

ORDINANCE NO. 2005-02

AN ORDINANCE of the City of Bainbridge Island, Washington, amending the City of Bainbridge Island Shoreline Management Master Program and shoreline designation map.

WHEREAS, the City adopted a Comprehensive Plan on September 1, 1994, which establishes goals and policies for managing the land, shorelines and resources areas of Bainbridge Island; and

WHEREAS, on September 19, 1996 the City adopted a Shoreline Management Master Program (Ordinance 96-38), which took effect upon Washington State Department of Ecology approval on November 26, 1996; and

WHEREAS, on June 11, 2003 the City adopted Ordinance 2003-25 and on September 10, 2003 the City adopted Ordinance 2003-30, amending the City's Shoreline Management Master Program; and

WHEREAS, on July 29, 2004 Washington State Ferries submitted an application to amend the shoreline designation map of the City's Shoreline Management Master Program, requesting a shoreline designation change from Natural to Urban on the Washington State Ferry Maintenance Facility property (tax parcel numbers 26250231122004 & 26250231132003) located in Eagle Harbor on Bainbridge Island, WA; and

WHEREAS, the Planning Commission reviewed the proposed map designation amendment on November 24, 2004 and December 9, 2004 and found it consistent with the Shoreline Management Master Program and the Shoreline Management Act (RCW 90.58; WAC 173-26); and

WHEREAS, on January 27, 2005 a Determination of Non-Significance consistent with the State Environmental Policy Act (RCW 43.21C) was published; and

WHEREAS, on January 28, 2005 a report was published documenting and analyzing the characteristics of the area including the WSF Maintenance Facility and Ravine Creek estuary and the consistency of redesignation with the City's Shoreline

Management Master Program, Comprehensive Plan, and Zoning as well as the Shoreline Management Act (RCW 90.58) and the Washington State Department of Ecology Shoreline Master Program Guidelines (WAC 173-26); and

WHEREAS, on February, 9, 2005 the City Council held a public hearing on the proposed Shoreline Management Master Program and shoreline designation map amendment consistent with WAC 173-26-100, at which time members of the public had the opportunity to present testimony and other evidence in favor of or against the proposed amendment; and

WHEREAS, the City Council of the City of Bainbridge Island finds that this Shoreline Management Master Program amendment is consistent with the City's Shoreline Management Master Program, Comprehensive Plan, and Zoning as well as the Shoreline Management Act (RCW 90.58) and the Washington State Department of Ecology Shoreline Master Program Guidelines (WAC 173-26); now, therefore

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

Section 1. Section IV, Subsection H (Aquatic Conservancy Environment) of the City's Shoreline Management Master Program, as adopted by Ordinance 96-38 and amended by ordinances 2003-25 and 2003-30, is amended as follows (Note: double underline/strikeout indicates inserted/deleted text):

H. Aquatic Conservancy Environment

The Aquatic Conservancy environment includes marine areas seaward of the ordinary high water mark (OHWM), normally designated Aquatic, that contain unique ecological and cultural features which the City would like to preserve for the public benefit. All uses in the Aquatic Conservancy environment are subordinate to the protection of natural systems.

Purpose

The Aquatic Conservancy environment is intended to preserve those portions of the marine waters of the City whose existing natural state is relatively free of human influence, or whose resources, biological diversity, or other features are particularly sensitive to human activity, or whose unique, historical, archeological, cultural, or educational features merit special protection.

A number of separate criteria are required to define the diverse character of Aquatic Conservancy regimes. Tidal lagoons and sensitive portions of tidal inlets will require protection in terms of water salinity and quality, sediment quality and quantity, vegetative native vegetation zones on adjacent shorelines, and remaining areas of native salt-tolerant vegetation. Other regimes, such as aquatic vegetation, have similar requirements. The Aquatic Conservancy environment requires

severe restrictions on the intensity and type of permitted uses to maintain the integrity of the shoreline environment.

Designation Criteria

Aquatic Conservancy has ~~three~~ four regimes. An area is designated Aquatic Conservancy if it fits any regime description, whether or not it is mapped as such. All ~~three~~ four regimes shall be considered environmentally sensitive.

Regime 1: Tidal lagoons

Bodies of saline water (salinity greater than [$>$] 0.5 parts per thousand) with a constricted or subsurface outlet that is subject to periodic, but not necessarily daily, exchange of water with Puget Sound or a tidal inlet. The connection between the sea and the lagoon may be subsurface through permeable gravel or sand berms. The upland boundary of the lagoon shall be the ordinary high water mark (OHWM). There are two tidal lagoons currently identified on the Island, "Tolo Lagoon" located in Sections 17 and 18, Township 25 N, Range 2 E, and "Battle Point Lagoon" located in Section 18, Township 25 N, Range 2 E.

Regime 2: Salt marshes and mud flats in tidal inlets

Saltwater bays and related intertidal areas subject to the daily influence of tides where they support salt-tolerant vegetation and/or exposed mudflats. Tidal inlet areas should be designated Aquatic Conservancy if they meet either Criterion I or II below. Only those areas of Aquatic Conservancy-designated shorelines which meet one of those criteria for the environment will be subject to its policies and regulations; the map is a guide but the designation criteria prevail.

The Aquatic Conservancy environment shall extend from the OHWM to six (6) feet below mean lower low water (MLLW). If the inlet is less than six hundred (600) feet wide, or less than six (6) feet deep at mean lower low water (MLLW), the resource should be considered to be a single system encompassing both sides and the channel. In these cases, boundaries should be drawn from the OHWM to a line perpendicular to the average direction of the tidal flow where the criteria are no longer met.

Criterion I: The area between the OHWM and MLLW that provides a habitat for at least one quarter (1/4) acre of salt-tolerant vegetation. Vegetated patches may be smaller than one quarter (1/4) acre, but the total vegetated area must be at least one quarter (1/4) acre.

Criterion II: At least one quarter (1/4) acre of exposed flats is exhibited between ordinary high water (OHWM) and mean lower low water (MLLW) whose sediments are at least thirty (30) percent muds.

Parts of tidal inlets that do not fit either criterion, and do not fit other regimes of Aquatic Conservancy environment, shall be designated Aquatic.

Regime 3: Marine vegetation

Areas seaward of the mean lower low water (MLLW) that support a significant community (at least four thousand square feet [4,000 square feet] of kelp, eelgrass and/or other vegetation in sufficient quantities to provide special value as habitat for marine life.

Regime 4: Other areas

Areas, as designated through the SMMP amendment process [Section VII(M)], whose existing natural state is relatively free of human influence, or whose resources, biological diversity, or other features are particularly sensitive to human activity, or whose unique, historical, archeological, cultural, or educational features merit special protection. Designation under this regime shall be based on a report documenting the presence, function, and distribution of the resources in the area to be designated.

The City shall map the limits of the designations with assistance from the Washington State Departments of Ecology, Natural Resources, Fish and Wildlife, and other cooperating agencies. Any area in which actions have been taken under an approved permit to create, restore, or enhance characteristics of any of these regimes shall automatically be designated Aquatic Conservancy. Where there is a conflict between the map and criteria, the criteria will prevail provided a report is prepared by a qualified professional verifying that the map is in error. The report will be the responsibility of the party requesting the map change.

Management Policies

1. Uses and activities which would potentially degrade or significantly alter the natural character of the shoreline should be severely restricted or prohibited.
2. Limited access should be permitted for scientific, historical, educational, and low-intensity recreational purposes, provided that no significant, adverse impact on the areas will result.
3. Uses which are consumptive of physical, visual, and biological resources should be prohibited.
4. Physical alterations should only be considered when they serve to protect significant, unique, or highly valued features which might otherwise be degraded or destroyed.
5. Uses and activities adjacent to shorelines designated Aquatic Conservancy should be compatible with and not compromise the integrity of the Aquatic Conservancy environment.
6. Native vegetation zones should be established to protect the functions and characteristics of the areas. (See Section III, General Policies and Regulations, subsection D, Environmentally Sensitive Areas.)

7. A management study of each area should be conducted with participation by appropriate state agencies and residents of each area to determine possible refinements to the adopted regimes, changes in the boundaries of the areas included in the Aquatic Conservancy environment, and inclusion of additional management strategies.

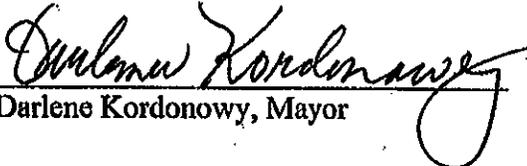
Section 2. The Shoreline Management Master Program shoreline environment designation map is amended by changing the shoreline environment designation of the Washington State Ferry System's Maintenance Facility property (tax parcel numbers 26250231122004 & 26250231132003) from Natural to Urban and by changing the shoreline environment designation of portions of the Ravine Creek estuary from Aquatic to Aquatic Conservancy, as drawn and described in Exhibit A.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

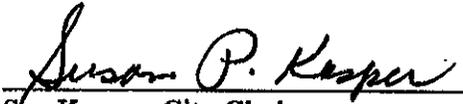
Section 4. Effective Date. This ordinance shall take effect on and be in force five days from and after its passage, approval, and publication as required by law, or upon the date of a letter to the City of Bainbridge Island from the Washington State Department of Ecology approving the Shoreline Management Master Program amendment adopted by this ordinance, whichever occurs last in time.

PASSED by the City Council this 23rd day of February, 2005.

APPROVED by the Mayor this 24th day of February, 2005.


Darlene Kordonowy, Mayor

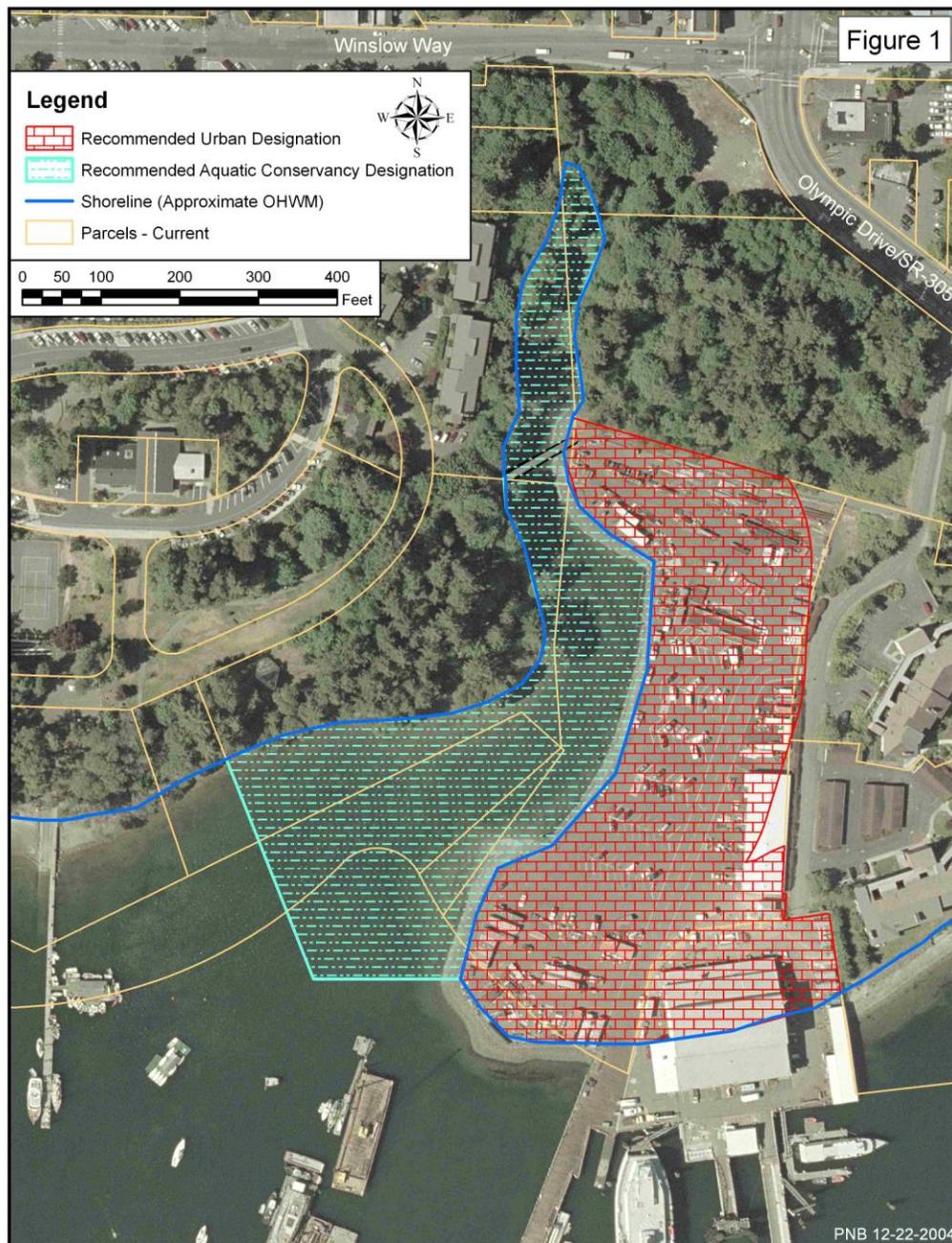
ATTEST/AUTHENTICATE:


Sue Kasper, City Clerk

FILED WITH THE CITY CLERK: January 31, 2005
PASSED BY THE CITY COUNCIL: February 23, 2005
PUBLISHED: March 2, 2005
EFFECTIVE DATE: ~~March 7, 2005~~
ORDINANCE NUMBER: 2005-02

June 1, 2005 (Approved by Ecology)

Recommended Shoreline Designations



Urban Designation Boundaries:

The recommended Urban designation extends landward from the ordinary high water mark within the WSF Maintenance Facility (parcel #s: 26250231122004 & 26250231132003) as shown in Figure 1.

Aquatic Conservancy Designation Boundaries:

The recommended Aquatic Conservancy designation extends waterward from the ordinary high water mark within the area north of a line extending westerly from the western most point of the WSF Maintenance Facility property to the southeasterly extension of the northeastern parcel line of parcel #41140050120000 (within the City's Waterfront Park) as shown in Figure 1.