



TREE & LOW IMPACT DEVELOPMENT
AD HOC COMMITTEE
SPECIAL MEETING
WEDNESDAY, JANUARY 31, 2018
3:00-4:30 PM
COUNCIL CONFERENCE ROOM
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

- 3:00 PM** **Review and Approve Notes from January 17, 2018 Meeting**
- 3:05 PM** **Review and Approve Meeting Agenda**
- 3:10 PM** **Public comment on agenda-related items.**
- 3:20 PM** **Ongoing Business:**
- Discuss Revisions to BIMC 16.18 *Land Clearing*
- 4:15 PM** **Public comment on agenda-related items.**
- 4:25 PM** **For the Good of the Order**
- 4:30 PM** **Adjourn**

**** TIMES ARE ESTIMATES***

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

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



TREE & LOW IMPACT DEVELOPMENT
AD HOC COMMITTEE
MEETING NOTES
WEDNESDAY, JANUARY 17, 2018
3:00 – 4:30 PM
COUNCIL CONFERENCE ROOM

Committee Members in Attendance: Jon Quitslund, Rasham Nassar, Ron Peltier, Sarah Blossom

COBI Staff: Jennifer Sutton

Public: Mike Juneau, Charles Schmid

Agenda Items 1, 2, & 3: Notes from the previous meeting were approved as distributed, and the meeting agenda was accepted. There was no public comment, and it was understood that comments would be in order as we moved through the meeting.

Agenda Item 4: Discussion focused on details in the latest draft of the revised BIMC 16.18, with some reference to a page of bullet points prepared by Jennifer, identifying outstanding policy questions. Slightly different drafts of the chapter were on the table, and we worked primarily with the version that Ron distributed, where he had added additional notes to Jon's text.

In item B of section .010, referring to the *Comprehensive Plan*, a reference to Guiding Principles and the Introduction may be added.

In section .020, Jon's combination of Overview with Applicability was criticized. Rasham suggested moving Overview language to first place in the chapter, ahead of Findings and Purposes. For Applicability, Jennifer's input was requested.

In section .030, item H (pertaining to trimming and tree removal that may be required for efficient functioning of solar panels) gave rise to differing opinions: this needs fixing. It was agreed that in some situations, solar panels aren't feasible, perhaps because of trees on neighboring property. The need for sunlight to support a garden was mentioned in passing; the current draft doesn't provide explicitly for gardening. In items I. and J, some revision was called for regarding the 50% canopy cover provision.

In section .040, item A was criticized for a lack of clarity regarding property that may be further subdivided and developed, and item B may belong elsewhere in the chapter. Item C should be fleshed out with more about Forest Stewardship Plans.

Ron's comments touch on several items in section .050, and that's where our discussion ended. We discussed #3 in item E, where we may need the City Attorney's help.

Jon will produce another revision of the draft, taking account of the discussion, Ron's comments, and changes proposed in Jennifer's version dated January 16, along with the outstanding policy questions that she identified.

The Committee decided to hold a special meeting on January 31.

NEW BIMC Chapter 16.18

Forest Stewardship, Vegetation Maintenance and Tree Removal

Jennifer's **Changes and comments** to Sections .030, 040, 050 & 060 are **highlighted**

16.18.010 Overview.

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 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 law.

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 (see **16.18.120, Definitions**).

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.

In some circumstances, other chapters in the Code apply. The provisions of **BIMC 18.15.010** (Landscaping, Screening, and Tree Retention, Protection and Replacement) apply to projects involving significant land disturbing activities and substantial development or redevelopment. The management of vegetation on shoreline properties is regulated in **BIMC 16.12** (the Shoreline Management Program), and vegetation management in designated critical areas is regulated in **BIMC 16.20** (the Critical Areas Ordinance): in those areas, certain activities listed in section **.040** below are disallowed or require a permit in accordance with those chapters. Add references to Clearing permits and DNR Forest Practices permits here?

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 development further fragments the mosaic, both individual and community interests are affected.
- F. On Bainbridge Island and elsewhere, examples exist to demonstrate that (1) development for residential and other uses can be compatible with careful conservation of forest conditions and other natural features; and that (2) such development can be cost-effective, attractive, energy-efficient, and well adapted to our climate.

16.18.025 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 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.
- G. To allow limited tree and vegetation removal to provide for solar access, agriculture and gardens.
- H. To promote infiltration of stormwater and aquifer recharge; to minimize erosion and prevent pollution; to prevent landslides; to protect the waters of Puget Sound and the quality and quantity of water in wells.
- I. To maintain in a healthy state significant trees, clusters of trees, and forested areas, allowing for thinning, limbing, removal of invasive and undesirable vegetation, selective harvest and replanting, developing and maintaining trails, and removal of diseased, dead, or dangerous trees.

16.18.030 Applicability.

Provisions of this chapter are applicable citywide to all properties where trees and naturally occurring vegetation are found, except in the following circumstances:

- A. This chapter does not apply to portions of a property that may be identified as critical area(s) pursuant to BIMC Chapter 16.20 (i. e., wetland, fish and wildlife conservation area, geologically hazardous area, frequently flooded areas and a designated native vegetation protection area) or critical area buffer. In these areas tree and vegetation management regulations and permits are regulated by BIMC Chapter 16.20.
- B. This chapter does not apply to portions of a property subject to BIMC Chapter 16.12, the Shoreline Master program (i.e. those portions of a property within 200 feet landward of an Ordinary High Water Mark). In these areas tree and vegetation management regulations and permits are regulated by BIMC Chapter 16.12.
- C. In the R-0.4, R-1, and R-2 zoning districts, this chapter does not apply to properties that have a designated and approved *Native Vegetation Protection Area* (NVPA) pursuant to BIMC 16.20.100. In these areas tree and vegetation management regulations, stewardship and permits are regulated by BIMC Chapter 16.20.

16.18.040 Tree Removal and Vegetation Maintenance Activities Allowed without a Permit

The following activities are allowed without any requirement to obtain a Tree Removal and Vegetation Maintenance Permit:

- A. Routine landscaping and maintenance of vegetation, such as pruning and planting, removal of invasive/exotic species and other unwanted vegetation, management of brush and seedling trees. 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 diseased, dead, or fallen trees (when letting the wood decay in place is not an option).
- C. Removal of trees and ground cover in emergency situations involving danger to life or habitable buildings, or to eliminate substantial fire hazards.
- D. Routine maintenance activities in rights-of-way and required roadside buffers, including removal of inferior trees and invasive/exotic species, trimming of overgrown hedges, and planting to replace removed vegetation.
- E. Clearing and digging required for the installation and maintenance of water meters, fire hydrants, and other utility lines and infrastructure, provided that the property owner is consulted and is satisfied that vitally important tree roots will not be compromised.
- F. Development of existing farmed areas in accordance with an approved farm management plan.

- G. Limbing of significant trees to remove dead or hazardous branches, and to improve the tree's form and long-term vitality, provided that such work is done by a qualified professional arborist.
- H. {NOTE: Move this to 16.18.060?} Selective removal of trees or tree limbs where necessary to provide for the efficient functioning of solar panels, in accordance with the plans and requirements of a licensed panel installer. Installation of solar panels requires a building permit and may also require a tree removal permit, reviewed and approved by the Department of Planning and Community Development.
- I. Removal of unwanted **seedlings and small trees (evergreens less than 4 inches and deciduous trees less than 6 inches in diameter, measured four and one-half feet above grade), provided that this is done with minimal soil disturbance.**
- J. Removal of some healthy **significant trees** (see **16.18.12 Definitions**) is allowed, provided that the extent of canopy cover is not reduced below 50% of the lot area. On a **partially forested** lot that is one acre or larger, an applicant may remove **no more than six significant trees in any 36-month period** without a permit. On a lot less than one acre in size, removal of **three significant trees in any 36-month period** is allowed without a permit. **On any size property, a tree removal/vegetation maintenance permit is required is planning to reduce canopy cover on a property below 50% of the lot area.**

16.18.050 ~~0640~~ Activities Requiring a Permit.

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

- A. A tree removal/vegetation maintenance permit is required for any tree removal or vegetation maintenance in an area required to be retained or planted through a land use permit such as a subdivision, a site plan review, or a conditional use permits. Routine maintenance as described in section **16.18.040.D** above is exempt from this permit 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.J** above. On any size property, a tree removal/vegetation maintenance permit is required is planning to reduce canopy cover on a property below 50% of the lot area.
- C. 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
 - 1. The tree is diseased, dead, or determined to be hazardous, as certified by an arborist with ISA Tree Risk Assessment Qualifications;

2. The removal is necessary to allow reasonable use or enable permitted construction, and no alternative is feasible; or
3. The removal is necessary to maintain utilities, provide access, or fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter. NOTE: I believe this is language from current Code. Do we need the City Atty's opinion?

D. 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 diseased, 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.** NOTE: This last sentence, added by Jennifer, seems incomplete, but it partially responds to Ron's question at this point.

E. A tree removal permit is required to request removal of an **exceptional tree** in any part of the City. The criteria outlined above in **section C** apply. The planting of a replacement tree or trees may be required. NOTE: Ron raises a question here.

~~H. If the proposed 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 ~~also~~ be required pursuant to BIMC 15.19, prior to application for a tree removal permit.~~

~~If, over time, a series of tree removals and/or land disturbing activities approaches the 7,000 sq. ft. / 35% threshold, a Site Assessment Review will be required. NOTE: Ron asks for clarification here, questioning what "over time" means. **THESE 2 SECTIONS MOVED TO GENERAL SECTION D BELOW in 060.D**~~

~~F. If, in exceptional circumstances, a property owner desires to remove a tree or trees that would reduce canopy cover below 50% of the lot area, a tree removal permit is required. The planting of a replacement tree or trees may be required. NOTE: With reference to the 'exceptional circumstances,' Ron asks "on what basis?"—**COVERED BY SECTION B ABOVE, 050.B.**~~

16.18.060 050 General Regulations and Standards (Moved to be after Activities requiring a permit)

A. In the R-0.4, R-1, and R-2 zones, on partially or fully forested acreage that may be developed in the future through subdivision or Site Plan and Design Review permits, at least 65% of the area shall be left in its natural condition, anticipating a Site Assessment Review and the designation of a Native Vegetation Protection Area pursuant to BIMC 15.19 and 16.20.100, respectively. ~~Where the NVPA has already been designated, provisions in BIMC 16.20.090 are applicable within it.~~ **NOTE: Already covered in Section 16.18.030 Above**

- B. 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 are not allowed without review through a Tree Removal/ Vegetation Maintenance permit.
- C. With an approved *Forest Stewardship Plan* (described in BIMC 16.20.180.H), property owners are authorized to implement long range plans without needing to obtain Tree Removal/ Vegetation Maintenance permits for piece-meal work.
- D. If the proposed 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 or over-time to incremental tree removal/land disturbing activities.

16.18.0750 Tree Removal/Vegetation Maintenance Permit Administration and Review Process.

- A. For activities requiring a permit, the process begins with submission of a complete application, usually after discussion of what is proposed with a member of the Planning staff.
- B. ~~Any work that~~ all 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.
- C. The planning director shall grant a tree removal permit if the application meets the requirements of this chapter and is consistent with all other relevant city codes, including but not limited to Chapters 15.19, 15.20, 16.12, 16.20, and 18.15.010 BIMC. If the tree removal permit application is denied, the decision may be appealed pursuant to BIMC 16.18.100. NOTE: Ron says, “Let’s look at the full range of what this means.”
- D. No work authorized by a tree removal permit shall commence until a permit notice has been posted by the applicant at a conspicuous location on the subject property. The notice shall remain posted in said location until the authorized tree removal has been completed.
- E. Any tree removal permit granted under this chapter shall expire one year from the date of issuance. Upon a showing of good cause, the permit may be extended for six months by the planning director. 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.
- G. A forest practice permit from the State Department of Natural Resources may be required pursuant to RCW 76.09, and it is the responsibility of Planning staff to advise applicants if a DNR permit is required. Failure to obtain a forest practice permit when applicable shall be

grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to non-forestry uses of the land for a period of six years, in accordance with RCW 76.09.060.

16.18.0860 After-the-fact Tree Removal Permit.

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

16.18.0980 Performance assurance.

- A. The planning director may require, as a condition to the granting of a permit, that the applicant furnish a performance assurance in a form approved by the planning director, in order to obligate the applicant, after the approved tree removal has been accomplished, to complete all required replanting, erosion control, and cleanup on the property. The surety device shall be in an amount equal to the estimated cost of such services, with surety and conditions satisfactory to the planning director.
- B. In order to stay enforcement, the director may choose to enter into a voluntary correction agreement (VCA). This is a civil contract entered between the City and the applicant. The VCA will outline several performance items that will be required within an agreed-upon time frame. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.060.) NOTE: Are the parenthetical references needed?

16.18.1090 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.

16.18.1190 Violation – Enforcement and penalty.

- A. In addition to any other sanction or remedy that may be available, a violation of or failure to comply with any provision of this chapter shall be a civil infraction and shall be subject to enforcement and civil penalties as provided in Chapter [1.26](#) BIMC.

- B. A violation of or failure to comply with any provision of this chapter shall be a misdemeanor punishable, upon conviction, as provided in BIMC [1.24.010.A](#).
- C. Any fines collected through enforcement of this chapter shall be directed to the city's tree fund, Chapter [3.39](#) BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.080.) AGAIN: Include the parenthetical references?

16.18.1240 Definitions.

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

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

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

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

“Exceptional Tree” means

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

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

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

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

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

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

“Significant tree” means: (1) an evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (2) a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade; (3) in the Mixed Use Town Center and High School Road zoning districts, any tree eight inches in diameter or greater, measured four and one-half feet above existing grade; or (4) all trees located within a required critical area or critical area buffer as defined in Chapter 16.20 BIMC. **NOTE: CONSIDER LOWERING THRESHOLD FOR SIGNIFICANT TREES TO 8” IN ALL ZONES** Alternatively, consider three tiers of desirability in trees more than 8” d b h, with Exceptional/ Landmark/ Legacy trees in Tier III. I think that Tier I (fair game if the property owner wants to remove them) might include some big trees, and Tier II (for which a permit is needed) might include some 8” trees.

“Tree removal” means

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