



CITY OF  
BAINBRIDGE ISLAND

TREE & LOW IMPACT DEVELOPMENT  
AD HOC COMMITTEE  
REGULARLY SCHEDULED MEETING  
WEDNESDAY, OCTOBER 4, 2017  
3:00-4:30 PM  
COUNCIL CONFERENCE ROOM  
280 MADISON AVE N  
BAINBRIDGE ISLAND, WA 98110

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## AGENDA

- 3:00 PM**      **Review and Approve Notes from September 20, 2017 Meeting**
- 3:05 PM**      **Review and Approve Meeting Agenda**
- 3:10 PM**      **Public comment on agenda-related items.**
- 3:20 PM**      **Ongoing Business:**  
Discuss Revisions to BIMC 16.18 *Land Clearing*
- 4:10 PM**      **Public comment on agenda-related items.**
- 4:20 PM**      **Discuss Agenda for Next Meeting: October 18<sup>th</sup>**
- 4:25 PM**      **For the Good of the Order**
- 4:30 PM**      **Adjourn**

**\*\*TIMES ARE ESTIMATES\***

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at [pcd@bainbridgewa.gov](mailto:pcd@bainbridgewa.gov) or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

**For special accommodations, please contact Jane Rasely, Planning & Community  
Development 206-780-3758 or at [jrasely@bainbridgewa.gov](mailto:jrasely@bainbridgewa.gov)**



TREE & LOW IMPACT DEVELOPMENT  
AD HOC COMMITTEE  
MEETING NOTES  
WEDNESDAY, SEPTEMBER 20, 2017  
3:00 – 4:30 PM  
COUNCIL CONFERENCE ROOM

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**Committee Members in Attendance:** Mack Pearl, Kol Medina, Ron Peltier, Jon Quitslund  
**COBI Staff:** Jennifer Sutton  
**Public:** Jeff Kanter, Paul Bonham, Jonathan Davis, Mike Juneau, Charles Schmid

**Agenda Items 1 & 2:** Notes from the meeting of September 15 were approved as distributed. A brief report by Kol on the Council's discussion of the CAO Critical Aquifer Recharge Area policies was added to the Agenda, which was then approved.

**Item 3:** Mike J. spoke of some CAO-related topics that he had overlooked in remarks at the Council meeting. Alders should be removed from the species list for coppicing: alders are not "strong regenerators." He observed that it's too bad that work on hillsides is all shut down between Oct. 1 and Apr 1, since pruning is best done in the dormant season.

**Item 4, BIMC 16.18:** Kol led off the discussion with some comments on the Council's response to Christy's presentation and the DRAFT text of BIMC 16.20.100 (Aquifer recharge areas). No questions were raised by the 65 / 35% ratio to provide for aquifer recharge.

Discussion of BIMC 16.18 began with reference to Jon's version, with its decision points. The Committee went along with Jon's preference for putting Definitions at the end rather than in subsection .020. Mack asked about the applicability of this chapter: Would it pertain only to the portion of a lot that has been developed, and not at all to an NVPA area or the comparable undeveloped portion of a lot developed prior to the new regulations? Jon confessed that he had not considered how BIMC 16.18 would interface with 16.20. When and where do the regulations in each chapter apply? Would 16.20 and a Critical Area permit apply only when tree removal and/or land disturbing activity accompanies construction, while 16.18 applies to small-scale tree removal and other maintenance activities?

Delineation of the NVP Area would accompany substantial development and re-development activity. Would the NVPA boundaries be firm, or subject to change over time? For a lot that has already been developed, would an NVPA be delineated, and if it is much less than 65% of the lot, would that mean that no trees could be removed?

Some questions were raised about allowing, without a permit, removal of up to six significant trees within 36 months. Should the number removed be related to the number remaining, and to the size and zoning classification of the lot? Jon and Jennifer acknowledged that they should work together on a single draft for discussion at the next meeting. Jon asked all those present to read through the entire draft of 16.18 and provide some feedback.

**Item 5, Public comment.** Jeff Kanter expressed frustration with regulations that are unnecessarily complicated and burdensome. Planning staff are sometimes obliged to insist on applying a rule that doesn't solve the problem.

**Item 6.** Jennifer mentioned that the Public Hearing on the CAO is scheduled for Oct. 3. The next Ad Hoc Committee meeting will be Oct. 4, for further discussion of BIMC 16.18.

**NEW BIMC Chapter 16.18:  
Forest Stewardship, Vegetation Management, and Tree Removal**

**NOTE: HIGHLIGHTED AREAS MAY CHANGE DEPENDING ON City Council CAO discussion**

**16.18.010 Findings.**

- A. Forested areas and trees on individual lots are integral parts of Bainbridge Island's character; they enhance the City's appearance and livability, as well as providing significant environmental benefits and natural resource values.
- B. Conserving and managing the Island's forested areas and native vegetation is a central goal of the Bainbridge Island *Comprehensive Plan*: see Goals LU-6, 12 & 13; EN-3, 4, 5, 18 & 19; WR-3 & 4; and Policies LU 4.10 & EN 15.3.
- C. Trees are valued by homeowners and, when well cared for, enhance property values.
- D. Reckless and unnecessary removal of trees and understory vegetation, combined with extensive disturbance of soils, cause loss of habitat and wildlife, runoff and soil erosion, degradation of surface water and aquifer recharge, and adverse impacts on air quality, as well as loss of aesthetic appeal.
- E. The community forest resources of the Island are best understood as a mosaic, with some large and many small pieces, on publicly owned and private properties. When clearing for development further fragments the mosaic, both individual and community interests are affected.
- F. On Bainbridge Island and elsewhere, examples exist to demonstrate that (1) development for residential and other uses can be compatible with careful conservation of forest conditions and other natural features; and that (2) such development can be cost-effective, attractive, energy-efficient, and well adapted to our climate.

**16.18.015 Purposes:**

- A. To promote the public health, safety, and general welfare of Bainbridge Island citizens without preventing the reasonable use of private property.
- B. To preserve and enhance the City's physical and aesthetic character, to promote the healthy functioning of our Island's natural systems, and to provide economic benefits to the community, for the sake of present and future generations.
- C. To implement the purposes of the State Growth Management Act relating to conservation of natural resources, pursuant to RCW 36.70A.
- D. To implement goals and policies in the current *Comprehensive Plan*, the *Community Forest Management Plan* (2006), and the *Bainbridge Island Open Space Study* (October 2008), as subsequently updated.

- E. To promote forest stewardship practices and carefully planned development that results in minimal disturbance to the prior conditions of a property and neighboring properties (e. g., existing residential and other uses, open fields, farms, trees and other vegetation, slopes, soils, streams and wetlands, trails, and wildlife corridors and habitat).
- F. To implement a long-range policy of maintaining the Island's forest canopy cover.
- G. To allow limited tree and vegetation removal to provide for solar access, agriculture and gardens.
- H. To promote infiltration of stormwater and aquifer recharge; to minimize erosion and prevent pollution; to prevent landslides; to protect the waters of Puget Sound and the quality and quantity of water in wells.
- I. To maintain in a healthy state significant trees, clusters of trees, and forested areas, allowing for thinning, limbing, removal of invasive and undesirable vegetation, selective harvest and replanting, developing and maintaining trails, and removal of diseased, dead, or dangerous trees.

**16.18.020 General requirements and review process.**

- A. The planning director shall grant a tree removal permit if the application meets the requirements of this chapter and all other relevant city codes, including but not limited to Chapters 15.19, [15.20](#), [16.12](#), [16.20](#), and [18.15.010](#) BIMC. If the tree removal permit application is denied, the decision may be appealed pursuant to BIMC [16.18.080](#).
- B. Approved tree removal permits shall not be amended without authorization of the planning director.
- C. A tree removal permit may be approved subject to conditions.
- D. No work authorized by a tree removal permit shall commence until a permit notice has been posted by the applicant at a conspicuous location on the subject property. The notice shall remain posted in said location until the authorized tree removal has been completed.
- E. Any tree removal permit granted under this chapter shall expire one year from the date of issuance. Upon a showing of good cause, the permit may be extended for six months by the planning director.
- F. A tree removal permit may be suspended or revoked by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.
- G. A forest practice permit from the State Department of Natural Resources may be required pursuant to RCW 76.09. Failure to obtain a forest practice permit when applicable shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060.

**16.18.030 Activities requiring a tree removal permit.**

- A. Except for activities described in **16.18.040 (Maintenance and tree removal activities not requiring a permit)**, and except when tree removal is specifically authorized in a more comprehensive land use or development permit, all tree removal activities shall comply with this chapter's provisions for permits and related regulations. Permits for tree removal may require the planting of replacement trees. Tree removal projects that will involve substantial land disturbance may require a Site Assessment Review or Critical Area Permit pursuant to BIMC Chapters 15.19 and 16.20, respectively.
- B. Provisions of the Critical Areas chapter (BIMC 16.20), the Farmlands and Open Space chapter (BIMC 16.24), the Surface and Stormwater Management chapter (BIMC 15.20) and the Shoreline Management Program (BIMC 16.12) may apply to some tree removal activities.
- C. For projects involving new development or redevelopment that requires clearing or grading of more than 7,000 square feet, the applicant shall first initiate a Site Assessment Review (BIMC 15.19) or prepare for a pre-application conference in which the site's potential for surface and stormwater management will be determined and the area(s) not to be cleared will be delineated.
- D. For properties located outside of the Mixed Use Town Center and High School Road zoning districts **or other designated centers**, a tree removal permit is required for removing more than six significant trees in any 36-month period. **If the trees being removed would reduce canopy cover on the lot below 50%, the planting of replacement trees will be required. For such projects outside of designated centers and subject to Critical Aquifer Recharge Area regulations, BIMC 16.20.100 applies.**
- E. For properties located within the Mixed Use Town Center and High School Road zoning districts, a tree removal permit is required for removing any significant tree. A permit will be granted if the applicant demonstrates that one of the following criteria is met:
1. The tree is diseased, dead, or determined to be hazardous, as certified by an arborist with ISA Tree Risk Assessment Qualifications;
  2. The removal is necessary to allow reasonable use or enable permitted construction, and no alternative is feasible; or
  3. The removal is necessary to maintain utilities, provide access, or fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter.
- F. A tree removal permit is required to request removal of an **exceptional tree** in any part of the City. A permit will be granted if the applicant demonstrates that one of the criteria outlined above in section E is met:

**16.18.040 Tree removal and maintenance and activities not requiring a permit.**

Note: This section applies to properties that have been developed for residential use, and to maintenance activities on undeveloped properties. Permits are required for tree removal in critical areas (where any tree is significant as defined in this chapter, section .100), on shoreline properties, and in roadside or perimeter buffers and rights of way. See BIMC 16.20.090 (Critical Areas: Trees and Vegetation), 16.22.XX (Shoreline Management Program), and 18.15.010.XX (Landscaping, etc.). Generally speaking, the following activities do not require a permit:

- A. Routine landscaping and maintenance of developed lots, including pruning and planting; removal of invasive/exotic species and other unwanted vegetation; management of brush and seedling trees.
- B. Removal of diseased, dead, or fallen trees (when letting the wood decay in place is not an option).
- C. Removal of trees and ground cover in emergency situations involving danger to life or property, or substantial fire hazards.
- D. Routine maintenance activities in rights-of-way and roadside buffers, including removal of inferior trees and invasive/exotic species, trimming of overgrown hedges, and planting to replace removed vegetation.
- E. Clearing and digging required for the installation and maintenance of water meters, fire hydrants, and other utility lines and infrastructure, provided that the property owner is consulted and is satisfied that vitally important tree roots will not be compromised.
- F. Development of existing farmed areas in accordance with an approved farm management plan, provided that adequate measures are taken to manage pollution and stormwater.
- G. Limbing of significant trees to remove dead or hazardous branches, and to improve the tree's form and long-term vitality, provided that such work is done by a qualified professional arborist in keeping with the injunction, "first, do no harm."
- H. Selective removal of trees or tree limbs where necessary to provide for the efficient functioning of solar panels, in accordance with the plans and requirements of a licensed panel installer.
- I. In forested areas on developed and undeveloped properties in the Open Space Residential zones, selective clearing and logging for personal use, and to improve the health of the remaining trees and underbrush. On single-family residential lots, up to six significant trees may be removed in any 36-month period without a tree removal permit, provided that the trees removed do not reduce canopy cover on the lot below 50%.
- J. Forest practices permit regulated by the State Department of Natural Resources under Chapter RCW 76.09.

**16.18.050 After-the-fact tree removal permit.**

- A. In response to a report that one or more trees have been removed improperly, the City's Code Enforcement Officer shall investigate. If in fact the reported activity was legitimate without a permit, no action will be taken. If in fact the reported activity would have been allowed if a permit had been applied for, an after-the-fact Tree Removal Permit may be issued. The person or persons responsible for the unauthorized tree removal shall be made aware of all the conditions for approval and any applicable regulations and remedies. The fee for an after-the-fact permit shall be established by a resolution of the City Council.
- B. If in fact the reported activity would not have been permitted, entirely or in some particulars, the Code Enforcement Officer, in consultation with the Director or the City Attorney, shall follow the procedures for **Enforcement and Penalties** in this chapter or another applicable chapter of the BIMC.

**16.18.060 Forest Stewardship Plans. In BIMC 16.18? Or separate chapter?**

This will take some doing, and should be done right. Perhaps a separate chapter is called for, beginning with a list of Purposes (see separate draft of this). This section in 16.1 might be limited to describing properties where a forest stewardship plan would be appropriate: determinants could be acreage, extent of canopy cover, forested conditions on neighboring properties, presence of wildlife corridor, presence of wetland, stream, steep slope conditions.

I (JQ) think we should ask the Land Trust for perspective on the whole chapter, and some help with this section. The rationale and procedures would resemble the Plans described in the Critical Areas Ordinance and the Shoreline Management Program. A Plan that is a matter of record might be required in some circumstances, and be optional but advantageous in others. How can we "incentivize" such planning?

**16.18.070 Hedge Standards**

- A. Fully-screening hedges may not exceed 6 feet in height within zoning or subdivision property setbacks, pursuant to BIMC Chapter 18.12. Hedges within City rights-of-ways are regulated by BIMC Title 12. The City will enforce this section when code enforcement complaints are filed.
- B. Fully-screening existing hedges may be permitted to exceed 6 ft in height if the following information is submitted and an administrative exception is approved as provided below.
  - 1. Scaled site plans and elevation drawings showing the location of the hedge and all buildings on the property.
  - 2. The written consent of all abutting property owners, and property owners across the street or private access easement.
  - 3. Upon submittal of the information, the planning director or their delegate in order to approve the exception must find that the existing hedge will not be detrimental to the neighborhood in terms of view, light, and air; nor injurious to traffic safety.

**16.18.080 Performance assurance.**

- A. The planning director may require, as a condition to the granting of a permit, that the applicant furnish a performance assurance in a form approved by the planning director, in

order to obligate the applicant, after the approved tree removal has been accomplished, to complete all required replanting, erosion control, and cleanup on the property. The surety device shall be in an amount equal to the estimated cost of such services, with surety and conditions satisfactory to the planning director.

- B. In order to stay enforcement, the director may choose to enter into a voluntary correction agreement (VCA). This is a civil contract entered into between the City and the applicant. The VCA will outline several performance items that will be required within an agreed-upon time frame. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.060.)

#### **16.18.090 Appeals.**

Appeals of the planning director's decision on a tree removal permit application shall be in accordance with the administrative decision procedures established in Chapter [2.16](#) BIMC.

#### **16.18.100 Violation – Enforcement and penalty.**

- A. In addition to any other sanction or remedy that may be available, a violation of or failure to comply with any provision of this chapter shall be a civil infraction and shall be subject to enforcement and civil penalties as provided in Chapter [1.26](#) BIMC.
- B. A violation of or failure to comply with any provision of this chapter shall be a misdemeanor punishable, upon conviction, as provided in BIMC [1.24.010](#).A.
- C. Any fines collected through enforcement of this chapter shall be directed to the city's tree fund, Chapter [3.39](#) BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.080.)

#### **16.18.110 Definitions.**

“Applicant” means a person, corporation, or organization that files an application for a land use or development permit with the city and that is either the owner of the land on which that proposed activity would be located, or the authorized agent of such a person.

“Arborist” means an individual engaged in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide for or supervise the management of trees and other woody plants. Must be concurrently an International Society of Arboriculture (ISA) Certified Arborist to perform any role required of a Certified Arborist.

“Arborist, ISA Certified” means an arborist holding a current International Society of Arboriculture (ISA) Certified Arborist credential.

“Arborist, Tree Risk Assessment Qualified (TRAQ)” means an arborist who has successfully completed the International Society of Arboriculture (ISA) TRAQ training course and assessment and holds a valid ISA TRAQ credential.

“Exceptional Tree” means any healthy tree that is 48 inches in diameter or greater, measured four and one-half feet above existing grade. **NOTE: ALSO CONSIDER THE TERMS “LANDMARK” or “LEGACY” TREE**

“Hedge” means a line of closely-spaced trees and/or shrubs intentionally planted and/or maintained along a property boundary or landscape border for privacy, screening, safety, or similar function, which typically requires ongoing pruning or shearing to maintain its intended function and/or reasonable use of nearby developed areas.

“Invasive/exotic species” means opportunistic plant species (either native or nonnative) that colonize disturbed ecosystems and come to dominate the plant community in ways that are seen by us as reducing the values provided by the previous plant community.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity if they do not include stump pulling. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

“Low impact development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“Low impact development best management practices (LID BMPs)” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“Native vegetation protection area (NVPA)” means a portion of a development site comprised of forested or native condition in which existing vegetation, topography and supporting soils is free of development, uses or activities detrimental to the infiltration capacity and critical area functions and values of the total site area.

“Significant tree” means: (1) an evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (2) a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade; (3) in the Mixed Use Town Center and High School Road zoning districts, any tree eight inches in diameter or greater, measured four and one-half feet above existing grade; or (4) all trees located within a required critical area or critical area buffer as defined in Chapter 16.20 BIMC.

“Tree removal” means

“Vegetation” means plant matter, including trees, shrubs and ground cover.