protecting "Heritage Trees".

3. Listing

Adding properties with "Heritage Trees" to the municipal register under Section 27 of the Ontario Heritage Act, 1990 does not require property owners to apply for Council consent prior to carrying out alterations. This would only require that property owners provide Council 60 days' notice of their intention to demolish or remove "Heritage Trees". Staff feel a property-owner or town-initiated designation process should remain the primary vehicle in protecting "Heritage Trees".

4. Easements

Under the Ontario Heritage Act, 1990 and the Conservation Lands Act, 1990 the Town may enter into easement agreements with owners of real property. Easement agreements are made in perpetuity and offer a high level of legal protection. Staff consider this a measure employed in special circumstances in addition to the preferred, formal designation process.

5. Municipal By-law

Under the Municipal Act, Council is authorized to pass a stand-alone "Heritage Tree Protection By-law". Staff do not feel this is required as a sufficient tool for the protection of "Heritage Trees" currently exists.

6. Official Plan and Zoning By-Law

The Town's Official Plan and Zoning By-law establish designations and zones throughout the town. These designations (e.g. Natural Heritage) are subject to development policies that may regulate the removal of "Heritage Trees". Zones may help to minimize impacts on trees by regulating uses and establishing zoning standards (e.g. setbacks). Staff do not recommend amendment to these

documents at this time as a sufficient option for protecting “Heritage Trees” is offered through designation under the Ontario Heritage Act, 1990.

Socially Significant Trees: Protection Options

Similar to the protection options associated with “Heritage Trees” as described above, Socially Significant Trees can be protected in a number of ways. The protection options which currently exist are considered below:

1. Transfer of Ownership

This option provides a high level of protection but is contingent on transfers of privately-held land to a Conservation Land Trust or similar organization (e.g. the Ontario Heritage Trust). Staff do not consider this a feasible option as transfers of privately-held land are beyond the Town’s authority.

2. Designation

Staff feel designation under the Ontario Heritage Act, 1990 should be reserved as the primary vehicle for protecting “Heritage Trees” not “Socially Significant Trees”.

3. Easements

Under the Ontario Heritage Act, 1990 and the Conservation Lands Act, 1990 the Town may enter into easement agreements with owners of real property. Easement agreements are made in perpetuity and offer a high level of legal protection. Staff consider this an additional measure employed in special circumstances outside the preferred, stand-alone by-law as described below.

4. Municipal By-law

Under the Municipal Act, Council is authorized to pass a stand-alone “Socially Significant Tree Protection By-law”. Staff recommend returning to Council at a later date with a stand-alone “Socially Significant Tree Protection By-law”.

5. Official Plan and Zoning By-Law

The Town’s Official Plan and Zoning By-law are land-use planning tools that establish designations and zones throughout the town. These designations (e.g. Natural Heritage) are subject to development policies that may regulate the removal of “Socially Significant Trees”. Zones established throughout the Town may help to minimize impacts on “Socially Significant Trees” by regulating uses and implementing zoning standards (e.g. setbacks). Staff do not recommend amendment to these documents at this time as a sufficient option for protecting “Socially Significant Trees” is offered through passage of a stand-alone “Socially Significant Tree By-law”.