

DATE OF MEETING | December 16, 2019 |

AUTHORED BY | DEAN MOUSSEAU, MANAGER, ENGINEERING & ENVIRONMENT |

SUBJECT | **TREE REMOVAL PERMIT APPLICATION FOR 950 PHOENIX WAY** |

OVERVIEW

Purpose of Report

For Council to reconsider the Director's decision with respect to a Tree Removal Permit application pursuant to Section 52 of the *Community Charter*.

Recommendation

That Council provide direction with respect to the Director's decision to deny a Tree Removal Permit for 950 Phoenix Way.

BACKGROUND

On 2019-OCT-31, Staff received an Official Community Plan (OCP) amendment application for 950, 1170, 1260, and 1270 Phoenix Way to redesignate the lands from Resort Centre to Industrial to allow for subsequent rezoning and subdivision applications. These properties are currently zoned AR1 and located within Development Permit Area 2 – Environmentally Sensitive Areas.

On 2019-NOV-12, Staff met with Mr. Glenn Brower to discuss a Tree Removal Permit (TRP) application to allow the development of an access road through 900 and 950 Phoenix Way. Mr. Brower was informed that, while a TRP could be accepted for 900 Phoenix Way, a TRP would not be issued for 950 Phoenix Way, as the property is the subject of an OCP amendment application. As of the date of this report, a TRP application has not been received.

DISCUSSION

TRPs are reviewed and issued under the provisions of the "Management and Protection of Trees Bylaw 2013 No. 7126" (the "Tree Bylaw"), which is intended to support the objectives of the City of Nanaimo's Urban Forest Management Strategy.

A TRP for land development is generally issued only after any discretionary approvals such as OCP amendments, rezonings, and development variance permits have been granted, and a detailed Tree Management Plan has been provided to support non-discretionary approvals, such as a building permit or development permit. This approach, as provided for in the Tree Bylaw, is intended to ensure that tree removal for development has been fully vetted based on a review of detailed information provided through progressive development approval processes.

As consistent with Staff's prior interpretation and practice, Mr. Brower has been advised a TRP would not be issued for 950 Phoenix Way while the City is processing an OCP amendment application for the property.

Under the *Community Charter*, Section 52, and the Tree Bylaw, Section 17(4), the applicant may request Council confirm, overturn, or modify the decision of the Director.

OPTIONS

1. That Council confirm the Director's decision to deny a Tree Removal Permit for 950 Phoenix Way until the OCP Amendment, Rezoning, and Development Permit have been approved by Council and detailed design for subdivision works and services has been issued Design Stage Acceptance.
 - Advantages: Consistent with past interpretation and practice. The outcome of the OCP amendment and subsequent discretionary approvals is uncertain, and removal of trees would occur with the impact fully vetted with information provided through progressive development approvals.
 - Disadvantages: None identified
 - Financial Implications: None identified.
2. That Council overturn the Director's decision to deny a Tree Removal Permit for 950 Phoenix Way until the OCP Amendment, Rezoning, and Development Permit have been approved by Council, and detailed design for subdivision works and services has been issued Design Stage Acceptance.
 - Advantages: None identified.
 - Disadvantages: Inconsistent with past interpretation and practice. The outcome of the OCP amendment and subsequent discretionary approvals is uncertain, and removal of trees would occur without the impact fully vetted with information provided through progressive development approvals.
 - Financial Implications: None identified.
3. That Council provide alternative direction.]

SUMMARY POINTS

- A TRP for land development is generally issued only after any discretionary approvals have been granted by Council. The impact of tree removal for development is intended to be fully vetted through a progressive development approval processes.
- The Director has determined a TRP will not be issued for 950 Phoenix Way while an OCP amendment application is under review.
- The Director's decision can be reconsidered by Council upon request, as per Section 52 of the *Community Charter* and Section 17(4) of the Tree Bylaw.

ATTACHMENTS:

ATTACHMENT A: Aerial Photo |

ATTACHMENT B: Link to "Management and Protection of Trees Bylaw 2013 No. 7126"

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