CITY OF
BAINBRIDGE ISLAND

Design Review Board
Regularly Scheduled Meeting
Monday, March 5, 2018

Call to Order (Attendance, Agenda, Ethics)
Review & Approve Minutes
Moratorium Work Program Ordinance 2018-05 – Next Steps
New/Old Business
Adjourn

Call to Order (Attendance, Agenda, Ethics)

Chair Alan Grainger called the meeting to order at 2:00 pm. Design Review Board (DRB) members in attendance were Alan Grainger, Joseph Dunstan, Jim McNett, Peter Perry and Jason Wilkinson. Chris Guetsche was absent and excused. Ron Peltier, City Council member was present. City staff in attendance were Engineer Manager Michael Michael, Planning Manager Heather Wright, Senior Planner David Greetham, Building Official James Weaver, Senior Planner Jennifer Sutton, Planning Director Gary Christensen and Administrative Specialist Carla Lundgren who recorded the meeting and prepared minutes.

Review & Approve Minutes

Motion: I move to approve February 19, 2018 minutes.
Perry/Dunstan: Motion passed 6-0.

Moratorium Work Program Ordinance 2018-05 – Next Steps

Gary Christensen, Planning Director *(Discussion Only)*

New/Old Business

Peter Perry to present the 2018 DRB Workplan to the City Council on 03/06/2018 – Carla Lundgren to send Mr. Perry a copy of the Workplan and City Council Agenda

Joint meeting with Planning Commission was tentatively scheduled on Thursday, March 22, 2018 – Time to be determined

Update from Ron Peltier re: Outcome of Planning Commission & Wallace Cottages project

Public Comment: Linda Mallin (Citizen) - Suggested getting the public involved with what's happening with the moratorium and the outcome of the moratorium. Ms. Mallin also spoke in favor of Peter Perry's statement regarding the trees and thinking ahead for the next 100+ years and not just the next 50 years when planning on the Island.

Adjourn

The meeting adjourned at 3:50pm.

Approved by:

Alan Grainger, Chair

Carla Lundgren, Administrative Specialist

CITY OF
BAINBRIDGE ISLAND

CITY OF BAINBRIDGE ISLAND
DESIGN REVIEW BOARD – REGULAR MEETING
March 5, 2018

PLEASE PRINT

Name	Affiliation	Phone/ E-Mail	Join ListServ Yes/No
ALAN GRAINGER	DRB		
JIM McNEFF	"		
JASON WILKINSON	"		
PETER PERRY	"		
JOE DUNSTAN	"		
Ron Peltier	City Council	rpeltier@bainbridgewa.gov	
JAMES WEAVER	CITY STAFF	JWEAVER@BAINBRIDGEWA.GOV	No
Heather Wright	Planner	HWRIGHT@Bainbridgewa.gov	
Mike Michael	Engr Mngr - PW	MMICHAEL@BAINBRIDGEWA.GOV	do
Jennifer Sutton	Planner	j-s	
GARY CHRISTENSEN	PCD		
LINDA MALLIN	Public	mallinarch@seanet.com	yes
David Greetham	PCD - City Planner	dgreetham@bainbridgewa.gov	

Moratorium on Certain Development Applications
Work Plan Schedule

The City Council passed Ordinances Nos. 2018-02, 2018-03, and 2018-05 declaring a temporary moratorium on the acceptance of certain development applications, with specified exclusions. The moratorium continues to have an effective date of January 9, 2018 and is in place for 6-months (July 9, 2018) unless amended, repealed or extended.

Included in the ordinances are four (4) City Council concerns regarding likely adverse impacts related to growth and development under existing regulations. The concerns are specified below **(emphasis added)** with a corresponding work plan schedule date and action item.

(1) **Threatened** harm to Bainbridge Island's **fresh water aquifers** due to continued **clearing of native forests and vegetation**, as well as disturbance of native soils, which activities are currently in the process of being addressed through the City's **Critical Areas Ordinance** update process; and

(2) The **loss of trees, forests, native vegetation, and soils**, along with the full range of **important ecosystem services and values** that they provide to the community, as expressed, for example, by the City Council in the City's Comprehensive Plan, as well as concerns expressed by the Planning Commission, Design Review Board, and the Ad Hoc Tree/LID Committee.

Critical Areas Ordinance (BIMC 16.20)	
Date 2018	**Action**
February/March	City Council Adopt Critical Areas Ordinance
March/April	Update BIMC 2.16, Administrative Manual, Fee Schedule
April/May	Critical Areas Ordinance Becomes Effective/Implemented

(3) Compliance with **design review standards and guidelines**, including as relates to, for example, Policy LU 6.8 of the City's Comprehensive Plan, and regarding the role of the Design Review Board, Hearing Examiner, Planning Commission, and City Council in the **land use development review and decision-making process**, as well as related to meeting the goals of the Comprehensive Plan more generally, including its guiding principle to "Preserve the Island's special character," as well as other principles.

Design Standards and Guidelines (BIMC 18.18); Subdivision Design Standards (BIMC 17.12), Development Standards (BIMC 18.12 and 18.15) and Land Use Review Procedures (BIMC 2.16)	
Date 2018	**Action**
February/March	Meet with Design Review Board (DRB) and Planning Commission (PC)
March	Conduct Joint DRB/PC Meeting to Identify Municipal Code Update Objectives
March	Select Consultant to Conduct Comprehensive Plan and Municipal Code Consistency Review and Gap Analysis

(4) Serious challenges promoting **affordable housing** in a manner consistent with the City's Comprehensive Plan.

Affordable Housing	
Date 2018	**Action**
March	Issue RFQ for Inclusionary Zoning Consultant Services
March	Affordable Housing Task Force (AHTF) Interim Report to City Council
July	AHTF Final Report and Recommendations to City Council

UPDATED FEBRUARY 15, 2018

Six-Month Temporary Building Moratorium

The City Council passed Ordinance Nos. 2018-02 and 2018-03 declaring a temporary six-month moratorium on the acceptance of certain development applications, with specified exclusions. On February 15, 2018, the Council enacted Ordinance No. 2018-05 amending the previous ordinances by restating those ordinances, except with regard to the effective date and duration provisions of the moratorium. Also, Ordinance No. 2018-05 does not change the basis for the declaration of emergency that was included in Ordinance No. 2018-02 and Ordinance No. 2018-03. The moratorium continues to have an effective date of January 9, 2018.

In enacting this six-month moratorium, the Council's stated its intention to have additional time to review regulations and policies to ensure the vision, guiding principles, goals, and policies of the City's Comprehensive Plan are being met to the Council's satisfaction.

Ordinance No. 2018-05, Section 3, **prohibits**:

A. All applications for new short subdivisions (BIMC 2.16.070), new preliminary long subdivisions (BIMC 2.16.125), and new large lot subdivisions (BIMC 2.16.080).

B. Structures, buildings, and land use permits and approvals in the R-1, R-2, R-0.4, and Business/Industrial zones:

(i) That will result in less than 65% of the subject property being retained as native vegetation; or

(ii) That will result in reducing the native vegetation on the subject property by any amount if that property had native vegetation existing on less than 65% of the property as of the effective date of the moratorium.

(iii) Provided, that subsections (i) and (ii) do not prohibit structures, buildings, and land use permits and approvals in the R-1, R-2, R-0.4, and Business/Industrial zones that will result in land disturbance of 12,500 square feet or less on the subject property.

(iv) Provided further, that this Section B does not apply to complete land use applications (see BIMC Table 2.16.010-1) that were submitted prior to the effective date of the moratorium, and to the resultant site work and associated approvals related to such complete land use applications.

C. Major Site Plan and Design Review and Major Conditional Use Permit proposals that are not otherwise subject to this moratorium and that did not, before the effective date of the moratorium, have a pre-application conference on the Planning Department's calendar.

Ordinance No. 2018-05, Section 5 (Exclusions) states that the moratorium **does not apply** to:

A. Permits and approvals for affordable housing projects that qualify as Housing Design Demonstration Project (HDDP) Tier 3 projects pursuant to BIMC 2.16.020.Q. and Table 2.16.020.Q-1, and

B. Permits and approvals for government facilities and structures; private vocational training institutions, preschools, K-12, and higher education facilities; wireless communication facilities; and emergency medical and disaster relief facilities.

The moratorium does not apply to building or land use applications that are already vested.

Key concerns expressed by the Council in adopting the moratorium are the Council's ongoing consideration of the Critical Areas Ordinance (CAO) Update, the urgent need to address affordable housing issues, and analyze design review standards and guidelines and long subdivision review process. Given the significance of the update to those regulations, the Council expressed a need for a temporary "timeout" to allow for additional public outreach in determining how best to protect the Island's unique environment.

Contact Us

Gary R. Christensen, AICP
Director
Email

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Bainbridge Island, WA 98110

Ph: 206-780-3750
Planner of the Day: 206-780-3770

Planning Counter Hours
Monday, Tuesday, Friday
8 a.m. - 4 p.m.
Wednesday & Thursday
8 a.m. - Noon
Or by Appointment

Development Engineer Counter Hours
Monday, Wednesday, Friday
8:30 a.m. - 10:00 a.m.
Or by Appointment

Code Compliance
Report an Issue

Inspection Requests
Email
Online permit center
Ph: 206-780-3789

Building Permit Status
Email
Online permit center
Ph: 206-780-3750

Staff Directory

Related Meetings

The City Council held a Special Meeting on Thursday, February 15, 2018 from 6:30 pm to 8:00 pm to further consider moratorium Ordinance No. 2018-05.

A Public Hearing was held at a City Council meeting on **Tuesday, February 13** during the regular City Council meeting beginning at 7:00 p.m.

The City Council conducted a February 6, 2018 Study Session to further discuss the implementation of the moratorium. The agenda for that meeting is available at **City Council Agendas.**

Links of the January 9, 2018 City Council meeting and other City Council meetings, agendas, and minutes are located at **City Council Agendas**.

Background and Supporting Documents

Ordinance No. 2018-05 - Passed February 15, 2018 *(Effective 02/28/18)*

Draft Moratorium Revision - Discussed at Feb. 6 Work Study (Not adopted)

Moratorium Handout - Updated January 22, 2018

Ordinance 2018-03 - Passed January 16, 2018

Ordinance 2018-02 - Passed January 9, 2018

Land Use Procedures Summary Table (BIMC 2.16.010)

Revised Code of Washington State (RCW) Section 36.70A.390 Moratoria

Municipal Research and Services Center (MRSC) – Topic: Development Permit Vested Rights

News Media and Publications

KING5 News – COBI Moratorium Article 011618

KOMO News – COBI Moratorium Article 01162018

Kitsap Sun – COBI Moratorium Article 011518

Bainbridge Island Review – COBI Moratorium Article 011218

Comments and Questions

Public participation is invited throughout the Moratorium process. Check this page for updated information, timelines, draft documents and meeting notices. You may also join an email listserv to receive timely project notifications: Notify Me

For more information on how the moratorium may impact your project, stop by the Planning and Community Development Counter at City Hall, or email moratorium@bainbridgewa.gov .

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- SR 305 Corridor Improvement
- Six-Month Temporary Building Moratorium

CLICK ON THIS LINK

News Room

Bainbridge Island Imposes Temporary Six-Month Emergency Moratorium on Certain Development
The City Council passed Ordinance 2018-02, a temporary six-month moratorium on the acceptance of certain development applications, during their meeting on Tuesday, January 9.
Additional Info...

City Council Reconsiders Sound to Olympics Trail Bridge
The City Council voted during their January 9, 2018, Regular Business Meeting to reconsider their prior action to cancel the Sound to Olympics Trail Bridge Project.
Additional Info...

Go Behind the Scenes with the BIPD at the 2018 Citizens' Police Academy
Bainbridge Island residents can meet the men and women that protect the city, ride along with a police officer and experience what goes on behind the scenes at the Bainbridge Island Police Department's free Citizens' Police Academy coming up in February.
Additional Info...

View All

Calendar

Mon Jan. 22
Intergovernmental Work Group (IGWG) Meeting
Read On

Mon Jan. 22
Climate Change Advisory Committee Special Meeting
Read On

Mon Jan. 22
Ethics Board Special Meeting
Read On

Tue Jan. 23
City Council Business Meeting
Read On

Wed Jan. 24
City Council Advance - Special City Council Meeting
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ORDINANCE NO. 2018-05

AN ORDINANCE of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; amending and restating the temporary six month moratorium imposed by Ordinance No. 2018-02 and Ordinance No. 2018-03 to clarify the activities to which the moratorium applies; setting forth findings of fact in support of the moratorium; stating the effect on vested rights; providing for exclusions; recognizing that a public hearing has been held within 60 days of the enactment of the moratorium; authorizing interpretative authority; providing for severability; not changing the basis for the emergency declaration on which the moratorium was imposed and later amended; and leaving the effective date and the duration of the moratorium unchanged.

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt moratoria related to land uses; and

WHEREAS, the City Council of the City of Bainbridge Island ("City") updated the City's Comprehensive Plan in February of 2017; and

WHEREAS, the City Council has significant concerns about development and growth in the City under current regulations in the context of the vision and goals of the City's Comprehensive Plan, is discussing how to best accommodate growth and development in both general and specific ways, and finds that without immediate action by the Council to preserve the status quo, there are likely to be adverse impacts on the City and its citizens; and

WHEREAS, the City's Comprehensive Plan states as a Guiding Principle No. 2, "Manage the water resources of the Island to protect, restore, and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations," and consistent with that Guiding Principle, Guiding Policy 2.6 states "recognize the importance of our water resources to present and future generations of Bainbridge Islanders and apply the precautionary principle;" and

WHEREAS, the City Council's concerns regarding likely adverse impacts related to growth and development under existing regulations require immediate attention by the Council and City staff and include, but are not limited to, the following:

(1) Threatened harm to Bainbridge Island's fresh water aquifers due to continued clearing of native forests and vegetation, as well as disturbance of native soils, which activities are currently in the process of being addressed through the City's Critical Areas Ordinance update process; and

(2) The loss of trees, forests, native vegetation, and soils, along with the full range of important ecosystem services and values that they provide to the community, as expressed, for example, by the City Council in the City's Comprehensive Plan, as well as concerns expressed by the Planning Commission, Design Review Board, and the Ad Hoc Tree/LID Committee; and

(3) Compliance with design review standards and guidelines, including as relates to, for example, Policy LU 6.8 of the City's Comprehensive Plan, and regarding the role of the Design Review Board, Hearing Examiner, Planning Commission, and City Council in the land use development review and decision-making process, as well as related to meeting the goals of the Comprehensive Plan more generally, including its guiding principle to "Preserve the Island's special character," as well as other principles; and

(4) Serious challenges promoting affordable housing in a manner consistent with the City's Comprehensive Plan; and

WHEREAS, based on these and related concerns, the City Council requires additional time to review the regulations and policies at issue to ensure that the vision and goals of the City's Comprehensive Plan are being met to the Council's satisfaction; and

WHEREAS, on January 9, 2018, the City Council enacted Ordinance No. 2018-02 and thereby established a temporary emergency moratorium on the acceptance and processing of certain Permit Applications, as defined in Section 2 of Ordinance No. 2018-02; and

WHEREAS, the City Council and City staff received feedback and comment from individuals related to the moratorium and, based partly on that feedback and comment, the Council determined that certain exclusions to the moratorium needed to be amended to clarify the Council's intent regarding such exclusions; and

WHEREAS, on January 16, 2018, the Council enacted Ordinance No. 2018-03, which amended Ordinance No. 2018-02 to clarify some of the exclusions; and

WHEREAS, the Council and City staff have received additional feedback and comment from individuals related to the moratorium and, based partly on that feedback, the Council has determined that further amendment is necessary to clarify which types of activities are subject to the moratorium, and which activities are excluded from the moratorium; and

WHEREAS, the approach to the moratorium as set forth in Ordinance No. 2018-02 and Ordinance No. 2018-03 was to broadly apply the moratorium to all "Permit Applications" as defined in Section 2 of Ordinance No. 2018-02 and then to set forth several exclusions for activities that were explicitly excluded from the moratorium; and

WHEREAS, this approach has not been as clear and effective as intended because it has resulted in a lengthy list of exclusions that have caused some confusion in the community about how particular exclusions apply to specific situations, and the Council has determined that a better approach would instead be to simplify the moratorium by clearly stating what the moratorium applies to and to limit the exclusions; and

WHEREAS, the moratorium is not intended to apply to certain affordable housing projects and to permits and approvals for limited other uses, such as government facilities and certain educational facilities; and

WHEREAS, this ordinance is intended to amend Ordinance No. 2018-02 and Ordinance No. 2018-03 by restating those ordinances in full with this ordinance, except with regard to the effective date and duration provisions of the moratorium, such that the moratorium continues to have an effective date of January 9, 2018, and this ordinance doesn't change the basis for the declaration of emergency on which the moratorium was imposed; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

WHEREAS, the moratorium promotes the public good and is necessary for the protection of public health, property, safety, and welfare, and the public emergency on which this moratorium was imposed continues to exist and this ordinance does not change the basis for that declaration of emergency nor the effective date of the moratorium, which is January 9, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment and Restatement of Ordinance No. 2018-02 and Ordinance No. 2018-03. This ordinance hereby amends Ordinance No. 2018-02 and Ordinance No. 2018-03 and restates those ordinances, except with respect to the effective date and duration provisions of those ordinances regarding the moratorium, and related to the basis for the emergency declaration for the moratorium. To be clear, this ordinance does not change the basis for the declaration of emergency that was declared upon the imposition of this moratorium, and this ordinance maintains the effective date of the moratorium as January 9, 2018, and maintains the duration of the moratorium, which is the six (6) month period that commenced on the effective date of the moratorium (January 9, 2018).

Section 2. Findings of Fact. The recitals set forth above include and restate the City Council's findings of fact in support of the moratorium as stated in Ordinance No. 2018-02 and Ordinance No. 2018-03, and those findings are supplemented by additional findings of fact herein. The combined findings of fact as restated in this ordinance do not change the basis for the declaration of emergency that was initially declared upon the imposition of this moratorium.

Section 3. Imposition of Moratorium Amended and Restated. As authorized by the police powers of the City as set forth, for example, in Article XI, Section 11, of the Washington State Constitution, and pursuant to statutory authority set forth, for example, in RCW 36.70A.390 and RCW 35A.63.220, and unless expressly excluded under Section 4 and Section 5 of this ordinance, the City hereby amends and restates the currently existing temporary moratorium to apply to and prohibit the following:

A. All applications for new short subdivisions (BIMC 2.16.070), new preliminary long subdivisions (BIMC 2.16.125), and new large lot subdivisions (BIMC 2.16.080).

B. Structures, buildings, and land use permits and approvals in the R-1, R-2, R-0.4, and Business/Industrial zones:

(i) That will result in less than 65% of the subject property being retained as native vegetation; or

(ii) That will result in reducing the native vegetation on the subject property by any amount if that property had native vegetation existing on less than 65% of the property as of the effective date of the moratorium.

(iii) Provided, that subsections (i) and (ii) do not prohibit structures, buildings, and land use permits and approvals in the R-1, R-2, R-0.4, and Business/Industrial zones that will result in land disturbance of 12,500 square feet or less on the subject property.

(iv) Provided further, that this Section B does not apply to complete land use applications (see BIMC Table 2.16.010-1) that were submitted prior to the effective date of the moratorium, and to the resultant site work and associated approvals related to such complete land use applications.

C. Major Site Plan and Design Review and Major Conditional Use Permit proposals that are not otherwise subject to this moratorium and that did not, before the effective date of the moratorium, have a pre-application conference on the Planning Department's calendar.

Section 4. Effect on Vested Rights. The moratorium shall not apply to any rights that legally vested under state law and City of Bainbridge Island regulations prior to the effective date of the moratorium. Nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any permit applicant's vested development rights as defined by state law and City of Bainbridge Island regulations, provided that such a permit applicant has filed a complete permit or other applicable land use application prior to the effective date of the moratorium.

Section 5. Exclusions. The provisions of the moratorium shall not apply to any permits or land use approvals that are specifically excluded by the Exclusions set forth in this ordinance. These Exclusions, unless expressly modified by the City Council, are specifically limited to:

A. Permits and approvals for affordable housing projects that qualify as Housing Design Demonstration Project (HDDP) Tier 3 projects pursuant to BIMC 2.16.020.Q. and Table 2.16.020.Q-1.

B. Permits and approvals for government facilities and structures; private vocational training institutions, preschools, K-12, and higher education facilities; wireless communication facilities; and emergency medical and disaster relief facilities.

Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council conducted a public hearing on this moratorium on February 13, 2018. The Council accepted public testimony as part of that public hearing and is adopting findings of fact as part of this ordinance, and those findings of fact are incorporated herein.

Section 7. Interpretive Authority. The City of Bainbridge Island Director of Planning and Community Development, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance and the moratorium.

Section 8. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 9. State Environmental Policy Act Exemption. Pursuant to WAC 197-11-880, this moratorium, including this ordinance amending and restating the moratorium, are exempt from the requirements of a threshold determination under the State Environmental Policy Act. This ordinance does not change the basis of the declaration of emergency that was declared upon the imposition of this moratorium.

Section 10. No Change to Basis for Declaration of Emergency; Effective Date; Duration. This ordinance shall take effect and be in force five (5) days from and after its passage and publication as required by law. Provided, that this ordinance is not intended to change the basis of the emergency declarations of the two ordinances which this ordinance is amending and restating, Ordinance No. 2018-02 and Ordinance No. 2018-03, as stated in Section 1 of this ordinance. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support the emergency declarations adopted as part of the enactment of this moratorium were included in the "Whereas" clauses of Ordinance No. 2018-02 and Ordinance No. 2018-03, and have been restated and supplemented in this ordinance amending and restating the moratorium, and those "Whereas" clauses herein are adopted as findings of fact, as also described in Section 2 above. This ordinance amending and restating the moratorium shall remain effective for the six (6) month period as established for the moratorium, which moratorium has an effective date of January 9, 2018, unless terminated earlier by the City Council. The Council may, at its sole discretion, renew the moratorium for one or more six (6) month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council this 15th day of February, 2018.

APPROVED by the Mayor this 15th day of February, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK	February 15, 2018
PASSED BY THE CITY COUNCIL	February 15, 2018
PUBLISHED:	February 23, 2018
EFFECTIVE DATE:	February 28, 2018
ORDINANCE NO:	2018-05