



PLANNING COMMISSION AGENDA
January 26, 2010, 7:00 p.m.
Burien City Hall, **Miller Creek Room**
400 SW 152nd Street, **3rd Floor**
Burien, Washington 98166

I. ROLL CALL

**II. AGENDA
CONFIRMATION**

III. PUBLIC COMMENT Public comments allowed on items not scheduled for a public hearing on tonight’s agenda.

**IV. APPROVAL OF
MINUTES** January 12, 2010

V. OLD BUSINESS a. Discussion: Shoreline Master Program Updates

VI. NEW BUSINESS a. None

**VII. PLANNING
COMMISSION
COMMUNICATIONS**

VIII. DIRECTOR’S REPORT

IX. ADJOURNMENT

Future Agendas (Tentative) February 9
- Discussion: Shoreline Master Program Updates
February 23
- Discussion and Possible Recommendation: Shoreline Master Program Updates

Jim Clingan (Vice Chair) Rebecca McInteer	<u>Planning Commissioners</u> Joe Fitzgibbon (Chair) Rachel Pizarro	Stacie Grage Janet Shull
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City of Burien

BURIEN PLANNING COMMISSION MEETING

January 12, 2010

7:00 p.m.

Third Floor Lobby, Burien City Hall

MINUTES

Planning Commission Members Present:

Joe Fitzgibbon, Jim Clingan, Janet Shull, Stacie Grage, Rebecca McInteer, Rachel Pizarro

Absent:

None

Others Present:

David Johanson, AICP, senior planner; Karen Stewart, AICP, senior planner, Reid Middleton, Inc.

Chair Fitzgibbon called the meeting to order at 7:06p.m. At the call of the roll all commissioners were present.

Agenda Confirmation

Commissioner Shull moved to accept the agenda as presented; second was by Commissioner McInteer. Motion carried 6-0.

Public Comment

None

Approval of Minutes

Commissioner Shull moved to accept the minutes of the November 24, 2009, December 8, 2009, and December 15, 2009, meetings. Motion carried 6-0.

Public Hearing

a. Shoreline Master Program Update

David Johanson, AICP, senior planner, and Karen Stewart, AICP, from Reid Middleton, presented a summary of the presentation the commissioners heard at their Dec. 15th meeting. They reviewed the state law and goals behind shoreline master programs, the selection of the Shoreline Advisory Committee, and the work the committee did to develop the draft master program now before the Planning Commission. Mr. Johanson reminded commissioners that Burien's Shoreline Master Program ultimately will have to be accepted by the state Department of Ecology. He said the shoreline regulations will become Title 25 of the Burien Municipal Code (BMC) and the shoreline goals and policies will become an element of the City's Comprehensive Plan. He noted that the Shoreline Master Program will have to meet state guidelines as well as coordinate with the City's critical areas chapter (BMC 19.40) and the flood damage prevention code (BMC 15.55) dealing primarily with construction.

Mr. Johanson said one of the issues that came up repeatedly throughout the Shoreline Advisory Committee meetings was public access to shorelines. There are, he said, multiple access points to the

marine shoreline at parks and street ends; Lake Burien does not currently have public access. Another major issue that came up was how to deal with nonconforming structures within the buffers.

Mr. Johanson then reviewed the process to develop the draft shoreline master program update. The Shoreline Advisory Committee was made up of 10 residents, five at-large members and five technical positions, for a total of 20. He emphasized that now is the time for public input on the draft program. The Planning Commission is conducting the first of several public hearings on the draft program; the City Council and the state Department of Ecology also will be conducting hearings. The public comments, he said, make the document better. He then distributed written comments from Jennifer and Mark Kropack, Mary M. McGarry, Chestine Edgar, Lee and Caroline Sanders, the state Department of Fish and Wildlife, and FutureWise. Don Warren then submitted his written comments, which were copied and distributed to the commissioners.

Chair Fitzgibbon then opened the public hearing at 7:32 p.m., reading the rules of order for the hearing.

A member of the audience asked at what points the draft program would be updated and resubmitted for public review. Chair Fitzgibbon said his understanding is that it can be amended at the Feb. 23rd meeting and also by the City Council, and looked to Mr. Johanson for confirmation. Mr. Johanson replied that that is the current schedule, but if the Planning Commission needs more time to work on the draft program, that is certainly workable.

The first to sign up to testify, **Charles I. Johnson, 3725 SW 171st St.**, said he would defer his testimony to a later meeting, adding that he's been a 76-year resident of Burien living on Three Tree Point and much of what he's seen in the draft program doesn't make sense to him.

Chestine Edgar, 1811 SW 152nd St., said she'd like to make a correction to her written comments, changing "23" houses to "223" houses on the second page of her comments. She stated that she believes the draft program does not protect Lake Burien to the same extent that it protects the Puget Sound shoreline. She said the zoning for the lake is different than that for the marine shoreline and therefore the approximately 82 houses currently on the lake could be increased to 223 total based on the current RS-7,200 zoning designation, whereas the Puget Sound shoreline has disproportionately greater protection as a result of its RS-12,000 zoning designation. She said the potential increase in impervious surface resulting from further development of Lake Burien lots allows more damage to Lake Burien. She believes not addressing the minimum lot size around Lake Burien in the Shoreline Master Program will cause damage to the lake over the next 20 years. She said the lake should have been looked at as a critical area and a study done with best available science about what the minimum lot size ultimately would do to the lake. Additionally, the draft master program doesn't address the provision of a lake steward, which the lakefront property owners have had for years, nor does it provide for a gate should there be any private access.

Bob Edgar, 12674 Shorewood Dr SW, testified that the Planning Commission needs to address several issues in the current draft Shoreline Master Program including unequal protection of the marine shoreline vs. the lake shoreline. He stated that since freshwater habitats are in shorter supply on the planet than saltwater habitats they deserve greater, or at least equal, protection. He said that appears to be opposite of the intent of the draft program update. He said the lake is one of the major sources of fresh water for Miller Creek and plays a key role in Normandy Park's efforts to increase fish populations in the creek. He noted the 50-year history of lake stewardship by the shoreline homeowners. He said the lake is especially important to migratory water fowl since the Port of Seattle filled in wetlands to build the third runway. He said the increase in impervious surfaces from any further lakeshore development would result in greater stormwater runoff into the lake. He also stated his opposition to any public access to the lake, saying that such access would damage the lake.

Kim Otto, 12237 2nd Ave S., stated that she's a professional land use planner and was a member of the Shoreline Advisory Committee. She said she feels the program update is well-designed to protect all

shorelines; she said she saw no evidence either from the consultants' studies or presented at the committee meetings to indicate that Lake Burien requires any greater protection than the marine shoreline. Regarding any possible future development on the lakeshore, she noted that the state Department of Ecology requires all storm water runoff be held on site rather than allowing it to drain into the lake. She encouraged the Planning Commission to base its decisions on the draft program update on fact, not on speculation and the fears of people who live on the lake. She also noted that the waters of the lake are not privately owned and are under the control of the Army Corps of Engineers, as are all navigable waters in the state of Washington. The land is privately owned, but the Shoreline Master Plan protects the water, not just the land, she said. She recommended increasing the buffer to 50 feet, saying it is a standard buffer and would not affect existing development unless someone wanted to increase the square footage of their house. She said she felt the committee did an excellent job and that it represented many different parts of the Burien community well. She urged the commission to look at the program update in terms of what is best for all of Burien, not just for the Lake Burien homeowners.

Jennifer Kropack, 2681 SW 151st Pl., testified that she wants the wording in the draft program changed to allow the rebuilding of shorefront homes and decks stick-for-stick as they exist today no matter what the circumstances. She said she wants wording added to the policy section that the stick-for-stick rebuilding of shorefront homes and decks would not be seen as a rebuild or takeaway and does not harm the community's no-net-loss goal. She said she believes that restrictions on future development will ensure the principal of no net loss will be met. She stated the draft regulations shouldn't take away the personal property of waterfront owners in order for Burien to reach its goal of no net loss. She said Burien should get a lot of credit for restoring the Seahurst Park shoreline and should use that as leverage against restrictions on private property owners.

Len Boscarine, 1600 SW 156th St., testified that everyone on the lake lives in fear of litigation, which is why they keep people away from the lake. In the 1950s there was open access to the lake via two vacant lots, resulting in public drunkenness at all hours, urination and defecation off homeowners' docks, trespassing on private beaches and leaving trash, and a teenager drowned in the lake. He said he objects the statement in the draft program about public access to shorelines as he believes it is targeted specifically at Lake Burien. He asked that if access to the lake is granted, the homeowners be given protections against lawsuits.

John Ester, 16931 Maplewild Ave SW, said he appreciates the amount of work and the effort of the Shoreline Advisory Committee in preparing the draft program update. He said he is opposed to public access to the lake and he believes the setbacks and buffers, particularly on the marine shoreline, will result in lots that are not buildable should an earthquake or other disaster decimate the shoreline houses and decks, which he considers a public taking of private property. He wants the property owners to be allowed to rebuild on the current footprint of their structures.

Lee Moyer, 11917 8th Ave SW, stated that he was a member of the Shoreline Advisory Committee and he urged the Planning Commission to adopt the draft Shoreline Management Program. He said a lot of points of view were expressed and discussed at the meetings and no one was 100 percent satisfied, but he thinks overall it's a good plan. He suggested that if the commission wants changes made to the draft program it should instruct the committee to reconvene and work on the changes with the various viewpoints represented. He said a few years ago the state Legislature passed a law that states that if public access is granted without fee for recreational uses there is no liability for unintentional injury to the users.

Don Warren, 15702 13th Ave SW, testified that he as a member of the Shoreline Advisory Committee and he had trouble getting his ideas built into the draft master program update. He said he has been the steward of Lake Burien for the past seven years and held offices in the lakeshore club. The lake is so small, he said, that it barely qualifies as a shoreline of the state, which is about 24 acres and the lake is about 42 acres, not even twice the size of the smallest lake that qualifies. Mr. Warren said he is opposed

to public access to the lake as he believes it would be detrimental to the lake habitat and the downstream waters. He said that because there is no public access, Lake Burien is the only lake known to King County's lake steward program to be without noxious weeds. He stated that the City will not benefit from providing public access, the lake will not benefit from providing public access, and the lake will be damaged by providing public access, therefore there is no rational reason to provide public access to the lake. He noted that he also was providing written comments to the Planning Commissioners. He suggested the Planning Commissioners remove everything relating to Lake Burien from the draft master program because he believes the property owners adequately protect the lake.

Greg Anderson, PO Box 917, Seahurst, said he is troubled about what he reads as view protection for others at the detriment of property owners. He said he doesn't understand why a city government would start saying who has what view, when height restrictions and side yard setbacks already protect some views. He said another issue troubling him is the buffers and setbacks that would make the majority of current waterfront houses nonconforming and very costly for the owners to get permits to rebuild if they are ever damaged or destroyed. He thinks the draft master program puts the shoreline owners in an awkward position because there just isn't much flat land to build on and the buffers and setbacks will make their land unbuildable.

Chair Fitzgibbon closed the public hearing at 8:05 p.m.

Old Business

a. Discussion about Shoreline Master Program Update

Mr. Johanson said staff will compile the oral and written comments and responses for the Planning Commission for further discussion. At this time staff would like to hear if there are any specific areas the commission would like to focus on or have staff prepare for future discussions.

Commissioner Clingan said he is concerned about people being able to rebuild stick-for-stick in the current footprint of their structures. He would like to be directed to the specific text in the draft program update that people are referring to when they testify that they would be prohibited from rebuilding stick-for-stick. Mr. Johanson said staff will be preparing a comment summary with references to specific sections and with clarification. The commission can adjust the language of the draft program to make it more easily understood.

Commissioner Shull said she would like to know what the existing regulations say about nonconformance and public access versus what the proposed regulations say.

Chair Fitzgibbon asked to be informed about to what extent buffers and other regulations already are covered by existing city code, such as the critical areas ordinance. He said he'd like to know what would be the practical effect of the changes.

Commissioner Pizarro said she would like to know if there is any information in the draft update or studies speaking to the impact to the environment of allowing public access. She said she understands that Lake Burien is public waters, but she is concerned about it being degraded by unregulated human intervention.

Commissioner Grage agreed, and wondered how other communities have dealt with public access to urban lakes.

Chair Fitzgibbon said he wonders what the actual affect of the language about providing public access will be; passing the language doesn't necessarily mean there will be public access, but what does the language actually mean for the city in the future.

Commissioner Pizarro said she'd like to know what public access would look like; is it a gated park?

Mr. Johanson said a lot of material has been gathered this evening, so it may be divided into separate topics over several meetings for the commissioners to work through.

Commissioner Pizarro asked if there is public demand for access to Lake Burien. Mr. Johanson responded that there are varying opinions; some members of the public want access, some do not want access granted.

Mr. Johanson reminded the commissioners that the Shoreline Master Program must be approved by the state Department of Ecology and staff knows that reducing the buffers to, say, 20 feet, will not meet DOE approval. There is some flexibility, but Burien must meet the state guidelines. Other cities have had their programs returned to them by DOE with instructions to better meet the guidelines. Staff has been coordinating with DOE to try to develop a draft program update that meets the guidelines to the best of Burien's ability.

Commissioner Pizarro asked for clarification or validation around the impact of lot size and the comparison between the lake shoreline and the marine shoreline.

Commissioner Shull said it was her understanding that the zoning was established in 1990. Mr. Johanson clarified that it was 1999, briefly summarizing the history of the zoning. Commissioner Shull asked how much redevelopment has occurred since the zoning was put in place. She stated that it is her understanding that zoning is not a part of the draft Shoreline Management Program; Mr. Johanson concurred that zoning was not a consideration when the update process began.

Commissioner Clingan asked if there is a deadline for the City Council to submit the Shoreline Master Program. Mr. Johanson said staff is talking with the Department of Ecology about some flexibility in the timing; the City's grant agreement expires in June this year, but perhaps if a little bit more time is needed the DOE might allow it.

New Business

None

Planning Commission Communications

Commissioner Pizarro said she will be out of town for the Feb. 9th commission meeting.

Director's Report

None

Adjournment

Commissioner Grage moved to adjourn; the meeting was adjourned at 8:27 p.m.

Approved: _____

Joe Fitzgibbon, chair
Planning Commission

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: January 21, 2010
TO: Planning Commission
FROM: David Johanson, AICP, Senior Planner 
SUBJECT: Discussion regarding Shoreline Master Program Updates.

PURPOSE/REQUIRED ACTION:

The purpose of this agenda item is to facilitate Planning Commission discussions of the proposed updates to Burien's Shoreline Master Program.

The SMP update team will provide a brief presentation on the following topics to initiate the discussion;

- Non-conformances and reconstruction standards (20.35.045)
- Shoreline buffers and designations (20.25.015, 20.30.050, 20.30.055)
- Common setback line provisions (20.30.095[2.c]).

As time allows the update team also will be prepared to discuss other topics that were raised in both written and oral comments received as a part of the public hearing process.

BACKGROUND:

At the Planning Commission meeting on Jan. 12, 2010, the commission conducted a public hearing to receive input on the Shoreline Advisory Committee draft. For your reference staff has attached copies of all written comments that were received. Please note that the City received one additional written comment following your public hearing on Jan. 12th, which has been included as an attachment. Following the public hearing, the Planning Commission had a number of requests for more information, further analysis and presentations on specific topics of interest. Staff and the consultants are in the process of creating a comment matrix so we can efficiently respond to all comments and informational requests received.

PLANNING COMMISSION ACTION

No action is required; however, we encourage the commissioners to be prepared to have a thorough discussion and provide direction on specific language in preparation for a recommendation to the City Council.

NEXT STEPS

At this time the preliminary schedule is for the Planning Commission to discuss the updates at your next two meetings with possible action on Feb. 23rd.

If you have any questions before the meeting, please contact me at 206-248-5522 or by e-mail at DavidJ@burienwa.gov.

Attachments:

Written Public Comments

As always, please also refer to the Shoreline Master Program notebook that was provided at your December 15, 2009 meeting.



State of Washington
Department of Fish and Wildlife

RECEIVED

JAN 12 2010

CITY OF BURIEN

Mailing Address: 600 Capitol Way N, Olympia WA 98501-1091, (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia WA

January 12, 2010

City of Burien Planning Commission
Attn: David Johanson, Senior Planner
400 SW 152nd St, Suite 300
Burien, WA 98166

SUBJECT: *Comments regarding the City of Burien Shoreline Advisory Committee
November 2009 Draft Shoreline Master Program*

Dear Members of the City of Burien Planning Commission:

The State of Washington Department of Fish and Wildlife (WDFW) appreciates the opportunity to review and comment on the City of Burien Draft Shoreline Master Program (SMP). The draft includes several policies and regulations specific to fish and wildlife habitat protection, especially freshwater and marine/estuarine habitat critical to salmonids. We only have a few very minor recommended edits.

II. General Goals and Policies

20.20.035: Conservation Element

Pol. CON 20 (Page II-11): The City shall consider the impacts of new development on the quality of land, wildlife and vegetative resources as a part of its environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention of significant habitats.

We recommend including aquatic resources. We notice that water quality is a consideration in other policies, but fish habitat may be impacted by new development for a variety of reasons. These could include 1) when/if aquatic vegetation is removed/covered, 2) large woody debris cannot be recruited because it is removed or the riparian zone is too narrow to allow natural recruitment, or 3) stormwater effects on the flow regime of streams.

IV. Uses and Modifications

20.30.040: Vegetation Conservation

Policy (1)(a) – (Page IV-9):

We noticed that "Ecology" is mistakenly capitalized.

20.30.095: Residential Development

Regulation 2(g) Accessory Structures – (Page IV-26): Accessory structures that are not normal appurtenances as defined at the end of this chapter must be proportional in size and purpose to the residence and compatible with onsite and adjacent structures, uses and natural features.

We support this language that requires accessory structures to be compatible with shoreline uses and natural features. However, we are concerned that there are no limits on the size of an accessory structure and that “proportional in size” could be interpreted in a variety of ways.

V. General Provisions

20.35.025: Exemptions from Shoreline Substantial Development Permits

4.A Exemptions – (Page V-7):

We noticed that the written out amount and number amount of the exempt development amount do not match.

Again we thank you for providing an opportunity to comment on your draft Shoreline Master Program. Please contact me with any questions or requests for additional information.

Sincerely,



Katie Knight
Land Use and Environmental Planner
Washington Department of Fish and Wildlife
600 Capitol Way North
Olympia, WA 98501-1091

Phone: 360.902.2618

E-mail: katie.knight@dfw.wa.gov

cc: David Brock, Regional Habitat Program Manager,
Jennifer Davis, Technical Assistance Section Manager, WDFW
Laura Arber, Area Habitat Biologist, WDFW
Kirk Lakey, Watershed Steward, WDFW
Bob Fritzen, Shoreline Planner, Ecology

futurewise

*Building communities
Protecting the land*

January 12, 2010

City of Burien Planning Commission
c/o David Johansen, Sr. Planner
Community Development Dept.
400 SW 152nd St, Suite 300
Burien, WA 98166

RECEIVED
JAN 12 2010
CITY OF BURIEN

Sent by email to: davidj@burienwa.gov

Subject: Comments on the City of Burien Shoreline Master Program update Nov. 2009 Draft

Dear City of Burien Planning Commissioners:

Futurewise appreciates the opportunity to comment on the Draft Shoreline Master Program (SMP). Futurewise is a statewide citizens group that promotes healthy communities and cities while protecting working farms, working forests, and shorelines for this and future generations. We have members in the City of Burien, as we do throughout Washington State.

The Burien SMP is important because it encompasses approximately 5 miles of Puget Sound marine shore. The Puget Sound and its tributary streams are home to three threatened species: the Puget Sound Chinook salmon, the Puget Sound steelhead, and the bull trout. Business as usual has resulted in the loss of habitat that has contributed to the listing of these threatened species. We cannot afford a business-as-usual shoreline master program. In many respects the Burien SMP accomplishes protection of shoreline resources, although there are some changes that we urge you to adopt.

There are many good elements in the draft SMP. We urge you to retain these elements:

- The inclusion of a Use and Modification Table to indicate whether shoreline uses and modifications are allowed and what permit review is needed.
- The buffer system is well developed and logically sound for reasons that are described below. It is an example of a good buffer system that can be a model for other cities, with some minor changes.
- The treatment of docks and floats by requiring careful review through a Conditional Use Permit.
- The prohibition on new private boat ramps due to their unnecessary impacts on land and water shoreline ecological functions.
- The provision that prohibits covered moorage and boathouses. Such development is more for convenience than necessity, and adversely impacts fish habitat.
- The public access provisions will provide the city's residents with high quality enjoyment of the city's shorelines.
- The system for reviewing Shoreline Exemptions is well described so that it clearly indicates that exemptions receive an abbreviated review.

While there are many good protection strategies in the draft SMP, there are some areas that need to be strengthened to protect water quality and meet the requirements of the Shoreline Management Act (SMA) and the SMP Guidelines.

Our primary concern relates to the issue of buffers, or setbacks and vegetation management. We have attached our guidance document on using smaller buffers for existing developed areas, while still meeting the SMA and SMP Guidelines requirements for using science and no-net-loss of ecological functions. This guidance document explains why small buffers don't work to protect ecological functions unless they are accompanied by built-in mitigation in the form of enhancement requirements to offset the built-in impacts that come with small buffers. The City's riparian vegetation strategy goes a long way toward matching the recommendations in the guidance document. Only small changes are needed to plug the gaps that remain. Detailed comments on buffers are provided below.

Recommended Strategy for Using Small Buffers/Setbacks

As described in our guidance document, the use of small buffers alone will not adequately protect the ecological functions of shorelines. Over time, urban shorelines will continue to be developed and redeveloped, and existing uses will be expanded and intensified. Shoreline areas will be subject to more and more adverse impacts. The scientific evidence shows that full-sized intact buffers are needed to adequately mitigate the impacts of adjacent development on water features. Small intact buffers are incapable of doing so. And degraded buffer/setbacks are unable to perform their buffering function. If existing developed and degraded areas are to have small buffers applied to them, the only justification for doing so is that it will result in enhancement of the buffers ecological functions to the extent possible.

Thus, small buffers may be acceptable if done right, as described in the guidance document. Using such a system will help reduce the impacts of new development and redevelopment on shoreline resources. It will also result in a gradual increase in vegetation and habitat for fish and small animals over time. This will meet the requirement¹ for no-net-loss of shoreline functions, the requirement² to plan for restoration of the jurisdiction's degraded shorelines, and meet the requirement³ to achieve overall improvements in shoreline ecological functions. It will also help improve the water quality of the Puget Sound. The Burien buffer system comes close to matching the logical criteria laid out in our guidance document.

The vegetation conservation introduction states the importance of vegetated riparian areas on the ecological functions of shorelines, yet there doesn't appear to be a policy for how vegetation is to be protected that will support the proposed regulations that do so. A policy needs to be added (or an existing one supplemented) that provides a foundation for the vegetation and setback regulations, and describes the SMP's strategy for riparian vegetation in different situations. A policy example is provided in the guidance document. Please note that we understand that parts of a strategy are already proposed in the SMP. It simply needs to be supplemented to cover all the different situations.

¹ WAC 173-26-186(8)(d).

² WAC 173-26-186(8)(c).

³ WAC 173-26-201(2)(f).

A policy link between conservation and restoration is needed – probably best placed in the Impact Mitigation section (20.30.010). We recommend the following edits:

Policy (a) – Impacts to the ecological functions and values shall be mitigated to result in no net loss of shoreline ecological functions and process. Mitigation for impacts of new development projects should use enhancement of degraded conditions to offset the impacts of the new development near shoreline resources.

The proposed vegetation conservation system in the draft SMP (Section 20.30.040) goes far in accomplishing the criteria in our guidance document for using small buffers. It requires that new development provide native vegetation enhancement, and we strongly support it. As described in our guidance document, this is the only thing that makes the small buffers that are proposed workable in the face of the SMA and SMP Guidelines requirements for using science and ensuring no-net-loss of ecological functions.

The buffer strategy proposed in the draft SMP works well for highly developed conditions that do not have much vegetation. However, there is a problem with it. There is no general statement that vegetation removal in the buffer is not allowed without shoreline review. We recommend stronger language in Regulation (a), below, specifically regarding the status of vegetation in the setback, and provisions that it not be removed.

The system establishes a vegetation conservation buffer, which is approximately the size needed for a science-based buffer, within which vegetation management is necessary. It then establishes a riparian buffer that is more based on the existing conditions of many of the City's developed areas. We support the general concept, with some adjustments in Regulation (b) and (c) to fill in the gaps and cover the different situations described in our guidance document. Below are our recommended edits (using ~~strikeout~~ and underline) to the regulations. Following it are explanations for the edits.

- ~~a~~ **a** Alterations to vegetation within shoreline jurisdiction (except for maintenance of existing or approved conditions) are not allowed without shoreline review. When allowed, alterations to the vegetation shall result in no net loss of shoreline ecological value or function.
- ~~b~~ **b** Alterations within the shoreline vegetation conservation buffer shall provide mitigation for new impacts of the development, and shall only be allowed through approval of a vegetation management plan. Mitigation should take the form of vegetation enhancement and improvements to ecological functions. The plan shall be prepared by qualified professional and shall be consistent with the provisions of this chapter and BMC Chapter 19.40. At a minimum, mitigation shall include:
- i. Revegetation of degraded buffer areas within 20 feet of the ordinary high water mark (or top of shore armoring if applicable) or wetland edge with dense native vegetation meeting the standards of paragraph (b)(iii-iv), below. The Administrator may require wider widths or other improvements to mitigate greater impacts.
 - ii. The above revegetation area may be modified using area averaging when existing structures encroach into the 20 foot width, when access through the

area to waterfront facilities is needed, or when water-dependent activities need to take place in the area.

- d. Within a shoreline riparian buffer as set forth in BMC 20.30.050 *alterations* shall comply with the following;
- i. The applicant shall provide a vegetation management plan prepared by a qualified professional; and
 - ii. At least 75% of the buffer area shall be revegetated, where it is degraded; and
 - iii. Where vegetation is proposed within the buffer it shall be provided at a density to mimic natural conditions rather than a landscaped yard; and
 - iv. Vegetation planting areas shall consist of a mix of native trees, shrubs and ground cover – lawn is not an acceptable groundcover; and
~~When alterations are proposed within a buffer, the end result shall be no loss of vegetated areas; and~~

Explanation of edits for paragraph (a): Already described above. —

Explanation of edits for paragraph (b): Development within the science-based buffer (the Vegetation Conservation Buffer in the draft SMP) that is outside the small riparian buffer needs a minimum of built-in mitigation to offset the built-in impacts of using small buffers. Mitigation other than just enhancement could be used, such as removal of shore armoring. A minimum area of enhancement needs to be described. At least 20 feet is needed to support the establishment of trees and shrubs, and provide a minimum of natural and habitat functions.

Explanation of edits for paragraph (c): For development within the buffer, substantial replanting is needed to mitigate new impacts. The 75% buffer area needs to be replanted if it is degraded. The replanted area standards need to clarify that landscaped yard and lawn does not count as mitigation. The last standard is already stated in paragraph (a)

The Dimensional Standards table lists buffer widths. The buffer for Residential environments may be acceptable for those areas. However, the buffer for Urban Conservancy areas does not seem to be consistent with the areas that are designated as such. In reviewing the shoreline areas using Google Earth, the Urban Conservancy areas appear to be capable of meeting a science-based buffer in most situations. A science-based buffer should be established for Urban Conservancy areas, and would be at least 100 feet wide, with a preferred buffer of 150 feet on Puget Sound. *Protecting Nearshore Habitat and Functions in Puget Sound: An Interim Guide* recommends buffers from 100 to 600 feet to protect the functions of Puget Sound.⁴ Like the Residential areas, there are already provisions to deal with structures within the buffer area.

The above vegetation regulations, along with the recommended edits, will help the vegetation strategy cover the variety of vegetation situations in Burien, which is summarized below:

⁴ EnviroVision, Herrera Environmental, and the Aquatic Habitat Guidelines Working Group, *Protecting Nearshore Habitat and Functions in Puget Sound: An Interim Guide* pp. 11-38 to 11-41 (October 2007) accessed on November 5, 2009 at: http://wdfw.wa.gov/hab/nearshore_guidelines/

- (1) Science based buffers for the Urban Conservancy environments where vegetation is intact,
- (2) Small setbacks with enhancement for Residential environments, and
- (3) Vegetation enhancement to offset requested reductions in the buffers.

Uses and Facilities Allowed in Buffers should be very limited

The CAO is adopted to protect streams and wetlands within shoreline jurisdiction. However, the CAO allows a large number of activities in streams, wetlands, and their buffers. Some specific problems include:

- Stormwater and utility facilities can be placed in buffers, and sometimes convert the wetland, even though the maintenance requirements will require limiting vegetation near them.
- Trails are allowed in buffers, and take precedence over ecological functions, contrary to the SMA.

Most of the allowed activities are provided with outright statements of allowance, without the need to be actually dependent on the location near the water. Yet they can almost always function equally well if located outside the buffer. The only exceptions to the buffers should be for water-dependent facilities, and it should be stated as such (examples would include access directly to a water-dependent use (beach, pier, or providing a crossing or outfall for a utility). If meeting the buffer would be a hardship for other facilities, they would qualify for a Variance or other reduction. We recommend that these exemptions to CAO buffers be excluded from incorporation into the SMP.

The CAO (in BMM 19.40.300) excludes small wetlands from protection. This provision needs to be excluded from the parts of the CAO incorporated into the SMP. The same section establishes a wetland classification system that does not match the currently accepted science-based systems. It even includes the provision that all Lake Burien wetlands are Class 4 wetlands and applies a default 30 foot buffer to them regardless of their characteristics. The wetland system must be changed to use the current science for wetland protection. We recommend the use of Ecology's up-to-date *Washington State Wetland Rating System for Western Washington - Revised*.⁵

The stream and wetland alterations sections (in BMM 19.40.320 & -.360) allow stormwater and utility alterations to streams, wetlands, and their buffers. Type 3 wetlands can even be converted to stormwater facilities. This provision needs to be excluded from the SMP. In the CAO, these facilities don't have to meet the buffer requirements, and are often allowed as a first option rather than a last option. We recommend that only water-dependent facilities should be allowed in the stream, wetland, or their buffers. We also recommend that, when allowed, enhancement should be required to mitigate for impacts – currently facilities only have to repair damage to the pre-damage condition, not compensate for new impacts from corridors or facilities that will be maintained in an altered vegetation condition, or from changes in groundwater patterns.

Stream and Wetland buffer reductions (in BMM 19.40.310 & -.350) should require that the option of using buffer averaging be tried first. This implements the concept of mitigation

⁵ The annotated version is available at: <http://www.ecy.wa.gov/pubs/0406025.pdf>

sequencing as a form of avoidance and minimization, before jumping directly to reduction and compensation.

Shoreline Environments

Aquatic Environment – Section 20.25.010. An unintended consequence of how the Aquatic environment is used is that while the upland shoreline areas have multiple possible environments to distinguish between different shoreline conditions, the open water areas are characterized by one environment – Aquatic. Furthermore the Use Table allows a wide variety of uses in the Aquatic environment. The result is that the uses allowed in the Aquatic environment can be located directly adjacent to all the other environments fronting the water line, resulting in significant land use inconsistencies with residential areas and natural areas.

Management Policy A discusses the paradox of having an Aquatic Environment that allows many uses and modifications being located adjacent to other environments that are protective of ecological functions or residential values: “Shoreline uses and modifications should be compatible with the adjoining shoreline environment and designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.”

We support the idea, but there is no implementing regulation. We recommend the following new regulation, which is similar to what other jurisdictions are using, to be placed either in the Land Use section (20.30.015) or in the use table notes:

“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 on that use or modification as indicated for the adjacent shoreland environment.”

Urban Conservancy – Section 20.25.015. The Criteria for Designation in this environment states [with emphasis]:

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.

There are several areas in the Residential environment that are more appropriately designated as Urban Conservancy. These are discussed further below.

Shoreline Residential – Section 20.25.020. There are some areas designated as Residential that have much intact riparian vegetation. These areas have low intensity residential uses (spaced with riparian vegetation between sites) or residences set back well away from the water. These areas need to be protected better than just using the small buffer. We recommend that they be designated as Urban Conservancy, because they meet the criteria for that environment, as noted above. Three stretches of Residential environment have low density segments in them:

- Along the area where Maplewild Avenue's NE to SW segment lies closest to the sound.
- Along the area of Maplewild Avenue's north-south segment and continuing north to 152nd Place
- A segment of shore near the intersection of Shorewood Dr. and 30th Ave.

These areas need to be re-evaluated and appropriate areas re-designated as Urban Conservancy. This issue is important because shoreline buffers are based on the environments. If these areas are not changed to Urban Conservancy, they should receive an alternate residential environment designation and vegetation management strategy to deal with the greater setbacks, intact vegetation, and spaced structure pattern with vegetation in-between.

Use Table and Use Regulations

Complete use provisions are important elements in an SMP. We strongly support the use of a table to indicate whether shoreline uses and modifications are allowed and what permit review is needed. Our concern is that the proposed table doesn't cover all the different land use possibilities nor all the uses and modifications listed in the SMP Guidelines – leaving gaps.

The difficulty is that the uses that are not considered or addressed in the use provisions are allowed under a Conditional Use Permit, as provided in the table notes. Thus, uses that are not addressed are allowed by default, rather than by careful consideration of whether they are appropriate in different environments. What is more, they will often be allowed without any detailed development standards because none are provided for that use, even though less impacting uses that ARE addressed may have many development standards. Several uses covered in the SMP Guidelines are not listed, and thus are allowed by default without careful consideration. The result is a system that cannot protect shorelines from uses that are inappropriate for particular areas, especially those that have inherent impacts unsuitable for shoreline environments.

Along with the use provisions that can be found in a table, the SMP Guidelines also require that the different types of uses have specific development standards if they are allowed in the SMP. The Guidelines are also very specific in what is included in the development standards. This requirement results in a problem equal to the incomplete table – there are several uses that are allowed (either by default or in the table) that do not have development standards in the draft SMP.

- The following are uses and modifications that are missing in the use table, and also do not have development regulations: Commercial, Agriculture, Boating Facilities and Marinas, Parking Areas.
- The following is missing from the table, even though they are covered in the development regulations: Shore stabilization measures other than bulkheads.
- The following is allowed in the table, but has no development regulations: Forestry.

A solution to this problem can take two forms. The simplest solution is adding a note to the table or implementing text, which provides that, if a use is not listed as a permitted or conditional use, it is a prohibited use; and then adding development standards for the few things that are still allowed. The second solution is more complex:

1. Cover all the uses and modifications in the SMP Guidelines for all environments. Incorporate water-dependency where appropriate.
2. Be sure that if a category of uses or modifications is either allowed, or not addressed, that there are development standards included to cover those uses. Otherwise, the SMP should prohibit those uses and modifications.

The main policy for Land Use – Section 20.30.015 – is about establishing the preference for water-dependency found in the SMP Guidelines. There are only two regulations for this section. One restates the no-net-loss requirements under Impact Mitigation. The second discusses over-water structures. However, the regulations do not implement the water-dependency preference. Simply restating the water dependency preferences from the SMP Guidelines does not result in preferences being implemented. The regulations need to actually do something to make that preference real. This can be accomplished in several ways:

- Not allowing uses or modifications based on their lack of water-dependency in different environments. This can be done in the use table by making distinctions in different uses for water-dependency. For example, water-dependent or water related uses commercial uses could be allowed while commercial uses that do not depend on a waterfront location can be prohibited or only allowed as a conditional use.
- When non-water-oriented uses and modifications are allowed, they can be required to obtain a Conditional Use Permit. This can be done in the table by using the CU entry for some environments.
- More stringent development standards can be applied based on lack of water-dependency.

There are few of these types of distinctions for water-dependency in the regulations, and none in this section which is supposed to implement the water-dependency policy. Most references to water-dependency are simply restating the policy preference.

A quirk of the SMP guidelines is that Community Services, such as government buildings/uses, schools, churches, hospitals, etc. are not covered very well. We recommend including them with commercial uses, such that the category becomes Commercial Uses and Community Services. The change would need to be made in several places in the document. The definition of Commercial should be expanded to include Community Services, or a separate definition should be added. Regulations in several locations and also the tables include provisions for Schools, which would be similar to community services and should be treated as such. The use table allows them in both upland environments, even if they are non-water-oriented. Community services should be limited the same as commercial uses in their location in shoreline areas and their placement within buffers/setbacks.

The SMP also needs to include Commercial Uses and Community Services in the development standards, which in turn need to address the SMP Guideline requirements – especially the limits on non-water-dependent uses and limits on over-water construction. An important tie-in to the commercial use issue is that community services should be subject to the same limits on water-orientation as commercial uses are.

The SMP Guidelines have specific requirements for parking. These need to be added to the table and the development standards.

Cell Towers are listed in the table, but there is no indication that they are subject to the utility standards. This needs to be clarified.

Residential Development - Section 20.30.095

Under the SMA (RCW 90.58.020), single family residences are "priority" uses that have secondary status to preferred uses, and:

- They get priority only as part of implementing the SMA policy for protecting public health, ecological functions, navigation, and shorelines of statewide significance (the two paragraphs before the listing of priority uses).
- They only get priority if "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible ..."
- They only have priority for "Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized".

Residential development and its accessory uses are the primary source of degradation in most shorelines in the state. To place residential uses in context with protecting ecological functions, the residential standards need to be supplemented to address accessory uses and facilities, such as utilities, transportation, recreation, etc. Mitigation sequencing needs to be built into these provisions: avoid first, then minimize, then compensate. We recommend that:

- Non-water-dependent facilities (storage sheds, decks, driveways, utility lines, entertainment decks/patios) should meet the buffer/setback.
- Only water dependent facilities (crossings, boat facilities, etc.) should be within the setback/buffer.
- Waterfront facilities should be co-located with each other to reduce the footprint of the facilities.
- Water-dependent facilities should be minimized, rather than maximized (smaller dock rather than larger dock, boat slip rather than boat garage, pocket swim area rather than frontage-wide swim area)

The Common Line Setback and buffer reduction process (Regulation (c)) allows buffers smaller than those in the buffer table. However, this provision needs to be clear in reminding the reader that they still must meet the vegetation conservation and mitigation standards. Of greater importance is that the common line setback provision needs to be limited to only the Residential environment, where the situations it is designed for are prevalent. The Urban Conservancy environments will likely have intact vegetation that must be preserved, even though adjacent properties may be developed. It would be nearly impossible to do mitigation on sites with intact vegetation for development is that close to the water. In these cases, there must be a hardship that qualifies for a Variance, and then mitigation will have to be provided somehow – likely off-site. Such issues need to be addressed in the regulations.

Shore Stabilization

The section includes policies and standards intended to prevent the need for shore stabilization. Those standards should be in the general standards section with other environmental protection standards. A project proponent, and perhaps even staff, may not normally go the shore stabilization section for find standards about avoiding shore stabilization.

Docks, Piers, and Boating Facilities

On a side note, the policies and regulations in Section 20.30.075 do not refer to docks and piers together consistently (see Regulations b, e, and f) - thus some will apply to one facility, but not the other. These facilities need to be treated the same, especially for standards that allow or don't allow them.

Docks and boating facilities have significant adverse effects on Lake Burien and other lakes.⁶ The *Final Report: A Summary of the Effects of Bulkheads, Piers, and Other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes* recommends consideration "of 'a no new piers' policy as the best option for protecting fish and fish habitat. Encourage the use of floats or buoys instead."⁷ The report recognizes that this may not be politically possible and recommends as a backup no net increase in overwater coverage. In order to build a new dock, existing docks would have to be slimmed down to compensate for the increased coverage. So docks and piers should have carefully crafted standards to protect shorelines from their significant impacts.

The piers/docks section needs to address the problem of the proliferation of boating structures, as required by the SMP Guidelines;⁸ and we recommend adding specifics to better guide how it's done. This is a primary issue for us, as it is needed to protect the shoreline functions. We recommend the following new regulation to reduce proliferation through a comprehensive strategy that addresses all aspects of piers and docks.

Avoid the proliferation of pier/dock & boating structures through the use of mitigation sequencing, using the following preference criteria:

1. New single family residential subdivisions may only use shared or community facilities. Such facilities should have limits on their size, and single-user structures are not allowed.
2. For existing single family residential lots:
 - Non-waterfront lots may not have boating structures, but rather must use a marina, community, or public facility.
 - Waterfront lots first should try to share nearby existing facilities or use nearby public facilities. When that is not possible, new facilities shall be shared with adjacent or nearby lots that do not have facilities, if there are any present. Cost sharing or late-comer agreements, similar to those used for shared roads, driveways, and utilities shall be established as necessary.
3. Multi-family development is not water-dependant, and may not have such structures, unless permitted as a Boating Facility use.

Related to criteria (3) above, Regulation (e) in the draft SMP allows docks accessory to multi-family residential uses contrary to the SMP Guidelines. The WAC for Piers and Docks⁹ states

⁶ Tom Kahler, The Watershed Company, and Martin Grassley and David Beauchamp, Washington Cooperative Fish & Wildlife Research Unit, *Final Report: A Summary of the Effects of Bulkheads, Piers, and Other Artificial Structures and Shorezone Development on ESA-listed Salmonids in Lakes* pp. 47 - 49 (Prepared for the City of Bellevue: 13 July 2000). Available at: http://www.ci.bellevue.wa.us/pdf/Utilities/dock_bulkhead.pdf

⁷ *Id.* at p. 51.

⁸ WAC 173-26-231(3)(B)

⁹ WAC 173-26-231(3)(B)

(with emphasis): "New piers and docks shall be allowed **only** for water-dependent uses or public access. As used here, a dock associated with a single family residence is a water dependent use provided that it is designed and intended as a facility for access to watercraft..." This has several consequences:

- (1) Residential uses are not water-dependent. However, a special exception is made for single family docks. Single family docks for purposes besides "access to watercraft" are not allowed.
- (2) Docks for other residential uses (multi-family & long-term room rental) cannot be allowed as accessory facilities. If they are allowed, they need to be reviewed through the Boating Facility provision. This is an important distinction, as it comes with use limits and development standards.
- (3) All other uses must be water-dependent or provide public access to have a dock/pier or a float.

Of course, we also recommend that boating facilities have to be added to the use table, and development standards need to be established. The SMP Guidelines require¹⁰ local SMPs to deal with recreational Boating Facilities as a specific use category. These facilities (excluding docks serving four single-family residences or less) are intensely used and need special provisions for dealing with such use. Consequently, the SMP Guidelines require that, when Boating Facilities are allowed, SMPs include regulations to deal with their special issues.

The issue of repair and replacement is not addressed as it relates to bringing piers and docks into conformance with the code as substantial parts are replaced over time. We recommend that you supplement the materials to fully address the issues. The City of Kirkland and City of Kent have thorough piers/docks provisions that we recommend you use as templates.

Aside from these issues, the pier and dock provisions do have some good standards that we support.

- We strongly support the prohibition on new private boat ramps due to their impact on upland areas, the water-land interface, and in-water areas. Such impacts are unnecessary given the availability of public ramps to perform the occasional launching and removal of watercraft. The occasional need for dock owners to launch and remove their boats at a public facility or using a boat lift is not a hardship, and greatly reduces facilities in the water.
- We strongly support the provision that prohibits covered moorage.

Beach Stairs and Trams

This section needs to strengthen the proposed requirements for sharing facilities, otherwise it will not happen. This is part of the first and second steps in mitigation sequencing – avoidance and minimization of shoreline development.

Stairs and trams to the beach are allowed, except on feeder bluffs, provided the project proponent demonstrates that existing shared, public or community facilities are not ~~adequate or available for use and the possibility of a multiple owner or multiple user facility has been thoroughly investigated and is not feasible.~~ New facilities shall be

¹⁰ WAC 173-26-241(3)(c).

shared with adjacent properties that do not already have such facilities, and shall include shared maintenance easements and agreements as necessary. Only one stair or tram system is allowed – duplicate facilities are not allowed.

General Provisions

Section 20.30.010 Impact Mitigation. Regulation A states that “development and uses shall occur in a manner that results in no-net-loss of ecological functions” as required by the SMP Guidelines. However, it goes on to add that doing so is only required “to the greatest extent feasible,” which implies that some loss of functions is acceptable. Such an exception to the no-net-loss standards is not found in the Guidelines, and is contrary to the concept of mitigation sequencing - which requires avoidance of impacts first, then mitigation of impacts, then replacement or compensation for any lost impacts. If ecological functions are lost, they must be replaced in full, not “to the greatest extent feasible.” This phrase needs to be removed from the regulation. In the context of mitigation in the Guidelines, the term “to the extent feasible” is only used as it relates to the first two sequencing steps. Projects have to avoid and minimize “to the extent feasible.” All impacts still have to be mitigated.

Exemption Process

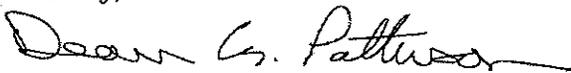
We support the system established for the review of shoreline exemptions. It thoroughly covers the important issues in dealing with exemptions. We have two minor comments.

The exemption for Repair and Maintenance includes provisions for when replacement is an acceptable means of repair. A statement should be included: “The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair.”

Section 20.35.030.1 Letter of Exemption, General states: “Applicants for other permits or approvals must obtain a written letter of exemption.” We recommend that for ANY development project subject to the SMA that might qualify for an exemption, the city should document what is being authorized in a Letter of Exemption. This provides documentation of compliance to the applicant. It also helps the city track the development occurring on its shorelines. So we recommend that “Applicants for other permits or approvals” be deleted and “Persons requesting an exemption” be substituted in Section 20.35.030.1.

Thank you for considering our comments. If you require additional information please contact me at dean@futurewise.org or 509-823-5481.

Sincerely,



Dean Patterson
Shoreline Planner
Futurewise

JAN 12 2010

CITY OF BURIEN

Introduction

In the course of reviewing Shoreline Master Programs (SMPs), Futurewise has seen several proposals for small buffers in areas of existing development. Some of these proposals seem to be based on the belief that, if a small buffer is established based on existing development patterns, unlimited continued development outside that small buffer will have no additional impacts to ecological functions, and thus no mitigation is necessary. This paper shows that there is no logical basis for such a strategy, and provides a recommended strategy for the acceptable use of small buffers in existing developed areas – especially cities – which we believe allows for reasonable development while also having a reasonable chance of protecting the existing shoreline functions as the Shoreline Management Act and the Shoreline Master Program Guidelines require.

Purpose of Regulatory Buffers – Avoiding & Minimizing Impacts

The Shoreline Management Act (SMA) policy statement in RCW 90.58.020 lists the primary policy objective of the act: “This policy contemplates protecting against adverse effects to the public health, *the land and its vegetation and wildlife, and the waters of the state and their aquatic life*, while protecting generally public rights of navigation and corollary rights incidental thereto.” In addition, the SMA policy provides that “[p]ermitted uses in the shorelines of the state shall be designed and conducted in a manner to *minimize*, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.”

To implement these policies to protect the ecology and to minimize damage, as well as other policies of the SMA, the SMP Guidelines require No-Net-Loss of Ecological Functions, stating specifically: “Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.”¹

This is accomplished through Mitigation Sequencing,² whereby the first task of mitigation is avoidance of impacts, the second task is minimization of impacts, and the third is compensation for remaining impacts. Stated another way, allowing development to impact the shoreline is supposed to be the last option, not the first option. Impacts should only be allowed to the extent that it is not practical to avoid damage to the environment and the public’s use of the water, and then the development should minimize and compensate for those impacts.

¹ WAC 173-26-186(8)(b) under Governing Principles of the Guidelines relating to ecological functions; and implemented in WAC 173-26-201(2)(c) under Basic Concepts. Despite being called ‘Guidelines,’ the SMA, in RCW 90.58.080(1), requires that shoreline master programs shall be consistent with the SMP Guidelines.

² WAC 173-26-201(2)(c) under Basic Concepts and Protection of Ecological Functions; and implemented in WAC 173-26-201(2)(e) under Basic Concepts, Environmental Impact Mitigation.

One of the primary ways to accomplishing mitigation sequencing for shoreline waters (streams, lakes, wetlands, marine waters, etc.) and adjacent shorelands is to protect the functions and values provided by intact vegetation using a regulatory buffer or setback and vegetation retention area of a width supported by science. Such a buffer can provide many important functions and help protect the water quality and water resources.

An adequate regulatory buffer can serve three purposes:

- (1) It helps accomplish the first task of mitigation sequencing – avoidance. *But this is only the case if the buffer is intact.*
- (2) An intact buffer also minimizes the adverse impacts of development and redevelopment – such as water quality, glare, and noise impacts.
- (3) For both degraded and intact areas, the buffer also identifies the area within which new development will cause impacts that need mitigation. Degraded buffers perform functions at a dampened level, depending on the amount of degradation. Even heavily degraded shorelines can perform functions at some level. This is specifically stated in the SMP Guidelines.³ When development (including redevelopment, expansion, and more intensified uses) occurs within degraded buffer area, the impacts can be reduced and compensated for by enhancing the degraded functions.

If the regulatory buffer is not of adequate size to avoid and mitigate impacts, as is the case when using small buffers, new development outside the small buffer will still cause new impacts.

Vegetative Buffer Areas Perform Many Functions

The peer-reviewed scientific evidence shows that intact buffers of a width based on science are needed to adequately mitigate the impacts of adjacent development on lakes, rivers, streams, marine waters, and wetlands.⁴ The scientific studies document that (1) small buffers, even with intact vegetation, are incapable of fully mitigating development impacts; and (2) degraded buffers are unable to fully perform their buffering function. The science of intact buffer areas of adequate width shows that they perform many functions – some are provided below and grouped by similarity. Of particular importance is that even degraded conditions retain some functions, in spite of claims to the contrary.

³ WAC 173-26-201(2)(c) under Basic Concepts and Protection of Ecological Functions.

⁴ Karen Capiella and Tom Schueler, *Crafting a Lake Protection Ordinance Urban Lake Management, Watershed Protection Techniques* 3(4) p. 756 (2001) accessed on November 5, 2009 at: http://www.cwp.org/Resource_Library/Center_Docs/special/lakes/ulm_lakeprotectionord.pdf; K. L. Knutson & V. L. Naef, *Management Recommendations for Washington's Priority Habitats: Riparian* p. XI, pp. 164 – 67 (Wash. Dept. Fish and Wildlife, Olympia WA: 1997) accessed on November 5, 2009 at: <http://wdfw.wa.gov/hab/ripfinal.pdf>; Sheldon, D., T. Hruby, P. Johnson, K. Harper, A. McMillan, T. Granger, S. Stanley, and E. Stockdale, *Wetlands in Washington State - Volume 1: A Synthesis of the Science* p. 5-55 (Washington State Department of Ecology Publication #05-06-006. Olympia, WA: March 2005) accessed on November 5, 2009 at: <http://www.ecy.wa.gov/pubs/0506006.pdf>; and EnviroVision, Herrera Environmental, and Aquatic Habitat Guidelines Working Group *Protecting Nearshore Habitat and Functions in Puget Sound: An Interim Guide* pp. II-38 to II-46 & pp. III-34 – III-42 (October 2007) accessed on November 5, 2009 at: http://wdfw.wa.gov/hab/nearshore_guidelines/.

Water Quality and Infiltration

- Inhibiting surface erosion from surface runoff and flood flows.
- Filtering sediment from surface runoff and flood flows.
- Removing and transforming nutrients and harmful substances from surface runoff and flood flows.
- Infiltrating and storing surface runoff and flood flows into groundwater for later release to water bodies.
- Removing and transforming nutrients and harmful substances from groundwater passing through root zones.

Stabilization

- Providing stabilization to streambanks and lake shores against erosive water forces through root mats and root-strength.
- Contributing in-water woody debris which reduces and slows erosive water forces against streambanks and lake shores through barriers and increased roughness.

In-Water Habitat

- Providing fish with over-water hanging cover from predators.
- Providing shade to help cool the water, especially for shallow margins.
- Contributing in-water woody debris needed for creation of fish habitat.
- Contributing in-water organic matter to support fish food species (insects and invertebrates), and other aquatic life.
- Screening or dampening noise, glare, and human activity from the water.

Land Habitat

- Providing refuge for fish from fast flood flows, as well as access to large quantities of food.
- Providing natural processes and food web functions to support wildlife.
- Providing wildlife habitat areas (for feeding, reproducing, resting, etc.) for riparian species, and for upland species that use riparian areas.
- Providing a wildlife migratory corridor along the water to other areas.
- Altering the microclimate near the water to be more suitable for aquatic and riparian species by sheltering from wind, holding humidity, etc.
- Screening or dampening noise, glare, and human activity.
- Providing separation from human activity for sensitive aquatic and upland wildlife species.

While full-sized, intact buffers perform almost the full level of the functions above, degraded buffers can perform low levels of functions, and additional development continues to impact these. It is not the case that degraded buffers have no functions, and thus no mitigation is needed for new development outside and arbitrary small buffer area.

Small Degraded Buffers Cannot Protect Shoreline Functions

The currently available science shows that using the science-based buffer for avoidance and mitigation in mitigation sequencing has several logical outcomes that bear on the use of small buffers for existing development:

1. If the science-based buffers are intact, they can protect the resource from many impacts from nearby development.
2. If the buffers are not intact, they cannot protect the resource from adjacent development - even if it meets the buffer width - and there will be impacts.
3. If development takes place within the buffer area, there will be impacts.
4. In the case of existing development within the science-based buffer width, the vegetation is both degraded and there is not enough width. The presence of existing development does not mean that new development will not have impacts or even that existing development does not have ongoing impacts. Just as in #3 above, continued development in the normal science-based buffer area will increase the impacts. Simply making the buffer width number smaller to match the existing development does not change the presence of impacts.
5. Using small regulatory buffer widths to accommodate existing development establishes built-in impacts in the SMP review system.
6. Since the normal path of development in urban areas over time is expansion and intensification, there will be a continual increase in impacts and degradation across shoreline jurisdiction in these areas. This creates issues for both the Cumulative Impacts Analysis and the Restoration Plan.

This information shows that just because the science-based buffer area is degraded, it is not the case that unlimited additional development has no additional impacts as long as it meets a small regulatory buffer or setback.

This evidence also shows that small buffers cannot be applied to areas that may still have intact functions if those functions are to be protected from loss.

Some small buffer systems proposed in some SMPs seem to assume that the smaller degraded buffer works the same as an intact science-based buffer, i.e. adequately providing functions and buffering against impacts as long as development is outside the buffer line. But peer-reviewed scientific literature shows that a smaller degraded buffer is incapable of performing functions adequately and incapable of protecting the resource it is intended to protect.

New Development and Existing Development Impact Shoreline Functions

Expansion of existing development, redevelopment, and new development on vacant land all adversely affect shoreline resources and functions. In fact, even existing development continues to cause impacts to ecological functions. As described above, this is the case even for development outside a small regulatory setback. Consider the following adverse impacts of development on the shoreline resources.

- New structures and impervious surfaces increase runoff volumes, remove vegetation, remove native soils that absorb water, and reduce the area available to infiltrate those volumes. Note that these impacts are partially mitigated through stormwater ordinances. However, stormwater regulations generally only address increased peak

- runoff volumes, not the other impacts.⁵ In addition, small developments are only required to comply with some of the storm water requirements reducing their ability to address these impacts.⁶
- a. The increased runoff is focused into smaller receiving areas, thus increasing the erosive power of the surface runoff in those areas.
 - b. Where infiltration can still occur, the focused runoff drives infiltrated water to the groundwater table more rapidly with less opportunity for treatment.
 - c. Less vegetation area is available to filter sediment and nutrients from flood waters and the larger volumes of surface runoff passing over the site.
 - d. Less vegetation root structure is available to treat groundwater.
 - e. The trend of decreased infiltration in a drainage basin changes the hydrology of the basin by increasing winter flows and decreasing summer and fall flows adversely affecting water quality and aquatic habitats.
- Adding additions or new structures and impervious surfaces, and removing or simplifying vegetation (cutting trees, replacing shrubs with lawn, paving, etc.) also adversely affect habitat:
 - a. Higher value habitat areas and migration pathways are eliminated or replaced with lower value areas, until the most simplified areas (open impervious surfaces) have only limited value for migration pathways and separation areas. More complex areas for nesting and refuge are most susceptible to loss.
 - b. Substituting non-native species for native vegetation results in a loss of food sources for the entire food web. Many native insect species cannot effectively use non-native vegetation for food. The reductions in insect populations then affect the fish that feed on them.
 - c. Natural processes and food web functions are reduced or eliminated with the progressive removal of complex vegetation elements.
 - d. Species (large and small) capable of using degraded areas are greatly reduced with greater degradation.
 - e. Microclimate is altered for species currently using site.
 - f. Reduces the organic matter input to the water from drifting and blowing wind that supports the aquatic food web and life.
 - g. Reduces the large woody debris input from trees and branches falling into the water that is needed to form and diversify fish and aquatic life habitat.
 - In addition removing or simplifying the vegetation near water also:
 - a. Reduces the root strength and root mats that provide bank stabilization.
 - b. Increases sun exposure on shallow water areas and heats them.
 - Residential uses have additional impacts, not directly related to construction, that increase with enlargement or expansion of the use. Aside from lighting, very little

⁵ Washington State Department of Ecology, *Stormwater Management Manual for Western Washington Volume 1 - Minimum Technical Requirements* pp. 1-20 - 1-26 (February 2005). Accessed on November 5, 2009 at: <http://www.ecy.wa.gov/biblio/0510029.html>

⁶ *Id.* at 2-9.

can be done to mitigate these impacts – they are a function of the existence of the development. Non-residential uses can have impacts similar to residential uses that vary depending on the activities and the level of use.

- a. Human presence and activity that impacts or drives off fish and wildlife. Bigger residences mean more people on the property, whether family members or guests.
 - b. Pets that prey on or drive off fish and wildlife. More family members increase the likelihood of having more pets.
 - c. Machinery and vehicular noise that impacts or drives off fish and wildlife. More people on the property increase the likelihood of having more machines and vehicles – including automobiles, watercraft, and mechanical toys.
 - d. Use of chemicals and fertilizers for house and yard. Larger structures and grounds increase the use of chemicals.
 - e. Use of night lighting that impacts or drives off fish and wildlife. Larger structures and grounds increase the use of night lighting.
- Existing uses can also have impacts that increase over time. While shoreline master programs do not apply to most existing uses, these impacts show that allowing an expanded, redeveloped, or new use that continues to rely on existing, degraded buffers or non-existent buffers will result in an increased loss of shoreline functions, contrary to the requirements of the SMA. Further, shoreline master programs do apply to ongoing activities that require five year permit renewals. The SMP should require measures to protect shoreline functions when those permits are renewed.
 - a. Buffers degrade over time, so existing uses increase their pollution loads as the buffers degrade.
 - b. Even if the pollution being discharged to the water body remains the same, the receiving waters can become more contaminated as pollutants build up in aquatic sediments and the water body year after year. Some pollutants are removed or transformed by flushing and biological processes, but others build up over time.

Recommendations Using Small Buffers or Setbacks with Planting Alternatives

Based on the discussion above, regulatory systems that use small buffers alone are ineffective and fail to comply with the SMA. While a science-based regulatory buffer can provide a means of avoidance, and to a lesser degree minimization, small degraded regulatory buffers and setbacks do not, and result in a system with built-in adverse impacts to ecological functions.

Since a system that uses small buffers or setbacks alone cannot accomplish avoidance, or otherwise mitigate the impacts of a development, the only other acceptable strategy for their use if the built-in impacts are offset by built-in mitigation measures, including mitigation for habitat impacts. This is best accomplished by an improvement of the existing degraded buffer or habitat conditions. Even with this approach to using small buffers or setbacks, the SMP must also address the range of different shoreline conditions in a logical and systematic manner. Below is our recommended strategy for jurisdictions to use small buffers or setbacks for existing developed areas.

1. The shoreline area should be carefully mapped, and the existing level of development should be characterized. This should be part of the inventory and characterization regardless of the use of small buffers. When broad variations exist in setback and vegetation, the areas should be categorized based on the character so the protection measures can consider such variations.
2. Science-based regulatory buffer widths need to be adopted for intact or large setback areas. These areas need to be protected from further degradation.
3. Small regulatory buffers widths or setbacks with native vegetation planting (as described in item 4) can be used for areas of existing development, and should be based on the vegetation and setback categories identified during mapping. However, these areas need to be wide enough to function and function over time. For example, the narrowest high quality buffer that can filter nutrients is 13 feet; the minimal width for filtering pollutants is 33 to 52 feet.⁷ And buffers degrade over time as they filter out nutrients and pollutant. Wider buffers are needed to protect other important shoreline functions.
4. Built-in mitigation requirements need to be included when an intact science-based buffer cannot be used to mitigate impacts of new development. This should include various means of enhancing the degraded shoreline areas where doing so is possible – such as planting native shoreline vegetation, removal or reduction of unnecessary shore armoring or other near-water structures, etc. Where native vegetation is planted it needs to include native groundcover, shrub, and tree planting; and needs to extend across the shoreline with allowances for water access.
5. Only very limited uses should be allowed in the setback and no uses can be allowed within the planted areas if they are to function. Encroachments into a buffer or setback vegetation should be limited to those that are water-dependent and water-related. Water-enjoyment and non-water-oriented uses and facilities can function without being in the buffer area.
6. Where native vegetation is not present in the buffer or setback, it must be planted and maintained. This must include native understory, shrub, and tree planting and extend across the shoreline with allowances to access the shoreline. At a minimum, this planted area needs to be large enough to maintain fully grown native trees.
7. Low impact development (LID) techniques should be required to minimize storm water runoff and help maintain a more natural hydrologic system. This is needed to help reduce the polluted storm water that would otherwise overwhelm the narrow planting strip.
8. Major redevelopments and changes in use, must established scientific based buffers, or at least wider buffers, to ensure no net loss of shoreline functions.
9. When permits for activities are renewed every five years, buffers or setbacks and vegetation plantings should be required.

While small buffers can be made acceptable for highly developed urban areas and rural areas, there needs to be policy support for not basing the buffer width on the available scientific information. Of course science-based buffers should be used for intact areas. Such

⁷ K. L. Knutson & V. L. Naef, Management Recommendations for Washington's Priority Habitats: Riparian p. XI, pp. 164 (Wash. Dept. Fish and Wildlife, Olympia WA: 1997).

justification can be provided in the jurisdiction's policy that supports the use of shoreline buffers. We recommend a policy similar to the following:

BUFFER POLICY: While buffers widths based on science are necessary to protect ecological functions, using them is not possible in existing heavily developed areas, such as along some parts of [FILL IN THE BLANK]. In such areas, an alternative strategy is established using smaller buffers [or setbacks and native vegetation plantings] 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.

To: The Burien Planning Commission
From: Robert Edgar
Re: Shoreline Master Program Update Document
Date: January 12, 2010

RECEIVED
JAN 12 2010
CITY OF BURIEN

The Planning Commission will need to address a number of items in the current draft of the Shoreline Master Program. Some of those items include the unequal protection of the shorelines on Lake Burien as compared to the shorelines on Puget Sound.

The overall goal of the Shoreline Master Program is to protect the ecological function of the shorelines of the State that are located within the boundaries of the City of Burien. These shorelines are designated as critical areas. The critical issue for properties around Lake Burien is that they are located on wetlands and aquifer recharge areas. These lands areas are natural filters that cleanse runoff before the water is collected in lakes or before the water enters underground aquifers. In order for wetlands or recharge areas to be useful and effective, they need to remain as unencumbered as possible. This means limiting the amount of impervious surfaces that cover wetlands and recharge areas.

Small, fresh water habitats are in far shorter supply on this planet compared to saltwater habitats and should be afforded greater, if not, equal protection. The critical fresh-water habitat of Lake Burien is recognized in the Shoreline Master Program Update but is no definition is provided. However, it does define a "critical salt-water habitat". This suggests that protecting the fresh-water habitat is of less importance than protecting salt-water habit.

The salt-water waterfront lot size on the shorelines of Puget Sound is zoned as RS-12,000. The fresh-water waterfront lot size on the shorelines of Lake Burien is zoned as RS-7,200. As a result, the city is allowing that the land around Lake Burien be developed at higher density than it is requiring for land development on Puget Sound. Since small, fresh water habitats are in far shorter supply on this planet compared to saltwater habitats, fresh water habitats should be afforded greater, if not equal, protection. This seems to be just the opposite and contrary to the intent of the Shoreline Master Program to protect the ecological function of Lake Burien's shoreline.

The City of Burien plays a key role in the City of Normandy Park's ongoing success of attracting fish populations. Lake Burien is one of the larger sources of freshwater feeding Miller Creek. And it is that supply of fresh water that from Lake Burien that can maintain fish populations down stream.

The quality of the Lake Burien's freshwater and freshwater habitats has been part of the ongoing stewardship of the families around Lake Burien. Property owners have been very active for more than 50 years in protecting the waters, lake beds, shorelines, flora and fauna of the lake. This has resulted in good water quality and a strong and involved Lake Shore Club Community that prides itself on its historic stewardship of the Lake Burien and a critical habit for resident and migratory waterfowl, especially since the Port of Seattle filled/destroyed the 25+ acres that were previously used by these creatures. Years of property owner involvement

in monitoring water quality and minimizing pollutants has resulted in a lake that has reached a sustainable equilibrium.

Another major factor to the lake's health and freshwater habitats is the low impact of human use. Opening up Lake Burien to unrestricted access threatens to impact the water quality of the lake as well as any unintended consequences downstream. The Shoreline Master Program must play key role in protecting the critical freshwater habitat of Lake Burien by not allowing unfettered, unregulated public access.

I strongly encourage the Planning Commission to seriously consider the need to protect the critical area of lake Burien and since there a lot less freshwater on this planet than salt water, ensure that the SMP takes proactive steps to protect this critical freshwater habitat.

Robert Edgar

RECEIVED

JAN 12 2010

To: The Burien City Council
The Burien Planning Commission
From: Chestine Edgar
Re: Shoreline Master Program Update Document
January 12, 2010

CITY OF BURIEN

It was my understanding that the purpose for the creation of the Shoreline Master Program Update document was to protect all of the shorelines of Burien equally. Additionally, it was to allow citizen input equally from shoreline areas. I raised my concerns about what was happening during the time the Shoreline Advisory Committee was meeting and I am continuing to raise concerns again about some problems that occurred in the process of producing this document.

Approximately 75% of Planet Earth is covered by water. Of the 75%, only one tenth of one percent (0.1%) is available as fresh water. All living things need freshwater. This makes freshwater a very, very, scarce and valuable resource. Freshwater, wetlands and aquifer recharge areas need protection from over-development if they are to remain clean and useable for living things.

Lake Burien is a critical area because it is:

1. a wetland area,
2. a aquifer recharge area,
3. the head waters of Miller Creek,
4. a seismically active area,
5. an area that provides habitat and a food source for threatened species.

All of the homes surrounding Lake Burien sit on this kind of land. This is the kind of land that should have the lowest density (RS-12,000) zoning.

However it some point in time in order to satisfy King County's density requirements, the City of Burien rezoned this land to the lot size to 7,200 sq. ft. without thoroughly analyzing what impact it would have to this critical area. However, the city left the lot sizes of the critical areas on Puget Sound at 12,000 sq ft. This means that more construction of new homes and other structures, impervious surfaces, erosion, vegetation clearing, pollution, and ultimately habitat destruction will be allowed on Lake Burien than on Puget Sound. When I presented this issue to the Shoreline Advisory Committee, they did not include anything in the writing of the document to address this issue. The comment from the city representative was that the lot designation was a problem for the Planning Commission. I have brought this issue to the Planning Commission, they remained mute on it. Therefore, I believe that it will be the responsibility of the Burien City Council to address this clear and apparent damage that will happen to Lake Burien critical areas but not to Puget Sound critical areas. Critical areas in the city should be treated equally when determining lot size zoning. Some areas should not be rezoned for administrative convenience.

All decisions about the use of critical areas are required to be based on the Best Available Science (BAS) about the critical area. Not once during the process of preparing the Shoreline Master Program Update has the Lake Steward for Lake Burien been contacted by the city for information about the lake with regard to:

1. practices used on the lake to protect water quality,
2. practices used to protect wildlife using the lake or even the wildlife that is regularly present,
3. noxious weed control,
4. studies that residents have been involved in about the lake,
5. flooding issues around the lake,
6. operational aspects of the weir,
6. threatened species that use the lake,
7. habitat areas used by these species,
8. rules that neighbors follow that protects the lake,
9. historical data about the lake, or,
10. a basic tour of the lake.

After attending a number of the Shoreline Advisory Committee meetings and listening to the comments made by members of the Planning Commission as well as City Employees, I am convinced that these two groups knew very little about the lake and they did not seek out the information. Additionally, they did not clearly understand the impact that the lot size could play on critical area land use. One member made a comment that the seller of a piece of property controlled the lot size that could be used for building, which demonstrated a clear lack of understanding of city zoning codes and allowable land use in the city.

I am attaching a table and a chart that clearly illustrate the critical areas I am writing to you about as well as the impact lot size plays on the critical area of Lake Burien versus Puget Sound.

As summary of that data, when comparing the critical area on Lake Burien versus an equal amount of critical area on Puget Sound this is what can occur with land use:

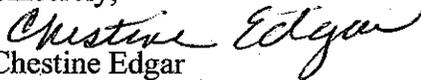
1. Up to 135 additional houses can be built on Puget Sound. Up to ²²³~~25~~ houses can be built on the land on Lake Burien.
2. Up to 813,950 sq. ft. of impervious surface will be allowed on the land on Puget Sound. Up to 1,253,890 sq. ft. of impervious surface will be allowed on the land on Lake Burien covering wetland and aquifer recharge area. This is 440,072 sq. ft. more than allowed on Puget Sound.
3. Since the lot size (RS-12,000) on Puget Sound has remained the same probably no major new home development will occur but because the lot size on Lake Burien was reduced (RS-7200) massive amounts of new construction could occur. Currently there are approximately 82 houses around Lake Burien. At a lot size of 7,200', the number of houses could increase to 223. This is almost three times the number that currently exists. This will cause habitat destruction as well as damage to water quality to the lake.

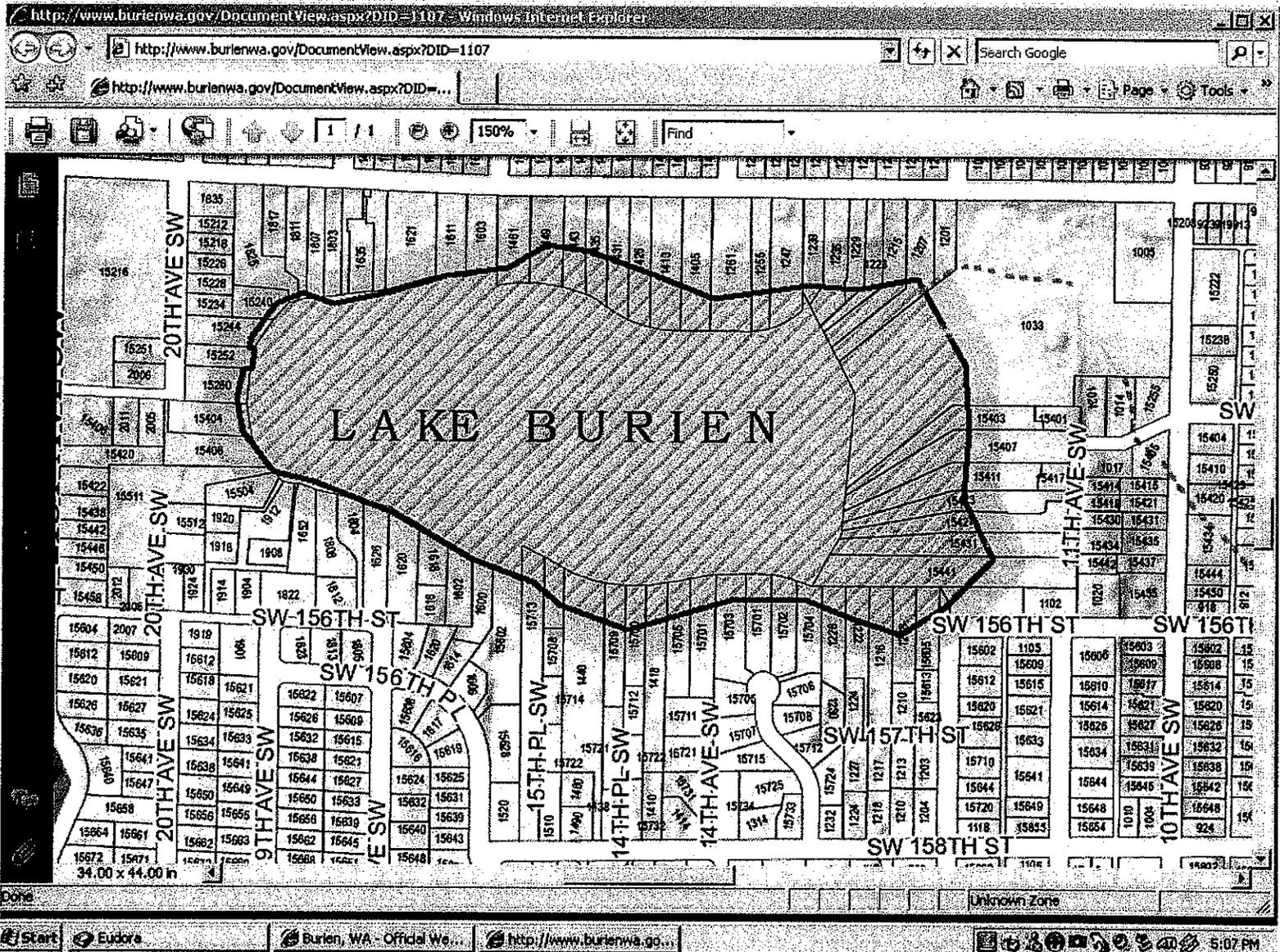
The data for this table was obtained from King County records and the calculations were based on numbers obtained from Burien codes and regulations. I have not seen any tables or studies by the city of Burien that address this issues and its impact on the critical area of Lake Burien. Even though the Shoreline Advisory Committee was not willing to put anything in their document to address these issues or any safe guards to compensate for this lot size issue, I am asking that the City Council address this issue.

Additionally, the protection of freshwater habitat is not mentioned in the document. According to the consultant and the city, it was not included because they do not know how to define it. I have researched the topic, I have found that scientists consider this definable by threatened species that use the area as well as by what were and are the continued native species that currently use the area. This is a term that can be defined.

Please consider these issues before making any final decisions about finalizing the Shoreline Master Document. The Shoreline Master Document is a plan to protect critical areas not to contribute to their demise.

Sincerely,


Chestine Edgar



aqua color /// = wetlands
 Aqua color = aquifer recharge area
 tan color = seismic
 light pink = wetland buffer
 green area = type 4

Lake Burien Lots Sizes and Number of Houses

House Number	Lot Size per King County Records		Current # of Houses	Potential # of Houses @ RS:		Potential # of Whole Houses @ RS:	Lake Burien estimated sq. ft. of Impervious Surface of current House (based on earlier zoning codes)	RS 7,200 Allowable sq. ft. of Impervious Surface (@ 70%) of future development on Lake Burien	RS 12,000 Allowable sq. ft. of Impervious Surface (@ 45%) of future development on Lake Burien	Amount of additional sq. ft. of Impervious Surface allowed in critical areas if zoned as RS 7,200 vs RS 12,000
	Acres	Sq Ft		7,200	12,000					
R. Dykeman	7.49	326,175	4	45.30	27.18	45	27	228,322.5	146,779	81,543.8
1201	0.34	14,838	1	2.06	1.24	2	1	10,386.6	6,677	3,709.5
1207	0.49	21,179	1	2.94	1.76	2	1	14,825.3	9,531	5,294.8
1215	0.43	18,645	1	2.59	1.55	2	1	13,051.5	8,390	4,661.3
1223	0.29	12,850	1	1.78	1.07	1	1	8,995.0	5,783	3,212.5
1229	0.29	12,650	1	1.76	1.05	1	1	8,855.0	5,693	3,162.5
1235	0.43	18,602	1	2.58	1.55	2	1	13,021.4	8,371	4,650.5
1239	0.35	15,360	2	2.13	1.28	2	1	10,752.0	6,912	3,840.0
1247	0.61	26,359	1	3.66	2.20	3	2	18,451.3	11,862	6,589.8
1255	0.40	17,400	1	2.42	1.45	2	1	12,180.0	7,830	4,350.0
1261	0.78	34,087	2	4.73	2.84	4	2	23,860.9	15,339	8,521.8
1405	0.62	26,868	1	3.73	2.24	3	2	18,807.6	12,091	6,717.0
1413	0.60	25,966	1	3.61	2.16	3	2	18,176.2	11,685	6,491.5
1425	0.42	18,090	1	2.51	1.51	2	1	12,663.0	8,141	4,522.5
1431	0.33	14,336	1	1.99	1.19	2	1	10,035.2	6,451	3,584.0
1435	0.28	12,264	1	1.70	1.02	1	1	8,584.8	5,519	3,066.0
1443	0.25	11,072	1	1.54	0.92	1	1	7,750.4	5,400	2,350.4
1449	0.37	16,224	1	2.25	1.35	2	1	11,356.8	7,301	4,056.0
1461	0.39	16,800	1	2.33	1.40	2	1	11,760.0	7,560	4,200.0
1603	0.47	20,520	2	2.85	1.71	2	1	14,364.0	9,234	5,130.0
Vacant-KS	0.53	23,130	0	3.21	1.93	3	1	16,191.0	10,409	5,782.5
1621	0.90	39,295	1	5.46	3.27	5	3	27,506.5	17,683	9,823.8
Vacant-GL	0.30	13,061	0	1.81	1.09	1	1	9,142.7	5,877	3,265.3
1635	0.37	16,089	1	2.23	1.34	2	1	11,262.3	7,240	4,022.3
Vacant-GL	0.23	10,096	0	1.40	0.84	1	1	7,067.2	5,400	1,667.2
1803	0.40	17,400	1	2.42	1.45	2	1	12,180.0	7,830	4,350.0
1807	0.40	17,400	1	2.42	1.45	2	1	12,180.0	7,830	4,350.0
1811	0.45	19,630	1	2.73	1.64	2	1	13,741.0	8,834	4,907.5
1825	0.60	26,076	1	3.62	2.17	3	2	18,253.2	11,734	6,519.0

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	Acres	Sq Ft		7,200	12,000	7,200	12,000				
15232/15240	0.30	13,222	1	1.84	1.10	1	1	5,400	9,255.4	5,950	3,305.5
15244	0.47	23,530	1	3.27	1.96	3	1	5,400	16,471.0	10,589	5,882.5
15252	0.29	12,837	1	1.78	1.07	1	1	5,400	8,985.9	5,777	3,209.3
15260	0.45	19,477	1	2.71	1.62	2	1	5,400	13,633.9	8,765	4,869.3
15404	0.51	22,200	1	3.08	1.85	3	1	5,400	15,540.0	9,990	5,550.0
15406	0.57	24,800	1	3.44	2.07	3	2	5,400	17,360.0	11,160	6,200.0
15511	2.02	87,991	3	12.22	7.33	12	7	16,200	61,593.7	39,596	21,997.8
15504	0.35	15,302	1	2.13	1.28	2	1	5,400	10,711.4	6,886	3,825.5
Common	0	0	0	0	0	0	0	0	0	0	0
1912	0.62	26,983	1	3.75	2.25	3	2	5,400	18,888.1	12,142	6,745.8
1908	0.23	9,960	1	1.38	0.83	1	1	5,400	6,972.0	5,400	1,572.0
1652	0.46	20,060	1	2.79	1.67	2	1	5,400	14,042.0	9,027	5,015.0
1808	0.43	18,730	1	2.60	1.56	2	1	5,400	13,111.0	8,429	4,682.5
1804	0.35	15,240	2	2.12	1.27	2	1	10,800	10,668.0	10,800	0
1626	0.48	20,944	1	2.91	1.75	2	1	5,400	14,660.8	9,425	5,236.0
1620	0.68	29,670	2	4.12	2.47	4	2	10,800	20,769.0	13,352	7,417.5
1618	0.27	11,782	1	1.64	0.98	1	1	5,400	8,247.4	5,400	2,847.4
1602	0.39	17,094	1	2.37	1.42	2	1	5,400	11,965.8	7,692	4,273.5
1600	0.31	13,320	2	1.85	1.11	1	1	10,800	9,324.0	5,994	3,330.0
15602	0.93	40,515	2	5.63	3.38	5	3	10,800	28,360.5	18,232	10,128.8
15703	1.02	44,400	2	6.17	3.70	6	3	10,800	31,080.0	19,980	11,100.0
Common	0	0	0	0	0	0	0	0	0	0	0
1440	1.27	55,380	1	7.69	4.62	7	4	5,400	38,766.0	24,921	13,845.0
15709	0.35	15,180	1	2.11	1.27	2	1	5,400	10,626.0	6,831	3,795.0
15700	0.25	10,800	1	1.50	0.90	1	1	5,400	7,560.0	5,400	2,160.0
1418	0.59	25,860	1	3.59	2.16	3	2	5,400	18,102.0	11,637	6,465.0
15705	0.39	16,907	1	2.35	1.41	2	1	5,400	11,834.9	7,608	4,226.8
15701	0.44	18,980	1	2.64	1.58	2	1	5,400	13,286.0	8,541	4,745.0
15703	0.49	21,270	1	2.95	1.77	2	1	5,400	14,889.0	9,572	5,317.5

Lake Burien Lots Sizes and Number of Houses

House Number	Lot Size per King County Records		Current # of Houses	Potential # of Houses @ RS:		Potential # of Whole Houses @ RS:	Lake Burien estimated sq. ft. of Impervious Surface of current House (based on earlier zoning codes)	RS 7,200 Allowable sq. ft. of Impervious Surface (@ 70%) of future development on Lake Burien	RS 12,000 Allowable sq. ft. of Impervious Surface (@ 45%) of future development on Lake Burien	Amount of additional sq. ft. of Impervious Surface allowed in critical areas if zoned as RS 7,200 vs RS 12,000
	Acres	Sq Ft		7,200	12,000					
15701	0.37	16,101	1	2.24	1.34	2	5,400	11,270.7	7,245	4,025.3
15702	0.36	15,658	1	2.17	1.30	2	5,400	10,960.6	7,046	3,914.5
15704	0.36	15,704	1	2.18	1.31	2	5,400	10,992.8	7,067	3,926.0
1228	0.35	15,320	1	2.13	1.28	2	5,400	10,724.0	6,894	3,830.0
1222	0.33	14,395	1	2.00	1.20	2	5,400	10,076.5	6,478	3,598.8
1216	0.51	22,259	1	3.09	1.85	3	5,400	15,581.3	10,017	5,564.8
1208	0.24	10,644	1	1.48	0.89	1	5,400	7,450.8	5,400	2,050.8
15605	0.25	10,900	1	1.51	0.91	1	5,400	7,630.0	5,400	2,230.0
Vacant	0.04	1,590	0	0.22	0.13	0	0	0	0	0
Vacant	0.40	17,300	0	2.40	1.44	2	0	12,110.0	7,785	4,325.0
15441	0.61	26,593	1	3.69	2.22	3	5,400	18,615.1	11,967	6,648.3
15431	0.43	18,610	2	2.58	1.55	2	10,800	13,027.0	8,375	4,652.5
15427	0.41	17,773	1	2.47	1.48	2	5,400	12,441.1	7,998	4,443.3
15423	0.38	16,460	1	2.29	1.37	2	5,400	11,522.0	7,407	4,115.0
15413	0.36	15,752	1	2.19	1.31	2	5,400	11,026.4	7,088	3,938.0
15407	0.65	28,320	1	3.93	2.36	3	5,400	19,824.0	12,744	7,080.0
15403	0.33	14,586	1	2.03	1.22	2	5,400	10,210.2	6,564	3,646.5
			82	223	136	223	481,200	1,253,889.7	813,949.7	440,072.1

RECEIVED

JAN 12 2010

CITY OF BURIEN

DATE: January 9, 2010

TO: The City of Burien Planning Commission

Subject: Shoreline Master Program Development Regulations

To Whom It May Concern:

Marc and I have been waterfront property owners in Burien since 2003. When we fell in love with Burien, we brought our past environmental learning with us; Salmon Stream Team, Master Home Environmentalist, native plantings and bank stabilization expertise learned at our prior Camano Island waterfront properties. So we highly value, saving and increasing habitat values on the Shorelines of Puget Sound. However, we do not feel we need to give up our own personal property (existing structures) in order for Burien to gain the community goal of "no net loss."

First, we do not understand what date the "no net loss" is measured from? It appears to us that Burien has gained the best and highest leverage for increasing habitat by returning Seahurst Waterfront Park back to an original shoreline ecosystem. Shouldn't this count for a huge gain and credit for Burien? And, also be measured as a big Burien win, by the Department of Ecology, prior to implementing Burien's first SMA?

Restrictions on future new development will ensure that the principle of "no net loss" will be met. We also support vegetation enhancement by existing property owners as they rebuild and get permits after this regulation goes into effect. However, it should also be recognized that adverse environmental impacts to Puget Sound are created by the actions of landowners whose property is not adjacent to the water and they should also be required to take appropriate action to enhance their vegetation when they apply for permits to develop or modify/replace existing structures.

The large strides already made by Burien should be weighed against all the tiny ways private property owners, who desire to reconstruct their existing homes and decks within the existing footprint may be forced to bear additional expense or suffer an unintended loss. Taking of our property should not be considered as a means to further improve the shoreline ecosystem. Further, it should not be seen that we are a menace to the environment just because we own waterfront property that does not conform to new rules for development.

So, please carefully consider the following clarifications to your policies and development regulations:

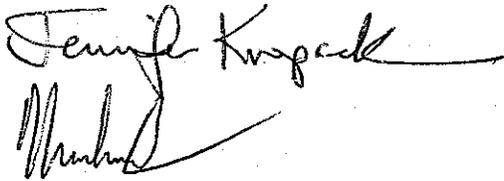
1. In the voluntary removal, alteration section, Chapter 20.35.045 (3) – Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.

2. In the reconstruction section, Chapter 20.35.045 (4) - Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.
3. If damage occurs to our residence, and is greater than 50% of the assessed value of the structure per King County, we believe we should be allowed to rebuild stick-for-stick, all that we currently have – deck and home footprint.
4. An additional policy statement of intent should be incorporated - For the property owners in the buffer area of the shoreline who have existing structures, and who in the future may want to rebuild within the current footprint (extending water-ward a set distance from the existing deck piers to allow for deck overhang), that Burien will not see a re-build as a “take away” and that reconstruction is not viewed as a harm to the community’s “no net loss” goal.

Increasing the gain of shoreline ecosystem function should not be at the expense of current Burien residents in the event of a property loss. Please consider our comments to clarify both the specific and the broad intent of the proposed draft SMA.

Sincerely,

Jennifer and Marc Kropack
2681 SW 151ST PL
Burien WA 98166

Handwritten signatures of Jennifer and Marc Kropack. The signature for Jennifer is written in a cursive script, and the signature for Marc is written in a more stylized, blocky cursive script.

Don Warren
15702 13th Ave SW
Burien, WA 98166
January 12, 2010

RECEIVED
JAN 12 2010
CITY OF BURIEN

City of Burien Planning Commission Public Hearing #1 on SMP update
To be submitted to David Johansen and the Planning Commission for the public record

- 1) 9 year resident of Burien, all of that living on Lake Burien at address above
- 2) President Lake Burien Shore Club 2010, 2009, 2008, 2003
- 3) Lake Steward of Lake Burien 2003 through present.
- 4) Member of the Citizen's Advisory Council for DRAFT'ing SMP update for the City
- 5) Past member of the Pedestrians and Bikes Committee
- 6) Member of Environmental Defense, NRDC, Union of Concerned Scientists, Water Keepers Alliance
- 7) Supporter of Ruth Dykeman Children's Center, Austin Foundation, Planned Parenthood, National Parks, etc

Talking points for this evening

No net good will flow to the city thru public access to the Lake.

No net good will come to the Lake from providing Public Access.

Harm will occur to the Lake thru public access.

Therefore there is no rational reason that the City could have to provide public access to the lake.

Therefore the SMP Draft as it stands now should remove all language associated to Lake Burien relying instead on the rest of the regulations of the City, such as the Critical Areas Ordinance and building codes.

Further, the City should realize that the enlightened self interests of the private property holders having access to the lake will always results in the best possible health of the Lake, its shorelines, and the flora and fauna in it and around.

- 1) Lake Burien has been in private ownership and care for more than 100 years.
- 2) Remove all notion of controlling Lake Burien (boats, floats, docks, motors, vegetation) thru updates to the SMP. All is well handled in the existing codes of the City.
 - a. The Shore Club does a rather fine job and the City could only ruin the Lake thru regulations unneeded since they are already well covered in the Sensitive Areas ordinance of a few years back
 - b. The Shore Club has been very successful in managing the Lake health
 - c. Any advancement of public access to the lake will have a negative impact on the Lake health.

The City would poorly serve the Lake's water quality and Shoreline health in comparison to the job that the enlightened private property owners have and will continue to perform.

The Planning Commission should advise the City Council that the Lake and its surrounding sensitive areas are better served thru a hands off approach relying on the private property owners as members of the Lake Burien Shore Club for their stewardship to assure the long term health of the lake, its shore lands, the downstream waters, and the flora and fauna within that critical and sensitive area.

I have more notes and thoughts than I can share in my short time here tonight. I would love to present my notes, thoughts, advice I have from my own experiences and from the experiences of lawyers and business leaders from around the sound and throughout King County.

I look forward to aiding you in modifying the current DRAFT of the SMP in order to protect the broadest interests of the citizens, the environment, and most importantly this singularly unique, critical and sensitive fresh water eco-system.

For the Record ...

My interests are for maintaining and fostering a healthy lake and the wonderful community of Lake Burien Shore Club Members. I can provide copious notes and a report supported by four people, all Burien Citizens; all members of the SMP Citizens' Advisory Committee, who all agree on the many flaws of the current SMP DRAFT. We can give you ideas on how to avoid the misadventure proposed by the non-citizens and

The Shore Club is more than 30 years older than the city of Burien.

It has worked in a concerted fashion numerous times to assure the health of the Lake for efforts large and small. As a group they are very involved in the community. The Club has many members, almost 100 households, including some major business leaders and largest business owners in the City of Burien. We focus on helping others and building the community. We also focus on keeping the sensitive areas of and around the Lake well maintained in the interests of saving the one last uninfected lake. By infection, I mean all the various vectors of invasion both vegetative, animal, and chemically and physically polluting that are introduced by general public access.

A 1930 Washington Supreme Court Decision ruled that there should be no public access to Lake Burien for various reasons including public safety, public health and private property invasions and nuisance. Recent counseling from a friend of the Lake Burien Shore Club, a recently retired Washington State Supreme Court Justice, indicates the ruling has merit. We are also reminded that even better and more current science supports our view that the Lake would be negatively impacted through heavier use of the Lake and its shorelines than is presently imposed by the less than 95 homes and families that have access to the Lake.

It is not a large lake, something said at one end is heard at the other. It is not very deep. It has no outflow but for about five months of the year. It presently has use measured in

person-hours of less than 10 in a month during those five months. Person-hours of use of the lake in the summer time aren't very high either. And that's good for the lake and the plants and critters that rely on it for their lives.

There are no submerged noxious weeds invading the Lake. What other Lake in King County can say that? NONE ! I know from my involvement with the King County Lake Steward program.

Lake Burien barely qualifies as a shoreline of the state. It is very small, very shallow. And the lake level drops as much as 30 inches from May thru November.

I want to report from my point of view on the proceedings of the Advisory Committee meetings and

- 1) the lack of a proper notion of consensus of people who LIVE in Burien
- 2) the lack of promised public presentations during the early stages of the process
- 3) the poor method of documenting what was said in the meetings to the point that much of the most important stuff was lost and much was misquoted
- 4) the drive to provide public access to all reaches of Burien Shorelines without regard to impacts
- 5) treating the salt water reaches similar to the fresh water reaches

Other ramblings that had little time for review or word smithing

Including Lake Burien in the reaches that the City should attempt to provide public access is very problematic and jeopardizes the Lake and the City

There is no science supporting the notion that Lake Burien could survive public access. There is no commitment in the SMP DRAFT submitted to the Planning Commission that the City should avoid public access to the lake should it endanger the lake. Specifically there is no commitment or statement to become informed, stay informed, and control access by the general public

Historians around the lake who have lived there for decades remind us the only deaths occurred

The Citizen's Advisory Council (CAC) composition and affiliations were not documented in the SMP nor the notes

As far as I have seen, there is no detailed accounting of the advisory council members' addresses and affiliations.

There were members who were subject matter experts who were not citizens.

There were at large people not Burien Citizens with focused interests specifically in gaining access to the Lake regardless outcomes with little other than passing interest in other topics. This is all well documented in 100's of pages of notes I have from the CAC meetings

The person who represented Friends of Puget Sound was able to relate conditions of the sound and voice ideas that gained support for protecting the sound reaches.

As the Lake Steward of Lake Burien for more than 7 years, I was afforded no similar appreciation of how to protect the lake by any of the people who had an unflappable commitment going into the process to achieve public access.

All three members of the Planning Commission that sat on the CAC

Public Participation promised was not delivered by City planner et al

There was ONE public meeting between CAC mtgs #1 and #2.

This was held at Gregory Heights Elementary.

Various notes were taken at the time by Planner and staff that poorly represented property owners' comments. Participants and CAC members were promised multiple times that there would be more public involvement. None occurred. Unless you count the Fait Accompli presentation on 20 November; a purely for show event. It collected no input

from citizens from what I can tell. Is anything from the commentary collected that night in the Folio's given to Planning Commission.

What extant or expected threats or opportunities drive the UPDATE to SMP, and the specific content in the DRAFT before you?

Actions suggested to be taken by the Planning Commission prior to forwarding any advice to City Council

- 1) Comparative square feet of parks per person Burien vs similarly sized and demographically matching cities of King County .. do we need more parks and nuisance provided by encouraging broad public access to existing access points

Do not decompose any SMP update into other Reg's of the City

This SMP should stand alone and intact

By devolving it into other city documents, traceability and responsibility is lost
David Johansen told the Advisory Committee that the SMP can be updated at anytime with 5-10 years being usual cycle.

If the SKMP update is devolved or decomposed into other City documents, that update process is made more difficult

There should be more attention paid to WHO is controlling review of things related to this document

There are repeated references to a Director who is supposed to decide various matters. For something so important, whoever is deciding, there should be checks and balances on them, AND they should be a citizen of Burien

For example the City Planner for Burien is not a citizen of the City.

Who is looking out for over all costs to City should wild adventures be proposed where they are unwarranted, opposed by significant populations and supported by only insignificant populations. Who assures actions are taken only as warranted.

Who will assure no jaundiced surveys are taken of populations to support otherwise undesired actions in the city?

DATE: January 11, 2010

TO: The City of Burien Planning Commission

Subject: Shoreline Master Program Development Regulations

RECEIVED
JAN 12 2010
CITY OF BURIEN

To Whom It May Concern:

My husband and I have been waterfront property owners in Burien since 2004. We were attracted by the beautiful environment and wildlife along the shore. We highly value saving and increasing habitats on the shorelines of Puget Sound. However, we do not feel we need to give up the quality of our personal property in the form of existing structures in order for Burien to gain the community goal of "no net loss."

We do not understand what date the "no net loss" is measured from. It appears to us that Burien has gained the best and highest leverage for increasing habitat by returning Seahurst Waterfront Park back to an original shoreline ecosystem. Shouldn't this count for a huge gain and credit for Burien? Shouldn't the Department of Ecology consider this a major contribution prior to implementing Burien's first shoreline master program?

Restrictions on future new development will ensure that the principle of "no net loss" will be met. We also support vegetation enhancement by existing property owners as they rebuild and get permits after this regulation goes into effect but only if Burien will regulate grass and lawns for all Burien building owners. Burien should begin the policy move to doing this everywhere in the City because most storm water run-off flows to the Sound and all property owners should be treated equally. The Governor's State of Puget Sound Report identifies the problem for all of us, not just those whose homes are nearest the beach.

The large strides already made by Burien should be weighed against all the ways private property owners, who desire to reconstruct their existing homes and decks within the existing footprint, may be forced to bear additional expense or suffer an unintended loss. Taking of our property should not be considered as a means to further improve the shoreline ecosystem. Further, it should not be seen that we are a menace to the environment just because we own waterfront property that does not conform to rules for new development.

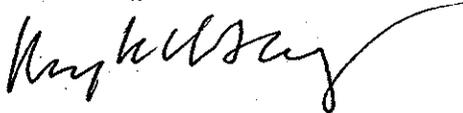
Please carefully consider the following clarifications to your policies and development regulations:

1. In the voluntary removal, alteration section, Chapter 20.35.045 (3) – Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.

2. In the reconstruction section, Chapter 20.35.045 (4) - Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.
3. If damage occurs to our residence, we believe we should be allowed to rebuild all that we currently have within the deck and home footprint.
4. An additional policy statement of intent should be incorporated: For the property owners in the buffer area of the shoreline who have existing structures, and who, in the future, may want to rebuild within the current footprint, including extending water-ward a set distance from the existing deck piers to allow for deck overhang, that Burien will not see such rebuilding as a "take away" and that reconstruction is not viewed as a harm to the community's "no net loss" goal.

Increasing the gain of shoreline ecosystem function should not be at the expense of current Burien residents in the event of a property loss. Please consider our comments to clarify both the specific and the broad intent of the proposed draft shoreline master program.

Sincerely,



Mary M. McGarry
2675 SW 151ST PL
Burien WA 98166

RECEIVED

JAN 11 2010

TO: The City of Burien Planning Commission
FROM: Lee and Caroline Sanders
DATE: January 10, 2010

CITY OF BURIEN

RE: Shoreline Master Program development regulations

Dear Sirs:

We have been waterfront property owners in Burien since 1982. As waterfront property owners, we value preserving both the beauty and the health of Puget Sound. However, we do not feel we should be required to give up our own personal property (existing structures) in order for Burien to gain the community goal of "no net loss." As currently proposed, the Shoreline Master Program Amendments might preclude us from rebuilding our residence, as is and in place, after a fire or earthquake. Such a preclusion would be unfair, unreasonable, and unnecessarily punitive!

First, we do not understand what date the "no net loss" is measured from? It appears to us that Burien has gained the best and highest leverage for increasing habitat by returning Seahurst Waterfront Park back to an original shoreline ecosystem. Shouldn't this count for a huge gain and credit for Burien, and also be measured as a big Burien win by the Department of Ecology, prior to implementing Burien's first SMA?

Restrictions on future new development will ensure that the principle of "no net loss" will be met. We also support vegetation enhancement by existing property owners as they rebuild and get permits after this regulation goes into effect.

The large strides already made by Burien should be weighed against all the tiny ways private property owners, who desire to reconstruct their existing homes and decks within the existing footprint may be forced to bear additional expense or suffer an unintended loss. Preventing us from rebuilding our current residence should not be considered as a means to further improve the shoreline ecosystem. Further, it should not be seen that we are detrimental to the environment just because we own waterfront property that does not conform to new rules for development.

In view of the above, we highly recommend the following clarifications to your proposed policies and development regulations:

1. In the voluntary removal, alteration section, Chapter 20.35.045 (3) – Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.
2. In the reconstruction section, Chapter 20.35.045 (4) - Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers.

In short, if damage occurs to our residence, we believe we should be allowed to rebuild stick-for-stick and brick for brick, all that we currently have – the total current deck and home footprint.

3. In the Common-line riparian buffer and building setback standards section, Chapter 20.30.095 (2Cii) -

It should not make a difference if a shoreline resident lives next to a vacant lot. The proposed restrictions for reconstruction next to an empty lot would leave, for many of us, little or no property upon which to rebuild.

Undeveloped green space should not be a punishment to current adjacent homeowners. They should be allowed to rebuild after a disaster within their currently existing footprint, including deck overhangs beyond existing foundation or pilings supporting decks.

4. An additional policy statement of intent should be incorporated –

For the property owners in the buffer area of the shoreline who have existing structures, and who in the future may want to rebuild within the current footprint (extending water-ward a set distance from the existing deck piers to allow for deck overhang), that Burien will not see a re-build as a “take away” and that reconstruction is not viewed as a harm to the community’s “no net loss” goal.

Increasing the gain of shoreline ecosystem function should not be at the expense of current Burien residents in the event of a property loss. Please consider our comments to clarify both the specific and the broad intent of the proposed draft SMA. We greatly appreciate your time and consideration of our suggestions. We hope that, in a sense of reasonable governance and fairness, you will empathize with the existing waterfront homeowners and incorporate our suggestions.

Sincerely,

Lee and Caroline Sanders
2685 SW 151ST Place
Burien WA 98166

Lee A. Sanders
Caroline Sanders

RECEIVED

JAN 20 2010

January 20, 2010

CITY OF BURIEN

To: David Johanson, Senior Planner
City of Burien

Cc: Ted Sturdevant, Director
WA State Department of Ecology

From: John Upthegrove
1808 SW 156th, Burien, WA 98166

Re: City of Burien Shoreline Master Program

Gentlemen:

In the December 2009 meeting of the Burien Planning Commission I respectfully requested that you remove language in Section PA5 of the above referenced document regarding giving highest priority to reaches without existing public access.

More than once, the advisor to the Shoreline Advisory Committee from the Department of Ecology has reminded us that this should be a well-balanced plan, similar to a 3-legged stool (1. Protect the quality of water and the natural environment, 2. Depend on proximity to the shoreline, 3. Preserve and enhance public access...). In the original draft, the plan was somewhat in balance. At the 2nd meeting of the Shoreline Advisory Committee, two members of the committee were permitted to reopen the policy section and introduce an amendment stating that the city would give "highest priority" to public access. This language now places the plan out of balance. If anything, the state's definition places protecting the quality of water and the natural environment as the leading preference in the Shoreline Management Act. (See Section 20.00.002 - your own Overview of the State Shoreline Management Act.)

One must ask, was this Shoreline Advisory Committee formed to establish priorities for the city? My understanding is that the Shoreline Advisory Committee was established to review this document, not to establish city priorities.

In reading the most recent copy of the plan, I note that this "highest priority" language is still in the document. I ask once more that you remove this statement, and return the plan to a balanced approach, your own goal that was stated by staff and consultants at your November 2008 public meeting at Gregory Heights School.