



**CITY OF BAINBRIDGE ISLAND
REGULAR PLANNING COMMISSION MEETING
THURSDAY, APRIL 23, 2015
CITY COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WASHINGTON**

- 7:00 PM CALL TO ORDER**
Call to Order, Agenda Review, Conflict Disclosure
- 7:05 PM PUBLIC COMMENT**
Accept Public Comment on Off-agenda Items
- 7:15 PM REVIEW AND APPROVAL OF MINUTES**
March 26, 2015 Planning Commission Meeting
- 7:20 PM 2016 COMPREHENSIVE PLAN UPDATE**
Discuss Creating a Subcommittee to Assist with Drafting Comp Plan Amendments
- 7:25 PM ORDINANCE 2015-10 TENT CITY REGULATIONS**
Study Session
- 8:25 PM ORDINANCE 2015-04 LANDSCAPING AND TREE PROTECTION**
Study Session
- 8:55 PM NEW/OLD BUSINESS**
- 9:00 PM ADJOURN**

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

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



**CITY OF BAINBRIDGE ISLAND
REGULAR PLANNING COMMISSION MEETING
THURSDAY, MARCH 26, 2015
CITY COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WASHINGTON**

CALL TO ORDER - Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT - Accept public comment on off-agenda items
REVIEW AND APPROVAL OF MINUTES - February 12, 2015 Planning Commission Meeting
ROSEBUD II (PLN19288 SPR) - SITE PLAN & DESIGN REVIEW - Recommendation
2016 COMPREHENSIVE PLAN UPDATE SCHEDULE AND NEXT STEPS - Discussion
ORDINANCE 2015-04 LANDSCAPING AND TREE PROTECTION - Study Session
NEW/OLD BUSINESS
ADJOURN

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

The meeting was called to order at 7:01 PM by Chair J. Mack Pearl. Planning Commissioners also in attendance were Maradel Gale, John Thomas, Jon Quitslund and Julie Kriegh. Michael Lewars was excused and absent. William Chester was absent. City Staff present were Senior Planner Heather Beckmann, Special Project Planner Jennifer Sutton and Planning and Community Development Director Kathy Cook. Administrative Specialist Jane Rasely monitored recording and prepared minutes.

PUBLIC COMMENT - Accept public comment on off-agenda items

None.

REVIEW AND APPROVAL OF MINUTES - February 12, 2015 Planning Commission Meeting

Motion: I move we approve the minutes of February 12, 2015

Quitslund/Thomas: Motion carried 5-0

ROSEBUD II (PLN19288 SPR) - SITE PLAN & DESIGN REVIEW - Recommendation

Senior Planner Heather Beckmann gave a brief overview of the Rosebud II project touching on allowable floor area, Tree Unit Requirement and parking.

Commissioner Quitslund felt the DRB did a commendable job but did not notice any discussion of the landscaping plan. Ms. Beckmann stated the landscape plan had been modified since DRB review and the landscaping proposed had increased due to the DRB's initial recommendations. He also asked about size requirement of trees which is 6 feet.

The owner of the Rosebud property spoke stating he had nothing but compliments about his development 10 years ago so he wanted to add more living space. Commissioner Pearl asked about the office space and

whether it was going to be commercial. The owner stated it would not be commercial, just home office space.

Commissioner Thomas asked about whether the units would be rentals or condominiums. They will be rentals.

Commissioner Kriegh asked about the surface landscape and driveway composition. The contractor replied they would be using concrete as they did 10 years ago with the first development. The owner stated they are extremely sensitive to the landscaping especially on the north side of the property that borders a funeral home. The contractor spoke about the trees being 6 feet in diameter and 40 feet tall.

Commissioner Gale asked about the dotted lines north of the back development. The dotted line represented a fence on the funeral home's property. Ms. Beckmann stated there is a site 2 or 3 parcels to the east that has been identified as a connector for non-motorized transportation. Commissioner Pearl asked if it was possible to make that connection within this project. The developer stated it would not be possible and any trail built would not go anywhere. Commissioner Gale felt it would be nice if the City would work with developers to provide this sort of connectivity. The developer stated it would not be feasible because there is another property that would be involved as well. Commissioner Gale wanted to make the point that she would like to see the City ask neighboring properties of a current project to be open to connecting non-motorized trails.

Citizen Ron Peltier spoke stating that Commissioner Gale's concern could be addressed with the developer here just by asking if he would be willing to provide access contingent upon the funeral home or whoever is adjacent to also doing the same. It's a pretty straightforward question. If he was willing to do it, then he could go to the other property owners and see if they were willing to provide that trail or access through there.

Commissioner Pearl stated that in this particular case they would lose the landscaping because the setback is only 4-5 feet there.

Commissioner Thomas mentioned that if we try to address these things on a piecemeal basis as they come up does not seem to be a great way to do it. Commissioner Gale replied that if you don't address it as they come up then you lose opportunities.

Director Kathy Cook mentioned that the Planning Commission can look at addressing the missed opportunities with the Comprehensive Plan update and the only way it can be required is if it is actually identified in the Non-Motorized Transportation Plan, which is part of the Comp Plan. If the feeling is that there are missed opportunities, the place to address that is as part of the comprehensive plan update.

Commissioner Quitslund stated they really need to study what kinds of opportunities exist at the present, plan for possibilities and make it a priority.

Commissioner Pearl asked if there were patios or outdoor space on the first floor or just the second. The contractor said there would not be and that the balconies were smaller without any stairs.

Commissioner Thomas asked about the conditions requested for approval. Ms. Beckmann listed the conditions contained within the staff report which Commissioners stated they did not receive. (Ms. Rasely inadvertently left the staff report out of the agenda packet.)

Commissioner Pearl asked about purchasing FAR credits. Ms. Beckmann showed the formula for purchasing FAR and Director Cook spoke about where the money would go. Commissioner Gale wanted to know how much money was in the downtown "bucket."

Commissioner Gale told the developer that she really liked the Rosebud but wanted to know why they were making Rosebud II apartments. He replied that it was an administrative decision. An apartment was easier to manage. Director Cook mentioned that the City has a shortage of rental residences.

Motion: I move that the Planning Commission recommend the Rosebud II for approval as conditioned in the staff report.

Quitslund/Thomas – Passed unanimously 5-0

2016 COMPREHENSIVE PLAN UPDATE SCHEDULE AND NEXT STEPS - Discussion

Special Project Planner Jennifer Sutton spoke about the next steps in the Comprehensive Plan update process and showed “word cloud” examples of words most commonly used by the public during the six listening sessions held in February and March. Discussion centered on the four buckets Joe Tovar illuminated in his memorandum dated March 20, 2015.

Discussion began with the information taken in during the listening sessions being divided into 4 buckets:

1. Should be discussed during update process.
2. Temporary moorage, may be relevant, but may not need looking at during update process.
3. Does not relate directly to Comprehensive Plan but more to the City’s operational plan and budget process. May be already supported by or no need to be supported by Comp Plan.
4. Issues best directed to another agency (i.e., Fire, Parks, etc.).

Discussion ensued with concern about what happens to the items in Temporary Moorage? Will they be looked at during the process? The fear was that someone would have had a good idea and then it is not noticed during the process. Director Cook stated they would need to build a step into the process for reviewing code type suggestions making sure there is already a supporting policy in the comprehensive plan. What has also been talked about is identifying which implementing regulations should be processed as closely in tandem with the comprehensive update as they can. Some will need to be done because they are State requirements and then prioritize the rest in some manner. Commissioner Gale wanted to make sure the City didn’t get through the Comp Plan update and the ideas not get noticed until after the process is completed. Commissioner Kriegh stated they would need to add looking at Temporary Moorage during the process. Commissioner Pearl asked about critical areas.

Commissioner Kriegh spoke about making sure the historical elements brought up by Ron Peltier were added to the history and not lost and asked if incorporating an updated history statement could be added. Commissioner Quitslund brought up the Growth Strategy and whether that was fixed or could be changed. Director Cook stated that it could be changed if it was determined that was not what the City wanted. She also mentioned that pages 2 through 4 of Mr. Tovar’s March 20th memo were the beginning of a scope of work. Commissioner Thomas felt it would be helpful to pull out the themes of each bucket and not just call them Bucket 1, 2, etc. Commissioner Gale asked if Mr. Tovar or someone else could provide the same type of analysis to buckets 2, 3 and 4 as there was for Bucket. Ms. Sutton asked if they would rather have it be by theme and/or element based? Commissioner Gale stated whichever made more sense. Commissioner Quitslund was pleased with the amount of analysis already done this soon after the listening sessions.

Commissioner Kriegh brought up Waterfront Park and making sure it will be part of the discussion. Director Cook stated it is part of the Winslow Master Plan. Commissioner Gale expressed concern over what was going on with the park. Director Cook stated the Public Works Department is in charge of that project.

Ron Peltier stated that Commissioner Kriegh brought up a good point. He thinks it could relate to our Comp Plan. When you read through Joe Tovar’s memorandum and how it’s categorized and all the comments. You read through the land use and there are a lot of different things in there and you get to the

water element and it just kind of jumps out at you because people are really concerned about not just our groundwater but our marine resources and that could relate a lot to Waterfront Park and the dock. A water theme related to stewardship of the Sound perhaps. It would seem like if we're really committed to that, it would be a good place to showcase our commitment to helping clean up Puget Sound. He was not exactly how that would flesh out, but he thinks Commissioner Krieger is right it should be part of the comprehensive plan.

Discussion continued with the overall question of how to include Waterfront Park and all the great changes going on there in the comprehensive plan. The consensus was the Planning Commission needed to think about how they would like to include that or a more general marine environment in general. Director Cook felt this was the time to make that request.

Commissioner Quitslund wanted to add business industrial with the NSCs as another key issue to address in the economic element. He also felt it was important to engage the real estate community because they had a lot of information to contribute. He felt the real estate community was second only to food services. The idea of branding Bainbridge Island for business development instead of software firms was discussed. The discussion continued into the five overarching principles that may need to be looked at again because they may not be applicable.

Ron Peltier thanked everyone for the work and energy put into this work. He was concerned that there was an important issue that's been talked about as part of the transportation element and that's Highway 305 and the bridge. He didn't feel the community had been given enough time and opportunity to get into those issues as they relate and he hoped they would think about how they could do that because there is a benefit to the community for people to talk about that complicated set of issues. It needs to be more than just part of a workshop; it needs to be its own workshop or two or three workshops. Maybe they could invite citizen groups to submit proposals or overviews of how they look at that topic. Maybe think a little out of the box because what he was seeing is that this has been under discussed even though people really do care about it one way or another. It's not all just one way, but maybe they could think about how they could make sure it was really discussed. Commissioner Gale mentioned it was listed but that it needed to be a separate item. Mr. Peltier mentioned that at the town hall meeting with Senator Rolfes, she stressed that local communities have a lot to say about what happens with the highway and the bridge, but if we haven't really come to some consensus here and there are people saying different things and we haven't really worked it out as a community, we're going to get something imposed on us. Whatever this is going to look like in the future, I think it is going to take a lot of thought. He did not think it was a simple question. There will be a bunch of things that will go into a solution for addressing the situation. Commissioner Gale felt it a topic worthy of a separate workshop or two and she wondered if there were non-profit groups who would be willing to hold those. Mr. Peltier felt that if citizens were invited to get more involved and take some initiative, they may find there are two or three groups that want to do that. They may have different thoughts and ideas, but they can come together and share what they are thinking and the information they have. He felt that should be a goal of city government, to get citizens more involved and there might be a way to do that.

Discussion moved to the USGS water report and the work the Water Resources Division is doing.

Commissioner Quitslund asked about how the document would actually be written and how open that process would be to interested parties. Director Cook stated that the process has not been fine tuned but what had been discussed was staff working with the consultant (Joe Tovar) to bring the Planning Commission draft mandatory language which would then be reviewed and subjected to public comment and amended as they saw fit. The Steering Committee had not really focused on that yet. She said that it was up to the Planning Commission. The discussion was tabled for later discussion due to the lateness of the hour.

Public comment was opened for the Tree Ordinance at 8:52 PM. There were none.

Discussion of the comprehensive plan update time line continued to confirm that staff was on the right track. Director Cook mentioned that the agendas should reflect what will be discussed at each meeting. Concern was expressed by the Commissioners about how to encourage citizen workgroups to continue working on particular elements and getting their input before the drafts are written. It was determined that groups should be submitting “papers” before the drafts are written to better accommodate incorporating their ideas. Commissioner Kriegh mentioned that the Commissioners will not want to be surprised with new information they have not had a chance to look at before the element discussion begins. She felt it was important to get the dates for submission out to the public and that there was a definite process to submissions. Commissioner Pearl brought up the idea of having a public meeting before the element is actually drafted. Ms. Sutton spoke more in depth about the process and the meetings that will be held.

Ron Peltier was really concerned about hearing what he was hearing there that people will be able to submit suggested revisions to the Comp Plan and maybe they would be lumped together with the Comp Plan amendment process because you really have people who want to be able to have a restaurant at Coppertop or some other adjustments that really have to do with their own interests and if you mix that with proposals regarding something that is more community oriented that’s not about them, it’s about community, it seems like those need to be separate. You really need a process that people understand; they know what their opportunities are for contributing. Public participation has already been a little on the lean side at times with this process and it would be really nice if all of this was really clear that if a group wants to recommend some changes to one of the elements, here is how you do that. Director Cook stated that was exactly what they were struggling with. Mr. Peltier would like the City to make sure everyone knows they have the opportunity to do that as best as the City can. He understood there was no way you could guarantee everybody knows. Ms. Sutton mentioned that the City is trying to plaster every available outlet, both paper and electronic-wise with the PCD e-mail address and distribute anything we get through there to both the Planning Commission.

Discussion continued centered around the idea of getting information/reports from citizens before meetings on the pertinent topic occurs. Director Cook stated that this topic was up for discussion on the next meeting agenda as well, so staff would bring back some recommendations for the Commissioners to look at.

ORDINANCE 2015-04 LANDSCAPING AND TREE PROTECTION - Study Session

Postponed until next meeting.

NEW/OLD BUSINESS

None.

ADJOURN

Meeting was adjourned at 9:13 PM.



City of Bainbridge Island
EXECUTIVE DEPARTMENT
MEMORANDUM

TO: Planning Commissioners
And to: Jennifer Sutton, Special Project Planner

FROM: Lisa Marshall, City Attorney

DATE: April 17, 2015

RE: Proposed Ordinance No. 2015-10 adding a Chapter 18.19 to the BIMC for Temporary Uses

In 2010, the Washington State Legislature codified RCW 32.21.915, "Temporary encampments for the homeless — Hosting by religious organizations authorized — Prohibitions on local actions" which states as follows:

- (1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.
- (2) A city or town may not enact an ordinance or regulation or take any other action that:
 - (a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;
 - (b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or
 - (c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.
- (3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.
- (4) An appointed or elected public official, public employee, or public agency as defined in RCW [4.24.470](#) is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

This legislation was motivated, at least in part, by the Washington Supreme Court's decision in *City of Woodinville v. North shore United Church of Christ*, 166 Wash.2d 633 (2009). In that case, the City of

Woodinville required that the Northshore Church obtain a temporary use permit for the Tent City/SHARE homeless encampment, and the City enacted a moratorium on all land use permit applications prior to the Church's receipt of a temporary use permit. The Court held that while the City was free to impose reasonable use standards on the encampment, the moratorium placed a substantial burden on church, in violation of church's constitution right to religious freedom. The legislation, above, quickly followed.

The City of Bainbridge Island is insured by Washington Cities Insurance Authority (WCIA), a risk pool comprised of Washington cities. As a risk management policy, WCIA has required its member cities to enact ordinances providing for temporary use permits for homeless encampments such as Tent City/SHARE. No homeless encampment has applied for a temporary use permit, nor is the City aware of any plans of a homeless encampment to locate within the City or on church property located within the City. This proposed ordinance is proposed to satisfy the City's insurer, WCIA. That said, if, in the future, the church within the City limits hosts a homeless encampment, this ordinance provides the City with tools to insure the health and safety of the residents of the City.

ORDINANCE NO. 2015-010

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to Temporary Uses; amending Chapter 18 of the of the Bainbridge Island Municipal Code (BIMC) to add a new Chapter entitled, Temporary Uses.

WHEREAS, in 2010, the legislature codified RCW 35.21.915, which, among other things, prevents cities from enacting ordinances or regulations or taking any other action that imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

WHEREAS, the City desires to enact this Ordinance to set forth the requirements for issuance of a temporary use permit to an applicant wishing to host a homeless encampment;

WHEREAS, the standards and requirements set forth in this Ordinance are the minimum necessary to protect the public health and safety and do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

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

Section 1. Title 18 of the Bainbridge Island Municipal Code is hereby amended to add a new Chapter 18.19 entitled, “Temporary Uses” as follows:

Chapter 18.19 Temporary Uses

- | | |
|-----------|--|
| 18.19.010 | Purpose |
| 18.19.020 | Process for Deciding Upon a Proposed Temporary Use |
| 18.19.030 | Application Information |
| 18.19.040 | Criteria for Granting a Temporary Use Permit |
| 18.19.050 | Dimensional Requirements and Development and Performance Standards |
| 18.19.060 | Frequency and Duration of Temporary Use |
| 18.19.070 | Removal of a Temporary Use |
| 18.19.080 | Notice Requirements for Homeless Encampments in New Locations |
| 18.19.090 | Option to Modify Standards for Homeless Encampments |
| 18.19.100 | Notice Requirements for Homeless Encampments at Repeat Locations |
| 18.19.110 | Appeals |

18.19.010 Purpose

This chapter establishes a mechanism whereby the City may, on a short-term basis, permit a use to be conducted that would not otherwise be allowed in the zone in which it is located. This chapter is intended to permit certain temporary uses such as homeless encampments that would not be allowed in the zone in which they are proposed, but which, if limited in time and strictly controlled, may be in the best interests of the residents of the City of Bainbridge Island.

18.19.020 Process for Deciding Upon a Proposed Temporary Use

An application for a temporary use permit will be reviewed and decided upon by the Director of Planning and Community Development.

18.19.030 Application Information

The applicant shall submit:

1. A completed application on the form provided by the Department of Community Development, along with all information listed in that form; and
2. An irrevocable, signed, and notarized statement granting the City permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the City for any expenses incurred by the City in abating the temporary use.

18.19.040 Criteria for Granting a Temporary Use Permit

The City may grant a temporary use permit only if it finds that:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity; and
2. The proposed temporary use is compatible with existing land use in the immediate vicinity; and
3. The proposed temporary use or site plan is not otherwise allowable in the zone in which it is proposed.

18.19.050 Dimensional Requirements and Development and Performance Standards

The City shall establish dimensional requirements and development and performance standards as part of the approval of each temporary use permit. The City will use the nature of the proposed use and the character of the surrounding area as guides in establishing these requirements and standards.

In addition to these requirements and standards, the following definitions and standards apply to homeless encampments:

1. Definitions

- a. Homeless Encampment – A group of homeless persons temporarily residing out of doors on a site with services provided by a sponsor and supervised by a managing agency.
- b. Managing Agency – An organization that has the capacity to organize and manage a homeless encampment. A “managing agency” may be the same entity as the sponsor.
- c. Sponsor – An entity that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a temporary use permit. A “sponsor” may be the same entity as the managing agency.

2. Standards

- a. An application for a homeless encampment must include a local church or other community-based organization as a sponsor or managing agency.
- b. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing residential uses.
- c. Sight-obscuring fencing is required around the perimeter of the homeless encampment unless the Director of Planning and Community Development (hereafter “Director”) determines that there is sufficient vegetation, topographic variation, or other site conditions such that fencing would not be needed.

- d. Exterior lighting must be directed downward and contained within the homeless encampment.
- e. The maximum number of residents within a homeless encampment is 100.
- f. Parking for five (5) vehicles shall be provided.
- g. A transportation plan is required which shall include provision of transit services.
- h. The homeless encampment shall be located within one-half (1/2) mile of transit service.
- i. No children under 18 are allowed in the homeless encampment. If a child under the age of 18 attempts to stay at the homeless encampment, the managing agency shall immediately contact Child Protective Services.
- j. No animals shall be permitted in encampments except for service animals.
- k. A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:
 - 1) No drugs or alcohol.
 - 2) No weapons.
 - 3) No violence.
 - 4) No open flames.
 - 5) No loitering in the surrounding neighborhood.
 - 6) Quiet hours.
- l. The managing agency shall ensure compliance with Washington State and City codes concerning but not limited to drinking water connections, human waste, solid waste disposal, electrical systems, and fire-resistant materials.

m. The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All requirements by the City of Bainbridge Island Police Department related to identified sex offenders or prospective residents with warrants shall be met.

n. The managing agency shall permit daily inspections by the City and/or Health Department to check compliance with the standards for homeless encampments.

18.19.060 Frequency and Duration of Temporary Use

1. The City may not grant a temporary use permit at the same site more frequently than once in every 365-day period. The City may only grant a temporary use permit for a specified period of time, not to exceed 60 days.

2. Exceptions

a. Temporary staging facilities for public projects may be approved for a time period not to exceed the duration of their construction.

b. Homeless encampments may be approved for a time period not to exceed 92 days.

18.19.070 Removal of a Temporary Use

The City shall designate, as part of the temporary use permit, a period following the expiration of the permit within which the temporary use must be terminated and all physical evidence of the use must be removed by the applicant. If the temporary use and all physical evidence of the use are not removed within the time specified, the City will remove it under the authority provided in BIMC 1.26.

18.19.080 Notice Requirements for Homeless Encampments in New Locations

1. Applicability

The following notice requirements apply only to new locations for homeless encampments. If an encampment has previously located at a site, the provisions of BIMC 18.19.100 apply.

2. Public Meeting

A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

3. A Notice of Application for Homeless Encampment shall be provided prior to the Director's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e., City website). The Department of Planning and Community Development shall distribute this notice as follows:

- a. The notice, or a summary thereof, will be published in the City's official newspaper at least seven (7) calendar days prior to the Director's decision.
- b. The notice, or a summary thereof, will be distributed to owners of all property within 500 feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least 14 calendar days prior to the Director's decision.
- c. The notice will be posted on the City's website.

4. A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Director and appeal procedure and be distributed as required for notice of application within four (4) business days after the decision.

18.19.090 Option to Modify Standards for Homeless Encampments

The applicant may apply for a temporary use permit that applies standards that differ from those in BIMC 18.19.050. If a modification is proposed, in addition to all other permit application requirements, the applicant shall submit a description of the standard to be modified and shall demonstrate how the modification will result in a safe homeless encampment under the specific circumstances of the application. In considering whether the modification should be granted, the Director shall consider the effects on health and safety of residents and the community.

18.19.100 Notice Requirements for Homeless Encampments at Repeat Locations

1. A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall provide mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the notice is to inform the surrounding community of the proposed duration and operation of the homeless encampment, applicable standards, requirements of the written code of conduct, and how to get more information.

2. A minimum of 14 calendar days prior to the anticipated start of the encampment, the City shall update the City's website with the date of application, project location, proposed duration and operation of the homeless encampment, the conditions that will be placed on the operation of the homeless encampment, requirements of the written code of conduct and how to get more information.

18.19.110 Appeals

There is no administrative appeal of the Director's decision for a temporary use permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW [35.70C.130](#) in the Kitsap County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial process for land use decisions, see Chapter [36.70C](#) RCW.

Section 2. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2015

APPROVED BY THE MAYOR this _____ day of _____, 2015

_____, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoﬀ, CMC, City Clerk

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER: 201__-

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT



MEMORANDUM

TO: Planning Commission

FROM: Jennifer Sutton, AICP
Special Project Planner

DATE: April 23, 2015

RE: Study Session on Ordinance 2015-04 (formerly 2014-07) Tree and Landscaping Regulations

The Planning Commission held a study session on this ordinance on April 9th. The discussion was robust, and the Commission heard concerns from the public about how these regulations could be applied or if they are feasible when applied to a development application. The Ad Hoc Committee met on Tuesday, April 14 and made some clarifying changes to Ordinance 2015-04.

Other Ad Hoc Committee recommended changes to the *Administrative Manual* will be processed through a resolution later spring.

The Ad Hoc Committee will now begin to review the regulations that apply to Residential, Business/Industrial, and Neighborhood Service Center zoning districts, and will bring those recommendations to the Planning Commission and City Council at a later date.

After their discussion, the Planning Commission should decide if this ordinance is ripe to have a public hearing.

Attachments

DRAFT Ordinance 2015-04

**ORDINANCE NO. 2015-04
(formerly 2014-07)**

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to tree and landscaping maintenance and requirements; amending Bainbridge Island Municipal Code Sections 18.12.030, 18.15.010 and 18.36.030.

WHEREAS, in January 2014, the City Council convened an Ad Hoc Committee consisting of two Planning Commissioners and three to review and make recommendations on the City's tree regulations; and

WHEREAS, the Ad Hoc Committee organized their review by first focusing on regulations that apply to the Mixed Use Town Center and High School zoning districts; and

WHEREAS, the Ad Hoc Committee presented their recommended changes to date to the City Council September 2, 2014; and

WHEREAS, the City Council directed staff bring forward ordinances to implement the suggested changes; and

WHEREAS, the City Council conducted a public hearing on Ordinance 2015-04 on XXXX, 2015; and

WHEREAS, notice was given on XXXX, 2015 to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106;

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

Section 1. Section 18.12.030 of the Bainbridge Island Municipal Code is amended to read as follows:

E. Bonus Density in Winslow Mixed Use and High School Road Districts. Eligible properties may achieve a maximum level of development above the base FAR, as provided for in Table 18.12.020-3, by using one, or a combination of, the following FAR bonus provisions. The FAR bonus provisions may be combined to achieve the maximum level of development established for each district. In no case shall the total commercial, residential or mixed use FAR exceed the maximum FAR as provided for in Table 18.12.020-3.

3. Public Amenities and/or Infrastructure. At the applicant's option, a portion of the bonus may be earned through the provision of public amenities, ~~and/or~~ infrastructure, and/or preservation of a Heritage Tree(s) on site, pursuant to an adopted city council resolution clarifying the amount of credit awarded for different provision of different public amenities and/or infrastructure, as follows:

- a. Up to 40 percent of the maximum residential, commercial or mixed use FAR bonus may come from monetary contributions toward public amenities and/or infrastructure beyond that required for SEPA mitigation. The amount of the contribution shall be established by resolution of the city council. Funds contributed to the public amenities and/or infrastructure shall be used exclusively in the Mixed Use Town Center or High School Road districts, for projects identified in the six-year capital facilities program, or approved by the city.
- b. In lieu of the contribution of funds as provided for in subsection E.3.a of this section, and subject to approval by the director or designee, the public amenities FAR bonus may be achieved by the preservation of a Heritage Tree(s) on site, construction of public amenities and/or infrastructure beyond that required to mitigate the impacts of development. Public amenities and/or infrastructure projects shall be located in the Mixed Use Town Center or High School Road districts, and shall be chosen from projects identified in the six-year capital facilities program, or approved by the city.

Section 2. Section 18.15.010 of the Bainbridge Island Municipal Code is amended to read as follows:

- C. Tree Retention, Protection and Replacement. Where Table 18.15.010-1 indicates that development must comply with the requirements of this subsection C, all development shall comply with the following requirements. These requirements are intended to supplement any regulations in Chapters 16.12 (Shoreline Master Program) and 16.20 BIMC (Critical Areas), which remains the primary source of regulation for environmentally sensitive areas in Bainbridge Island. In the event of any inconsistency between the requirements of this subsection C and the requirements of Chapters 16.12 and 16.20 BIMC, the requirements of Chapters 16.12 and 16.20 BIMC shall apply.
3. Enforcement and Penalties. Failure to retain, replace or transplant trees will be enforced as follows; provided, that any fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture. If unauthorized tree(s) or vegetation removal occurs within the public right-of-way, all permits in force on the subject property shall be suspended and no new permits issued until the tree(s) or vegetation has been replaced or all penalties have been satisfied. The director is authorized to make site inspections and take such actions as are necessary to enforce this title in accordance with Chapters 1.16, 1.24, and 1.26 BIMC. The director may require an evaluation by a tree professional, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this subsection C and/or the terms of the clearing permit. Applicant shall be responsible for any associated costs.
 - a. Civil Citation. It is unlawful for any person to:
 - i. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any

- structure, land, vegetation or property within the city contrary to the provisions of this subsection C.
- ii. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this title or not following the conditions of an approval.
 - iii. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this subsection C.
 - iv. Fail to submit or implement a planting plan as required by this section.
- b. Stop Work Orders. The city shall have the authority to issue a stop work order to cease all development work, and order restoration, rehabilitation, or replacement measures, including applicable sureties, at the owner's or other responsible party's expense to compensate for the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this subsection C.
- c. Additional Remedies. In addition to any other remedy provided by this subsection C or under the BIMC, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this subsection C to prevent, enjoin, abate, and/or terminate violations of this title and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this subsection C shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.
- d. Civil Infraction. Except as provided in subsection C.3.f of this section, conduct made unlawful by the city under this subsection C shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC [1.26.035](#), and additionally, is subject to fines as provided in Table 18.15.010-2. A civil infraction under this section shall be processed in the manner set forth in Chapter [1.26](#) BIMC.
- e. Civil Penalty.
- i. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this subsection C shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC [1.26.090](#).
 - ii. A person who fails to comply with the requirements of this subsection C or the terms of a permit issued hereunder, who undertakes an activity regulated by this subsection C without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this subsection C shall be subject to a civil penalty as set forth in Table 18.15.010-2. Each unlawfully removed or damaged tree shall constitute a separate violation.
 - iii. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.
 - iv. In addition to the penalties addressed under subsection C.3.e.ii of this section, failure to replace or transplant trees will be enforced as provided

in this code; provided, that any financial penalty assessed will be the greater of the amount indicated in Table 18.15.010-2 or three times the value of the trees, as determined by the current standards of the International Society of Arboriculture, whichever is greater. The director may elect not to seek penalties if he or she determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.

Table 18.15.010-2: Penalties

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree retention and planting plan approval or issuance of a city tree removal permit	\$100.00 per tree
2. Removal or damage of tree(s) that are or would be shown to be retained on an approved tree retention and planting plan or any other violation of approved tree protection plan	\$1,000 per tree
3. Removal of tree(s) without applying for or obtaining a required city land use permit	\$1,000 per tree
4. Removal of tree(s) without applying for or obtaining a required city clearing permit	\$1,000 per tree

- f. Repeat Offenders. Any person who again violates this subsection C within 12 months after having been found by the Bainbridge Island municipal court to be in violation of this subsection C commits a misdemeanor and any person who is convicted of that misdemeanor shall be punished as provided in BIMC [1.24.010.A](#).

4. Protection During Construction and Development.
- a. Intent. The intent of these regulations is to provide the best protection for significant trees and tree stands, including protection for trees on adjacent properties.
 - b. Requirements.
 - i. No cutting of significant trees shall be allowed on a site until the tree retention and planting plans have been approved by the director.
 - ii. An area of prohibited disturbance, generally corresponding to the dripline or critical root zone (as identified by a consulting arborist) of the significant trees and/or tree canopy of tree stands, buffers, areas of existing vegetation to be maintained, and future planting areas larger than 400 square feet (i.e. landscape islands in parking lots), shall be identified by the applicant and approved by the director.
 - iii. A temporary five-foot-high chain link fence with tubular steel poles or “T” posts shall delineate the area of prohibited disturbance defined in subsection C.4.b.ii of this section, unless the director has approved the use of a four-foot-high plastic net fence as an alternative. The fence shall be erected before construction starts and shall remain in place until

construction has been completed, and shall at all times have affixed to it a sign indicating the protected area.

- iv. No impervious surfaces, fill, excavation, vehicle operations, compaction, removal of native soil or storage of construction materials shall be permitted within the area defined by the required construction fencing. If avoiding construction and compaction in areas of future planting is unavoidable, the landscape plan for the project shall include methods for aerating and/or augmenting compacted soil to prepare for new planting, pursuant to Section 18.15.010.H.2.
- v. A rock well shall be constructed if the grade level around the tree is to be raised more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline or critical root zone (as identified by a consulting arborist) of the tree or tree canopy of tree stands.
- vi. The grade level shall not be lowered within the larger of (A) the dripline or critical root zone (as identified by a consulting arborist) of the tree, or the tree canopy of tree stands, or (B) the area recommended by a consulting arborist.
- vii. Alternative protection methods may be used if recommended by a consulting arborist and determined by the director to provide equal or greater tree protection.
- viii. Wherever this subsection C.4 allows or requires the involvement of a consulting arborist, that individual shall be selected from the city's list of current arborists certified by the American Society of Consulting Arborists and his or her services shall be paid for by the applicant.

D. Perimeter Buffering and Screening.

- 1. Intent. The intent of this subsection D is to provide an effective vegetated screen over time between uses or land use districts, to screen parking areas and structures located adjacent to public rights-of-way, and to allow visual and physical access to pedestrian and other nonmotorized oriented uses, such as a multipurpose trail or bikeway if those trails could be accommodated without compromising significant vegetation or hazardous slopes. Additional buffers may be required per BIMC 16.20.170, The Winslow Ravine – Special rules in Mixed Use Town Center.
- 4. General Requirements.
 - a. Full Screen. Where full screen perimeter landscaping is required, the applicant must provide:
 - i. Minimum 70 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and
 - ii. Deciduous trees with a caliper of at least two inches at the time of planting; and
 - iii. At least 20 percent of the trees shall be native species and drought resistant; and
 - iv. The number of trees is determined by dividing the length of the landscape perimeter by 10 feet; and

- v. Evergreen shrubs at least 21 inches in height at the time of planting, spaced no more than three feet on center, to achieve minimum ~~four~~ six feet height at maturity; and
 - vi. The number of shrubs is determined by dividing the length of the perimeter by four feet; and
 - vii. Living ground cover shall be planted and spaced to achieve total coverage within three years; and
 - viii. Plants may be clustered within the perimeter to screen structures and parking areas.
- b. Partial Screen. Where partial screen perimeter landscaping is required, the applicant must provide:
- i. Minimum 50 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and
 - ii. Deciduous trees with a caliper of at least two inches at the time of planting; and
 - iii. At least 20 percent of the trees shall be native species and drought resistant; and
 - iv. The number of trees is determined by dividing the length of the landscape perimeter by 20 feet; and
 - v. Evergreen shrubs at least 21 inches in height at the time of planting, spaced no more than three feet on center, to achieve minimum ~~four~~ six feet height at maturity; and
 - vi. The number of shrubs is determined by dividing the length of the landscape perimeter by five feet; and
 - vii. Living ground cover shall be planted and spaced to achieve total coverage within three years; and
 - viii. Plants may be clustered within the landscape perimeter to screen structures and parking areas.
- c. Filtered Screen. Where filtered screen perimeter landscaping is required, the applicant must provide:
- i. One hundred percent deciduous trees two-inch caliper spaced no more than 30 feet on center; and
 - ii. Evergreen shrubs minimum 21 inches in height at the time of planting spaced no more than three feet on center to provide a continuous hedge achieving a maximum height of ~~three~~ six feet at maturity; and
 - iii. Living ground cover shall be planted and spaced to achieve total coverage within three years.

G. Total Site Tree Unit Requirements.

1. Intent. The overall purpose of Section 18.15.010 is to preserve the landscape character of the community through development standards by encouraging the retention of existing vegetation and significant trees by incorporating them into site design. The intent of this subsection G is to ensure that, to the degree practicable, (a) each development approval in the MUTC, HSR I and II, R-8, R-

14, and NSC zone districts and (b) each development approval for nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts leaves the development parcel with at least a specified minimum amount of tree coverage, measured in tree units per acre, that reflects the degree of tree coverage prior to development or redevelopment and that discourages avoidable site disturbances that would require tree removal.

2. Applicability. The regulations of this subsection G apply to each development application involving (a) any modification to a development parcel located in the MUTC, HSR I and II, R-8, R-14, or NSC districts or (b) a permitted nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts. If a significant portion of a significant tree trunk, dripline and/or critical root zone extends onto an adjacent property, both properties may use the tree units for retaining the trees to meet the requirements of subsection 4. These provisions shall not apply to projects involving only interior renovation of existing buildings.
3. Site Specific Evaluation of Total Impact on Tree Coverage.
 - a. Prior to the submission of a development application involving any modification to a development parcel that has less than 50 percent tree canopy cover prior to the proposed development or redevelopment, the applicant shall complete an inventory of all existing trees on the site indicating the species and the diameter at breast height (DBH) for each existing tree.
 - b. As part of any development application the applicant shall identify all existing trees to be ~~removed~~ retained as part of the proposed development, and the species and DBH of each tree to be removed. This is required in order to show how the Tree Unit Requirements of subsection 4 below are being met.
4. Requirements.
 - a. A development application covered by subsection G.2 of this section shall only be approved if it complies with the requirements of subsections C (Tree Retention, Protection, and Replacement), D (Perimeter Buffering and Screening), E (Street Frontage Landscaping), and F (Parking Lot Landscaping) of this section, and also complies with subsection G.4.a.i, ii or iii of this section.
 - i. In the MUTC central core and ferry terminal overlay districts, the development parcel shall have at least 30 tree units per acre following the proposed development or redevelopment.
 - ii. In the MUTC Ericksen Avenue, Madison Avenue, and gateway overlay districts, and each site in the R-8, R-14, HSR I and II, and NSC districts, and for permitted nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts, the development parcel shall have at least 40 tree units per acre following the proposed development or redevelopment.
 - iii. As an alternative to subsections G.4.a.i and ii of this section, and at the applicant's option, the development parcel will contain at least the same

number of tree units after the proposed development or redevelopment as it had before that development or redevelopment.

- b. All existing trees preserved and all new trees planted on the site, including but not limited to those required to be preserved pursuant to subsection C of this section or those required to be replaced or planted pursuant to subsection D, E, or F of this section, shall count towards the required number of tree units.

5. Calculation of Tree Units.

- a. Each tree preserved on a development parcel shall earn the number of tree units shown in Table 18.15.010-7, based on its diameter at breast height (DBH). If the DBH measurement results in a fraction, the requirement shall be rounded to the nearest whole number (greater than or equal to 0.5 is rounded up; less than 0.5 is rounded down).

Table 18.15.010-7: Tree Unit Conversion Table for Preserved Trees [1]

DBH	Tree Units	DBH	Tree Units	DBH	Tree Units
4 – 5	1.0	16 – 18	3.2	27 – 28	7.0
6 – 10	1.2	19 – 20	3.8	29 – 30	7.8
11 – 12	1.4	21 – 23	4.6	30+	8.2
13 – 15	2.0	24 – 26	6.2		

[1] For multi-stemmed trees, measure the DBH of each trunk separately, multiply each of these measurements by itself, add up these amounts, and calculate the square root of that total to find the DBH for the tree as a whole.

b. Tree Retention Bonus.

- i. If retained trees occur in a tree stand, they shall earn 1.2 times the tree unit value shown in Table 18.15.010-7. This bonus does not apply to tree stands that must be retained anyway, such as trees in a roadside or wetland buffer area.
- ii. If the retained trees occur in a tree stand that is adjacent to a tree stand on an adjacent lot that is already protected as part of a land use permit or conservation easement, they shall earn 1.5 times the tree unit value shown in Table 18.15.010-7 instead of the bonus described in subsection G.5.b.i. of this section. This bonus does not apply to tree stands that must be retained anyway, such as trees in a roadside or wetland buffer area.
- iii. If the retained tree is one designated through the City's Heritage Tree Program it shall earn ~~1.5~~ two (2) times the tree unit value shown in Table 18.15.010-7, and the tree shall not receive additional bonus in subsections G.5.b.1 and 2 of this section for location in a tree stand.
- iv. If the retained tree is located within a designated Wildlife Corridor Network, it shall earn 1.5 times the tree unit value shown in Table 18.15.010-7.
- c. Each new or replacement tree planted shall earn ~~the following number of one tree unit. credits:~~ New trees planted to meet the minimum parking lot landscaping requirements of Section 18.15.010.F BIMC do not count towards meeting tree unit credits under this section. New trees planted in or around a

parking lot that exceed the minimum requirements of subsection F can be counted towards meeting required tree units.

- ~~i. Each tree with a height at maturity of 40 feet or less shall be equal to one-half tree unit. Height at maturity shall be as defined in the current edition of the Manual of Woody Landscape Plants: Their Identification, Ornamental Characteristics, Culture, Propagation and Uses, Michael A. Dirr.~~
- ~~ii. Each tree with a height at maturity of more than 40 feet shall be equal to one tree unit.~~
- d. If, after complying with subsections C, D, E, and F of this section, additional trees need to be planted to meet the minimum tree unit requirements in subsection G.3 of this section:
 - i. In the MUTC central core and ferry terminal overlay districts, those trees may be planted either at ground level or above ground level (such as a patio, terrace, or rooftop); and
 - ii. In the MUTC Ericksen Avenue, Madison Avenue, and gateway overlay districts, R-8, R-14, HSR I and II, NSC districts, as well as for nonresidential developments within residential districts, those trees shall be planted at ground level.

H. Planting Requirements.

1. Intent. The intent of this section is to encourage the use of native species and recommend planting conditions adaptive to Bainbridge Island.
2. Requirements. Landscape designs shall conform to the following provisions:
 - a. Areas not devoted to landscape required by this chapter, parking, structures and other site improvements are encouraged to be planted or remain in existing vegetation.
 - b. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of the coastal region of the Puget Sound Region.
 - c. New plant materials shall consist of drought resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
 - d. New tree plantings shall be a minimum of two inches in caliper if deciduous or six feet in height if evergreen. New shrubs planted in roadside or perimeter buffers shall be of a variety that achieves a minimum six feet height at maturity. Soil planting types and depth shall be sufficient for tree planting.
 - e. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows.
 - f. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.
 - g. Grass may be used as a ground cover where existing or amended soil conditions assure adequate moisture for growth.
 - h. Ground cover areas shall contain at least two inches of composted organic mulch at finish grade to minimize evaporation. Mulch shall consist of materials such as composted yard waste, composted sawdust, and/or manure that are fully composted.

- i. Existing and/ or compacted soils may need to be augmented with fully composted organic material or aerated.
- j. Specific submittal requirements for landscaping plans (tree protection, retention and planting plans) are included in the city's administrative manual.

3. Performance Assurance.

- a. Performance assurance is required to assure the city that the landscape, required by this section, is properly installed, will become established and be adequately maintained.
- b. The required landscape shall be installed prior to the issuance of a temporary certificate of occupancy for the project. The Washington landscape architect, Washington certified nursery professional or Washington certified landscaper shall submit a landscaping declaration to the director to verify installation in accordance with the approved plans.
- c. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season as approved if the director determines that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the city. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device. In no case may the property owner delay performance for more than one year.
- d. The form and type of the performance assurance device shall be determined by the director.

4. Maintenance Assurance.

- a. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved planting plan.
- b. A maintenance assurance device shall be required for a period of five ~~three~~ years after acceptance by the city of the new planting or transplanting of vegetation to ensure proper installation, establishment, and maintenance.
- c. The maintenance assurance device amount shall not be less than 20 percent of the cost of replacing materials covered by the assurance device.
- d. The form and type of the maintenance assurance device shall be determined by the director.

Section 3. Section 18.36.030 of the Bainbridge Island Municipal Code is amended to read as follows:

“Heritage Tree” means a tree that has been nominated and approved as such through the Heritage Tree Program, Resolution 2014-19.

“Significant tree” means: (a) an evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (b) a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade; ~~or~~ (c) in the Mixed Use Town Center and High School Road zoning districts, any tree 8 inches in diameter or greater, measured four and one-half feet above existing grade; or (d) all trees located within a required critical area buffer as defined in Chapter 16.20 BIMC.

Section 4. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2015.

APPROVED BY THE MAYOR this ____ day of _____, 2015.

Anne S. Blair, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK:	XXXX, 2015
PASSED BY THE CITY COUNCIL:	
PUBLISHED:	
EFFECTIVE DATE:	
ORDINANCE NUMBER:	2015-04