TO: Chair and Members  
Public Works Committee

WARD(S) AFFECTED: WARD 7

COMMITTEE DATE: March 1, 2010

SUBJECT/REPORT NO:  
Jerome Park Tree Report, 1306 Upper Wellington Street (PW10022) - (Ward 7)

SUBMITTED BY:  
Gerry Davis, CMA  
General Manager  
Public Works Department

PREPARED BY:  
Cynthia Graham  
(905) 546-2424, Extension 2337

Jill Stephen, P.Eng.  
(905) 546-2424, Extension 4621

Jim Harnum  
(905) 546-2424, Extension 4483

SIGNATURE:

RECOMMENDATION:

(a) That 62 of the existing living trees, as outlined in Appendix A attached to Report PW10022, be approved for removal to facilitate the rehabilitation of Jerome Park to parkland standards according to the Risk Assessment requirements prepared for this parcel;

(b) That the $136,000 payment for tree compensation to Forestry and Horticulture of Public Works in accordance with By-law 06-151, be waived;

(c) That the site location of Jerome Park, attached as Appendix B to Report PW10022, be approved.

EXECUTIVE SUMMARY

The purpose of this report is to request the approval for the removal of 62 living trees that will facilitate the rehabilitation of Jerome Park in Ward 7 to a safe parkland condition (see Appendix “A” for removal plan and Appendix “B” for site location plan for Jerome Park). The site exhibits topographic variability, and drops over 7m from one end to the other. In addition, the south-eastern portion of the site has a treed slope, and
a portion of a greater woodlot that extends beyond the property line of the park. The park has experienced illegal dumping and is currently covered in scrub vegetation.

Between 2002 and 2009, several environmental studies were conducted at Jerome Park to characterize the requirement for rehabilitation. The historical use of the site, as a quarry and for dumping of building and construction debris, meant that the borehole testing was inconsistent and therefore it was difficult to characterize the layers of fill on the site. Consequently, several studies were required to gain a full understanding of what is the current condition at the park. The culmination of these studies is the Jerome Park Risk Assessment, which lays out a Risk Management Plan for remediation of the land for use as a Neighbourhood Park.

The Risk Management Plan outlines a work plan for the wooded slope on the property. This slope is to be covered with a geotextile, and then capped with 1 m of clean fill, to prevent any burrowing animals from coming in contact with debris fill at depth. According to Forestry and Horticulture staff, trees cannot tolerate a grade change within their root zone; therefore the 1m cap required by the Risk Management Plan will result in the necessary removal of all the trees on the slope. Additionally, to create a stable and safe slope of 1:4 or 25%, grading will be required beyond the toe of the slope, and this will result in additional tree removals. The total number of living trees to be removed for implementation of the Risk Management Plan is 62, which equals a cumulative 17202 mm caliper. The tree removals are illustrated in Appendix “A”.

The compensation requirements for the tree removals as per By-Law 06-151 for the total tree removal is a fee of $155,000 or the planting of 287 trees at 60mm caliper. Jerome Park is not adequate in size to accommodate that many trees and the programming for this neighbourhood park favours free open space. Therefore, the park design includes the planting of 30 trees. These 30 trees, at 70 mm caliper, will reduce the compensation fee to $136,000, a figure representing an increase to the construction budget of 45% for this park. It is this $136,000 that Council is being requested to waive.

Alternatives for Consideration - Not Applicable

<table>
<thead>
<tr>
<th>FINANCIAL / STAFFING / LEGAL IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial:</strong> There is sufficient appropriation in the Capital Budget number 4400556510 (Jerome Park rehabilitation) to fund the cost for the removal of these trees and the planting of the proposed new landscape trees. This project was included in the 2005, 2008, and 2009 Capital Budget program to fund the study and preparation of restoration documents, remediation, and construction. The cost of removals to be performed by a contractor is projected at $30,000. The cost for planting 30 new trees is estimated at $15,000. However, there is insufficient funding to pay the remainder of the compensation fee, totalling $136,000, and additional funding would have to be secured through the 2011 Capital Budget program or report to Council, delaying the development of the final park.</td>
</tr>
<tr>
<td><strong>Staffing:</strong> N/A</td>
</tr>
</tbody>
</table>

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Legal: The City has undertaken a Risk Assessment for this property. The City still has an obligation to implement the requirements in the Risk Management Plan outlined in the Risk Assessment to provide a safe park property for the users and wildlife in the area. In this case, the Risk Management Plan specifically targets the slope at Jerome Park, and requires a 1m cap with geotextile installed to prevent wildlife burrowing and exposure to contaminated soils. It is this requirement that triggers the loss of trees at the site.

Where it has been determined that the removal of public trees is required for Planning and Development projects, or for municipal operations, the City of Hamilton Forestry By-law 06-151 states that “the Director must have City Council approval to authorize the removal where the total number of trees to be removed for a particular project is greater than or equal to 25 trees”.

HISTORICAL BACKGROUND

Jerome Park has been in City ownership since prior to the construction of the Lincoln Alexander Parkway (see Appendix “B” for site location). Evidence of former quarries and various types of fill, including building and construction debris, was found during the course of the studies on site. Also, historical evidence indicates that this area was a snow dump for a period of time.

Study of Jerome Park started in 2002, with a Phase I Environmental Site Assessment, followed by a Phase II Environmental Site Assessment later in 2002. These studies found evidence of a quarry, construction rubble, and fill including debris and inert materials, and more studies were recommended.

In 2005, a Supplemental Phase II Environmental Site Assessment was conducted, with the intent to further establish options for remediation. Borehole testing and monitoring well installation and testing established more areas of construction and demolition debris, considered inert by Ministry of Environment (MOE) standards. This study recommended additional testing to confirm the requirement for a Risk Assessment (RA) to be completed for this property.

In 2006, this additional testing was completed. This testing confirmed that groundwater was not contaminated at this site, and that MOE parkland standards were exceeded in several locations both for Table 3 (0-1.5 m) and Table 5 (below 1.5m). A partial excavation of soil with exceedences of MOE standards was not considered economical or practical for this site, due to the variability of the areas of debris-containing fill, and therefore a Risk Assessment was considered the best route for remediation of the site for parkland use.

In 2008 filling of the existing quarry pit, on both the City of Hamilton property and Hamilton-Wentworth District School Board property was filled, using clean fill, in anticipation of the future parkland. Also, final site characterization and survey work were conducted to facilitate the preparation of the Risk Assessment for the property.

In 2009, the Risk Assessment (RA) was finalized using the data compiled from previous studies, as well as some supplementary data collection for the RA. The RA lists several
components of a Risk Management Plan, which when followed, are deemed to bring Jerome Park up to a safe standard for parkland uses.

One of the required components of the Risk Management Plan is the treatment of the woodland slope on the site. This is located on the south-eastern portion of the parkland, and falls towards the property line to the south. The slope is heavily wooded with mature trees of good to excellent quality. The Risk Management Plan requires that the toe of the slope be extended into the forest, or that the slope be excavated at the top, generating contaminated fill to be removed to a proper landfill facility. Either option requires that the slope be covered in a geotextile material, and then covered with 1m of clean fill and topsoil.

Forestry and Horticulture staff have advised that a change in grade within the root zone of a tree will adversely affect the health of a tree. In this case, the trees will not survive the placement of fill and topsoil over their root zones for the entire length of the slope, plus areas at the toe of the slope to ensure safe grades for users and maintenance (1:4 or 25%). Therefore, the trees cannot remain on the slope and must be removed.

In the summer of 2009, a tree inventory and management plan was prepared for the trees in the area of the slope at Jerome Park. This inventory and management plan was circulated and approved by Forestry and Horticulture staff. The management plan indicates those trees that are healthy, and those that qualify for removal under the Forestry and Horticulture’s criteria for removal. The trees that meet these criteria would not require tree compensation payments to forestry. The total number of trees required for removal is 62 living and 40 dead. The 40 dead trees do not require compensation, as those trees would normally be removed by Forestry and Horticulture in their normal maintenance program. The trees to be removed at Jerome Park are shown in Appendix “A”.

Thirty replacement trees are scheduled in the park development work, along the proposed pathway and near the proposed play structure. The number of trees proposed will not fulfill the compensation requirements as per By-law 06-151. The compensation requirements of By-law 06-151 outline either a replacement number of trees, or a monetary value to be paid to Forestry and Horticulture. In this case, 62 living trees are to be removed, with a total cumulative caliper of 17,202 mm will result in either a requirement to plant 287 trees on site at 60mm caliper or a fee of $155,000. Jerome Park cannot accommodate 287 new trees on the site due to the inadequate size of the park, and the intent of a neighbourhood park for free open space, and $155,000 fee will increase the total construction budget by 52%. The requirement to pay the $155,000 fee will result in the delay in development of this park, as more capital funding will have to be secured to fund the completion. Given that 30 trees are already proposed, the compensation calculation would give credit for these trees, and the fee payment to Forestry and Horticulture would be reduced to $136,000, still a significant portion of the total budget for development at this park. It is this $136,000 portion of the compensation payment that Council is being requested to waive. See discussion under “Relevant Consultation” for further information.
Forestry staff will be required to confirm that no tree damage has occurred to adjacent trees during tree removal, and notify the Project Manager during construction if such occurrences require financial compensation from the contractor.

POLICY IMPLICATIONS

Council approval for tree removal is being requested in accordance with the provisions of the City of Hamilton Public Tree Removal Policy in the Tree By-law Number 06-151. Council is also being asked for an exemption from a portion of the compensation fee triggered by the removal of the healthy trees on the site, through By-law 06-151, with a part of the required compensation being fulfilled by the planting of landscape trees on the site. Council approval is not required for the removal of the 40 dead and invasive trees that meet Forestry and Horticulture’s criteria for removal. See discussion under “Relevant Consultation” for further information.

The implementation of the recommendations aligns with Public Works Department’s Business Plan “Innovate Now” in the category of “Communities”, specifically “Open, transparent, and accountable working relationships”. The tree removals are to facilitate the restoration of the parkland to safe public standards. A public information meeting, as well as this report, demonstrates an effort to be forthright with the challenges of this property. Additionally, the studies completed for Jerome Park support one of Public Works existing core competencies listed in the Business Plan, namely “Environmental Knowledge and Advocacy”.

RELEVANT CONSULTATION

All departments requesting tree removals where the total number of trees to be removed for the individual project is greater than or equal to 25 require approval by Forestry and Horticulture of Public Works. This tree report, along with the relevant tree removal plan (Appendix ‘A’) was submitted to Forestry and Horticulture on January 11, 2010 and received support for the tree removals based on the Risk Management Plan requirements. Forestry and Horticulture have confirmed that 102 trees have to be removed due to the change in grade required on the slope as per the Risk Assessment. 40 trees were found to be in a condition that meets Forestry’s criteria for removal. These 40 trees will be removed by a contractor without the submission of a replacement tree. 62 trees were found to be in a condition that does not meet their criteria for removal. These trees require removal because the change in grade required on the slope is more than 150 mm, the grade change tolerable without causing undue damage to the health of the tree, and these trees are not in a condition of decline. The 62 living trees are subject to a fee payment for replacement. Thirty trees are planned for planting at Jerome Park, and will therefore offset a portion of the replacement fee. Forestry and Horticulture supports the tree removal plan based on the requirements of the Risk Management Plan and advise that as the Reforestation Policy does not allow the Director of Operations and Waste Management to waive the compensation fee without Council approval, therefore, this report requests this approval to allow the park development to proceed.
A public open house for the park development will be held on February 1, 2010.

Councillor Duvall, Councillor for Ward 7, was consulted regarding the tree removals at Jerome Park on January 18, 2010, and understands that tree removals are necessary on the basis that it will facilitate the remediation of the park to Ministry of Environment parkland standards.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The studies were performed by consultants that were and are on the City of Hamilton consultant roster and meet the criteria to perform this work. As well, the Risk Assessment underwent a third-party peer review, and was amended to reflect the comments generated from that review. The Risk Assessment was conducted as a Private Risk Assessment, but followed the criteria and rigor required for a Ministry of the Environment reviewed Risk Assessment, and therefore the staff have full confidence in the Risk Management Plan generated from the Risk Assessment process.

**ALTERNATIVES FOR CONSIDERATION:**

N/A

**CORPORATE STRATEGIC PLAN**


*Growing Our Economy*

- An improved customer service

*Environmental Stewardship*

- Aspiring to the highest environmental standards

*Healthy Community*

- Plan and manage the built environment

**APPENDICES / SCHEDULES**

Appendix “A” to Report PW10022 - Tree Removal Plan
Appendix “B” to Report PW10022 - Park Location Plan