

# Memo

Date: March 8, 2018  
from: Ron Peltier  
to: Bainbridge Island City Council  
subject: proposed amendment to moratorium ordinance

## Background information

This pertains to Section 3.B.(iv) of moratorium ordinance no. 2018-05: specifically to exemptions for site work approvals related to complete land use applications submitted prior to the effective date of the moratorium (Jan. 9, 2018). Here is the existing moratorium language from section 3.B. (Section 3. Pertains to what is prohibited by the moratorium):

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

- (i) That will result in less than 65% of the subject property being retained as native vegetation; or*
- (ii) That will result in reducing the native vegetation on the subject property by any amount if that property had native vegetation existing on less than 65% of the property as of the effective date of the moratorium.*
- (iii) Provided, that subsections (i) and (ii) do not prohibit structures, buildings, and land use permits and approvals in the R-1, R-2, R-0.4, and Business/Industrial zones that will result in land disturbance of 12,500 square feet or less on the subject property.*
- (iv) Provided further, that this Section B does not apply to complete land use applications (see BIMC Table 2.16.010-1) that were submitted prior to the effective date of the moratorium, and to the resultant site work and associated approvals related to such complete land use applications.*

3.b.(iv) effectively exempts site work approvals associated with applications submitted before the moratorium. I believe this would include building permits for old subdivisions that were not required to set aside open space. My concern with this exemption is similar to concerns raised by Council related to the exemption for educational facilities: a desire to not allow the exemption to result in the removal of native vegetation in a manner inconsistent with the new Critical Areas Ordinance. Draft language approved by the City Council at our 2/27/18 meeting addresses this concern as it relates to educational facilities (Section 5. Pertains to exclusions):

## 5.C. Permits and approvals determined to be complete prior to the effective date of the moratorium for educational facilities and preschools:

- (i) That will result in at least 65% of the subject property being retained as native vegetation; or
- (ii) That will not reduce native vegetation by any amount for properties with native moratorium.
- (iii) Provided, that subsections (i) and (ii) do not prohibit structures, buildings, and land use permits and approvals that will result in land disturbance of 12,500

square feet or less on

**Proposed revision to Section 3.**

To address the potential removal of native vegetation in a manner inconsistent with newly approved Critical Areas Ordinance No. 2018-01. (pertaining to applications submitted before the effective date of the moratorium), I propose that Section 3.B.(iv) be amended to read:

*(iv) Provided further, that this Section B does not apply to complete land use applications (see BIMC Table 2.16.010-1) that were submitted prior to the effective date of the moratorium, and to the resultant site work and associated approvals related to such complete land use applications as long as those resultant site work approvals are consistent with Critical Areas Ordinance No. 2018-01.*

The new language I'm proposing is underlined at the end of 3.B.(iv) and reads, as long as those resultant site work approvals are consistent with Critical Areas Ordinance No. 2018-01.

I believe this new language would not prevent any complete land use application submitted before the effective date of the moratorium from proceeding, though maybe not in the manner originally desired. Subject to verification by the City Attorney and Staff, the proposed language would prevent vested subdivisions, some of them fairly old, from proceeding with site clearing for new building permits in a manner inconsistent with the new critical areas ordinance. Instead of lot-line to lot-line removal of vegetation, which was allowed by our previous regulations for single family lots, the proposed additional language at the end of 3.B.(iv) would require significant retention of native vegetation. It would do the same in regards to major site plans and major conditional uses in the R-1, R-2 and R-0.4 zones.