



Public Notice is hereby given of a Special Council meeting duly called in accordance with Section 126 of the *Community Charter*, to be held on:

Date: Monday, November 2, 2020
Time: 4:00 p.m.
Place: Council Chambers
Richmond City Hall
6911 No. 3 Road

Public Notice is also hereby given that this meeting may be conducted by electronic means and that the public may hear the proceedings of this meeting at the time, date and place specified above.

The purpose of the meeting is to consider the following:

CALL TO ORDER

PLANNING AND DEVELOPMENT DIVISION

- 1. APPEAL OF TREE REMOVAL PERMIT REFUSAL FOR 3260 WILLIAMS ROAD**
(File Ref. No.:12-8060-20-008057) (REDMS No. 6544203 v. 3)

CNCL-2	See Page CNCL-2 for staff memorandum
CNCL-7	See Page CNCL-7 for full report

STAFF RECOMMENDATION

That the decision to deny the removal of the subject tree that is healthy, structurally sufficient and has recovered from previous over-trimming on the property at 3260 Williams Road be upheld.

ADJOURNMENT

Matthew O'Halloran
Acting Corporate Officer

**CNCL – 1
(Special)**



City of Richmond

Memorandum

To: Mayor and Councillors
From: Claudia Jesson
Director, City Clerk's Office
Date: October 23, 2020
File: 12-8060-20-008057/Vol 01

Re: **Tree Permit Refusal Appeal Process – Mr. Nery Santos**

In accordance with the City's Tree Protection Bylaw No. 8057, an applicant or owner may apply to Council for reconsideration of a tree permit that was refused by the Director, Building Approvals. As this is a relatively rare occurrence at Council, the attached document titled *Tree Permit Refusal Reconsideration Process* is provided as a general reminder and guideline on the procedure for the meeting. Mr. Santos has been provided a copy of the general procedure and the Special (Open) Council agenda package.

Following the hearing, Council may:

1. Uphold the Director, Building Approvals' decision;
2. Overturn the Director, Building Approvals' decision;
3. Consider a motion to delay consideration of the matter (for example, pending further information requests by Council); or
4. Such other action as Council considers appropriate.

If you have any questions concerning this process, please feel free to contact me at 604-276-4006.

Claudia Jesson
Director, City Clerk's Office

Encl.

Tree Permit Refusal Reconsideration Process

Under Section 6.5 of Tree Protection Bylaw No. 8057, an applicant or owner of property is subject to a requirement or a decision made by the Director under this bylaw and is dissatisfied with the requirement or decision, the applicant or owner may apply to the City Council for reconsideration of the matter within 30 days of the requirement or decision being communicated to them.

The Hearing or Council Meeting

Tree permit refusal reconsiderations are generally heard at Open City Council meetings, which means members of the public or media are free to attend and observe the proceedings. Reconsiderations are generally set for a Special Council meeting, rather than a regularly scheduled Council meeting.

Agendas and Minutes

In accordance with normal practice, open Council meeting agendas are published on the City website prior to the meeting. Materials such as any supporting documents and reports are typically attached to the agenda and published to the City website. For tree permit refusal reconsiderations, the agenda materials may include the applicant's appeal letter and supporting materials, procedural information regarding the conduct of the hearing, and other relevant documents. All documents that are to be provided to Council will normally be provided to the applicant at least 10 days prior to the Council meeting at which the reconsideration will be heard.

Minutes are taken at the meeting. These minutes document the reconsideration hearing and any decision arrived at by City Council. In accordance with normal practice, minutes for Open City Council meetings are also published on the City website in the days following the meeting.

Conduct of the Reconsideration

The Mayor presides as the Chair of the meeting and will provide direction to the applicant as the proceedings unfold. Applicants and their representatives should address the Mayor as "Your Worship" and all questions about how the meeting is being conducted are to be directed to the Mayor.

The order of proceedings will be as follows:

1. Staff (Director, Building Approvals or designate) will be called upon by the Mayor to review the file, explain why the permit was refused, and answer any questions that may be posed by Council members.

2. Once Council has heard from staff, the applicant will be called forward by the Mayor to present the appeal. The applicant may present the appeal or have a representative do so on their behalf. There is no time limit placed on the applicant's presentation, provided the information provided is relevant and the proceedings are not being obstructed.
3. Following the applicant's presentation of the appeal, Council members may pose questions to the applicant.
4. Following any questions by Council members, the applicant may pose questions to the Director, Building Approvals or designate.
5. If any additional witnesses were called upon to provide information to Council, Council and the applicant may pose questions to the additional witnesses.
6. Once all questions have been answered, the applicant will be excused by the Mayor, at which time the applicant would return to the audience.
7. Council members would then deliberate on the matter in open session (meaning in front of any members of the public or media who may be present at the meeting). During Council deliberations, the applicant is not permitted to participate and can only observe from the audience.
8. Following deliberations, Council will take one of several possible actions:
 - a. Uphold the Director, Building Approvals' decision;
 - b. Overturn the Director, Building Approvals' decision;
 - c. Consider a motion to delay consideration of the matter (for example, pending further information requests by Council); or
 - d. Such other action as Council considers appropriate.

Council's Decision

Council's decision on a reconsideration is final and can only be overturned by judicial review. Written confirmation of Council's decision will be provided to the applicant in the days following the meeting. Council's decision is also published in the minutes of the meeting, which is available on the City website.

Extract from Tree Protection Bylaw No. 8057

6.5 Right of Reconsideration

- 6.5.1 Where an applicant or owner of property is subject to a requirement or a decision made by the **Director** under this bylaw and is dissatisfied with the requirement or decision, the applicant or owner may apply to the **City Council** for reconsideration of the matter within 30 days of the requirement or decision being communicated to them.
- 6.5.2 An application for reconsideration must be delivered in writing to the **City Clerk** and must set out the grounds upon which the applicant considers the requirement or decision of the **Director** is inappropriate and what, if any, requirement or decision the applicant or owner considers the **Council** ought to substitute.
- 6.5.3 At the meeting of **Council**, **Council** may hear from the applicant and any other person interested in the matter under reconsideration who wishes to be heard and may either confirm the requirement or decision of the **Director** or substitute its own requirement or decision.



City of Richmond

6911 No. 3 Road,
Richmond, BC V6Y 2C1
www.richmond.ca

October 23, 2020
File: 12-8360-20

Legal and Legislative Services Division
City Clerk's Office
Telephone: 604-276-4007
Fax: 604-278-5139

Nery Santos
3260 Williams Road
Richmond, BC V7E 1J1

Attention: Nery Santos

Dear Mr. Santos:

Re: Appeal of Tree Removal Permit Refusal for 3260 Williams Road

This letter is in relation to your request to appear before Richmond City Council to appeal the Tree Removal Permit Refusal for the property at 3260 Williams Road.

Details of the appeal process are outlined in the attached document titled *Tree Permit Refusal Reconsideration Process*. Also, enclosed with this letter is the full document that will be presented to Council for the appeal hearing. Please review and familiarize yourself with this material and bring it with you to the meeting scheduled for **Monday, November 2, 2020 at 4:00 p.m.**, in Council Chambers, Richmond City Hall. In accordance with normal City practice, these documents will be published on the City website as part of the agenda for the open Council meeting at which your appeal will be heard.

Following receipt of this letter, please contact me directly at 604-276-4006 to confirm you have received this package and that you wish to proceed with the appeal.

If you have any further questions or concerns, please feel free to contact me.

Yours truly,

Claudia Jesson
Director, City Clerk's Office

CJ:eb

Att. 1

pc: Joe Erceg, General Manager, Planning and Development
James Cooper, Director, Building Approvals



City of Richmond

Report to Council

To: Richmond City Council **Date:** October 8, 2020
From: James Cooper, Architect AIBC **File:** 12-8360-20-AMANDA
 Director, Building Approvals #/2020-Vol 01
Re: **Appeal of Tree Removal Permit Refusal for 3260 Williams Road**

Staff Recommendation

That the decision to deny the removal of the subject tree that is healthy, structurally sufficient and has recovered from previous over-trimming on the property at 3260 Williams Road be upheld.

James Cooper, Architect AIBC
 Director, Building Approvals
 (604-247-4606)

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER	
SENIOR STAFF REPORT REVIEW	INITIALS:
APPROVED BY CAO	

Staff Report

Origin

The purpose of this report is to assist Council in making a decision on the current appeal made by Mr. Nery Santos. Mr. Santos is appealing to Council to reconsider City staff's decision to refuse the issuance of a tree removal permit of a large western red cedar tree on his property at 3260 Williams Road.

Under the Richmond Tree Protection Bylaw No. 8057:

6.5.1 Where an applicant or owner of property is subject to a requirement or a decision made by the Director under this bylaw and is dissatisfied with the requirement or decision, the applicant or owner may apply to the City Council for reconsideration of the matter within 30 days of the requirement or decision being communicated to them.

Analysis

Mr. Santos hired a landscape contractor to trim a row of five large coniferous trees on his property in September of 2018. He had previously submitted a tree removal permit application to cut one of those trees in 2015 and also in 2017 but was denied in both cases. Mr. Santos alleges that without his permission, his landscape contractor removed the tree that he had previously applied for removal and damaged the rest by over-trimming/limbing. Upon being alerted to the situation, City staff assessed the situation and placed a Stop Work Order to prevent further damage. In order to fairly assess the damage to the remaining trees for determining appropriate fines, staff requested Mr. Santos provide the City with an arborist report as an independent third party documenting the health of the remaining trees. Mr. Santos provided an arborist report in October of 2018. The western red cedar tree currently requested by Mr. Santos for removal is one of the surviving trees as indicated in the arborist report.

After review of the arborist report, staff decided to reassess the remaining trees to allow one year of recovery time. Staff found that none of the trees were of high risk of structural failure despite the western red cedar tree in question being noted as moderate risk in the arborist report due to the over-trimming. After monitoring the trees over the ensuing months and conducting the re-inspection on December 4, 2019, staff concluded that all remaining trees including the western red cedar tree were not damaged to the point of requiring removal. Staff issued a fine of \$1,000 for the previous illegal removal of the single tree, served as a municipal ticket on December 12, 2019 (approximately one year after the removal). At that time, staff concluded that the remaining damaged trees had made robust recovery and are structurally sufficient, and no further regulatory action was required.

On January 9, 2020, Mr. Santos applied for the removal of the western red cedar tree as based on his 2018 arborist report. His application was denied since the inspection of the tree by City staff in February 2020 determined that the tree in question remained sufficiently recovered with "new lateral branching, new upper crown growth, dark green canopy." These conclusions were made through independent inspections by City staff, who are certified arborists holding tree assessment qualifications from the International Society of Arboriculture (ISA).

The western red cedar tree has continued to heal between the time of the initial arborist report and Mr. Santo's application for its removal, and is now both structurally sufficient and capable of sustaining itself. The removal of the tree would be unnecessary and may reinforce actions such as illegal over-trimming causing damage. Since conifers rely on a shallow root mat system for structural stability, removing one of the contributing members would also weaken the stability of the remaining trees.

Financial Impact

None.

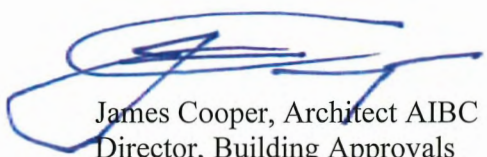
Conclusion

After due investigation, the conclusions and process followed by staff have been found to be professional and correct in the assessment of the tree requested for removal. There is no arboricultural reason to permit removal of a healthy tree that is structurally sufficient, having recovered from over trimming.

Mr. Santos is also appealing the decision based on his opinion that the tree roots would damage the foundation drains around his house. The tree is more than 20 feet away from the house foundations and perimeter drainage, and the likelihood of causing damage to the drain is minimal and does not constitute rationale for removal.

Tree Protection Bylaw No. 8057 stipulates that a tree permit application is required for the City to consider removal of any tree, and the application fee for considering one tree per year is waived. However, the tree permit application serves only to initiate assessment under strict criteria intended to prevent removal of healthy trees. In this case, the criteria for removal have not been met.

It is recommended that Council uphold staff's refusal to issue a Tree Removal Permit for the removal of the subject cedar to Mr. Santos for the property at 3260 Williams Road.



James Cooper, Architect AIBC
Director, Building Approvals
(604-247-4606)

JC:aa