
CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
ORDINANCE 2018-19 AMENDMENTS TO BIMC CHAPTERS 16.18 LAND CLEARING &
18.15.010 LANDSCAPING ETC. AND ORDINANCE 2018-25 PROTECTION OF
LANDMARK TREES
ORDINANCE 2018-20 SUBDIVISION DESIGN GUIDELINES AND DEVELOPMENT
STANDARDS
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair William Chester called the meeting to order at 6:03 PM. Commissioners in attendance were J. Mack Pearl, Jon Quitslund, Michael Killion, Lisa Macchio, Kimberly McCormick Osmond and Don Doman. City Staff present were Planning Director Gary Christensen, Long Range Senior Planners Jennifer Sutton and Christy Carr and Administrative Specialist Jane Rasely, who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts.

Chair Chester offered the opportunity for the public to make comment on off agenda items. There were not any comments.

ORDINANCE 2018-19 AMENDMENTS TO BIMC CHAPTERS 16.18 LAND CLEARING & 18.15.010 LANDSCAPING ETC. AND ORDINANCE 2018-25 PROTECTION OF LANDMARK TREES

Public Comment

Mike Juneau, Arborist – Spoke about the written combined arborist public comment received by the City earlier in the day (see attached).

Olaf Ribeiro, Arborist – Spoke about the need for a definition of “significant tree” and incentives for property owners to save trees.

Charles Schmid, Citizen – Spoke in favor of the Landmark Tree ordinance.

Katy Bigelow, Arborist – Spoke in favor of the code saying she felt it was a good, cleaned up code.

Robert Dashiell, Citizen – Spoke against measuring canopy from overhead aerial photography and in favor of hiring a City arborist.

Linda Sohlberg, Citizen – Spoke against one size fits all ordinance.

Katy Bigelow, Arborist – Spoke for an arborist who could not be present and spoke in favor of the submitted combined arborist comments.

Robert Dashiell, Citizen – Said he would send his comments via e-mail and spoke against the Landmark Tree ordinance.

Amy Tousley, Municipal Manager for PSE – Said she would send formal written comments and spoke about cost effectiveness.

Olaf Ribeiro, Arborist – Spoke in favor of increasing the number of trees or fees to replace a Landmark Tree.

Mike Juneau, Arborist – Spoke against the Landmark Tree ordinance being by size and species only.

Planning Commission went on break at 8:17 PM.

Planning Commission re-convened at 8:25 PM.

ORDINANCE 2018-20 SUBDIVISION DESIGN GUIDELINES AND DEVELOPMENT STANDARDS

Senior Planner Christy Carr presented the timeline for the Subdivision Design guidelines and Development Standards review.

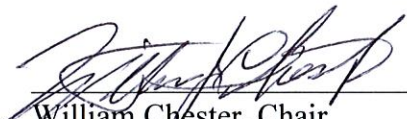
NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 9:47 PM.

Approved by:



William Chester, Chair



Jane Rasely, Administrative Specialist

[illegible]

Exhibit A

Revised BIMC Chapter 16.18
Tree Removal, Forest Stewardship and Vegetation Maintenance

16.18.010 Overview.

- A. The policies presented in this chapter rest on an assumption that in the care of trees and vegetation on their property, citizens will be guided by common sense and best practices, responsive to the Purposes stated in section **16.18.025** below. Sanctions **may shall** be applied to activities that are found by the planning director to be reckless and destructive, and to any action or negligence that adversely affects a neighboring property, pursuant to the provisions of section **16.18.110** and other applicable provisions of the Code.
- B. To a large extent, work carried out in landscaped yards and forested areas does not require a permit (see **16.18.040** below). However, property owners who are considering major changes to the landscape and trees on their property should seek advice and professional services from a licensed arborist who is certified by the American Society of Consulting Arborists or the International Society of Arboriculture, or a landscape professional who is certified by the City.
- C. This chapter is one of several in the Municipal Code that pertain to the care of trees, vegetation, and forested areas on Bainbridge Island. Its policies and non-regulatory provisions pertain especially to the plans and ongoing activities of Island residents, outside of their homes or places of business but on their own property, when the use and enjoyment of the property involves stewardship and maintenance of trees and vegetation.

16.18.020 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 Guiding Principles 1 & 5 and related Policies; 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

Commented [KM1]: The consequences of wholesale removal of trees and understory vegetation are the same whether the removal is reckless and unnecessary or not. These two words seem somewhat inflammatory. Perhaps we could change them to "Widespread" instead?

Exhibit A

development further fragments the mosaic, both individual and community interests are affected.

- F. On Bainbridge Island and elsewhere, examples exist to demonstrate that development for residential and other uses can be compatible with careful conservation of forest conditions and other natural features; and that such development can be cost-effective, attractive, energy-efficient, and well adapted to our climate.

16.18.025 Purposes.

This Chapter is adopted for the following 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), the *Bainbridge Island Open Space Study* (October 2008), and the *Bainbridge Island Community Wildfire Protection Plan* (2010), or subsequent updated versions.
- E. To promote forest stewardship practices, **in keeping with ANSI Standards** and carefully planned development that results in minimal disturbance to the prior conditions of a property and neighboring properties.
- F. To implement a long-range policy of maintaining the Island's forest canopy cover while taking measures to prevent wildfires and protect structures in accordance with recommendations of the Bainbridge Island Fire Department.
- 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, pruning, removal of invasive and undesirable vegetation, selective harvest and replanting, developing and maintaining trails, and removal of dead, or dangerous trees.

Commented [KM2]: Is this different than ISA Certified? If yes, need to add a definition for it.

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16.18.030 Applicability.

Provisions of this chapter apply citywide to all properties where trees and naturally occurring vegetation are found, except where other chapters of the Municipal Code apply as described below:

- A. This chapter does not apply to any portion of a property that is identified as critical area(s) pursuant to BIMC Chapter 16.20 *Critical Areas* (i.e., wetland, fish and wildlife conservation area, geologically hazardous areas, frequently flooded areas and a designated aquifer recharge protection area [ARPA]) or a prescribed critical area buffer zone. In these areas, including an ARPA if one has been designated pursuant to BIMC Section 16.20.100, the regulations of BIMC Chapter 16.20 *Critical Areas* apply. Additionally, the regulations of this chapter do not apply to any property with a designated and approved ARPA.
- B. This chapter does not apply to the portion(s) of a shoreline property within 200 feet landward of an Ordinary High Water Mark, where the regulations of BIMC 16.12 (the *Shoreline Master Program*) apply.

16.18.040 Activities Allowed without a Permit.

The following activities are allowed without a Tree Removal/Vegetation Maintenance Permit, subject to any other applicable City regulations, i.e. BIMC 15.20 *Stormwater Management*:

- A. Routine landscaping and maintenance of vegetation, such as pruning and planting, removal of invasive/exotic species, management of brush and seedling trees. **The City encourages pruning to shall** comply with ANSI standards to maintain long term health. This includes maintenance of trees and vegetation required to be retained or planted through a land use permit such as a subdivision, site plan review, or conditional use permit.
- B. Removal of some healthy significant trees (see **16.18.120 Definitions**) is allowed, **but after the limit prescribed in this subsection is reached, a permit or a stewardship plan (BIMC 16.20.180.H) shall be required for further removal of healthy significant trees.** On a lot that is one acre or larger, a property owner may, without a permit, remove no more than **six** significant trees in any 36-month period. On a lot less than one acre in size, removal of **three** significant trees in any 36-month period is allowed without a permit. This **provision exception** does not apply if the tree removal is not consistent with any tree retention provisions of **this chapter or** BIMC 18.15.010 (*Landscaping, Screening, and Tree Retention, Protection and Replacement*), BIMC 17.12 (*Subdivision Design Standards*) or requires the designation of a ARPA pursuant to BIMC Section 16.20.100.
- C. Removal of trees and ground cover in emergency situations involving immediate danger to life or structure or substantial fire hazards. If **this activity would ordinarily require one is required, a tree removal/vegetation maintenance clearing** permit shall be obtained as soon as possible after the emergency situation is stabilized.

Commented [KM3]: Are there other regs. besides this one, and SMP and CAO? Might be best to list them all here so readers are not misled.

Commented [KM4]: Is there a different process for significant trees that are not healthy?

Exhibit A

- D. Removal of dead, or fallen trees. The city encourages property owners to leave dead trees in place for ecological benefit such as wildlife snags or nursery logs where possible. If a standing dead tree poses a hazard, creating a shorter wildlife snag is recommended.
- E. Routine maintenance activities in rights-of-way and required roadside buffers, including removal of hazard trees and invasive/exotic species, trimming of overgrown hedges, and planting to replace removed vegetation (see BIMC Chapter 12.04)
- F. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or utility companies or their contractors.
- G. Pruning and Limbing of significant trees (required to be retained) 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 ISA certified arborist.

Commented [KM5]: What does the "required to be retained" language mean?

16.18.050 Activities Requiring a Permit.

The following activities require an applicant to obtain a Tree Removal / Vegetation Maintenance Permit prior to commencing:

- A. A permit is required for any tree removal or vegetation maintenance in an area required to be retained or planted, pursuant to BIMC 18.15.010, through a land use permit such as a subdivision, a site plan review, or a conditional use permit. There are also tree retention requirements for the single-family residential zones, R-0.4, R-1, R-2 (see below, section BIMC Section 16.18.050.F) and R-2.9, R-3.5 and R-4.3 zones (BIMC 18.15.010.G) also apply (see below). Routine maintenance as described in sections 16.18.040.A, D and E above is exempt from this requirement.
- B. For properties located outside of the Mixed Use Town Center and High School Road zoning districts, a tree removal permit is required for removing more than the number of significant trees allowed without a permit, pursuant to section **16.18.040.B** above. The planting of a replacement tree or trees may be required.
- C. A tree removal/vegetation maintenance permit is required for the removal of a Landmark outstanding and controversial tree (see Definitions). The city finds that resentments often arise when one party asserts a right to remove an outstanding tree that is on the property periphery, visible and of high value in the eyes of an adjoining property owner and other neighbors. In such circumstances, there may be grounds for disputing the asserted property right, and the public interest will be served by attempts to mediate or resolve the dispute.
A permit for removal of such a tree shall not be granted until the director has heard and examined the reasons for and against removal provided by parties to the dispute. The director, who may be assisted by another person authorized to mediate disputes on behalf of the city, shall meet in private with the parties or their representatives in order to seek an

Commented [KM6]: Does this mean a permit is necessary for proposed and existing SFRs in these zones?

Commented [KM7]: Shouldn't this be included in the previous section instead, which addresses activities allowed without a permit?

Commented [KM8]: I would like to discuss this entire section, as well as the definition of "outstanding and controversial tree." It essentially places the decision to seek a permit to remove a tree in the hands of a single neighbor who may like the tree, and also potentially defines ALL trees as "outstanding and controversial". I think the subjectivity is very problematic. There also is no inclusion in the definition of the natural resource and ecological values that make a tree worthy of retention (ie a landmark or heritage type tree).

I would like to see us replace this with a substitute for the "landmark" tree that is the subject of the separate Landmark Tree Ordinance, and include provisions for retaining such "landmark" trees. I took a stab at a new definition in the Definitions section as a start for discussion and consideration.

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~~amicable solution. If a permit is granted, the planting of a replacement tree or trees may be required as a condition of approval.~~

- D. For developed properties located within the Mixed Use Town Center and High School Road zoning districts, a tree removal / vegetation maintenance permit is required for removing any tree eight inches in diameter or greater, measured 4.5 feet above grade. The applicant must demonstrate that the requested removal meets one of the following criteria:
1. The tree is dead, or determined to be hazardous, as certified by an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist; or
 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.
- E. For undeveloped properties within the Mixed Use Town Center and High School Road zoning districts, a tree removal / vegetation maintenance permit is required to remove **any** tree except trees that are hazardous, dead, fallen, or contributing to an emergency. The tree removal permit will be reviewed for consistency with any applicable provisions of **BIMC 18.15.010** that would apply to future development permits.
- F. For developed single-family residential properties in the R-0.4, R-1 and R-2 zones without an approved ARPA pursuant to Section 16.20.100, the following limits on maximum tree clearing apply:
1. Properties $\leq$ 40,000 square foot in size could clear up to 2,000 square feet. Clearing between 2,001-6,999 square feet would be allowed with an approved ARPA stewardship plan (BIMC Section 16.20.180.H)
 2. Developed Properties between 40,000 square foot in size and 100,000 square feet. in size could clear up to 4,000 square feet. Clearing between 4,001-6,999 square feet would be allowed with an approved ARPA stewardship plan (BIMC Section 16.20.180.H)
 3. Developed Properties $>$ 100,000 square foot in size could clear up to 6,999 square feet. (note: ARPA designation threshold 7,000 square feet; BIMC Section 16.20.100).

16.18.060 General Regulations and Standards.

- A. While non-native and invasive species should be kept under control and eradicated if possible, native understory vegetation shall be maintained and land disturbing activity shall be kept to a minimum. Stump pulling and use of heavy equipment is only allowed if the activity will not affect the health of adjacent trees.
- B. On the undeveloped or underdeveloped portion(s) of forested acreage in the R-0.4, R-1, and R-2 zones that may be developed in the future, at least 65% of native vegetation shall

Exhibit A

be retained, anticipating a Site Assessment Review and the designation of a ARPA pursuant to BIMC 15.19 and 16.20.100, respectively. Properties with less than 65% native vegetation, may not reduce the forested area except through an approved ARPA Stewardship Plan (described in BIMC 16.20.180.H).

- C. With an approved ARPA Stewardship Plan (described in BIMC 16.20.180.H), property owners are authorized to implement long range plans without obtaining tree removal / vegetation maintenance permits for piece-meal work.
- D. If the amount of tree removal, vegetation maintenance and/or land disturbing activity will impact more than 7,000 sq. ft. of area or more than 35% of the property, whichever is less, a Site Assessment Review will be required pursuant to BIMC 15.19, prior to application for a tree removal permit. This applies to one-time removal and to cumulative tree removal / land disturbing activities.
- E. An applicant shall protect any trees or landscaped area that must be retained during approved tree removal or vegetation maintenance work, pursuant to the protection provisions of BIMC 18.15.010.C.4.
- F. Once a portion of a property is cleared, the property owner shall ensure that invasive species do not reestablish or expand into cleared areas.
- G. Any tree or vegetation removal or maintenance undertaken without a permit pursuant to this section shall be done to ensure long-term health of the trees or vegetation. A property owner shall follow the ANSI A300 (Part 1 – 2017) Tree, Shrub and Other Woody Plant Management – Standard Practices (Pruning) or 60% live-crown ratio, whichever standards is more appropriate for the species.
- H. 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 all applications for permits or approvals, including building permits and subdivision approvals, relating to non-forestry uses of the land for a period of six years, in accordance with RCW 76.09.060.

16.18.070 Tree Removal/Vegetation Maintenance Permit Administration and Review Process.

- A. For activities requiring a permit, the process begins with submission of a complete permit application, usually after discussion of the proposed activity with a member of the Planning staff.
- B. Tree removal activities shall comply with this chapter's provisions for permits and related regulations. Permits for tree removal / vegetation maintenance may require the planting of replacement trees and/or other City permits such as a Site Assessment Review (BIMC Chapter 15.19).

Commented [KM9]: Add requirement for placing notice on property when Landmark tree application is submitted, to allow neighbors to comment on proposed Landmark tree removal?

Exhibit A

- C. The planning director shall grant a tree removal/ vegetation maintenance permit if the application meets the requirements of this chapter and is consistent with other relevant city codes, including but not limited to Chapters 15.19, 15.20, 16.12, 16.20, 17.12, 18.15.010 BIMC. If the tree removal permit application is denied, the decision may be appealed pursuant to BIMC 16.18.100.
- D. No work authorized by a tree removal/ vegetation maintenance permit shall commence until a permit notice has been posted by the applicant at a conspicuous location on the subject property. The notice shall describe specific clearing plans and shall remain posted in said location until the authorized tree removal has been completed.
- E. Any tree removal/ vegetation maintenance 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. Approved tree removal permits shall not be amended without authorization of the planning director.
- F. A tree removal / vegetation maintenance permit may be suspended or revoked by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.

16.18.080 After-the-fact Tree Removal/Vegetation Maintenance Permit.

- A. In response to a report that one or more trees have been removed improperly or vegetation maintenance activity did not comply with requirements any section of the BIMC, 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 the reported activity would have been allowed if a permit had been applied for, an after-the-fact Tree Removal/Vegetation Maintenance Permit shall be issued. The person or persons responsible for 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 planning director or the city attorney, shall follow the procedures for Enforcement and penalty in this chapter or another applicable chapter of the BIMC.

16.18.090 Performance assurance.

- A. The planning director may require, as a condition for 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

Exhibit A

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 between the City and the applicant. The VCA will outline several performance items that will be required within an agreed-upon time frame.

16.18.100 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.

16.18.110 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.

16.18.120 Definitions.

"Applicant" means a person, corporation, or organization that files an application for a land use or development permit with the city: either the owner of the land in question, or the authorized agent of such a person.

"Aquifer recharge protection area (ARPA)" means a portion of a development site comprised of native or equivalent vegetation in which existing vegetation, topography and supporting soils are free of development, uses or activities detrimental to the aquifer recharge of the total site area.

"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.

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"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.

"Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

"Invasive / exotic species" means opportunistic plant species (either native or non-native) that colonize disturbed ecosystems and may 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. 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, improvements to soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

"Outstanding and controversial tree" means as follows: The terms "outstanding" and "controversial" may be used to describe a tree on private property that is a healthy, distinctive, one-of-a-kind example of its species, prominently placed and highly visible to neighbors and passers by, such that preservation of the tree is a matter of concern to the community.

"Landmark tree" means a tree that is a healthy, distinctive example of its species and provides significant ecological and aesthetic benefits that make preservation of the tree a matter of concern to the community. Examples of a "landmark tree" include [add DBH by tree species? Other objective criteria describing the attributes of a "landmark tree" – ask arborists?]

"Significant tree" means a live: (1) an live evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (2) a live deciduous tree 12 inches in diameter or greater, measured 4.5 feet above existing grade; or (3) in the Mixed Use Town Center and High School Road zoning districts, any live tree eight inches in diameter or greater, measured 4.5 feet above existing grade; or (4) any live trees located within a required critical area or critical area buffer as defined in Chapter 16.20 BIMC.

Exhibit A

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

From Jon Q

7/26/18

The Planning Commission recommends to the City Council that, anticipating the Public Hearing on Ordinance No. 2018-25 (the Landmark Tree Ordinance), scheduled for August 14, 2018, the "Tree/LID Ad Hoc Committee" be charged with establishing a definition of potential Landmark Trees, so that adequate protection of such trees can be provided within the context of Ordinance No. 2018-19 and BIMC 16.18 (Tree Removal, Forest Stewardship and Vegetation Maintenance).

Language replacing subsection 16.18.050 (C) on p. 4 of Exhibit A in the July 23, 2018 text of Ord. 2018-19:

A tree removal/vegetation maintenance permit is required for the removal of any tree that fits the definition of a **Landmark Tree** (see **Definitions**) and is also on the list of Species Worthy of Protection. Prior to consideration of the permit application, an arborist who is ISA certified and Tree Risk Assessment Qualified shall submit a report on the tree's health. The cost of an arborist's estimate of the tree's monetary value shall be borne by the city. If a permit for removal of the tree is granted, the planting of a replacement tree or trees shall be a condition of approval.

Suggested Additions to BIMC Chapter 16.18 Regarding "Landmark Trees", to replace current Ordinance No. 2018-25 (Landmark Tree Ordinance).

16.18.030 Applicability

C. Notwithstanding (A) and (B) above, this chapter applies to all landmark trees (see Definitions), wherever located on Bainbridge Island.

16.18.040 Activities Allowed Without a Permit

D. Removal of dead, or fallen trees, provided they are not landmark trees. [continue with rest of section].

16.18.050 Activities Requiring a Permit

C. A tree removal/vegetation maintenance permit is required for the removal of any landmark tree (see Definitions).

16.18.070 Tree Removal/Vegetation Maintenance Permit Administrative and Review Process

A. For activities requiring a permit, the process begins with submission of a complete permit application, usually after a discussion of the proposed activity with a member of the Planning staff. A complete permit application for removal of a landmark tree must be accompanied by an arborist report that includes (1) checking any tree designated as diseased with a resistograph or tomograph to ascertain internal decay, (2) a laboratory report of the types of pathogens that may be infecting the roots, and (3) any control measures that are available. Application for a permit to remove a landmark tree should require placing a notice on the property at the time the application is submitted. Suggested language for the notice:

Notice of submission of an application to remove a landmark tree must be posted by the applicant at a conspicuous location on the subject property. The notice shall describe the specific landmark tree(s) that are the subject of the permit application and shall remain posted in said location until the permit has been issued or denied by the Planning Director and all appeals have been exhausted.

C. [add the following language to subsection C): In addition, the Planning Director's decision to grant a tree removal/vegetation maintenance permit for a landmark tree shall be guided by the following criteria:

1. Tree is diseased and its life expectancy is short
2. Tree represents an unacceptable risk to the public or private safety
3. Tree is show to cause or threaten to cause substantial damage to a building or structure of value.
4. It is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activities from occurring.

16.18.110 Violation – Enforcement and Penalty

D. In addition to any other sanction or remedy that may be available, a violation or failure to comply with any provision of this chapter regarding a landmark tree shall be subject to a fine not to exceed XXXXXXX.

16.18.120 Definitions

“Landmark tree” means a tree that is a healthy, distinctive example of its species and provides significant ecological and aesthetic benefits that make preservation of the tree a matter of concern to the community. The following criteria will be used to determine if a tree is a “landmark tree:”

1. [include table with tree species and DBH]
2. Known to be of historical significance
3. Listed as a rare or endangered species regardless of size
4. Only example of its species in the area
5. Represents an important habitat for native fauna
6. Part of a wildlife corridor
7. Important to the maintenance of biodiversity in the area
8. Forms a notable visual element to the landscape of the area

7/26/18

ARBORIST COMMENTS REGARDING CITY OF BAINBRIDGE ISLAND LANDMARK TREE ORDINANCE OF JUNE 26, 2018

SUMMARY FINDINGS:

The Bainbridge Island Landmark Tree Ordinance (LTO) of June 26, 2018, has captured a lot of attention. While the LTO appears to be accomplishing some desirable short-term goals of reducing large tree removal of particular species, raising awareness about trees, and protecting some specific specimens, it is our opinion that the LTO in its current form is not a tenable long-term solution for Bainbridge Island.

SUMMARY RECOMMENDATION:

Separate the issues addressed in the LTO and address them effectively in our code revisions currently in process. Consider keeping this LTO code section in BIMC, and amend significantly to address only the procedure for identification and preservation of Landmark Trees. Most of us support the idea of LTO in concept, particularly if we can equitably address the tricky issue of regulating particular privately-owned tree(s) on private property without compensating the owner (perhaps someone should).

DISCUSSION:

- Trees are rather-complicated living organisms to manage on developing properties. There is no "silver bullet" ordinance that easily answers tree retention problems today and can also anticipate the future when our great-grandkids may look back and thank us for our wise planning. We must insist on asking really good questions, getting good information and making good code that works well here.
- **Bainbridge is different** than most jurisdictions that have a Tree Ordinance. Unlike large cities (e.g. Seattle, Washington or Atlanta, Georgia) which are mostly urban, **Bainbridge Island is newly developed, and consists primarily of low-density residential lots 75 percent covered by a young forest of predominantly native evergreen trees. These same trees in our MUTC and high-density residential zones require a much higher degree of management than in low density areas, and will predominantly be younger trees.** A one-size-fits-all approach based on species/size definitely does not fit here.
- If our goal is to preserve and manage our tree canopy well into the future, we must persevere to **revise and integrate the various aspects of our "veg code"** (e.g. **SMP, Critical Areas, ARPA, Land Clearing (16.18), MUTC, Subdivisions and High-density residential, and others**) carefully filling the remaining "gaps" so we manage and conserve our tree canopy well.

TALL FACT: Our average Douglas-fir on Bainbridge Island is roughly 115 feet tall, with 3-1/2 inch diameter limbs. Our tallest Douglas-firs on Bainbridge Island are about 190 feet tall with many original branches broken off and regrown, original limbs 6 to 10 inches diameter. Douglas-firs can reach 300 feet tall (most trunks break off before reaching that height). Historically, the tallest officially-recorded Douglas-fir located southeast of Mt. Rainier (the Mineral Tree) measured at 393 feet! **The tallest Douglas-fir** on record was felled in Whatcom County and reportedly measured **465 feet tall!** That puts our average Douglas-firs today just under 1/4 possible mature height.

- We should **continue to acquire and preserve large tracts of land (Parks, Land Trust, etc) where our native conifers will have room to mature to great heights, get old, and break apart without the high level of management necessary to keep them “safe” and “young” in developed areas.**
- **Tree retention is not same as tree conservation or preservation.** We must revise code to emphasize the latter two concepts. We should approach the saving of trees on each development site in a systematic, informed, and logical way, allowing creativity and cost/benefit analysis, with the goal of providing the most benefit from vegetation during that development cycle and beyond as possible.
- **Penalties, fines, etc. are important and should be used prescriptively in the code to push compliance. We should set them to remain above the value of the resource trying to conserve or protect, but not make them apply evenly on every site across the Island.** Developers evaluating cost-benefit of retaining trees may find a high fine and difficult process (similar to existing LTO) an incentive for retaining trees in high-density areas. For majority of tree owners, however, we must **realize that the greater “returns” come from community outreach efforts, guidance materials, contractor and citizen participation programs, and allied community grassroots movements** already afoot (such as invasive species control efforts by Weed Warriors and others), to build momentum and gain compliance. Balancing the ratio of “stick” with plenty of “carrot” is most effective. **Most of our residents** are already environmentally aware and responsible, love trees, and simply **need guidance and perhaps motivation.**
- **Do not forget some of the greatest needs expressed by our Bainbridge Island residents at their own homes include:**
 1. Life safety (“my kids sleep right there in that bedroom!”),
 2. Livability (basically some sunlight near the house), and
 3. Preserving high-value amenities (views, aesthetics).
- **We must be responsive to these needs in our “veg code.”** This is key for good code compliance! People’s strongest “felt needs” don’t go away just because we may chose to ignore them in a regulation. Regulation where people respond “**wow, that’s tight, but it’s going to be alright**” is where we **maximize returns on our conservation efforts—especially when regulating trees and vegetation on private property out of plain sight—which is most of Bainbridge Island.**

SOME BENEFITS OF THE LTO

As a temporary regulation the LTO provides some beneficial aspects from a tree conservation perspective which we support.

- One of the greatest benefits of the LTO is that **it raises awareness of trees and the need for effective code changes to manage these trees during all stages of a development cycle—at a critical moment when we are busy revising these very codes.**
- Another benefit is that people must pause before cutting a large tree, at least long enough to identify and measure it.
- Certain large trees will be retained on development sites permitted and approved after June 26, 2018, at least until the review process with Planning Director and Council and Public Hearing have occurred.

SPECIFIC CRITIQUE OF THE LTO

- **As a long-term solution the LTO is fundamentally flawed** and untenable in its basic assumptions about trees, including its methodology for identifying trees for preservation.
- **The twenty-four species and six sizes listed in LTO do not adequately represent the range of species worthy of protection on Bainbridge Island, including many of our native trees which are not listed.** This list would more appropriately include about 120 species to be representative of worthy trees we have planted here.
- **Rare and unusual tree species will probably never be protected**, regardless of size or value, since they won't make the list.
- **With our current species list and size-only criteria we probably have somewhere between 40,000 and 150,000 "landmark trees"** on Bainbridge Island, with hundreds more crossing the finish lines each year (18,000 acres x 0.73 canopy coverage x 3 trees per acre—many lots have many more "landmark trees" per acre than that—MJ personal observation).
- **The current size thresholds are too high to protect worthy trees** below that size threshold. If we lower the size thresholds listed, however, we greatly increase the number of "landmark trees" and further **dilute the value and recognition of trees that are truly remarkable**, historically relevant, socially significant, or that otherwise "stand out" in our communities. With so many additional landmark trees requiring a public hearing and an act of city council to approve a necessary removal we're either going to have nightly council meetings, months or years of backlog, many frustrated tree owners going ahead with unpermitted work, or all of the above.
- **Seattle appears ready to abandon their list of trees (approximately 74 species in 15 sizes)** in favor of more effective measures for their situation. Other jurisdictions with tree lists will probably follow Seattle's example. **Bainbridge Island, instead of trailing along behind Seattle and others, should step ahead and implement measures that work best for our situation now, and our future.**
- **LTO violates the "KISS Principle" for good code compliance** by homeowners and contractors. **Keeping things simple helps people stay in compliance. Even for experienced arborists the LTO creates a very "high-stakes" plant ID quiz, pass-fail, loser pays \$25,000.00—per each missed identification or diameter tape error.**
- **LTO greatly increases the work load on PCD and Council.** PCD is already stretched with a heavy work load and 60 to 90 day back up for simple veg permits. This **pressures planners to take less time** to focus on or double-check each permit or do site visits **where issues really matter**, such as Critical Area Permits, Shorelines, and major development projects.
- **Are trees already protected adequately in proposed changes for Shorelines, Critical Areas, MUTC, and ARPA-designated properties?** A Permit is required for tree removal in these areas, and **generally the tree must be a documented hazard** or liability in order to remove.
- We must **separate the issues** addressed in the LTO and address them effectively.

ARBORIST QUESTIONS RESPONDING TO THE LTO:

To find the the best answers we first need to Ask Really Good Questions!

ARBORIST QUESTION #1: What is the Landmark Tree Ordinance (LTO) responding to?

- #1. **"Loss of Landmark Trees"** is alarming.
- #2. **"Preserve the status quo" that is changing quickly** due to development.
- #3. **General "concern regarding the loss of trees on Bainbridge Island..."**

LTO DEFINITION OF LANDMARK TREES: "Landmark Trees means trees, located on Bainbridge Island, that are **unique because of their age, size, species, historical significance, or aesthetic quality** and meet the criteria established by this chapter."

ASSUMPTION: That the biggest trees of every species are generally the most important and best trees to preserve on every job site, every zoning designation, every time.

REALITY: This is probably reasonable at least 50 percent of the time, under average conditions, if the tree is in good health, the critical root zone can be protected, and care is provided to compensate impacts to the tree health right away.

REALITY: The denser the development the less likely the largest oldest trees (especially our large-maturing native conifers such as Douglas-fir), will be retained.

- Increasing incidents of struck-by damage caused by failing tree parts that result in personal injury or property damage.
- Development usually disrupts the fragile balance of site conditions that are sustaining the large structure and systems of a large tree organism. If we can protect a large area with the large tree and some other trees, then we should do that. Forced to choose between saving a single very large tree or saving a group of smaller trees it is often better to bet on the group than betting all on a single large tree organism.
- (It's ok to take a long shot "Hail Mary pass" to retain a tree in poor health or a tree badly damaged and putting it on "life support" and hoping for the best—but only after we have adequately preserved the best candidates on the site).

REALITY: Trees in our densest developments such as MUTC will generally have the youngest ages. The national average age for a street tree is between 20 and 30 years, according to

ARBORIST QUESTION #2: What trees could qualify for Landmark Tree Status?

RECOMMENDATION:

- **"Veteran Tree"** older than European settlement of Bainbridge Island should certainly qualify.
- **"Champion Tree"** shown to be the largest of their species on Bainbridge Island or greater geographic area.
- **"Historic Tree"** such as being associated with famous person (e.g. visited by Teddy Roosevelt, or planted by an early settler), a major event, etc.
- **"Commemorative Tree"** Planted in dedication to someone or something known to the community.
- **"Landmark Tree"** a tree that is visible from public space that stands out from others visually, remarkably, such as one that people see coming ashore on the ferry, at a major street intersection, at a park entrance.
- **"A _____ Grove [OF ANY OF THE ABOVE]"** should be identified and protected.
- **[ADD ADDITIONAL CATEGORIES].**

- Many of these trees probably located near Winslow or a neighborhood center such as Lynnwood Center or Rolling Bay. Some may be in City right-of-way, or Parks property, or Land Trust Property.
- **What about private property with guest access by public such as Bloedel Reserve?**
- **How would it work on private property without public access or visibility?**

ARBORIST QUESTION #3: Is there a way to identify, protect, and preserve Landmark Trees that is rational, logical, and effective when applied in our Bainbridge Island community?

RECOMMENDATION: Develop a "sliding scale" of criteria to rationally identify "landmark trees," measure their contributions, and establish their value to the community, to inform decision makers. [use worksheet layout similar to ISA Managing Trees During Construction (2nd ed, 2016, p.7, but change the criteria].

TO NOMINATE A TREE TO BE A LANDMARK TREE [CONCEPT]:

1. LOOK AROUND YOUR NEIGHBORHOOD AND FIND A TREE THAT HAS BEEN SIGNIFICANT IN YOUR COMMUNITY...
2. USE THE LANDMARK TREE QUESTIONNAIRE TELL US WHY. DOCUMENT AS MUCH INFORMATION AS YOU CAN.
3. HIRE AN ARBORIST TO EVALUATE THE TREE RISK, HEALTH, AND LIKELIHOOD TO SURVIVE IMPACTS AND CONTINUE AS A LANDMARK TREE DURING THIS DEVELOPMENT CYCLE, AND BEYOND. ASK THE ARBORIST TO APPLY THE ANSI A300 AND ISA BMPS TO THE SITE. ALSO RIGHT TREE, RIGHT PLACE?
4. OBTAIN A SCOPE OF WORK AND ESTIMATE OF COSTS TO PRESERVE THE TREE.
5. BEGIN FUNDRAISING. IF THE TREE IS ON PRIVATE PROPERTY, YOUR COMMUNITY MAY BE REQUIRED TO PURCHASE THE RIGHTS TO MANAGE AND PROTECT THE TREE, AND OBTAIN ACCESS EASEMENT TO DO SO. [THERE SHOULD BE SOME COMPENSATION FOR RESTRICTING A PRIVATE TREE ON PRIVATE PROPERTY].

Landmark Tree Questionnaire:

What makes this tree unusual or unique? [YOUR NARRATIVE AND DOCUMENTATION].

Is tree on Public or Private property?

What is dbh and height of tree? [ARBORIST VERIFY]

Who planted this tree?

Who has owned the property where tree is located?

Right Tree, Right Place? [[ARBORIST]

Does this tree likely pre-date European settlement of Bainbridge Island (1841)?

Is tree visible from areas accessible by public? Historically? [Photos and documentation to back that up?]

ALSO Important that people get an idea what it takes to preserve a Landmark Tree.

Commit to fundraising, finding a donor(s).
Commitment to monitor and after care.

Develop a packet that combines the various forms and worksheets, [possibly including: Landmark Tree Worksheet, Conservation Suitability Worksheet, TRAQ Risk Assessment Form, Tree Management Cost Worksheet, etc.]

[ADD MORE CRITERIA AND CREATE WORKSHEETS].

ARBORIST RESPONSE TO: LTO CONCERNED FOR "LOSS OF TREES"

#1. Appropriately reduce the rate of both actual and perceived loss of trees on Bainbridge Island.

Actual loss is already addressed in the Planning Commission's current draft 16.18 for low-density residential lots (R-0.4, R-1, R-2, etc?) by reducing the annual rate of tree removal allowed without a permit (current code rate: 6 trees per 12 months) by 66 percent for lots over 1 acre (6 trees per 3 years) and reducing "un-permitted" removals by 85 percent for lots under 1 acre: (3 trees per 3 years).

- PCD Staff has also drafted lower thresholds for land disturbing activity in the **higher-density residential areas [R-2.9? thru R-14]** in current draft **BIMC 18.15.010 Table []** which lowers the threshold for clearing that triggers an ARPA? **[MJ: FACT CHECK]**
- **In the shoreline jurisdiction** the SMP controls tree removal, and **requires "no net loss of function and value"** which sounds effective enough—does anyone know what that looks like?
- **The Critical Areas Ordinance**, passed April 23, 2018, **requires City review** for tree removal in all areas.
- **The CAO ARPA requires City review** and approval of Stewardship Plan before tree removal those areas.

#2: To reduce overall sense of tree loss as well, maintain vegetation corridors especially native understory screening along roadways and setbacks to retain the character of the natural areas.

- In forested areas with a generally native character, discourage wholesale grubbing of understory trees and vegetation ("parking out" or "underbrushing") particularly along ROW, setbacks, native vegetation buffers. Encourage removal and control of invasive species. Favor pruning if management necessary.

ARBORIST RESPONSE TO: LTO CONCERNED FOR SAVING TREES

1. Tree retention during development and re-development on Bainbridge Island is, in general, poorly-planned, poorly-supervised, with correspondingly poor tree retention results in the long-term.

- **National standards are not followed**, including both the **applicable practices of ANSI A300 (Part 5, Management of Trees and Shrubs During Site Planning, Site Development, and Construction)** AND the **applicable practices** of the companion volume to the ANSI A300 published by the **International Society of Arboriculture (ISA) Best Management Practices "Managing Trees During Construction, 2nd edition"** as amended. These should be embedded in our code!

- **The ANSI A300 standards are updated every 5 years or so, and should be embedded in our code**, using terms “applicable practices of,” and “as amended.”
- Protection measures on development sites should **re-focus from simply retaining a minimum number of “tree units” and emphasize conserving and preserving the most appropriate trees and vegetation.**
- **Add requirements for a Tree Inventory, Tree Protection Plan, and Follow-up Care and Monitoring** for trees with CRZ within development envelope, consider including all **outdoor construction that requires a permit, such as grading or installation of underground utilities.**
- The **Tree inventory should include size, species, location, condition** (including notes on health, vigor, pests, crown condition, stress symptoms, etc).
- Use **Annex A in the ANSI A300 Part 5**, and the **Conservation Suitability Worksheet** included in ISA Managing Trees During Construction to help identify trees especially worthy of retention and give them very good protection.
- **Develop a list of criteria we want for trees in the MUTC** and higher density residential areas, along with a **list of trees to favor, and those to avoid.**
- **We should also encourage innovation to retain some marginal trees** in low risk condition as well (e.g. “veteranizing” trees with serious defects), with the goal of optimizing the contribution of trees and vegetation **throughout that development or redevelopment cycle and beyond.**
- COBI needs to hire a **full-time COBI Staff Arborist! Job description could include [TBD]**

3. Off-site trees on adjacent lots (including “shared trees” on the property line) are frequently damaged during development by the cutting of roots and branches, trunk damage, and increased exposure to wind and sun, resulting in reduced lifespan and unnecessary loss of trees. **Include these trees during the Tree Inventory, to include both general notes about probable effects** to trees on adjacent lots, as well as **specific notes to inventory trees on adjacent lots** whose Critical Root Zone (CRZ) falls within the limits of construction impacts.

4. City significantly under-utilizes public outreach opportunities that would greatly increase cooperation, code compliance, and good stewardship by property owners and contractors. **Simply providing clear educational materials** would result in a much higher rate of compliance because tree owners who read these materials tend to follow them almost as if they were requirements (e.g. the native plant list currently provided).

5. City may overrate the usefulness of a difficult permit process, and a longer wait for permit review and issuance, in conserving trees, especially in low-density areas where this circumstances result in a significant loss of compliance and unregulated loss of trees.

HOW TO MAKE OUR DEVELOPMENT CODE WORK BETTER FOR TREES

1. Tree retention is not same as **tree conservation and preservation**. We should **revise code** to emphasize the latter two concepts. We should **approach the saving of trees on each development site in a systematic, informed, and logical way, allowing creativity**

and cost/benefit analysis, with the goal of providing the most benefit from vegetation during that development cycle and beyond as possible, within reason.

2. Perhaps the most critical concept is that we preserve areas of native surface soil profiles in an undisturbed state as possible, adding amendments as needed per [ANSI A300 Part 2: Soil Management AND ISA BMP Soil Management for Urban Trees, as amended].

- To accomplish this, we should protect native understory plants and trees within Tree Protection Zones (TPZ) as possible. We should consider retaining some natural snags and some habitat logs as well. We should not allow grubbing of stumps within TPZs. We should not allow machinery to enter the TPZ without approved soil protection and tree protection measures in place. Any activity in TPZ should be directly supervised by ISA Certified Arborist on site.

3. Development/re-development plans submitted to PCD for pre-design meeting must show a complete Tree Inventory [per ANSI A300 Part 5: (Management of Trees and Shrubs During Site Planning, Site Development, and Construction AND ISA BMP Managing Trees During Construction, as amended)] that accurately identifies tree species, size, location, and condition for all trees 6 inch DBH and greater, and also show areas of native or native-similar understory vegetation. Invasive species present [see list] also noted on map [use yes/no checklist of species, to be included with Tree Inventory].

- **Tree Inventory to include shared trees** on property line and within 10 times the trunk diameter (dbh) or 10 feet, whichever is greater, for offsite trees.
- Tree inventory to include trees with notable wildlife presence or potential, including eagle perches, cavities, heartrot, etc.
- Development/redevelopment plans submitted to PCD for **pre-design meeting** to include a **"Conservation Suitability Worksheet"** prepared by an ISA Certified Arborist for each tree that will be affected by the limits of construction area (including
- Development/redevelopment plans to show an **approved Tree Protection Plan [per ANSI A300 Part 5: (Management of Trees and Shrubs During Site Planning, Site Development, and Construction AND ISA BMP Managing Trees During Construction, as amended)] before a demolition or site clearing permit is issued.**
- The **Landscape Plan** for development to include an **invasive species management plan for the property lot.**

4. During Demolition, Construction, and final Landscape Phase.

- **All excavation, root cutting and disturbance shall follow applicable practices of ANSI A300 Part 8 (Root Management and ISA BMP, as amended).**
- **Construction sites to be inspected by a COBI Arborist** at appropriate intervals during all phases of site work and construction to ensure compliance with Tree Protection Plan.
- **Tree planting in development and mitigation sites** to follow applicable practices of [ANSI A300 Part 6: (Transplanting) AND ISA BMP Tree Planting, as amended].

- **A Post-Construction Maintenance Plan** for the trees and vegetation shall be prepared by an ISA Certified Arborist and approved by the COBI Arborist to include at a minimum recommendations for **monitoring, mulching, irrigation, pruning, pest management, and maintenance scheduling.**

5. Develop a list of Guiding Principles for Planners, Design Review Board, City Arborist, et al. such as the following:

- Does this site design provide new and retained trees most likely to contribute the **most value throughout the development cycle and hopefully beyond into the next cycle?**
- **Are some areas of native surface soil protected regardless whether they contain trees or not?**

7/18/18 Mike Juneau meeting notes with Olaf Ribeiro:

[MJ COMMENT: I support Olaf's comments and recommendations we discussed immediately below, from our meeting on 7/18/18, including:

- **COBI to hire an interim arborist until a Full-time COBI Arborist has been hired, and**
- **Local arborists help City with criteria for "vetting" the candidate for COBI Arborist, except as follows:**

#8 (A. L. Jacobsen book) because I disagree with the "species by dbh" list of any kind being the rule for tree retention of common trees on Bainbridge Island].

1. **Olaf's main interest is in saving "Historical, Champion, and Unique Trees of Bainbridge Island"** this is his passion: identify and save these trees! Frustrated no codified criteria to identify and no law to protect Landmark trees...
2. **Frustrated that City doesn't seem to enforce the veg code uniformly.** Fills out complaint forms online, and the City still lets people off the hook, maybe a \$500 after the fact slap on the wrist, maybe not. Rule is on the books, but the City can apparently overrule.
3. **Protection for "shared trees" on property lines,** and restrictions on damage to roots and canopy of trees crossing a property line into a development site.
4. **Inadequate protection of trees retained during site development,** and no aftercare.
5. **Olaf would support using additional criteria** on sliding scale to nominate Landmark Trees...
6. **Would support more stringent Inventory, Tree Protection, and Follow up care** for trees on Development sites.
7. **Landmark Tree Ordinance:** put it up and then fix it after complaints and public input...
8. Go off of **Arthur Lee Jacobsons book...**

Olaf especially interested saving the champion trees on Bainbridge Island.

IDEA: COBI immediately contract an interim on-call-arborist (or two like the City of Lacey does so an arborist is usually available) until we get a full time city arborist.

Job description:

1. To review current development sites for compliance with existing tree code and the tree protection conditions in code and on building permit.
2. Verify size and species of landmark trees while under the current Landmark Tree Ordinance.

3. ????

IDEA: Also provision for **local arborists to be involved with vetting a city arborist** before hiring:

1. Submit recommended criteria for consideration of candidates, and

IDEA: Before a developer can develop has to **take a 1/2 hour class** on why trees are good and how to save them. "Some of them find religion fast," others stomp away and get what they wanted anyway. Olaf cites DRB experiences, for example.

[MJ COMMENT: I support many of Olaf's comments listed below in his notes to City Council 7/24/18. I can't determine whether I support most or all of them until the City has decided for sure what a Landmark Tree is, and how many LT's we have—200 or 200,000!].

Olaf's Notes from City Council 7/24/18

There have been objections raised as to using species and their trunk diameters as criteria for designating a tree as a significant tree since this would be difficult to access for all tree species. Presently, City of Lake Forest Park designate any tree over 6" DBH as significant, Snohomish County designates 10" as a significant tree, North Bend 15" and Seattle 12" and is now considering lowering it to 6". These are just a few examples. Most tree codes use tree diameters as criteria for designating a significant tree.

Here are my thoughts for the city council to consider:

Culturally significant trees are a special class of trees that have exceptional values in terms of their contribution to our environment. These values include historical, cultural, aesthetic and scientific.

Protect:

Trees known to be of historical significance.

Trees that are of large enough girth or height to be a notable feature of the landscape
"Champion Trees"

Significant trees:

1. Listed as a rare or endangered species regardless of its size or
2. The only one of its species in the area or
3. Represents an important habitat for native fauna or
4. Part of a wildlife corridor or
5. Important to the maintenance of biodiversity in the area or
6. Forms a notable visual element to the landscape of the area.

Tree removal considerations:

1. Tree is diseased and its life expectancy is short

2. **Tree represents an unacceptable risk to the public or private safety**
3. **Tree is shown to cause or threaten to cause substantial damage to a building or structure of value.**
4. **It is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activities from occurring.,**

Before tree removal is done:

Arborist has to provide report of checking the tree designated as diseased with a resistograph (or tomograph) to ascertain internal decay and a laboratory report of the types of pathogens that may be infecting the roots and if control measures are available.

Finally:

Enforcement of the code is essential if significant trees are to be protected. Issuing "After the Fact" work permits defeats the idea of tree protection. This must be removed from the code.

Use: Arthur Lee Jacobsen's book as a ref.

Emails from Dr. Olaf Ribeiro, Plant Pathologist 7/26/18:

"Hi Mike:

I really appreciate you taking the time to put this all together. It is quite impressive and covers all the salient points we need to talk about in the ordinance.

I think it is important that the ordinance clearly defines what is a landmark tree. There is presently confusion amongst the public I have talked with as to **what constitutes a landmark tree. People think that this means nearly all trees are protected –which is not the idea of **what I had envisioned were trees that required some protection or would give pause before considering removal**.**

"Historic and **Landmark trees are those which have developed exceptional historical, cultural, or aesthetic value because of their age, descent, legendary stature, exemplary representation of genus or species, rarity, or association with an important event or person". It does not specify tree species or diameter as criteria.**

Is the Planning Commission going to give each one of us more than the usual 3 minutes to talk? I have been cut short before because I exceeded the 3 min. time limit! If so, we can each take a portion of this write-up and present it so that we get it all covered between us.

We need the Board [Planning Commission] to urge the city to include qualified arborists in their discussions to revise the code since they are the ones with actual field experience."

Olaf

**Ribeiro Tree Consultants
Bainbridge Island, WA**

Email from Dr. Olaf Ribeiro 7/26/18:

The Heritage Tree program

[]

is entirely voluntary and depends on citizens

sending in trees on their property that they consider Heritage Trees. Their nominations are then **decided by folks at the Historical Museum** -none of whom have any idea about trees! I have never been consulted about any trees nominated for the Heritage Tree Program.

Olaf

Ribeiro Tree Consultants
Bainbridge Island, WA

Email from Scott Baker, Arborist 7/26/18:

"I would like the [Bainbridge Island] Planning Commission to know that I have been following the discussion and that I support the work of my arborist colleagues in helping to craft a **workable Code that will actually help to keep Bainbridge Island green and forested.**

The outline that Mike Juneau has produced is very comprehensive and thorough. Tree and vegetation management is a complicated issue and to succeed a new Code will need to be understandable and help property owners.

I do not think that tree size should be the focus. Yes **people should be encouraged to keep larger trees, when it is feasible, which is often the case.**

Preservation of surface soils is the key to continued success of existing and new trees.

Requiring **tree surveys with a minimum size (6" DSH is common)** is common and workable.

I do think that **credit should also be given to preservation of trees and other vegetation smaller than the survey minimum.** These naturally occurring trees can survive, are free, and are **arguably better than any transplanted (new) tree.**

I do not think that Arthur Lee Jacobson's book should be used as a basis for anything regarding code compliance. I happen to know that the author would agree.

I do not think that requiring advanced assessments of any kind makes sense. Those should only be done as the result of a progressive assessment ie: Basic Tree Assessment" first!

Requiring **canopy cover by a tree credit system** can be made workable and will help preserve trees of all sizes. This is a good idea to include.

A good code would encourage leaving larger trees where feasible and manageable over the long term, and **avoid saving one or a few large trees at the expense of destroying soils and other native vegetation.**

The **rules must encourage the participation of citizen property owners AND people who make their living taking care of trees AND landscapes.** I agree with Mike that most people want a beautiful green Island and the same for their properties.

Typical landscapes in subdivisions or high density development installed after destroying soils etc. **do not replace canopy or ecological function or do so very slowly. It would not be difficult to make some rules for developers** that would improve outcomes.

Bainbridge needs an Arborist on staff.

Any tree/vegetation code must mesh with other development and environmental codes already in place.

Hope this helps, Scott

Scott D. Baker

**Registered Consulting Arborist 414, Board Certified Master Arborist PN0670B,
Qualified Tree Risk Assessor**

Tree Solutions Inc.

2490 Westlake Ave. N #200, Seattle, WA 98109

Office: 206.528.4670

www.treesolutions.net

Email from Katy Bigelow, Arborist 7/19/18:

Some points to be confirmed that we all agree with moving forward:

1) **We do not support a size/species only determination for tree retention for any code or this landmark code.**

2) The landmark tree code and other tree retention codes were mainly reactive to trees being cut down during development projects.

3) Therefore: we support of the **downtown and other mixed use zoning areas be different code than the rest of the island**. Smaller tree retention based on size (and vegetation) should be refined.

Use of **Conservation Suitability Worksheet** from the ISA BMP.

Main tenants of that doc assuming a construction site:

- Distance from Trunk to Root Cut/Fill
- Health
- Defects
- Construction Tolerance by Species
- Age (Relative to typical lifespan)
- Distance from Trunk to Construction
- Soil Quality/Tolerance
- Species Desirability

So, something between that form and this form [**Tree Management Cost Worksheet**] can end up in the code:

https://accgov.com/DocumentCenter/View/702/best_management_practices1

4) **ARPA plans incorporating into their early feasibility studies the above doc or similar, and language for off property tree protection for trees** that have their CRZ's extending into the site clearing boundary.

5) Leaving the problem of "heritage or landmark" trees on private property: one idea Mike and I discussed was **re formatting COBI's Heritage tree form to make more robust** - including the question of did the property owner or nominator discuss its status (as viable or cool etc.) **with an arborist**, having the nominator assuming some of the financial costs of "saving the tree", etc. but keeping an arborist in the loop to make some determination. Where that goes is beyond me.

In this vein, the **nomination forms for WA or OR big tree registry are semi-robust but could give good information** to an arborist or the city arborist prior to nomination to see if the tree is a good candidate:

<https://static1.squarespace.com/static/5a170616268b96d901c3b268/t/5b36725f8a922d070f042847/1530294880729/WCTR-Form+2.2.pdf>

I am fully in support of **tree retention** but feel most of that conversation **belongs in building code and tightening up MUTC and other high density areas.**

Thank you all! Please let me know if I can help refine more.

Just to be clear, I just don't support a landmark code that is size + species alone, as stated initially :) Yes big trees are important. Yes small trees are important too, certainly in dense areas (MUTC ie.). Thanks all!

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Email from John Bornsworth, Arborist 7/25/18:

"Mike,

Your letter touches on many concerns and ideas I share. Thank you for putting as much time into this as you have in the past for other city related code! I strongly agree with most everything in the letter. Two ideas I have which Katy and I just discussed.

- 1 **COBI wants to increase urban/community forest function, legacy, & value.**
 - a. To increase/retain urban/community forest function successfully, the city needs to align their tree regulation with every other environmental regulation on the island. **Urban & community forests are a natural resource similar to shorelines, wetlands, streams, prairies and other priority habitats.** In urban forests we can achieve a no net loss of function and value through the use of best available arboricultural science, consultants and outreach; similar to other ecosystems. Critical area regulations measure and classify function, that function is measured & mitigated for by a biologist providing a site-specific impact analysis. Similarly, measuring tree function and setting thresholds on those functions is achievable using the BMPs/science we arborists have available. To properly measure function provided by urban/community forests, we need to evaluate more than species/size; items like canopy dimension, health, form & tree liability are all part of that equation.

2 **Tree preservation codes & legacy/landmark/champion tree retention are different [issues].** I think you touch on this heavily.

- a. Legacy trees, monoliths, old ancient trees are not necessarily preserved by this code. **Managed ancient trees in communities provides critical habitat. If we're preserving landmark trees let's preserve the old landmarks, too.**

Aligning the public perception of arborists to the perception of biologists is a real hot topic for me.

Action item #1 on this entire project is hire a consultant or two to assist them in their use of best-available-science in the cities regulatory development. "

John Bornsworth

Restoration Ecologist

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MIKE JUNEAU CLIFF NOTES AND SOME SPEAKING NOTES

LTO is size fits all approach. Doesn't account for context. Almost completely a layperson-guided and enforced ordinance, with options for, but no real requirements for—professional input.

Seems to be based on the premise that the **biggest trees are always the most important** and best trees to save on every site, in every situation.

In some cases this may be true, but not always. And "not always true" often enough that we can reasonably say this is not tenable as the only criteria for any long-term application of this ordinance.

I'm not much of a fisherman, but I can imagine myself catching a 100 lb king salmon in the ocean. That's a really big salmon! I would be really excited about taking it home and sharing it with friends and neighbors. However, if I'd missed that fish, and caught up with it a few weeks later, far upstream, lying on a riverbank, with sagging flesh and eyeballs pecked out, I would see its value differently.

As a naturalist, I would appreciate the dying fish has value ecologically, but I would not include it on my menu. I would not be so excited to bring it home or share it with my friends and neighbors.

Same size, same species, what changed? The location and context and condition where I find the fish, and how it relates to people nearby.

As an arborist, I have to look at trees much the same way. Why?

Arborist works at the interface between trees and people. We frequently need to be flexible, innovative, and adapt to the specific characteristics of that site so that trees will contribute the **most value throughout the development cycle and hopefully further** into the future. An arborist doing their job is pushing back on the trees and managing them to reduce conflicts with people (so that trees get to stay!), AND pushing back the people to keep them from doing things that damage their trees. Many times it means guiding people to the next best solution under the circumstances. Very much **like a basketball referee officiating between two teams of giants**, our goal is to keep trees and people playing well together for the entire game.

Why does this approach work better in the long run?

- Most people already care about their trees and being good stewards of their environment. Almost no one wants to be the reason all the baby salmon die in that class F stream, for example.
- By always blazing a clear path forward, we are able to get buy-in from contractors and property owners—momentum for compliance builds once the word gets out.
- If we build it well they will come. City needs to prepare for that at PCD—and in our code deciding what PCD will be required to review! We are not ready for compliance!

How do we preserve trees on both already-developed sites and on our developing sites?

- Must **embed the ANSI A300 standards AND ISA BMPs** for tree preservation during construction, Soil Management, Tree Risk Assessment, et al, into the code.
- **Protect and preserve native soils, particularly soils that are good for growing trees.** Like a reserve septic system—tree roots need much the same things. We should emphasize this!
- **Encourage people to mimic natural forest system** as much as reasonable. Retaining some snags and habitat logs, recycling wood chips and tree leaves on site (unless transmitting disease), retaining areas of native underbrush and understory trees. Planning for forest succession.
- **Control shade-tolerant invasive species** (English ivy, English holly, Laurel, etc) that are “taking out” our forested areas by preventing forest regeneration and succession species and smothering our understory vegetation and trees.
- Realize that in every forest some trees must die that others may live. That is how a forest works. **Trees that are not crowded develop the strongest structure**, and may survive the longest.
- Encourage **a diversity of age class and species of trees** on a site, similar to old-growth forest.
- Realize that in **tight residential situations** the trees will have to be managed more frequently and will be shorter and younger than in those areas where more space is available and targets are limited.
- Remember to **find out what matters most to people**, and recognize that in the solution.
- Recognize that **change of ownership occurs frequently** on Bainbridge Island, usually several owners between each re-development of the site. Each of these owners has a different vision for the use and management of the site, including the trees.
- We must recognize that professionally-managed **thinning of stands of trees near areas that are (or will be) developed is also necessary** to create stronger, healthier, safer trees we can retain into the next development cycle. **EXAMPLE: “Haloing”** by removing some

trees around a Landmark Tree to keep sunlight penetrating through the canopy and keep its limbs alive and healthy.

- Effective tree management will always require some tree removal—including removal of large trees—in all developed areas of Bainbridge Island.
- **Streamline the permit process!** Arborists and contractors can help bring people into compliance, but City has to make a way forward that is reasonably efficient so people are willing to participate.
- **Hire a full-time COBI Arborist.**
- In the mean time, **hire one or more on-call consulting arborists** to help with tree preservation compliance on active development sites, tree ID issues, etc.
- **Hire couple arborists to assist in code changes** relating to trees and vegetation.
- Invite other arborists, ecologists, etc. to the table to comment and help craft good “veg code” for Bainbridge Island.

Thank you.