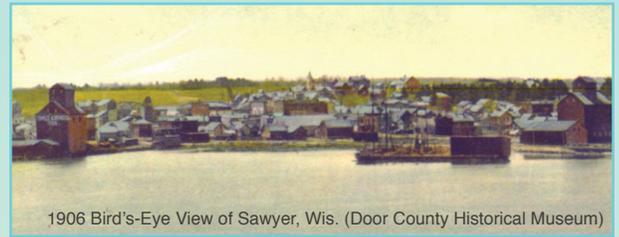


Preserving Sturgeon Bay, Wisconsin's Public Waterfront



Jeremy Popelka



1906 Bird's-Eye View of Sawyer, Wis. (Door County Historical Museum)

Public Trust Lands Strengthen Local Economies

*Friends of the
Sturgeon Bay Public Waterfront*

Sturgeon Bay has a treasure, enviable to many communities. It has a strong brand.

Sturgeon Bay's brand – the thing that makes it memorable and unique – consists of an authentic working waterfront with picturesque tugboats, an attractive maritime museum, an iconic 1901 grain elevator and two downtown bridges, one of which – a 1931 steel bridge – is listed on the National Register of Historic Places.

Sturgeon Bay's distinct brand was not created on drawing boards by marketing experts; it grew organically out of the region's unique geography, history and culture. The bluffs of the Niagara Escarpment, the commingling waters of Lake Michigan and Green Bay, and the climate of a peninsula surrounded by water all created the shipping, farming and forest economies that gave Sturgeon Bay, and Door County as a whole, its history.

Tucked between Sturgeon Bay's two downtown bridges, at the very heart of the community and at the epicenter of its brand, is an open, six-acre parcel of public waterfront.

This waterfront is built from three historical commercial docks. These docks were critical in Sturgeon Bay's past for connecting farm produce and agricultural products to markets. They were the convergence point for ships, wagons, trains and trucks. The 1950s-era bulkhead connecting the space between the three docks created a newly configured commercial dock that still serves Sturgeon Bay's working waterfront and its tugboats today.

This six-acre City-owned public parcel stands within a proverbial stone's throw of a Great Lake; an 1870s shipping canal; the Ice Age Trail, a National Scenic Trail; a nationally recognized Paleo-Indian relic site; and roadways that lead north to the towns and villages that dot the Door County peninsula.

There is no other place in Wisconsin – or all the Midwest – quite like this.

"If I have learned anything from my career in urban planning, it is this: a community's appeal drives economic prosperity. I have also learned that, while change is inevitable, the destruction of a community's unique character and identity is not...Communities can grow without destroying the things people love."

– Edward McMahon, Urban Land Institute senior resident fellow and Charles E. Fraser chair for sustainable development

This six-acre parcel, built on lakebed, is protected by the Public Trust Doctrine. The Public Trust Doctrine describes the state's relationship to its water resources and to the citizens of the state. In its most basic form, it is the concept that the state holds navigable waters in trust for use by the public. The Public Trust Doctrine and the rights it protects are deemed important enough to be grounded in the state's constitution (Article IX). There, they are protected from the ebb and flow of the political tide. The Public Trust Doctrine has a rich 150-year history that has evolved as the ways we use our water has evolved. A key provision of the doctrine is that filling of once-submerged lakebed does not extinguish public trust rights. Artificially filled areas continue to be held by the State and dedicated to water access and navigation-related or recreational use. The unbuilt land between Sturgeon Bay's two bridges is filled lakebed owned by the City, not a private party. The City, as a unit of government, is uniquely situated and in fact has a duty to safeguard the Public Trust.

Good Economic Sense

Since the City of Sturgeon Bay announced plans to sell a portion of its public waterfront to a private developer, hundreds of people have shown up at city council meetings, thousands have signed petitions, others took a bus trip to Eau Claire to tour its award-winning waterfront park, still others drove to Madison to meet with legislators. Countless hours and hundreds of thousands of dollars have gone into the fight to preserve public land and defend the Public Trust Doctrine.

Why are individuals who have nothing to gain personally investing their time, energy and money? Certainly it's because they love their community and its history. But, also, it is because preserving or establishing public land, particularly along waterfronts, makes good economic sense.

As planning and development experts at a recent national conference agreed: *“Reclaiming public space along the water, whether it be an industrial shoreline, an old canal, or a daylighted urban stream, should be a high priority.”* And, as one of the participants pointed out, *“If green open space is good, waterfront open space is gold.”*¹

“Around the world, cities are seeking the recipe for economic success in a rapidly changing global marketplace...a critical – but often forgotten – asset is community distinctiveness.”

– Edward McMahon

Planning and development experts from around the country are not the only ones who understand that public waterfront land is *“gold.”* Communities right here in Door County understand it, too. Over the last eight years, Sister Bay has invested ten million dollars in purchasing property to create public space along its waterfront. It now boasts the *“largest public waterfront in Door County”* and is realizing sizable returns on its vision and investment.² In 2014, Jacksonport purchased a 2.6-acre parcel on Lake Michigan for \$767,000 to expand its public waterfront. Electors in the Town of Gibraltar recently voted overwhelmingly to spend \$1.4 million on less than an acre of land to do the same in Fish Creek. Egg Harbor and Baileys Harbor have both procured land from private entities to create public open space.

Why are these communities investing in public land on their waterfronts? According to Sister Bay City Administrator, Zeke Jackson, *“Public waterfront creates a strong sense of place and that, in turn, creates enrichment across every aspect of a community. In a tourist economy, it distinguishes you from your visitors’ point of origin. If your community is looking to attract large companies, it’s an asset there, too, because companies want to invest where workers want to live. People want to live and work in areas that are architecturally distinct and that positively utilize their natural resources. If you’ve got a great mountain, capitalize on that great mountain. If you’ve got waterfront like we do in Door County, do all you can to protect it and give the public access to it.”*

Gibraltar Town Board Chair, Dick Skare, agrees. *“We know from studies, and from talking with people, that visitors and residents alike want protected waterfront. They want it both for its access to the shore and for its scenic value. It enhances everything positive that’s already going on in our community.”*

Some might say that former commercial lands, or previously blighted lands, are of little interest. To the contrary – many, many towns and cities in Wisconsin and across the country have achieved widely acclaimed and stunning transformations of blighted areas into beloved community parks and civic spaces. These transformed spaces anchor strong and sustainable economic development. Appleton, Eau Claire, Kaukauna and Wisconsin Rapids are just a few of the communities that have turned industrial and commercial sites into public areas. Wisconsin’s own brownfield redevelopment program has funded and championed over 100 transformations.

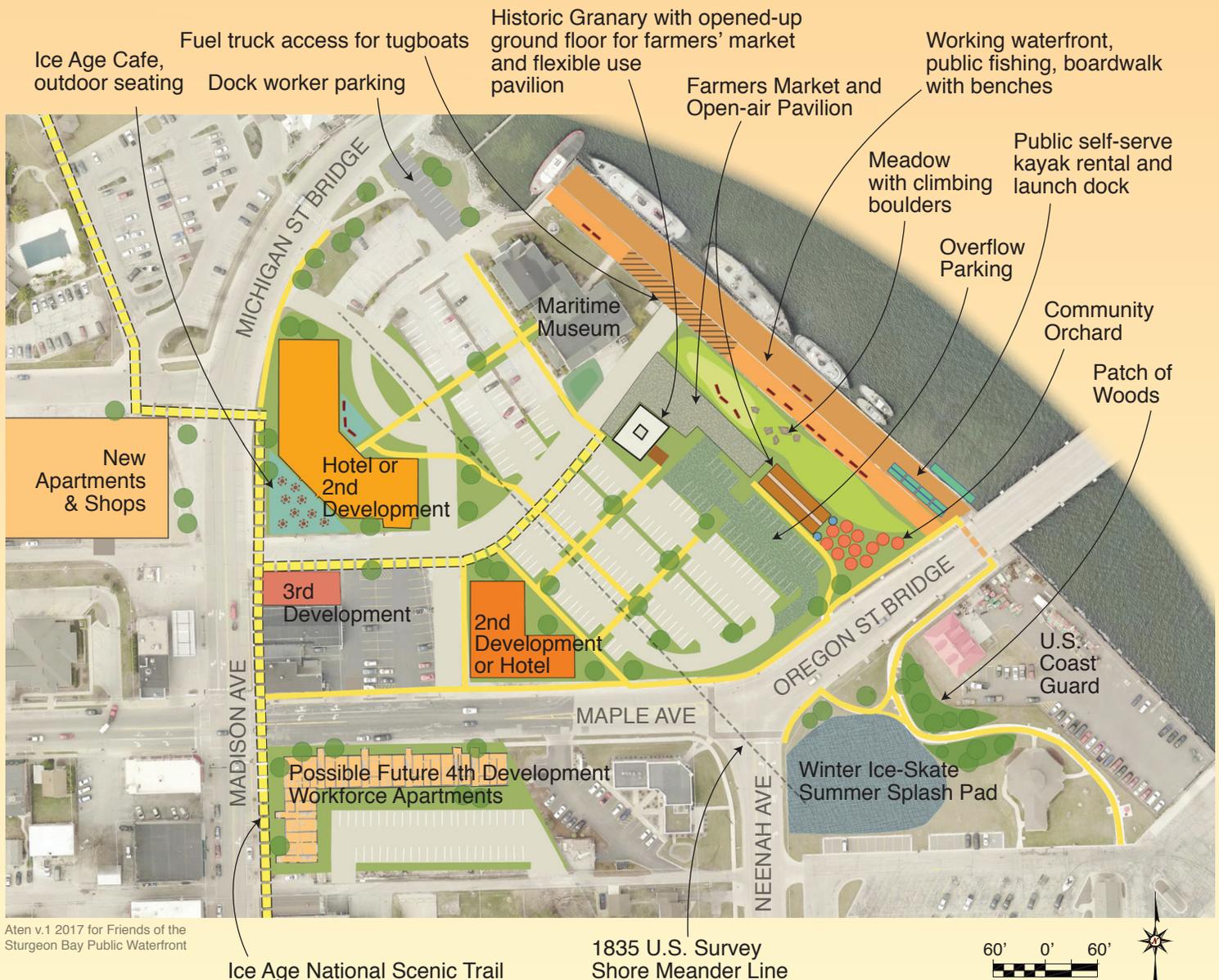
1. Razzi, Elizabeth. Making Public Spaces Work Overtime. UrbanLand, April 16, 2014.

2. According to Sister Bay City Administrator, Zeke Jackson, the Village of Sister Bay has seen a return of \$28 million on its \$10 million investment.

A Win-Win Vision for Sturgeon Bay's Westside Waterfront

The plan below presents a win-win vision for the westside waterfront. A substantial portion of land along the waterfront (below the Shore Meander Line) remains public. Parcels above that line are available for development; they will fund improvements and generate tax increment. The numerous amenities and features represented in this plan capture ideas brought forth at public discussions; these are not meant to represent a final blueprint, but to generate discussion and additional ideas. A compromise plan like this could accomplish the following:

- Realize Public Trust Doctrine benefits
- Maintain the expansive views
- Add public parking
- Support a hotel and two additional tax increment producing commercial developments
- Restore the Historic Granary with an open ground floor for public use
- Support the working waterfront including parking for dock workers and access for fuel trucks to the tugboats
- Feature the Ice Age National Scenic Trail
- Incorporate a good amount of open space with benches, meadow with boulders for kids to play on, space for public fishing, public self-serve kayak rentals and launch, open-air pavilion, farmers market, community orchard, a place for winter ice-skate or summer splash pad – just some of the ideas mentioned by community members.



Aten v.1 2017 for Friends of the Sturgeon Bay Public Waterfront

Public Trust Doctrine: A Tool for Economic Prosperity

The Public Trust Doctrine is an important tool for revitalization. Rather than inhibiting economic development, the Public Trust Doctrine secures and encourages it.

Officials from Superior, Wisconsin see the value of the Public Trust Doctrine and the long legal history that clarifies it. They have communicated to their senator's office – Senator Janet Bewley – that they like the existing law, as it allows them to plan and channel development to achieve their long-term economic goals.

Madison has also utilized the protection of the Public Trust Doctrine to promote economic opportunity at Monona Terrace. Rather than having a private commercial hotel claiming the lakefront, Monona Terrace is a public facility, owned by the City. The State's Lakebed Grant (required by the Public Trust Doctrine), protects full and continuous public access to Monona Terrace and full and continuous use of the waterfront. The City benefits economically by this public venue and the private enterprises surrounding it. The community benefits by retaining full public access to the lake, and to Monona Terrace and its programs.

Legislative Precedent

The legislature is entitled to act to protect the public trust that was enshrined in the constitution at our state's founding and has been asserted for over 150 years of legal history. The legislature has acted only once, in the recent past, to redefine the Ordinary High Water Mark (OHWM), which determines Public Trust jurisdiction.

"Our Constitution is a remarkable, beautiful gift. But it's really just a piece of parchment. It has no power on its own. We, the people, give it power - with our participation, and the choices we make. Whether or not we stand up for our freedoms. Whether or not we respect and enforce the rule of law." – President Barack Obama

In the Milwaukee Transit Center case, the legislature acted to reaffirm a 1913 contract with the railroad, where the historic agreement drew a boundary that the legislature recognized as the OHWM. Other cases of legislative involvement have, without exception, involved legislative lakebed grants to strengthen the public's interests in access and navigability.

The Friends of the Sturgeon Bay Public Waterfront have been engaged for months in good faith conversations with the City of Sturgeon Bay to come up with a plan that protects the public trust and fully provides the economic stimulus the City seeks. The Friends continue these efforts while their lawsuit proceeds, seeking a positive, locally determined resolution that Wisconsinites will be proud of for generations. The Friends, and all who support public spaces and the Public Trust Doctrine, strongly oppose legislative action to impact Sturgeon Bay's public waterfront.

Public open space along waterfronts is a rare commodity and the cornerstone of a strong, secure economy. It is also our gift to the future. When considering treasured open spaces – spaces that provide a community's identity and brand – no one will ever say, "I wish they had put more buildings here. I wish they had made this less accessible."

The Friends of the Sturgeon Bay Public Waterfront urges strong support of the Public Trust Doctrine.



A re-envisioned restored Granary, with open public access. (The Kubala Washatko Architects)