



THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

Subject: Final Draft Presentation of the Private Tree Preservation By-law

Director: Infrastructure & Development

Manager: Environmental Services

Report Number: Environmental Services-2022-17

Meeting Date: Wednesday, October 12, 2022

Recommendation: THAT Committee of the Whole receive the draft Private Tree Preservation by-law as presented;

AND FURTHER THAT Committee of the Whole defer a decision on the draft by-law to the next term of Council;

AND FURTHER THAT Committee of the Whole direct Staff to include funding in the 2023 budget for the preparation of a guideline on tree preservation and compensation as an appendix to the Official Plan.

Date to be considered by Council: Monday, October 17, 2022

Report Summary:

At the July 11, 2022 meeting, Committee of the Whole received report Environmental Services-2022-11 which presented the proposed draft Private Tree Preservation By-law. COW directed Staff to bring back a final draft of the By-law for Council's consideration this fall following public consultation and stakeholder engagement. Municipal Staff used various engagement tools and initiatives to gain additional input and comments from citizens and stakeholders. Presented today is the final drafted Private Tree Preservation By-law. Additionally, through the public consultation process, Staff was advised that an Official Plan guideline on tree preservation and compensation should be developed, as this guideline would serve as the appropriate tool to address Council's direction related to private tree preservation for all sites under planning application.

Origin: Council Resolution #07/11/22 COW - 07

Existing Policy: Protection and Enhancement of Tree Canopy and Natural Vegetation Policy (mandated policy under Section 270 of the Municipal Act, 2001)

Background/Analysis:

Following direction received from Committee of the Whole, Staff engaged and consulted with the public and stakeholders regarding the draft Private Tree Preservation By-law. Stakeholders who provided comments and suggestions included the County of Bruce Planning Team, The Ross Firm legal team and the Saugeen Valley Conservation Authority team.

The overall goal of the implementation of the Private Tree Preservation By-law is to protect the tree canopy on privately owned lands within the Municipality of Kincardine. As Council is aware, the Municipality of Kincardine currently has a Policy and by-law that was adopted in 2021 which guides the Municipality regarding trees on Municipally-owned lands. The adoption of the Private Tree Preservation by-law would not affect this by-law or policy.

The updated draft by-law refers to private properties that are a minimum of 0.5 hectares up to 0.99 hectares with trees that have a Diameter at Breast Height of 30cm or greater.

Municipal Staff conducted a jurisdictional scan to gather information on common enforcement practices and have aligned the proposed practices within the draft Private Tree Preservation By-law to those municipalities with existing by-laws.

Community engagement

On September 13, 2022, Staff held a Public Information Session via Zoom. The session included a Staff presentation on the draft by-law and an open question and answer session. Thirty-four (34) public participants attended the session and expressed general support for the approach of having a Private Tree Preservation By-law.

In addition to the public information session, Staff conducted a phase two survey that closed on Friday, September 23rd at 12:00pm. This survey saw 174 responses and brought forward more feedback from the public.

Through the online survey, Staff received differing viewpoints of the drafted by-law. The majority (44%) of those that responded to the survey do not want the municipality to adopt a private tree preservation by-law. Approximately one-third (34%) of the respondents would like to see the municipality adopt the drafted Private Tree Preservation as it is or amended to include further restrictions. While 22% of respondents were unsure of their support for the draft by-law.

Tree Canopy

The Municipality of Kincardine's current tree canopy coverage is 20.23%, this includes all lands within the Municipality of Kincardine. To look specifically at the

tree canopy coverage within the urban settlements, the Town of Kincardine has a tree canopy coverage of 23.32% and the Village of Tiverton has a tree canopy coverage of 20.13%. During the Public Information Session, Staff were asked what the Municipality of Kincardine's tree canopy goal is. It is recommended by Staff that should Council proceed with adopting the draft by-law, they also investigate setting a goal for increasing the tree canopy coverage in the future.

Draft by-law changes

Staff have made changes to the previous draft presented to Council in July based on feedback from ratepayers and the various stakeholder input and the management team of the Municipality.

Changes of significance under the Prohibitions section include:

- amending the minimum volume of trees from four to five; and
- making the diameter at breast height to be 30cm vs the 15cm.

The feedback given was that these changes would make the policy simpler to manage.

Under Exemptions, there was a clause including Agricultural lands. The County Forester noted that the County by-law does not exempt agricultural lands and thus, the two by-laws would contradict one another. They further went on to stress that their by-law has been established to apply to all sites that are 1 hectare and greater and requested consideration to amend our by-law to manage sites in size from 0.5 to 0.99 hectares. Section 3.1 has been amended to remove 0.5 hectares or more and replaced with 0.5 hectares up to 0.99 hectares. This would maintain the status quo that all sites, including agriculture lands, that are 1 hectare or larger align with the County by-law.

Statistically, within the Municipality of Kincardine there are 5,606 properties under 0.5 hectares, 329 properties between 0.5 hectares to 0.99 hectares and 1,856 properties over 1 hectare.

Official Plan

One major shift to previous communication to Council relates to County Planning and the letter submitted regarding our Official Plan (OP). From prior consultation Staff understood the new by-law would suffice in managing all sites. However, based on wording in the draft by-law the planners after their review are recommending that we should enhance our OP. The existing OP has broad details around the Municipalities desire and commitment to tree preservation and within the document speaks to the ability to develop guidelines that would supplement the OP. Planning Staff have suggested we develop a guideline vs amending the body of the OP; the rationale for this approach is that the OP is meant to be broad in context and the supplemental guideline defines details and can be amended with ease for Staff and Council in the future versus requiring further OP amendments should the terms of the guideline require amendment. This provides us the protection being sought yet also grants flexibility into the management of the policy.

Attached to this report is the updated draft for Council's consideration to be considered at the October 19, 2022, Council meeting.

Integrated Strategy 2020 – 2025: N/A

Financial Implications:

It is important to note that with the adoption of the proposed by-law, there will be many financial implications that will accompany different aspects with the introduction and enforcement of this by-law. Financial impacts will relate to administration, enforcement and legal support that will require additional resources to adequately manage. Management of applications will require additional resources within the Arboricultural field. Without knowing the overall volume, Staff suggest that an Arborist on a part-time basis will be required. Adding an Arborist to our staffing compliment will further align with recommendations from the Environmental Committee and will allow the Municipality to further along efforts for tree canopy management, including inspections and decision-making support for our tree maintenance crew. Options for enforcement could include reviewing and amending our by-law enforcement contract to oversee and manage issues related to the by-law. Annual impacts are anticipated in the \$50k range for the additional support services.

Additionally, there may be consultant costs associated with the drafting of a guidance document to supplement the Official Plan if County Staff are not able to prepare a guideline. Due to the lame duck period and the financial impact, the new term of Council will need to make a decision on this policy and correlating resources which can be built into the 2023 budget process.

Attachments:

1. Draft Private Tree Preservation By-law
2. Phase 2: Tree Preservation By-law Community Feedback - Survey Results Report
3. Public Information Session Notes: "What We Heard" – September 13, 2022
4. Bruce County Letter - Tree Protection

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