

March 18, 2013

To: Mayor and Council

From: Municipal Clerk

Re: **Tree Protection Bylaw Application for Reconsideration of Permit Refusal – 2519 Currie Road**

Under the *Tree Protection Bylaw*, adopted in 2006, the tree located at 2519 Currie Road for which a tree removal permit was denied, is protected pursuant to the Tree Protection Bylaw.

Pursuant to the Bylaw, the Manager of Parks Services would issue a permit for the removal or damage of a protected tree where such removal or damage was required as per the various criteria laid out in the bylaw, which are as follows:

6. (1) to eliminate a hazard caused by a tree or part thereof which is dead, dying, severely damaged, unstable or severely leaning and in danger of falling;
- (2) to eliminate a hazard caused by interference with utility wires;
- (3) to eliminate a situation where a water line, sewer pipe or drain pipe is being chronically blocked or damaged by roots, or where pressure or penetration from tree growths above or below ground is causing damage to a building or part thereof, or to a significant structure, and there is no other reasonable solution that would not impose an undue hardship;
- (4) subject to Section 9, to allow the construction of a principal building in the location shown on a building permit application which complies with all applicable enactments and bylaws, and where the plans for the same have been approved by the building permit issuing authority for the Municipality;
- (5) to allow the construction of an accessory building or structure in a location complying with all applicable bylaws and regulations where a requirement to construct the building or structure in an alternate location would impose an undue hardship;
- (6) to prevent a foreseeable hazard that would be created by damage to the root system of a tree attributable to the construction of a building or structure in a location approved by the building permit issuing authority for the Municipality;
- (7) to allow the installation of underground or overhead services where a requirement to install the same in an alternate location would impose an undue hardship;
- (8) to allow the installation of a driveway or required off-street parking area where a requirement to install the same in an alternate location would impose an undue hardship;

- (9) or warranted because the tree, due to disease, decay, dieback or other pathological condition, mishap or pest attack is in an advanced and irreversible state of decline:
- (a) that will on balance of probability cause the death of the tree within 5 years or less; or
 - (b) which has already caused the tree to deteriorate to the point that its continued retention can no longer reasonably be considered to serve the tree protection objectives of this Bylaw;
- (10) , in accordance with sound arboricultural principles and practices, and pursuant to the goal of maintaining the native urban forest in a state of ongoing renewal, to promote and protect the health and vigour of any one tree of the species Garry Oak (*Quercus garryana*), Arbutus (*Arbutus menziesii*), Pacific (Western) Yew (*Taxus brevifolia*), Black Hawthorn (*Crataegus douglasii*) or Pacific (Western Flowering) Dogwood (*Cornus nuttallii*), which has either a basal diameter greater than 10 centimetres or a height above the point of germination in excess of 2 metres.
- (11) to prevent foreseeable damage to a building, or to a significant structure, from:
- (a) a limb, trunk or stem failure; or
 - (b) pressure or penetration from tree growths above or below ground, which the Manager of Parks Services has identified as a substantial risk based on his examination of the tree in the context of its location, characteristics and general environment, notwithstanding that the tree may not at the time of application exhibit any of the hazardous conditions set out in Section 6(1) or actually be causing damage as described in Section 6(3); or
- (12) to remedy an undue hardship attributable to the material and deleterious effect of the tree on an improvement of significant value located on the subject parcel, or on land adjoining the subject parcel.

In the case at hand, the Manager of Parks Services has determined that none of the criteria under which he has the authority to issue a permit apply (see additional information attached). Therefore, the owner of 2519 Currie Road is seeking Council reconsideration of the decision to refuse to issue a permit.

In this regard, Section 21.1 of the Tree Protection Bylaw provides that in the case of a request for reconsideration of a decision of the Manager of Parks Services, Council would review the Manager's interpretation and application of the permit-issuing criteria set out in Section 6 and, if supported by the facts and in harmony with the scheme of this Bylaw generally and the language of that section in particular, may substitute its own interpretation or application and order the issuance of a permit where it is satisfied that the issuance of the permit having regard to:

- (1) the species of the tree;
 - (2) the form of the tree;
 - (3) the condition of the tree; or
 - (4) the general density of protected trees on the subject parcel,
- would not defeat the intent of this Bylaw.



Lorraine Hilton
Municipal Clerk

2013-96

Memorandum

TO: Mayor and Council **DATE:** March 21, 2013
FROM: Roy Thomassen
Director of Building and Planning
SUBJECT: Property protected pursuant to Section 962 of the *Local Government Act*
2519 Currie Road
Lot 4 , Block 1 Section 23, Victoria District, Plan 1212

Background

At the March 11, 2013 Council meeting, Council ordered that temporary protection be placed on the buildings and land located at 2519 Currie Road for a period of not longer than 60 days. This property was then referred to the Heritage Commission for its assessment and recommendation with respect to the proposed renovation.

Discussion

The property and plans were considered by Heritage Commission on March 19, 2013. The minutes of the Heritage Commission are not ready for this Council meeting, however, the Commission liked the proposed house alterations and do not consider demolition of the garage to affect the heritage value of the property.

Recommendation

If Council wishes to allow the alterations to 2519 Currie Road as recommended by the Heritage Commission, the 60 day temporary protection order made March 11, 2013 pursuant to *Section 962* of the *Local Government Act* would need to be lifted.



Roy Thomassen, Director
Building and Planning

2013- 97

Memorandum

TO: Mayor and Council **DATE:** March 21, 2013

FROM: Roy Thomassen
Director of Building and Planning

SUBJECT: Property protected pursuant to Section 962 of the *Local Government Act*
516 Newport Avenue
Lot 11 , Block 5 Section 73, Victoria District, Plan 992

Background

At the March 11, 2013 Council meeting, Council ordered that temporary protection be placed on the property located at 516 Newport Avenue for a period of not longer than 60 days. This property was then referred to the Heritage Commission for its assessment and recommendation with respect to the proposed renovation.

The property and plans were considered by Heritage Commission on March 19, 2013. The minutes of the Heritage Commission are not ready for this Council meeting; however, the Commission did not have any concerns with the requested alterations to the building as shown on the attached plans.

Recommendation

If Council wishes to allow the alterations to 516 Newport Avenue as recommended by the Heritage Commission, the 60 day temporary protection order made March 11, 2013 pursuant to *Section 962* of the *Local Government Act* would need to be lifted.


Roy Thomassen, Director
Building and Planning

2013- 98

Memorandum

TO: Mayor and Council **DATE:** March 21, 2013
FROM: Roy Thomassen
Director of Building and Planning
SUBJECT: Building Permit Referral-- Oak Bay Community Heritage Register
3110 Weald Road
Lot D , Block 20 Section 31, Victoria District, Plan 2713

Background

This property has received approval for renovations previously by Council and now contains modifications to the original proposal involving two sets of French doors and reinstating the top floor balcony to the original design. This property is on the Oak Bay Community Heritage Register

Discussion

Typically an application of this nature would be brought to Council for consideration of a temporary protection order under *Section 962* of the *Local Government Act* to allow further consideration of the alterations in relation to heritage values in the Statement of Significance.

The designer has provided amendments proposed involving two sets of French doors and reinstating the top floor balcony and requested the Director of Planning and Building bring the application directly to the Heritage Commission for review and comment. (see attached plans)

The Heritage Commission meeting held March 19, 2013 reviewed the alterations. The motion from the commission is to approve the alterations as shown on the attached drawings.

Recommendation

If council wishes to allow the revised building permit to be issued, the appropriate motion would be to receive this report for information.



Roy Thomassen, Director
Building and Planning