

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin
DATE: January 3, 2023
RE: ZP-22-617; 53 Lavalley Lane

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone & Ward: Citywide applicability

Owner/Applicant: City of Burlington / Water Resources Division, DPW

Request: Tree Maintenance plan for water resources infrastructure throughout the city.

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking approval of a Tree Maintenance Plan per Sec. 5.5.4, *Tree Removal*, of the Comprehensive Development Ordinance. This section allows property owners to address tree removal and maintenance on their property in 5-year increments without the need for separate zoning permits for each individual tree removal project. In this case, the applicant is seeking approval for a tree maintenance plan applicable city-wide for maintenance of water resources infrastructure. Specifically, the requested maintenance plan would apply to areas outside of public street rights-of-way with water resources infrastructure (work within the public street rights-of-way is exempt from zoning).

The Development Review Board approved a previous tree maintenance plan August 6, 2016. That approval was valid for 5 years. The plan has expired, and a renewed plan approval is sought.

Recommendation: Tree maintenance plan approval as per, and subject to, the following findings and conditions:

I. Findings

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal:

(a) Review criteria for zoning permit requests for tree removal

See (b) below.

(b) Tree Maintenance Plans

1. A Tree Maintenance Plan prepared by a certified arborist shall be submitted as a Level I Certificate of Appropriateness... This plan shall include general and specific criteria for removing trees based on the criteria as per Sec. 5.5.4 (a).

The original Tree Maintenance Plan was prepared in conjunction with the city arborist. This new plan is based, in large part, on the prior plan. It is basically an updated plan. The city arborist has reviewed and commented on this update as noted in more detail below. The updated plan touches on each of the criteria of Sec. 5.5.4 (a) as required.

Tree pruning and removal are addressed within the context of site access and infrastructure maintenance. Initial assessment criteria touch on individual site specifics, alternatives, delineation of potential cutting and pruning, and erosion control measures. The tree maintenance plan also contains a specific tree protection plan for implementation during infrastructure maintenance and construction activities. The tree protection plan outlines procedures to be followed for protection of existing trees, minimizing damage, and tree replacement as needed.

As required by the DRB in the prior plan, the proposed tree maintenance plan specifies trigger points for city arborist involvement. The general trigger point mirrors the threshold for typically requiring a zoning permit for tree cutting (i.e. 6 or more trees of 10” or greater caliper or 10 or more trees of 3” or greater caliper). This new tree maintenance plan splits tree work into three categories not specified in the prior plan:

- Emergency repair/replacement projects
- Maintenance projects
- Planned construction projects

The prior plan included a requirement for site-specific tree plans for all projects. The proposed plan eliminates this requirement for emergency and maintenance projects unless compelled by the city arborist (consultation with the city arborist remains a requirement). The revision for emergency work is reasonable given the characteristics of emergency infrastructure work, and the city arborist concurs with this change. The city arborist commented that maintenance projects should continue to have site-specific tree plans unless they are emergency work.

Regardless of the scope of tree cutting, standards for assessment and implementation of tree cutting and pruning will be followed. The plan calls for coordination and consultation with the city arborist as part of initial assessment work – prior to tree cutting. Consideration of alternatives to tree cutting or pruning are articulated within the preliminary assessment criteria. As applicable, city arborist involvement will continue through project planning and execution, including periodic site inspections at project sites.

As required under state statute, the tree protection plan contains provision for notification of neighboring property owners prior to any tree removal. **(Affirmative finding as conditioned)**

2. The Tree Maintenance Plan if approved...

This updated Tree Maintenance Plan, when approved, will be valid for 5 years. **(Affirmative finding as conditioned)**

3. In order to continue tree removal...

For ongoing tree removal on the subject lands beyond the initial approval, the Tree Maintenance Plan must be updated or re-written and approved by the DRB at 5 year intervals. (**Affirmative finding as conditioned**)

II. Conditions of Approval

1. The tree maintenance plan shall be revised to require site specific tree plans for maintenance projects in addition to planned construction projects. Only emergency repair/replacement projects will not require site specific tree plans.
2. This tree maintenance plan is valid for a period of 5-years from the date of approval.