CITY OF
BAINBRIDGE ISLAND

TREE & LOW IMPACT DEVELOPMENT
AD HOC COMMITTEE
REGULARLY SCHEDULED MEETING
WEDNESDAY, SEPTEMBER 14, 2016
3:00 – 4:30 PM
COUNCIL CONFERENCE ROOM
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

1. Review and Approve Notes from September 7, 2016 Meeting 3:00

2. Review and approve meeting agenda 3:05

3. Public comment on agenda-related items 3:05

4. Reports 3:15
   A. Low Impact Development regulations – Jennifer Sutton
      Update on progress by staff and confirm September 28 meeting work

5. Ongoing Business
   A. Re-drafting vegetation management and land clearing chapters 3:20
      (BIMC 16.22 & 16.18, respectively)- Commissioner Quitslund and Councilmember Peltier
      Review, discuss purposes and findings and policy questions (previously developed by staff)

   B. Tree Management- Planning Commissioner Mack Pearl 3:50
      Issues include: ROW trees, neighbor issues (including view blocking)
      Should this be rolled into item 5.A on the agenda?

   C. Consider modifying BIMC 18.15.010.C that allows removal of buffer trees if trees 3:55
      Deemed hazardous- Councilmember Sarah Blossom

   D. Tree Committee page on City website- Councilmember Ron Peltier 4:05

6. New Business: 4:10
   A. Code enforcement questions – Mack Pearl

7. Public comment on agenda-related items 4:15

8. For the Good of the Order 4:25

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

CITY OF
BAINBRIDGE ISLAND

Tree & Low Impact Development
ad hoc committee
Meeting Notes
Wednesday, September 7, 2016
3:00 – 4:30 PM
Planning Conference Room
280 Madison Ave N
Bainbridge Island, WA 98110

COMMITTEE MEMBERS IN ATTENDANCE: Sarah Blossom, Kol Medina, Ron Peltier, Jon Quitslund
COBI STAFF: Jennifer Sutton, Barry Loveless
PUBLIC: Charles Schmid, Ginny Brewer, Kelly Laughlin, Crystal Rich, Mike Juneau, Robert Dashiell

The Committee approved the notes of the August 17th meeting and the agenda for this meeting, as amended.

Kol reported that the Code amendments needed to abolish cluster subdivisions in most zones have been included in the ordinance attached to the comp plan revisions that will make Code amendments.

Kol reported that the City Council approved changing the name and scope of the Committee to formally recognize its work on low impact development regulations.

Barry affirmed that the consultants from Herrera will be represented at the meeting on September 28, and we will have material from them prior to the meeting. Their report at that time is expected to show where the BIMC already conforms to the guidelines mandated by the state for stormwater management, and where there are gaps to be filled, with specifics as to how the BIMC could be amended.

Barry expressed a doubt that Herrera's work will 'scratch all the itches' that members of the committee may be feeling. It will establish principles and procedures, and a baseline; our regulations may be more prescriptive or stringent. Ron recalled the city attorney's explanation that a 'nexus' must be established between constraints on development and public purposes such as environmental protections; he expected LID standards to establish that nexus. Kol added that LID standards will provide a scientific basis for land use regulations.

Kol initiated a discussion of the scope and length of the meeting on Sept. 28, proposing that it might be as long as three hours, beginning with discussion of a 'case study,' to consider what difference LID standards might make if they were applied: several possible cases were mentioned. Staff agreed to present a case-study at the beginning of the meeting. It was agreed to make it a 3-hour meeting: spend the first hour on the case-study and spend the final two hours working with Herrera

Since a meeting is scheduled for next week, Kol asked what should be on that agenda. Jon proposed that we use that time to catch up on ongoing business that is separable from LID considerations, such

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as Mack's interest in ROW trees and neighbor issues (item 4 A). Items 4 B and D were touched upon later in the meeting and set up for some discussion on Sept. 14.

Item 4 B: Amending BIMC 18.15.010.C to preserve trees in a buffer zone, preventing harm to roots essential to their windfirm condition. Jon observed that a lot depends on the characteristics of vegetation in the buffer area and the purpose it is supposed to serve: a mature tree with no branches lower than 30 feet off the ground may not be as effective as a couple of younger trees, while in another situation one or more mature trees will be worth preserving. Mike observed that regulations should permit maintenance (including removal of volunteer big leaf maples) to promote the health of the buffer vegetation. Jennifer cited the Purpose statement from the BIMC chapter. Kol asked Sarah to draft some amending language.

Item 4 C: Content for a page on the COBI website describing the committee's objectives, identifying its members (with contact information), etc. The page would not be interactive or changing week by week, but not entirely static. Committee members should send suggestions for content to Ron.

Item 4 D: Redrafting Veg Management & Land Clearing chapters (BIMC 16.22 & 16.18). Jon said that he and Ron had not yet conferred on this project. Three pages pertaining to a New BIMC Chapter 16.22 (or, alternatively, 16.18), had been distributed at an earlier meeting; Jennifer distributed fresh copies, along with a page of Policy Questions she had prepared. Discussion of this project will be on the agenda for the next meeting. Next steps will involve identifying the different circumstances to which parts of this omnibus chapter will apply. Crystal observed that the regulations will need to allow clearing for agriculture, and Ginny said that she would provide some guidance from Friends of the Farms.

Item 5 B: Structure of meetings. We discussed when and how to provide citizens with opportunities to describe problems, address policy issues, and raise questions. Citizens also may have expert knowledge that can contribute to the committee's work on the agenda items. We agreed that there should be some time at the beginning and (if called for) at the end of each meeting for any citizen to describe, in a couple of minutes, their reason for coming to the meeting.

The next meeting will be on Sept. 14 at 3 p. m.

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Chapter 16.22
VEGETATION MANAGEMENT

Sections:

16.22.010 Findings and declaration of purpose.
16.22.020 Definitions.
16.22.030 Applicability.
16.22.040 Exemptions.
16.22.050 Vegetation management permit.
16.22.060 Vegetation management standards.
16.22.070 Submittal requirements.
16.22.075 Moratorium relief.
16.22.080 Release of moratorium.
16.22.090 Decision criteria for release of moratorium.
16.22.095 Rescission of moratorium.
16.22.097 Permit revocation and penalties.
16.22.100 Flowchart for timber harvests.
16.22.115 Appeals.

16.22.010 Findings and declaration of purpose.

A. Forest areas are an integral part of the Island character and enhance the city's appearance and livability, as well as providing significant environmental benefits and natural resource values as identified in the comprehensive plan.

B. Under the authority of planning and zoning granted to the city under RCW 76.09.240, the city of Bainbridge Island considers all forested areas within its jurisdiction as "lands with a likelihood of future conversion" from forest use as defined under WAC 222-16-060.

C. Indiscriminate removal of vegetation may cause loss of wildlife and fish habitat, increased soil erosion, water and air quality degradation as well loss of aesthetic value.

D. Vegetation management is necessary in order to implement the comprehensive plan, the landscape ordinance, the flexible lot design ordinance and to protect the health and safety of citizens.

E. Vegetative management planning is necessary prior to removal of vegetation in order to reduce harmful effects and promote incorporation of existing vegetation into future land development plans. (Ord. 97-07 § 2, 1997)

16.22.020 Definitions.

A. "Agricultural land" means farms and farmland as defined in BIMC 16.20.020.

B. "Basal area of timber" means the cross-sectional area of a tree outside bark, measured at four and one-half feet above the average grade.

C. “Codominant trees” means trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.
D. “Contiguous” means land adjoining and touching other property held by the same ownership. Land in common ownership which is divided by a public road, but otherwise an integral part of a farming or timber management operation shall be considered contiguous.
E. “Conversion option harvest plan” means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space and filed with the Department of Natural Resources (DNR), WAC 222-20-050.
F. “DBH” means the average diameter of a tree, outside the bark, at a point four and one-half feet above average grade.
G. “Department” means the department of planning and community development.
H. “DNR” means the Washington State Department of Natural Resources.
I. “Dominant trees” means trees whose crowns are higher than the general level of the canopy and which receive light from the sides as well as from above.
J. “Harvest area” means that area on which timber harvesting is conducted including that area where soil and/or vegetation has been disturbed or damaged during harvesting, including road construction.
K. “Harvesting” means the cutting and/or removal of trees together with all the work incidental thereto such as road building, firebreak construction, and fire hazard abatement, but excluding preparatory work such as tree marking and road flagging.
L. “Haul route” means any public road within Bainbridge Island which is to be used to deliver forest products to a point of processing, disposal, or utilization.
M. “Landing” means that area where forest products are placed on trucks.
N. “Leave trees” means those trees remaining after thinning a stand of trees.
O. “Limbing” means removal of branches and leaving at least two-thirds of the existing tree branch structure. Limbing does not include topping of trees.
P. “Merchantable volume of timber” means the gross volume of trees either in board feet (using the log length and log rule in common usage for western Washington) or cubic volume depending on the measure commonly used in commerce.
Q. Open Space Management Plan. See Open space, BIMC 17.28.020.36 and Open Space Management Plan Required, BIMC 17.12.030.A.8.b.
R. “Owner” means the party or parties having the fee interest in land.
S. “Pasture” means land used for grazing by domestic animals.
T. “Removal” means the act of removing vegetation by digging up, cutting down or any act which is likely to cause vegetation to die within a period of five years including, but not limited to, damage inflicted to the root system by machinery, storage of materials, or soil compaction; changing the ground level in the area of the root system; damage

inflicted on vegetation permitting infection or infestation; excessive pruning or any other action which is deemed harmful to vegetation.

U. “Residual forest land” means any property or portion of any property which is not harvested as part of an approved conversion harvest plan or selective harvest plan.

V. “Routine landscape maintenance” means lawn mowing, composting, gardening, tree limbing and ground cover management which does not include tree removal and is undertaken by person in connection with the normal maintenance and repair of property.

W. “Scenic corridor” means a band of land on either side of a scenic road or trail and wildlife/view corridors designated by the comprehensive plan of Bainbridge Island or Bainbridge Island Municipal Code.

X. “Silvicultural prescription” means a written plan that describes which trees will be removed and what methods will be used to determine the appropriate trees to be removed.

Y. “Slash” means nonmerchantable logs, branches, limbs or stems of any species left in the harvest area as a result of current timber harvesting.

Z. “Thinning” means the removal of trees less than 18 inches DBH where removal will improve the growth of remaining trees or utilize diseased trees that might otherwise die. Timber removed from a harvest area meeting all of the following conditions:

1. The total volume removed is less than 50 percent of the total merchantable volume of the harvest area prior to harvest;
2. Not more than 40 percent of the total volume removed is from the dominant and codominant trees;
3. The trees removed shall be distributed over the entire harvest area.

AA. “Timber” means trees of any species which are of sufficient size and quality to be capable of furnishing raw material used in the manufacture of forest products.

BB. “Timber cruise report” means a report of the timber volume that includes the method used to obtain the volumes and statistical analysis of the accuracy of the estimation.

CC. “Topping” means cutting the top main trunk of a tree.

DD. “Tree” means any woody plant characterized by one main stem or trunk.

EE. “Undeveloped property” means property which is not improved with a substantial building or substantial structure used for a principally permitted use or an approved conditional use.

FF. “Vegetation” means plant matter, including trees, shrubs and ground cover. (Ord. 97-07 § 2, 1997)

16.22.030 Applicability.

A. Permit Required. Unless exempted in BIMC 16.22.040, a vegetation management permit is required for harvesting of trees and/or removal of vegetation in the following areas:

1. Undeveloped properties or developed properties which can be further subdivided, including those properties under two acres in size which are exempt under a Class I forest practice permit;
2. Critical areas and required buffers as defined in Chapter 16.20 BIMC;
3. Designated open space areas;
4. Designated scenic or wildlife corridor areas; or
5. As part of a Class IV general forest practice permit, as regulated under RCW 76.09.050.

B. Optional Permit. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III DNR forest practice permit may avoid the six-year development moratorium if the property owner submits to the city and DNR a conversion option harvest plan which meets the standards of BIMC 16.22.060 and is approved by the city prior to the application for a DNR forest practice permit.

C. Development Moratorium. A six-year development moratorium shall be placed on all properties harvested under Class I (not exempt in BIMC 16.22.040.E), II and III DNR forest practices permits in accordance with BIMC 16.20.190.D.2. To avoid the moratorium, a property owner can:

1. Apply for a Class IV general forest practices permit and meet the standard of BIMC 16.22.060; or
2. Obtain an approved DNR conversion option harvest plan. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.040 Exemptions.

A vegetation management permit is not required for the following:

A. Class II and III forest practices regulated by the Department of Natural Resources under RCW 76.09.050; provided, that the city of Bainbridge Island shall not accept and/or issue any land use or building permit for six years from the date of application approval of a Class II or Class III forest practice permit;

B. Class I forest practices as defined under WAC 222-16-050(3), except that WAC 222-16-050(3)(r)(iii), “Any forest practices involving a single landowner where contiguous ownership is less than two acres in size” is not exempt;

C. Culture and harvest of Christmas trees and seedlings;

D. Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline area or designated critical area;

E. Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence post, etc.) in any 12-month period;

F. Removal of trees and vegetation for public safety, maintenance of public right-of-way and maintenance of recorded utility corridors or easements if approved by the public works director and not regulated by other city regulations;
G. Removal of trees and vegetation obstructing private access routes or easements as a result of storms or other major natural events;
H. Removal of dead trees and vegetation in the residual forest area for safety purposes if a report by a qualified arborist or consulting forester (approved by the city) indicates that such an action is necessary and no feasible alternative to removal exists. Whenever possible felled trees shall remain in order to provide downed material for plants and wildlife;
I. Routine landscape maintenance which does not include tree removal; or
J. Harvest trees, such as hybrid poplars, cultivated by agricultural methods in growing cycles of less than 10 years. (Ord. 98-20 § 13, 1998; Ord. 97-07 § 2, 1997)

16.22.050 Vegetation management permit.

A. Application Required. The owner of any property specified in BIMC 16.22.030 that is being converted to a nonforest use or property for which the owner intends to avoid a six-year development moratorium, shall submit a vegetation management permit application for review and approval by the department of planning and community development prior to removal of any vegetation. The application shall be prepared by a consulting forester approved by the city and may be filed jointly with the Washington State Department of Natural Resources (if required by state law) and the city.
B. Application Procedure. The city shall process vegetation management permit applications in accordance with Chapter 2.16 BIMC and the following procedures:

1. A preapplication conference is not required; however, the applicant may submit for a preapplication conference in accordance with the procedures set forth in BIMC 2.16.020.G.
2. The applicant shall submit a complete application as specified in BIMC 16.22.070, Submittal Requirements. A State Environmental Policy Act (SEPA) environmental checklist is required for all vegetation management permits, in accordance with Chapter 16.04 BIMC. Upon receipt of a complete application, the director shall provide notice to the applicant and public in accordance with BIMC 2.16.020.K and commence the application review process. A notice of application with public comment period and a notice of decision shall be required in accordance with BIMC 2.16.020.K for all vegetation management permit applications.
3. Administrative Review. All vegetative management permits shall follow the review procedures set forth in BIMC 2.16.030.
4. An application review, exempt from subsections B.1 through 3 of this section, shall be allowed for removal of diseased or dying trees and

vegetation; provided, that a report by a qualified arborist or consulting forester (approved by the city) indicates that such an action is necessary and no feasible alternative to removal exists, and provided that the decision criteria of subsection C.2 through 5 of this section can be satisfied.

C. Decision Criteria. A vegetation management permit may be approved or approved with conditions by the director if the plan can meet the following:

1. Harvesting meets the vegetation management standards of BIMC 16.22.060;
2. Erosion control measures are included as part of the plan;
3. All applicable open space and corridor standards are met;
4. Mitigation measures are proposed which reduce adverse impacts on surrounding property; and
5. All other provisions of this code are met. (Ord. 97-07 § 2, 1997)

16.22.060 Vegetation management standards.

Any property which is converting or likely to convert to a nonforest use shall provide either a conversion harvest plan or a selective harvest plan as follows.

A. Conversion Harvest Plan. The owner of any property which is being converted to a nonforest use shall provide a conversion harvest plan which meets the standards below:

1. Land clearing is permitted at the following percentages of the area existing in order to prepare for future nonagricultural development. Percentage of area that may be cut.

Zoning District	Percent of area
R-.04	20%
R-1	40%
R-2,2.9,3.5 and 4.3	60%

2. If the property is being converted to agriculture or pasture use, the property owner shall submit a farm plan approved by the Kitsap Conservation District, or the USDA Natural Resource Conservation Service (NRCS) or which is developed by the owner or a consultant using USDA standards for water quality protection. If the land has not been used for agriculture or pasture within the last five years, then a nonfarmed buffer of 25 feet shall be left between the edge of the property and adjoining nonagricultural parcels. As a condition of the vegetation management permit, the approved farm plan shall be implemented within one year after the completion of the conversion harvest.

3. Residual forest areas shall be in windfirm condition, clustered to the extent feasible and contiguous to other existing stands. Buffering of adjacent, developed properties shall be given high priority.

4. Unless otherwise allowed thorough an approved open space management plan, no cutting is allowed within any of the following areas:

a. Critical areas or required buffers, as defined in Chapter 16.20 BIMC;

b. Previously established noncut buffer areas;

c. Greenways, scenic road corridors, view corridors or wildlife corridors designated by the comprehensive plan of Bainbridge Island or Bainbridge Municipal Code; and

d. Any required perimeter landscape buffer that will be required upon development of the site in accordance with BIMC 18.15.010.

5. Remaining forested areas which are not addressed in subsections A.1 through A.4 of this section, may be harvested under a harvest plan approved by the city that meets the standards for tree retention specified in subsection B of this section.

6. A Class IV general forest practice permit issued by DNR is required.

B. Selective Harvest Plan. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III, on property that has a potential to convert to a nonforest use shall provide a selective harvest plan which meets the standards below:

1. Up to 50 percent of the existing merchantable volume or 50 percent of the basal area of timber may be cut. A timber cruise report and silvicultural prescription demonstrating how the required volume retention goals will be met may be required.

2. Thinning of stands less than 18 inches DBH is permissible as long as the leave trees number more than 40 percent of the dominant and codominant trees which are disease free and undamaged.

3. In no event shall the total timber stand removal of the property exceed 50 percent of the merchantable volume or basal area of timber.

4. The harvested trees should be well distributed over the entire harvest area. Residual forest areas shall be in windfirm condition, clustered to the extent feasible and contiguous to existing stands. Buffering of adjacent, developed properties shall be given high priority.

5. Unless otherwise allowed through an approved open space management plan, no cutting is allowed within any of the following areas:

a. Critical areas or required buffers, as defined in Chapter 16.20 BIMC;

b. Any previously established noncut buffer areas;

c. Designated greenways, scenic road corridors, view corridors or wildlife corridors unless the director determines that the proposed harvest will not affect the function of the corridor or greenway; and

d. Any perimeter buffer established in accordance with BIMC 18.15.010.

6. A DNR Class II or III forest practice permit is required if mandated by state law.

C. A property owner intending to harvest under a Class I (not exempt in BIMC 16.22.040.E), II or III, on property that has a potential to convert to a nonforest use, may avoid the six-year development moratorium if the harvest plan meets the standards of subsection A or B of this section, the property owner submits a DNR conversion option harvest plan to the city of Bainbridge Island, and the following standards are met:

1. A property owner providing a DNR conversion option harvest plan shall record the city approved plan with the Kitsap County auditor and provide the city with a copy of the recorded document and the auditor's recording number prior to commencement of the timber harvest.

2. Another DNR conversion option harvest plan shall not be approved within six years from the approval date of a previous plan.

3. Failure to meet the requirements of the DNR conversion option harvest plan shall result in the placing of a six-year development moratorium on the property. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.070 Submittal requirements.

A vegetation management permit application and fee, as established by city council resolution, shall be filed with the department of planning and community development on forms provided by the city, which shall contain the following:

A. Name, address and telephone number of the property owner and forestry consultant, if any;

B. Kitsap County tax account number and parcel number for the properties involved;

C. The proposed dates the vegetation removal will take place;

D. The approximate acreage of the harvest area, and the approximate acreage of existing forested areas with trees 20 feet or greater in height;

E. The desired haul route;

F. A copy of any DNR application, if required;

G. A statement as to how the trees will be designated for removal or retention;

H. A statement explaining how property lines will be marked;

I. A statement as to whether timber harvesting has occurred on any portion of the proposed harvest area in the past six years;

J. A site assessment plan/harvest plan drawn to engineering scale showing the entire property. The harvest plan shall meet the standards of BIMC 16.22.060 and must show the following:

1. All boundaries;

2. Existing stands of trees, specifying predominant species, species mix and age class;
3. Location of critical areas and buffers as designated under Chapter 16.20 BIMC, designated open space, and designated scenic and/or wildlife corridors;
4. Proposed areas to remain in forest;
5. Proposed areas to be cleared of vegetation;
6. Proposed areas to be thinned of trees;
7. All existing and proposed access roads;
8. Proposed log landing areas;
9. Any structures on the property;
10. Topography, at 20-foot intervals. A USGS map is acceptable;
11. All adjacent residences within one and one-half times the height of the trees to be felled; and
12. Name, address and phone number of the timber harvest operator.

K. An erosion control plan;
L. Open space management plan, if applicable;
M. Greenways, scenic road, view or wildlife corridor plans, if applicable;
N. SEPA environmental checklist, if applicable. (Ord. 2001-41 § 8, 2001; Ord. 97-07 § 2, 1997)

16.22.075 Moratorium relief.

Pursuant to the provisions of this chapter, the city may grant relief from development moratoria imposed pursuant to Chapter 76.09 RCW prior to the expiration of the moratoria. (Ord. 99-03 § 1, 1999)

16.22.080 Release of moratorium.

A. Pursuant to the provisions of this chapter, a forest practice moratorium may be lifted prior to its expiration. Any property owner requesting a release of a development moratorium shall submit to the city an application for release of the moratorium on the form provided by the city, together with the fees established by resolution.
B. The city shall refer all applications for the release of a development moratorium to the hearing examiner. The hearing examiner shall review all applications for the release of a development moratorium under this section pursuant to the decision procedures set forth in BIMC 2.16.100.
C. Prior to the public hearing, the director shall provide a minimum public comment period of at least 14 days. Pursuant to the notice requirements of BIMC 2.16.020.K, the city shall provide written notice of the application for release along with notice of the public hearing to:

1. Property owners of record within 300 feet of the subject property;

2. Appropriate state agencies, such as the Washington State Departments of Ecology, Natural Resources and Fish and Wildlife;
3. Appropriate tribal governments; and
4. Any other interested parties requesting notice of the application and public hearing.

D. In considering an application for the release of a development moratorium, the hearing examiner may remand the application to the planning commission for review and recommendation, pursuant to the procedures set forth in BIMC 2.16.030 or 2.16.100.C.

E. Based upon public comment received at the public hearing, the decision criteria of BIMC 16.22.090 and the comments and recommendations of the planning commission, if any, the hearing examiner may authorize, conditionally authorize, or deny a release of the development moratorium. (Ord. 99-03 § 2, 1999: Ord. 97-07 § 2, 1997)

16.22.090 Decision criteria for release of moratorium.

All applications for the release of forest practice development moratoria shall be subject to the following decision criteria:

A. An application shall not be granted unless critical areas and their buffers, as governed by Chapter 16.20 BIMC, and shoreline areas, as governed by the Bainbridge Island shoreline master program, were not disturbed in the forest practice operation, or damage to such areas is reparable through restoration. In any case in which the release of a development moratorium is conditioned upon the restoration of the subject property, a restoration plan for the property shall be reviewed and approved by the director prior to the release of the development moratorium. The restoration plan shall be prepared by a professional whose qualifications and experience are satisfactory to the director. The restoration plan shall include monitoring and correction standards. A substantial part of the restoration work, as determined by the director at the director's discretion, must be completed prior to the issuance of any development permits.

B. Mitigation for the loss of significant trees shall be required prior to the release of any development moratorium. The appropriate mitigation for the loss of significant trees shall depend on the particular facts of each case and may include, but is not limited to:

1. Replacing the lost trees by replanting new trees of a similar species, nature and size. To the extent any lost trees are too large to be immediately replaced by replanting, such trees shall be replaced by the largest possible trees of the same species and nature which may be successfully replanted. The applicant and/or the applicant's successor-in-interest shall have an obligation to monitor the survival of the replanted trees, and to replace any trees not successfully replanted, until the date the forest practice moratorium, had it not been released, would have automatically expired.
2. Developing a plan that replaces, to the greatest extent biologically practicable, the functions and values lost through the forest practice, such

as providing wildlife habitat, visual screening from adjacent areas and storm water reduction.

C. An application shall not be granted unless the applicant places a conservation easement on the property that surrenders development rights to the city equal to the percent described in the table below. The percent of development right reduction below shall be calculated based upon the total number of development rights per acre of the subject property and shall be rounded to the nearest number; provided, that in all cases at lest one development right shall remain with the subject property.

Zoning District of Subject Property	Percent of Development Right Reduction
R-.04	80%
R-1	60%
R-2,2.9,3,5 and 4.3	40%

(Ord. 99-03 § 4, 1999: Ord. 97-07 § 2, 1997)

16.22.095 Rescission of moratorium.

Upon application by the property owner, a development moratorium may be rescinded by the director if an approved forest practices application for the property has been withdrawn or expired and no harvest has taken place. (Ord. 99-03 § 5, 1999: Ord. 97-07 § 2, 1997)

16.22.097 Permit revocation and penalties.

A. A vegetation management permit may be revoked by the director upon the finding of any one or more of the following:

1. That the approval was obtained by deception, fraud or other intentional or misleading representation; or
2. That the permit granted is being exercised contrary to the terms or conditions of such approval; or
3. That the permit for which the approval was granted was so exercised as to be detrimental to the public health or safety.

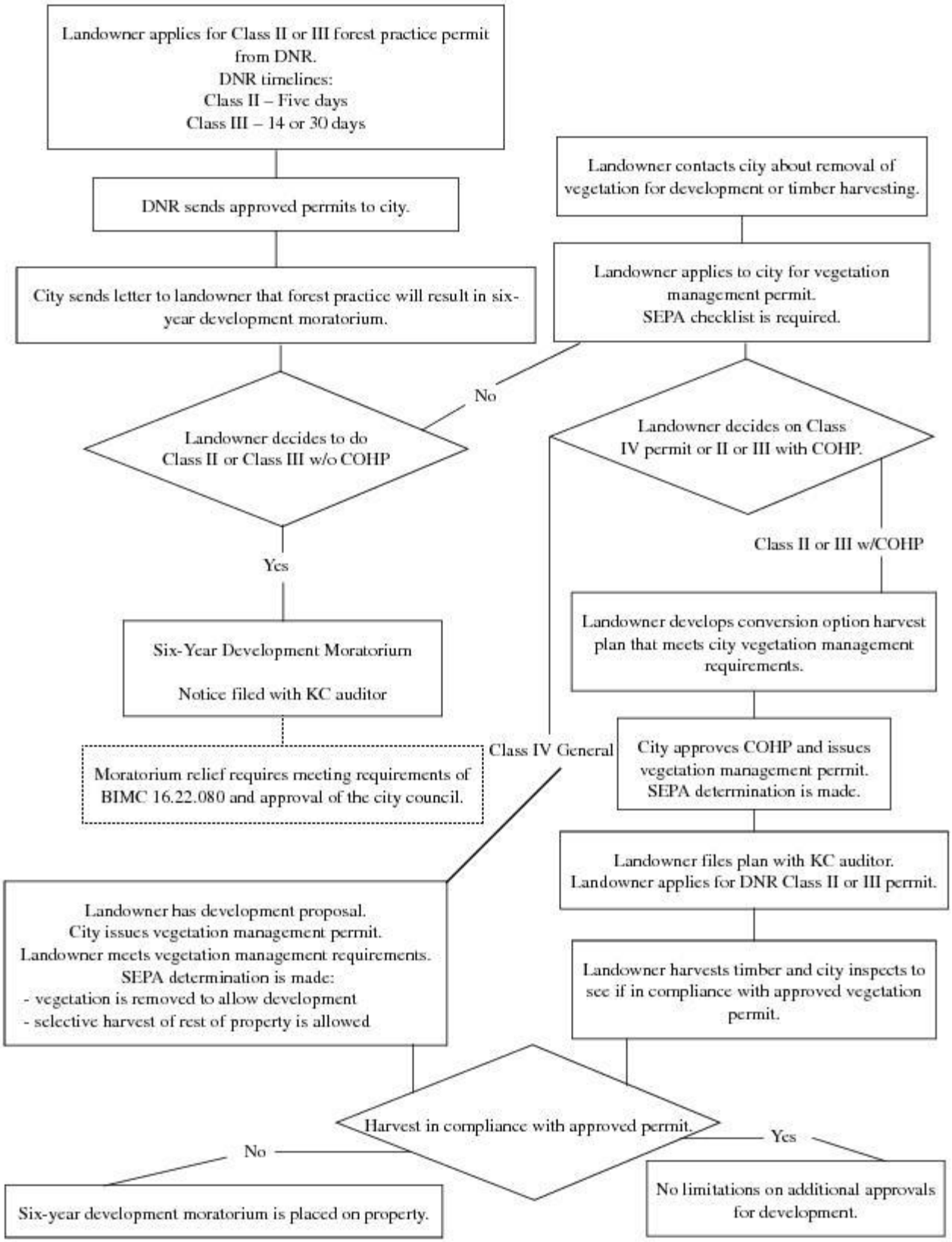
B. If the owner violates the requirements of an approved harvest plan, the city shall place a six-year development moratorium on the subject property.

C. Any property owner or individual cutting vegetation or timber in violation of this chapter shall replant the property, and to the extent biologically practicable, shall return the property to the condition of the property prior to the violative cutting. The property on which the violation occurs shall be subject to a moratorium on the city’s acceptance of a

development permit of any kind relating to the property for a period of six years from the last date of the violation.

D. In addition to the penalties set forth above, this chapter shall be enforced, and penalties for violations of this chapter shall be imposed, pursuant to Chapter 1.26 BIMC; provided, that under BIMC 1.26.090, an additional civil penalty shall be imposed on any property owner or individual cutting vegetation or timber in violation of this chapter in the amount of $20,000 for each acre of forest cut. (Ord. 99-03 § 6, 1999)

16.22.100 Flowchart for timber harvests.



(Ord. 97-07 § 3, 1997)

16.22.115 Appeals.

The decision of the hearing examiner shall be final unless, within 21 days of issuance, it is appealed in accordance with Chapter 36.70C RCW. (Ord. 2003-25 § 11, 2003: Ord. 99-03 § 7, 1999)

Policy Questions to Consider for Amending BIMC Chapter 16.22 *Vegetation Management*

1. Right now 16.22 is triggered generally when someone needs a Class 4 DNR Forest Practices Permit- clearing more than 5,000 board feet of timber). Keep this threshold? NOTE: Clearing permit required to remove 6 significant trees (1 sig. tree in MUTC) up to 5,000 board feet in a 12-month period.

2. Do we want to apply (pre-plan) subdivision open space/ buffer requirements to properties proposed for clearing that will eventually subdivide?

3. What standards should be applied to undeveloped property that is not big enough to subdivide?

4. What standards should be applied to lots developed with a single-family home, but are not further subdividable?

5. What standards should be applied to property being cleared to expand existing agriculture or for creating new agriculture?

6. Do we want to combine 16.22 with 16.18 *Land Clearing*? Rename resultant chapter? Rename permits "Minor" and "Major" Tree Removal Permit?