# ORDINANCE NO. 2007-26

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the Comprehensive Plan; (a) amending the Land Use Element (FRW 2.3, LU 4.1, Goal 4,OS Goal 12, OS 2.1, OS 2.4, OS 2.6 and "Comprehensive Plan Framework" sections of "Housing," Chapter 3) and adding new policies LU 4.1, 4.3 and 4.4 to the Land Use Element and section of the Winslow Master Plan; and (b) amending the Environmental Element (FW 1.3, Greenways, and AG 1.1 and 1.2) of the Comprehensive Plan, relating to the transfer of development rights program.

**WHEREAS,** the City of Bainbridge Island (the "City") adopted a Comprehensive Plan on September 1, 1994, which establishes the long range vision for the Island and identifies the important characteristics that the community desires to retain, promote and foster; and

**WHEREAS,** the City adopted an updated Comprehensive Plan on December 8, 2004 (the "Comprehensive Plan"); and

**WHEREAS,** the City's Comprehensive Plan, as required by the Growth Management Act, includes a Land Use Element, Winslow Master Plan Sub Element, and Environmental Element, as well as other required and optional elements; and

**WHEREAS,** the City's Comprehensive Plan promotes and establishes a transfer of development rights program as an innovative planning tool that encourages development right transfers as a method of conserving areas and promoting development in suitable areas; and

**WHEREAS,** in 2006 the City commissioned a review of the transfer of development rights program in order to that recommend methods to improve the program; and

**WHEREAS** the City intends to improve the effectiveness of the transfer of development rights program in conserving priority open space and transfer development rights to appropriate areas; now, therefore

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

Section 1. Policy FRW 2.3 of the Land Use Element of the City of Bainbridge Island Comprehensive Plan is amended to read as follows:

**"FRW 2.3**

Phasing mechanisms and/or incentives should be developed to promote the timely and logical progression of commercial and residential development.

~~**Discussion**: Priority should be given to the development of vacant land with infrastructure capacity which is located closest to Winslow. Incentives include density bonuses and TDR receiving areas within the Mixed Use Town Center. The Island's concurrency management system should incorporate phasing mechanisms that give priority to the allocation of infrastructure capacity to infill development within the urban center. Phasing mechanisms could include permit review priority for projects in Winslow and/or projects utilizing TDRs, or could be prioritized based on the availability of infrastructure. Additional incentives to discourage sprawl throughout the Island should be pursued (e.g., tax relief).~~"

Section 2. General Land Use Goal 4 and polices of the Land Use Element of the City of Bainbridge Island Comprehensive Plan are amended to read as follows:

**"GOAL 4**

**Prioritize program goals and ~~e~~Establish and maintain planning tools, including a successful purchase and transfer of development rights program that ~~to~~ implements the goals and policies ~~for the purchase (PDRs) and transfer (TDRs) of development rights contained in~~ of this Plan by and allow transferring development rights from areas intended for conservation, and promoting development in areas suitable for development.**

**LU 4.1**

The City ~~should shall~~ develop a Transfer of Development Rights (TDR) program which establishes requirements and procedures for transfer of development rights from sending areas to receiving areas. The TDR program should contain provisions for the sale and purchase of development rights.

**~~LU 4.1~~ LU 4.2**

The City recognizes the need to take a proactive role in the purchase and transfer of development rights~~, including~~ and such a program should include:

1) Designating appropriate staff resources to promote the program;

2~~1~~) Providing for t~~T~~he outright purchase of development rights by the City~~;~~ and

~~2)~~ establishing a fund for ~~The~~ banking ~~of~~ development rights; and

3) Creating a mechanism that coordinates the ~~The coordination of the private~~ purchase and transfer of development rights.

~~**Discussion**: This policy should be undertaken only after implementation of Policy LU 4.3 has been completed and the TDR program has been determined to be feasible.~~

**LU 4.3**
The City ~~should~~ ~~shall~~ undertake a study to identify and prioritize areas (or resources) of the Island that are valued by the community and are appropriate for conservation through the purchase and/or the transfer of development rights (TDR) program. These areas or resources shall be identified as appropriate "sending areas" in the TDR program.

**Discussion:** Appropriate sending areas for example, could contain sensitive lands that are not protected by the critical areas regulations, priority links in the Wildlife Corridor, priority open space lands, or historic resources. Determination of appropriate sending areas should also be coordinated with the development of an Island-wide open space plan.

**LU 4.4** (Moved from OS 2.6)
The City ~~should~~ ~~shall~~ initiate an outreach program to educate property owners and potential buyers about the use of the Purchase and Transfer of Development Rights program."

Section 3. Residential Open Space Goal 2 and policies of the Land Use Element of the City of Bainbridge Island Comprehensive Plan are amended to read as follows:

**"OS GOAL 2**
**Create a Critical Areas Overlay District to protect sensitive areas through TDRs, flexible lot design, and through reducing development pressure within the open space area.**

**OS 2.1**
The Critical Areas Overlay District is designated for areas which may have limited development potential due to environmental sensitivity, including critical aquifer recharge areas, and priority wetlands. These areas should be included as primary sending areas for TDRs. These areas will be shown on the Land Use Map as a Critical Areas Overlay District.

**Discussion**: Under the Agricultural Lands policies, a farm owner outside of the designated TDR-Sending Area would be able to opt into the TDR program. (See Agricultural Lands Policy.)

**OS 2.4**
Properties within the ~~TDR-Sending Area~~ Critical Areas Overlay District retain the underlying zoning, but are subject to the requirements of the Overlay District. The Overlay District is intended to encourage a pattern of development which will protect and enhance the sensitive areas. The property owner may choose one of several techniques to realize development potential on the site:
1) An applicant may choose to use the Flexible Lot Design Process to accommodate innovation, creativity, and design flexibility, and to achieve a level

of environmental protection that would not be possible by typical lot-by-lot development~~. Through the Flexible Lot Design Process, the maximum allowed density will be established on a case-by-case basis based on the carrying capacity of the site,~~ but shall not exceed the underlying base density.

2) An applicant may choose to transfer the development rights of the parcel to preserve the land as open space. Under this option, the development rights would be calculated assuming the development potential allowed by the zoning district ~~of the underlying base density~~.

~~**Discussion:** Inclusion of a wetland area in density for TDRs and PDRs may encourage a property owner to forego any development of the property in exchange for transfer or purchase of development rights. Therefore, if a property owner chooses to transfer all development rights then the property owner may obtain all of the wetland density.~~

~~3) If a property is located in the Open Space Residential District and a property owner chooses to develop the site without using the Flexible Lot Design Process or Transfer Development Rights (TDRs) options, the maximum density shall not exceed 1 unit per 10 acres.~~

~~**Discussion:** Only the TDR Sending Areas with an underlying zoning of one unit per 2.5 acres are subject to the requirements of paragraph 3).~~

~~The City shall develop a TDR program which establishes requirements and procedures for transfer of development rights from designated sending areas to specified receiving areas. The TDR program should contain provision for the purchase of development rights (PDRs).~~

~~**OS 2.6**~~

~~The City shall initiate an outreach program to educate property owners about the use of PDRs and TDRs.~~"

Section 4. The "Comprehensive Plan Framework" section of "Housing," Chapter 3 of the Winslow Master Plan, sub-element of the Land Use Element of the City of Bainbridge Island Comprehensive Plan is amended to read as follows:

**"COMPREHENSIVE PLAN FRAMEWORK**

The Comprehensive Plan contains policies that address the supply, type, and affordability of housing. Policies also indicate the role that Winslow will play in accommodating new growth.

Policies call for the city to provide a fair share of affordable housing in the county, using its regulatory process and ability to bring together a combination of public and private resources. Policies also recognize the need to maintain the existing stock of affordable housing, a portion of which consists of mobile homes that may be subject to redevelopment pressures. The Comprehensive Plan makes a commitment to increasing the supply of multiple family housing, both market-rate and rent-assisted, and indicates that affordable housing should be dispersed throughout the community. Policies also indicate that the City will streamline its

regulatory process and facilitate the provision of housing for populations with special needs.

Within Winslow outside the Mixed-Use Town Center and High School Road Districts in the areas that are zoned for single family development, new housing will likely take the form of additional single family units and accessory dwelling units.

In theory, the amount of vacant and underdeveloped land should be sufficiently large to accommodate the projected growth in housing units, assuming that development will be built to the maximum permitted under City zoning. However, it is not certain that new development or redevelopment will be using the maximum densities permitted. Some developers may not wish to participate in the FAR bonusing system or provide additional affordable units. If most individual projects in the MUTC and High School Road Districts were built only to the basic allowable densities, then all vacant and underdeveloped land would have to be used to meet projected housing needs; this is not a likely prospect. To meet the demand for housing over the next fifteen years, there will need to be development that exceeds the base densities for those districts.

In order to facilitate this, the City has recognized the need to allow increased density within the Mixed-Use Town Center. This is accomplished by allowing density bonuses for various combinations of density transfers, provision of affordable housing, provision of infrastructure beyond what is required to mitigate a project's impacts, and provision of public amenities. ~~The current TDR program focuses on preservation of farmlands and sensitive areas; the emphasis of the first several years of the program is on farmland preservation."~~

This concept of increasing housing density is intended to be a part of an overall set of techniques to encourage forms of housing that can provide options for various households in the town center. Other techniques permitted by the City include accessory dwellings, flexible lot design development, cluster development and mixed use."

Section 5. Fish and Wildlife Policy FW 1.3 of the Environmental Element of the City of Bainbridge Island Comprehensive Plan is amended to read as follows:

**"FW 1.3**

The protection and enhancement of priority habitat shall be one of the criteria used when evaluating the preservation of open space as part of development techniques, such as clustering, flexible lot design subdivisions, and ~~creation of~~ transfer of development rights (TDRs)."

Section 6. Agricultural Lands Policies AG 1.1 and AG 1.2 of the Environmental Element of the City of Bainbridge Island Comprehensive Plan are amended to read as follows:

**"AG 1.1**

Owners of farms should have the option of participating in the transfer of development rights (TDRs)/purchase of development rights (PDRs) program. A set of criteria should be developed to determine farms appropriate for the TDRs program.

~~**Discussion:** The Open Space Goals and Policies section of this Element establishes a Critical Areas Overlay District which establishes a TDR Sending Area. Many of the existing farms are not located in the Overlay District. The use of TDRs and PDRs provides farmers a means by which to utilize the development potential of their property and continue to farm. This policy, therefore, provides a means for a farm operator to opt into the TDR program. There would be a single TDR program which would include as sending areas those properties located in the TDR Sending Area Overlay District, as well as those farmers outside of the District who opt into the program.~~

**AG 1.2**

The City should examine whether identifying specific areas on the Island as appropriate for future agricultural operations ~~and as potential TDR sending areas~~ would provide viable opportunities for new and expanded farming operations.

**Discussion**: Creating a specific area or areas for future agricultural operations aims to limit conflicts with residential uses ~~in rural areas~~ and would provide an opportunity for farm operations within the area to share resources such as farm equipment, processing facilities, retail sales area, and road access. ~~Properties located in the overlay district would have no special restrictions imposed as a result of this designation.~~"

Section 7. 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 8. This ordinance shall take effect on and be in force five (5) days from and after its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this 28th day of November 2007.

APPROVED BY THE MAYOR this 30th day of November 2007.

Darlene Kordonowy, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, City Clerk

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