



DISTRICT OF WEST VANCOUVER
750 17TH STREET, WEST VANCOUVER BC V7V 3T3

COUNCIL REPORT

Date:	June 28, 2016
From:	Chris Bishop, Manager of Development Planning
Subject:	Tree Protection in West Vancouver – Public Engagement Summary, Housekeeping Bylaw Amendments, Recommendations and Next Steps
File:	2515-08

RECOMMENDATION

That Council receive the report “Tree Protection in West Vancouver – Public Engagement Summary, Housekeeping Bylaw Amendments, Recommendations and Next Steps” for information;

That Council recommend that a Tree Bylaw Task Force be struck to assist in the development and consideration of a permanent tree bylaw for the District; and

That proposed “Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016” be read a first, second and third time.

1.0 Purpose

The purpose of this report is to provide:

- Council with information regarding the public engagement process on tree protection in West Vancouver,
- information regarding tree cutting activities since the adoption of the Interim Tree Bylaw,
- recommendations for housekeeping amendments to the Interim Tree Bylaw No. 4892, 2016, and
- recommendations regarding further consultation and engagement on trees.

2.0 Executive Summary

Trees are important to residents of West Vancouver and are an important part of the fabric and identity of the community. The presence of character defining landscapes including trees helps to set West Vancouver apart as different from other municipalities in the Metro Vancouver region.

Council adopted Interim Tree Bylaw No. 4892, 2016 on April 20, 2016. This interim bylaw has helped the community manage the impact of previously unregulated tree cutting activities. Since the adoption of the bylaw, staff has undertaken a public engagement process to help understand the impacts of tree cutting on neighbourhoods, the impacts that the interim measures have had and to assist staff in exploring ways to

possibly adjust the bylaw for tree management in West Vancouver over the longer term.

Since the adoption of the bylaw, staff has dealt with numerous inquiries about the bylaw and private trees (+/- 12 per day, with many more if public boulevard tree inquiries are included).

Staff have gained insight from the feedback obtained through the public engagement effort. The issue of tree protection and management on private properties is a polarizing subject with many varied perspectives. Staff has provided a brief summary of the engagement and feedback to date, permitting activity since the adoption of the Interim Tree Bylaw and is recommending that further consultation with an issue specific task force be undertaken to assist the District in achieving a sound and balanced approach to private tree management within West Vancouver. In the short term, staff are also recommending a number of minor amendments to the Interim Tree Bylaw to provide further clarity in the review and processing of permits.

3.0 Legislation/Bylaw/Policy

Legislation

Under *Section 8* of the *Community Charter*, a Council may, by bylaw, regulate, prohibit and impose requirements relative to trees and protection of the natural environment.

Bylaws

Interim Tree Bylaw No. 4892, 2016 ('Interim Bylaw') regulates the cutting of trees on private property. The bylaw is intended to be a temporary regulatory framework for the community during public consultation on long term steps on private property tree protection.

The "Bylaw Notice Enforcement Bylaw No. 4368, 2004" is a bylaw that implements the enforcement of bylaw notices in conjunction with North Shore Bylaw Adjudication Registry.

The "Municipal Ticket Information System Implementation Bylaw No. 4383, 2004" is a bylaw that implements the Municipal Ticket Information System pursuant to the *Community Charter S.B.C. 2003*.

Infractions against Interim Tree Bylaw No. 4886, 2016 are ticketed under these bylaws.

The fines in the Bylaw Notice Enforcement Bylaws and the Municipal Ticket Information System Implementation Bylaw are regulated by provincial law. They are limited to \$500 per offence in the Bylaw Notice Enforcement Bylaw and up to \$1,000 per offence in the Municipal Ticket Information System Implementation Bylaw. Beyond this and under the

Offence Act fines of up to \$10,000.00 are possible upon conviction. Council has passed a motion for consideration by the UBCM at their fall 2016 session to consider amending the MTI penalty amount to \$5,000.00 per offence.

District Policy

The Official Community Plan recognises the importance and balance of trees, views and access to sunlight for the community and states the following about trees in the Natural Environment section:

Policy NE 9

Encourage a "Good Neighbour" approach through education to mitigate instances of trees on private properties that block sunlight and significant views.

Policy NE 11

In planning for development, recognise and manage the effects of tree growth on amenities such as access to sunlight, views and safety.

4.0 Background

4.1 Previous Decisions

Interim Tree Bylaw No. 4886, 2016

At the April 20, 2016 Council Meeting Council passed the following motion:

THAT proposed "Interim Tree Bylaw No. 4892, 2016" be adopted.

Additional discussion ensued and Council requested that rather than the suggested fall 2016 timeline for tree bylaw consultation and engagement that consultation and possible amendments to the tree bylaw occur more rapidly and be brought back for July 18.

5.0 Analysis

5.1 Discussion

Public Engagement

At Council's direction, staff undertook public engagement effort in May to gain input from the community. Open houses were held on May 26 (West Vancouver Community Centre) and June 1 (Gleneagles Community Centre) as well as hosting a tent and display at West Vancouver Community Day at Ambleside Park (June 4). Information display boards and a questionnaire were available for the public with staff on hand to answer any questions or to take any comments related to trees.

In addition to the live engagements, an online presence and forum was created to advertise the engagement effort and to solicit feedback through a questionnaire. The questionnaire was open to receive responses from May 15 through to June 10.

Questionnaires were available at various locations around the community including the Seniors Centre, West Vancouver Recreation Centre, library, municipal hall, and Gleneagles Recreation Centre.

Each of the open houses was advertised to all residents by way of an information post card mailed to the tax roll addresses. The card contained information about the live and online engagement venues and encouraged the community to provide input.

Public Engagement – Questionnaire - Feedback Summary

The feedback coming through the engagement efforts was extensive given the timeframe. The online response through questionnaires was the largest experience on the *westvancouver*TE platform to date.

*westvancouver*TE statistics

- 1116 attendees to site
- 531 responses on forum, 556 responses off forum¹
- 54.4 hours of public comment

The questionnaire focussed on whether people supported using 75 cm as a diameter for regulation or whether protection of a smaller tree size was desired; whether specific tree species other than garry oak and arbutus should be protected; and whether further regulations focussed on tree cutting practices are needed (i.e. maximum number and/or location of trees that may be cut).

Broadly speaking, the feedback received was close to evenly split between the need to regulate trees less than 75cm in diameter (52% in favour, 48% opposed to regulating trees less than 75 cm). Of those 52% that wanted greater restrictions, 72% wanted to see the diameter adjusted down to 50cm. Further, within this group, some felt that pushing the regulated size lower than 50 cm is warranted to further protect trees.

¹ On forum responses:

Responses entered by residents who created an account with *westvancouver*TE. Some remain anonymous, some chose to publish their name. Registration allows staff to determine residency. On-forum responses also include hand written responses that were reviewed and entered by staff.

Off forum responses:

Responses entered by people who did not register. For this reason, staff cannot verify if they are West Vancouver residents or not, or if they submitted multiple responses.

Residents also had the option of completing the survey off forum but sending a printed copy to staff. Those were treated like paper surveys and included in on forum, but copies of them remain in the off forum results.

With regard to protected species, over 80% felt that the list needed to be modified and expanded. Mentioned species included cedar, dogwood and maple.

Online forum responses tended to generally be in support of the direction and intent of the Interim Tree Bylaw with suggested amendments to strengthen the effectiveness of the regulations. Off forum responses tended to be more in favour of leaving the bylaw alone relative to tree diameters (75cm) rather than amending to a smaller diameter. However, the off forum respondents responded more favourably to protecting more species by bylaw. Currently only garry oak and arbutus are protected species at 20cm.

Through the two open houses, staff observed a marked difference between the responses and feedback received in the eastern portions of the community and those generally heard from residents of the western part of the District. Broadly speaking in the eastern areas where smaller lots dominate (i.e. Ambleside and Dundarave, etc.) the desire to see regulation and protection of trees was higher than in the western areas with larger lots, larger trees and more significant tree cover.

There is a high degree of importance given to the impact that trees have on views and to a lesser degree solar access. Risk from larger trees was mentioned, but only secondarily and often as an argument to justify the removal of unwanted large trees. Liability exposure for the District in not allowing the removal of large trees on private property was mentioned as a compelling reason for the District not to manage or regulate trees in any way.

A common concern was the impact of private trees impacting the views, sunlight, and safety of adjacent private lots. Many residents spoke of approaching neighbours only be rebuffed or to be given authority only if compensation was provided. Some respondents suggested that any final bylaw be drafted to compel owners to manage and cut trees to preserve or enhance the views and sunlight of adjacent owners.

Finally, with regard to the engagement effort and survey, many in the community were disappointed with the short window for consultation, the time of day the open houses (one late afternoon session, one evening session and one full day event). Further, some felt that the material prepared for the event and the questionnaire was biased and leading in support of tree protection generally and a tree bylaw specifically. For example, many wanted to see a simple yes or no question asking whether they felt a tree bylaw regulating trees on private property is warranted at all.

Tree Management Contractors

Staff also took an opportunity to solicit input from the active, licensed tree management contractors working within the District. A meeting was held to hear feedback firsthand and to look at ways to address challenges in the administration of the bylaw.

Contractors provided feedback that at least seventy percent of the works that they are contracted to do is related to view issues rather than safety, interface/ fire prevention efforts or solar access (sunlight). Historically the issue of views and trees has been managed by owners, with some managing their property annually and to a high standard with others letting vegetation and trees grow for many years and then cutting and thinning more drastically all at once.

The group commented that through the development process trees are affected significantly by the disruption of the water table as sites are modified to permit construction. This is especially true in the case of basement development (virtually all new home construction includes basements). However, the effects of this are often not seen until well after development activities have ended. Site coverage also impacts the health of trees through the impact on infiltration of water to the root systems.

The strongest recommendation put forth from this group was the need for certified arborists to be involved from the beginning and for the District to find a means to resource the management of any regulations around trees appropriately (i.e. hire more staff).

Additionally, the group suggested that the District needs to connect with the real estate profession to educate owners and potential owners on the value of properly maintained and managed trees. This would likely help to manage the expectation of new buyers to West Vancouver. The group commented further on the need for penalties for contractors that do work without a license and a permit issued for the work they have been contracted to do. Without proper oversight from the District in this regard, tree management companies from outside the community will take the work that the certified and licensed contractors turn down. This was felt to be a significant loophole and shortcoming of the current situation regarding professional tree management and tree cutting.

Permits – Interim Tree Bylaw

As of July 4, staff has received 10 permit applications for trees on private property with about 12 additional calls for service related to concerns regarding tree cutting activities (not all related to private trees). No tickets have been issued to date. Staff estimate approximately 12 inquires per day regarding the Interim Tree Bylaw and tree cutting on private lands. Further inquiries are received regarding tree cutting and management on public lands (boulevards).

Recommended Bylaw Amendments – Interim Tree Bylaw

Staff has reviewed the operation and implementation of the current Interim Tree Bylaw and recommend the following changes to clarify the bylaw and streamline the processing of permits:

1. Amend the definition of 'permitted building envelope' for clarity. Currently there is uncertainty if this means the building envelope of an active building permit or simply the building envelope afforded by

zoning (i.e. inside the setback boundaries). The intention is that the permitting apply to an active building permit (i.e. lands that are the subject of an active building permit).

2. Clarify requirements of the tree survey to only show 'protected trees/identified trees' (ITs). Currently the bylaw requests a tree survey but does not specify what information needs to be included in the survey. The amendment will require that only identified trees (i.e. those with a DBH of 75 cm or greater) be noted on the required survey.
3. Amending the bylaw to further clarify requirements around tree protection during construction activities.

The proposed amending bylaw is attached as Appendix A.

5.2 Sustainability

Trees contribute the sustainability of the community. The value of trees includes their ecological and environmental values, their community, social and personal values, and their economic value.

5.3 Public Engagement and Outreach

Staff have undertaken an intensive and targeted public engagement process as directed by Council in April. The feedback has been valuable, with engagement levels not seen before on the District's *westvancouverTE* online platform. However, based on the short timeframe and the polarized views of residents on the issue of private tree regulation, staff recommends further and more focussed work on the issue.

Additional open houses are not recommended but a more specific and focussed consultation including the creation of a task force is recommended. Staff recommends the creation of such a group to assist and advise in the development of a balanced, sound and well developed approach to regulating trees on private properties. Additional stakeholder consultation may also be undertaken if recommended by the task force and as appropriate. Once this additional engagement is complete, staff will report back to Council with any additional recommendations, targeted for the fourth quarter of 2016.

5.4 Other Communication, Consultation, and Research

Staff continue to research the issue and to hear from the public regarding tree protection and management in West Vancouver. This engagement and research will continue into the fourth quarter of 2016 as recommended.

5.5 Recommended Option

That Council receive the report "Tree Protection in West Vancouver – Public Engagement Summary, Housekeeping Bylaw Amendments, Recommendations and Next Steps" for information;

That Council recommend that a Tree Bylaw Task Force be struck to assist in the development of a permanent tree bylaw for the District with a report back in the fall of 2016 (Q4)

That proposed "Interim Tree Bylaw No. 4892, 2016 Amendment Bylaw No. 4913, 2016" be read a first, second and third time;

6.0 Conclusion

The purpose of this report is to provide Council with information regarding the public engagement process and feedback related to the Interim Tree Bylaw No. 4892 to date, to provide information regarding tree cutting activities since the adoption of the bylaw, to provide recommendations for minor amendments to the Interim Tree Bylaw No. 4892 based on our application of the bylaw to date, and to recommend further consultation on the issue, primarily through targeted stakeholder consultation and the creation of an advisory task force.

Accordingly, staff recommend the following:

That Council receive the report "Tree Protection in West Vancouver – Public Engagement Summary, Housekeeping Bylaw Amendments, Recommendations and Next Steps" for information;

That Council recommend that a Tree Bylaw Task Force be struck to assist in the development and consideration of a permanent tree bylaw for the District; and

That proposed "Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016" be read a first, second and third time.

Author:


Chris Bishop, Manager of Development Planning

Appendices:

Appendix A: Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016



District of West Vancouver

**Interim Tree Bylaw No. 4892, 2016,
Amendment Bylaw No. 4913, 2016**

Effective Date:

Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016

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District of West Vancouver

Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016

A bylaw to amend the Interim Tree Bylaw No. 4892, 2016

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for an amendment to the Interim Tree Bylaw No. 4892, 2016;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as Interim Tree Bylaw No. 4892, 2016, Amendment Bylaw No. 4913, 2016.

Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Amends Application of Bylaw

- 3.1 Interim Tree Bylaw No. 4892, 2016 is amended by inserting the words "subject to a building permit" into Section 3.1.8 after the word "lot".

Part 4 Amends Interpretation

- 4.1 Interim Tree Bylaw No. 4892, 2016 is amended by inserting the words "with a DBH of 75cm or greater" into Section 4.3 "Tree Survey" after the words "species of each tree".

Part 5 Amends Protection of Trees from Damage

5.1 Interim Tree Bylaw No. 4892, 2016 is amended by replacing Section 5.2.1 with the following:

5.1.1 Trees that have a DBH of 75 cm or greater outside the Permitted Building Envelope on the building site, other than trees that are being cut to permit the construction of a driveway or accessory building;

Part 6 Amends Tree Cutting Permits

6.1 Interim Tree Bylaw No. 4892, 2016 Section 6.4.1 is amended by inserting the words "and indicated in a building permit" after the word "Envelope".

READ A FIRST TIME on

READ A SECOND TIME on

READ A THIRD TIME on

ADOPTED by the Council on

Mayor

Municipal Clerk