



## CITY COUNCIL MEETING AGENDA

May 9, 2011

SPECIAL MEETING, Miller Creek Conference Room, 3<sup>rd</sup> Floor

For the purpose of holding an Executive Session to discuss potential litigation  
and to review the performance of a public employee

6:00 p.m.

and

COUNCIL MEETING, Council Chambers, 1<sup>st</sup> Floor

7:00 p.m.

400 SW 152<sup>nd</sup> Street

Burien, Washington 98166

PAGE NO.

- |   |  |                     |     |
|---|--|---------------------|-----|
| <b>1. CALL TO ORDER</b>                 | <b>2. PLEDGE OF ALLEGIANCE</b>   | <b>3. ROLL CALL</b> |     |
| <b>4. AGENDA CONFIRMATION</b>           |  |                     |     |
| <b>5. PUBLIC COMMENT</b>                | Individuals will please limit their comments to three minutes, and groups to five minutes.   |                     |     |
| <b>6. CORRESPONDENCE FOR THE RECORD</b> | a. Email Dated April 29, 2011, from Mark Zink Regarding Drinking Panhandlers.  |                     | 3.  |
| <b>7. CONSENT AGENDA</b>                | a. Approval of Minutes: Council Meeting, May 2, 2011.  |                     | 5.  |
| <b>8. BUSINESS AGENDA</b>               | a. Discussion of Dept. of Ecology's Response to Burien's Shoreline Master Program.   |                     | 9.  |
|   | b. Discussion of Port of Seattle Noise Mitigation Program.   |                     |     |
|   | c. King County Solid Waste System Update.  |                     |     |
|   | d. Discussion and Motion to Approve the Submittal of the 2012 Community Development Block Grant (CDBG) Application for the Burien Community Center Roof Replacement. |                     | 77. |
|   | e. Discussion of Business & Occupation Tax   |                     | 79. |
|   | f. City Business.  |                     | 85. |
| <b>9. COUNCIL REPORTS</b>               |  |                     |     |
| <b>10. ADJOURNMENT</b>                  |  |                     |     |

### COUNCILMEMBERS

Joan McGilton, Mayor  
Rose Clark

Brian Bennett, Deputy Mayor  
Lucy Krakowiak      Gerald F. Robison

Jack Block, Jr.  
Gordon Shaw



## Janet Stallman

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**From:** Public Council Inbox  
**To:** Mark Zink  
**Subject:** RE: Drinking panhandlers 128th off ramps

Mr. Zink,

Thank you for writing to the City Council to express your concerns. Your email will be made part of a council agenda packet and included with Correspondence for the Record.  
Thank you, too, for your volunteerism on behalf of the community.

Janet Stallman  
[janets@burienwa.gov](mailto:janets@burienwa.gov)  
206-248-5508

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**From:** Mark Zink [<mailto:markczink@gmail.com>]  
**Sent:** Friday, April 29, 2011 12:35 PM  
**To:** Public Council Inbox  
**Subject:** Drinking panhandlers 128th off ramps

Hi my name is Mark Zink and my wife, Colleen West, and I own a house at 12413 2nd Ave. S. in Burien.

I have been spending hundreds of hours in this neighborhood cleaning trash, graffiti and E-mailing anything I can't handle to the city of Burien. The Burien police have been a huge help cleaning up Arbor Lake park from the crime that was rampant there. The Parks Dept. and Public Works have also been doing a great job and are eager to help when I call or email requests as an advocate for this area.

Now, for the problem we are having. We have a group of homeless people that have been pan-handling the corner of 128th and SR-509 for years. These men live in houses in the area, sometimes abandoned houses, and completely trash them as they did at a house on the northwest corner of 2nd Ave. S. and 128<sup>th</sup>.

They are drinking in public at least 10 hours a day under the freeway on the sidewalk while they wait their turn to panhandle at the off-ramp, likely for beer or drug money.

They use a plastic milk crate to hide their full beer cans and to discard the empties full of "Steel Reserve 211" high-octane beer cans. When I can, I take these and recycle them and clean the trash up they leave daily. I also take the milk crate back to the convenience store on the corner of South 128<sup>th</sup> St. and 1<sup>st</sup> Ave S. and they bring it back every morning.

These men drive around in a light blue Toyota Tercel sedan that is about 1985 or so. The car is in mint condition. (I have been unable to remember the full plate # so far )

Last week, as they got out of the car at arbor Lake Park, I saw them throw a bottle of MD 20/20 on the ground as I was picking up trash and proceeded to go near the lake shore and smoke marijuana out of a pipe as they stared at me as if they knew nothing would happen to them.

CFT: 5/9/11

I have spoken to Officer Sgt. McLaughlin on several occasions and he tells me these people are "highly intelligent and know the laws." He says, "There is no way to get rid of them as we have no laws that say "no loitering" or "no panhandling" on the side of freeway on ramps."

I have seen them dozens of times drinking with the cans they keep just inside their jackets or under the milk crates. These people will not be able to get help for their problem unless they are court-ordered to treatment, but first they need to be cited for driving drunk and drinking in public.

Like I said, these people have been doing this for 3-4 years and some longer. This is the first impression we give people of our city. This impression says, "Come to Burien you can get away with anything." This is also not what we want our kids seeing, either. I am asking the city council to enact laws that will aid our officers to do their job.

In the meantime, you may get to save a life, as these people could be court-ordered into treatment at some point and possibly become an asset to a community somewhere. Thank you for your hard work!

DRAFT



*Burien*  
WASHINGTON

## CITY COUNCIL MEETING MINUTES

May 2, 2011

SPECIAL MEETING, Miller Creek Conference Room, 3<sup>rd</sup> Floor

For the purpose of conducting Business & Economic Development Partnership interviews

6:00 p.m.

and

COUNCIL MEETING, Council Chambers, 1<sup>st</sup> Floor

7:00 p.m.

400 SW 152<sup>nd</sup> Street

Burien, Washington 98166

To hear Council's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, [www.burienwa.gov](http://www.burienwa.gov)
- Check out a DVD of the Council Meeting from the Burien Library

### SPECIAL MEETING

Mayor McGilton called the Special Meeting of the Burien City Council to order at 6:00 p.m. for the purpose of conducting Business & Economic Development Partnership interviews.

Present: Mayor Joan McGilton, Deputy Mayor Brian Bennett, Councilmembers Rose Clark, Lucy Krakowiak, Gerald F. Robison, and Gordon Shaw. Councilmember Jack Block, Jr. was excused.

Administrative staff present: Mike Martin, City Manager.

Interviews were held with applicants Ryan Adams, Suzanne Greive, Emmett Hoyt, and Paul M. Smith.

No action was taken.

### ADJOURNMENT TO COUNCIL MEETING

The Special Meeting was adjourned at 6:55 p.m.

### CALL TO ORDER

Mayor McGilton called the meeting of the Burien City Council to order at 7:00 p.m.

### PLEDGE OF ALLEGIANCE

Mayor McGilton led the Pledge of Allegiance.

### ROLL CALL

Present: Mayor Joan McGilton, Deputy Mayor Brian Bennett, Councilmembers Rose Clark, Lucy Krakowiak, Gerald F. Robison, and Gordon Shaw. Councilmember Jack Block, Jr. was excused.

Administrative staff present: Mike Martin, City Manager; Craig Knutson, City Attorney; Kim Krause, Finance Director; and Monica Lusk, City Clerk.

## **AGENDA CONFIRMATION**

### **Direction/Action**

**Motion** was made by Deputy Mayor Bennett, seconded by Councilmember Krakowiak, and passed unanimously to affirm the May 2, 2011, Agenda.

## **PUBLIC COMMENT**

Kathy Keene, 14208 6<sup>th</sup> Avenue South, Burien  
Former Councilmember Keene stated she was relocating and thanked the Council, staff, and residents for the support she received while she was on the Council

## **CORRESPONDENCE FOR THE RECORD**

- a. Email Dated April 6, 2011, from John McWilliams Regarding Ambaum Construction.
- b. Email Dated April 26, 2011, from Jean Carlson, Volunteer Publicist for League of Women Voters of Greater Seattle, Regarding May 5 Forum "Smart Transportation Choices."

## **CONSENT AGENDA**

- a. Approval of Vouchers: Numbers 28153 - 28270 in the Amounts of \$1,694,844.98.
- b. Approval of Minutes: Council Meeting, April 25, 2011.

### **Direction/Action**

**Motion** was made by Deputy Mayor Bennett, seconded by Councilmember Krakowiak, and passed unanimously to approve the May 2, 2011, Consent Agenda.

## **BUSINESS AGENDA**

### **Recognition of 2011 New Futures Scholarship Nominees & Recipients**

Mario Paredes, New Futures Executive Director, spoke to the scholarship program. The following Youth Program Coordinators and the recipients of the 2011 Scholarship Awards introduced themselves:

#### **The Heights at Burien**

*Youth Program Coordinator: Steven Ono*

*Award Winner* Israel Salmeron (11<sup>th</sup> grade, Highline High School)

#### **Arbor Heights**

*Youth Program Coordinator: Elsie Gutierrez*

*Award Winner: Cesilia Arciga* (9<sup>th</sup> grade, Arts and Academics School- Evergreen campus)

#### **Windsor Heights**

*Award Winner: Monica Mendez* (11<sup>th</sup> grade, Global Connections High School - Tye Educational Complex)

#### **Woodridge Park**

*Youth Program Coordinator: Katie Mason*

*Award Winner: Ashley Vennes* (8<sup>th</sup> grade, Chinook Middle School)

### **Overview of the King County Metro Strategic Plan for Public Transportation**

David Huss, KC DOT/Transit/SD-Service Planning Supervisor, spoke to the regional guidance and challenges, future vision for public transportation, the goals and how they will be delivered, service guidelines and what they will identify, the application of the service guidelines, and the strategic plan process with proposed timeframe.

Deputy Mayor Bennett left the dais at 7:11 p.m. and returned at 7:13 p.m.

Deputy Mayor Bennett left the dais at 7:20 p.m. and returned at 7:21 p.m.

**Follow-up**

Staff will distribute to the Council the PowerPoint presentation given by Mr. Huss.

**Update on North Burien – 1 Year Later**

Kim Krause, Finance Director, reviewed the North Burien revenue and expenditures in the General Fund.

Craig Knutson reviewed the code enforcement cases.

Scott Kimerer, Burien Police Chief, provided an overview of the police services comparing a one year period for pre-annexation and post-annexation including response times.

Renee Walls, Burien Prosecutor, reviewed the pre-annexation and post-annexation misdemeanor case statistics.

**COUNCIL REPORTS**

**Follow-up**

Staff will notify the Council when the next Hazardous Waste Collection event will take place.

**ADJOURNMENT**

**Direction/Action**

**MOTION** was made by Deputy Mayor Bennett, seconded by Councilmember Krakowiak and passed unanimously to adjourn the meeting at 8:21 p.m.

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Joan McGilton, Mayor

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Monica Lusk, City Clerk



**CITY OF BURIEN  
AGENDA BILL**

<b>Agenda Subject:</b> Discussion of Dept. of Ecology's Response to Burien's Shoreline Master Program		<b>Meeting Date:</b> May 9, 2011
<b>Department:</b> Community Development	<b>Attachments:</b> 1-Letter from Ecology A-Findings & Conclusions B-Required Changes (with draft City responses) C-Suggested Changes (with draft City responses) D-Responsiveness Summary 2-Draft Transmittal Letter	<b>Fund Source:</b> N/A <b>Activity Cost:</b> N/A <b>Amount Budgeted:</b> N/A <b>Unencumbered Budget Authority:</b> N/A
<b>Contact:</b> David Johanson, Senior Planner		
<b>Telephone:</b> (206) 248-5522		
<b>Adopted Initiative:</b> Yes <input checked="" type="checkbox"/> No	<b>Initiative Description:</b> Shoreline Master Program	
<p><b>PURPOSE/REQUIRED ACTION:</b> The purpose of this agenda item is for Council to review and discuss the attached letter from the Dept. of Ecology regarding Burien's Shoreline Master Program. Council action is tentatively scheduled for May 23, 2011.</p> <p><b>BACKGROUND (Include prior Council action &amp; discussion):</b> On Sept. 27, 2010, the City Council passed Resolution 317 approving Burien's Shoreline Master Program. The SMP was then submitted to Ecology for review. Ecology held a public hearing on the SMP on Dec. 8, 2010. Ecology approved the SMP with required changes (Attachment B) on April 22, 2011 (letter mailed to the City on April 27, 2011). Ecology also suggested some optional changes (Attachment C). Council action responding to the letter must be taken by May 27 (within thirty days after the department mails the written findings and conclusions to the local government). [WAC 173-26-120(7)(b)]</p> <p>Among other changes, Ecology is requiring a 50' marine riparian buffer plus 15' building setback from the buffer. The City's approved SMP had a 20' marine riparian buffer with no additional setback.</p> <p>Staff has reviewed Ecology's required and suggested changes, and added draft City responses to each item in Attachments B and C. Attachment 2 is a draft letter transmitting the City's responses as an alternative proposal.</p> <p><b>OPTIONS (Including fiscal impacts):</b> Pursuant to WAC 173-26-120(7)(b) the City's options are:</p> <ol style="list-style-type: none"> <li>1. Agree to the proposed required changes (Attachment B) and any appropriate suggested changes (Attachment C).</li> <li>2. Submit an alternative proposal. If Ecology finds the alternative is consistent with the purpose &amp; intent of the required changes, as well as the policy of RCW <a href="#">90.58.020</a> and applicable guidelines, it can approve the alternative. However, if Ecology determines the alternative is not consistent with the purpose and intent of the required changes, they may either deny the alternative or at the request of the City restart the review and approval process.</li> </ol>		
<b>Administrative Recommendation:</b> Review and discuss Ecology's letter and attachments. Provide direction to staff to prepare an alternative proposal as discussed above.		
<b>Committee Recommendation:</b> N/A		
<b>Advisory Board Recommendation:</b> N/A		
<b>Suggested Motion:</b> None required.		
Submitted by: David Johanson <b>Administration</b> _____	Mike Martin <b>City Manager</b> _____	
<b>Today's Date:</b> May 4, 2011	<b>File Code:</b> \\File01\records\CC\Agenda Bill 2011\050911cd-1 Shoreline Master Program.docx	





RE ATTACHMENT I

APR 29 2011

CITY OF BURIED

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 22, 2011

The Honorable Joan McGilton, Mayor  
City of Burien  
400 Southwest 152<sup>nd</sup> Street, Suite 300  
Burien, WA 98166

**Re: City of Burien Comprehensive Shoreline Master Program Update  
Resolution 317**

Dear Mayor McGilton:

I would like to take this opportunity to commend the city of Burien (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) Update.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) approves this comprehensive SMP update, subject to required changes detailed in Attachment B. Suggested changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are enclosed as Attachment A. Also enclosed is a Responsiveness Summary for Public Comments as Attachment D.

Since most of Burien's shorelines are already developed, the status of existing residences under the updated SMP regulations is understandably a key issue for the community. We concur with the City that legally pre-existing residences should be considered "conforming" structures. We also agree that the SMP should protect the homeowner's ability to repair and maintain their properties.

However, the City's proposal for a narrow 20-foot buffer is a significant concern for Ecology. This narrow buffer would allow significant numbers of existing residences to expand closer to the shoreline. Our SMP revisions in Attachment B are based on the approach developed by the Burien Planning Commission (50-foot buffer plus 15-foot setback, with allowance for "common line" setbacks; and a review process for expansions of existing residences.) From our perspective, these provisions will protect the interests of both residents and shoreline habitat.

Because required changes are involved in this proposed SMP, the amendment will not become effective until Ecology receives written notice that the City agrees to the changes<sup>1</sup>. Receipt of the City's written agreement to the required changes will constitute final action by Ecology approving the Burien SMP comprehensive update.

<sup>1</sup> WAC 173-26-120(7)(b)(i)



If you wish to propose alternative SMP language to the changes listed in Attachment B, then pursuant to WAC 173-26-120(7)(b)(ii), you may propose to Ecology alternative amendments where they are consistent with the scope of the original submittal, SMA policy and the applicable guidelines. At that point, Ecology will need to review and approve the alternative amendment(s) before they become effective.

To summarize, please advise us whether the required and recommended changes are acceptable. If the City agrees with the changes, please notify Ecology in writing by sending the notice to the Director's Office at the following address:

WA State Department of Ecology  
Attention: Director's Office  
PO Box 47600  
Olympia, WA 98504-6700

Thank you again for your efforts. If you have any questions, please contact our Regional Planner, Bob Fritzen, at [Bob.Fritzen@ecy.wa.gov](mailto:Bob.Fritzen@ecy.wa.gov)/(360) 715-5207.

Sincerely,



Ted Sturdevant  
Director

Enclosures

**By certified mail [7003 1010 0005 0569 1512]**

cc: Bob Fritzen, Department of Ecology  
Scott Greenberg, City of Burien  
David Johanson, City of Burien  
Peter Skowlund, Department of Ecology  
Geoff Tallent, Department of Ecology

## ATTACHMENT A: FINDINGS AND CONCLUSIONS

AMENDMENTS TO THE CITY OF BURIEN'S  
SHORELINE MASTER PROGRAM  
SUBMITTED TO THE DEPARTMENT OF ECOLOGY AS RESOLUTION 317**Brief Description of Proposed Amendments:**

The City of Burien (City) has submitted to the Department of Ecology (Department) a comprehensive update of its shoreline master program (SMP). The City is adopting the Critical Areas Ordinance (CAO) as part of the SMP by direct reference. The CAO was originally adopted as Ordinance 394, BMC 19.40, on October 20, 2003, and utilized Best Available Science. In order to be consistent with Chapter 173-26 WAC - *Part III Guidelines*, (Guidelines) and the no net loss of ecological functions standard, some changes were required.

**FINDINGS OF FACT**

**Need for Amendment:** The City currently uses an older version of King County's SMP hence a tailored set of policies and regulations are needed. The proposed update is required to bring the SMP into compliance with RCW 90.58.080 -- *Timetable for local governments to develop or amend master programs* and the most recent standards for SMPs as set forth in the Guidelines.

**Amendment History, Review Process:** The data shows that the City's developed shorelines consist almost entirely of single, family, residential homes. Roughly 5-miles of marine shorelines exist, a little over a mile of which is City park. The marine shorelands consist of a mix of high density homes and undeveloped, steep slopes. Few lots are completely undeveloped. Lake Burien is roughly 1.5-miles of shoreline surrounded by single family homes with the exception of a single parcel currently utilized as a children's center.

The City began its SMP update in late 2007 through a grant from the Department. The record shows numerous Citizen Advisory Committee meetings and public workshops conducted by the Citizen Advisory Committee, Planning Commission and City Council between March 2008 and September 2010.

The record shows that a SEPA Final Environmental Impact Statement Addendum was issued on April 9, 2010. The State of Washington Department of Commerce (Commerce) received the shoreline master program materials on April 12, 2010, for the required 60-day review period. In a letter dated April 13, 2010, Commerce indicated that it had received the document and had forwarded notice of the City's actions to other state agencies.

The Burien Planning Commission recommended approval of the SMP at its March 30, 2010, meeting. The Burien City Council adopted the SMP on September 27, 2010, through Resolution 317. The Resolution references Exhibit A which is the City's SMP comprised of Chapters I through VI which includes the Shoreline Environment Designation Map – 20.25.025 Figure 3 and Critical Areas Ordinance BMC 19-40 (Ordinance 394, adopted October 20, 2003).

The proposed SMP amendment was received by Ecology for state review and approval on October 19, 2010. The submittal was verified as complete on October 21, 2010.

Along with interested parties identified by the City, notice of the state comment period was distributed to state task force members and other interested parties on November 2, 2010, in compliance with the requirements of WAC 173-26-120 – *State process for approving/amending shoreline master programs*. The state comment period began on November 5, 2010, and continued through December 17, 2010.

Ecology held a public hearing at the Burien City Hall to seek input on the proposed amendments. Notice of the hearing, including a description of the proposed amendment and the authority under which the action is proposed, the times and locations of the hearings, and the manner in which interested persons may obtain copies and present their views was provided in the Seattle Times, the City's official newspaper of record.

Over fifty individuals or organizations submitted comments on the proposed amendments during the state comment period. Ecology sent a summary of the comments to the City on January 5, 2010. The City subsequently submitted to Ecology its responses to issues raised during the state comment period on February 18, 2011.

**Consistency with Chapter 90.58 RCW:** The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending an SMP contained in RCW 90.58.090.

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

**Consistency with SEPA Requirements:** The City issued a SEPA addendum on April 9, 2010, consistent with WAC 197-11-600. The preparation and notice of addenda was done in accordance with WAC 197-11-625.

**Summary of Issues Raised During The Public Review Process:**

Nonconforming structures, buffers and public access were among the list of concerns expressed by citizens.

Nonconforming structures and buffers: The SMP development process initially proposed a marine, shoreline buffer of 50-feet with a 15-foot setback for single family homes and most accessory structures. The distance was based primarily on information found in “*Protecting Nearshore Habitat and Functions in Puget Sound, an Interim Guide*” – EnviroVison et al., October 2007, (Revised June 2010) and analysis of the existing development pattern. The 50-

foot buffer was determined to be a reasonable balance between the distances of existing primary structures from the shoreline with the science for protecting the remaining ecological functions. It should be noted that the submitted SMP includes a 150-foot "vegetation conservation buffer". This buffer allows new development and redevelopment while regulating the removal of vegetation through a vegetative management plan. Among other things, the regulations state that the management plan should place an emphasis on mitigation that revegetates the first 20-foot adjacent to the ordinary high water mark (OHWM) with native vegetation.

The 50-buffer with 15-setback was advanced by both the citizen Shoreline Advisory Committee and Burien Planning Commission. Allowances were included in the SMP for the reduction of this distance through a common line setback up to 20-feet in areas where density is the highest and homes are closest to the shoreline. Provisions were also created that utilized conditional use and variance permits to reduce the buffer/setback. During the review stage by the City Council, concern was expressed by property owners that homes made nonconforming because of the buffer/setback would lose their value, be difficult to sell and the possibility of expansion or to rebuild questionable. Ultimately the City Council directed staff to reduce the buffer from 50-feet to 20-feet consistent with the existing 20-foot marine setback, and eliminate the proposed 15-foot setback to the buffer. At the same time the City chose to make all legal use and development conforming.

The justification for the 20-foot buffer is based on the development pattern expressed in data collected by the Burien Marine Homeowners Association (BMHA) and a memorandum by their consultant Cedarock Consultants, Inc. "*The Use of Science to Develop Marine Buffer Recommendations in Burien*", June 4, 2010. The BMHA reports essentially argue for a smaller buffer based on the number of homes that would be made nonconforming and the existing development waterward of the homes. Generally, the BMHA science report questions the science used to determine the 50-foot buffer, offers options for improving habitat other than use of buffers, and discusses "no net loss". BMHA also hired attorneys GordonDerr who argued in support of the 20-foot buffer and against the 50-foot buffer and setback in a letter dated December 17, 2010.

Ecology does not dispute the accuracy of the data collected by the BMHA. Ecology appreciates the work that was done by the group. BMHA's own detailed studies (*A Review of the Grette Associates / Reid Middleton Shoreline Analysis*) show that the average setback of existing homes is approximately 58-feet for the residential, marine areas. Recognizing that this number is skewed by homes that might otherwise be closer to the shoreline due to steep slopes or roads, and again using BMHA's information (*Setback Evaluation of the Burien marine Shoreline*), approximately 47% of existing homes are between 20 and 100-feet from the ordinary high water mark, 15% between 50 and 100, all of which are unencumbered by steep slopes or roads between the house and shoreline. Less than 20% of the existing homes are between 0 and 20-feet from the OHWM. At the same time it appears that the only science behind the 20-foot buffer is based on a Cedarock's argument that the science for a 50-foot buffer is not applicable to Burien because it is based on work done on streams and rivers in native forests and that not all the ecological functions that are generally addressed exist in Burien. See Docket Number 38017-0,

Kapo, Et Al, Appellants V Central Puget Sound Growth Management Hearings Board, Respondents, published opinion for a rebuttal of this argument.

Burien's residential, marine shoreline is highly developed. It is intermixed with areas of minimal to moderate habitat value. The BMHA data shows that out of 293 waterfront properties, there are only 11 vacant properties adjacent to the OHWM, most of which are influenced by steep slopes. Even in this urbanized setting, the science supports buffers and setbacks that remove sedimentation and contaminants, protect existing vegetation, and provide for revegetation thus improving ecological functions. There are numerous opportunities to manage runoff and provide critical shoreline vegetation as development and redevelopment occur that address the ranges presented by scientific standards as established in the EnviroVison report and others (Futurewise document "*Making Small Shoreline Buffers Work with Buffer Science*" working draft – November 2009 – Updated March 2010. "*Protection of Marine Riparian Functions in Puget Sound, Washington*", Brennan et al, June 15, 2009.), all of which translates into protection of ecological function consistent with Ecology's Guidelines.

Besides better addressing the scientific standards, the 50-foot buffer allows more opportunity for mitigation, restoration, esthetics and alternatives to flat walled bulkheads or the need for a bulkhead at all. The larger buffer recognizes Burien's shorelines as critical habitat to endangered salmonid (*NOAA Fisheries NW Region Critical Habitat Designations for West Coast Salmon and Steelhead in Washington – August 2005*). It provides better protection from storm damage. A 20-foot buffer with no setback would allow all new and expanded homes, including appurtenant structures, to be built within 20 feet of the shoreline. This would bring more development closer to the shoreline and affect any existing buffer functions leaving little room for mitigation or options for bulkheads while intensifying the disturbance to remaining nearshore aquatic and terrestrial wildlife. Mitigation is necessary to achieve no net loss of ecological functions by improving functions that are continually impacted by existing development. The 15-foot setback protects the buffer and at the same time allows for some development. The 15-foot setback is also supported by the critical areas regulations Section 19.40.230(2) adopted as part of the SMP by the City Council.

Public Access: Lake Burien home owners have been stewards to the lake long before the City of Burien was established. Relative to other similarly developed lakes, it is in good health and provides significant habitat value. Home owners have presented evidence demonstrating the threat of invasive species such as milfoil to the lake. While there is currently no public access to the lake, there is a possibility that it could exist in the future, primarily as a part of redevelopment of one particular lot. As a result, language was adopted in the Recreation section of the SMP that prohibits the launching of watercraft from any future public access site on the lake.

Home owners and their friends currently use various types of watercraft on the lake which is considered waters of state. The SMP prohibits gas engines on the lake. The Public Access section of the SMP promotes appropriate public access, both visual and physical, as is required by Shoreline Management Act (SMA - Chapter 80.58 RCW) and Guidelines (WAC 173-26 Part

III). The section also requires consideration of protection of private property, public health, and the environment when allowing public access. Environmentally safe watercraft access by the public has not been shown to be impossible. As an example, a city park could provide canoe rentals that did not leave the lake. This is consistent with the statements made by representatives of lake homeowners that their boats do not leave the lake hence have kept out invasive species. Rentals would also control hours of public use on the water.

### **CONCLUSIONS OF LAW**

The City of Burien's updated shoreline jurisdiction does not include expanded jurisdiction necessary for buffers of critical areas within shorelines of the state (RCW 90.58.030(2)(f)). Therefore, as required by RCW 36.70A.480(6), those critical areas and their buffers not within shoreline jurisdiction as defined by RCW 90.58.030(2.d. or 2.d.i.) shall be regulated by the City's Critical Areas Ordinance.

The review of the record indicates that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

The review of the record indicates that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

The review of the record indicates that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes and government agencies.

The review of the record indicates that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

The City's amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110.

Ecology has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

The record submitted indicates that the City's SMP proposal is not fully consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP Guidelines (WAC 173-26-171 through 251 and .020 definitions). Based on the provisions of RCW 90.58.090, Ecology is required to provide specific changes necessary to make the proposal approvable. Therefore, if the following Attachment "B" (required changes) is accepted by the City, the proposal will be determined consistent with the policy and provisions of RCW 90.58 and the applicable Guidelines. Attachment "C" contains a number of "suggested" changes proposed by either the City or Ecology. With required changes contained in Attachment B and

consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within SMA jurisdiction provide a level of protection to assure no net loss of shoreline ecological functions. In particular, the locally adopted 20-foot marine buffer cannot be approved by Ecology. The record provides little or no evidence that the proposed 20-foot buffer is supported by evaluation of the most current, accurate, and complete scientific and technical information, sufficient to achieve no net loss of shoreline ecological functions. Even in developed shoreline areas, ecological functions remain that require protection not afforded by such a limited buffer, including water quality maintenance, fine sediment control, woody debris recruitment, microclimate moderation, nutrient delivery and retention, fish and wildlife habitat, and slope stability. Existing development does not preclude any opportunity for mitigation or restoration otherwise provided by the originally proposed 50-foot buffer with a 15-foot setback. There is no evidence provided that a 20-foot buffer with no setback will achieve no net loss of ecological functions as homes are expanded and rebuilt waterward over time. While it may be true that some areas of the shoreline possess limited existing functions and allowances are made for this through the proposed common-line setback option, there are also other areas that require greater standards of protection in order to maintain and restore ecological functions based on recognized scientific literature in order to achieve the required no net loss of ecological functions standard.

Ecology further concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of SMA policy. The record shows that the implementing policies and regulations, as well as the shoreline environment designations, are based on the inventory, characterization and analysis.

#### **DECISION AND EFFECTIVE DATE**

Ecology has required a number changes as indicated in Attachment "B". Ecology has also provided a number of suggested changes listed in Attachment "C". Based on all preceding records, Ecology has determined the proposed amendments, with required changes, are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth herein are approved by the City. Ecology approval of the proposed amendments with required changes is effective on the date on which Ecology receives written notice that the City has agreed to the required changes. This will represent the City's and Ecology's final action regarding the proposed SMP update.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required or suggested by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58 and associated rules, then Ecology shall approve the alternative proposal and that action shall be the final action on the amendment.

**ATTACHMENT B: REQUIRED CHANGES**

**INCLUDING CITY OF BURIEN DRAFT RESPONSES**

**CITY OF BURIEN SHORELINE MASTER PROGRAM  
COMPREHENSIVE REWRITE**

Resolution No. 317

All changes are required. As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes required by Ecology.

Added text is underlined. Removed text is ~~struck~~. Ecology’s explanatory statements are in *italics*. Roman numeral subscripts *i* are used in the permit matrix to reference Ecology’s comments and not part of a required change. Shading is added in some areas to enhance readability where no changes are being made to the text.

**City of Burien Responses**

**ABCDE** – denotes no objection

**ABCDE** – denotes agreement but with modifications

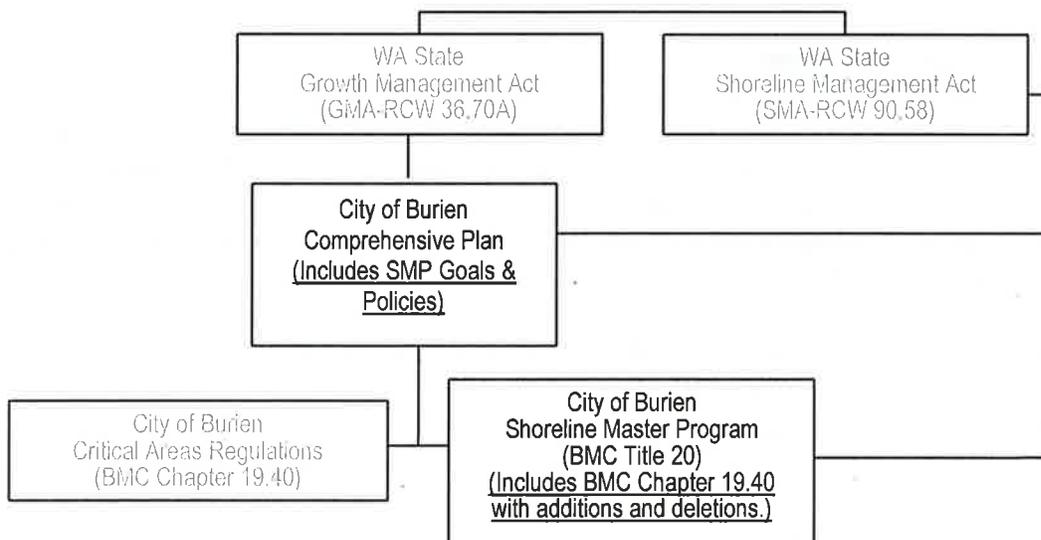
**ABCDE** – denotes disagreement

**Chapter I. User’s Guide**

**20.10.001 Overview of State Shoreline Management Act**

In 1995, the Legislature amended the Growth Management Act (GMA) and the Shoreline Management Act (SMA) to partially integrate the two statutes. The amendments incorporated the goals and policies of the SMA as the 14<sup>th</sup> goal of the GMA, specifically designating the goals and policies of a local shoreline master program as a segment of the jurisdiction’s development regulations comprehensive plan. All other portions of the SMP shall be considered a part of the jurisdiction’s development regulations (RCW 36.70A.480). The diagram below indicates the relationship.

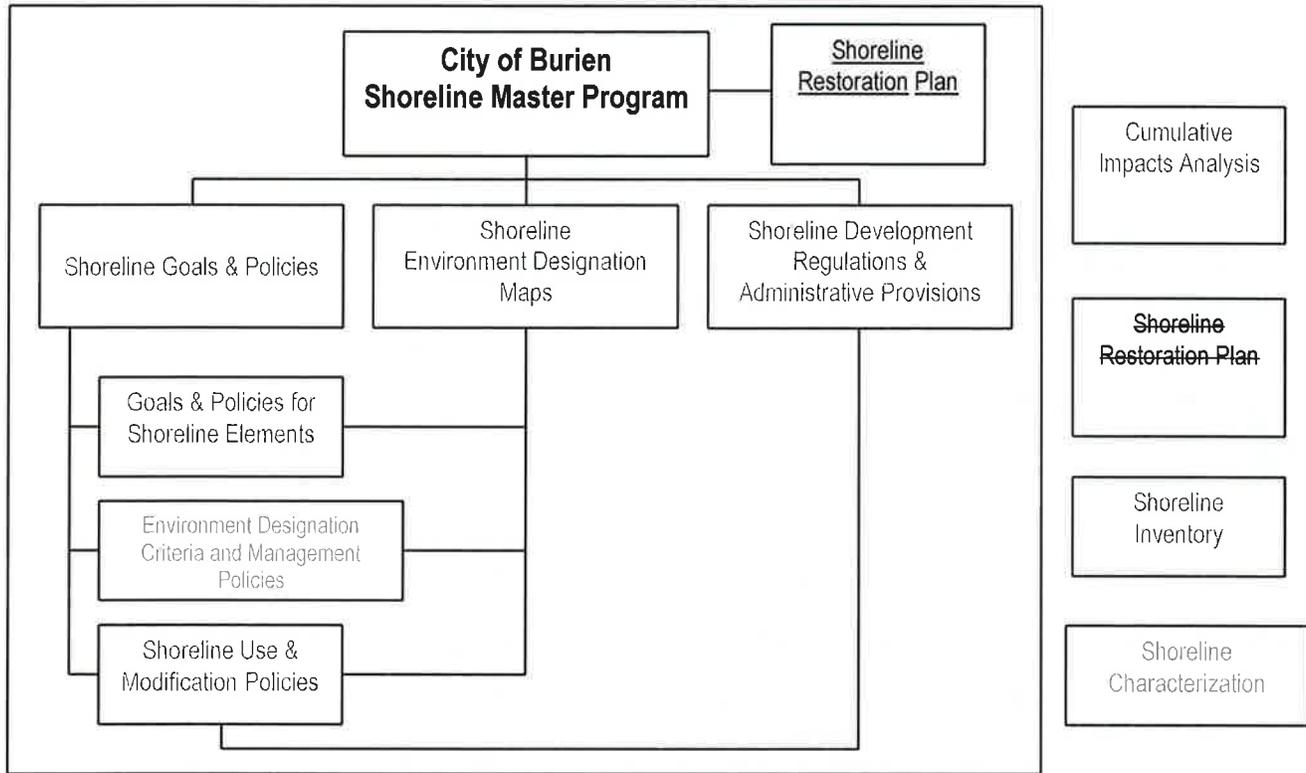
**Figure 1: Relationship of Shoreline Master Program to GMA**



*The changes are required in order to be consistent with RCW 36.70A.480 – Growth Management, Shorelines of the State.*

**City Response:** No objection to the change.

**Figure 2: Structure of City of Burien Shoreline Master Program**



*The Shoreline Restoration Plan is part of the SMP per RCW 173-26-186(8.c).*  
**City Comment:** No objection to the change.

**Chapter II. General Goals and Policies**

**20.20.035 Conservation Element**

Pol. CON 3 The City of Burien’s Critical Areas Map shall be used as a reference for identifying the City’s critical areas. Other unmapped critical areas do exist throughout the City. Any site containing critical areas within shoreline jurisdiction are subject to the special development regulations and conditions found in the ~~City’s Critical Areas Ordinance~~ this shoreline master program.

*These changes add clarification and are required in order to comply with RCW 36.70A.480(3.b.) – the transfer of critical area protection to the SMP.*

**City Response:** No objection to the changes.

## Chapter III. Shoreline Environment Designations

### 20.25.015 Urban Conservancy

#### 2. Criteria for Designation

An “Urban Conservancy” environment designation is assigned to areas within shoreline jurisdiction that are suitable for public access, water-enjoyment recreational uses and active recreation developments. These are areas that are developed at a low density including residences and outdoor recreation. The Urban Conservancy environment is bounded on the north by the northern end of Seahurst Park and on the south by the southern end of Eagle Landing Park.

### 20.25.020 Shoreline Residential

#### 2. Criteria for Designation

A Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development. These are areas that are developed at a moderate density or intensity including residences and outdoor recreation. Low intensity institutional uses may be allowed if their impacts on the shoreline environment are mitigated. The Shoreline Residential environment includes all shorelands from the northern city limits to the north end of Seahurst Park, from the southern end of Eagle Landing Park to the southern city limits, and all of Lake Burien.

*These changes are required per WAC 173-26-211(2.b.) - Common boundary descriptions.*

**City Response:** No objection to the changes.

## Chapter IV. Shoreline Uses and Modifications Policies and Regulations

### 20.30.001 Figure 4 Shoreline Permit Matrix

Type of Shoreline Permit Required for New Shoreline Uses and Modifications*			
	Shoreline Environment Designations (Please see Chapter 20.25 for shoreline designation descriptions and section 20.25.025 Figure 3 for a map showing the locations of each designation)		
	Shoreline Residential	Aquatic	Urban Conservancy
Aquaculture	X	CU <sup>1</sup>	X
Boat Mooring Buoy	N/A	P <sup>3</sup>	N/A
Boat Ramp	X	X	X
Boat House (covered moorage)	X	X	X
<b>Shoreline Stabilization Structures <sub>i</sub></b>			
• Breakwater & other in-water structures	N/A	X <sup>6</sup> <sub>vii</sub>	N/A
• Bulkheads	SDP <sup>4</sup>	CU	SDP <sup>4</sup>
• Upland Structures (retaining walls and bluff walls) <sub>i</sub>	SDP	N/A	SDP
Personal Wireless Service Facility	CU	N/A	X
Community Beach	CU	CU	X
Community residential facility	CU	X	X
Docks, Piers and Floats	CU	CU	CU
Docks, Piers and Floats-Residential	SDP <sup>5</sup>	SDP <sup>5</sup>	X
Dredging	N/A	X	N/A
Fill <sup>2</sup>	X	X	X
Floating home	N/A	X	N/A
Flood protection	SDP	SDP CU <sub>vi</sub>	SDP
Forestry (clearing)	CU	N/A	CU
Grading	CU	N/A	CU
Government facility	SDPCUP <sub>ii</sub>	X	SDPCUP <sub>ii</sub>
Habitat Enhancement or Restoration	SDP	SDP	SDP
Industrial & Ports	X	X	X
Jetty	X	X	X
Mining	X	X	X
Office	X	X	X
Public park and recreation facilities	SDP	X SDP <sub>ix</sub>	SDP
Recreation	SDP	SDP	SDP
Residential - Single family**	SDP <sup>8</sup> <sub>viii</sub>	N/A X <sub>v</sub>	SDP <sup>8</sup> <sub>viii</sub>
Residential - Multi family	SDP	N/A X <sub>v</sub>	CU
<b>Retail Commercial Use and Development <sub>iii</sub></b>	X <sup>7</sup> <sub>iii</sub>	X	X <sup>7</sup> <sub>iii</sub>
Schools	CU	N/A	CU
Transportation Facilities & Parking	SDP	X	SDP
Utilities	SDP	CU	SDP

SDP Shoreline substantial development permit (City Decision) – See Chapter 20.35 for specific procedures

- CU Shoreline conditional use permit (Requires a Department of Ecology Decision if locally approved.) – See Chapter 20.35 for specific procedures. A SDP may also be required. iv
- X Prohibited
- N/A Not applicable
- 1 Prohibited in critical saltwater habitats and Lake Burien
- 2 Allowed if necessary to construct a permitted use
- 3 Private mooring buoys are exempt from the shoreline substantial development permit process but shall comply with BMC 20.30.090[Recreational Mooring Buoys] which prohibits mooring buoys on Lake Burien. ix
- 4 Construction of the normal protective bulkhead common to single-family residences must comply with BMC 20.30.070 [Bulkheads and other shoreline stabilization structures] but is not required to obtain a substantial development permit.
- 5 Construction of a dock, pier, or float that is below the substantial development threshold set forth in RCW 90.58.030[3e.iv] [Definitions and concepts, “substantial development”] shall be exempt from the Shoreline Substantial Development Permit process, but shall comply with all other applicable sections of this master program.
- 6 Allowed only for protection or restoration of ecological functions. vii
- 7 B & B’s are allowed in the Shoreline Residential environment (Section 20.30.095). Limited commercial recreation activities are allowed in Seahurst Park (Section 20.30.085). iii
- 8 A conditional use permit is required for construction within the riparian buffer or setback that is not waterward of the existing home. A variance is required for any development waterward of the existing home within the buffer or setback. This does not apply to the common line setback option. viii

\* Shoreline uses not listed in the matrix above are subject to a shoreline conditional use permit.

\*\* Exempt from shoreline substantial development permit requirements if this is for construction of only one detached unit built by an owner, lessee, or contract purchaser who will be occupying the residence, in accordance with WAC 173-27-040(g)[single-family residential exemption], as amended.

i “Shoreline Stabilization Structures” and other additional language is necessary to be consistent with Section 20.30.070 – “Bulkheads and Other Shoreline Stabilization Structures”. The section includes retaining walls and bluff walls as shoreline stabilization structures making it necessary to distinguish between in-water and upland structures. SDPs for the upland structures are consistent with the use section of the SMP.

**City Response:** Agree that distinguishing between in water and upland structures is good and it improves clarity, however a SDP may not be necessary if associated with a SFR. It may be appropriate to add this symbol “\*\*\*” to indicate that it may not be subject to a SDP.

ii The SMP contains no policies, regulations or definition for government facilities. Government facilities may or may not be a preferred use in shorelines. The City states in the Responsiveness Summary that the SDP is consistent with the zoning code and was specifically included in the Urban Conservancy to ensure some existing uses would not become nonconforming. Although useful for determining intent, the zoning code is not based upon SMA policy or Guideline provisions and is not part of the SMP. A CUP is required until the City adopts appropriate policies and regulations as part of the SMP to ensure consistency with the provisions of the SMA.

**City Response:** No objection to the change.

iii The Recreation and Residential Sections of the SMP allows for B & B’s and limited commercial recreation and must be correctly reflected in the matrix.

**City Response:** No objection to the change.

iv WAC 173-27-200 requires local government to make a decision on conditional use permits. Some developments that require a CUP may also require a SDP.

**City Response:** No objection to the change.

v Required by WAC 173-26-241(3.j.) – New overwater homes are not permitted.

**City Response:** No objection to the change.

vi A flood protection structure in the Aquatic environment is the same as a bulkhead and needs a CUP consistent with the bulkhead CUP requirement.

**City Response:** No objection to the change.

vii Required by WAC 173-26-231(3.a.iii.B.IV.) – provisions for specific shoreline modifications.

**City Response:** No objection to the change.

viii This is consistent with Section 20.30.095(2.c.) which allows for greater flexibility for the expansion of single family homes and at the same time ensuring not net loss of ecological functions.

**City Response:** Required text is not consistent with Section 20.30.095(2.c). Text in this section should be consistent with Section 20.30.095(2.c) as amended below.

ix Recreational mooring buoys are specifically allowed in Section 20.30.090 except in Lake Burien.

**City Response:** No objection to the change.

## 20.30.007 Existing Development

1. **Existing Single-Family Homes, Appurtenances, and Other Existing Structures.** Single-family homes, appurtenances and other structures that were legally established by \_\_\_\_\_ (effective date of this SMP) are considered to be conforming to the SMP. Any addition, expansion or reconstruction beyond the existing footprint of the single-family home, appurtenance or other structure must comply with the SMP. Replacement of any portion of any structure ~~in the Aquatic shoreline designation~~ shall comply with the SMP requirements for materials that come in contact with the water pursuant to 20.30.045 [2.b][Water Quality, Storm Water and Nonpoint Pollution].

*The deleted language is consistent with Section 20.30.045 and is necessary to achieve “no net loss” since banned or improper use of treated wood may also leach into surface and ground water in upland areas.*

**City Response:** No objection to the change, however it should be clarified that the term “water” in the last sentence, refers to the actual water body (Puget Sound, Lake Burien).

## 20.30.025 Critical Areas

### 2. Regulations

- a. BMC 19.40—Critical areas (City of Burien Ordinance 394, adopted October 20, 2003) has been reviewed for consistency with Chapter 90.58 RCW and WAC 173-26 and shall apply to the shoreline jurisdiction with the following exceptions:

*This is a statement of fact required by RCW 36.70A.480, the Shoreline Management Act and Guidelines.*

**City Response:** No objection to the change.

- i. “Reasonable use exemptions” contained in BMS 19.40.070(1), (2) & (3) apply only to the critical areas provisions and are not exemptions from substantial development permits. The reasonable use ~~provisions-exceptions~~ contained in BMC 19.40.070 (3) & (4) do not apply and are not considered part of the SMP.

*The changes are required in order to be consistent with WAC 173-27-040 (Exemptions from Substantial Development Permits) and 173-27-170 (Review Criteria for Shoreline Variance Permits).*

**City Response:** There is a typo in the first sentence, replace BMS with BMC. There are no reasonable use exceptions in BMC 19.40.070(1, 2 & 3). The City suggests the following language

“Reasonable use The exemptions and exceptions contained in BMC .....

The exempt activities section (BMC section 19.40.070[2]) specifically states that alterations may not be exempt from other city, state or federal permit requirements or regulations.

Subsection (3) contains exceptions for utilities and allows utilities to be located in critical areas. Without this section utilities may not be allowed in critical areas such as geologic hazardous areas, streams, or wetlands. There is a specific review process for an agency to obtain an exception which includes SEPA review and requires a review based on specific criteria. Actions would not be exempted from SMA review. In addition, utilities are not prohibited by the proposed SMP and require either a SDP or a CU permit. The section should read as follows;

The exemptions and exceptions contained in BMC 19.40.070(1), (2) & (3) apply only to the critical areas provisions and are not exemptions from substantial development permits. The reasonable use ~~provisions-exceptions~~ contained in BMC 19.40.070 (3) & (4) do not apply and are not considered part of the SMP.

- iii. Sections 19.40.290(3.B.iii.) and 19.40.310(2.H.v.) shall require a shoreline variance permit.

*The required language is consistent with the purpose and intent of WAC 173-27-170 - Review Criteria for Variance Permits.*

**City Response:** Do not agree with the required changes. BMC 19.40.290(3.B.iii.) allows Geologic hazard area buffer reduction between 0-25 feet and BMC 19.40.310(2.H.v.) requires the applicant to attend an environmental stewardship class if a wetland buffer reduction results in a buffer less than 25 feet. The required changes shown above would now require a shoreline variance when buffer are reduced below the specified widths. The City has adequate regulations and review processes in the existing critical area ordinance providing protection of these critical areas and the associated natural processes.

- iv. Section 19.40.410(2.B) is not part of the shoreline master program. Filling is prohibited in the Aquatic environment per Section 20.30.001 Figure 4.

*The required change is needed to remove conflict between the critical area section and use section of the SMP.*

**City Response:** No objection to the change.

## 20.30.030 Flood Hazard Reduction

The following provisions apply to actions taken to reduce flood damage or hazard, as well as to uses, development and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures such as setbacks, land use controls, wetland

restoration, biotechnical measures, and storm water management. Flood hazard reduction measures may also include structural measures such as ~~the weir at Lake Burien~~, floodwalls, dikes and elevation of structures consistent with the National Flood Insurance Program.

*The background information for the writing of the SMP suggests that this is a means to keep the lake level up rather than to control flooding. (The City concurs in the Responsiveness Summary.)*

**City Response:** No objection to the change.

## 1. Policies

- b. Flood protection structures may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained. Structures that are near and generally parallel to the ordinary high water mark shall be considered a bulkhead and require a conditional use permit consistent with bulkhead regulations.

Definition: Bulkhead means a solid or open pile wall erected generally parallel to and near the OHWM for purposes of protecting adjacent uplands from waves or current action.

*The required language is consistent with a conditional use permit for a bulkhead in the aquatic environment. This eliminates the argument for the type of permit required for bulkhead that is stated to be for flood protection.*

**City Response:** Suggest that there be a reference to 20.30.001, Figure 4 to further clarify the requirement and that it only applies to flood protection structures in the Aquatic Environment. Insert "Flood protection" at the beginning of the second sentence. Note: bulkhead is defined in 20.40.030.

## 2. Regulations

- f. All new shoreline development and uses, including the replacement of a destroyed home, shall be located and designed to prevent the need for shoreline stabilization and structural flood hazard reduction measures for the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and not net loss of ecological functions will result.

*The new language is consistent with Policy 1. It is also required by WAC 173-26-221(2.c.ii.C.) and WAC 173-26-231(3.a.iii.) which address standards for new development and shoreline stabilization. The change also removes any ambiguity of a policy statement using the term "shall" when not backed by a regulation.*

**City Response:** Do not agree with change. The original draft intended to allow the reconstruction of legally established homes. Remove the following section "~~including the replacement of a destroyed home~~". The required change is inconsistent with 20.30.007(1).

- g. New structural flood hazard reduction measures in shoreline jurisdiction are allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development or facilitate restoration projects, that nonstructural measures are not feasible, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss and that appropriate vegetation conservation actions are undertaken consistent with Section 20.30.040.

*The regulation is required per WAC 173-26-221(3.c.ii.) addressing new flood hazard structures.*

**City Response:** No objection to the change.

- h. Flood protection structures may be allowed in shoreline jurisdiction if a shoreline substantial development permit is obtained. In addition, flood protection structures at or near, and parallel to, the ordinary high water mark requires a conditional use permit.

*The required language is consistent with the definition for a bulkhead and is consistent with the CUP requirement for a bulkhead in the Aquatic environment. This eliminates the argument for the type of permit required for bulkhead that is stated to be for flood protection. As a regulation the requirement is unambiguous and supports the policy statement.*

**City Response:** No objection to the change.

## 20.30.035 Public Access

Public access ~~includes both~~ can be either physical access or visual access. Physical access is the ability of the general public to reach, touch, and enjoy the water's edge, ~~to view the water and the shoreline from adjacent locations,~~ and/or to travel on the waters of the state, ~~and.~~ Visual access is to view the water and the shoreline from adjacent locations or access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline.

*The corrections are necessary to be consistent with WAC 173-26-221(4.a.) – Public Access.*

**City Response:** No objection to the change.

## 20.30.045 Water Quality, Storm Water and Nonpoint Pollution

### 2. Regulations

- a. Construction materials that come in continuous, direct contact with surface waters shall not be treated or coated with toxic materials. Untreated wood, precast concrete, plastic or nontoxic alternatives shall be used unless the project proponent demonstrates and the City of Burien building official determines that there is no feasible alternative to toxic treatments that will provide the structural characteristics necessary for the project. Wood products treated with creosote or pentachlorophenol are prohibited on all new structures or repair projects that come in direct contact with water or could leach into surface or ground water.

*The language is required in order to meet the “no net loss” standard. It is also consistent with the State Department’s of Ecology and Fish & Wildlife memorandum of understanding for use of treated wood in the aquatic environment as well as the policies and regulations in the section.*

**City Response:** No objection to the change.

## **20.30.050 Dimensional Standards for Shoreline Development**

The following buffers are based on the City of Burien Shoreline Inventory (Appendix 1), City of Burien Shoreline Analysis and Characterization (Appendix 2), ~~and the City of Burien Shoreline Cumulative Impacts Analysis (Appendix 4), and Supplemental Informational Documents (Appendix 5)~~ reports contained in this shoreline master program. The shoreline riparian buffers, common line building setbacks and vegetation conservation buffers are calculated from the ordinary high water mark ~~or from the landward face of a bulkhead or other shoreline stabilization structure if one is present.~~ Buffer setbacks are measured landward from the outer edge of a buffer. For measurement methods, refer to BMC 19.17[Misc. Use, Development and Performance Standards].

A significant majority of Burien’s marine shorelines are developed with single-family residential structures and appurtenances. Specifically reaches 1, 3 and 4, on the Puget Sound, there are many structures in close proximity to the ordinary high water mark and due to this existing development pattern there is inherent conflicts in applying greater buffer widths while also retaining the ability of residents to continue use and maintain those areas that have been historically used in conjunction with those properties. **The justification for this approach is supported by the documentation found in Appendix 5 of this SMP.**

*As stated in the second paragraph, Appendix 5 is used in the final buffer determination and needs to be included. The setback changes are needed to in order to be accurate and distinguish between buffer setbacks and the common line setback. The change to measurement of the OHWM is required to be consistent with Section 20.30.055(1.) – Shoreline Buffers.*

**City Response:** No objection to the change.

### Figure 5 Dimensional Standards for Shoreline Development

SHORELINE ENVIRONMENT DESIGNATION			
	Shoreline Residential	Urban Conservancy	Aquatic
<b>Marine Riparian Buffer</b> <sup>(3)</sup>	<del>20</del> <u>50</u> ft.	50 ft.	N/A
<b>Building Setback <u>from Buffer</u></b>	<del>0</del> <u>15</u> ft.	15 ft.	N/A
<b>Lake Burien Riparian Buffer</b> <sup>(1)</sup>	30 ft.	N/A	N/A
<b>Building Setback <u>from Buffer</u></b>	15 ft.	N/A	N/A

The required change to a 50-foot marine buffer and 15-foot setback is consistent with the supporting documents including Appendix 5 (see the "Findings and Conclusions" for further discussion). Section 19.40.230(2) also requires a setback to the buffer. The additional language referencing the buffer is needed to distinguish from the common line setback which is measured from the OHWM.

**City Response:** Do not agree to buffer width and setback width changes.

Vegetation Conservation Buffer <sup>(2)</sup>	150 ft.	200 ft.	N/A
<b>Height Limit</b> (see BMC 19.15)	35 ft.	35 ft.	<del>35</del> <u>N/A</u> ft.

A 35-foot height limit in the Aquatic environment is not justified given the allowed uses.

**City Response:** No objection to the change.

Lot Size <sup>(4)</sup> (see BMC 19.15)	RS-12,000 RS-7,200 (Lake Burien)	RS-12,000	N/A
Building Coverage (see BMC 19.15)	35%	30%	N/A

- (1) Consistent with BMC 19.40-critical areas and BMC 20.30.055(1) ~~040(2)(g)~~.
- (2) See BMC 20.30.040 Shoreline Vegetation Conservation for specific requirements.
- (3) For single family residential development, the buffers prescribed in this section may be reduced pursuant to BMC 20.30.095, through the conditional use or variance permit process.
- (4) See BMC 19.17.170 of the zoning code for minimum lot area requirements.

The change to footnote 1 referencing BMC 20.30 is needed to correct an apparent error. As submitted, the referenced section talks about noxious weeds. The required reference mirrors the 30-foot riparian buffer on Lake Burien. The change to footnote 3 is consistent with Section 20.30.095(2.c), buffer and setback standards.

**City Response:** No objection to the change.

## 20.30.055 Shoreline Buffers

### Regulations:

1. A ~~twenty-five~~ thirty foot riparian buffer for the marine shoreline (thirty feet for Lake Burien) shall be established from the ordinary high water mark for all lots. The riparian buffer is measured landward from a perpendicular line from the edge of the OHWM.

*The change is required consistent with supporting documents. See Attachment A – “Findings and Conclusions” for a detailed explanation.*

**City Response:** Do not agree to buffer width change.

2. Overwater structures are allowed within the buffer as provided herein. Structures and development such as viewing platforms, boardwalks, benches, and trails are allowed when associated with public access. Fences less than 6-feet high, stairs, and trams (see Section 20.30.095 (2.g.) – Residential Development.

*The change is required for internal consistency of the SMP.*

**City Response:** Should be rewritten for clarity. Pursuant to 20.30.095 (2.g.) – Residential Development, fences less than 6-feet high, stairs and trams may be allowed with the buffer.

## 20.30.070 Bulkheads and Other Shoreline Stabilization Structure

### 2. Regulations

- b. Jetties, breakwaters and other in-water stabilization structures except for bulkheads are prohibited except for protection or restoration of ecological functions. New bulkheads and other shoreline stabilization structures such as; gabions, revetments, retaining walls and bluff walls are allowed if there would be no net loss of shoreline ecological functions and the following requirements are met:

*The added language is consistent with the 20.30.001 (Figure 4) – the use table, WAC 173-26-231(3.a.iii.B.IV.), and the intent of SMP.*

**City Response:** No objection to the change.

## 20.30.075 Over-Water Structures—Including Docks, Piers and Floats

### 2. Regulations

- a. New over-water structures shall be limited to those required as part of a permitted water dependent use ~~or for joint use of the facility,~~ ecological restoration or public access.

*The deleted language is too general and could be misinterpreted to mean any type of joint use. The added language is required per WAC 173-26-211(5.c.ii.A.), new over-water structures.*

**City Response:** No objection to the change. Related to 20.30.075(i) below.

- b. The design and construction of over-water structures as well as their subsequent use and operation, shall:
- i. Be capable of withstanding expected environmental conditions; and,
  - ii. Minimize interference with adjacent water uses and navigation; and
  - iii. Minimize adverse effects on fish, shellfish, wildlife, water quality, public views and geohydraulic processes by limiting the size of the structure and the use of hazardous materials, incorporating grating to allow light passage or reflective panels to increase light refraction; and spaced and oriented to minimize shading and avoid a 'wall' effect that would block or baffle wave patterns, currents, littoral drive, or movement of aquatic life forms.

*Required per WAC 173-26-211(5.c.ii.D.), new over-water structures.*

**City Response:** No objection to the change.

- i. When permitted, new residential development of two or more dwellings shall provide joint use or community docks, rather than individual docks, when feasible, rather than allow individual docks for each residence.

*Required per WAC 173-26-231(3.b.), piers and docks.*

**City Response:** No objection to the change.

- k. Dredging associated with over-water structures is prohibited in the Aquatic environment.

*This is consistent with 20.30.001- Figure 4- Shoreline Permit Matrix.*

**City Response:** No objection to the change.

## 20.30.085 Recreational Development

### 2. Regulations

- ~~h. Should public access occur on Lake Burien, no watercraft access is allowed from public access areas.~~

*The deletion is consistent with Section 20.30.035 (Public Access), Chapter 90.58 RCW and the Guidelines. The public access section of the SMP requires that any concerns regarding public access to Lake Burien be addressed at the time of permitting. See also Attachment A – "Findings and Conclusions" for additional discussion.*

**City Response:** Do not agree to the required change.

- h. Shoreline recreational development is a priority and shall be primarily related to access to, enjoyment and use of the water and shorelines of the State.

*This is required per WAC 173-26-241(3.i.) – recreational development.*

**City Response:** No objection to the change.

## 20.30.090 Recreational Mooring Buoys

### 2. Regulations

- d. Individuals owning residential property abutting ~~state-owned~~ aquatic lands may install a mooring buoy ~~on these public lands~~ for recreational purposes after obtaining approval from the State of Washington Department of Natural Resources (DNR), Washington Department of State Fish and Wildlife (WDFW) and the Army Corps of Engineers as appropriate.
- e. Recreational mooring buoys ~~on public lands~~ shall be installed using a DNR or WDFW approved system.

*Regardless of ownership of the intertidal area, recreational mooring buoys located in marine waters require regulating.*

**City Response:** No objection to the change.

- g. Recreational mooring buoys ~~on public lands~~ are prohibited for commercial and transient uses or live-aboards.

*The SMP use matrix prohibits these types of uses regardless of ownership of the intertidal area. Again, regardless of ownership of the land, use and development must be regulated.*

**City Response:** No objection to the change.

## 20.30.095 Residential Development

Single family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Residential development shall mean the creation of new residential lots and the construction or exterior alteration of one or more buildings, structures or portions thereof which are designed for and used to provide a place of abode for human beings including one and two family detached dwellings, multi-family residences, townhouses and condominiums, together with appurtenances and accessory structures. For purposes of this master program, Bed and Breakfast establishments are considered an accessory use (see also Use Table under Commercial Use and Development).

*WAC 173-26-241(3.j.) establishes subdivision of land as residential development. The SMP must recognize B & B's as a commercial use.*

**City Response:** No objection to the change.

### 2. Regulations

- c. **Common-line riparian buffer and building setback standards.** Riparian buffer and setback standards for new or expanded single-family primary residential structures may be reduced through the shoreline ~~conditional use~~ variance permit process. In addition ~~to the conditional~~

~~use criteria~~ the Shoreline Administrator may approve a reduced buffer and setback for residential development under the following conditions without a variance permit.

*Setbacks are associated with riparian buffers and need to be included. A variance is required for reduction of bulk dimensions in this situation (see WAC 173-27-170). A variance may not required for common line setbacks as long as the City applies "no net loss" standards and other criteria found in this section of the SMP.*

**City Response:** No objection to the change. Note: In order to achieve internal document consistency, section 20.30.0952.c.iv should be amended to remove the requirement for a conditional use permit when expansions occur within the riparian buffer.

- k. **Detached Accessory Dwelling Units.** New detached accessory dwelling units shall not be located in riparian buffers or setbacks.

*Required change consistent with Section 19.40.230(2) - setback to buffers.*

**City Response:** No objection to the change.

## Chapter V. Administration and Shoreline Permit Procedures

### 20.35.010 Shoreline Permit Types and Review Procedures

6. **Compliance with Regulations.** In the case of either a shoreline conditional use permit or a shoreline variance, the Shoreline Administrator shall determine the application's compliance with the relevant review criteria and render a decision ~~prepare a recommendation~~ that is then forwarded to Ecology for review and approval. The City's ~~recommendation~~ decision may include issuing the shoreline permit, issuing the shoreline permit with conditions, or denial of the requested shoreline permit.

*The City is required to make a decision as required by RCW 90.58.140(2) – development permits.*

**City Response:** No objection to the change.

7. **Shoreline Conditional Use Permit required.** A development activity or use that is listed as a conditional use pursuant to this master program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit. The conditional use permit application shall be processed as indicated in BMC 20.35.010.3; ~~except the decision maker issues a recommendation to the Dept. of Ecology rather than a decision. This recommendation is not appealable to the Hearing Examiner or City Council.~~

*The City is required to make a decision as required by RCW 90.58.140(2) – development permits.*

**City Response:** No objection to the change.

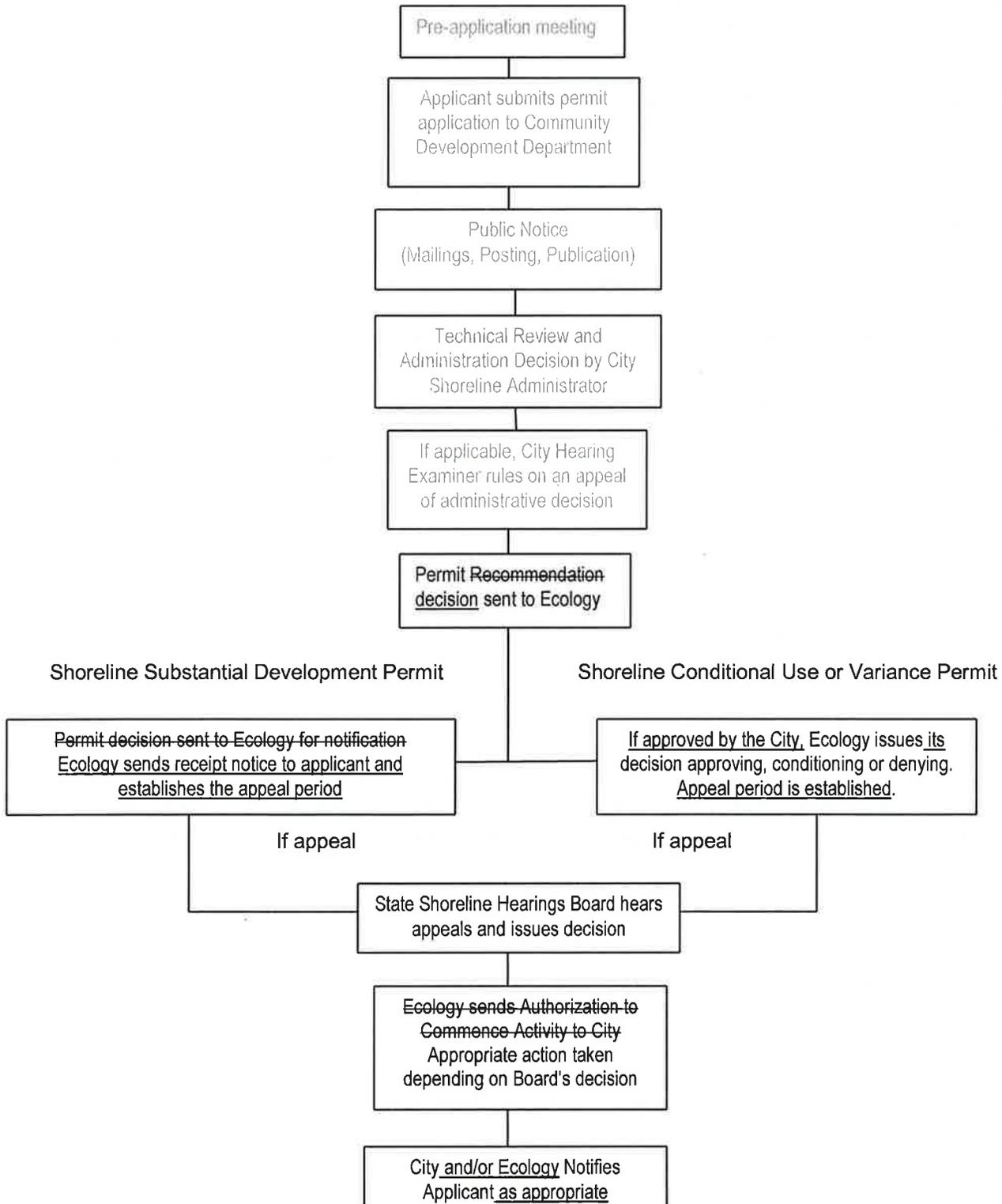
8. **Shoreline Variance Required.** When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a shoreline variance, consistent with WAC 173-27-170 (Variances). The variance application shall be processed as set forth in BMC 20.35.010.3;

~~except that the decision maker issues a recommendation to the Department of Ecology rather than a decision. This recommendation is not appealable to the Hearing Examiner or City Council.~~

*The City is required to make a decision as required by RCW 90.58.140(2) – development permits.*

**City Response:** No objection to the change.

**Figure 7 Shoreline Permit Review for Type 1 Process**



*The changes are required per RCW 90.58.140 – development permits, and 90.58.180 - appeals.*

**City Response:** No objection to the change.

## Chapter VI. Shoreline Definitions

**20.40.055 Feasible** means actions that meet all of the following conditions:

- (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- (b) The action provides a reasonable likelihood of achieving its intended purpose; and
- (c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where this SMP require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

*Required per WAC 173-26-020(13) – definition of “feasible”.*

**City Response:** A typographical error occurs in the first sentence, it should read “requires”. Agree to proposed changes.

**20.40.145 Shoreline substantial development** means any development of which the total cost, or fair market value, whichever is higher, exceeds \$5,718,000, or any development which materially interferes with the normal public use of the water or shorelines of the state (See also WAC 173-27-040(2.a)).

*The changes accurately reflect and explain new legislative standards.*

**City Response:** No objection to the change.

**20.40.175 Shorelines of statewide significance** means shorelines designated by the State of Washington that are major resources from which all people in the state derive benefit. Shoreline areas in the City of Burien that are designated as shorelines of statewide significance are portions of the Puget Sound adjacent to the city limits extending out to mid channel from extreme low tide.

*See definition in RCW 90.58.030(2.f.iii.).*

**City Response:** No objection to the change.



## ATTACHMENT C: SUGGESTED CHANGES

### INCLUDING CITY OF BURIEN DRAFT RESPONSES

#### CITY OF BURIEN'S SHORELINE MASTER PROGRAM COMPREHENSIVE REWRITE

Resolution No. 317

All changes are suggested to add clarity or to remove ambiguity. As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes suggested by Ecology.

Text to be added is underlined. Text to be removed is ~~struck~~. Ecology's explanatory statements are in *italics*. Roman numeral subscripts *i* have been used for explanatory statements in the permit matrix and are not intended to be part of the final SMP. Shading is added in some areas to enhance readability where no changes are being made to the text.

#### City of Burien Responses

**ABCDE** – denotes no objection

**ABCDE** – denotes agreement but with modifications

**ABCDE** – denotes disagreement

### Chapter I. User's Guide

#### 20.10.001 Overview of State Shoreline Management Act

The State of Washington's Shoreline Management Act (RCW 90.58) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The following is an excerpt from the Shoreline Management Act stating Washington State's policy regarding shorelines.

RCW 90.58.020 – “The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines.... *(shortened for brevity)....*”

*The citation from RCW 90.58.020 should either be in quotes or italicized to set off from the rest of the section. The City should also include all the language from RCW 90.58.020 since it is the basis for Shoreline Management Act.*

**City Response:** Agree to proposed changes.

Under the SMA, ~~the~~ shoreline jurisdiction generally includes ~~all~~ water areas of the state, the lands underlying them, and areas that are 200 feet landward of the ordinary high water mark (OHWM) of said waters that have been designated as “shorelines of statewide significance” or “shorelines of the state.”

*The changes are suggested to add clarity and accuracy.*

**City Response:** Agree to proposed changes.

### Chapter IV. Shoreline Uses and Modifications Policies and Regulations

#### 20.30.001 Figure 4 Shoreline Permit Matrix

*(Note that the table has been changed to reflect the required changes found in Attachment B.)*

<b>Type of Shoreline Permit Required for New Shoreline Uses and Modifications*</b>			
	<b>Shoreline Environment Designations</b> (Please see Chapter 20.25 for shoreline designation descriptions and section 20.25.025 Figure 3 for a map showing the locations of each designation)		
	<b>Shoreline Residential</b>	<b>Aquatic</b>	<b>Urban Conservancy</b>
Aquaculture	X	CU <sup>1</sup>	X
<b>Boat Mooring Buoy</b>	N/A	<b>SDP P<sub>i</sub><sup>3</sup></b>	N/A
Boat Ramp	X	X	X
Boat House (covered moorage)	X	X	X
Shoreline Stabilization Structures			
<ul style="list-style-type: none"> <li>◦ Breakwater &amp; other in-water structures</li> </ul>	N/A	X <sup>o</sup>	N/A
<ul style="list-style-type: none"> <li>• Bulkheads</li> </ul>	SDP P <sub>i</sub> <sup>4</sup>	CU	SDP P <sub>i</sub> <sup>4</sup>
<ul style="list-style-type: none"> <li>• Upland Structures (retaining walls and bluff walls)</li> </ul>	SDP P <sub>i</sub>	N/A	SDP P <sub>i</sub>
Personal Wireless Service Facility	CU	N/A	X
Community Beach	CU	CU	X
Community residential facility	CU	X	X
Docks, Piers and Floats	CU	CU	CU
<b>Docks, Piers and Floats-Residential</b>	<b>SDP P<sub>i</sub><sup>5</sup></b>	<b>SDP P<sub>i</sub><sup>5</sup></b>	X
Dredging	N/A	X	N/A
Fill <sup>2</sup>	X	X	X
Floating home	N/A	X	N/A
<b>Flood protection Hazard Reduction<sup>iv</sup></b>	<b>SDP P<sub>i</sub></b>	CU	<b>SDP P<sub>i</sub></b>
Forestry (clearing)	CU	N/A	CU
Grading	CU	N/A	CU
Government facility	CUP	X	CUP
<b>Habitat Enhancement or Restoration</b>	<b>SDP P<sub>i</sub></b>	<b>SDP P<sub>i</sub></b>	<b>SDP P<sub>i</sub></b>
Industrial & Ports	X	X	X
<b>Jetty<sup>ii</sup></b>	<b>X</b>	<b>X</b>	<b>X</b>
Mining	X	X	X
<b>Office<sup>iii</sup></b>	<b>X</b>	<b>X</b>	<b>X</b>
Public park and recreation facilities	SDP P <sub>i</sub>	SDP P <sub>i</sub>	SDP P <sub>i</sub>
Recreation	SDP P <sub>i</sub>	SDP P <sub>i</sub>	SDP P <sub>i</sub>
Residential - Single family**	SDP P <sub>i</sub> <sup>6</sup>	N/A	SDP P <sub>i</sub> <sup>6</sup>

Residential - Multi family	SDP P <sub>1</sub>	N/A	CU
Commercial Use and Development	X'	X	X'
Schools	CU	N/A	CU
Transportation Facilities & Parking	SDP P <sub>1</sub>	X	SDP P <sub>1</sub>
Utilities	SDP P <sub>1</sub>	CU	SDP P <sub>1</sub>

~~SDP – Shoreline substantial development permit (City Decision) – See Chapter 20.35 for specific procedures~~

**P** Permitted - Allowed when meeting the requirements for the given use. A shoreline substantial development permit (SDP) or shoreline exemption may be needed. See WAC 173-26-040 for complete list of development exempt from a substantial development permit.

**CU** Shoreline conditional use permit (Requires a Department of Ecology Decision if locally approved.) – See Chapter 20.35 for specific procedures. A SDP may also be required.

**X** Prohibited

**N/A** Not applicable

- 1 Prohibited in critical saltwater habitats and Lake Burien
- 2 Allowed if necessary to construct a permitted use
- 3 Private mooring buoys are exempt from the shoreline substantial development permit process but shall comply with BMC 20.30.090 [Recreational Mooring Buoys] which prohibits mooring buoys on Lake Burien.
- 4 Construction of the normal protective bulkhead common to single-family residences must comply with BMC 20.30.070 [Bulkheads and other shoreline stabilization structures] but is not required to obtain a substantial development permit.
- 5 Construction of a dock, pier, or float that is below the substantial development threshold set forth in RCW 90.58.030 [3e.iv] [Definitions and concepts, “substantial development”] shall be exempt from the Shoreline Substantial Development Permit process, but shall comply with all other applicable sections of this master program.
- 6 Allowed for protection or restoration of ecological functions.
- 7 B & B’s are allowed in the Shoreline Residential environment (Section 20.30.095). Limited commercial recreation activities are allowed in Seahurst Park (Section 20.30.085).
- 8 A conditional use permit is required for construction within the riparian buffer or setback that is not waterward of the existing home. A variance is required for any development waterward of the existing home within the buffer or setback. This does not apply to the common line setback option.
- \* Shoreline uses not listed in the matrix above are subject to a shoreline conditional use permit.
- \*\* Exempt from shoreline substantial development permit requirements if this is for construction of only one detached unit built by an owner, lessee, or contract purchaser who will be occupying the residence, in accordance with WAC 173-27-040 (g) [single-family residential exemption], as amended.

*i It would be more accurate to use “permitted” instead of “substantial development permit”. A permitted development or use may or may not require a SDP or even a shoreline exemption.*

**City Response:** Do not agree to proposed changes.

*ii “Jetty” is unnecessary since it is covered under “Shoreline Stabilization Structures”.*

**City Response:** Agree to proposed changes.

*iii “Office” is covered under “Commercial Use and Development”.*

**City Response:** Do not agree to proposed changes. The City would prefer to keep the term "office" to provide consistency with local zoning categories and provide more clarity to the user.

*iv The change in language is consistent with the Guidelines and Section 20.30.030.*

**City Response:** Agree to proposed changes.

## 20.30.007 Existing Development

**Existing Single-Family Homes, Appurtenances, and Other Existing Structures.** Single-family homes, appurtenances and other structures that were legally established by \_\_\_\_\_ (effective date of this SMP) are considered to be conforming to the SMP. Any addition, expansion or reconstruction of the single-family home, appurtenance or other structure must comply with the SMP. Any single family home to which a variance is issued shall be considered a conforming structure.

*The suggested language is consistent with the City's intent to eliminate nonconforming single family homes. Without this language any homes that are issued a variance would be considered nonconforming and WAC 173-27-080 "Nonconforming Use and Development Standards" would apply.*

**City Response:** Agree to proposed changes.

## 20.30.025 Critical Areas

### 2. Regulations

- e. Development proposals shall adhere to the applicable submittal requirements (a critical area report specific to the critical area) as specified in the Critical Areas Ordinance regulations adopted as part of this SMP.

*The additional language should be added to avoid confusion since the Critical Areas Ordinance is a separate document and may change over time without an SMP amendment.*

**City Response:** Agree to proposed changes.

## 20.30.040 Shoreline Vegetation

### 2. Regulations

- d. Within a shoreline vegetation conservation buffer as set forth in BMC 20.30.050[Dimensional Standards for Shoreline Development], *alterations* shall comply with the following;
  - v. Vegetation management plans should place emphasis on surface water filtration and infiltration, and providing plantings as close to the water's edge

or edge of bulkhead as feasible within a 20 foot wide area parallel and adjacent to the shoreline; and

*The suggested language is consistent with the policy statements and optimum mitigation.*

**City Response:** Agree to proposed changes.

- g. ~~In accordance~~ Consistent with existing regulations, only noxious weeds shall be removed from ~~the Lake Burien wetland or wetland~~ critical areas or their buffer without approval of the Shoreline Administrator. Replacement of non-native vegetation may be allowed through approval of a vegetation management plan as prescribed in section h.

*Section 19.40.350(1.D.) allows for manual removal of noxious weeds without review or approval in stream buffers. The master program does the same for Lake Burien wetlands and buffers as shown above. It is only logical to be consistent with the marine shoreline.*

**City Response:** Agree to proposed changes.

- h. The Director ~~shall~~ may establish ~~minimum~~ standards for vegetation management plans. At a minimum, vegetation management plans shall comply with the following;

*The change is suggested since the minimum standards are listed and the Director should establish what the management plan is.*

**City Response:** Agree to proposed changes.

- i. ~~Describe~~ Delineate the area to be disturbed and describe the proposed vegetation to be altered; and

*The suggested changes are consistent with terminology in the other criteria found in this section.*

**City Response:** Do not agree to proposed changes, the existing language is consistent with the other vegetation management components listed.

- i. ~~Hand removal of noxious weeds or invasive vegetation may be allowed without approval of a vegetation management plan as prescribed in section h, following a consultation with the shoreline administrator or his or her designee.~~

*This regulation is no longer needed if the change is made to "g" above.*

**City Response:** Agree to proposed changes.

## **20.30.045 Water Quality, Storm Water and Nonpoint Pollution**

### **2. Regulations**

- b. Low impact development methods shall be incorporated into any development or redevelopment in shoreline jurisdiction when feasible. Low Impact Development –

Technical Guidance Manual for Puget Sound - January 2005 shall be utilized until the 2011 edition is finalized.

*Unless the City has a better manual it is suggested to use this one.*

**City Response:** Do not agree to proposed changes. The City is in the process of preparing a drainage master plan (DMP) and may develop specific recommendations for conditions found in Burien. The City may reconsider this option in the future.

### **20.30.055 Shoreline Buffers**

#### **Policy**

1. While buffers widths based on science are necessary to protect ecological functions, it presents challenges in existing heavily developed areas such as along some parts of Burien. In such areas, an alternative strategy is established using smaller buffers that are based on the existing development pattern, in combination with mitigation requirements for new development that provide enhancement of the smaller buffer and other degraded features to address impacts of the new development outside the small buffer areas when part of a vegetation conservation plan.

*The language comes as a suggestion from Futurewise and is supported by Ecology.*

**City Response:** Agree to proposed changes. The statement is consistent with the buffer approach applied by the City.

### **20.30.065 Aquaculture**

#### **2. Regulations**

- d. No aquatic organism shall be introduced into City of Burien shoreline areas without the prior written approval of the ~~Director of the~~ Washington State Department of Fish and Wildlife or the appropriate regulatory agency for the specific organism.

*It is more appropriately up to WDFW to decide the approval process.*

**City Response:** Agree to proposed changes.

### **20.30.070 Bulkheads and Other Shoreline Stabilization Structures**

#### **2. Regulations**

- c. The following requirements apply to both new and replacement bulkheads:
  - iv. The maximum height of a new bulkhead on the marine shoreline shall be no greater than four (4) vertical feet above the OHWM. The height of a replacement

bulkhead shall not exceed four (4) vertical feet above the OHWM or exceed the height of the existing bulkhead, whichever is greater.

*The additional language helps makes it clear that 4-feet is not measured from the existing bulkhead.*

**City Response:** Agree to proposed changes.

## **20.30.090 Recreational Mooring Buoys**

### **1. Policies**

- a. Recreational boat mooring buoys are the preferred method to provide moorage instead of constructing new residential docks, piers or floats on marine waters in the City of Burien.

*Given that mooring buoys are prohibited on Lake Burien, the suggested language would seem appropriate.*

**City Response:** Agree to proposed changes.

### **2. Regulations**

- h. Boats must be sixty feet or less in length to tie up to a recreational mooring buoy ~~on public lands.~~

*The change is suggested in order to be consistent along residential shorelines regardless of ownership of the intertidal area. The water areas are "waters of the state" and are not privately owned.*

**City Response:** Agree to proposed changes.

## **20.30.105 Utilities**

### **2. Regulations**

- e. New transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where *feasible* and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions. When allowed, utility and transportation facilities shall share rights-of-way to minimize disturbance in shoreline areas.

*Suggested language comes from 20.30.100(2.c.).*

**City Response:** Agree to proposed changes.

## Chapter V. Administration and Shoreline Permit Procedures

### 20.35.055 Effective Date and Duration of Shoreline Permits

Construction authorized by an approved shoreline permit shall not begin until 21 days after the date of filing as defined by ~~WAC 173-27-130 (Filing With Ecology)~~ RCW 90.58.140 (Development Permits). This restriction shall be stated on the permit. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years and the construction related activity shall terminate within five years after the effective date of a shoreline permit or the final settlement date of any associated appeals or legal actions regarding the proposed action. Provided, that the City may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. The City shall notify the Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. **Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.** See also WAC 173-27-090 for additional information regarding duration of permits.

*A bill before the legislature is expected to take effect in July or August of 2011 that re-established "date of filing" instead of "date of receipt" currently in effect. The bill also has additional permit related changes that are not yet in the WAC.*

*WAC 173-27-090 provides additional information to permit duration that is not included in this section.*

**City Response:** Agree to proposed changes.

## Chapter VI. Shoreline Definitions

Definitions contained in the Shoreline Management Act of 1971 (RCW Chapter 90.58) and the Shoreline Master Program Guidelines (WAC Chapter 173-26) shall apply to all terms and concepts used in this shoreline master program, provided that definitions contained in this title shall be applicable where not in conflict with the Shoreline Management Act and the Shoreline Master Program Guidelines and Shoreline Management procedural rules.

*The suggested language is consistent with 20.35.001.*

**City Response:** Agree to proposed changes.

**Attachment D**  
**City of Burien Shoreline Master Program**  
**Responsiveness Summary**  
**March 2011**

**Public Comments on the City of Burien's October 2010 Shoreline Master Program submittal are summarized. Only relevant comments to the locally adopted shoreline master program (SMP) are included. The entire letter, email or video comment was available to the City to use as needed for more detailed comments or clarification. In some cases comments were left out if already made by others.**

Abbreviations

CIA – Cumulative Impact Analysis

SMP – Shoreline Master Program

SMA – Shoreline Management Act, Chapter 90.58 RCW

GMA – Growth Management Act, Chapter 36.70A RCW

RCW – Revised Code of Washington

WAC – Washington Administrative Code

WDOE, Ecology or DOE – Washington State Department of Ecology

Guidelines – Chapter 173-26 Part III WAC

No-net-loss – No net loss of ecological functions necessary to sustain shoreline natural resources.

OHWM – Ordinary High Water Mark

CU or CUP – Conditional Use Permit

SEPA – State Environmental Policy Act

CAO – Critical Areas Ordinance

CA – Critical Area

#	Person (if applicable)	Issue or Suggested Change (location)	City Response	Ecology Response
1	Bruce Berglund	The SMP should be a balanced approach. It should improve water quality and represent all Burien citizens not just special interest groups.	1. Comment noted.	Ecology feels that the SMP with required and suggested changes represents all Burien citizens.
2	Judy Moore	WDOE should accept the SMP.	1. Comment noted.	Comment noted.
3	Shawn Richardson	WDOE should accept the SMP and protect property rights.	1. Comment noted.	Comment noted.
4	Eric Leberg Marie Brown	WDOE should approve the SMP.	1. Comment noted.	Comment noted.
5	Raymond & Barbara Prentice	WDOE should accept the SMP.	1. Comment noted.	Comment noted.
6	Mike Keenan	Proposed SMP meets requirements.	1. Comment noted.	Comment noted.
7	Chestine Edgar	<ol style="list-style-type: none"> <li>1. Appendix 8-C of Ecology's Wetland Manual is not completely explained.</li> <li>2. "Burien is considering anything that is submerged in the water not to be wetlands."</li> <li>3. "The CIA does not accurately analyze and adequately plan for the land use into the future for Lake Burien."</li> </ol>	<ol style="list-style-type: none"> <li>1. SMP Section 20.30.025[2.d] specifies that wetland buffers are to be determined by using Appendix 8-C of the "Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands FINAL April 2005 Ecology Publication #05-06-0088".</li> <li>2. Wetlands are to be delineated in accordance with the "Washington State Wetland Identification and Delineation Manual, as required by RCW 36.70A.175" (Ecology Publication #96-94). It may be possible that some wetlands could be located within the water body if specified by the delineation manual, this is supported by Herra Report</li> </ol>	<ol style="list-style-type: none"> <li>1. Ecology is available to aid in any needed explanation of the SMP.</li> <li>2. The City is aware that the Wetland Identification Manual takes precedence and that wetlands do occur around and in the lake.</li> <li>3. Most CIA's could always be more encompassing. Every issue is not meant to be evaluated. The City has stated that based on the likelihood of subdivision due to well established homes is small. This is demonstrated by the historical rate of development. Further, the cumulative impacts of potential development will be addressed</li> </ol>

			<p>dated December 1, 2010, paragraph 4.</p> <p>3. The potential for redevelopment along Lake Burien is discussed on page 28 of the Cumulative Impacts Analysis</p>	<p>through the higher level of development standards adopted as part of the SMP. Ecology has no reason to believe that is not the case.</p>
8	Ted & Helen Fosberg	<p>1. The SMP should be adopted as submitted. The City does not want regulations imposed on citizens that are more restrictive than required by law.</p> <p>2. The adopted 20-foot buffer has 50-years of precedence supporting it. The City has no justification for changing the distance. The distance is consistent with the SMA and Guidelines.</p>	<p>1. Comment noted.</p> <p>2. The 20 foot "setback" has been in effect prior to incorporation of the City in 1993 and has been consistently in effect and applied since 1993. Insufficient information to comment on application of a setback prior to the City incorporation.</p>	<p>1. Comment noted.</p> <p>2. The over-developed shoreline clearly shows the adverse impacts of the historical 20-foot setback and previous inadequate environmental protection standards. The short-sighted development standards have also put private property and people at risk by building too close to the water with false security from bulkheads. The City is now required to develop a master program that achieves no further loss of the little remaining ecologic function and to plan for restoration of functions.</p>
9	James & Judith Schorsch	Supports SMP as submitted.	1. Comment noted.	1. Comment noted.
10	GordonDerr for Burien Marine Homeowners Association (BMHA)	<p>1. Supports SMP as submitted.</p> <p>2. Sites single family homes as a priority use under the SMA and property rights.</p> <p>3. Guideline's no net loss standard allows more flexibility than the use of Best Available Science under the GMA.</p> <p>4. Adopted Marine Riparian Buffer and Vegetation Conservation Buffer achieve no net loss.</p> <p>5. Adopted marine buffer reflects the existing development pattern. (See supporting data offered by</p>	<p>1. Comment noted.</p> <p>2. Single family homes are one of the "preferred" uses listed in the SMA [RCW 90.58.020], that states that there is an intent of controlling pollution and the prevention of damage to the natural environment.</p> <p>3. Comment noted.</p> <p>4. Comment agrees with proposed SMP.</p> <p>5. Comment supports proposed SMP.</p>	<p>1. Comment noted.</p> <p>2. Ecology concurs with the City.</p> <p>3. No net loss is a requirement. BAS must be considered.</p> <p>4. Comment noted. See Ecology's <i>Findings and Conclusions</i> for further response.</p> <p>5. Comment noted. See Ecology's</p>

		<p>Burien Marine Homeowner's Assoc. (BMHA.)</p> <ol style="list-style-type: none"> <li>6. Wider buffers will not protect against a net loss of ecological function.</li> <li>7. Making all use and development conforming meets no net loss standard.</li> <li>8. The proposal in early drafts of the SMP for a 50 foot buffer along the marine shoreline was not supported by significant analysis or reasoned application of the no net loss standard. The City took the average distance of the homes from the OHWM from three reaches and applied a buffer of comparable size.</li> <li>9. The 20 foot buffer proposal approved by the City Council was supported by a more detailed analysis by the BMHA and better understanding of existing conditions and shaped by the no net loss standard.</li> <li>10. The proposal for a 50-foot buffer in the early drafts was written before the legislature had amended the SMA to incorporate no net loss.</li> <li>11. Ecology should suggest language that states: "A structure for which a variance has been issued shall be considered a legal conforming structure governed by the requirements of section 20.30.007.</li> <li>12. It is unclear why additional language is needed to protect against structures being rebuilt in "hazard zones". Burien's building code already has provisions that govern hazard situations to address Ecology's concerns.</li> </ol>	<p>Supporting data clearly shows the extent of alterations from a natural condition along Burien's marine shorelines.</p> <ol style="list-style-type: none"> <li>6. Opinion offered on effectiveness of large vs. small buffers and their effectiveness.</li> <li>7. The City agrees with the fact that existing development being conforming or non-conforming does not significantly affect achieving no net loss. DOE publications suggest that development in and of itself will result in some loss of ecological function; this is why restoration has been included in the proposed SMP. The City has and will continue to restore beach and upland areas in both Seahurst Park and Eagle Landing Park, which should result in improvement in shoreline functions over the long term.</li> <li>8. The current proposed draft is for a 20 foot marine buffer.</li> <li>9. Comment noted.</li> <li>10. The no net loss standard was a part of the Shoreline Guidelines when Burien began its update process.</li> <li>11. Comment noted.</li> <li>12. Unable to respond without knowing what additional language is being suggested.</li> </ol>	<p><i>Findings and Conclusions</i> for further response.</p> <ol style="list-style-type: none"> <li>6. Comment noted. See Ecology's <i>Findings and Conclusions</i> for further response.</li> <li>7. Ecology agrees with the City's response. Improvements will also come from residential redevelopment if regulations are implemented.</li> <li>8. Comment noted. See Ecology's <i>Findings and Conclusions</i> for further response.</li> <li>9. Comment noted. See Ecology's <i>Findings and Conclusions</i> for further response.</li> <li>10. Ecology agrees with the City's response.</li> <li>11. Ecology has suggested the language to the City in its <i>Findings and Conclusions</i>.</li> <li>12. Critical protection in shoreline jurisdiction is transferred to the SMP upon a comprehensive rewrite. See RCW 36.70A.480.</li> </ol>
11	Cedarock Consultants, Inc for BMHA	<ol style="list-style-type: none"> <li>1. Existing conditions support 20-foot Marine Riparian Buffer when combined with 150-foot Vegetation Conservation Buffer to achieve no net loss based on existing development and future opportunities. (See</li> </ol>	<ol style="list-style-type: none"> <li>1. Comment supports the proposed 20 foot marine buffer based on existing conditions and locations of structures. Should be noted that BMHA data suggests there is a</li> </ol>	<ol style="list-style-type: none"> <li>1. Comment noted. See Ecology's <i>Findings and Conclusions</i> for further response.</li> <li>2. While 20-feet is enough room to</li> </ol>

		<p>also supporting data offered by BMHA.)</p> <ol style="list-style-type: none"> <li>20-foot buffers ensure there is enough room to replace flat-walled bulkhead with innovate designs that produce less reflective energy.</li> <li>Steep slopes in Burien are not allowed to be developed.</li> </ol>	<p>larger average setback to existing structures on the marine shoreline.</p> <ol style="list-style-type: none"> <li>The City would agree that 20 feet should be more than ample room to replace "flat walled" bulkheads while also not protruding further into the marine environment.</li> <li>Statement is incorrect, steep slope areas may be developed so long as they comply with the Critical Areas Section of the BMC (19.40).</li> </ol>	<p>replace a flat-walled bulkhead with another flat-walled bulkhead, it may not be enough room to lay back or remove a bulkhead without exposing the home to wave-tossed logs.</p> <ol style="list-style-type: none"> <li>Ecology agrees with the City's response.</li> </ol>
12	Don Warren Representative of Lake Burien Shore Club	<ol style="list-style-type: none"> <li>"Government Facility" should not be permitted and should therefore show as an "X" in the Shoreline Residential column. Except for shoreline facilities that qualify under other use provisions (e.g. public marina), location of generic government facilities in the shoreline is not an appropriate use under the SMA.</li> <li>"Public Park and Recreation Facilities" should show as "CU" in the Shoreline Residential column. Such facilities should be subject to the assurance of compatibility that the conditional use process and standards provide.</li> <li>"Recreation", as referred to in the table, is not clearly defined in the SMP draft. Assuming this refers to recreational facilities, this category potentially overlaps with other potential uses that are called out and defined. Therefore, this line of the matrix may either be removed, or depending on its purpose, modified to show as "CU" in both the shoreline Residential and Aquatic columns. Recreational use facilities should be subject to the assurance of compatibility that the conditional use process and standards provide.</li> <li>"Transportation Facilities and Parking" should be prohibited and should therefore show as an "X" in the shoreline Residential column. Point sources of oily</li> </ol>	<ol style="list-style-type: none"> <li>The use "Government Facility" is an allowed use in the zoning code in the residential zones, it was included to ensure consistency with the zoning code. It was specifically included in the Urban Conservancy designation to ensure some existing uses would not become non-conforming such as the marine tech lab.</li> <li>Public parks undergo a public input in the design stage; in addition the City Council approves parks projects through the Capital Improvement Program process. The Conditional Use review process contains more generic criteria (see 20.35.035) and is designed to allow uses that may not be able to specifically comply with the standard requirements. Conditions are usually added to ensure the use complies with the goals and policies of the SMA and the local SMP as well as complying with the criteria found in 20.35.035. Conditional Use permits generally allow more flexibility in project</li> </ol>	<ol style="list-style-type: none"> <li>Ecology agrees that a CUP should be required. The SMP contains no policies, regulations or definition for government facilities. Government facilities may or may not be a preferred use in shorelines. The City states in the Responsiveness Summary that the SDP is consistent with the zoning code and was specifically included in the Urban Conservancy to ensure some existing uses would not become nonconforming. Although useful for interpreting intent, the zoning code does not address SMA or Guideline provisions and is not part of the SMP. A CUP is required until the City adopts appropriate policies and regulations as part of the SMP to ensure consistency with the provisions of the SMA.</li> <li>Public parks promote public access which is a preferred use of the shoreline. There are also criteria that must be met that address possible adverse impacts.</li> </ol>

		<p>pollution associated with all transportation and parking facilities are not supportive of “no net loss of ecological function” particularly within an enclosed small lake shoreline environment.</p> <p>5. The weir at the outlet of Lake Burien is not a flood control device. This assertion should be removed from 20.30.030.</p>	<p>design. Conditional uses also require review and approval from DOE.</p> <p>3. Correct, “Recreation” is not found in the definitions section. “Recreation Facility” is a defined term in the zoning code (BMC 19.10.440) and could be used a basis for a definition. Recreational development is described in SMP section 20.30.085, this could also be used as a basis for a definition. A specific definition could be added. The Guidelines state that recreational development includes “commercial and public facilities designed and used to provide recreational opportunities to the public”. There would appear to be some overlap in the definitions.</p> <p>4. The use matrix applies to all uses within shoreline jurisdiction which is 200 feet from the OHWM. If these uses were prohibited it may preclude uses including but not limited to parking, roadways, bus stops ect. The use would require a shoreline permit that would ensure best management practices were used to reduce or eliminate impacts that could be generated by any given use.</p> <p>5. See response in # 13.3.</p>	<p>Ecology does not believe a CUP is necessary.</p> <p>3. The City’s definition for recreational facility includes health clubs and bowling alleys. These are not consistent with the Guidelines requirement that recreation be “primarily related to access to, enjoyment and use of the water and shorelines of the state”. Ecology has required that this language be added to the SMP along with required changes to clarify that except for in-home B&amp;B’s and limited commercial use at Seahurst Park, commercial use and development is prohibited in shoreline jurisdiction. Ecology believes with these required changes a CUP is not necessary.</p> <p>4. The City’s SMP meets SMA and Guideline requirements.</p> <p>5. The change has been made.</p>
13	Chestine Edgar	<p>1. The tables and definitions in the SMP are not consistent with the DOE recommended model.</p> <p>2. Appendix 8-C which is going to be used for the protections of wetlands in Burien need to be better</p>	<p>1. Difficult to respond to without specific examples or cited sections in the proposed SMP.</p> <p>2. Appendix 8-C has been incorporated into the SMP, see</p>	<p>1. The Guidelines allows for flexibility in the format of the SMP. Ecology has made some required and suggested changes to the definitions.</p>

incorporated into the text of the SMP. (See Herrera Report dated 12-1-2010.)

3. Reference to the weir as a flood control device should be removed.
4. Due to a lack of an EIS or field study of Lake Burien, a CUP should be required for most uses.
5. The Cumulative Impacts Analysis (CIA) is incomplete for Lake Burien. The effects of densification have not been addressed. The standards will not achieve no net loss of environmental function.
6. The SMP is not consistent with the Comprehensive Plan in terms of protection and development of Lake Burien.
7. The City has intentionally downgraded the protections for Lake Burien over the years as indicated by historical planning practices.

20.30.025[2.d]. Could not find this statement in the Herrera report.

3. References to the weir as a flood control device were removed from section 20.20.045. Section 20.30.030 should be modified to read *"Flood hazard reduction measures may also include structural measures such as the weirs at Lake Burien, floodwalls, dikes and elevation of structures consistent with the National Flood Insurance Program."*
4. An EIS is not required, individual critical area studies may be required for uses on the lake to determine if 1) critical areas are present 2) their location 3) the wetland class (to determine appropriate buffer) and 4) evaluation of the proposal to ensure compliance with the no net loss standard and other applicable SMP requirements.
5. The CIA was accepted by DOE. Each development proposal will be reviewed to determine if it complies with the SMP, which includes a determination if the standards are being met. A determination of loss of environmental functions is one of the criteria in the SMP 20.30.095[2.a].
6. Comment is not specific on what is inconsistent between SMP and Comprehensive Plan. The comprehensive plan and SMP complement each other.
7. The proposed SMP will apply a

2. Ecology concurs with the City.
3. The change has been required.
4. Ecology agrees with the City.
5. Please see #7-3.
6. Ecology concurs with the City that the statement is not specific.
7. The City has increased protection of Lake Burien through the SMP.

			larger (30-foot) riparian buffer and will use the current wetland Guidance for Protecting and Managing Wetlands FINAL April 2005 Ecology Publication #05-06-0088, Appendix 8-C. In addition wetlands are to be delineated in accordance with the "Washington State Wetland Identification and Delineation Manual, as required by RCW 36.70A.175	
14	Tanya Engeset	<ol style="list-style-type: none"> <li>1. Would like to have language that allows both a float and a dock. Would rather have limitation on total square footage. The Burien SMP should be consistent with King County SMP.</li> <li>2. Agrees with other property owners that have already given comment.</li> </ol>	<ol style="list-style-type: none"> <li>1. The issue was discussed both at the Planning Commission and City Council and a policy decision was made and is incorporated into the proposed SMP. The local jurisdiction has substantial discretion to adopt standards that reflect local circumstances (WAC 173-26-171[3.a]).</li> <li>2. Comment noted.</li> </ol>	<ol style="list-style-type: none"> <li>1. The City's decision is not inconsistent with the Guidelines or SMA.</li> <li>2. Comment noted.</li> </ol>
15	Bob Edgar	<ol style="list-style-type: none"> <li>1. Conflicting statements in supporting documents that Lake Burien is developed to capacity and that further development will be achieved with moderate density lot sizes.</li> <li>2. The CIA does not address maximum build-out under moderate density lot size.</li> <li>3. Weir language should be removed.</li> </ol> <p>Permit matrix needs to be further analyzed.</p> <ol style="list-style-type: none"> <li>4. The CIA contains inaccuracies that were never corrected and need to be addressed prior to Ecology approval.</li> <li>5. The list of preferred uses in RCW 90.58.020 should be in</li> </ol>	<ol style="list-style-type: none"> <li>1. Need more information on the conflicting statements in the supporting documents in order to respond. Please see response below (#2) regarding development capacity on Lake Burien.</li> <li>2. The CIA states that reasonably foreseeable future development is expected to consist of redevelopment of existing structures and possible development of some currently vacant properties (pg. 24). While there may be a possibility for some new development, it is greatly limited by the location of existing</li> </ol>	<ol style="list-style-type: none"> <li>1. Ecology concurs with the City's response.</li> <li>2. Ecology concurs with the City's response.</li> <li>3. Ecology has made this suggestion to the City in the <i>Findings</i>.</li> <li>4. Ecology concurs with the City's response.</li> <li>5. There are at two "lists" in RCW 90.58.020. One list talks about preferred types of uses depending on the need to on or near the water as</li> </ol>

		<p>the SMP and applied to all shorelines.</p> <p>6. The City refuses to recognize that public access is only required on public shorelines not private.</p> <p>7. Shoreline Residential criteria should be revised to replace "medium" density with "low" density. The CIA was based on low density land-use and all shoreline reaches are currently developed and characterized as low density.</p> <p>8. The SMP needs to be accurate, internally consistent, and consistent with the Comprehensive Plan and Land-Use map.</p>	<p>high quality structures and current lot configurations. Development standards in the SMP ensure ecological functions are protected.</p> <p>3. See #13.3 above.</p> <p>4. An errata sheet was prepared and included in the proposed SMP. The sheet addresses the errors that were raised earlier in the process. This method was deemed acceptable to DOE.</p> <p>5. The list of preferred uses was considered in development of the proposed SMP, they have been incorporated into the document including the permitted use matrix [See SMP 20.30.001].</p> <p>6. SMP section 20.30.035 addresses when public access is required, it may be required when subdivisions of 5 or more lots are proposed. This is consistent with the SMP guidelines section 173.26.221[4.d.iii.C]. This may occur on private property.</p> <p>7. The CIA correctly identified the area around the lake as having a zoning designation of RS-7,200 and comprehensive plan designation of Moderate Residential Density Neighborhood.</p> <p>8. There will need to be some amendments to the existing comprehensive plan to ensure consistency, however the city is waiting to complete this process and move ahead with the appropriate amendments to the</p>	<p>well as single family homes and those uses that provide public access. The other list is specific to shorelines of statewide significance. Section 20.10.001 recites a portion of RCW 90.58.020 that contains neither of these. Ecology has suggested that the entire citation be incorporated.</p> <p>6. Consistent with RCW 90.58.020, WAC 173-26-221(4.d.iii.) expressly requires standards for public access on shorelines for non-water dependant uses and the subdivision of land into more than four parcels. This includes development on privately owned land. This allows uses to be developed on the shoreline that would not otherwise be permitted.</p> <p>7. Ecology concurs with the City's response.</p> <p>8. Ecology has no reason to dispute the City's response.</p>
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16	Sandy Gledhill Young  Rozella Gledhill	<ol style="list-style-type: none"> <li>1. Supports Don Warren comments.</li> <li>2. Inconsistency between DOE wetland identification model and definition in the SMP.</li> <li>3. Appendix 8-C and how it will be used needs to be better explained in the SMP to ensure accurate and consistent wetland identification. (Which of the three options will the City be using?)</li> <li>4. CIA fails to discuss impacts of higher density allowances which will result in a 66% increase in the reach.</li> <li>5. Further studies on Lake Burien are needed to determine potential adverse impacts of allowed uses.</li> <li>6. The SMA makes protection of the environment the top priority which is why no physical public access to Lake Burien should be allowed.</li> <li>7. Public access is only required on public lands.</li> <li>8. There are inconsistencies between the SMP and Comp Plan. "The neighborhood is low density by the text criteria designation and the CUI calls it out as moderated. The neighborhood has 3-units per acres which is lower density on the LU-2 map and has critical areas. The text does not agree with the land use map.</li> </ol>	comprehensive plan. <ol style="list-style-type: none"> <li>1. Comment noted, see #12.</li> <li>2. The definition of wetland (20.40.235) is the same definition of wetland found in RCW 90.58.030[2.h] and RCW 36.70A.030[21].</li> <li>3. The City will most likely be using Alternative 3 which allows the most flexibility and bases the buffer on three factors; 1) wetland category 2) intensity of impacts (existing land use) and 3) functions or special characteristics of the wetland.</li> <li>4. See response in #15.2 above.</li> <li>5. Individual studies may be required when site specific development projects are proposed. See response in #13.4 above.</li> <li>6. The SMA identifies a number of policy goals that relate both to utilization and protection of shorelines (excerpt from 173-26-17[2]). It goes on to state "The Act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and the environment of the shoreline area and the public's use of the water" RCW 90.58.020.</li> <li>7. Incorrect, please see #15.6 above.</li> <li>8. Please see #15.7 above.</li> </ol>	<ol style="list-style-type: none"> <li>1. Comment noted.</li> <li>2. Ecology concurs with the City's response.</li> <li>3. Ecology is available to answer any questions regarding Appendix 8-C.</li> <li>4. Ecology accepts the City's response.</li> <li>5. The City is required to track the effects of new development and make any necessary amendments to its SMP during the next update.</li> <li>6. Along with the City's response, Ecology believes that there are ways to prevent any adverse impacts to Lake Burien from public access on the lake if and when the opportunity occurs. For example, allow only boat rentals to be used by the public. This would eliminate introduction of invasive species and regulate hours of use.</li> <li>7. Ecology agrees with the City.</li> <li>8. Ecology has no reason to dispute the City's response.</li> </ol>
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17	Karen Walter - Muckleshoot Tribe	<ol style="list-style-type: none"> <li>1. Policy ALL 7 on page II-2 describes a coordination process for regulation and management of the City's shorelines to include the Muckleshoot Tribe. How does the City intend to implement this policy?</li> <li>2. Please note that the Muckleshoot Indian Tribe Fisheries Division (MITFD) is the division at the Tribe that reviews projects, plans, and rules that could affect the Tribe's treaty protected fisheries resources. We did not get any draft SMP documents from the City and very limited notice about the City's SMP process as it was progressing.</li> <li>3. Similarly, the Administration and Shoreline Permit Procedures section on pages V-2 and V-3 indicates that public notice for a shoreline permit will be provided pursuant to BMC Chapter 19.65. In Chapter 19.65.040.3.A, the City requires notice to be given to "agencies with jurisdiction". There is no mention of affected Indian Tribes in 19.65 and "agencies with jurisdiction" is not defined in Chapter 19.65. To implement, Policy ALL 7 effectively, the City should be giving notice to the Muckleshoot Indian Tribe for all shoreline activities that could affect treaty fisheries resources. The regulations in both City chapters should be explicit so City staff will know the requirements.</li> <li>4. 20.25.010.3.c, page III-2, overwater structures. The City should have the size requirements for new overwater structures. We couldn't find size restrictions in the regulations.</li> <li>5. 20.30.001, Figure 4, Shoreline Permit Matrix (page IV-1), aquaculture is not allowed in the shoreline residential and urban conservancy zones; only as a conditional use in the aquatic zone. Since aquaculture can be defined broadly to include the buildings and</li> </ol>	<ol style="list-style-type: none"> <li>1. The proposed SMP does not include notices for tribes when the project is a non-SEPA action. However, the Muckleshoot Tribe is included on the City's master SEPA distribution list and any time a SEPA notification or determination is made the Tribe is sent a copy at which time comments are encouraged and welcomed.</li> <li>2. The Muckleshoot Tribe was asked to participate as a member of the Shoreline Advisory Committee but did not provide a member. In addition the Tribe was included on all mailing lists and notifications. All documents were continually available on the City web site throughout the process.</li> <li>3. Please see #17.1 above.</li> <li>4. As stated in Section 20.30.075 overwater structures must comply with dimensional standards of other permit agencies include WDFD and the CORPS. The city did not include any local standards.</li> <li>5. The existing hatchery is an established use any may continue so long as it complies with the SMP. It is also a subordinate activity to the primary use which is the Marine Tech Lab which is an allowed use (Government Facility) in the use matrix (Figure 4).</li> <li>6. With the exception of street ends, City owned parks and a few minor parcels housing public utility structures all land is privately</li> </ol>	<ol style="list-style-type: none"> <li>1. Comments noted.</li> <li>2. Comments noted.</li> <li>3. Comments noted.</li> <li>4. The Corps and WDFD do not have size standards for piers and docks, although they may require design changes based on impacts. The SMP does require that the design be restricted to the minimum necessary for the proposed water-dependent use.</li> <li>5. Ecology has nothing to add to the City's response.</li> <li>6. Ecology has nothing to add to the City's response.</li> <li>7. Ecology has nothing to add to the City's response.</li> <li>8. Ecology has nothing to add to the City's response.</li> <li>9. Ecology has nothing to add to the City's response.</li> <li>10. Ecology has required the removal of the reference to the Director of State Fish &amp; Wildlife. Local government cannot set administrative standards for a state agency.</li> <li>11. See #10 above.</li> </ol>
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		<p>equipment included for aquaculture activities in 20.40.010, does this mean that the existing hatchery at Seahurst park would be unable to conduct maintenance, remodel or expand its associated structures outside of the ordinary high water mark if needed?</p> <p>6. Similarly, if a tribe had a restoration plan to recover or restore a native aquatic population using aquaculture techniques, it would be difficult at best to do so because any upland facilities needed to access aquaculture sites and in water equipment would be prohibited per 20.30.001.</p> <p>7. Aquaculture is a preferred use by the State and should be allowed in all shoreline designations so that the necessary upland facilities can be constructed in addition to in water facilities.</p> <p>8. 20.30.050, Dimensional Standards for Shoreline Development, page IV-14, item 1 indicates that the buffers and setbacks in Figure 5 on page IV-15 do not apply to structures legally existing on the effective date of the SMP. What standards would apply to these structures?</p> <p>9. Figure 5, page IV-15, where is there both a marine riparian buffer and the vegetation conservation buffer? What is the difference between the two? How does a project get regulated from a 50 foot buffer to a 150 or 200 foot buffer with vegetation in the urban conservancy designation? The regulation in 20.30.055.1 only discusses a twenty foot riparian buffer for the marine shoreline which suggests that the 150 foot or 200 foot vegetation conservation buffer in Figure 5 is meaningless and unenforceable.</p> <p>10. 20.30.065.2.d, page IV-18, please clarify what is meant</p>	<p>owned and adjacent to long established residential uses. Discussions during the creation of the document focused on compatibility of aquaculture activities taking place in such close proximity to long standing and well established residential uses. Figure 4 implements this local policy decision, which only conditionally allows aquaculture in the aquatic environment.</p> <p>7. The proposed SMP is based on local discretion that considered existing land uses. The City of Burien shorelines are heavily developed with residential uses. The local decision was made to protect the shoreline neighborhoods based on aquaculture being able to coexist with single-family homes.</p> <p>8. If legally established structures are altered in a manner that changes the established building envelope it must comply with the local SMP.</p> <p>9. Please see the vegetation conservation section 20.30.040 to review the specific standards that apply to the 150 foot vegetation conservation buffer. The vegetation conservation buffer addresses alterations to and within the vegetation conservation buffer, while the riparian buffers primarily focus on the placement of structures.</p> <p>10. The common definition of aquatic organism is anything living in or on</p>	<p>12. Ecology agrees with the City's response.</p>
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		<p>by “the introduction of an aquatic organism”. Could this mean shellfish seeding for native population recovery that is allowed in 20.30.065.2.f?</p> <p>11. Also, it should be sufficient for applicants to obtain a Hydraulic Project Approval when an aquatic organism is introduced instead of written approval by the Director of the Washington State Department of Fish and Wildlife as required in 20.30.065.2.d. Perhaps, the intent of this regulation is to avoid the introduction of non-native aquatic organism and if so, it should be changed.</p> <p>12. 20.30.080.2.k.iii, page IV-25 regarding Habitat Restoration and Enhancement indicates that a substantial development permit is not required for land that is brought under shoreline jurisdiction due to a shoreline restoration project. This may conflict with habitat enhancement or restoration projects which are required to get a substantial development permit per 20.30.001 Figure 4.</p>	<p>the water and that is what was meant here and it would therefore include shellfish seeding.</p> <p>11. The intent of this section was to ensure that introduction of any aquatic organism be approved by the appropriate agency that has the expertise and authority to manage marine wildlife.</p> <p>12. This section was taken directly from recent changes in state law. This section addresses a specific situation where if there is a shift in the OHWM that work above the preexisting line would not need a SSDP and would therefore not create a barrier for restoration projects. Figure 4 would apply if there was no shift in the OHWM.</p>	
18	Harry Burlingame	<p>1. How does the City justify not allowing the public to have watercraft on Lake Burien based on the public access requirements of the SMA and Guidelines?</p> <p>2. Why is this requirement not in the Public Access section of the SMP?</p> <p>3. The buffer on Lake Burien should be 50-feet.</p> <p>4. The final “and” appears to be a typo in the last paragraph of 20.20.035.</p>	<p>1. The prohibition of public watercraft on the Lake (SMP 20.30.085[2.h]) was in response to the strong desire of lake residents who feared ecological impacts and felt their privacy would be negatively affected among other issues. However the possibility of physical access to the water was not precluded.</p> <p>2. It was deemed that watercraft access was best addressed in the recreation section. Please see response to #1 above.</p> <p>3. Comment noted. The shoreline buffer on the lake is 30 feet but could be larger depending on</p>	<p>1. Ecology has required the removal of watercraft prohibition. See also #16 – 6 and Ecology’s <i>Findings &amp; Conclusions</i>.</p> <p>2. Ecology agrees with Mr. Burlingame. Part of Ecology’s requirement for removal of the language is based on the City’s own public access language.</p> <p>3. Comments noted.</p> <p>4. The reference to “20.20.035” by Mr. Burlingame was a typo on Ecology’s part. The reference should have been to “20.30.035”. Ecology</p>

			<p>whether there are wetlands present.</p> <p>4. The "and" should remain, it maintains that there may be a subtle difference between open space and greenbelts.</p>	has required changes to the paragraph.
19	JoAnn Pasek	Inadequate or no public access exists to Lake Burien, Seahurst, Shorewood, and Three Tree Point.	<p>1. Comment noted, there currently is no public access to Lake Burien however there are access points in Seahurst (Eagle Landing Park), Shorewood (neighborhood is adjacent to Seahurst Park), Three Tree Point/Maplewild Ave. (multiple street ends and public trail providing visual access). A determination of how adequate these access points are is somewhat subjective.</p>	1. Comments noted.
20	Lee Moyer	<p>1. Shoreline protection was watered down by City Council.</p> <p>2. As encouraged by the Guidelines, the City's SMP should better encourage public access. Particularly by allowing hand-carried water craft on Lake Burien.</p> <p>3. The argument to restrict public watercraft access on Lake Buren is based on the possible introduction of invasive species. The statements that property owners do not use their watercraft elsewhere is unverifiable and untrue in author's personal experience.</p> <p>4. Any restrictions on the lake should apply to everyone and not just the public access site. The watercraft access restriction should be deleted.</p> <p>5. The gas engine ban should apply to all freshwaters including Arbor Lake and any lakes annexed in future.</p> <p>6. The phrase "individual property rights" should be</p>	<p>1. Comment noted.</p> <p>2. Comment noted. Please see #18.1 above.</p> <p>3. Potentially a factual statement.</p> <p>4. Comment noted, however there was specific policy set by the City Council and the guidelines allow local jurisdictions substantial discretion to adopt local "master programs reflecting local circumstances"(WAC 173-26-171[3.a]) so long as they are consistent with the policy statements of the act and the guidelines.</p> <p>5. Arbor Lake does not qualify as a shoreline of the State, however the City Council could apply similar rules as found in this SMP to other</p>	<p>1. Ecology agrees with Mr. Moyer and has required a greater buffer.</p> <p>2. Ecology has required that the water craft access prohibition be removed.</p> <p>3. Comment noted.</p> <p>4. See #2 above.</p> <p>5. Ecology agrees with the City's response.</p> <p>6. Ecology agrees that the phrase could be interpreted different ways. However, as written it appears to be more a valid concern than a criteria to deny public access.</p>

		defined. The term seems like an easy way to prohibit potential public access sites.	water bodies. 6. Comment noted.	
21	Stan Lemmel Carol Jacobson	<ol style="list-style-type: none"> <li>Chapter 173-26 (Guidelines) specifically states that public access applies only to “publicly owned areas of the shoreline” and “shorelines on public property”.</li> <li>“The wording contained in Burien’s SMP appears to be an attempt to justify using right-of -ways on private property along the shoreline as public access, and purposely avoids acknowledging that public access is to be limited to publicly owned areas of the shoreline.” “Specifically, Section 20.30.035(2)(c) stating “If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as public access unless vacated as set forth in RCW 35.79.035” should be removed.”</li> <li>Changing the existing 20-foot marine setback to a 20-foot buffer satisfies the no net loss standard and is consistent with a fully built urban shoreline such as Burien.</li> <li>Making all homes and appurtenances in shoreline jurisdiction conforming structures meets the no net loss criteria.</li> <li>There needs to be a provision that allows emergency repair or replacement of bulkheads.</li> </ol>	<ol style="list-style-type: none"> <li>WAC section 173.26.221[4.d.iii.C] states that public access may be required as a part of subdivisions of 5 or more lots. This would apply to public land. It should also be noted that there if public access is created it must meet specific design and performance criteria (see SMP 20.30.035).</li> <li>Right-of-way is public land.</li> <li>Comment noted.</li> <li>Comment noted. Not necessarily, DOE publications suggest that the presence of homes results in a slight reduction of ecological function and this is why there is a restoration element which is designed to off-set the ongoing impacts of existing development.</li> <li>Emergency repair provisions can be found in section 20.35.025[3.d] and in WAC 127-27-040[2.d].</li> </ol>	<ol style="list-style-type: none"> <li>See also #15-6.</li> <li>There are a number of criteria in the SMP that would need to be addressed so that only appropriate public access is allowed. See also #15-6.</li> <li>Please see Ecology’s <i>Findings and Conclusions</i>.</li> <li>Ecology agrees with the City’s response.</li> <li>Ecology concurs with the City’s response.</li> </ol>
22	Brian Thurston	<ol style="list-style-type: none"> <li>The right-of-way along the south side of SW 172<sup>nd</sup> street is in fee simple ownership by property owners on the north side of the street. Since this is not public property it should be made clear that it is not available for public access as suggested by 20.30.035(2.c.).</li> <li>Nowhere in the SMP does it state that public access can only be required on public land.</li> </ol>	<ol style="list-style-type: none"> <li>The City’s understanding is that SW 172<sup>nd</sup> Street right of way is city owned public property.</li> <li>See response to 15.6 above.</li> </ol>	<ol style="list-style-type: none"> <li>Comments noted.</li> <li>See also Ecology’s comment at #15.6.</li> </ol>
23	Robbie Howell	<ol style="list-style-type: none"> <li>The City has failed to address its inadequate stormwater control system and is causing pollution</li> </ol>	<ol style="list-style-type: none"> <li>The city has an adopted stormwater master plan as well as a capital improvement program that</li> </ol>	<ol style="list-style-type: none"> <li>Comments noted.</li> <li>Lake Burien has a wetland fringe</li> </ol>

		<p>into the lake. The runoff also floods some homes and shoreline properties.</p> <p>2. The Mayor has stated that Lake Burien is not a critical area. Based on this the Council voted to retain the moderate density designation for the area.</p>	<p>contains stormwater improvement projects. There is an effort to fund stormwater improvements based on a process to determine needs within basins within available budget constraints. Not all projects can be funded nor can they eliminate all surface water contamination. Residents can help maintain the water quality by maintaining vehicles and taking precautions on their property to minimize contaminants entering the stormwater system.</p> <p>2. Comment noted.</p>	<p>that extends into the lake in some areas. Ecology cannot comment on the Council's actions.</p>
24	George Vermef	<p>1. No changes should be made to the adopted SMP. Increased buffers and setbacks are financial burdens to property owners.</p>	<p>1. Comment noted.</p>	<p>1. Buffers and setbacks may increase the value of private property.</p>
25	Paula and Greg Anderson	<p>1. 20.10.001 - The reference to RCW 90.58.020 is not complete. If the city feels it is important (and it is) to put <u>some</u> of 90.58.020 in the SMP, I feel they should put all of it in; it is not very long. The City left out some of the most important parts of the finding. I feel that WAC 173.26.176 requires this to be included in the SMP.</p> <p>2. 20.30.040 - This is extremely restrictive and would eliminate the use and enjoyment of a property owner of the 20' parallel to the shoreline. I suggest that you draw a mitigation plan for compensating for 2500 sq. ft. of alteration. Then you will understand the impact.</p> <p>3. 20.30.050 - Ordinary high water mark when measured from a bulkhead or other stabilization structure should be calculated (measured) from the waterward side because that is where the ordinary high water mark is.</p>	<p>1. Comment noted. The RCW is specifically cited in that section and can always be referred to. The intent was to include the most relevant sections in an effort to inform a reader of the local master program of the state law.</p> <p>2. Comment noted. The intent of the Vegetation Conservation section was to find a balance between required buffers and maintaining the ecological functions that vegetation provides.</p> <p>3. Measuring a setback from the landward side of a shoreline stabilization structure will result in a more consistent measurement point as opposed to the OHWM</p>	<p>1. Ecology has suggested that the section be included in the SMP.</p> <p>2. Buffers only limit the type of use and enjoyment.</p> <p>3. Ecology has required that the buffer and setback be measured from the OHWM consistent with Section 20.30.055 (1) – Shoreline Buffers.</p> <p>4. Ecology agrees that it is expansion of the building envelope that is the trigger to implementing the SMP. Just because the definition is broad does not mean everything listed is being regulated by the SMP.</p>

		<p>Using landward side is not ordinary high water mark and lacks common sense.</p> <p>4. 20.30.095 - Residential development. The definition is too broad. This would be construction inside or outside a residence, no matter how minor.</p> <p>5. 20.30.095 - Protect water view....this is in conflict with 20.20.015 Pol. PA 3 impact to private property, 90.58.020 priority for single family residence and appurtenant structures, etc., and would be a taking.</p> <p>6. Reference to best available science should be changed to no net loss. It is my understanding the legislature directed this change.</p> <p>7. WAC 173.26.176 General policy goals (2) In part, The act calls for the accommodation of "all reasonable and appropriate uses". I feel the SMP is too restrictive, cumbersome, and doesn't meet the goals of RCW 90.58 and WAC 173.26 &amp; WAC 173.27.</p>	<p>which is often difficult to determine when existing stabilization structures are present. The landward side is typically clearly defined by a structure and does not require special expertise to determine its location.</p> <p>4. The requirements of the proposed SMP are focused on exterior alterations to the building envelope and the natural or man-made features of a project site.</p> <p>5. The issue of view protection has been addressed by allowing the base development standards within the zoning code to set the maximum development envelope. A property owner has the ability to develop property within those standards that include building height, setbacks and lot coverage.</p> <p>6. There is not a code section in the proposed SMP where the term BAS is used, therefore unable to respond. The term is only use once in CON 9 (pg II-2), but only in the context of what is required by the GMA as it relates to protection of critical areas.</p> <p>7. Opinion noted. A wide range of uses are allowed as set forth in Figure 4 (pg IV-1).</p>	<p>5. Ecology is in agreement with the City and does not see a conflict.</p> <p>6. There appears to be much confusion regarding Best Available Science and "no net loss". As part of House Bill 1653, the legislature made statutory changes to better explain the protection of critical areas (CA's) under the SMA as opposed to the GMA. The original language said that when protection of CA's is transferred to the SMP, the protection had to be "at least equal to" the protection under the CAO. Because some CAO's were determined to be inadequate and in order to be consistent with the standards of the Guidelines, the legislature changed the requirement of "at least equal to" to "no net loss of shoreline ecological functions". Some people have misinterpreted this change to mean from BAS to "no net loss" since BAS must be considered when writing a CAO. The standard for scientific review in writing SMP's is listed in RCW 90.58.100 and is very broad. It is not the same as Best Available Science which is codified under WAC 365.195. However, there is much overlap between the two standards.</p> <p>7. Comments noted.</p>
26	Futurewise & People for Puget Sound	<p>1. There are areas designated Shoreline Residential that are more appropriately Urban Conservancy or Natural even with some existing development. The 20' buffer</p>	<p>1. Comment did not specifically indicate those locations, however the proposed SMP contains specific</p>	<p>1. Ecology agrees that the 20-foot buffer is inadequate in some areas and has required changes.</p>

		<p>does not adequately protect these areas and are only marginally protected by the vegetation conservation area. Lost functions if these areas are developed are not addressed in the cumulative impacts analysis.</p> <ol style="list-style-type: none"> <li>2. If existing developed and degraded areas are to have small buffers applied to them, the only justification for doing so is that specifically required compensatory enhancement can offset the impacts of the new development.</li> <li>3. When intact vegetation is found in the vegetation conservation buffer, it needs protection that is more similar to the riparian buffer protection in order to meet no net loss standards.</li> <li>4. For areas with approximately 50-75 feet of intact vegetation between development and the water, the proposed Urban Conservancy environment and buffer could be applied, accompanied by the vegetation conservation area provisions. These areas are currently designated Shoreline Residential.</li> <li>5. Areas with 100 feet or more of intact vegetation should be designated with an environment more protective than Urban Conservancy, such as Natural, or some distinction must be established in the buffer system for these situations. A Natural environment is especially important for areas that are largely intact within the entire shoreline jurisdiction, where a science based buffer of 150-200 feet is needed. Alternatively, development should be kept outside shoreline jurisdiction whenever feasible. These areas are currently designated Urban Conservancy.</li> <li>6. Marine riparian buffers are listed in Figure 5 as 20 feet for Shoreline Residential, and 50 feet for Urban Conservancy. But buffers are listed as 20 feet for all marine areas in the text of 20.30.055(1).</li> <li>7. In areas with more extensive vegetation, a more explicit statement is needed that it should be retained.</li> </ol>	<p>criteria that are designed to ensure there is no net loss. See section 20.30.095[2.a]. Previous response: These areas have significant residential development. It may appear highly vegetated on the aerial photos however there is a significant amount of residential development. It appears they are referencing the Shorewood Community Club property which in all likelihood would not be developed. It should be noted that this property does meet some of the designation criteria for "urban conservancy", however the area does also match the purpose of the "shoreline residential" environment. The shoreline permit matrix (20.30.001) allows community beaches and a conditional use in the Residential designation, while in the Conservancy designation it is listed as a prohibited use. For justification and support in the record for the 20 foot buffer, please refer to the oral and written submittals of the BMHA, including studies in appendix 5 and the documents submitted to DOE on December 8, 2010.</p> <ol style="list-style-type: none"> <li>2. Proposed development is required to comply with the appropriate standards which include ensuring there is no net loss of ecological function.</li> </ol>	<ol style="list-style-type: none"> <li>2. Comments noted.</li> <li>3. Ecology agrees with the City's response.</li> <li>4. While an Urban Conservancy designation would offer greater protection of less developed residential shoreline, the fact the areas are residential must be acknowledged. In these cases Ecology believes that a 50-foot buffer with a 15-foot setback, combined with the vegetation conservation buffer, are more appropriate.</li> <li>5. Ecology agrees that the Natural designation could have been used in some areas of the City. However, given the Park status of the majority of these areas Ecology feels that the Urban Conservancy designation is not inappropriate.</li> <li>6. Ecology has required changes to correct this.</li> <li>7. Ecology agrees with the City's response.</li> <li>8. While "area" may be more</li> </ol>
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	<p>Suggested change: Intact native riparian vegetation areas located within the Riparian Buffer shall not be disturbed, except for water-dependent facilities and access pathways to the water that avoid intact vegetation to the extent feasible. Any alterations located within the Vegetation Conservation Area shall avoid intact native riparian vegetation areas to the extent feasible. These areas should have more restrictive designations and larger buffers assigned. If not, the cumulative impacts analysis should demonstrate how compensation is achieved.</p> <p>8. The word "buffer" should be replaced with "area" in 20.30.040(2.b. &amp; d.) since the term vegetation conservation buffer is not established in the SMP.</p> <p>9. Areas of intact vegetation that are removed should be replaced at a ratio of 4:1 due to the length of time to reestablish and mortality.</p> <p>10. Only water-dependent uses and access to them should be allowed in buffers. When development is allowed, lost vegetation and changes in groundwater need to be compensated for.</p> <p>11. The small wetland exclusion in 20.30.055(2.a.ii.) should be removed. "These provisions also need to be excluded from the parts of the CAO incorporated into the SMP and from the SMP text. Small wetlands can still provide important functions. This section is especially troubling since the city has indicated during hearings that they do not consider the lake as having fringe wetlands, and they will be applying the lake buffer and not wetland buffers. Yet no inventory has been performed to make such an assumption."</p> <p>12. The following regulation should be included in the SMP in order to clearly indicate what is allowed in the Aquatic environment: "Where a use or modification may occur in the Aquatic environment as indicated in Figure 4 and in the corresponding regulations for that use, it shall also be subject to any more restrictive permit processes or prohibitions as indicated for the</p>	<p>3. See section 20.30.040 which includes policy supporting protection of native vegetation as well as restoration and mitigation of shoreline degraded due to natural or man-made causes.</p> <p>4. The proposed shoreline designations were partially based on the comprehensive plan and additionally recognized the long standing urban nature of Burien's shorelines. Those areas not adjacent to existing single-family development where designated Urban Conservancy to reflect the relatively altered nature of those areas.</p> <p>5. Many of these areas are in close proximity to established single family residential development. A shoreline designation system that implements the comment would be piecemeal and inconsistent.</p> <p>6. A distinction could be made in section 20.30.055[1] between the Urban Conservancy and the Shoreline Residential designations to accurately reflect the intent which was to implement the buffers as stated in Figure 5 on page IV-15.</p> <p>7. Section 20.30.040[2.f] states that vegetation clearing and removal shall be the minimum necessary which supports the notion of maintaining intact native vegetation. In addition a vegetation management plan is required and it</p>	<p>accurate given the allowance for development, use of the term buffer is not inappropriate.</p> <p>9. Ecology does not have the scientific support to make such a requirement.</p> <p>10. Ecology agrees with the City's response. The City also allows fences, trams and stairways in the buffer which is not unreasonable.</p> <p>11. The City now recognizes that there is a wetland fridge around Lake Burien. - The citation referenced is talking about isolated wetlands less than a 1,000 sq. ft. Any wetlands around Lake Burien would likely not be isolated. - New development will be required to determine if there are any wetlands and of what category.</p> <p>12. While the suggestion has merit, it is not required by the Guidelines. There is also some concern that without a complete review of the implications the change could result in unanticipated consequences. For example, Aquaculture is allowed in the Aquatic environment in</p>
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		<p>adjacent shoreland environment.”</p> <p>13. Boating Facilities are not addressed in the SMP as required by the Guidelines. Agriculture is not listed in the Use Table. The Table does not prohibit residential use in the Aquatic environment as required by the Guidelines.</p> <p>14. There are approximately a dozen lots on Lake Burien that could be subdivided and is not accounted for in the CUI. Any new subdivision on Lake Burien and in the Natural and Urban Conservancy should be prohibited.</p> <p>15. The Use Table creates new categories that don't follow Guideline requirements. Churches, government offices, and other community facilities are similar to commercial uses in their nature. Government maintenance facilities, government motor pool facilities, and similar uses are industrial in nature. But the SMP splits them out as if they are different (under the "government facility" heading, or under the "community residential facility," or by not fitting under the proposed "office" or retail" category and thus being allowed by default).</p>	<p>must indicate how existing shoreline vegetation will be preserved and protected (20.30.040[2.h.iii]).</p> <p>8. The term "buffer" is used in Figure 5 on page IV-15, which sets forth dimensional standards for shoreline development.</p> <p>9. Comment noted.</p> <p>10. Comment noted, Section 20.30.055 only allows overwater structures in the buffer. Additionally pursuant to Section 20.30.010, impact mitigation, addresses the sequencing that should be applied to development within shoreline jurisdiction. The above referenced section, along with other provisions in the SMP, including 20.30.040, address possible loss of vegetation and changes in ground water.</p> <p>11. There is no section 20.30.055[2.a.ii] in the locally proposed SMP, section 20.30.035[2.a.ii] specifically makes an exception to include wetlands less than 1,000 square feet. Section 20.30.055 also adopts the state identification and delineation manual and the guidance for protecting and managing wetlands.</p> <p>12. If required by DOE and the Guidelines such a statement could be included.</p> <p>13. The Shoreline permit matrix addresses the following boating facilities; boat mooring buoy, boat ramp, boat house, docks, piers, and</p>	<p>limited situations, but prohibited upland.</p> <p>13. As stated by the City, boating facilities are included in the SMP. - The City does not believe Agriculture is relevant to its SMP. - Ecology has required that residential use be prohibited over water.</p> <p>14. Ecology has accepted the City's response. See #7-3.</p> <p>15. The Guidelines require consistency with the listed uses when relevant. It is not inappropriate to separate out Government facilities. Ecology has made some required and suggested changes to the use matrix.</p>
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			<p>floats. Any use not listed in the table is subject to a Conditional Use permit. The table includes Residential and lists those uses as "N/A" in the aquatic designation. If required by DOE this could be changed to "X".</p> <p>13. The CIA addresses potential development around Lake Burien on pages 23 and 24. This analysis concluded that reasonably foreseeable future use is not expected to change significantly. One of the primary considerations in determining an estimate of possible future development potential was the high structure values and their location on the few lots that could be subdivided. Typically high value structures are a significant financial barrier preventing the creation of new residential lots.</p> <p>14. The proposed SMP goes into further detail by listing distinct uses. It more specifically addresses uses and the appropriate review process. The uses in the table are consistent with the terms also used by the zoning code in an effort to ensure complimentary documents are consistent.</p>	
27	Ryan Andrew	<p>1. The definition of "alterations" is more restrictive than Ecology recommendations. As written, some "alterations" to a home would require a vegetation management plan even if no vegetation was being disturbed.</p>	<p>1. Alteration is defined in SMP section 20.40.000 and it specifically states that it is activity that will result or like result in a significant impact upon the existing condition of the</p>	<p>1. Ecology concurs with the City's response.</p> <p>2. Along with the City's response, new SMP regulations do not affect existing</p>

		<p>2. 20.30.040(2.c.i &amp; ii) These requirements removes significant benefits (recreation and storage of recreational items) of living on the shoreline. Fully developed properties would require renovation and loss of current usage. The language does not take into account areas of vegetated hillside with only narrow strips of developable land.</p> <p>3. 20.30.040(2.d.iii) Does this require property owners to change what exists? What does "mimic natural conditions" mean? There should be alternatives that achieve same goal. This is clearly restoration at the owner's expense.</p> <p>4. 20.30.040(2.d.iv.) This denies the property owner the right to plant normal ornamentals, vegetables, fruit trees, etc. Is there any science that indicates native plants provide better ecological functions than other types?</p> <p>5. 20.30.040(2.d.v.) This is a taking and removes recreational opportunities and storage.</p> <p>6. 20.30.040(2.i.) The requirement is unreasonable, impractical and unworkable. Does not want the city to tell them when, how and where to pull weeds.</p> <p>7. The adopted SMP does not consider the value or reasonable use that bulkheads provide. It puts properties and assets at risk.</p> <p>8. The Grette document does not mention conflicting science regarding the effects of bulkheads (i.e. Flora Report). Generally disputes many assertions of the Greete report regarding flooding and effects of bulkheads.</p> <p>9. 20.30.070(2.a.i. &amp; ii. 1, 2, &amp; 3.) Bulkheads waterward of the natural OHWM that fail will lose 15-20 feet of property and would be required to reconstruct at new OHWM. This would also move the buffer back which in some places would make the lots unbuildable if 50-foot buffer required.</p> <p>10. Legislature in 2003 specifically stated that all shorelines are not critical areas. However, "overriding</p>	<p>critical area. The definition further clarifies some of the activities that would be considered "alterations". Depending on the extent of the alteration to the home it could be considered an "alteration" however normal maintenance or working within the existing footprint would most likely not constitute an "alteration".</p> <p>2. Section 20.30.040 [2.c] specifically states that if mitigation of impacts are necessary it should take the form of re-vegetation of the 20 foot area. Subsection 2.c.ii allows buffer averaging to allow for use and access to the water in that area.</p> <p>3. Not unless new or altered vegetation plantings are proposed. "Mimic natural conditions" means that plants that are selected shall be provided at spacing and numbers that are typical of what would have been found at the site given its particular soil and climate conditions. Yes, preparation of a vegetation management plan and installation would be at the owner's expense.</p> <p>4. Not aware of science that supports native vegetation, however it is logical that native plants support native species.</p> <p>5. The term "taking" applies to use of a property and this provision does not preclude the ability of a property owner to build and maintain a residence, provided it</p>	<p>development.</p> <p>3. In addition to the City comments, the new regulations do not require any change to what exists.</p> <p>4. "Alterations" that are being considered by the City are ones "which results or is likely to result in a significant impact upon the existing condition of a critical area". If a vegetation management plan is required for alterations in the shoreline, then the shoreline administrator has the option to allow other types of plantings (non native) as part of the plan.</p> <p>5. Ecology agrees that this is not a taking. It is true that some property owners with fully vegetated buffers will have limitations on recreational and storage development. Buffers with existing development will be less impacted.</p> <p>6. 20.30.040(2.a.) allows for maintenance of existing conditions without review and approval by the City.</p> <p>7. In addition to the City's response, new bulkheads are allowed in appropriate situations.</p> <p>8. Comment noted.</p> <p>9. Comment noted. A letter date</p>
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	<p>safety and environmental concerns" in Section 3 combined with "critical saltwater habitats" in Section 4 have been used to create significant additional expense to a property owner who lost his bulkhead in a recent storm. Since bulkheads are not typically covered under normally available insurance riders, more flexibility needs to be available in this type of situation.</p> <p>11. 20.30.070(2.b.) Replacement of these structures does not constitute a net loss of shoreline functions. Replacement would improve the functions and provide necessary protection. Need to include language on repairs also.</p> <p>12. 20.30.070(2.b.i &amp; ii) The language excludes appurtenant structures and is not consistent with Ecology Guidelines.</p> <p>13. 20.30.070(2.b.ii.1.) Too many variables. What if analysis is wrong?</p> <p>14. 20.30.070(2.c.i.) Consultant's report presupposes bulkheads are a detriment to littoral drift therefore replacement would not be allowed. Replacement bulkheads need to be allowed in order to protect neighboring bulkheads.</p> <p>15. 20.30.070(2.c.ii.) Replacement bulkheads should be allowed in the existing location.</p> <p>16. 20.30.070(2.c.iii.) Minimum standards should not be used when protecting a residence. Who is responsible when the minimum fails? What is the impact from structures that might go beyond the minimum? This would seem to guarantee future failures.</p> <p>17. 20.30.070(2.c.iv.) Four feet above the OHWM is inadequate and will lead to more bulkhead failures and loss of structures and appurtenances.</p> <p>18. 20.30.095(2.g. b &amp; c) The prohibition of accessory structures and appurtenances in the buffers is not a state requirement. Numerous lots have cabanas, boathouses, and parking structures in the buffer. This would have a huge negative impact use of one's</p>	<p>complies with the requirements of the SMA and the local SMP.</p> <p>6. The section allows removal of noxious weeds without a vegetation management plan. The consultation with the city is intended to ensure that alterations are documented to ensure tracking of positive changes in shoreline conditions and provide information on accepted techniques and that replanting occurs that is consistent with the local SMP.</p> <p>7. The proposed SMP allows repair, maintenance and construction of protective bulkheads.</p> <p>8. Comment noted.</p> <p>9. Section 20.30.070[2.a.ii.1 and 3] allows replacement of bulkheads if there is a demonstrated need to protect legally established structures and if a residence was occupied prior to January 1, 1992 and there is overriding safety or environmental concerns it may be placed waterward of the OHWM. The 50 foot buffer was reduced to 20 feet in the locally approved SMP.</p> <p>10. Provided replacement bulkheads meet specific design criteria they may be replaced. In addition there are emergency repair provisions in both the local SMP and the WAC. There often can be conflict between the least expensive solution while also ensuring ecological functions are protected.</p> <p>11. Section 20.30.070[2.a] addresses</p>	<p>12/4/2009 was signed by a number of state, federal and private scientists in response to statements made by Dr. Flora. The letter starts out: "As scientists who work in Puget Sound on shoreline issues, we are compelled to comment on a document recently circulated by Dr. D. F. Flora entitled "Evidence of near-zero habitat harm from nearshore development." Dr. Flora's document is presented as a rigorous scientific evaluation of the effects of human activity on the ecological condition of Puget Sound shorelines, but it falls well short of any reasonable standard for scientific rigor or credibility."</p> <p>10. In addition to the City's response, the legislature clarified that "Shorelines of Statewide Significance" were not necessarily critical areas. In Burien these are located seaward of extreme low time.</p> <p>11. No additional comments.</p> <p>12. The language is consistent with WAC 173-26-231(3.a.iii.B.II.).</p> <p>13. There are no guarantees that any report is 100% accurate or that any structure will protect a home in a given situation.</p> <p>14. No additional comments.</p> <p>15. No additional comments.</p>
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		<p>property. Expanding the buffer would make things even worse. Accessory structures should be allowed in the buffer.</p> <p>19. Buffer width science is inconclusive, questionable and conflicts with other data available. Shading from trees on marine shorelines is inconsequential.</p> <p>20. Where is the science that says the best approach to urban area water quality issues is the creation of large swaths of nonconforming uses along shorelines?</p> <p>21. Where is the legal support for requiring restoration when the courts have said only mitigation is required?</p> <p>22. What is the sense in a one size fits all for the different situations in Burien?</p> <p>23. The SMP fails to address city stormwater issues and waste treatment discharges.</p> <p>24. Funding should have gone towards regional studies to achieve consistency.</p> <p>25. Private property owners should not be burdened with protecting Puget Sound given other large scale impacts. Taking our rights through vegetation and use provisions is wrong.</p>	<p>replacement and repair of shoreline protective structures, section [2.b] addresses new structures.</p> <p>12. Correct, this section only applies to new shoreline stabilization structures to protect "primary structures" and is intended to minimize loss of ecological functions lost due to the construction of shoreline protection. Need specific section of DOE guidelines that it is inconsistent with in order to respond.</p> <p>13. The intent of the provision is to allow construction of new shoreline stabilization structures only when there is a demonstrated need.</p> <p>14. Replacement bulkheads are allowed, see 20.30.070[2.a].</p> <p>15. Replacement bulkheads are allowed in the same location based on the criteria found in 20.30.070[2.a.ii.3].</p> <p>16. Please note that that material is the minimum to accomplish the task which is protection of the structure. The provision is intended to ensure that there is some level of control of both the size and the quantity of the material to ensure the character of development within the shoreline area is maintained.</p> <p>17. The 4 foot limit is intended to place a maximum height of protective structures to ensure the overall character of the residential shoreline character. An owner may apply for a shoreline variance for a</p>	<p>16. No additional comments.</p> <p>17. No additional comments.</p> <p>18. No additional comments.</p> <p>19. One example of the need for shading from trees is spawning habitat for forage fish along beaches.</p> <p>20. No additional comments.</p> <p>21. The City is required to plan for restoration. In some cases restoration projects are done because of mitigation requirements. Restoration is needed to meet the no net loss standards due to continual adverse impacts from existing development.</p> <p>22. There is no "one size fits all" for Burien. Buffer averaging, variances and common line setbacks are all allowed.</p> <p>23. No additional comments.</p> <p>24. Comment noted.</p> <p>25. Most of the shoreline in Burien and elsewhere is in private ownership and has a large scale impact. Ecology agrees that other sources of adverse impacts must be addressed at the same time. Not all property owners are good stewards of the shoreline.</p>
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			<p>taller structure, however it must comply with the variance criteria and generally document a need for the additional height.</p> <p>18. Section 20.30.007 allows existing legally established structures to remain. If structures were allowed in the buffer the ability of the buffer to effectively provide protection of the ecological functions would be reduced.</p> <p>19. Comment noted.</p> <p>20. Science documents tend not to make a connection between buffer widths and non-conforming uses</p> <p>21. No section referenced however restoration in the SMP would be the responsibility of the city and is outlined in the restoration plan contained therein. The city is very active in restoring waterfront as evidenced by efforts in Seahurst Park. Please note there is a difference between restoration and mitigation necessary to ensure no net loss, these are two different terms.</p> <p>22. Comment noted.</p> <p>23. The SMP only has jurisdiction within 200 feet of the OHWM. There are other activities and actions that can be taken to improve storm water quality and other discharges that negatively impact the Puget Sound, however these actions are beyond the scope of the SMP.</p> <p>24. Comment noted.</p> <p>25. Opinion noted.</p>	<p>Regulations are needed as to meet the requirements of the Shoreline Management Act and section RCW 90.58.020.</p>
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28	Peter Eglick for Lake Burien Home Owners	1. The "SMP is largely the product of a planning process, untouched by meaningful scientific review or data." "Instead, policy convictions have substituted for actual scientific analysis." There is nothing to support the various allowed uses, particularly without a CUP, will cause no net loss. It is significantly deficient in its preparation and substance under the SMA, SEPA, and GMA. "Public Park and Recreation Facilities" and "Recreation" should require CU on Lake Burien. "Government Facilities" and "Transportation and Parking" should be prohibited on the lake.	1. Opinions noted, however the City does not agree. Please reference the various studies found in the appendices in the SMP.	1. No additional comments except that Ecology has made some required and recommended changes.
29	Sean & Julie Wittmer	The right-of-way on SW 172 <sup>nd</sup> St. should not be allowed for public access and the SMP should be amended to allow for this unique situation.	1. Comment noted.	1. Comment noted.
30	Dennis Reed	<ol style="list-style-type: none"> <li>1. The legislature has changed the standard for SMP's from "Best Available Science" to "No Net-Loss".</li> <li>2. It is too late to retroactively apply typical standards to Burien's shorelines that were developed decades ago.</li> <li>3. No net loss applies to the property owners as well as ecology of the shoreline. Any increase of the existing 20-foot buffer, the creation of nonconforming homes, or inability to rebuild homes destroyed by natural disaster constitutes a taking.</li> <li>4. Burien's existing shoreline vegetation conservation buffer satisfies the no net loss standard.</li> <li>5. The SMP does not address street drain/storm water run-off.</li> <li>6. Supports Lake Burien home owners requested changes.</li> </ol>	<ol style="list-style-type: none"> <li>1. Correct.</li> <li>2. Comment noted, Burien's Shorelines are developed to a relatively urban density as compared to much of the shorelines in the state.</li> <li>3. The term "taking" could refer to a substantial reduction of development rights; however under the proposed SMP property owners can still develop so long as impacts are either avoided, minimized or mitigated. It is the City's opinion that the proposed SMP is not a "regulatory taking" as described in the Washington States Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property [page 4].</li> <li>4. Comment noted.</li> <li>5. It does include a map of stormwater</li> </ol>	<ol style="list-style-type: none"> <li>1. Please see #25 – 6.</li> <li>2. The standards are not being retroactively applied. It is only new development and re-development that must comply with the new standards.</li> <li>3. No additional comments.</li> <li>4. While the vegetation conservation buffer goes a long ways towards no net loss, in itself it cannot mitigate the adverse impacts of homes too close to the water's edge.</li> <li>5. These water quality issues should be addressed by other state and local regulations.</li> <li>6. Comment noted.</li> </ol>

			facilities (see inventory) 6. Comment noted.	
31	Rhett Bowell	Hopes that Ecology requires all regulations related to setbacks be complied with.	1. Comment noted.	1. Comment noted.
32	Ron Franz	1. The legislature amended the SMP process which replaced best available science (BAS) with no net loss of ecological functions. Can Ecology break away from BAS to no net loss?  2. The existing 20-foot setback and the proposed 20-foot buffer achieves no net loss.	1. The no net loss standard is the standard in the SMP guidelines and must be incorporated to ensure the proposed SMP is accepted by DOE. 2. Comment noted.	1. See #25 – 6. 2. Please see Ecology's <i>Findings and Conclusions</i> .
33	Steve Armstrong	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
34	John Ball	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
35	Len Bosgrain	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
36	Dick Franks	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
37	Linda Bossgreen	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
38	Robert & Robbie Howell	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
39	Clark Monzi	City Council took the time to find out what the community wanted.	1. Comment noted.	1. Comment noted.
40	Cindy Upthegrove	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
41	Carl Hadley	1. The proposed 20-foot buffer and 150-foot vegetation management plan will achieve the Guideline standards given the existing conditions.  2. Changing the marine buffer to 50-feet from 20-feet won't do any good because lots are either developed or can't be built on due to steep slopes. There are only 8 lots where there is a potential for a home to move closer to the shoreline and impact vegetation. These will be protected by the vegetation management plan.	1. Comment noted. 2. Not totally correct, the proposed SMP will allow future development to move closer to the water.	1. Please see Ecology's <i>Findings and Conclusions</i> .  2. There are enough lots left with at least some habitat value that a larger buffer is warranted. The larger buffer will also keep development from encroaching on the shoreline and further impacting aquatic and terrestrial life at the shoreline interface.

42	Tanya Ingaset	Wants more than one overwater structure allowed – raft and dock.	1. See response in #14 above.	1. Ecology has nothing to add.
43	Sue Love	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
44	Cathy Scarbo	Supports Don Warren comments.	1. Comment noted. See #12 above.	1. Comment noted.
45	Gordon Becan	1. Agrees that homes should all be made conforming. 2. Hopes that destroyed bulkhead can be replaced.	1. Comment noted. 2. A legally established bulkhead can be replaced, see section 20.30.070[2.a].	1. Comment noted. 2. Ecology has nothing to add.
46	Jennifer Kropak	1. Supports the SMP as approved. 2. Wants to know the starting date for no net loss.	1. Comment noted. 2. DOE has indicated that the baseline is measured from the time the SMP is approved by the state.	1. Comment noted. 2. Ecology agrees.
47	Kathy Korpella	Wants to be able to rebuild her house if it is destroyed.	1. A legally established structure can be reconstructed pursuant to 20.30.007[1].	1. Ecology agrees.
48	Denise Rhinkey	Supports Don Warren’s comments.	1. Comment noted. See #12 above.	1. Comment noted.
49	Andy Ryan	1. Making the 20-foot buffer mandatorily vegetated takes away some owners only place to use their property. 2. The existence of bulkheads has nothing to with height. The 4-foot height does not make sense. 3. Section 20.30.095 states that any exterior alteration to your house drives some of the SMP provisions for revegetation even if the change has nothing to do with vegetation.	1. The requirement to plant vegetation will be considered when alterations in shoreline jurisdiction are proposed. See 20.30.040[2.b]. 2. The requirement is that bulkheads are limited to 4 feet above OHWM. This was to address the lack of a maximum bulkhead height that has been an issue. There is always the ability to construct a bulkhead higher than the maximum allowed in the proposed SMP. This would require a shoreline variance and that the proposal documented how it is consistent with the shoreline variance criteria. 3. Could not find a section that specifically attaches requirements	1. Ecology has nothing to add. 2. As an example of what is contemplated, on a typical flat-walled bulkhead the OHWM is sometimes seen as the transition area between yellow and black algae. When the OHWM cannot be located the mean higher high tide is used. Four-feet would be measured from one of these elevations. 3. Although exterior alteration is considered residential development, the exterior alteration would need to involve expansion of the footprint or height of the structure in order to require a shoreline permit. Under

			when exterior alterations to houses. Was the SMP section correctly cited?	20.30.040 - Shoreline Vegetation, only alterations (significant impacts) or vegetation removal require mitigation.
50	Carl Kaseberg	Bulkhead failed in recent storm. Would have loved to put rocks in front of his bulkhead like his neighbors did in 1990.	1. Comment noted. Placing rocks waterward of existing structures is very limited in both the current and proposed SMP. If rocks were placed in front of the existing sea-wall it would have resulted in loss of beach area that could be habitat for surf smelt or sand lance which has been documented in the area (See Figure 9c, Shoreline Inventory). This could be considered a net loss of ecological function.	1. It is not clear from the statement what Mr. Kaseberg was or wasn't allowed to do or what it has to do with the current SMP.
51	John Upthegrove	Supports Don Warren's comments.	1. Comment noted. See #12 above.	1. Comment noted.
52	Andy ?	1. Wants to know the outcome of recent studies done in the area. 2. The SMP should be approved by Ecology as is except that that emergency bulkhead replacement should be added.	1. Need a reference to the studies in able to respond. 2. There currently are emergency provisions in the SMP. Please see response in #20.5 above.	1. Ecology has no comment. 2. Ecology agrees with the City.
53	Mike Hart	Attention needs to be given to public access meeting the Guideline requirements.	1. The proposed SMP contains specific policy language and requirements when access is provided. DOE will determine if the proposal meets the goals and policies of the SMA as well as the SMP update guidelines.	1. Ecology has made required changes.
54	Jennifer & Marc Kropack	1. Supports the adopted 20-foot buffer because the existing lots are not that large or deep along the marine shorelines. 2. The 50-foot marine buffer represents takings. 3. Being made nonconforming would mean not being able to rebuild our home.	1. Comment noted. 2. "Takings" term must be defined. The SMA recognizes that some limitations may be placed on property but that does not preclude development or activities from occurring so long as impacts are avoided, limited or mitigated.	1. Please see #41 – 2. 2. There are options for property owners to reduce the buffer if warranted – buffer averaging, variances, and common line setbacks.

		4. The citizen's advisory committee should have included lake shore owners, marine shoreline owners, city property owners, non-property owners, and experts.	<p>Please also see response in 30.3 above.</p> <p>3. Not necessarily, a legal non-conforming structure can be reconstructed.</p> <p>4. The SAC included lake a lake shore owner (president of the Lake Burien Shore Club), marine owner, at large residents, and experts did attend and were involved in the discussions.</p>	<p>3. Ecology does not have enough facts to respond.</p> <p>4. Ecology has no additional comments.</p>
55	Linda Plein	<p>1. The allowed higher density around lake Burien will not allow for "no net loss" due to increased impervious surface and human activity.</p> <p>2. The Cumulative Impacts analysis fails to address the increased impacts from new building. It also fails to address existing stormwater issues.</p>	<p>1. Development will need to ensure there is no net loss of ecological functions. This may be accomplished by enhancing other areas of the project site that may have diminished functions.</p> <p>2. The CIA addresses likely development impacts in general terms, it did not specifically quantify impacts. Each proposed alteration or development proposal will be required to document how it will NOT result in loss of ecological functions.</p>	<p>1. Please see #7-3.</p> <p>2. Same as above.</p>
56	<p>Burien Marine Homeowner's Association</p> <p>Unsigned petition of 114 names.</p>	Supports the SMP as submitted.	1. Comments noted.	1. Comments noted.

ATTACHMENT 2:

DRAFT TRANSMITTAL LETTER TO DEPT. OF ECOLOGY

May \_\_\_\_, 2011

Ted Sturdevant, Director  
Washington State Dept. of Ecology  
PO Box 47600  
Olympia, WA 98504-6700

RE: City of Burien Comprehensive Shoreline Master Program Update Resolution 317—Reply to Dept. of Ecology Comments

Dear Mr. Sturdevant:

The City of Burien has completed our review and consideration of your April 22, 2011 comments on our Shoreline Master Program (mailed on April 27). We are hereby transmitting an alternative proposal pursuant to WAC 173-26-120(7)(b) as shown on the annotated Attachments B and C included with this letter.

We agree with most of Ecology's required changes. However, we disagree with the following required changes in Attachment B:

1. In the Shoreline Residential environment, increasing the marine riparian buffer from 20' to 50' and increasing the building setback from the buffer from 0' to 15'. (Pages 11 and 12)
2. Requiring a destroyed home to be located and designed to prevent the need for shoreline stabilization and structural flood hazard reduction measures. (Page 8)
3. Removal of the restriction on watercraft access from public access areas along Lake Burien (Page 13)
4. Requiring a shoreline variance for geologically hazardous area buffer reductions to between 0 and 25 feet, and wetland buffer reduction to 25 feet. (Page 7)

(Signature)



**CITY OF BURIEN  
AGENDA BILL**

<b>Agenda Subject:</b> Discussion and Motion to Approve the Submittal of the 2012 Community Development Block Grant (CDBG) Application for the Burien Community Center Roof Replacement.		<b>Meeting Date:</b> May 9, 2011
<b>Department:</b> Finance	<b>Attachments:</b> None.	<b>Fund Source:</b> Parks & General Government CIP <b>Activity Cost:</b> \$150,000 <b>Amount Budgeted:</b> 0 <b>Unencumbered Budget Authority:</b> 0
<b>Contact:</b> Kim Krause, Finance Director		
<b>Telephone:</b> (206) 439-3150		
<b>Adopted Initiative:</b> Yes      No <input checked="" type="checkbox"/>	<b>Initiative Description:</b>	
<b>PURPOSE/REQUIRED ACTION:</b>		
The purpose of this agenda item is for Council to discuss and approve the submittal of the 2012 Community Development Block Grant (CDBG) capital application for the Burien Community Center Roof Replacement project.		
<b>BACKGROUND (Include prior Council action &amp; discussion):</b>		
Each year, the City of Burien, as a King County Community Development Block Grant (CDBG) Consortium member, is able to apply for federal CDBG capital funding. King County administers these funds on behalf of the Consortium. The CDBG funds are for capital projects that benefit low and moderate income neighborhoods.		
CDBG funding for 2012 is still uncertain, however King County is proceeding with the application process. The City's application is for replacing the roof at the newly remodeled Burien Community Center, located at 14700 – 6 <sup>th</sup> Ave SW, Burien, WA 98166. This building was previously a library and the interior was remodeled in 2010 to change it to a community center. However, due to budget constraints, there were not enough resources to replace the approximate seventeen year old, 20,000 square foot roof. During the first year of use, the existing roof has had regular leaks throughout, creating interruptions in programs, and a drain on resources to repair it. The application for \$150,000 to replace the roof does not require a match. The grant application must be submitted to King County by May 23, 2011.		
The City of Burien was previously awarded \$402,645 in 2009 - 2010 CDBG funds for the Hazel Valley Sidewalk Improvement Project, and \$119,473 in 2011 CDBG funds for the Puget Sound Park Improvement Project.		
<b>OPTIONS (Including fiscal impacts):</b>		
<ol style="list-style-type: none"> <li>1. Approve the submittal of the 2012 CDBG application for the Burien Community Center Roof Replacement Project.</li> <li>2. Do not approve the submittal of the CDBG application.</li> </ol>		
<b>Administrative Recommendation:</b> Discuss and approve the submittal of the 2012 CDBG application for the Burien Community Center Roof Replacement Project.		
<b>Committee Recommendation:</b> N/A		
<b>Advisory Board Recommendation:</b> N/A		
<b>Suggested Motion:</b> Motion to approve the submittal of the 2012 CDBG application for the Burien Community Center Roof Replacement Project.		
Submitted by: Kim Krause		
<b>Administration</b> _____	<b>City Manager</b> _____	
<b>Today's Date:</b> May 4, 2011	<b>File Code:</b>	



**CITY OF BURIEN  
AGENDA BILL**

<b>Agenda Subject:</b> Discussion of Business & Occupation Tax		<b>Meeting Date:</b> May 9, 2011
<b>Department:</b> Finance	<b>Attachments:</b> 1. Business & Occupation Tax Analysis 2. AWC Local B&O Tax Rates	<b>Fund Source:</b> N/A <b>Activity Cost:</b> N/A <b>Amount Budgeted:</b> N/A <b>Unencumbered Budget Authority:</b> N/A
<b>Contact:</b> Kim Krause, Finance Director		
<b>Telephone:</b> (206) 439-3150		
<b>Adopted Initiative:</b> Yes      No    X	<b>Initiative Description:</b>	
<b>PURPOSE/REQUIRED ACTION:</b>  The purpose of this agenda item is for Council to discuss the City's Business & Occupation Tax.		
<b>BACKGROUND (Include prior Council action &amp; discussion):</b>  On March 28, 2011, Councilmember Robison requested a report on the City's Business & Occupation Tax and asked that the City consider raising the small business taxation threshold.		
<b>OPTIONS (Including fiscal impacts):</b>  N/A		
<b>Administrative Recommendation:</b> Hold discussion.		
<b>Committee Recommendation:</b> N/A		
<b>Advisory Board Recommendation:</b> N/A		
<b>Suggested Motion:</b> None required.		
Submitted by: <b>Administration</b> _____ <b>City Manager</b> _____		
<b>Today's Date:</b> May 3, 2011		<b>File Code:</b> R:/CC/AgendaBill2011/050911ad-1 business and occupation tax



**CITY OF BURIEN**  
**MEMORANDUM**



**DATE:** May 9, 2011  
**TO:** Burien City Council  
**FROM:** Kim Krause, Finance Director  
**THROUGH:** Mike Martin, City Manager  
**SUBJECT:** Business & Occupation Tax Analysis

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**Background**

The City of Burien established the B&O Tax as a revenue source to provide for City services and facilities effective January 1, 2002. RCW Chapter 35.102.040 requires that cities adopt a minimum small business threshold of at least the equivalent of \$20,000 in gross annual income but allows cities to deviate from this requirement by creating a higher threshold. The City of Burien established an annual threshold of \$100,000, with a minimum of \$20,000 for activities conducted in Burien.

**Burien compared to other B&O Tax cities**

There are 39 cities in the state that collect B&O Tax. Per the Association of Washington Cities publication of local B&O Tax rates dated 4/18/2011 (attached), the City of Algona (.00045) is the only city with a tax rate lower than Burien's (.0005). The rates for the other 37 cities are higher than Burien. The average B&O Tax rate for all cities is .00164 (more than three times Burien's rate).

There are two cities with a higher reporting threshold than Burien's \$100,000: the threshold for the City of Tacoma is \$250,000 and the threshold for the City of Mercer Island is \$150,000. The tax rates for both of those cities is at least twice as much as Burien. Tacoma's tax rates range from .0011 to .004 while Mercer Island's tax rate is .001. The City of Seattle is the only other city with a small business threshold higher than the \$20,000 required (\$50,000). Seattle's tax rate is .00215, four times that of Burien.

**B&O Tax Revenue**

The City of Burien currently receives approximately \$500,000 per year in Business and Occupation Tax. The tax is charged not only to businesses located in Burien, but businesses that come into Burien to perform services, such as contractors, plumbers, electricians, etc. Businesses that meet the established criteria of \$100,000 in gross receipts pay tax on gross receipts earned in Burien in excess of \$20,000.

- The amount of B&O Tax revenue for businesses reporting less than \$50,000 in gross receipts is:
  - Businesses located in Burien: \$2,462
  - Businesses located outside Burien: \$3,271
  - Total B&O Tax: \$5,733
  
- The amount of B&O Tax revenue for business reporting between \$50,000 and \$100,000 in gross receipts is:
  - Businesses located in Burien: \$5,122
  - Businesses located outside Burien: \$3,883
  - Total B&O Tax: \$9,005
  
- The amount of B&O Tax revenue for businesses reporting between \$100,000 and \$200,000 in gross receipts is:
  - Businesses located in Burien: \$10,834
  - Businesses located outside Burien: \$5,560
  - Total B&O Tax: \$16,394

There are approximately 2,300 businesses that report less than \$200,000 in gross receipts resulting in \$31,132 in B&O Tax revenue to the City. Forty-one percent (41%) of this revenue is derived from businesses located outside Burien city limits.

### **B&O Tax Collection Cost**

All companies doing business inside the City of Burien are required to file a B&O Tax return. The City contracts with an outside agency to process these tax returns at a cost of \$7.22 per return *whether the company pays tax or not*. The cost to administer the B&O Tax program is less than \$30,000 annually. The annual cost for processing returns for businesses with less than \$200,000 in gross receipts is approximately \$16,600, or a little more than half of the total cost.

### **Conclusion**

The City of Burien has the second lowest B&O Tax rate of the 39 B&O Tax cities in the State. In addition, Burien is only one of four cities with a gross receipts threshold higher than the \$20,000 small business threshold required by State law. Burien's B&O tax revenue from businesses reporting gross receipts less than \$200,000 is approximately six (6) percent of the total B&O Tax revenue received annually.

## Local Business (B&O) Tax Rates Effective January 1, 2011

City	County	Phone #	Manufacturing Rate	Retail Rate	Services Rate	Wholesale Rate
Aberdeen	Grays Harbor	(360) 533-4100	0.002	0.003 e	0.00375 e	0.003 e
Algona	King	(253) 833-2897	0.00045	0.00045	0.00045	0.00045
Bainbridge Island	Kitsap	(206) 842-7633	0.001	0.001	0.001	0.001
Bellevue	King	(425) 452-6851	0.001496	0.001496	0.001496	0.001496
Bellingham	Whatcom	(360) 676-6900	0.0017	0.0017	0.0044 e	0.0017
Bremerton	Kitsap	(360) 478-5290	0.0016	0.00125	0.002	0.0016
<b>Burien</b>	<b>King</b>	<b>(206) 241-4647</b>	<b>0.0005</b>	<b>0.0005</b>	<b>0.0005</b>	<b>0.0005</b>
Cosmopolis	Grays Harbor	(360) 532-9230	0.001487	0.001487	0.001487	0.001487
Darrington	Snohomish	(360) 436-1131	0.00075	0.00075	0.00075	0.00075
Des Moines	King	(206) 878-4595	0.002	0.002	0.002	0.002
DuPont	Pierce	(253) 964-8121	0.001	0.001	0.001	0.001
Everett	Snohomish	(425) 257-8601	0.001	0.001	0.001	0.001
Everson	Whatcom	(360) 966-3411	0.002			0.002
Granite Falls	Snohomish	(360) 691-6441	0.002			0.002
Hoquiam	Grays Harbor	(360) 532-5700	0.002	0.002	0.002	0.002
Ilwaco	Pacific	(360) 642-3145	0.002	0.002	0.002	0.002
Issaquah	King	(425) 837-3054	0.0008	0.0008	0.001	0.0008
Kelso	Cowlitz	(360) 423-0900	0.001	0.001	0.002	0.001
Lacey	Thurston	(360) 491-3214		0.001	0.002	
Lake Forest Park	King	(206) 368-5440	0.002	0.002	0.002	0.002
Long Beach	Pacific	(360) 642-4421	0.002	0.002	0.002	0.002
Longview	Cowlitz	(360) 442-5000	0.001	0.001	0.002	0.001
<b>Mercer Island *</b>	<b>King</b>	<b>(206) 236-5300</b>	<b>0.001</b>	<b>0.001</b>	<b>0.001</b>	<b>0.001</b>
North Bend	King	(425) 888-1211	0.002	0.002	0.002	0.002
Ocean Shores	Grays Harbor	(360) 289-2488	0.002	0.002	0.002	0.002
Olympia	Thurston	(360) 753-8327	0.001	0.001	0.002	0.001
Pacific	King	(253) 833-2856	0.002	0.002	0.002	0.002
Port Townsend	Jefferson	(360) 379-4409	0.002	0.002	0.002	0.002
Rainier	Thurston	(360) 446-2265	0.002	0.002	0.002	0.002
Raymond	Pacific	(360) 942-3451	0.002	0.002	0.002	0.002
Roy	Pierce	(253) 843-1113	0.001	0.002	0.002	0.001
Ruston	Pierce	(253) 759-3544	0.0011	0.00153	0.002	0.00102
<b>Seattle</b>	<b>King</b>	<b>(206) 684-8300</b>	<b>0.00215 v</b>	<b>0.00215 v</b>	<b>0.00415 v</b>	<b>0.00215 v</b>
Shelton	Mason	(360) 426-4491	0.001	0.001	0.001	0.001
Snoqualmie	King	(425) 888-1555	0.0015	0.0015	0.0015	0.0015
<b>Tacoma</b>	<b>Pierce</b>	<b>(253) 591-5252</b>	<b>0.0011</b>	<b>0.00153</b>	<b>0.004 e</b>	<b>0.00102</b>
Tumwater	Thurston	(360) 754-5855	0.001	0.001	0.002	0.001
Westport	Grays Harbor	(360) 268-0131	0.0025 e	0.005 e	0.005 e	0.0025 e
Yelm	Thurston	(360) 458-3244	0.001	0.002	0.002	0.001

Average 0.00148 0.00160 0.00199 0.00150

(v) = voter approved increase above statutory limit

(e) = rate higher than statutory limit because rate was effective prior to January 1, 1982 (i.e., grandfathered).

\* Mercer Island's B&O tax rate is still .001 with a gross receipts annual exemption amount of \$150,000 (i.e. only gross receipts in excess of \$150,000 are subject to the .001 tax rate).

NOTE: Tax rates may apply to businesses categories other than those above. Exemptions, deductions, or other exceptions may apply in certain circumstances. Contact the city finance department for more information.

NOTE: Black Diamond repealed its B&O tax effective January 1, 2008. Buckley repealed its B&O tax effective January 1, 2007.





# Burien

*Washington, USA*

400 SW 152<sup>nd</sup> St., Suite 300, Burien, WA 98166

Phone: (206) 241-4647 • FAX (206) 248-5539

[www.burienwa.gov](http://www.burienwa.gov)

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## MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Mike Martin, City Manager  
**DATE:** May 9, 2011  
**SUBJECT:** City Manager's Report

### I. INTERNAL CITY INFORMATION

#### A. Community Disposal of Pharmaceutical Drugs

In order to address a growing community concern, the Burien Police Department is now accepting unwanted pharmaceutical drugs for disposal. Unused and unwanted prescription and over the counter drugs pose a risk to the owner, their families and our community. If improperly disposed of, these often dangerous drugs can also do damage to the environment. A special secure container has been located in the lobby of the Burien Police Station at 14905 6<sup>th</sup> SW. Instructions are posted and all drugs received through this program will be destroyed by incineration and will not be re-purposed for any reason. The program is self-service, anonymous, and free of charge.

#### B. Permit Status Highlights

- Navos Mental Health Clinic has been granted occupancy for the first floor of the new three story building located at 1210 SW 136<sup>th</sup> St.
- Big Foot Java has completed construction of a new drive through Coffee stand at 1015 SW 128th.
- Two new single family residential building permit applications were submitted for the Highline Village development located on 5<sup>th</sup> Ln. S. near South 150<sup>th</sup> Street.
- Work was recently completed for a 2007 building permit to construct a 5,825 square foot single family residence on Maplewild Ave SW. The project was valued at \$700,000.
- Construction remodel of the KFC located at 15209 1st Ave S. has been completed and approved for occupancy.
- Freedom Fitness tenant improvement is complete and occupancy has been approved at their new location: 15830 1st Ave S., Ste. 107.

#### C. New Public Works Asset Management System Starts Producing Data

Public Works field crews are taking their laptops into the field to record their activities in our new asset management system, "Cityworks". The IT Division is using Crystal Reports to produce analytical reports for Public Works from the system. This will ultimately help Public Works monitor the results of their efforts and more efficiently track their assets, materials and labor.

Crystal Reports, included within the Cityworks program, is a commonly-used report-writing software for data analysis.

**D. Recruitment and Hiring Efforts**

During April and early May, the City successfully recruited and filled five temporary Public Works Maintenance positions: Four Street Maintenance Assistants and one Storm Water Maintenance Assistant. Our new Street Maintenance Assistants, Jason Barnett, James Boyd, Nick McKenty and Jake Semeatu, began working for the City in April and Storm water Maintenance Assistant Juan Granizo will begin May 9<sup>th</sup>. Several of the new staff members have prior experience working in streets and storm water maintenance and/or vegetation control.

In addition, staff is currently in the process of checking references for our Summer Day Camp finalists. We are seeking to fill eight positions and are pleased with our pool of applicants.

**E. King County Housing Authority Starts \$1.6M Stimulus Project in Burien (Pg. 89)**

A news release is attached detailing the renovation of Boulevard Manor, a 70-unit public housing complex for seniors and persons with disabilities in the Boulevard Park neighborhood in Burien. The project is being funded under the American Recovery and Reinvestment Act (ARRA) intended to provide or preserve jobs across America.

**F. Burien Named Tree City USA for 2010 (Pg. 95)**

Burien has been named a Tree City USA community for 2010. Burien has earned this national designation for 10 years. A news release is attached that explains how communities meet the standards to become a Tree City USA community.

**G. Bunny SpEGGtacular a Huge Hit**

PaRCS sponsored its new springtime celebratory event on Saturday, April 23 at the Community Center. Registration for the 200 available spots filled quickly, with another 50 on the wait list. The Seahurst Room was transformed into a beautiful sit-down setting for a delicious "Breakfast with the Bunny" that was prepared and provided by the Burien Lions Club. Bunny photos were also available for a small fee thanks to a co-sponsorship by local photographer Paul Conrath. The rest of the facility was vibrant with additional activities, including hands-on crafts, face-painting and storytelling. Families were also excited to touch and pet animals brought to the event, compliments of downtown Burien's "A Place for Pets" store.

**H. Navos Using City Facility**

Navos Mental Health Solutions is now renting out the Dottie Harper Park House once-a-week for youth and teen programs. Navos staff plan to use the facility for approximately three months, and appreciate the facility's non-clinical setting with its close proximity to the Burien Transit Center.

**I. PaRCS Staff Presentation for WRPA**

Recreation Specialist Rachel Gilbert has been selected by the Washington Recreation and Parks Association (WRPA) to co-present a workshop session entitled "Developing Productive and Successful Relations With Renters" at the Facilities Section workshop on May 7 in Federal Way. Rachel oversees scheduling PaRCS' facilities for public use, which include indoor rentals at the Burien Community Center and Dottie Harper Park House as well as the City's athletic fields at Moshier, Chelsea and Manhattan Parks. Local baseball, soccer, football, softball, Ultimate Frisbee, Lacrosse, and disc golf organizations especially depend on Rachel throughout the year to accommodate their volume of daily requests. Rachel also oversees picnic shelter rentals at Seahurst Park, is a key planner of city special events, and administers PaRC's dance/fitness classes.

**J. New Art Exhibit at Community Center**

A new exhibit featuring Seattle artist and architect Garreth Schuh's work will be on display for month of May. Mr. Schuh's work features colorful abstracts, landscapes, still life, illustrations, and graphic design. Many of his paintings reflect memories from his grandparents' rural life. Mr. Schuh became disabled in 1990s, and feels fortunate to have rebuilt his life and art around the limitations of a wheelchair.

**K. PaRCS Staff Participate in School Resource Fairs**

Teen staff shared information about the City's After School and Late Night programs at Cascade Middle School and Highline High School last month. Students were also encouraged to volunteer at upcoming events and programs, including the Wild Strawberry Festival.

**L. 153<sup>rd</sup> Street Banner Project Debuts**

The Arts Commission's "Banner Project" culminated in the installation of 44 banners on April 20. Each design explores the concept of "cultural heritage" and had been created by Gregory Heights, Sylvester Middle School, Puget Sound Skills Center, and Highline High School students during the previous school year. The banners were installed by the Public Works Department on light poles from 1<sup>st</sup> to 10<sup>th</sup> Avenues, and will be on display for a year.

**M. Burien Wellness Holds Third Annual Community Wellness Fair**

Burien Wellness, a local collaboration between health and wellness providers, educators and the city is hosting their third annual community wellness fair on Saturday, May 14, 10:00 a.m. – 3:00 p.m. at Burien Town Square. Area residents are invited to attend free seminars and demonstrations inside city hall this year, as well as educate themselves about the health and wellness services available by visiting exhibitor booths. Lots of give-a-ways and interactive information for all ages will be available.

## **II. COUNCIL UPDATES/REPORTS**

### **A. April 2011 Citizen Action Report (Pg. 96)**

Staff has provided Council with the April 2011 Citizen Action Report attached.

### **B. Notices (Pg. 101)**

The following Notice has been published:

- Notice of Comprehensive Plan Review and Update (See attached.)



## **NEWS RELEASE**

**King County Housing Authority**  
600 Andover Park West, Tukwila, WA 98188

### **FOR IMMEDIATE RELEASE**

For more information contact:  
Rhonda Rosenberg, Director of Communications, (206) 574-1185

April 20, 2011 RR11-3

### **KING COUNTY HOUSING AUTHORITY STARTS \$1.6 M STIMULUS PROJECT IN BURIEN**

*Funds will be used to reduce energy costs in public housing complex, provide jobs*

Workers from CDK Construction have begun work on \$1.6 million in energy efficiency upgrades and building envelope renovations at Boulevard Manor, a 70-unit public housing complex for seniors and persons with disabilities in the Boulevard Park neighborhood in Burien. The project is being funded under the American Recovery and Reinvestment Act (ARRA) intended to provide or preserve jobs across America.

“Not only does this initiative provide good paying construction jobs in our community – jobs that will continue to help get the economy get back on track – it will also enhance the quality, longevity, and energy efficiency of this vital public asset,” said Representative Jim McDermott, who represents Seattle in the U.S. Congress.

Nationwide, the Obama administration dedicated \$4 billion in ARRA funding to housing authorities to help address the backlog of repairs the country’s public housing stock.

This “Green Communities and Energy Efficiency Upgrade” project encompasses building envelope renovations on the four-story building. To prevent moisture and dry rot from threatening the structural integrity of Boulevard Manor, which was built in 1969, the exterior will be sealed with a weather-resistant barrier, and wrapped with a layer of rigid insulation which will be covered with Hardie Board™ fiber cement siding. The installation of new energy-efficient windows will complete the building envelope improvements. In addition to assuring the building is watertight, the new exterior façade

-more-

## Boulevard Manor ARRA-1

will update the building's appearance with brighter colors. The project also will remove old baseboard heaters, replacing them with ductless split system heat pumps and replace the toilets with water-conserving 1.0 gallon per flush models.

Utility consumption will be reduced by an estimated 25 percent for residents, many of them living on fixed-incomes, when the work is finished.

"This project is an investment in our community," said Stephen Norman, executive director of the King County Housing Authority. "In addition to creating jobs in the construction and building industries, which have been hit hard during the economic downturn, we're improving the carbon footprint of the complex. When completed we'll see significant energy (and water) savings, as well as substantial greenhouse gas reductions."

Well-paying jobs construction jobs play an essential role in reinvigorating the economy. A national study by the Econsult Corporation has measured the economic impact of investing in public housing. It showed that every construction dollar generates an additional \$2.12 in economic activity through job creation, spending by vendors and suppliers, purchase of goods and services, and consumer spending by workers.

Chris Davies, president of CDK Construction Services, Inc., the general contractor for the building envelope project, agrees. "This recession has caused a severe downturn in the construction sector," Davies said. "In the last year-and-a-half, we shed more than half our workforce — going from a peak of 80 in early 2009 to a low of 34 employees. The four building envelope/energy efficiency projects we're executing on behalf of KCHA have contributed significantly to CDK's ability to hire more workers. We're currently back up to 58 employees and still hiring."

Architectural services are being provided by Environmental Works Architects. L.A. Olson Construction, Inc. will install the new siding. Accurate Painting is the painting contractor and Farmers Electric Design and Construction, LLC is the electrical contractor. Framing, insulation, and drywall repair will be provided by PowerCo Drywall Systems, LLC. Approximately 36 workers from a variety of trades and occupations will be employed on the project. Work is expected to be completed by the

Boulevard Manor ARRA-2

end of October.

KCHA administers a range of quality affordable rental and homeownership programs in the Puget Sound region. The Authority serves more than 17,000 households on a daily basis.

-30-

Attachments: Current photo of Boulevard Manor in Boulevard Park

Rendering of Boulevard Manor after exterior improvements are completed.





# Scheme 2 - Copper



**Boulevard Manor Senior Housing**  
King County Housing Authority  
Initial Color Scheme Concepts

For more information,  
contact Mark Derowitsch,  
Public Relations Manager, at  
[mderowitsch@arborday.org](mailto:mderowitsch@arborday.org)  
or call 888-448-7337.



FOR IMMEDIATE RELEASE:

### **Arbor Day Foundation Names Burien Tree City USA® Community**

Burien, WA, was recognized by the nonprofit Arbor Day Foundation as a Tree City USA community for its commitment to urban forestry.

Burien has earned this national designation for 10 years.

The Tree City USA program is sponsored by the Arbor Day Foundation in cooperation with the National Association of State Foresters and the USDA Forest Service.

Burien has met the four standards to become a Tree City USA community. Tree City USA communities must have a tree board or department, a tree-care ordinance, a comprehensive community forestry program, and an Arbor Day observance and proclamation.

“We commend Burien’s elected officials, volunteers and its citizens for providing vital care for its urban forest,” said John Rosenow, chief executive and founder of the Arbor Day Foundation. “Trees provide numerous environmental, economical and health benefits to millions of people each day, and we applaud communities that make planting and caring for trees a top priority.”

Communities that earn Tree City USA recognition not only have taken the time to meet the four standards, they know that trees:

- Promote healthier communities by filtering the air we breathe by removing dust and other particles.
- Moderate climate, conserve water and provide vital habitat for wildlife.
- Reduce the heat island effect in urban areas caused by pavement and buildings.
- Increase property values and reduce energy use and add beauty to our homes and neighborhoods.

More information about Tree City USA can be found at [www.arborday.org/TreeCityUSA](http://www.arborday.org/TreeCityUSA).

### **About the Arbor Day Foundation**

The Arbor Day Foundation is a nonprofit, environmental and education organization of more than one million members, with a mission to inspire people to plant, nurture, and celebrate trees. More information on the Foundation and its programs can be found at [www.arborday.org](http://www.arborday.org).



# Burien

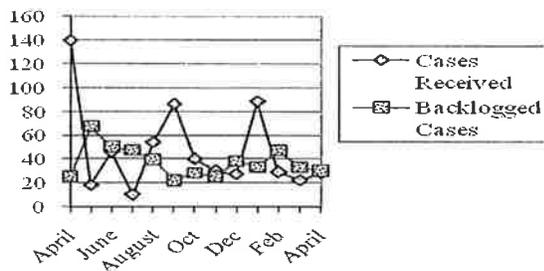
Washington, USA

## CITY OF BURIEN MEMORANDUM

**DATE:** May 3, 2011  
**TO:** Mike Martin, City Manager  
**FROM:** Cynthia Schaff, Paralegal  
**RE:** April 2011 Citizen Action Report

This report reflects the caseload for April and includes all backlog cases open as of April 30, 2011. As of that date, there were 48 open cases. 30 of the open cases are more than five weeks old and are considered backlog. There were 28 cases opened during the month of April; 11 cases initiated by staff/police, and 17 cases initiated by residents.

**Citizen Action Case Status**



	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan '11	Feb	March	April
<b>Cases Received</b>	139	18	46	10	54	86	40	30	27	88	29	22	28
<b>Backlogged Cases</b>	25	67	50	47	39	22	28	25	38	33	47	33	30
<b>Total Open Cases</b>	118	75	65	50	45	68	68	51	55	74	72	47	48
<b>% of Backlog</b>	21%	89%	77%	94%	87%	32%	41%	49%	69%	45%	65%	70%	63%

As usual, please let me know if you have any questions or suggestions for additional improvements to this report.

Cc: Scott Greenberg, Community Development Director  
 Jim Bibby, Code Compliance Officer  
 Henry McLauchlan, Administrative Sergeant  
 Craig Knutson, City Attorney

Michael Lafreniere, Parks Director  
 Jan Vogee, Building Official  
 Larry Blanchard, Public Works Director



## Monthly Report to the City Manager

### Citizen Action Request Case Status

Report Date: 05/03/2011

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
1205	City Attorney	CAR-08-0022	01/14/2008	Nuisance	14456 18TH AV SW Parking & nuisance	Site Investigation	10/21/2010	Open
893	City Attorney	CAR-08-0409	11/21/2008	Parking	13430 1ST AV SW Vehicles / Weythman	Site Investigation	08/24/2009	Open
386	Building	CAR-10-0132	04/12/2010	Building	10826 ROSEBERG AV S Building, Hernandez	Phone Call	11/19/2010	Open
386	Code Enforcement	CAR-10-0161	04/12/2010	Nuisance	12663 16TH AV S Nuisance-Johnson	Phone Call	03/14/2011	Open
379	Code Enforcement	CAR-10-0191	04/19/2010	Nuisance	1221 S 116TH ST Nuisance-Glen	Site Investigation	11/29/2010	Open
378	Code Enforcement	CAR-10-0202	04/20/2010	Nuisance	153 S 120TH ST Nuisance-Azpitarte	Other Letter	02/25/2011	Open
378	Planning	CAR-10-0208	04/20/2010	Planning / Zoning	804 SW 122ND ST Zoning-Puloka	Other - See Notes	06/16/2010	Open
312	Planning	CAR-10-0318	06/25/2010	Planning / Zoning	16469 MARINE VIEW DR SW Planning-Buckley	Other - See Notes	04/21/2011	Open
273	Planning	CAR-10-0336	08/03/2010	Planning / Zoning	13223 OCCIDENTAL AV S Zoning-Home Occupation-Zone 2	Case Received	08/03/2010	Open
225	Code Enforcement	CAR-10-0442	09/20/2010	Nuisance	12621 12TH AV S Nuisance, Vehicles, B/L-Haag-Zone # 2	NOV Issued	02/18/2011	Open
203	Code Enforcement	CAR-10-0504	10/12/2010	Nuisance	11439 ROSEBERG AV S Nuisance-Qureshi-Zone 2	Enforcement Letter 1	01/27/2011	Open
201	Planning	CAR-10-0508	10/14/2010	Planning / Zoning	12067 5TH AV S Zoning, Grading, ADU-Ennis-Zone 2	Phone Call	12/08/2010	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
195	Planning	CAR-10-0513	10/20/2010	Planning / Zoning	907 S 134TH ST Zoning-Sam-Zone 2	Other - See Notes	03/22/2011	Open
188	Planning	CAR-10-0520	10/27/2010	Illegal Dumping	1240 SW 124TH ST Illegal Dumping - Ventoza - Zone 1	Enforcement Letter 1	04/12/2011	Open
165	Code Enforcement	CAR-10-0572	11/19/2010	Business License	815 S 120TH ST Zoning-Tam Dinh-Zone2	Other - See Notes	03/23/2011	Open
148	Code Enforcement	CAR-10-0582	12/06/2010	Nuisance	12602 OCCIDENTAL AV S Nuisance Vehicles-Brown-Zone 2	Enforcement Letter 1	12/13/2010	Open
119	Code Enforcement	CAR-11-0014	01/04/2011	Business License	B/L-S & S Power Equipment-Zone 1	Other - See Notes	03/17/2011	Open
111	Code Enforcement	CAR-11-0038	01/12/2011	Business License	641 SW 153RD ST Business License-LC Interpreters-Zone 3	Case Received	01/12/2011	Open
111	Code Enforcement	CAR-11-0052	01/12/2011	Business License	121 SW 158TH ST BUusiness License-Pretty Paws-Zone 3	Case Received	01/12/2011	Open
91	Code Enforcement	CAR-11-0089	02/01/2011	Nuisance	11813 ROSEBERG AV S Nuisance Vehicles-Teem-Zone 2	NOV Issued	03/04/2011	Open
91	Code Enforcement	CAR-11-0090	02/01/2011	Nuisance	2002 S 120TH ST Nusiance Vehicles-Stockdale-Zone 2	NOV Issued	03/04/2011	Open
91	Code Enforcement	CAR-11-0094	02/01/2011	Nuisance	13203 10TH AV S Nuisance-Ram-Zone 2	Enforcement Letter 2	04/08/2011	Open
84	Code Enforcement	CAR-11-0102	02/08/2011	Nuisance	12608 4TH AV S Nuisance-Simkus(Ross)-Zone 2	Case Received	02/08/2011	Open
76	Code Enforcement	CAR-11-0117	02/16/2011	Nuisance	13115 12TH AV S Nuisance, B/L-Hernandez-Zone 2	Case Received	02/24/2011	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
63	Code Enforcement	CAR-11-0118	03/01/2011	Nuisance	13211 OCCIDENTAL AV S Nuisance,vacant-Beck-Zone 2	Site Investigation	04/25/2011	Open
62	Code Enforcement	CAR-11-0123	03/02/2011	Business License	12239 3RD AV SW Business License-Dan's Marine-Zone 1	Case Received	03/03/2011	Open
60	Code Enforcement	CAR-11-0136	03/04/2011	Sign Violation	14424 AMBAUM BL SW Sign ABS-Tran-Zone 1	Case Received	03/24/2011	Open
54	Code Enforcement	CAR-11-0129	03/10/2011	Nuisance	1017 S 124TH PL Nuisance, Housing-Coulter-Zone 2	Phone Call	04/01/2011	Open
50	Code Enforcement	CAR-11-0133	03/14/2011	Sign Violation	11851 GLENDALE WA S Sign-Ethiopian-Zone2	Case Received	03/14/2011	Open
42	Code Enforcement	CAR-11-0135	03/22/2011	Nuisance	18719 4TH AV S Nuisance-Pietron-Zone 4	Case Closed	04/18/2011	Open
38	Code Enforcement	CAR-11-0149	03/26/2011	Nuisance	810 SW 117TH ST Nuisance, Vehicles,garbage-Khampuvong-Zone 1	Case Received	04/06/2011	Open
35	Code Enforcement	CAR-11-0137	03/29/2011	Nuisance	1021 S 124TH ST Nuisance-Foreclosure ?-Zone 2	Phone Call	05/02/2011	Open
34	Code Enforcement	CAR-11-0146	03/30/2011	Nuisance	648 S 159TH ST Nuisance, Trash, Vehicle Repair-Murray-Zone 4	Case Received	04/06/2011	Open
33	Planning	CAR-11-0140	03/31/2011	Planning / Zoning	13236 3RD AV S ADU..B/L-Harwood-Zone 2	Case Received	04/01/2011	Open
29	Code Enforcement	CAR-11-0145	04/04/2011	Business License	1952 SW 172ND ST B/L, ROW Drain-Sutherland-Zone 1	Case Received	04/06/2011	Open
29	Code Enforcement	CAR-11-0148	04/04/2011	Nuisance	15325 1ST AV S Nuisance-Cheng-Zone 3	Case Received	04/06/2011	Open

Days Old	Department	CAR #	Date Received	Nature of Request	Complaint Information	Last Action	Date	Status
28	Code Enforcement	CAR-11-0144	04/05/2011	Nuisance	Nuisance, Garbage, Vehicle-Baker-Zone 2	Case Received	04/06/2011	Open
27	Public Works	CAR-11-0147	04/06/2011	ROW Issue	15612 20TH AV SW ROW Trailer-Kleeberger-Zone 1	Case Received	04/06/2011	Open
22	Code Enforcement	CAR-11-0152	04/11/2011	Nuisance	1220 S 128TH ST Nuisance-Abandoned Bldg-Ros-Zone 2	Case Received	04/13/2011	Open
22	Planning	CAR-11-0153	04/11/2011	Planning / Zoning	1025 SW 126TH ST Planning/Zoning ADU-Javillonar-Zone 1	Case Received	04/13/2011	Open
22	Code Enforcement	CAR-11-0170	04/11/2011	Nuisance	11924 4TH AV SW Nuisance-Pablo-Zone 1	Case Received	04/11/2011	Open
21	Code Enforcement	CAR-11-0154	04/12/2011	Nuisance	11603 10TH AV S Nuisance-Tran Devel.-Zone 2	Case Received	04/13/2011	Open
15	Public Works	CAR-11-0156	04/18/2011	Nuisance	457 SW 148TH ST Nuisance, sudsy water run off-NW Import-Zone 1	Case Received	04/19/2011	Open
15	Code Enforcement	CAR-11-0157	04/18/2011	Animals	2112 S 126TH ST Animals, vehicle parts-Arevalo-Zone 2	Case Closed	04/25/2011	Open
8	Code Enforcement	CAR-11-0167	04/25/2011	Business License	16043 SYLVESTER RD SW Business License, Sign-Attorney-Zone 3	Case Received	04/27/2011	Open
7	Planning	CAR-11-0164	04/26/2011	Planning / Zoning	12008 1ST AV S Zoning-Home Occ Parking-Zone 2	Case Received	04/26/2011	Open
5	Code Enforcement	CAR-11-0169	04/28/2011	Housing Concerns	929 SW 124TH ST Housing, Recreational-Hinman-Zone 1	Case Received	04/28/2011	Open
5	Planning	CAR-11-0171	04/28/2011	Planning / Zoning	611 SW 128TH ST Zoning-Vehicle issues-Zone 1	Case Received	04/28/2011	Open



# Notice of Comprehensive Plan Review and Update

City of Burien 400 SW 152nd Street, Suite 300 Burien, Washington 98166-3066

## Comprehensive Plan Review and Update

Date of Notice: April 25, 2011

The City of Burien has started the process of considering Comprehensive Plan Amendments for 2011. This year, we will be combining the annual Comprehensive Plan review and update with the State-required periodic review and update. The purpose of the State-required review and update is to incorporate appropriate changes since 2003 in State laws (including the Growth Management Act), PSRC's Vision 2040 and the King County Countywide Planning Policies.

The scope of work for both the annual and State-required review and update will be determined by the City Council in June or July following a recommendation by the Planning Commission. The City Council may assign priorities to proposed amendments, may delay work on proposed amendments to subsequent years, or may not include proposed amendments on the scope of work.

## Scoping Meeting May 24, 2011, 7:00 pm

The Burien Planning Commission will hold a public scoping meeting for interested parties to learn about and comment on the draft scope of work for City-proposed amendments and the State-required periodic review and update on May 24, 2011 at 7:00 pm at the Burien Library/City Hall Multi-Purpose Room. This meeting will be televised live on BCTV Channel 21, and streamed live and archive at [www.burienmedia.org](http://www.burienmedia.org).

## Other Requests-- Submittal Deadline June 1, 2011, 5:00 pm

In addition to the City-proposed and State-required amendments, other individuals and organizations may propose amendments to the Comprehensive Plan. The deadline for submittal of these Comprehensive Plan Amendment requests is 5:00 pm, June 1, 2011. Please note that an amendment to the Comprehensive Plan Land Use Map may also require a Rezone. Application packets are available at City Hall and on the City Web site [www.burienwa.gov](http://www.burienwa.gov). A filing fee is required for amendment requests. We also recommend meeting with Planning staff (see contact information below) prior to filing.

## File Availability

The 2011 Comprehensive Plan Amendment file is available for viewing at Burien City Hall during regular business hours. All Planning Commission and City Council packets are also available online at [www.burienwa.gov](http://www.burienwa.gov). To be notified of future meetings related to the Comprehensive Plan, please sign-up for our e-mail list at <http://www.burienwa.gov/list.aspx>.

## How to Comment

Written comments regarding the Comprehensive Plan scope may be submitted in person, via mail, e-mail or by facsimile. Oral comments can be provided at the Scoping Meeting or during the public comment portions of Planning Commission and City Council meetings, at the discretion of the Chair. Additional notice of public hearings on specific amendments will be provided.

## Project Planner (for submittal of written comments or for more information)

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