



Burien
WASHINGTON

PLANNING COMMISSION AGENDA

February 23, 2010, 7:00 p.m.

Burien City Hall

Multipurpose Room/Council Chamber

400 SW 152nd Street

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 26, 2010
February 9, 2010

V. OLD BUSINESS a. Discussion and Possible Recommendation: Shoreline Master Program Update

VI. NEW BUSINESS a. None

**VII. PLANNING
COMMISSION
COMMUNICATIONS**

VIII. DIRECTOR'S REPORT

IX. ADJOURNMENT

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

Planning Commissioners

Jim Clingan (Vice Chair)
Rebecca McInteer

Joe Fitzgibbon (Chair)
Rachel Pizarro

Stacie Grage
Janet Shull

City of Burien

BURIEN PLANNING COMMISSION MEETING

January 26, 2010

7:00 p.m.

Miller Creek Room, 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 p.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.

Public Comment

Tanya Engeset, 1449 SW 152nd St., said she didn't feel she should have to pay to receive a CD copy of the audio recording of the Jan. 12th Planning Commission meeting. She said she could not bring a CD player to City Hall to listen to it because a CD isn't made unless a person asks for one. She said the recording should be available for checkout in the Burien Library the way the City Council meeting DVDs are available. She concluded by saying that everyone on the waterfront has water rights.

Kathi Skarbo, 1621 SW 152nd St., stated that she has many concerns about the Shoreline Master Program update, ranging from public access issues to problems with rebuilding after a disaster to parking to following the state guidelines with regard to protecting private property rights and public safety. But because of the three-minute time limit for comments, she chose to speak only to her concerns about public access. She then handed the commissioners a sheet of paper with her comments on one side and a comparison of a paragraph from a Sept. 1, 2009, draft of the program and the same paragraph from the draft forwarded to the Planning Commission, noting that it was changed somewhere along the way. She pointed out that the Sept. 1 draft stated "Public access shall be required for all new shoreline development and uses, except for...individual single family residences not part of a development planned for more than four parcels," whereas the Nov. 17 final draft states "Public access shall be required for all new shoreline development and uses, except for...individual single family residences and subdivisions of less than four parcels." She said that's a significant change from the Sept. 1 draft, which she took to mean five or more parcels, instead of the four or more parcels in the final draft. She said the final draft document is confusing and not readable. She checked the minutes of the Shoreline Advisory Committee meetings and did not find any mention of the committee changing the wording. She said she has three questions about the paragraph: How, when and why was the paragraph changed from "more than four parcels" to "less than four parcels? Did the Advisory Committee have an opportunity to review the final document and

approve it? Does the final document accurately represent the recommendations of the Advisory Committee? She encouraged the Planning Commission to find out the answers to those questions and to let her know what they are, and she strongly encouraged the commission to change the language back to the Sept. 1 draft.

Chestine Edgar, 1811 SW 152nd St., said she believes the Shoreline Master Program document was not analyzed correctly. She said that when Reid Middleton did the study on the Cumulative Impacts Analysis, it presumed there would be a 100-foot buffer; as a result, it stated there is very little opportunity for development or redevelopment on Lake Burien. After the study was completed, the City negotiated a reduced buffer with the Department of Ecology, but didn't have Reid Middleton revise its analysis. Therefore, she said, the conclusions drawn in the Cumulative Impacts Analysis, the Shoreline Inventory and the draft master program are incorrect about the impacts of development and redevelopment on the lakeshore. She said further development and redevelopment will cause net loss to the lake, yet the number one priority of the Shoreline Master Program is that there shall be no net loss to the environment. She said she supported what Ms. Skarbo said about undocumented changes in the draft program document, in both business/commercial and public access. She distributed to the commissioners six pages of comments, five pages from the Cumulative Impacts Analysis that she said are in error, and a photograph of a bald eagle at the lake, refuting the state's claim that no priority species use the lake, and encouraged the commissioners to read the documents she submitted.

Kathy Anderson, 17120 Maplewild Ave. SW., said she and her neighbors want more time to address the draft Shoreline Master Program and the policies within it. She said mostly what she is concerned about is public access that may abut many of their properties. Her house is adjacent to a trail that she said was created for utility and private property access and she said she is concerned about public access to that trail. She said the draft Shoreline Master Program is very confusing. Ms. Anderson said her family has lived in the neighborhood for three generations; there have been times when the public has disrupted, damaged, and burglarized homes in the neighborhood. She said she doesn't think improved public access will be handled in a way that benefits the shoreline or the property owners. She said she has the same concern for Lake Burien, adding that it seems the document is stepping into very dangerous territory for many shoreline neighborhood properties and people. She said there is a lot of scientific data that was not addressed correctly or was left out of the document that will affect both the saltwater and freshwater shorelines. She said it feels like more weight has been given to public access than to preserving the shorelines.

Todd Anderson, 17120 Maplewild Ave. SW., said he shares the same concerns his wife just stated. He said he is concerned about proposed shared street parking along SW 172nd St. and said he's concerned public access to the trail system would result in more crimes. He said a walking trail through private properties around Lake Burien is a very poor idea. He also said more consideration needs to be given to the regulations for installing mooring buoys and how that would be policed. He concluded by saying the draft Shoreline Master Program is very hard to understand.

Bob Edgar, 12674 Shorewood Dr. SW, said he is concerned with the methodology and thoroughness of the appendices to the Draft Shoreline Management Program and their ability to be used as a baseline in protecting the current ecological functions of Lake Burien. He said he is concerned that no study was conducted to determine a current inventory of the freshwater habitat and no study was done of how the Shoreline Master Program potentially would affect the lake over the next 10-15 years if the program was implemented as currently written. He said evidence of using best available science is lacking and therefore any legal challenge to degradation of critical freshwater or saltwater habitat would be based on circumstantial evidence. He also expressed concern about the reduction of the shoreline buffer from 100 feet to 45 feet, stating that it would allow additional development around the lake and would increase the amount of impervious surface covering the freshwater wetland and aquifer recharge area. In conclusion, he stated that best available science needs to be used in a longitudinal study of the freshwater shoreline habitats and the Cumulative Impact Analysis needs to examine the impact of reducing the buffer from 100

feet to 45 feet. He said these studies should be included in the Shoreline Master Program before it is adopted by the City.

Carol Jacobson, 3324 SW 172nd St., stated her primary concern is with potential public access. She said she and her neighbors moved to the Three Tree Point area for the peace, quiet and beauty of the area and they are opposed to anything that would impact that. She said they don't want to see their neighborhood turned into anything resembling Alki or Redondo or Green Lake. She does not want to see increased public access. Already, she said, people park on her lot, eat their lunches and change their baby's diapers on her picnic table, and leave their garbage. Not long ago, she said, a man slept overnight there in his car, publicly relieving himself on her property in the morning, and did it again a few nights later. People park along the water with their car doors open and music blaring, primarily in the summer, she added. She pointed out that according to a figure within the draft Shoreline Management Program there already are four public access points in the Three Tree Point area, plus Seahurst and Eagle Landing parks, so she doesn't understand why any additional public access is needed, nor how the shoreline would benefit from having large numbers of people accessing it. She said items a-c in Chapter IV, page 8, were vague but she can imagine the impact of them would not be good for her neighborhood. Finally, she said she'd like to see assurance that all existing homes and structures on the shoreline before the Shoreline Master Program is adopted may be rebuilt as they are now.

John Upthegrove, 1808 SW 156th St., asked the Planning Commissioners how many of them had read the entire plan; all commissioners indicated that they had. He said he's been following the process to update the Shoreline Master Program since the first open house, in November 2008. He said an amendment was made to the plan putting the highest priority on public access, and that should be removed as he sees no reason for it. Also, he said, there was a sentence in the flood section of the plan that stated the City would maintain the weir on Lake Burien. No one on the Shoreline Advisory Committee, except Don Warren, the lake steward, knew what the weir is, where it is, and he said no one can tell him who put that sentence in. Mr. Upthegrove said Mr. Warren tried to have it removed from the draft program but it was not. He added that the people living on the lake have taken care of the weir for 70 years and there's never been a problem. He said that sentence and others were put into the draft program by people with a narrow agenda toward public access instead of protecting the environment. He urged the Planning Commission to analyze the draft program to determine how much of it was written to protect the environment. He said he opposes public access to Lake Burien for fishing or bird watching and predicted a milfoil problem if access is granted. He said he would hate to take his issues to the Department of Ecology.

John Ester, 16931 Maplewild Ave SW, said he also is concerned about public access. He said there are two public access points within two blocks of his house, a great deal of traffic, and no parking. He said if Lake Burien is opened to the public it will attract not only the residents of Burien but the public in general. He said the lake would be loved to death, as would the Puget Sound shoreline if it is opened to the public. He said he doesn't understand how the ecology can be preserved by adding 10s of thousands of people. He said there is enough public access to the shoreline in Burien already. He emphasized that the people who own property on the shorelines paid for it and take care of it. He said he is concerned that the proposed setbacks would make many of their lots unbuildable and said that is literally stealing from the property owners. He said many people, if their house was irreparably damaged by fire, earthquake, landslide or storm, would never be able to rebuild their house under the proposed regulations. He told the Planning Commission that it doesn't have to accept the proposed regulations and can grandfather everything that currently is on the shorelines, and that would satisfy half the people in the audience.

Randy Coplen, 16713 Maplewild Ave SW, said his house was designed by Ralph Anderson and was built using recycled materials from demolished old buildings in downtown Seattle, including stained glass windows from Seattle's opera house. He said he must go to Lloyd's of London to insure it. The house is built with poles at the water's edge; the foundation is at the back of the house. He says his understanding of the draft Shoreline Management Program is that if his house is irreparably damaged he won't be able to

rebuild it, and if he can't rebuild it, then he can't get insurance and that is a tragedy. Regarding public access, he lives near a current public access point used by scuba divers and fishermen, but there are no public facilities there so there is garbage and human waste left by the people who use the access and the neighbors have to clean it up. He said there isn't enough room to open it up more, especially at high tide.

Dane Johnson, 16705 Maplewild Ave SW, said his house sits closer to the water than his neighbors' and well outside of the setback and it does not conform to the draft Shoreline Master Program in terms of rebuilding. His wife talked to someone at the Department of Ecology earlier in the day and found out their property would fall under the nonconforming category and that they probably would be able to rebuild. However, he said, reading through the regulations covering nonconformance he found some pretty serious limitations that he doesn't understand why they are included. He said one of the differences between the state and the City is the trigger for making a structure conforming: the City says 50 percent of the assessed value whereas the state recommends 75 percent. He said that because the assessed value changes year to year, there's no knowing if they qualify. He said it's so expensive to build on the beach that the draft Shoreline Management Program as it currently reads would say "I'm sorry, you've lost your property," and that's not right. He recommended the Planning Commission re-examine the 50 percent of assessed value clause because it's too easy to pass that mark with the cost of construction these days. He said the other problem he has with the rules about nonconforming properties is the definition of building into the buffer zone; he could not find a definition of what that means. He said his house is only 1,000 square feet in two stories and someday he would like to build an addition on the landward side; does this mean he can't do that because it's in a buffer? He said he thinks the plan is very weak because it is vague in the areas of development, rebuilding, the chance of losing one's property because of where the house is situated, and a lack of a clear grandfather clause. If adopted, he predicted the program would seriously devalue shoreline properties, the City's tax base and ultimately hurt the City.

Don Warren, 15702 13th Ave SW, called the commissioners' attention to a legal opinion from an attorney retained by the Lake Burien homeowners stating that the draft Shoreline Management Program contains no science providing a well-documented baseline from which to measure future impacts to the shoreline and that it should be included before the draft program is adopted. Mr. Warren said he was speaking on behalf of the Lake Burien Shore Club this evening, so he's entitled to speak for five minutes. He noted that he's been the steward of Lake Burien for seven years, there has been a lake steward for about 30 years, the shore club has been in existence more than 50 years, and the community has been very tight in the 100 years that the shoreline has been privately owned. He said he wanted to discuss deficiencies in the draft Shoreline Master Program. He asked the commissioners to refer to the Shoreline Inventory document prepared by Grette Associates. Directing their attention first to Section 1.2 Methodology, he said there is a lack of a baseline for both the lake and Puget Sound against which changes can be assessed. In Section 1.4 Inventory Reaches, he said, there is a typographical error for perimeter measurement of the lake. In Section 2.1, Historic Land Use and Watershed Conditions, Mr. Warren challenged the study cited and said it is not useful as a baseline. Finally, he wants reference to the Lake Burien outlet weir removed from the Shoreline Master Program as he believes it leads to risk for the Ruth Dykeman Children's Center if the public misinterprets who is responsible for maintaining the weir.

Len Boscarine, 1600 SW 156th St., stated at the proposed Shoreline Master Program is too broad in scope to be enacted within a two- or three-month timeline. He said there's a conflict between two of the state's broad directives – the first, to protect the quality of water and the natural environment, and the other, to preserve and enhance public access. He said the Lake Burien Shore Club has been monitoring and improving the water quality in the lake for more than 30 years. He said he wants a scientific water quality study, a native plant inventory, and a bird and wildlife population inventory done before the Planning Commission considers giving the public access to the lake, in order to be able to monitor the effect of additional human encroachment on the lake.

Clark Mounsey, 3721 SW 171st St., said the situation with the draft Shoreline Master Program and the comments he has heard reminds him of where the country is with health care reform and he thinks there is

a need to step back and ask if the constituents are being listened to and their comments adhered to as much as possible. He asked if the program is highly regulatory then who will enforce it; he said calling the police doesn't do any good. He also asked what are the best practices of doing shoreline regulations, perhaps Des Moines or Normandy Park already have something in place that's better than Burien's draft program. He said he believes Burien's draft program is highly regulatory but it can't be done. He added that in his view the people living on the shorelines are more environmentally concerned than anyone else he's seen in the city of Burien. He concluded by saying he doesn't see a big difference between the Shoreline Master Program and the path health care reform went down.

Nancy Tosta, 15931 Maplewild Ave SW, said that to her plans and programs are more processes than products and the only way to implement the program is with the partnership of the shoreline landowners. She encouraged the commissioners to think of the program as a partnership process. She said she is a scientist, owns an environmental consulting company and works with state and federal agencies interested in protecting Puget Sound resources. She said she finds herself struggling to understand some of what is in the draft Shoreline Master Program, and she encouraged the commissioners to work on the science.

Greg Anderson, PO Box 917, Seahurst, asked if the Planning Commissioners have WAC 173-26 and 27 and the Shoreline Management Act, RCW 90.58, in front of them. He said without having those documents the draft Shoreline Master Program is worthless because of all the references to them and he doesn't know how the commissioners can understand the draft program without those documents. He said he doesn't understand why the program puts a 65-foot setback on SW 172nd Street that is further back than the houses are, making them nonconforming. He said it will cost those homeowners a lot of work and money to get a variance every time they want to do some work. He also said he doesn't understand what "no net loss" means or how "view" will be implemented. He said he doesn't understand why Burien is deviating from the WAC when it comes to public access. He said there is too much open to interpretation in the draft program.

Mike Hart, 2660 SW 172nd St., said he has read the entire draft program and said he was struck by the lack of understanding of some of the wording. He wants 20.30.035-2(a) regarding "shoreline street ends, rights-of-way and other public lands...in accordance with RCW 35.79.035" stricken from the draft program because he says the RCW only addresses "limitations on vacations of streets abutting bodies of water," or it should be modified to read "shall comply" with the RCW cited. He said item a has nothing to do with what the RCW said and suggested that someone wanted to quote the RCW and hope that no one would look at the actual RCW.

Lori Marshall, 16925 Maplewild Ave. SW, said her family really supports the concept of the Shoreline Master Plan and said the plan strikes a nice balance between protecting the environment and development and public access and the rights of the property owners, but when she read Burien's draft Shoreline Master Program she was struck by several issues that she feels are not consistent with the mission of the Shoreline Master Program. She said it is very heavily weighted toward increasing public access to the shorelines; she reviewed the draft program with an environmental engineer who is not from this area who raised very strong concerns that increased public access in other areas has been very detrimental to the health of the shorelines. She quoted him as saying "What is it with this group that they are so focused on public access at the expense of environmental protection?" She suggested the Planning Commission change two things in the draft master program: any plan for increased public access must include a plan and budget for greater security for the nearby properties; and she wants the document to give explicit reassurance that shoreline property owners can rebuild their houses on the same footprint. She thinks Burien's regulations are stricter than the rest of the state, citing a conversation she had with someone in the state Department of Ecology regarding "grandfathered" structures being able to be rebuilt. She said the draft program would deny her and other property owners reasonable use of their properties and she thinks it violates the U.S. Constitution. She thinks Burien's plan is arbitrary and capricious and needs a lot more work done on it.

Dawn Lemmel, 3138 SW 172nd St., said she and her neighbors are a high tax base for the City of Burien and if the idea of the plan is to allow “traipsing through the wetlands of Lake Burien” or “bulldozing down the eclectic beach dwellings at Three Tree Point” the City will be destroy entire communities and “biting the ... very hands that have worked hard to feed Burien’s coffers...” and destroying the shoreline neighborhoods’ unique beauty. If the City allows people who have no personal investment in preserving the shorelines to have access to them, she said, she believes the property owners will leave for neighborhoods where they can preserve their peaceful, community-oriented environment. She said she sees 172nd becoming like Alki, with run-down rental housing and huge numbers of people creating havoc in the area night and day, significantly increasing the need for police, and questioned where the money would come from to pay for additional police services. She said the existing public access points at Three Tree Point are enough, and said they are maintained by the neighborhood. She said the public in its use of those access points has left garbage that the neighbors clean up. She doesn’t think the idea is to open them up completely to let people access the shoreline whenever they want. She reminded the commissioners that they are not just talking about shorelines but about communities.

Dennis Reed, 3741 SW 171 St., said he is very concerned by a sentence on page V-1 of the draft plan stating “...the Shoreline Management Act (SMA) is exempted from the rule of strict construction.” He said that means you have to follow the intent, not necessarily the written word. So he recommended that the Planning Commission add the word “prioritize,” that the goals and policies are prioritized. He asked why, if the City is trying to protect the environment, doesn’t it follow the federal example by limiting public access. He said if the master program is about protecting the environment, they “don’t need to bring in busloads of people to trample the all over the edges of Lake Burien or Three Tree Point.” He said the program should be based on real science, not “voodoo” science. He added that he is not in favor of the City managing the shorelines. Referring to Pol. ALL 4, saying changes will be made to ensure continued effectiveness, he said the effectiveness can only be in regard to protecting the environment. He said his beach is private and he has no reason to allow the public to trespass on his property. He concluded by saying that if the draft Shoreline Master Program is adopted, the City will be trying to enforce changes retroactively since the original Shoreline Management Act, and even the federal government doesn’t have the nerve to do something like that.

That concluded public comments.

Approval of Minutes

Commissioner Shull moved to approve the minutes of the January 12, 2010, meeting. Commissioner Pizarro seconded; motion carried unanimously.

Old Business

a. Discussion about Shoreline Master Program Update

David Johanson, senior planner, gave a brief summary of the Planning Commission’s progress to date on the Shoreline Master Program, including having conducted a public hearing on Jan. 12th. He said the Planning Commission now will begin its deliberations about the draft program that was forwarded to the commission by the Shoreline Advisory Committee. He explained that the Planning Commission will provide a recommendation to the City Council, which then will conduct a public hearing and review the draft that the Planning Commission recommends. Mr. Johanson said that he and the consultants are now sifting through the comments received at the public hearing and are beginning to put them into a document that the commissioners can use while they work through them. The comments received this evening will be added to that document, which will be brought to the commission in future meetings. This evening, he said, the intent is to provide clarification and information the commissioners requested at the Jan. 12th meeting while respecting the comments received. He noted that all written comments received

will be provided to the commissioners. He said tonight is an opportunity for the commissioners to do some work and discuss the draft program among themselves.

Mr. Johanson said that one of the requests from commissioners was “What is the existing nonconforming language today, in our current effective Shoreline Master Program, and what is proposed?” He then distributed to the commissioners a matrix showing what is current and what is proposed. He said the City adopted King County’s Shoreline Master Program after the City incorporated; this is the first time the City has done its own work on a Shoreline Master Program so there is opportunity to make it truly Burien’s own. He said the current program states that “a use or development nonconforming to existing regulations which is destroyed, deteriorated or damaged more than 50 percent of its fair market value at the present time or at the time of its destruction by fire, explosion, etc., may be reconstructed only in so far as it is consistent with the existing regulations.” He said it’s fair to say the existing program has smaller setbacks than what is being proposed, but some of the language in the draft has been brought forward from the existing program.

He then defined a nonconformance as something that was lawfully constructed that does not conform to the current adopted regulations. He said in the Limitations section it says that “structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers, area, density, bulk, or height may be maintained, repaired, enlarged or expanded provided these actions do not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Nonconforming single-family residences may be expanded subject to certain provisions.”

He noted that a lot of comments received were in regards to reconstruction. He then read the current regulation regarding reconstruction: “A nonconforming structure which is destroyed, deteriorated or damaged more than 50 percent of the assessed value of the nonconforming structure as established by the most current county assessor’s tax roll at the present time or of its destruction by fire, explosion or other casualty or act of God, may be reconstructed insofar as it is consistent with existing regulations and the following...”. He said the intent is to allow for the reconstruction subject to the five specific conditions following that statement in the master program section 20.35.04.5 Subsection 4 Reconstruction. Basing it on the assessed value is consistent with the nonconforming section in the Zoning Code; the percentage was not arbitrarily selected. He said with some adjustments to the wording in the master program, the intent – to allow rebuilding – will be clearer.

Mr. Johanson stated that Burien is required by the state to update the Shoreline Master Program. The state provides a set of guidelines that the City must comply with; the state guidelines do not have a nonconformance section, so it is true that there is local latitude in how to address nonconformance. The section of the Washington Administrative Code dealing with shoreline management says “When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards apply...”. Therefore, he said, if Burien was silent in the Shoreline Master Program then some of the language in the WAC would apply, like the 75 percent of value statement referred to by one commenter.

A member of the audience asked a question that was not picked up by the recorder; Chair Fitzgibbon stated that further comment from the public would not be taken tonight and Mr. Johanson would be allowed to complete his presentation.

Mr. Johanson noted that staff will be receiving direction from the Planning Commission on how to proceed, but for this evening he wanted to touch on the basic ideas related to nonconformance and to express the intent.

Continuing, he said there are some different scenarios of what can happen when you replace or modify a structure, and those are written in the code. There is, he said, a section that talks about voluntary replacement of a residence, with the rule that if a person voluntary replaces greater than 50 percent of the

value of the residence the person has to comply, with the idea of moving toward meeting the regulations and the intent. One of the notions built into the draft master program is “common line setback,” which offers some flexibility. He noted that a buffer and a building setback are two different items. In some circumstances, conceivably a structure could move forward, based on the common line setback, depending upon what is on either side of the structure.

Mr. Johanson said that if reconstruction does occur, certain requirements will need to be met including revegetating with the appropriate native planting materials.

Another person in the audience asked a question; Chair Fitzgibbon repeated that the commission will let Mr. Johanson complete his presentation instead of answering questions.

Mr. Johanson gave examples of various rebuilding scenarios that might occur on the Puget Sound, and noted that they are similar to scenarios that might occur on Lake Burien. He noted that variances will have to be approved by the state Department of Ecology. He explained the concept of “no net loss” as meaning that whatever expansion occurs on the property needs to be offset to mitigate the impact to the environment, such as minimizing impervious surfaces, using native plants, and other things that people might already be doing on their property.

If a structure is damaged less than 50 percent, he noted, the regulations say it can be replaced as is.

Chair Fitzgibbon said perhaps the language dealing with nonconforming structures can be made clearer.

Mr. Johanson read the five stipulations related to rebuilding of a nonconforming structure: 1) the structure must be located landward of the ordinary high water mark; 2) the area between the nonconforming structure and the ordinary high water mark shall meet the vegetation conservation standards; 3) the remodel or expansion shall not cause adverse impacts to the ecological functions or processes; 4) the action shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into the riparian buffer than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into the riparian buffer or the minimum required side yard setback require a variance; 5) an application is filed to reconstruct the structure within 18 months of the date of damage.

Next, Mr. Johanson gave the commissioners a comparison of buffers, what is existing and what is being proposed, as they requested at their last meeting. He noted that what exists today in the urban environment, the majority of the city, is a setback of 20 feet. Currently, accessory structures are allowed in the setback. The other designation in effect today is the conservancy environment, which is generally in the area of Seahurst Park and extending south to the vicinity of Eagle Landing Park.

What is being proposed, he said, is a 50-foot buffer and 15-foot setback on the marine shoreline, acknowledging that a lot of structures are currently within that buffer. The conservancy area buffer also is 50 feet. On Lake Burien, the buffer is 30 feet with a 15-foot building setback; most of the houses on the lake are not within the buffer.

Another request from the commission related to other buffers that may apply. Mr. Johanson said other buffers that apply today include steep slope critical areas, seismic hazard areas, wetlands and flood zones, and will still be in effect in the Shoreline Master Program. Lake Burien is identified in the Burien Municipal Code as a Category 4 wetland, with a 30-foot buffer, which is consistent with the proposed master program. Mr. Johanson said he will have to check whether it is consistent with the draft Shoreline Master Program. Flood hazard areas are mostly on the Puget Sound shoreline and are related to elevation.

A member of the audience asked who has the right to change the draft document; Chair Fitzgibbon said the Planning Commission can make changes and changes can be made by the City Council, too.

Chair Fitzgibbon said the earliest the commission would make a recommendation to the City Council on the draft Shoreline Master Program is Feb. 23rd. Mr. Johanson encouraged people to watch the City’s website for updates.

New Business

None

Planning Commission Communications

Commissioner Pizarro said she will be out of town for the next meeting.

Director's Report

None

Adjournment

Commissioner Shull moved to adjourn; the meeting was adjourned at 9:13 p.m.

Approved: _____

Joe Fitzgibbon, chair
Planning Commission

DRAFT

City of Burien

BURIEN PLANNING COMMISSION MEETING

February 9, 2010

7:00 p.m.

Third Floor Lobby, Burien City Hall

MINUTES

Planning Commission Members Present:

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

Absent:

Stacie Grage

Others Present:

David Johanson, senior planner

Roll Call

Chair Fitzgibbon called the meeting to order at 7:10 p.m. Upon the call of the roll all Commissioners were present with the exception of Stacie Grage.

Agenda Confirmation

Motion to approve the agenda as printed was made by Commissioner Shull. Second was by Commissioner Clingan and the motion carried unanimously.

Public Comment

Chair Fitzgibbon asked the speakers to limit their comments to issues not previously addressed by the Commission. He noted that the Commission had previously held a public hearing on the Shoreline Master Program topic and that the City Council would be conducting its own public hearing after the Commission has completed its work. In addition, there will be a public hearing held by the state Department of Ecology before they issue their final approval, which is required under the Shoreline Management Act.

Chair Fitzgibbon said the Commission would not be taking any action at the meeting relative to approving or not approving the Shoreline Master Program. At least one or two more meetings will be required before the Commission will be prepared to act.

Ms. Margi Berendzen, 3160 SW 172nd Street, said she attended the first shoreline advisory committee meeting on March 12, 2008. During that meeting Andy Kleitsch was elected chair of the committee, but within two weeks word was received that he was no longer the chair and that neither she nor Mr. Kleitsch would be part of the committee. Several things about the meeting were unusual: it was scheduled at 4 p.m. on a workday, making it very difficult for the public to participate; only five who attended were residents of the city, but two of them were let go; only one person appointed to the

committee actually owns shoreline property; the minutes of the meeting did not include the question asked of the shoreline management people about whether or not the act would lead to the City being able to change the use of shoreline properties, to which the answer given was that the existing rights and privileges of landowners would not be affected, and the phrase “grandfathered in” was used. Clearly the answer given was not true. Over the past decade the overall ecologic health of the beach has improved substantially. What the commission and the City is proposing is wrong. It is sneaky and it is mean-spirited. The state has opened the door to allowing access to private properties. It is wrong to go to someone else’s property and take things.

Mr. Larry Berendzen, 3160 SW 172nd Street, said the beach fronting his property is one of the best in the city; it has low banks, is sandy, and has easy access. For that reason there have been numerous attempts by both the City and the county to gain control of the beach properties. Last time around the collection of property owners spent more than \$130,000 of their own money to fight the City. The county uncovered two acts that would require significant costs. In 1977 the state declared that the property owners along SW 172nd Street had second-class tidelands, which would affect the development of any park. The tidelands would have to be purchased as a right-of-way for the abutting property owners. The King County prosecutor drafted a memo in 1978 that stated that if the county should subsequently need for road purposes the strip being encroached upon SW 172nd Street, it can at that time remove or have removed the encroaching structures. He continued by saying that there is a possibility that because the property owners have been paying taxes on the encroaching improvements, and because the county has knowingly allowed the encroachments to exist for some time, and because the value of the encroaching structures is substantial, the county would have to pay damages to the abutting property owners. If the City intends to take possession through whatever means is available to it, there should be reimbursement paid at fair market value.

Mr. William Clogston, 15227 28th Ave. SW, said his home structure is old and needs a lot of repair. He said the proposed action by the City will make even more difficult effecting the repairs needed to make the home saleable. There is a sewer line running down the beach that has been there for 30 or 40 years; how long that line will last, and how it could be repaired if necessary, should be a major concern for the City. Global warming is making the tides higher, and that could impact the line as well.

Ms. Denise Burdette, 15631 Maplewild Ave. SW, addressed the proposed coordinated system of connected pathways. She said it is clear that most of the waterfront property owners own to the low tide line, something that was of particular interest to her in purchasing her property, and something that cost a considerable sum of money. She said she also pays a considerable amount in taxes because she has that right. If the City is considering through the Shoreline Master Program making private beach rights public, what is really being talked about is eminent domain. The City should share its increased revenue calculations based on such an action alongside a risk analysis to the community at large should things not go as planned. In using its powers of eminent domain, the City must provide proof that the action will provide increased revenue and that the particular change or development will benefit the public at large. The City should open a serious

discussion with shoreline property owners regarding fair market value and openly discuss compensation for the decrease in value to the overall property due to the action. In addition, the City should negotiate a decline in property taxes in line with the decreased value of the affected properties. The City should consider the risks involved should the action be met with disfavor by those who will be most affected. There is virtually no waterfront property owner willing to give up their property rights without a fight. By using its powers of eminent domain to make private property public in Burien, the City will be opened to a class action lawsuit that it can be assured of losing, and the lawsuit will ultimately damage Burien's budding brand and stagnate home values for years until there is a resolution. Such an action would affect the City as a whole, not just the waterfront property owners. The City should rethink such risky and irresponsible actions.

Ms. Nancy Tosta, 15931 Maplewild Ave. SW, submitted to the commission written comments in support of her testimony at the public hearing. She encouraged the commission to identify ways to engage property owners in the process and work in partnership with them. Waterfront property owners are, in fact, the front line when it comes to protecting Puget Sound. The commission should give strong consideration to clarifying the criteria being used for the best available science; there is a lot of discretion inherent in the way the current Shoreline Master Program is written.

Mr. Robert Howell, 15240 20th Ave. SW, referred to a letter addressed to the commission that was written by his wife, Robbie, regarding the Shoreline Master Program advisory committee draft. He noted that the City requires the use of the best available science for protecting critical areas within the community pursuant to the Growth Management Act. Conservation policy 27, item (b), refers to priority species and habitats in the adopted King County Comprehensive Plan dated November 1994, data that is 16 years old. The item should be changed to read "Priority species and habitats, candidate species and habitats, and King County species of local importance and habitats, as noted and adopted in the King County Comprehensive Plan, October 2008." Ten of the birds listed in Section E-487 of that document are commonly found visiting Lake Burien. He said his property borders Lake Burien and noted that he is particularly concerned about the possibility of contamination by Eurasian water milfoil and Brazilian aodea, which would destroy the ecology of the lake. All of the lakes in King County with public access are infested with one or both of the noxious weeds. Section 20.30.035, public access Part II regulations, 9(e), states that public access to shoreline areas shall not be required where safety, security or other limitations are applicable. Section 20.30.085, recreation development Part II, line (h) states that should public access be allowed on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access area. That should be deleted and replaced with "Public boating and swimming shall be prohibited on Lake Burien until such time as the City has defined and implemented a series of controls to assure 1) no invasive species will ever be introduced into the lake, and 2) patrols funded by the City monitor the lake assuring no trespass of lands. The City should follow the three goals outlined in the last paragraph on page 4-55 in which the Washington biodiversity conservation strategy plan is referenced.

Ms. Carol Jacobson, 3324 SW 172nd St., referenced the issue of reconstruction and the existing wording about damage totaling more than 50 percent of the assessed value and the effect the constraints could have on a property owner's ability to get financing and insurance.

Mr. Steve Lemons, 16215 Maplewild Ave. SW, called attention to section 20.35.045, nonconforming structures, and section 20.30.070, bulkheads. He strongly recommended that the City grandfather in all existing homes, allowing them to be rebuilt in case of disaster. Nearly every house along the beach is nonconforming because few of them have less than a 65-foot setback. A person who underwrites for Fannie Mae, Freddie Mac and FHA said he would not approve a loan with the current wording in place, because it provides no assurance that a house can be rebuilt in cases where damage exceeds 50 percent of the assessed value. Nothing is said in the section about who would determine the extent of the damage. The value of waterfront homes will fall dramatically if loans cannot be had to refinance or purchase.

Mr. Keith Robinson, 15219 28th Avenue SW, said he agreed with the previous speakers.

Mr. Randy Coplen, 16713 Maplewild Ave. SW, shared with the commissioners a photo of his beachfront home. He said he had a geotechnical study done as part of putting in a tram to provide access to the house. The slope of the bank was calculated to be 50 percent, and it appears from the proposed language that structures with slopes of 50 percent or more will not be allowed to rebuild. He also commented that it would not be possible to rebuild the home for 50 percent of the assessed value.

Ms. Ann Stout, 16425 Maplewild Ave. SW, said she had not previously heard anything about the study being done by the City regarding waterfront properties and as such was not able to weigh in earlier in the process. She said she was deeply upset by the commission acting in what appears to be a clandestine way. If the plan is to make the beaches public, it will be necessary to deal with the issue of parking; there is hardly enough room for the local property owners. She said her property was one that lost its bulkhead during the big 1990 storm. All who live on the steep properties are tethered together, so if one is not able to replace a bulkhead and one home slides on the hill, all of the surrounding homes will be in jeopardy as well. While laudable to seek beach access for all citizens, the proposed approach is not the way to go about it. Seahurst Park offers excellent beach access for the public, though the parking there is so difficult few use the park. City resources should be spent on making more usable the beaches already designated for access by the public, and on making the schools better.

Ms. Barbara Trenary, 16215 Maplewild Ave. SW, said for the past seven years she has served as a beach naturalist volunteer at Seahurst Park. She said even on the busiest weekends the park is not overused. Beach goers often collect eel grass to sell to fish stores, even though the activity is illegal. Kids also collect sand crabs, which also is illegal. If more areas of the shoreline are opened to public access, there will be even

more harm caused to the environment. Additionally, the issue of liability should be established.

Mr. Lance Puckett, 15819 Maplewild Ave. SW, said he did not receive notice of any of the previous meetings. He suggested the city should do a better job of letting people know so they can offer timely comments.

Mr. Jason Parks, 2323 SW 172nd St., said he also had not received notice about the meetings. He suggested that if the City wants to have a true public hearing process, it will need to do a better job. Everyone attending the meetings should fully read all of the materials beforehand. He said his property includes a nonconforming structure. He said 65 feet behind his home is someone else's home, so if his home were to burn down he would not be able to rebuild; that restriction should be removed from the Shoreline Master Program.

Ms. Kathi Skarbo, 1621 SW 152nd St., noted that she spoke previously to the commission about section 20.30.035.2.d and said she was surprised to see the issue not included on the matrix of public comments that was provided to the commission. She said she did not want to see the issue allowed to fall through the cracks. The Ruth Dykeman Children's Center is located on the shoreline of Lake Burien and all of those served by the facility have been abused in some way. It would appear that no one has really paid much attention to the effect public access will have on those children; public access to the lake will only erode the protections those children need.

Mr. Fred Hazeltine, 12909 Standring Lane SW, alerted the commission to the fact that the erosion that occurs on the beach where he lives is due at least in part to the effects of what is going on at Seahurst Park. He said he constructed his home 50 years ago and can show places on his seawall where the beach has dropped five feet. He said he twice went through eight government agencies in order to get a permit to repair his seawall; the permits were issued and the repairs were made. While the bulkhead is stable currently, the erosion problems continue. The erosion began after King County acquired the Seahurst Park property and installed a couple of groynes at the north end extending from the steep bank out into the Sound; the well-intended purpose was to conserve the beach. The sand level on the south side of the groynes is at least three feet higher than the north side, but the overall result has been the loss of the beach. The City should think very carefully before considering the construction of such structures.

Mr. John Upthegrove, 1808 SW 156th St., said he has been following the Shoreline Master Program process for the past 14 months. The only true public hearing was held in November 2008; it was the only public hearing to which everyone from the public was invited. The advisory committee met nine times in all. At its second meeting a motion was made and passed that called for the City to give its highest priority to public access to all reaches of water that do not currently have public access, including Lake Burien and the north reach. From that point on, nearly all of the meetings of the advisory committee focused on public access rather than protecting the environment. The advisor from the state Department of Ecology explained to the committee that the policy of the

state is like a three-legged stool focused on protecting the environment, protecting public property, and providing public access. The action of the committee has lengthened one of the three legs at the expense of the other two. The commission should give serious thought before taking any action. Every detail should be carefully considered.

Ms. Linda Plein Boscarine, 1600 SW 156th St., said the Shoreline Management Act has as its first priority the protection of water and the natural environment. Unfortunately, the draft proposal has no provision for baseline studies to determine the present quality of the water, nor are there requirements for inventories of fish, birds, rare turtles, frogs and other wildlife populations. Without such studies it will not be possible to monitor the effects increased human encroachment will have on Lake Burien or on Three Tree Point. There is no mention of the fact that Lake Burien has no milfoil, whereas all of the lakes with human encroachment have the invasive weed. Studies should be required to establish baselines against which the City can take immediate action to reduce impacts when ecological damage is observed.

Mr. John Ball, 1602 SW 156th St., said it is an outrage that the City has not provided citizens with information in a timely manner. Furthermore, when citizens do address the commission, the commissioners need to listen very carefully to what they are saying.

Ms. Sally Ball, 1602 SW 156th St., complained that people in the back of the room were not able to hear what was being said by the commissioners and those offering testimony.

Mr. Bob Edgar, 12674 Shorewood Dr. SW, commented that the Burien plan to protect the shoreline is fairly comprehensive, which is mandated by the state. Many of the listed goals of the document reflect the goals the state say must be followed. The regulations identified are those that must be followed in order to meet the goals. What appears to be missing is an answer to the question of how long the City will be able to prove to the state that the regulations being followed are helping to realize the goals. The commission should close that loop by establishing a methodology to validate and verify that the goals are being met. In Chapter 2 there is an overall inclusive goal for the Shoreline Master Program, and there are eight associated policies. Key words and phrases that stand out in those policies include no net loss of shoreline ecological function and process, guided by ongoing and comprehensive science, proactive in managing activities, adaptive management, balanced private use with the greater public benefit, consider site-specific characteristics, coordinate with relevant local, state and federal programs, encourage redevelopment with accepted best management and practices. To establish a methodology to validate and verify that the City is working toward meeting the overall goal, the document should include the statement “The City of Burien will establish an interagency agreement with the University of Washington or any other such expert and scientific agency to proactively design and conduct an ongoing and comprehensive science-based approach that monitors the no-net loss of ecological functions and processes while balancing public and private interests.” Each of the eight elements in Chapter 2 have their own goals and associated policies. The progress toward each of the element goals should be monitored and measured against the associated policies and the overall goal. The commission should consider requiring the inclusion of an effective

methodology as a part of the Shoreline Master Program to ensure that its implementation will move the city toward its stated goals.

Mr. George Vermef, 2745 SW 156th St., said his property included second class tidelands when he purchased it, and it still does. He said during the time he has owned the property his rights as a tideland owner have steadily been eroded. The public access issue is certainly a bone of contention with shoreline property owners and it will make it more difficult for the property owners to take care of what they have. He said over the years he has placed large rocks on the beach with an eye toward starting an oyster bed; while that has not worked well, other creatures have found refuge in the rocks. People who walk along the beach pick apart the rocks and must be asked not to; their response has been less than civil. The setback is currently 20 feet and has been that distance for many years. He said he was assured early on in the process by a commission member that if his house were to sustain significant damage he would be able to rebuild on the existing footprint, but comments made since then have taken the opposite view. If not permitted to rebuild, property owners should be compensated for their loss. The current 20-foot buffer is more than adequate. He said the bulkhead that was on the property when he bought it was more than 50 years old and deteriorating. With the blessing of the City it was removed and replaced with a large rock bulkhead; the end result was the loss of usable property. Now it appears the City would like to take even more property.

Ms. Kathy Korpela, 2685 SW 172nd St., said she wished she had been informed earlier that the study was under way. She said she only learned about the process when someone posted a notice on her mailbox. The lack of notice is giving city government a bad name. She said there is a large hill behind her home, and if something were to happen to the house and the City were to deny the right to rebuild on the same footprint, it would not be possible to rebuild at all and the investment would be lost. The threat of eminent domain is scary to many. It is just not right for property owners to be pushed out.

Ms. Chestine Edgar, 1811 SW 152nd St., called attention to item 25 on the chart of public comments that raised a concern about a push to allow physical public access to Lake Burien. The response from the City was that no new public access is being proposed. Behind closed doors, however, a commissioner and a councilmember met with the city manager and requested him to contact the Ruth Dykeman Center to talk about the City purchasing the property. If the City wants public trust, it must say one thing and do the same. With regard to the shoreline inventory, cumulative analysis and shoreline characteristics analysis, she said all three of the documents are supposed to be baseline documents against which the concept of no net loss is measured. In fact all three of the documents include errors. The response of staff on that point says they checked the online Lake Burien Shoreline Club newsletters and the online inventories; the fact is there are no newsletters or inventories online. The documentation also states that visits were made to the lake by scientists; if that was in fact done, their methodologies should be noted and the visits included in the bibliographies. Staff contends that Don Warren was interviewed, but in fact he was not. The three documents should be corrected.

****BREAK****

Approval of Minutes

Deferred to next meeting.

Old Business

A. Discussion: Shoreline Master Program Updates

Mr. Johanson informed the public that Shoreline Master Program documentation being worked on is available at City Hall, online and at the library. He explained that the shoreline advisory committee was composed of a group of volunteers appointed by the City Council to develop an initial draft. The Planning Commission is in the process of reviewing that draft and accepting public comment that will ultimately make the draft document better.

Consultant Karen Stewart with Reid Middleton, Inc. said the firm was hired by the city to assist in updating the existing Shoreline Master Program. In 2005 the state developed some additional guidelines that all shoreline jurisdictions must follow; the new guidelines are aimed at protecting ecological functions, providing public access, and providing for water-dependent uses. The shoreline advisory committee developed the draft document that is currently under review by the Planning Commission. Nothing has yet been adopted, and all public comments continue to be timely.

Ms. Stewart said there are key sections in the document. Chapters 4 and 5 house the regulations and have received the most attention. The inventory is intended to serve as a baseline of conditions of the shorelines throughout the state. There are over 240 jurisdictions that are having to update their Shoreline Master Programs; the state has made available funding to hire consultants to assist in updating the programs.

Over the past couple of years there have been a number of presentations made, and all of that information is readily available to the public. Mr. Johanson said he would also make available online the Power Point presentation that was shared with the Commission at the start of their involvement in the process.

Ms. Stewart voiced concern over misinformation circulating among the public, especially around the topics of nonconformity, eminent domain, and public access.

Mr. Johanson explained that every attempt is being made to assure that the draft document is consistent with the state guidelines. The state guidelines do not allow for individual jurisdictions to go in whatever direction they want with regard to protecting their shorelines.

With regard to the issue of nonconformance, Mr. Johanson agreed that the language of the draft document is not overly clear. The Commission is aware of that fact and has directed staff to provide some clarifying language. Item 52 in the matrix is a response to that direction. It clarifies that homes that are damaged or destroyed can in fact be reconstructed in their original location, provided the specific criteria spelled out in the matrix are followed.

Chair Fitzgibbon commented that under the current rules, the owner of any home anywhere in the city that is destroyed by fire or natural event up to and beyond 50 percent of the assessed value must apply for a building permit before reconstructing the home. Under the proposed plan, any waterfront home destroyed by fire or natural cause would be permitted to rebuild on the same footprint, but expanding the size of the house beyond the original footprint would not be allowed, because that would increase the ecological impacts.

Mr. Johanson further noted that homes located within the buffer zone will be allowed to expand their footprint within certain limitations. The property owner may be required to offset the impacts of any expansion.

Chair Fitzgibbon reiterated that the Commission has not signed off on the draft document and is continuing to work toward clarifying the language.

From the audience, the question was asked why the language referring to more than 50 percent of the assessed value is included. Mr. Johanson said the criteria apply only to structures that sustain damage of more than 50 percent of the assessed value. It is intended to serve as a threshold beyond which additional requirements apply. The science dictates that the section immediately landward of the water is the most ecologically important.

Another member of the audience pointed out that the state guidelines set the threshold at 75 percent rather than 50 percent. Mr. Johanson said the issue was raised at the previous Commission meeting. The fact is all other sections of the existing city code that reference nonconformance utilize the 50 percent threshold. Having a threshold percentage included in the Shoreline Master Program is a requirement of the state, so the Commission concluded for the sake of consistency to use the 50 percent threshold. The state guideline of 75 percent is intended to apply to any jurisdiction that does not have existing nonconformance regulations.

Mr. Johanson pointed out that the threshold in the currently adopted Shoreline Master Program is based on market value. The proposal is to change that to assessed value in order to be consistent with the rest of the code. Accordingly, waterfront properties will be treated the same as any other property in the city.

From the audience, the suggestion was made that waterfront properties are not in fact the same as any other property in the city and should not be treated the same.

A member of the audience questioned why there should be such a push to get the document completed and adopted. She suggested that because so many in the public have only recently been made aware of the process, more time should be allotted to allow the public time to express their concerns and offer suggestions. Mr. Johanson pointed out that a deadline has been set by the state and the city is working toward meeting that deadline. There has been talk of extending the deadline, but that has not occurred yet.

Commissioner Clingan said the Commission wants input from the public because knowing what the public wants makes documents better in the long run. He said the original schedule had the Commission wrapping up its work on the Shoreline Master Program by the end of February, but that clearly will not happen. It is fair to say the Commission's work will not be completed until the end of March, which will allow time for the public to offer additional comment, verbally at Commission meetings and in writing. In addition, staff is more than willing to answer questions about what is in the draft document.

Mr. Johanson said notices regarding the Shoreline Master Program open house were mailed to every home within 200 feet of a shoreline. The mailing addresses are generated from the King County Assessor's database. That notice included mention of the public hearing before the Planning Commission on January 12. The city is required by law to post notice in the official city newspaper, which is the *Seattle Times*. All notices are posted to the city's website as well, and persons on the city's interested parties mailing list have had notices mailed directly to them.

Chair Fitzgibbon thanked everyone for their participation and valuable comments.

New Business – None

Planning Commission Communications – None

Director's Report – None

Adjournment

Chair Fitzgibbon adjourned the meeting at 9:24 p.m.

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: February 18, 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 has continued work on the public comment summary. This work has included both adding comments that were received and providing responses to assist in the Planning Commission's discussions. The draft table is intended to be used as a tool that the Planning Commission can use to work through the issues raised during the public hearing and the subsequent public comments received. Please note this is a DRAFT and we will continue to research, prepare and modify responses to comments received.

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 since the commission's February 9th meeting. Following the public hearing, the Planning Commission had a number of requests for more information, further analysis and presentations on specific topics of interest. As stated above, staff and the consultants are updating the table as more comments are received.

At your January 26th and February 9th meetings a majority of the time was devoted to receiving additional public comments.

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. Staff is also looking for direction on whether to continue to update the table addressing new comments that are received or focus on clarifying and enhancing the table to address questions or comments of the Planning Commission.

NEXT STEPS

The Planning Commission is scheduled to discuss the updates at its next two meetings and depending on the progress of the commission a date of possible action will be scheduled. Originally the date for possible action was February 23rd; this date will remain on the agenda, however final action will most likely occur in late March.

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
Shoreline Master Program Public Comment Summary, working Draft 2/18/2010**

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

February 8, 2010

To: Burien Planning Commission
Burien City Council

From: Carol Jacobson
3324 SW 172nd St.

Re: Shoreline Management Plan

RECEIVED
FEB 08 2010
CITY OF BURIEN

To Whom it May Concern:

As you know, this plan has generated a lot of discussion and concern among citizens who live in the areas most directly impacted by a shoreline management plan, specifically those on Lake Burien and along the saltwater shoreline within the City of Burien. Because we are limited to 3 minutes of time in which to speak at the Planning Commission meeting on Tuesday, February 9, 2010, and we have so much to say, I am attaching written suggestions for rewording sections of the document for your consideration. These are a compilation of comments and suggestions from citizens in the affected areas and we would like them to be included in the public record and incorporated into the shoreline management plan.

Surely you realize that we live here for a reason: we love the area, the peace and quiet and beauty of our communities. We must get this process right so as not to destroy what we have in this area by putting in to place a document that could potentially result in the ruination of the shoreline, an increase in property damage and other crime, and a decrease in safety of residents living in the areas most affected by this plan.

Thank you for your consideration of these suggestions.


Carol Jacobson

General observations regarding inconsistencies between the state master program and the wording in Burien's master program:

According to WAC 173-26-191: Master program contents: (1) (b) Master program elements;
(b) A public access element making provision for public access to publicly owned areas;

According to WAC 173-26-221: General master program provisions: (4) Public access:
(c) Planning Process to address public access: "The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights."
(d) (i): **The master program shall address public access on public lands.**

Neither Lake Burien nor saltwater shorelines in Burien are on public lands (except for existing public access points identified in Burien's document: Seahurst Park, Eagle Landing Park, accesses on TTP.) Any reference to public access in Burien's master program needs to be limited to these public access areas. It should be made clear in the City's document that public access relates to access on public lands, either in a general statement at the beginning of the Public Access sections or in each statement as done in the suggested rewording below.

In order to make Burien's SMP consistent with the state plan these changes should be made. Existing wording is in black, suggested rewording is in red:

Chapter II: General Goals and Policies

20.20.015: Shoreline Public Access Element (Chapter II page 2)

Goal PA

Increase and enhance public access to shoreline areas, consistent with the natural shoreline character, private property rights, and public safety.

Goal PA: reword to say:

Promote and enhance public access to shoreline areas on public lands consistent with the natural shoreline character while protecting private property rights and public safety.

Pol. PA 1 **Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water.**

Pol PA 1: New developments, uses, and activities on or near the shoreline should not impair or detract from existing public access to the water.

Pol. PA 2 **Publicly owned shorelines should be limited to water dependent or public recreational uses, otherwise such shorelines should remain protected open space.**

Pol. PA 3 Public access to the City's shorelines should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

Pol PA 3: Public access to shoreline areas on public lands within the City must protect private property rights, public safety, and individual privacy.

Pol. PA 4 Public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment and should be designed for handicapped and physically impaired persons.

Pol PA 4: Public access on public lands should be provided as close as possible to the water's edge with no net loss of shoreline ecological function and should be designed for handicapped and physically impaired persons.

Pol. PA 5 The City should seek opportunities to develop new public access areas in locations dispersed throughout the shoreline. Highest priority should be placed on reaches without existing public access. Mechanisms to obtain access to the shoreline include:

- a. Tax-title properties;
- b. Donations of land and waterfront areas; and
- c. Acquisition using grants and bonds.

Pol PA 5: The City should seek opportunities to develop new public access areas on public lands throughout the shoreline. Mechanisms to obtain access include: (keep a, b, and c as is)

Note that there is no reference to "unused right of way" as a method of obtaining new public access.

Pol. PA 6 The vacation or sale of street ends, other public right of ways and tax title properties that abut shoreline areas shall be prohibited. The City should protect these areas for public access and public viewpoints.

Pol PA 6: The vacation or sale of street ends must comply with RCW 35.79.035. Vacation or sale of publicly owned tax title properties that abut shoreline areas shall be prohibited.

Pol. PA 7 Waterfront street ends should be recognized as:

- a. An important community resource that provides visual and physical access to the Puget Sound;
- b. Special use parks which serve the community, yet fit and support the character of the surrounding neighborhoods;
- c. A destination resource, where limited facilities and enhancements are provided.

Pol PA 7: Publicly owned shoreline street ends should be recognized as: (keep items as they are).

Pol. PA 8 The City should manage and develop waterfront street ends by:

- a. Supporting their use by residents city-wide, yet ensuring that the street ends and their supporting facilities are developed at a level or capacity which are appropriate to the neighborhood character, promotes safety, and is consistent with City risk management practices;
- b. Ensuring that public parking is available, and that any new parking that is developed would be harmonious with the surrounding neighborhood;

- c. Ensuring that the waterfront street ends are preserved and maintained with limited enhancements, such as places to sit or rest which fit in with the natural environment of the area;
- d. Installing signs that indicate the public's right of access and encourage appropriate use;
- e. Installing limited trail improvements and enhancements to allow access to the water;
- f. Minimizing the potential impacts associated with their use on adjacent private property; and
- g. Developing a street ends plan that promotes waterfront access.

Pol PA 8: The City should manage and develop publicly owned shoreline street ends by:

- a. Supporting their use by residents city-wide, yet assuring that the street ends and their supporting facilities are developed at a level or capacity which are appropriate to the neighborhood character, promotes public safety, protects private property rights and individual privacy, and is consistent with City risk management practices.
- b. Ensuring that public parking is available and limited to a level appropriate to the capacity of the public access site that it supports when used in a manner that results in no net loss of shoreline ecological function, and is harmonious with the surrounding neighborhood.
- c. Keep as is
- d. Installing signs that indicate the public's right of access, the rules of use, and penalties for misuse.
- e. Installing limited trail improvements and enhancements in the street ends to allow access to the water.
- f. Protecting adjacent private property, individual privacy, and public safety; and
- g. Developing a street ends plan that promotes public shoreline access and public safety.

Pol. PA 9 Waterfront street ends or other shoreline access should be planned in conjunction with the affected neighborhoods. However, the broader community should be notified during the public notification process.

Pol PA 9: Shoreline street ends or other public shoreline access should be planned - - - (keep rest as is).

Pol PA 10: Keep as is

Pol. PA 11 The public's visual access to the City's shorelines from streets, paths, trails and designated viewing areas should be conserved and enhanced.

Pol PA 11: Existing visual access to the shorelines from streets, paths, trails, and designated viewing areas should be preserved.

Pol. PA 12 Public views from the shoreline upland areas should be enhanced and conserved, while recognizing that enhancement of views should not be necessarily construed to mean removal of vegetation.

Pol PA 12: Public views from the shoreline upland areas should be preserved while recognizing that preservation of views should not be necessarily construed to mean removal of vegetation or existing structures. The state document is about preservation of shorelines and not making

things worse, while wording in the City document appears to be aimed at “increasing” or “enhancing” public access, both physical and visual.

Pol. PA 13 Promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discoveries.

Pol PA 13: On publicly owned lands, promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discoveries while protecting private property rights, individual privacy, and public safety.

Section 20.30.035 Public Access (Chapter IV page 7)

1. Policies

- a. **Public access to shoreline areas should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.** Reword: Public access to shoreline areas on public lands must protect private property rights, public safety, and individual privacy.
- b. **Public access should be provided as close as possible to the water's edge without adversely affecting a critical area such as a wetland.** Reword: Public access on public lands should be provided as close as possible to the water's edge with no net loss of shoreline ecological function.
- c. **Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property or seek other similar private means of minimizing view obstruction.** Reword: Impacts to existing views from public property or substantial numbers of residences should be minimized by provisions such as maximum height limits, setbacks, and view corridors. (Page 67, item (iv) of WA State Shoreline Master Program Guidelines)

2. Regulations

- a. **Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035.** Reword: Vacation of streets or street ends abutting bodies of water must be in compliance with RCW 35.79.035. (The only mention of right of way in the state document relates to railroad ROW, ROW related to commercial or industrial use, and location of utilities in ROW)
- b. **Visual access to outstanding scenic areas shall be provided with the provision of roadside pullovers or broadening of road shoulders.** Reword: Existing visual access to scenic vistas shall be preserved.

- c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access. Remove this item. There is no mention of unused right of way in the state plan. Once again, wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.
- d. Public access shall be required for all new shoreline development and uses, except for: water dependent uses, individual single family residences and subdivisions of less than four parcels. Change last line to "less than five parcels" to be consistent with state guidelines. Another example of wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.
- e. Same
- f. Same
- g. Same
- h. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity. Reword: Public access sites on public lands shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
- i. Same
- j. Same

20.20.020 Recreation Element

Goal REC

Develop a well-maintained, interconnected system of multi-functional parks, recreation facilities, and open spaces that: is attractive, safe, and accessible for all geographic regions and population segments within the City; supports the community's well established neighborhoods and small town atmosphere; and does not adversely impact shoreline ecological functions and processes.

Reword: Develop a well-maintained, interconnected system of multi-functional parks, recreation facilities, and open spaces that: is attractive, safe, and accessible for all geographic regions and population segments within the City; supports the community's well established neighborhoods and small town atmosphere; protects private property rights; and results in no net loss of shoreline ecological functions and processes.

Pol. REC 1 Recreation facilities in the shoreline area should be restricted to those dependent upon a shoreline location, or those benefiting from a shoreline or in-water location that are in the public interest.

Pol. REC 2 Recreational developments should be located, designed and operated to be compatible with, and minimize adverse impacts on, environmental quality and valuable natural features as well as on adjacent surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.

Reword: Recreational developments should be designed and operated in a manner consistent with the purpose of the environment designation in which they are located; and result in no net loss of environmental quality, valuable natural features, or adjacent surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.

Pol. REC 3 Public information and education programs should be developed and implemented to help ensure that the public is aware of park regulations and private property rights, and to prevent the abuse of the shoreline and its natural ecological system.

Pol. REC 4 The City shall plan to provide, in coordination with other agencies, a range of park facilities on public land that serve a variety of recreational and open space purposes. Such planning should use the following designations and guidelines to provide such diversity:

1. Mini or Pocket Park

Shoreline Advisory Committee Draft II-5 11/30/2009

Use Description: Passive recreation or specialized facilities that *may* serve a concentrated or limited population such as children or senior citizens.

Service area: Approximately 1/3 of a mile radius.

Size: No minimum to approximately one acre.

Desirable Characteristics: These parks should be in close proximity to dwellings and or other centers of activity. Mini parks should be designed for intensive use and should be accessible and visible from surrounding area.

Examples: In Burien these types of parks are primarily private parks consisting of beach access for adjacent subdivisions, view appreciation areas (bench or platform), picnic tables and trees in a small area, children's play area, game tables, or planted areas.

Other Considerations: Since maintenance costs of these smaller parks are high relative to their service areas, few jurisdictions are able to meet the desired quantity. This type of park is most suitable to provide unique local needs, such as public shoreline access, or as a consideration in the design of new development. The City should seek a variety of means for financing and maintaining mini-parks, including considering opportunities for community stewardship and grant or private funding.

2. Regional Parks

Use Description: Areas of natural or ornamental quality on public property for outdoor recreation such as picnicking, boating, beach activities, swimming, and trails. Such parks may contain special amenities, facilities or features that attract people from throughout the surrounding region. Such facilities require extensive on-site parking and good access by automobile.

Service area: Approximately 1/2 to 1 hour driving time.

Size: Approximately 90 acres.

Desirable Characteristics: Contiguous to or encompassing significant natural resources.

Examples: Seahurst Park.

Shoreline Advisory Committee Draft II-6 11/30/2009

3. Special Use Park

Use Description: Specialized or single-purpose recreational activities such as walking and bicycle trails, street ends, or areas that preserve buildings, sites or features of historical significance.

Service area: Variable.

Size: Depends on nature of facility.

Desirable Characteristics: Compatibility with adjacent facilities and uses.

Examples: Examples within Burien shoreline consist primarily of designated view points and historical markers, and publicly owned shoreline street ends (including those at SW 170th Pl., SW 163rd Pl., and at the intersection of Maplewild Ave. SW and SW 172nd St.).

4. Conservancy Park

Use Description: Conservancy parks are formally designated public resource areas. In such parks the primary management objectives are protection and management of historical, cultural and natural resources, including fish and wildlife habitat areas and may include appropriate passive recreational activities.

Service area: None.

Size: As appropriate for the resource.

Desirable Characteristics: As appropriate for the resource.

Examples: Currently Salmon Creek Ravine is most appropriately classified in this category although its feasibility for including other types of park activities consistent with its character should be evaluated. This category would also apply to any significant formally designated land, protected wetlands or steep slope areas by private or public means.

Pol. REC 5 Access for motorized vessels should be discouraged at Seahurst Park. Access for non-motorized craft should be considered if access for such craft can be provided in an environmentally-sensitive manner.

Pol. REC 6 Where appropriate, recreational developments should make adequate provisions for:

- a. Vehicular and pedestrian access, both on-site and off-site;
- b. Proper water supply and sewage waste disposal methods;
- c. Security and fire protection;

Shoreline Advisory Committee Draft II-7 11/30/2009

- d. The prevention of overflow and trespass onto adjacent properties, including but not limited to landscaping, fencing and posting of property; and
- e. Buffering of such development from adjacent private property or natural area.

Pol. REC 7 Trails and pathways on steep shoreline bluffs should be located, designed and maintained to protect bank stability without the need for shoreline armoring.

Pol. REC 8 Mooring buoys, in general, are beneficial in enabling increased recreational opportunities. However, the City should ensure that their possible negative effects on physical and visual environments are avoided.

Pol. REC 9 Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity and in consultation with the Department of Fisheries.

Pol. REC 10 The linkage of shoreline parks, recreation areas and public access points with linear systems, such as hiking paths, bicycle paths, easements and /or scenic drives, should be encouraged and must protect private property rights and individual privacy.

Pol. REC 11 Development of recreational facilities along publicly owned City shorelines should implement Low Impact Development techniques whenever feasible.

20.20.025 Circulation Element

Goal CI

Provide safe, reasonable, and adequate circulation systems in the shoreline area that will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline and protecting private property rights and individual privacy.

Pol. CI 1 Minimize impacts to the topography and other natural characteristics of the shoreline by appropriately locating transportation routes. New roadways for vehicle circulation should be located outside of or minimized within the shoreline area.

Pol. CI 2 Cross Puget Sound bridges should be prohibited within the Burien shoreline jurisdiction.

Pol. CI 3 Provide and/or enhance physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses.

Shoreline Advisory Committee Draft II-8 11/30/2009

Reword: Preserve or enhance existing physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses, while protecting private property rights and individual privacy.

Pol. CI 4 Public transit systems should provide service to designated shoreline public access points.

Reword: Public transit systems should provide service to designated public parks within the City. (The designated public access points on the saltwater shoreline [other than Seahurst Park] are so small that any public transit of people to these areas would overwhelm the capacity of the access points and result in harm to the shoreline. This is in direct opposition to the purpose of "no net loss" in the state program.)

Pol. CI 5 Wherever practicable, safe pedestrian and bicycle movement on and off

roadways in the shoreline area should be encouraged as a means of personal transportation and recreation.

Pol. CI 6 Parking in shoreline areas should directly serve a permitted shoreline use.

Reword: Parking in shoreline areas should directly serve private property owners within the shoreline area, and existing public access points. Parking developed for public access points should be limited to the number of spaces consistent with the capacity of those public access points and should be designed to protect private property rights and individual privacy.

Yet another example of wording aimed at depriving private property owners of their rights - in this case parking. This shoreline management program should not be used as a weapon of the City against its citizens!

Pol. CI 7 Parking facilities should be located and designed to minimize adverse impacts, including those related to: stormwater runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.

Reword: Parking facilities should be located and designed to protect private property rights and individual privacy; and to minimize adverse impacts related to: storm water runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.

Pol. CI 8 Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use.

This item should be deleted as it is covered in the reworded item # 6.

If not deleted then it should be reworded: Public parking facilities located on public land should be planned to achieve optimum use, result in no net loss of shoreline ecological function, and protect private property rights, individual privacy, and public safety.

Pol. CI 9 Utilities are necessary to serve shoreline uses and shall be properly installed so as to protect the shoreline and water from contamination and degradation.

Pol. CI 10 Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.

Pol. CI 11 Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology and minimizes conflicts with present and planned land uses.

Reword: Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, protects private property rights and individual privacy, and minimizes conflicts with present and planned land uses.

Pol. CI 12 Parking for non water dependent uses should be located as far away as feasible from shorelines.

Section 20.35.045 Alteration or Reconstruction of nonconforming Structures or Uses

Item #4. Reconstruction. A nonconforming structure which is destroyed, deteriorated, or damaged more than 50% of the assessed value of the nonconforming structure as established by the most current county assessor's tax roll at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed only insofar as it is consistent with existing regulations and the following:

Reword: An existing nonconforming structure which is destroyed, deteriorated, or damaged by fire, explosion, or other casualty or act of God, may be reconstructed within the original footprint of the destroyed structure.

Delete items a, b, c, d, e in this section.

This issue is **CRITICAL** because it will affect the ability to finance a loan to rebuild and the ability to obtain insurance on the house/property. Home Lenders will disallow mortgage financing if security for the loan (the house) cannot be rebuilt; and the inability to obtain property insurance will eliminate the ability to refinance. In effect, the City is potentially displacing homeowners if this is allowed to stand.

Honorable Members of the Planning Commission

My Name is: Robert Howell
15240 20th Ave SW
Burien, WA

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FEB 09 2010
CITY OF BURIEN

I would like to highlight the key points of my wife Robbie's letter to the commission, regarding the City of Burien Shoreline Master Program, Shoreline Advisory Committee Draft of November 2009 concerning section 20.20.035 Conservation Element.

Paragraph Pol. CON 9 states "The City requires the use of **Best Available Science** for protecting critical areas within the community pursuant to the Growth Management Act **RCW 36.70A.172(I)**."

Please note that, Pol. CON 27, item "b" refers to the priority species and habitats in the **Adopted King County Comprehensive Plan, November 1994**.

The data in this document is 16 years old!

Therefore I requesting that this item be changed to read, " b. Priority species and habitats, Candidate species and habitats, and King County Species of Local Importance and habitats as noted and adopted in the King County Comprehensive Plan, October 2008, Chapter-4. Section E-487, Page 4-58."

Concerning the above referenced King County document, I would call to your attention that ten of the birds listed in section E-487, are commonly found visiting Lake Burien, to feed, court, mate, play and rest.

As a resident of Burien, with property bordering Lake Burien, I am particularly concerned with possible contamination by of Eurasian Watermillfoil and Brazilian Elodea, which would destroy the ecology of the lake. All of the lakes in King County with public access are infested with one or both of these noxious weeds. These weeds are introduced by bringing boats or other water toys from an infected source to the lake.

I would like to point out section, 20.30.035 Public Access, part 2 Regulations, line "e." "Public access to shoreline areas shall not be required where it is demonstrated to be infeasible because of incompatible uses, safety, security, or other legal limitations that may be applicable."

And then to Section 20.30.085 Recreational Development, part 2. Regulations, line "h." "Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access areas."

I propose line item "h." on page IV-23 be deleted. and replaced with:

"Public boating and swimming shall be prohibited on Lake Burien until such time as the city has defined and implemented a series of controls to assure

1. No invasive species will ever be introduced to the lake.
2. Patrols, funded by the city, monitor the lake assuring no trespass of lands or vandalism of property.

In conclusion, I would like to direct your attention to Robbie's letter and the attached sections of the King County Comprehensive Plan 2008, E-479 through E-498, of Chapter 4 Environment.

I specifically request you read the last paragraph on page 4-55 Which addresses the Washington Biodiversity Conservation Strategy Plan that reads in part, and I quote.

"The three primary goals set forth in the strategy are to protect quality of life for people, conserve species diversity, and restore and care for ecosystems."

I would recommend the Burien Shoreline Management Plan also follow these goals in conserving our shorelines and water resources.

Thank you.

To: The Burien Planning Commission
Subject: Shoreline Master Plan Document- Measuring SMP Goals
Date: February 9, 2010

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I have some recommendations for the Burien Shoreline Master Program Update based on the City's Draft Responses to some of the comments received by the Burien Planning Commission.

Topic #65 The Shoreline Inventory dated March 27, 2008 pages 9 & 27, documented Lake Burien as a Category 2 wetland. The city's response is that this was "a typographical error in the Inventory". However, the Shoreline Analysis and Characterization dated June 12, 2008 page 17 also documented Lake Burien as a Category 2 wetland. The Planning Commission needs feel that they can assure the City Council that the trail of data, analysis, conclusions and especially the recommendations throughout all the documents, Chapter IV of the SMP, is consistent and based on the properly designated wetland category for Lake Burien. You should personally take that responsibility and not rely on "assurances" from the city that all is okay. After all, almost two years have passed and they should have been able to catch such a glaring "typographical error" sooner, especially considering the profound impact it would have on any legal actions that might have been brought against the City of Burien.

The Burien SMP has put together a comprehensive plan to protect the shorelines as mandated by Washington State. Many of the Goals & Policies stated in Chapter II are closely tied to the goals articulated by the State and Chapter IV identifies the regulations that should be followed to help meet the goals of both Burien and the State. What appears to be missing is the answer to the question: *How will the City of Burien be able to prove to the State of Washington that the regulations being followed are helping the goals to be realized?* The Planning Commission should consider "closing the loop" and establish a methodology that can validate and verify that the goals in Burien's SMP are being met.

There is an overall, general, inclusive goal for the SMP. There are also eight elements.

Key words from the eight policies associated with the overall goal include:

- Pol. 1 "no net loss of shoreline ecological functions and process"
- Pol. 2 "guided by ongoing and comprehensive science"
- Pol. 3 "proactive in managing activities"
- Pol. 4 "adaptive management approach"
- Pol. 5 "balance private use... with the greater public benefit"
- Pol. 6 "consider site-specific characteristics"
- Pol. 7 "coordinate with relevant local, state, federal and other programs"
- Pol. 8 "encourage redevelopment...with accepted shoreline best management and standards"

An example of a statement establishing a methodology that could validate and verify that the city is working towards meeting this overall goal:

“The City of Burien will establish an interagency agreement with the UW or another such expert scientific agency to proactively design and conduct an ongoing and comprehensive science-based approach that monitors the no net loss of shoreline ecological functions and process while balancing private and public interests.

Each of the eight elements has their own goal and associated policies. The progress towards each element’s goal can also be monitored and measured against its associated policies as well as how it contributes to the achievement of the overall goal.

The Planning Commission should consider requiring that an effective methodology to be included as part of the SMP to ensure that its implementation is moving the City of Burien toward its stated goals.

Bob Edgar
12674 Shorewood Dr SW
Burien 98166

To- The Burien City Council
To-The Burien Planning Commission
Re-Shoreline Master Plan Document
From-Chestine Edgar
February 9, 2010

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This letter is in response to the January 26, 2010 meeting of the Planning Commission and to the topics identified on the "Public Comment Summary Chart" dated 2/4/2010.

CITY OF BURIEN

Topic #3 In addition to Commercial and Office being added back into the table matrix, Commercial and Office needs to also be added back into Chapter IV, 20.30.075 (per the Sept. 1, 2009 draft) as Commercial, Institutional and Office and it needs to be noted that all of these uses were prohibited by the Shoreline Advisory Committee (SAC).

Topic #15 Again I am requesting the term Critical Freshwater Habitats be added to 20.30.025(2.c). Also I am attaching the page from the WAC173-26-221 which states under (A) Applicability that this section on Critical Freshwater Habitats applies to "portions of streams, rivers, wetlands and lakes, their associated channel mitigation zones and flood plains designated as such." Also, under (C) (i) Standards it states, "Provide for the protection of ecological functions associated with critical freshwater habitat as necessary to assure no net loss." As these are noted in the WAC, it is a term recognized by the scientific community and the Department of Ecology.

Topics #15, 16, 17 These refer to problems with the wetland rating system being used by Burien. This rating system *does not use the current, best science for wetland protection*. I am requesting that **Washington State Wetland Rating System for Western Washington-Revised** be used in the Burien SMP. This would provide small wetlands and Lake Burien with the correction classifications and protections needed to result in no net loss to these environments. For some reason, Burien has put Lake Burien into a Category 4 wetland with no explanation or scientific parameters of what indicators, point scoring items, and habitat features a scientist used to reach the conclusion of Wetland Category 4. This is the reason that there were numerous errors in the Shoreline Inventory, Shoreline Analysis and Characterization, and Cumulative Impacts Analysis that refer to Lake Burien as a Category 2 Wetland. Other scientists and wetland specialists in the state, using the Department of Ecology's recommended classification system, score Lake Burien differently than the City of Burien does using its scoring guide from the CAO document. Futurewise submitted comments to the Planning Commission that Burien needed to change its rating system and I concur with Futurewise.

To not make this change in rating system in the SMP would be to act in opposition to Pol. CON. 9 Page II-12 of the SMP draft 11/17/2009 which states, "The City requires the use of Best Available Science for protecting critical areas within the community pursuant to the Growth Management Act RCW 36.70.172(1)." Because Burien has used a different, less scientific system in the past is not a sufficient enough argument by the City to hold on to this system rather than adopting the one I and Futurewise are requesting and that is recognized by Washington State.

Topics # 20, 21, 22 These refer to a request that a "Plan for Public Access" be included as part of the SMP. A *plan* according to Webster's New World Dictionary is an "outline, map, diagram, structure, a scheme for making things work, a series of steps to follow." The City's response on the chart to these requests is that there are Policies 3, 4 and 9 in the policies on Public Access. A *policy* is defined "as a governing principle." Policies do not provide the structure and detail that plans attend to. The city essentially is refusing to create a plan by saying that a policy is the same as a plan. I am requesting that a Plan for Public Access be added to the SMP as an Appendix. Other cities have added these to their SMP. It is a pro-active element that addresses public concerns about what steps will be followed by the city when Public Access comes up as a topic for consideration.

Topic #25 The concern is about the aggressive actions of the city and the SMP to immediately open unrestricted, physical, public access to Lake Burien without a plan/process in place to thoroughly examine the issue, adequately secure baseline data on the lake and the possible impact to Miller Creek-to guarantee no net loss. The draft response from the city is "No public access is being proposed."-dated 2/4/10. However in the same time period that this statement was being put out to the public, the City Manager was directed by a city council member to contact the Ruth Dykeman Children's Center (RDCC) about possibly buying a part of the RDCC property for city use. This is not an honest and ethic way to deal with the public about the SMP and the concerns that they have. It erodes away any confidence that the public has about the processes that the city claims it is going to follow. Changing items on the charts, inserting or removing language, providing incomplete inventories and analysis which may have been perceived by the public as innocent oversights all appear as much more premeditated, anti-citizen attitudes by the city. In light of the above mentioned, there appears to be an attempted end run at the RDCC property. *In good government this should not happen. It destroys public trust.* Additionally, Visual Access is available to Lake Burien from several street points. No effort has been made by the city or the SAC to examine how these could easily be enhanced. This could very easily be discussed in a Plan For Public Access and Analysis of Current Public Access Areas.

Topic #42 I believe came from me as I expressed a concern that Critical Freshwater areas (Lake Burien) were being treated differently in the SMP than Critical saltwater areas. This concern is with regard to the differences in setbacks and the lack of critical analysis data that is missing for Lake Burien in the Cumulative Impact Analysis regarding impervious surfaces and non-point pollution. This data is missing because the Cumulative Impact Analysis draws the wrong conclusions based on the category of Lake Burien's wetlands. I am requesting that the Cumulative Impact Analysis (CIA), the Shoreline Analysis and Characterization, and the Shoreline Inventory be corrected with regard to Lake Burien and that the discussion item #3 in the CIA (Foreseeable Future Development of the Shoreline) be reanalyze to address the impacts of sub-dividing the current lots to 7,200 sq. ft. on Lake Burien. *If it is impossible to correct these above mentioned baseline documents for Lake Burien, then I am requesting that an Environmental Impact Statement be done on Lake Burien before any decision is made on setbacks for Lake Burien.*

Topic #57 Technical Documents. All decisions about the use of critical areas are *required* to be based on the Best Available Science. There are three documents that are the keystone documents on which this SMP is based. They are the Shoreline Inventory, the Cumulative Impacts Analysis and the Shoreline Analysis and Characterization. All three of these documents have incorrect, incomplete and missing information about Lake Burien.

- 1) There are three different parameters given for Lake Burien. *The wetland specialist needs to decide on the correct one and put it into all three of the documents.*
- 2) The lake is classified as low density residential in some areas of the documents and moderate density residential in other areas. *The wetland specialist needs to make up his/her mind about what it is or explain why these differences keep being repeated in the three documents.*
- 3) In some parts there is a statement that Lake Burien is developed to its full potential, in other parts it states it could have a little more development than the critical areas on the Sound. In reality it can increase the number of homes that are currently on it by three times the current number. *The wetland specialist needs to address what is the correct scenario for the future on Lake Burien and put that into all three of the documents and it must be based on the Best Available Science.*
- 4) The Ruth Dykeman Children's Center is listed as a school. It is not a school. It is a residential treatment center for children. *The wetland specialist needs to make this correction in the tables.*
- 5) The Wetland Category and buffers are correct or incorrect in all three documents depending on whose rating scale is being used. As a result the wrong conclusions are drawn in all three of the documents about the Foreseeable Future and in the Opportunities for Conservation and Restoration. *the wetland specialist needs to correct these so that they reflect reality and the correct conclusions are based on the Best Available Science.*
- 6) No interview of the Lake Steward was mentioned in the Methodology Section or Bibliography Sections of the three documents. *If it was done, this needs to be appropriately documented by the wetland specialist.*
- 7) No Priority Species and Habitats are listed for Lake Burien. However, the lake has been private for the last 100 years. So it probably would be a good idea to confirm the accuracy of the species and habitats with a Lake Burien resident. Priority Species do use the lake for perching, hunting and as a migratory stop over. *The wetland specialist needs to verify and correct this in these documents.*
- 8) There are fish in Lake Burien. This information could have been obtained from a Lake Burien resident. Additionally data on reptiles, mammals, plants, crustaceans and amphibians are missing in the documents. *I suggest that this data be gathered by the wetland specialist and noted.*
- 9) If these documents were well vetted during the Committee process as is stated in the Draft Response section of the Public Comment Summary Chart, I am surprised that the City Planner and the Technical Staff did not catch many of these errors.

In the meeting summary notes of March 12, 2008, it is noted that the public can bring in new information and that it is welcome. I am bringing in new information and I am requesting that it be added, completed, corrected or redone so that it reflects the quality of the Best Available Science.

Topics #59, 60, 61, 62, 63, 64 The Methodology section of The Shoreline Inventory states that a desk and online review of a number of documents and sources was done. There was "one person" who was interviewed about archeological data and history. The City's draft response is that there were actual site visits done to the area by researchers and scientists. If this is true, it is not correctly documented and needs to be added to both the Methodology and Bibliography. The City's response also states that information about Lake Burien was obtained from an online inventory. *The Lake Burien Shore Club had no online newsletters or shoreline inventories at the time this document was drafted.* So I am not sure how they could have been used to support the Shoreline Inventory. Additionally, if these items were used in the documents, the source of the information should be properly referenced in the Bibliography. Currently, the source information is not documented and, therefore, cannot be located or verified. While the Lake Steward was present at all of the meeting of the SAC, he was not interviewed for his knowledge about the lake. *If he had been interviewed, it would be reflected in the meeting notes, corrections to the three documents and would have been noted in the meeting summary minutes.* None of that information is noted in the meeting summaries. In Topic# 56, the draft response states that the minutes of what occurred at the SAC meetings were taken, compiled and approved by the Committee (see the summary minutes for March 12, 2008). Lastly, it was never noted in any of the summary meeting minutes that the Department of Ecology gave the seal of approval for the baseline data in the Shoreline Inventory. That review does not even occur until the complete SMP document is submitted to the Department of Ecology.

Topic #71 Definition is requested for "joint-use activities". None is provided in the draft response.

Topic #74 The Cumulative Impact Analysis does not correctly address the Foreseeable Future issues for Lake Burien because information is incorrect or missing. This document and the Shoreline Analysis and Characterization were never reviewed or revised by the SAC. These documents were never vetted by the SAC. The baseline information needs to be corrected before the Best Available Science conclusions can be drawn. *Both the Cumulative Impact Analysis and Shoreline Analysis and Characterization need to be corrected and revised.*

Topic # 78 The standard of "no net loss" cannot be measured if the Shoreline Inventory Document is incorrect or missing data. *Fix these things in the document and then redraw the conclusions based on the corrected information and the Best Available Science.*

There items that were presented to the City Staff failed to place the "Public Comment Summary Chart" dated 2/4/2010 that need some kind response:

1. Kathi Skarbo's concern about changes in the document regarding public access and how many newly developed houses generate a public access,
2. John Upthegrove's question about how the SAC could reset the priorities for the Burien SMP above those of Washington State,
3. The request that a disk of the SMP be made available for free use at the library as the SMP has been difficult to view and costly to purchase privately.
4. The concern about private property liability when public access points are opened to unregulated public access.

Additionally, I would like to request that these revisions be added to the SMP Nov. 2010 Draft:

1. Chapter I. User's Guide 20.10.001, Overview. The first Pointer should be changed to read, "Protect the quality of the water and result in no net loss to the natural environment."

2. Chapter I. User's Guide 20.10.001 Overview. The third Pointer should be changed to read, "Preserve and enhance public access or increase recreational opportunities for the public along publicly owned shorelines."

3. Chapter I. User's Guide 20.10.001 Overview. I strongly suggest that the Figure 1 be removed. It makes no sense to the average reader. Additionally, since there seems to be an ongoing discussion in the courts about the controls between the GMA and the SMA, overtime it may be inaccurate.

4. Chapter I. User's Guide 20.10.010, Components, Figure 2 makes no sense to the reader. The four boxes on the right (which are in the Appendices) appear to have no direct relationship to the document. However, they are the cornerstones to the document as they provide the scientific background/data for the development of the document. Connect them correctly to the figure or eliminate the figure.

5. Chapter V. Administration and Shoreline Permit Procedures. Throughout areas of the SMP document there are references to a "Director" and "Shoreline Administrator" but there is no description of these persons, their specific roles and responsibilities and what skill sets they are required to possess. So that it is clear who these persons are, who appointed them, what skills and authority they have, I am requesting that the following definition and description of the Shoreline Administrator be added to Chapter V:

"20.35.007 Shoreline Administrator

The City Manager shall designate a responsible official to administer the Shoreline Program who shall perform all the duties ascribed to the responsible official in this regulation. The responsible official shall administer the shoreline permit and notification systems, and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulation governing land use and development in the City.

The responsible official shall be familiar with regulatory procedures pertaining to shorelines and their use, and, within the limits of his/her authority, shall cooperate with other jurisdictions and agencies in the administration of these procedures. Permits issued under the provisions of this Shoreline Program shall be coordinated with other land use and development regulatory procedures of the City. The responsible official shall establish means to advise all persons applying for any development authorization of the need to consider possible impacts to the shoreline. It is the intent of the City, consistent with its regulatory obligations, to simplify and facilitate the processing of shoreline permits and exemptions."

This was directly taken from the City of Medina's Shoreline Master Program Document.

6. Chapter IV. Shorelines Uses, Regulations, 20.30.070 Bulkheads and 20.30.075 Docks. I am requesting that these two statements be added:

"A. Normal maintenance or repair of existing shoreline components (including damage by accident, fire, or elements) shall be permitted.

B. Shoreline structures shall be designed to minimize the transmission of wave energy."

Both of these statements are taken directly from the City of Medina's SMP. Burien's document does not adequately speak to these issues as it is currently written.

7. Public Access is discussed throughout the SMP document but there is never a clear analysis of what Burien has, what are the current uses and how those have been analyzed for public access. Also, I have not been able to find a City of Burien document or policy that clearly explains the steps, studies, checklists to be completed, considerations for the best use of the land with no net loss and a Department or Commission that will put a plan for Public Access together. There should be reference to how ongoing monitoring is going to take place so no net loss occurs and who is responsible for it. Lastly, there needs to be a figure or flow chart of how the final decision is reached to add or decrease public access in a publicly owned shoreline area. I suggest that an Appendix be created titled "Plan for Public Access" that provides this type of information and it be added to the SMP. This will help to reduce citizen anxiety on this topic and provide a clear direction for Public Access planning. Other cities in Washington have included such a plan in their SMP.

Example of Table for Plan for Public Access - Part of SMP Appendices

TABLE 1: Existing, Planned and Opportunities For Public Access in Burien

Shoreline	Existing Public access	No + length in Public ownership	Planned Public Ownership	Other Opportunities	Goal for Specific Water body
Lakes	↓	↓	↓	↓	↓
Lake Burien	None - but several streets have visual access	15' of the street at —	at street — and — put in parking + picnic tables	In the next 5 years build a viewing platform at — street	Maintain public viewing access
Marine					
Seaburst Park					

WAC

critical saltwater habitats.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

(C) **Standards.** Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

- The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.03.020;
- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- The project is consistent with the state's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that:

- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

Until an inventory of critical saltwater habitat has been done, shoreline master programs shall condition all over-water and near-shore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, local governments should consult with department technical assistance materials for guidance.

✓ (iv) ~~Critical~~ freshwater habitats.

(A) **Applicability.** The following applies to master program provisions affecting critical freshwater habitats, including those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and flood plains designated as such.

(B) **Principles.** Many ecological functions of river and stream corridors depend both on continuity and connectivity along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Environmental degradation caused by development such as improper storm water sewer or industrial outfalls, unmanaged clearing and grading, or runoff from buildings and parking lots within the watershed, can degrade ecological functions downstream. Likewise, gradual destruction or loss of the vegetation, alteration of runoff quality and quantity along the corridor resulting from incremental flood plain development can raise water temperatures and alter hydrographic conditions and degrade other ecological functions, thereby making the corridor inhospitable for priority species and susceptible to catastrophic flooding, droughts, landslides and channel changes. These conditions also threaten human health, safety, and property. Long stretches of river and stream shorelines have been significantly altered or degraded in this manner. Therefore, effective management of river and stream corridors depends on:

(i) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and

(ii) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

As part of a comprehensive approach to management of critical freshwater habitat and

9 February 2010

To: Burien Planning Commission
From: Nancy Tosta, 15931 Maplewild Ave SW, Burien, 98166
Re: Burien Shoreline Management Program

RECEIVED

FEB 09 2010

CITY OF BURIEN

Thank you for considering input on ways to improve the Burien Shoreline Master Program (SMP). I appreciate the work that's gone into developing the draft to this point and the importance of this Program to the health of Puget Sound and the viability of Burien as a community. I offer two comments.

First, to repeat my comments at the last Planning Commission meeting -- please consider ways to engage the shoreline owners as partners in the implementation of the SMP. We represent a significant portion of the tax-base in Burien and believe it's in the city's interest to maintain this base. To this end, I suggest that existing shoreline residences be acknowledged as such and "grandfathered in" to the SMP. Establishing regulations that will prohibit or limit our ability to maintain our dwellings (that represent the life-savings of many of us) is not a formula for cooperation. Currently, the SMP includes rules and regulations on what "not" to do rather than suggestions for how to improve shoreline health while still allowing us to live in our homes. Language in Section 20.35.005 Authority and Liberal Construction (pg V-1) states that the SMP will be "liberally construed" with exemptions from the SMP to be "narrowly construed." Given the many sections of the SMP that constrain homeowner options, this language implies significant disinterest in Burien shoreline residents.

Many of us are eager to manage (and have been managing) our properties to promote the health of the Sound. More could be done. Waterfront owners would benefit by understanding what to plant, how to manage bulkheads, options for encouraging eel grass growth, how to eliminate all toxics and their effects on fish/ aquatic species, ways to improve fish habitat, better management of runoff, etc. This type of information would move towards supporting one of the key objectives of the State Shoreline Management Act: "protect the quality of water and the natural environment." Without the City having to expend resources (that it does not have available), improvements could be made in shoreline conditions. Using the SMP to promote best environmental management practices provides an opportunity for creative program implementation.

Second, I believe that many parts of the plan use language that is not clear and opens the door for significant differences in interpretation. A primary example is the phrase "ecological function." Most scientists have a difficult time defining specifically what this means. The expectation that the City Planner (or other official designated as the "Shoreline Administrator") can make a clear-cut decision that a homeowner cannot rebuild because it will cause a "net loss of ecological function" is foolish and likely to be seen as arbitrary and open for contest.

Thank you again for the opportunity to comment and for all the work you do to support Burien's quality of life.

Kathi Skarbo

1621 SW 152nd Street
Burien, WA 98166
206-242-9874
e-mail: kskarbo@comcast.net

February 9, 2010

To: City of Burien Planning Commission
From: Kathi Skarbo
1621 SW 152nd St
Burien, WA 98166
Re: Shoreline Master Plan draft update

RECEIVED
FEB 09 2010
CITY OF BURIEN

I recently spoke to you about section 20.30.035.2.d of the SMP under Public Access. My comments are not included in the table that staff provided to you titled *Shoreline Master Program Public Comment Summary, Planning Commission Working Draft 2/4/2010*. The language in section 20.30.035.2.d was changed from the recommendation from the Shoreline Advisory Committee. Please delete the entire paragraph or restore the original language, which is consistent with WAC 173-26-221 section 4.d.iii.C.

Revise 20.30.035.2.d as follows:

- d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses; and individual single family residences and subdivisions of less not part of a development planned for more than four parcels.

RECEIVED

FEB 09 2010

CITY OF BURIEN

February 1, 2010

To Whom It May Concern,

Modifying section 20.35.045 to allow existing nonconforming houses to be rebuilt due to fire or deterioration is an extremely important function to enable financing and property insurance. Home Lenders will disallow mortgage financing if security for the loan (the house) can not be rebuilt due to fire damage. Also, the inability to obtain property insurance will eliminate the ability to finance.

Steve Lemons
16215 Maplewild Ave SW
Burien WA 98166
26-241-9075

RECEIVED

FEB 09 2010

To: City of Burien Planning Commission
cc. Burien City Council and City Manager

CITY OF BURIEN

From: Robbie Howell
15240 20th Ave SW
Burien, WA 98166

Subject: City of Burien Shoreline Master Program, Shoreline Advisory Committee Draft of November 2009; concerning section 20.20.035 Conservation Element, paragraphs Pol. CON 9 and Pol. CON 27 (pg. II-12 & II-14)

Paragraph Pol. CON 9 states "The City requires the use of **Best Available Science** for protecting critical areas within the community pursuant to the Growth Management Act **RCW 36.70A.172(I)**." Conversely, Pol. CON 27, item "b" refers to the priority species and habitats in the **Adopted King County Comprehensive Plan, November 1994**.

Therefore I am requesting that changes be made to Pol. CON 27 that reflect the **most current science and concerns for fish and wildlife habitat protection rather than material from 1994**. It should read "b. Priority species and habitats, Candidate species and habitats, and King County Species of Local Importance and habitats as noted and adopted in the King County Comprehensive Plan, October 2008, Chapter-4, section E-487, Page 4-58." (pages 4-55 through 4-62 of the King County Comprehensive Plan 2008, IV. Land and Water Resources are attached for your convenience.)

Concerning the above referenced King County document, I would call your attention specifically to page 4-58 and subsection 4., Species and Habitats of Local Importance, and point out that ten of the birds listed in E-487, the Western Grebe, Great Blue Heron, Hooded Merganser, Barrow's Goldeneye, Common Goldeneye, Osprey, Belted Kingfisher, Purple Finch, Band Tailed Pigeon and Hairy Woodpecker are commonly found visiting Lake Burien. There they find a source of clean quality and quantity water to feed, mate, play and wash themselves.

The King County Comprehensive Plan 2008 promotes the protection of the above native species.

I am wondering why the eagles on Lake Burien as well as the eagles at "Eagles Landing" are not mentioned in the Burien SMP. I'm also wondering why Burien is not working with King County to identify and protect habitat networks at jurisdictional and property boundaries. I am recommending a thorough inventory of the species and "Species and Habitats of Local Importance" be done for Burien as well as a cross-reference to the King County Growth Management 2008 be listed as protected species in the Burien SMP.

Private Property Owners Concerns

The Planning Commission and City Council should work with the Lake Burien Community because it has been the keeper of the lake's water quality for many years. Lake Burien is one of the cleanest lakes around because we have taken measures to see that it is. This is why many species of birds live or migrate to this clean lake. If you have questions about our inventory ask me. If the public is admitted to the lake, this quality of life for the birds and the humans would end forever.

The members of Lake Burien Shore Club have agreed to a standard of conduct for residents of the lake that promotes good lake conditions. This includes using environmentally safe products in our yards and lawns. We all agree that gasoline powered motor boats must not be used and that owners wash their boats before they put them into the lake if they have been in another lake. This is why we do not have milfoil or many of the invasive species that lakes with public access have. (We notice that every lake that has public access has millfoil problems and other infestations.)

If boaters and swimmers are allowed on the lake, who will make sure the boats are washed at a place located away from the lake shore line, so the lake will be the viable habitat that it is now? ...And at the end of the day who will secure the safety of the boaters, swimmers and property owners by making sure the park guests have returned to the park?

Good swimmers can swim around the lake. Who will police them to see that they don't vandalize our property? Who will be responsible for the swimmers if they try to swim around the lake when they do not have the strength and training? Who will rescue them if they are drowning? Many young people tend to overestimate their swimming skills.

If you lived on Lake Burien you would quickly see that the lake is a body of water that carries any accidentally spilled waste or refuse directly to the neighbor's shoreline somewhere across the lake where the wind and currents take it. You would also see that we dispose of our neighbor's refuse if it lands on our shore. Who would pick up the public's garbage? How would it be done and who would pay for its disposal?

Another consideration that has not been addressed is how public access can be achieved with no net loss to the lake environment. Currently the city does not have **Best Science** baseline data on the lake and no plan for public access.

I am recommending that there be a higher quality of scientific study/data collections in the Cumulative Impact Analysis, plus Shoreline Inventory that looks at the circulation patterns in the lake, as well as the impact of the increased population and increased impervious surfaces that will happen on the lake. This area of unknown documentation that is not adequately addressed is consideration for the foreseeable future for Lake Burien.

It grieves me that the Burien SMP designates many policies towards development and citizenry and hardly any priority on the quality of water and the natural environment.

On page IV-8, 2 Regulations e. Public access to shoreline areas shall not be required where it is demonstrated to be infeasible because of incompatible uses, safety, security, or other legal limitations that may be applicable.

With reference to 20.30.085 Recreational Development, 2. Regulations, section line item "h." "Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access areas." **should be changed to protect the quality of the lake.** Property owners on the lake have a vested interest in maintaining the lake quality, but the general public does not have the same concern.

Since there are no good answers for preserving and keeping the lake clean for the only fresh water bird habitat in Burien, or for protecting and making the environment safe, clean and healthy for the residents and general public I propose line item "h." on page IV-23 be deleted. and replaced with:

Public boating shall be prohibited on the lake until such time as the city has designed and implemented a series of controls to assure

1. No invasive species ever be introduced to the lake
2. Patrols, paid by the city, monitor the lake assuring no vandalism or trespass of lands or property

Introduction of millfoil and elodea would destroy the ecology of the lake. Millfoil and elodea are carried on boats from lake to lake.

Private property on the lake is threatened by people arriving by boats.

At the Planning Commission meeting the representative for the City of Burien was not willing to commit to any protections, data collection plans or personnel to protect the lake from no net loss. I am recommending that these items be added to the SMP protections.

Thank you for your consideration. Robbie Howell

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E-479 King County should work with landowners, the state Department of Health, sewer districts, and the Puget Sound Partnership to develop more effective strategies and additional resources for addressing failing septic systems in constrained shoreline environments.

D. Fish and Wildlife

It is King County's goal to conserve fish and wildlife resources in the county and to maintain countywide biodiversity. This goal may be achieved through implementation of several broad policy directions that form an integrated vision for the future. Each of the pieces is necessary for the whole to be successful. The policy objectives are to (1) identify and protect fish and wildlife habitat conservation areas, (2) link those habitat areas and other important conservation areas, and protected lands through a network system, (3) integrate fish and wildlife habitat and conservation goals into new and existing developments, and (4) initiate multi-species, biodiversity management approaches. Conservation of biodiversity is necessary if wildlife benefits currently enjoyed by residents of the county are to be enjoyed by future generations.

Federal and state laws have been enacted over the past century to protect a wide range of species. In addition to the Endangered Species Act (ESA), other federal laws include the Marine Mammal Protection Act, and the Migratory Bird Treaty Act. Marine mammals and migratory birds in King County are protected under the provisions of these laws. Additionally, King County maintains policies regarding specific species.

King County's current fish and wildlife policies and regulations have been shaped by federal and state fish and wildlife protections, which include requirements for protection of specific species and habitats. However, both the federal and state governments have recognized the need for a comprehensive approach to addressing biodiversity conservation. In December 2007 the Washington Biodiversity Council released the Washington Biodiversity Conservation Strategy. The three primary goals set forth in the strategy are to protect quality of life for people, conserve species diversity, and restore and care for ecosystems. The three core initiatives set forth by the strategy propose (1) a landscape approach to guide investments and actions, (2) incentives and markets for landowners, and (3) citizens working together with scientists to inventory and monitor the state's biodiversity. The Washington State Department of Fish and Wildlife (WDFW) is also working to integrate landscape-level approaches to promoting the conservation and sustainability of biodiversity, and is in the process of updating its Priority Habitats and Species recommendations to reflect a more integrated, landscape approach. In order to integrate a more landscape-level approach to fish and wildlife protection at the county level, the county will need a methodical approach to mapping the county's biodiversity and identifying areas that support

rare species and the greatest diversity of native wildlife. The current policy amendments are intended to fulfill federal and state requirements for protection of specific species and habitats while making a transition to more landscape-based approaches to fish and wildlife conservation.

1. General Policies

E-480 The county shall strive to conserve the native diversity of species and habitats in the county.

E-481 In the Urban Growth Area, King County should strive to maintain a quality environment that includes fish and wildlife habitats that support the greatest diversity of native species consistent with GMA-mandated population density objectives. In areas outside the Urban Growth Area, the county should strive to maintain and recover native landscapes, ecosystems, and habitats that can support viable populations of native species. This should be accomplished through coordinated conservation planning and collaborative implementation.

E-482 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

2. Fish and Wildlife Habitat Conservation Areas

The Growth Management Act requires jurisdictions to designate Fish and Wildlife Habitat Conservation Areas for protection. The Washington Administrative Code (WAC 365-190-080) sets out guidelines that jurisdictions must consider when designating these areas.

King County has reviewed these guidelines and has developed policies E-483 through E-499a, which address the various species included in the Washington Administrative Code (WAC) guidelines. These policies recognize the tiered listing of these species and their habitats as defined by the United States Fish and Wildlife Service, National Marine Fisheries Service, and the WDFW (i.e., endangered, threatened, sensitive, and candidate). These policies also recognize the need to regularly review the information developed on species and habitats and amend the tiered listing as appropriate. The WAC guidelines also suggest that aquatic areas and wetlands be considered when designating fish and wildlife habitat conservation areas. Aquatic areas and wetlands and their associated buffers are highly valuable wildlife habitat, and protections for these areas are addressed in other provisions of this chapter.

- E-483** King County shall designate and protect, through measures such as regulations, incentives, capital projects or purchase, the following Fish and Wildlife Habitat Conservation Areas found in King County:
- a. Habitat for federal or state listed endangered, threatened or sensitive species;
 - b. Habitats of Local Importance and Habitats for Species of Local Importance
 - c. Commercial and recreational shellfish areas;
 - d. Kelp and eelgrass beds;
 - e. Herring and smelt spawning areas;
 - f. Wildlife habitat networks designated by the county, and
 - g. Riparian corridors.

Protections for other Fish and Wildlife Habitat Conservation Areas, including waters of the state and lakes, are addressed in other sections of this chapter.

3. Federal and State Listed and Candidate Species

- E-484** Habitats for species that have been identified as endangered, threatened, or sensitive by the state or federal government shall not be reduced and should be conserved.

Federal and state listings of species as endangered or threatened generally encompass relatively large geographic areas. More localized declines of species within King County may not be captured by state and federal listings. For example, local monitoring data indicates significant declines in the Middle and Late Lake Sammamish Kokanee salmon runs, and the extinction of the Early Lake Sammamish Kokanee run. However, this species has not been listed by the state or federal government as threatened or endangered.

The federal and state governments also designate "candidate" species. In the context of the ESA, candidate means any species being considered for listing as an endangered or a threatened species but not yet the subject of a proposed rule. Lists of federal candidate species are updated annually. Review of these lists and the supporting assessments can provide valuable information about threats to species found within King County and can help the county to be proactive in preparing for potential future listings.

- E-485** King County should review fish and wildlife surveys and assessments with local application to King County and consider additional habitat protections where warranted. Habitat protection should be accomplished through incentives,

cooperative planning, education, habitat acquisition, habitat restoration, or other appropriate actions based on best available science.

E-486 King County should review federal and state candidate listings for information about candidate species found in King County. King County shall protect habitat for candidate species, as listed by the WDFW or a federal agency. Information regarding candidate species should be used to inform King County's long-term wildlife conservation and planning efforts.

4. Species and Habitats of Local Importance

The state defines species of local importance as those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species. King County refines the definition to include native species listed as priority species by WDFW, bird species whose populations in King County are known to have declined significantly over the past 150 years, anadromous salmonids, and aquatic species whose populations are particularly vulnerable to changes in water quality and quantity. King County policy-makers have also provided additional local protection to specific species, including red-tailed hawk, in response to concerns of community groups and schools.

E-487 King County should protect the following native Species of Local Importance, or their habitats, as appropriate. Protection should be accomplished through regulations, incentives or habitat purchase.

Species of Local Importance are:

- a. Salmonids – kokanee salmon, sockeye/red salmon, chum salmon, coho/silver salmon, pink salmon, coastal resident/searun cutthroat, rainbow trout, Dolly Varden, and pygmy whitefish, including juvenile feeding and migration corridors in marine waters;
- b. Native Freshwater Mussels – Western pearlshell mussel, Oregon floater, and western ridge mussel;
- c. Shellfish – Red Urchin, Dungeness crab, Pandalid shrimp, Geoduck clam, and Pacific oyster;
- d. Marine Fish – White sturgeon, Green Sturgeon, Pacific herring, longfin smelt, surfsmelt, lingcod, Pacific sand lance, English sole, and rock sole;
- e. Birds – Western grebe, American bittern, great blue heron, Brant, Harlequin duck, Wood duck, Hooded merganser, Barrow's Goldeneye, Common Goldeneye, Cinnamon teal, Blue-winged teal, Surf scoter, White-winged scoter, Black scoter, osprey, Red-tailed hawk, Sooty grouse, Ruffed grouse, Band-tailed pigeon,

- Belted kingfisher, Hairy Woodpecker, American three-toed woodpecker, Olive-sided Flycatcher, Mountain chickadee, Western Meadowlark, Cassin's Finch, and Purple Finch;
- f. Mammals – Marten, mink, Columbian black-tailed deer, elk in their historic range, mountain goat, Douglas Squirrel, and Townsend Chipmunk;
 - g. Amphibians – Red-legged frog; and
 - h. Reptiles – Alligator lizard and western fence lizard.

It should be noted that under the Migratory Bird Treaty Act, with few exceptions, no migratory bird or its nest may be harmed.

Wildlife habitats such as caves, cliffs, and talus occupy a very small percent of the total land area, yet they are disproportionately important as wildlife habitats. Each of these habitats concentrates and supports a unique animal community, and adjacent plant associations provide food sources, help stabilize light and wind patterns, and provide perches for raptors. Caves, cliffs, and talus are fragile environments that can be easily destroyed, but not restored. Additionally, some of these special wildlife habitats have unique or significant value to a diverse assemblage of species, not just one particular species.

E-488 King County should protect the following priority habitats listed by the WDFW that are not otherwise protected by policies and codes. Protection should be accomplished through regulations, incentives or purchase. These areas include: caves, cliffs, consolidated marine/estuarine shorelines, estuary, old growth/mature forest, unconsolidated marine/estuarine shorelines, snag-rich areas, and talus slopes.

Protections of other priority habitats, including riparian habitat, instream habitat, and freshwater wetlands can be found in other policies in this chapter.

E-489 King County should regularly review the WDFW's list of Priority Species and other scientific information on species of local importance, and evaluate whether any species should be added to or deleted from the lists in E-487 and E-488. Any additions or deletions should be made through the annual amendment process for the comprehensive plan.

E-490 Development proposals should be assessed for the presence of species of local importance. A comprehensive assessment should follow a standard procedure or guidelines and shall occur one time during the development review process.

Salmon are particularly important because of their significance to local and regional character, tribes, salt and freshwater ecosystems, and recreational and commercial fisheries. A growing number of salmon stocks within King County and other areas of Puget Sound are in a serious state of decline. Three salmonid species present within King County have been listed under the ESA, several others have significant potential for listing, and the salmon-dependent Orca whale has been listed as endangered.

The protection and restoration of river and stream channels, riparian corridors, lakes, wetlands, headwaters and watersheds that provide or impact spawning and rearing habitat, food resources and fish passage is essential to the conservation of native fish populations. Intermittent streams also can be critical to native fish populations.

Hatcheries and other artificial propagation facilities that are properly managed to protect the abundance, productivity, genetic diversity, and spatial distribution of native salmon may contribute in the near term to both maintaining sustainable salmon stocks and harvest opportunities while habitat protection and restoration measures for salmon are implemented.

E-491 King County should conserve salmonid habitats by ensuring that land use and facility plans (transportation, water, sewer, electricity, gas) include riparian and stream habitat conservation measures developed by the county, cities, tribes, service providers, and state and federal agencies. Project review of development proposals within basins that contain hatcheries and other artificial propagation facilities that are managed to protect the abundance, productivity, genetic diversity, and spatial distribution of native salmon and provide harvest opportunities should consider significant adverse impacts to those facilities.

5. Landscape Approaches to Fish and Wildlife Habitat Conservation

Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. Fish and Wildlife Habitat Conservation Areas are intended to ensure the conservation of individual species recognized as declining or imperiled; however, this approach of protecting individual animals is only one aspect of protecting the county's biodiversity. Because biodiversity encompasses a variety of levels, from genes to ecosystems, and occurs at multiple spatial scales, a wider approach beyond single-species management is necessary to conserve biodiversity in King County. Additionally, most fish and wildlife species are not confined to small portions of the landscape; rather, they move about for feeding,

breeding, rearing young, and interacting with other members of their species to insure adequate genetic exchange and population viability.

E-492 King County should collaborate with other governments, private and non-profit organizations to establish a bioinventory, an assessment and monitoring program, and a database of species currently using King County to provide baseline and continuing information on wildlife population trends in the county.

E-493 Distribution, spatial structure, and diversity of native wildlife and plant populations should be taken into account when planning restoration activities, acquiring land, and designing and managing parks.

Standard buffers for streams and wetlands will not always adequately protect wildlife resources that utilize those sensitive areas. Areas with critical wildlife resources may need larger buffers to protect the resource.

E-494 Stream and wetland buffer requirements may be increased to protect species of local importance, as listed in this chapter, and their habitats, as appropriate. Whenever possible, density transfers and/or buffer averaging should be allowed.

Protection of isolated blocks of habitat will not always adequately protect wildlife in King County. Critical wildlife habitats and refuges also need to be connected across the landscape through a system of habitat corridors, or networks. Some areas may be important more because they connect other important areas together rather than because of any particular species present.

Network width is related to requirements of desired wildlife species, length of network segment and other important characteristics within the network. Wider corridors will be required for larger species if the distance between refuges is great or if multiple uses, such as public access and trails, are desired. Because it may not be possible to protect wide corridors in the Urban Growth Area, it may not be possible to accommodate larger wildlife species in all areas. Networks will address some of the problems of habitat fragmentation for smaller species within the Urban Growth Area.

Potential linkages are identified on the Wildlife Network and Public Ownership Map. Open spaces set aside during subdivision of land should be located to make connections with larger offsite systems. This approach will also benefit other open space goals.

E-495 **Dedicated open spaces and designated critical areas help provide wildlife habitat. Habitat networks for threatened, endangered and priority Species of Local Importance, as listed in this chapter, shall be designated and mapped. Habitat networks for other priority species in the Rural Area should be designated and mapped. These mapping efforts should proceed from a landscape perspective using eco-regional information about the county and its resources, and should be coordinated with state and federal ecosystem mapping efforts as appropriate.**

E-496 **King County should work with adjacent jurisdictions, state and federal governments, tribes, and landowners during development of land use plans, WRIA plans, and site development reviews to identify and protect habitat networks at jurisdictional and property boundaries.**

A key element in local wildlife conservation is the integration of wildlife and habitats into developments of all types. Wildlife protection does not have to be at odds with many types of development. Urban multifamily projects, industrial developments, new school facilities and rural open space projects all provide opportunities to enhance wildlife amenities. Residential developers and businesses have been able to use wildlife in marketing strategies to attract more potential homeowners, renters and quality employees.

Techniques such as minimizing clearing during site preparation, using native plant species in required buffers, landscaping, using bridges rather than culverts to cross streams and innovative site design can be used to promote wildlife and minimize problems with nuisance wildlife. Other plan elements, such as open space, road system design and housing density, also have related impacts on the remaining wildlife values that must be considered.

Benefits to wildlife are enhanced if screening and landscaping is composed of native vegetation. Retention of natural vegetation can provide the same wildlife and aesthetic benefits at a lower cost.

E-497 **New development should, where possible, incorporate native plant communities into the site plan, through both through preservation of existing native plants and addition of new native plants.**

E-498 **The county should be a good steward of public lands and should integrate fish and wildlife habitat considerations into capital improvement projects whenever feasible. Fish and Wildlife Habitat Conservation Areas should be protected and, where possible, enhanced as part of capital improvement projects.**

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FEB 09 2010

Andrew and Diane Ryan
16525 Maplewild Ave SW
Burien, WA 98166
206-248-1822

CITY OF BURIEN

8 February 2010

The Burien Planning Commission
c/o Susan Coles, Community Development Department Assistant
The City of Burien
400 SW 152nd Street
Burien, WA 98166

To the Burien Planning Commission,

We appreciate the time and effort you have spent in developing the Shoreline Management Program ("SMP") and the goals it represents.

However, as waterfront property owners and taxpayers in Burien, we are very concerned regarding implementation of some of the requirements and the cost associated with implementation and enforcement. Additionally we're concerned that there appears to be limited input to the creation of this document by anyone that actually is a waterfront property owner.

We have the following high level comments regarding aspects of the plan.:

Section 20.30.035 Public Access: Relative to the two street ends on Three Tree Point, the City currently does not comply with elements of this paragraph, such as access, enforcement of restrictions, or "fully developed for public use". Does City have funding to comply with the requirements identified in this plan? The City does little presently to protect neighboring property owners rights from issues associated with these public areas.

Section 20.30.040 Shoreline Vegetation Conservation: Alterations is not well defined. Inference is that we as affected property owners need to create (fund) a vegetation management plan to be able trim brush or to plant annual flowers in our yard (except that flowers don't comply w/ goal of all native plants). Likewise, consultation w/ the "Shoreline Administrator" is required (daily, weekly, annually?) should we want to remove (only if by hand) any of the invasive weeds (i.e. the English Ivy so prevalent in our area). It also states "lawn is prohibited" which creates a bit of a problem for those that have lawn abutting the beachfront. Besides being highly impractical, it creates additional bureaucracy, and is totally subjective, unmanageable and creates significant expense for both the City and property owners.

Section 20.30.070 Bulkheads and Other Shoreline Stabilization Structures: This section needs to definitively state that existing structures and locations are grandfathered in such that damaged bulkheads may be rebuilt. Such language needs also include non-primary structures such as boat sheds, gazebos, etc. Additionally, many of the current bulkheads are waterwards of the Ordinary High Water Mark (OHWM) and should be able to rebuilt in the same location in the event of a catastrophic failure. Limitations such as prior to January 1, 1992, etc, do nothing to protect the property owner. Also curious as to who is taking responsibility for item (2) h regarding sizing of structures and how that, and the 4 foot maximum height restriction above OHWM discussed elsewhere in the plan, relate to recent FEMA Basic Flood Elevation determinations.

Section 20.30.075 Docks, Piers, and Floats: Regulations indicate new floats shall be limited to permitted use and require certain light refraction, board spacing, and other requirements. These are identified as Regulations, not recommendations. This sounds like additional expense to the city and poor use of our tax dollars. Additionally the definitions don't address temporary floats such as inflatable's. For someone desiring to build a pier, there is a highly involved process already required, and a 150 sq ft limitation on such a structure is unrealistic.

Section 20.30.080 Habitat Restoration and Enhancement: Our entire property fits w/i the Vegetation Conservation boundaries. Between this section and 20.30.040 our rights as property owners are ridiculously restrictive. It is extremely difficult to believe that the uphill area between our residence and Maplewild Ave SW has such an impact on the shoreline that it justifies the limits identified in the restrictions in these paragraphs.

Section 20.30.090 Recreational Mooring Buoys: Who is paying for our new buoy location and configuration enforcement? Is this really a problem that City Government needs to concern themselves with?

Section 20.30.095 Residential Development/ 20/35/025 Exemptions from Shoreline Substantial Development: These need to be written in such a way that property owners are allowed to protect, rebuild, remodel, expand if desired, their existing properties. Three Tree Point is a unique area where many of the existing structures, both primary and secondary, do not comply w/ existing codes and requirements, including already extending beyond OHWM. Additionally, w/ lot sizes ranging from 30 – 60' wide, and in critical ordinance areas, this language has the appearance that certain property owners are in danger of losing everything should there be a catastrophic event. The \$5,718 and 50% limits are ludicrous. **These, and related regulations, needs to revised such that all existing properties are grandfathered in w/ the capability to be rebuilt as is.**

Section 20.35.045 Alterations or Reconstruction of Non-Conforming Structures or Uses: Why should non-conforming structures be limited from uphill, non-waterwards, expansions. More significantly however, the proposed regulations could force a property owner bound by the vegetation conservation area and OHWM restrictions to lose everything.. **Property owners must have the rights to completely restore their properties in case of a disaster. These rights need to be expressly written, not in subjective terms, and not subject to arbitrary criteria (i.e. < 50% damaged)**

The above represents just an overview of our concerns as the plan and our subsequent document are both too voluminous to discuss in the context of this letter. We would be more than willing to entertain a dialogue on more discrete points if an opportunity exists. Unfortunately, three minute speaking limitations at the public meetings do not lend themselves to detailed discussions either.

While being highly critical of numerous sections of the SMP, we strongly support the long term goal of improving public access, and especially the health and welfare of Puget Sound. Those of us who are fortunate enough to have waterfront property are highly incentivized to protect that resource. Unfortunately, in our opinion, many of the items in this plan do little to benefit that goal, and instead are just additional bureaucratic and financial impositions aimed in our direction. An educational process starting with the status quo working towards common practical goals rather than authoritative regulations that threaten the properties that we have worked a lifetime to acquire would be a more desired approach.

Please enter our comments into the applicable public records.

Sincerely,

Andrew & Diane Ryan

Murray and Julie Dow
9 SW Three Tree Point Lane
Burien, WA 98166
206-431-9293

7 February 2010

The Burien Planning Commission
c/o Susan Coles, Community Development Department Assistant
The City of Burien
400 SW 152nd Street
Burien, WA 98166

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CITY OF BURIEN

To the Burien Planning Commission,

Thank you for your time in representing our community and care in crafting a Shoreline Management Program ("SMP") which reflects the values of our citizens and an informed viewpoint.

As taxpayers in Burien, we are very concerned as to the cost of implementing and enforcing this complex plan. Unfunded mandates will only plunge our city further into red-ink.

We have reviewed the proposed plan and offer the following comments:

Are existing laws being enforced before we add more? Does Burien have the funding to "increase recreation elements"? Currently there is not enforcement of public beach access: especially the dawn-to-dusk rules and unleashed pets. While most people are respectful, some are not. It would be irresponsible for the city to increase/promote beach access without a funded plan to enforce the existing laws. Our understanding is that there is not funding to increase patrol/enforcement services.

A basic premise of law enforcement is lighting, if public access to The Three Tree Point area is to enhanced or promoted, the city should also assume full responsibility for the street lighting in the area, a portion of which residents currently pay as the city will not. (We have to ask, if the city can't/won't pay to even keep the street lights on now, how would the city responsibly propose to increase and promote beach access including parking etc?).

Preservation of Views/Public Utilities/Passageways: We are generally supportive of the idea to improve the "pathways, sidewalks, passageways" and bike access in our neighborhood, (and throughout the city, for all citizens) as an appropriate function of government and the greater good, assuming that the city has the means to pay for it and can do so in way which respects private property. In addition to planning how to protect & regulate private property, the city should also plan for relocating utility lines which currently obscure many of the bluff and waterfront views as part of the plan, it would increase enjoyment of the shorefront views for all.

Shoreline "conservation elements" and "recreation elements" a conflict?: Access is a concept that should be approached carefully, if an area is to remain as a natural ecosystem, then paving over parking areas and enhancing services (for, as the plan states "community values"), environmental conservation can/does conflict. For example, a baby sea lion was placed on our land by her mother while she hunted. We shooed away the off leash dogs and people screaming "oh how cute, take a picture", if we had allowed the people to approach the animal, it likely would have been abandoned by its mother.

As residents of the beach nearby an existing public access "street end", we have experience to comment on the feasibility of increasing such access as proposed by the plan. We believe that private landowners are incented to take care of their natural surroundings and take an active role in preservation more than anyone who can just walk on the beach, perhaps unknowingly, disturb wildlife and plant life, leave their garbage etc and walk away without any responsibility. Rather than chop up areas of well cared for coast to add "pocket parks" and "street ends" (and they really need services if we are going to do so) we think it would be much more responsible to use the city's limited resources to enhance current parks of Seahurst and Eagle Landing.

-continued-

Page Two

Murray and Julie Dow to City of Burien Planning Commission regarding Shoreline Management Program
7 February 2010

To gain acceptance to pass the SMP, The Commission needs to grandfather existing homes: We submit that all current legal existing structures should be grandfathered into the plan, using that exact language. We think this will go a long way toward gaining support of the citizens, and assist the city in maintaining the tax base it currently has.

Catastrophic Rebuilding Regulations: Most importantly, without the express and written right to completely restore their property in a disaster, many homeowners will not be able to insure their property, and therefore will not be able to re-finance and/or sell to anyone who needs a mortgage, sending property values and the tax base into a tailspin. If true rebuilding is the intent of the regulation, it seems simple enough to state it.

Without public support and a tax base to fund the plan, the SMP it is just not workable, even if mandated by the state, which also has no money. We need to balance ideals with practical budgetary realities.

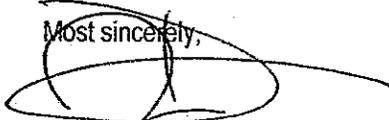
In particular the phrases in 20.35.005 "the plan shall be liberally construed...exemptions shall be narrowly construed" is troubling. This leads to value judgments, which could become overbearing and opens the city and its citizens to the possible abuse of government authority. It exposes the city to litigation as written. That there will be some sort of "trade offs" made in the regulation and permitting process, requiring value judgments on the part of the city employees is scary. This must be corrected and clarified.

For many of us at "Three Tree Point", our homes are our biggest investment and represent our lives work. We take our environmental and community stewardship responsibilities seriously. We are very willing to work together on a board that provides representation of shoreline homeowners for the greater good of our city and our environment.

We thank you for your efforts in representing the entire community in this complex issue. We are very concerned with the expense of these regulations without a plan to pay for them, and the erosion of the entire area's property values. Yet we are optimistic that public sentiment will be considered.

Please enter our comments into the applicable public records.

Most sincerely,



Murray and Julie Dow

cc: David Johnson, AICP – Senior Planner, The City of Burien –
Burien City Council
The Highline Times
The B-Town Blog

**SHORELINE MASTER PROGRAM
PUBLIC COMMENT SUMMARY
Planning Commission WORKING DRAFT 2/18/2010**

#	TOPIC	SUMMARY of COMMENT	DRAFT RESPONSE	WAC/RCW
0.01	20.10.001	The first pointer should be changed to read " <u>Protect the quality of the water and result in no net loss to the natural environment</u> ".	The pointers summarize the priorities as stated in RCW 90.58.010. No change is recommended as the statement is not inconsistent with the RCW	RCW 90.58.010
0.02	20.10.001	The third pointer should be changed to read " <u>Preserve and enhance public access or increase recreational opportunities for the public along publically owned shorelines</u> ".	<p>Suggestion noted, changes are recommended. The section should be replaced with the exact language of RCW 90.58.020 to provide the state legislative findings that offer a detailed explanation of why we are planning for/managing our shorelines.</p> <p><u>Option:</u> Removal of the third bullet and insert the following language, which is directly taken from the SMA to clarify the section.</p> <ul style="list-style-type: none"> ➤ <u>Increase public access to publically owned shorelines.</u> ➤ <u>Increase recreational opportunities for the public in the shoreline.</u> <p>The proposed bullets above are identical to what is stated in the RCW.</p>	RCW 90.58.020
0.03	20.10.001 Figure 1	Suggest that the figure be removed given the ongoing legal discussions regarding the controls of GMA vs. SMA.	The issue of GMA vs. SMA has yet to be resolved and it would be premature to make the changes based on this uncertainty. If the issue is resolved or clarified, the SMP can be updated to be consistent with the resulting legislative change.	
1	Conservation Element 20.20.035	Request that the over-lying principle of no net loss of ecological functions be implemented and if there is a possibility of net loss then the steps of WAC 173-26-201(2.e) be followed.	BMC 20.30.010 addresses no net loss in Policy 1a and Regulation 2.c outlines the mitigation sequence consistent with WAC 173-26-201(2.e).	173-26-201[2.e]
2	Urban Conservancy 20.25.015 & Shoreline Residential 20.25.020	<p>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:</p> <ul style="list-style-type: none"> · 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. 	<p>These areas have significant residential development. It may appear highly vegetated on the aerial photos however there is a significant amount of residential development.</p> <p>It appears they are referencing the Shorewood Community Club property which in all likelihood would not be developed. It should be noted that this property does meet some of the designation criteria for "urban conservancy"; however the area does also match the purpose of the "shoreline residential" environment. The shoreline permit matrix (20.30.001) allows community beaches and a conditional use in the Residential designation, while in the Conservancy designation it is listed as a prohibited use.</p>	173-26-221 [5. E] and [5.f]

		These areas need to be re-evaluated and appropriate areas re-designated as Urban Conservancy.		
3	Shoreline Permit Matrix 20.30.001, Figure 4	Commercial and Office have been deleted from Figure 4 by the SAC and section 20.30.075 Commercial, Institutional and Office was removed. These uses should be included in the table and specifically listed as prohibited uses to accurately reflect the consensus of the SAC.	This is an accurate comment and the table should be amended to include commercial and office as strictly prohibited uses.	173-26-241
3 A	Shoreline Permit Matrix 20.30.001, Figure 4	Commercial and office needs to be also added back into Chapter IV, 20.30.075 (per the Sept. 1, 2009 draft)	If the uses are prohibited then there would be no need to have regulations associated with them.	
4	Shoreline Permit Matrix 20.30.001	We recommend including Community Services, such as government buildings/uses, schools, churches, hospitals, etc., with commercial uses, such that the category becomes Commercial Uses and Community Services. 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. Community services should be limited the same as commercial uses in their location in shoreline areas and their placement within buffers/setbacks.	Allowing these uses does not fit local circumstances. Other than the existing Ruth Dykeman facility, these types of uses are not planned for shoreline areas.	173-26-241
5	Shoreline Permit Matrix 20.30.001	The SMP 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.	Commercial use was specifically removed at the SAC level. These uses are not allowed by the existing zoning or comprehensive planning designations. Please also see #3 above.	173-26-241
6	Shoreline Permit Matrix 20.30.001	The SMP Guidelines have specific requirements for parking. These need to be added to the table and the development standards.	It may need to be added to the table but please note there is a parking section with standards, see 20.30.100.	173-26-241 [3.k]
7	Shoreline Permit Matrix 20.30.001	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.	We believe this code section can be clarified.	173-26-241 [3.l]
8	Shoreline Permit Matrix 20.30.001	We also recommend that boating facilities have to be added to the use table, and development standards need to be established. The SMP Guidelines require 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.	The relevant types of boating facilities for Burien shorelines are included in the permit matrix (e.g., buoys, ramps, covered moorage, docks, piers and floats).	173-26-241
9	Shoreline Permit Matrix 20.30.001	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 following are uses and modifications that are missing in the use	It is suggested that the following uses are added to the table and specifically listed as “prohibited”. 1) Commercial 2) Agricultural 3) Forestry.	173-26-241

		<p>table, and also do not have development regulations: Commercial, Agriculture, Boating Facilities and Marinas, Parking Areas.</p> <ul style="list-style-type: none"> · 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. 	<p>It is recommended that shoreline stabilization measures other than bulkheads should be added to the table.</p> <p>The shoreline permit matrix table should be modified to include “Transportation Facilities <i>and Parking</i>” to be consistent with the development regulation section BMC 20.30.100.</p>	
10	Impact Mitigation 20.30.010	<p>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.</p>	<p>The proposed changes are recommended to be included.</p>	173-26-201[2.e]
11	Impact Mitigation 20.30.010	<p>A policy link between conservation and restoration is needed. Suggested Language: <i>Policy (a) – Impacts to the ecological functions and values shall be mitigated to result in not net loss of shoreline ecological functions and process. <u>Mitigation for impacts of new development projects should use enhancement of degraded conditions to offset the impacts of the new development near shoreline resources.</u></i></p>	<p>Staff/consultant support the proposed change.</p>	
12	Land Use 20.30.015	<p>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:</p> <ul style="list-style-type: none"> · 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. 	<p>This comment does not relate or fit local circumstances. Water dependent and commercial uses do not exist and not are planned for the shoreline areas.</p>	173-26-176[3.a]

		<ul style="list-style-type: none"> · 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. 		
13	Land Use (20.30.015) or in the use table notes:	<p>We support the idea of "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." But there is no implementing regulation</p> <p>Suggested language: <u>"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."</u></p>	This appears to make sense and should be added.	
14	Critical Areas BMC 19.40 20.30.025 [2.a]	Exemptions for stormwater, utilities and trails allowed in the CAO (BMC 19.40) should not be allowed in the shoreline jurisdiction. Exemptions for water dependent uses should however remain.	Trails provide public access and should be allowed in shoreline jurisdiction. Policy CI 9, 10 and 11 states that utility crossings in shoreline areas should preserve shoreline ecology and water quality.	
15	Critical Areas 20.30.025 (2.c) And Definitions 20.40 Fresh Water	<p>Requests that Critical Freshwater Habitats be section be added to 20.30.025 (2.c) pursuant to WAC 173-26-221(iv) and be given equal protection similar to Critical Fresh Water Habitats.</p> <p>Lake Burien is considered a critical area, but there is no definition in the draft SMA of fresh-water habitat. Fresh-water habitat should be added to the SMP. Freshwater habitat needs to be defined and practiced in the SMP so there is no net loss. This can be done by identifying the habitat of birds and fish.</p> <p>The protection of freshwater habitat is not mentioned in the SMP. According to the consultant, it was not included because they do not know how to define it. Research has been done and scientists consider freshwater habitat 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.</p> <p>The overall goal of the SMP is to protect the ecological function of the shorelines of the State that are located within the boundaries of the City of Burien. 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. Critical freshwater habitat of Lake</p>	<p>The guidelines do not define critical freshwater habitat for lakes. To the best of our knowledge the term "critical freshwater habitat" is not a term that is used by the scientific community or Department of Ecology. However it should be noted that fresh water is partially protected through the existing Critical Areas Ordinance (BMC 19.40), primarily in the wetlands and streams sections. Note that Lake Burien has been identified as a Category 4 wetland (BMC 19.40.300[4.A.iv]).The Critical Areas Ordinance has been adopted by reference in the proposed Shoreline Master Program regulations section.</p> <p>The Shoreline Advisory Committee acknowledged the protections needed for fresh water by including provisions to protect freshwater habitats through the SMP, including but not limited to: dock materials, vegetation conservation, setbacks, and buffers.</p>	173-27-030

		Burien is recognized in the SMP, but no definition is provided. However, it does define a critical saltwater habitat. This suggests that protecting the freshwater habitat is of less importance than protecting saltwater habitat.		
15 A	Critical Freshwater habitats	Again request that critical freshwater habitats be added to 20.30.025[2.c].	There is no specific definition of critical freshwater habitats, for lakes, comparable to the term used for saltwater habitats, but yes there is a section addressing how critical freshwater habitats are to be managed. The proposal is to use the existing wetland regulations found in BMC 19.40.	173-26-221 Gen Mste. Prg. Req[2.c.iv], pg 60
16	Critical Areas 19.40.300 20.30.025 [2.a]	BMC 19.40.300 excludes small wetlands from protection. This provision needs to be excluded from the parts of the CAO incorporated into the SMP.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
17	Critical Areas 19.40.300[3,4] 20.30.025 [2.a]	The wetland rating system needs to be changed to use the current science for wetland protection. We recommend the use of Ecology's Washington State Wetland Rating System for Western Washington – Revised.	The SMP inventory on pg. 9 discusses the sources used for wetland identification that included the City of Burien CAO, King County GIS data, National Wetland Inventory, Ecology's Digital Coastal Atlas, WDFW Priority Habitat, and a 2005 report for Seahurst Park.	173-26-221[2.c.i]
17 A	Critical Areas Wetlands 19.40.300[3,4]	The system reference in #17 above should be used to ensure the SMP is consistent with Policy CON 9 which requires the use of best available science. The current system in the BMC is a less scientific system.	The category 4 wetland rating was determined by review of the sources listed in #17 response above.	
18	Critical Areas BMC 19.40 20.30.025 [2.a]	Storm water and utility alterations to streams, wetlands and their buffers should be required to mitigate or impacts – currently facilities only have to repair damage to the pre-damage condition, not compensate for the new impacts from corridors or facilities....	BMC 20.30.105 (2.k) requires reclamation and maintenance to ensure success of newly planted vegetation.	173-26-221[2.c.i]
19	Critical Areas 19.40.310 – 350 20.30.025 [2.a]	Stream and Wetland buffer reductions should require that the option of buffer averaging be tried first. To implement the mitigation sequencing concept.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
20	Shoreline Public Access Element 20.20.015	Increasing the amount of public access will not achieve the “no net loss standard”; improve the ecology of the Lake or Puget Sound. If access is granted things such as milfoil will be introduced to the lake. There are no data or analysis of the lake, its water quality, and carrying capacity to support the assumption that public access will do no harm and cause no net environmental loss. (See Turtle v. Fitchett upholding objections to public use on Lake Burien, 1930).	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4. Public access to shorelines of the state is generally required by the SMA. The Shoreline Master Program Guidelines state.... <i>173-26-176 (2) General Policy Goals of the Act and Guidelines for Shorelines of the State. “The policy goals for the management of shorelines harbor potential for conflict. The Act recognizes that the shorelines and water they encompass are “among the most valuable and fragile” of the state’s natural</i>	RCW 90.58.020 173-26-176 [2] 173-26-221[4]

			<p>resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. Thus, the policy goals of the Act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The Act call for the accommodation of "all reasonable and appropriate uses" consistent with "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 and consistent with "public rights of navigation." The Act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020</p> <p>An existing policy statement (PA 9) addresses the concern regarding the process by which public access points are designed improved or created. This provides guidance on the public process to ensure that it is designed consistent with the policy intent and address neighborhood concerns.</p>	
21	Shoreline Public Access Element 20.20.015	<p>Access will increase littering, vandalism, property destruction. There are already access points available to the public and it would be expensive to fund and maintain that which is proposed in the plan. The plan should include language to assure that before any changes are made the residents of those areas be given:</p> <ol style="list-style-type: none"> 1) Notice of any specific plans that the City may already have and adequate opportunities to respond and express concerns about impacts of those plans on the community. 2) Opportunity to be involved in decisions affecting our communities BEFORE specific plans are made. 3) Opportunity to offer alternative ideas or suggestions to reduce the impact o any such plans on the residents of affected communities, their private property, and their safety and well-being. 	<p>The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4.</p> <p>Policy language exists (PA 9) that provides direction on public involvement when shoreline projects are being planned.</p>	173-26-241
21 A	Shoreline Public Access 20.20.015 Goal PA	Proposed language: Increase Promote and enhance public access to shoreline areas <u>on public lands</u> consistent with the natural shoreline character while protecting private property rights and public safety.	<p>This is a goal directly taken from the existing City Comprehensive plan. The term "Increase" is used in RCW 90.58.020 which states master programs shall give preference to specific uses. The statements include</p> <ol style="list-style-type: none"> 5) Increase public access to publically owned areas of the shorelines 6) Increase recreational opportunities for the public in the shoreline. 	
21 B	Shoreline Public Access 20.20.015 Pol. PA 1	Proposed language: <u>New</u> developments, uses and activities on or near the shoreline should not impair or detract from the public's existing public access to the water.	Keep existing language, no changes recommended.	
21 C	Shoreline Public Access	Existing Language: Public access to the City's shorelines should be	This is a policy that is directly taken from the existing City Comprehensive plan.	

	20.20.015 Pol. PA 3	designed to provide for public safety and to minimize potential impacts to private property and individual privacy. Proposed language: Public access to <u>shoreline areas on public lands within the City</u> must protect private property rights, public safety, and individual privacy.	The Planning Commission will consider the proposed language. It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations.	
21 D	Shoreline Public Access 20.20.015 Pol. PA 4	Proposed language: Public access <u>on public lands</u> should be provided as close as possible to the water's edge without adversely affecting a sensitive environment <u>with no net loss of shoreline ecological function</u> and should be designed for handicapped and physically impaired persons.	Note: The underlined text " <u>with no net loss of shoreline ecological function</u> " was suggested but not underlined in the original comment letter. Strikeouts added. No objection to the proposed changes.	
21 E	Shoreline Public Access 20.20.015 Pol. PA 5	Proposed language: The City should seek opportunities to develop new public access areas <u>on public lands in locations dispersed</u> throughout the shoreline. Highest priority should be placed on reaches without public access. Mechanisms to obtain access include: a. Tax-title properties; b. Donations of land and waterfront areas; and c. Acquisition using grants and bonds. <i>Note that that there is no reference to 'unused right-of-way' as a method of obtaining new public access.</i>	The Planning Commission will consider the proposed language. It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations	
21 F	Shoreline Public Access 20.20.015 Pol. PA 6	Proposed language: The vacation or sale of street ends <u>must comply with RCW 35.79.035.</u> other public right-of-ways and tax title properties that abut shoreline areas shall be prohibited. Vacation or sale of publicly owned tax title properties that abut the shoreline areas shall be prohibited. The City should protect these areas for public access and public viewpoints.	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 G	Shoreline Public Access 20.20.015 Pol. PA 7	Proposed Language: <u>Publicly owned shoreline street ends</u> Waterfront street ends should be recognized as: a. An important community resource that provides visual and physical access to the Puget Sound; b. Special use parks which serve the community, yet fit and support the character of the surrounding neighborhoods; c. A destination resource, where limited facilities and enhancements are provided.	This is a policy that is directly taken from the existing City Comprehensive plan. Street ends are owned by the City, however the language does provide further clarification. Another option may be use of the term "city right-of-ways".	
21 H	Shoreline Public Access 20.20.015 Pol. PA 8	Proposed Language: The City should manage and develop <u>publicly owned shoreline waterfront</u> street ends by: a. Supporting their use by residents city-wide, yet ensuring that the street ends and their supporting facilities are developed at a level or capacity which are appropriate to the neighborhood character, promotes safety, <u>protects private</u>	Note: underlined text in the comment letter did not accurately reflect the proposed changes to the policy. The comment underlines were modified to accurately reflect the proposed changes. Strikeouts were also added. This is a policy that is directly taken from the existing City Comprehensive plan. The Planning Commission will consider the proposed language.	

		<p><u>property rights and individual privacy</u>, and is consistent with City risk management practices;</p> <p>b. Ensuring that public parking is available <u>and limited to a level appropriate to the capacity of the public access site that it supports when used in a manner that results in no net loss of shoreline ecological function</u>, and that any new parking that is developed would be harmonious with the surrounding neighborhood;</p> <p>c. Ensuring that the waterfront street ends are preserved and maintained with limited enhancements, such as places to sit or rest which fit in with the natural environment of the area;</p> <p>d. Installing signs that indicate the public's right of access and <u>the rules of use, and penalties for misuse; encourage appropriate use;</u></p> <p>e. Installing limited trail improvements and enhancements <u>in the street ends</u> to allow access to the water;</p> <p>f. <u>Protecting adjacent private property, individual privacy, and public safety; Minimizing the potential impacts associated with their use on adjacent private property;</u> and</p> <p>g. Developing a street ends plan that promotes <u>public shoreline waterfront access and public safety.</u></p>	It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations	
21 I	Shoreline Public Access 20.20.015 Pol. PA 9	Proposed Language: Waterfront Shoreline street ends or other <u>public</u> shoreline access should be planned in conjunction with the affected neighborhoods. However, the broader community should be notified during the public notification process.	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 J	Shoreline Public Access 20.20.015 Pol. PA 11	Proposed Language: The public's Existing visual access to the City's shorelines from streets, paths, trails, and designated viewing areas should be conserved and enhanced <u>preserved</u> .	This is a policy that is directly taken from the existing City Comprehensive plan. The Planning Commission will consider the proposed language.	
21 K	Shoreline Public Access 20.20.015 Pol. PA 12	Proposed Language: Public views from the shoreline upland areas should be enhanced and conserved <u>preserved</u> while recognizing that enhancement <u>preservation</u> of views should not be necessarily construed to mean removal of vegetation. <i>The state document is about preservation of shorelines and not making things worse, while the wording in the City document appears to be aimed at "increasing" or "enhancing" public access, both physical and visual.</i>	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 L	Shoreline Public Access 20.20.015	Proposed Language: <u>On publicly owned lands</u> , promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that	The Planning Commission will consider the proposed language.	

	Pol. PA 13	increase the amount and diversity of opportunities for walking and chances for personal discoveries <u>while protecting private property rights, individual privacy, and public safety.</u>		
22 M	Shoreline Public Access Element 20.20.015 & Public Access 20.30.035	Determinations of adequacy of public access should be based on individualized analysis of the water body to determine if a policy can be appropriately applied.	Please see #'s 20 and 21 above.	
22 N	Shoreline Public Access Element	Request that a plan for public access be created and added to the SMP appendix. It is a pro-active document element that addresses public concerns about what steps will be followed by the city when Public Access come up as a topic for consideration.	Public access opportunities to Burien's shoreline areas would entail expanding and improving facilities at existing sites. Any new shoreline public access sites must minimize effects on adjacent properties, minimize adverse impacts to ecologically sensitive areas and not create a public safety risk consistent with the proposed polices in the SMP. Public access is addressed in the SMP Inventory and Shoreline Analysis and Characterization reports.	
23	Public Access 20.30.035.2.e (pg IV-8)	The words 'historically significant community' should be to the added to the regulation. Comment was related to (SW 172 nd Street)	It is unclear what is intended by the comment and how it would affect the implementation of the regulation.	
24	Public Access 20.30.035.2.e (pg IV-8)	No net good will flow to the City through public access to Lake Burien. No net good will come to the Lake from providing public access. Harm will occur to Lake Burien through public access. Therefore, there is no rational reason the City could have to provide public access to Lake Burien. 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.	Please see # 20 above and # 25 below.	
25	Public Access 20.30.035.2.e (pg IV-8)	A major factor to Lake Burien'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 such as Miller Creek in Normandy Park. The Shoreline Master Program must play a key role in protecting the critical freshwater habitat of Lake Burien by not allowing unfettered, unregulated public access.	No new public access is being proposed. Public access is described in Policy section 20.30.035 as "Public access includes physical access or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered visual access." In addition, any access that may occur in the future should follow the policy direction contained in the shoreline master program.	
25 A	Public Access	There must be base line information on the health of Lake Burien before access is contemplated, the response table says no access is proposed however the City Manager was directed by a city council member to explore purchasing property for city use.	Monitoring of lake water quality is not currently conducted by the City. No public access is proposed to Lake Burien.	
26	Public Access 20.30.035.2.e (pg IV-8)	There was a drive to provide public access to all reaches of Burien shorelines without regard to impacts.	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft.	

			Many of the policies provided in the SMP are taken from the existing comprehensive plan. Eight (8) of the 14 goals and policies in the SMP are taken directly from the comprehensive plan and one (PA 5) was a comprehensive plan that was modified by the SAC.	
27	Public Access 20.20.015 20.30.035	Public access can be defined as physical or visual. Why is physical access being the only one discussed for Lake Burien?	Public access is described in section 20.30.035 as “ <i>Public access includes <u>physical access</u> or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered <u>visual access</u>.</i> ” Sections regulating access do not specifically state that access must be “physical”.	
28	Public Access 20.35.035	Items a, b, and c need to be clarified that existing property along SW 172 nd Street is not impacted or disturbed in any way in order to provide physical or visual access to the water. Reference to “unused right-of-way” in item c should be removed from the document.	Comment noted.	
29	Public Access 20.20.015	Parking is limited at some access points and infringes on parking of existing residents.	There are existing policies in the comprehensive plan as well as the SMP that address provision of parking and the design of access areas as well as impacts to adjoining properties. See PA 3, PA 4 and PA 8.	
30	Public Access 20.20.015	This is not a plan, it serves as guidelines for any plans that are made. There needs to be assurance in the SMP that residents of affected communities are involved in the development of any plans and there needs to be assurances that there is sufficient funding for such plans.	Please see # 20 above.	
30 A	Recreation element 20.20.020 Goal REC	Proposed Language: Develop a well-maintained, interconnected system of multi-functional parks, recreation facilities, and open spaces that: is attractive, safe, and accessible for all geographic regions and population segments within the City; supports the community’s well-established neighborhoods and small town atmosphere; <u>protects private property rights; and results in no net loss of shoreline ecological functions and processes.</u>	No objection to the proposed language.	
30 B	Recreation element 20.20.020 Pol. REC 2	Proposed Language: Recreational developments should be located , designed and operated <u>in a manner consistent with the purpose of the environment designation in which they are located; and result in no net loss of to be compatible with, and minimize adverse impacts on,</u> environmental quality and valuable natural features, as well as on <u>or</u> adjacent surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.	The proposed language was placed in strikeout underline based on the original text of the SMP.	

30 C	<p>Recreation element 20.20.020</p> <p>Pol. REC 4</p>	<p>Proposed Language: The City shall plan to provide, in coordination with other agencies, a range of park facilities <u>on public lands</u> that serve a variety of recreational and open space purposes. Such planning should use the following designations and guidelines to provide such diversity:</p> <p>1. Mini or Pocket Park</p> <p><i>Use Description:</i> Passive recreation or specialized facilities that may serve a concentrated or limited population such as children or senior citizens.</p> <p><i>Service area:</i> Approximately 1/3 of a mile radius.</p> <p><i>Size:</i> No minimum to approximately one acre.</p> <p><i>Desirable Characteristics:</i> These parks should be in close proximity to dwellings and or other centers of activity. Mini parks should be designed for intensive use and should be accessible and visible from surrounding area.</p> <p><i>Examples:</i> In Burien these types of parks are primarily private parks consisting of beach access for adjacent subdivisions, view appreciation areas (bench or platform), picnic tables and trees in a small area, children’s play area, game tables, or planted areas.</p> <p><i>Other Considerations:</i> Since maintenance costs of these smaller parks are high relative to their service areas, few jurisdictions are able to meet the desired quantity. This type of park is most suitable to provide unique local needs, such as <u>public shoreline shore</u>-access, or as a consideration in the design of new development. The City should seek a variety of means for financing and maintaining mini-parks, including considering opportunities for community stewardship and grant or private funding.</p> <p>2. Regional Parks</p> <p><i>Use Description:</i> Areas of natural or ornamental quality <u>on public property</u> for outdoor recreation such as picnicking, boating, beach activities, swimming, and trails. Such parks may contain special amenities, facilities or features that attract people from throughout the surrounding region. Such facilities require extensive on-site parking and good access by automobile.</p> <p><i>Service area:</i> Approximately 1/2 to 1 hour driving time.</p> <p><i>Size:</i> Approximately 90 acres.</p> <p><i>Desirable Characteristics:</i> Contiguous to or encompassing significant natural resources.</p>	An existing policy taken directly from the Comprehensive Plan.	
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		<p><i>Examples:</i> Seahurst Park.</p> <p>3. Special Use Park</p> <p><i>Use Description:</i> Specialized or single-purpose recreational activities such as walking and bicycle trails, street ends, or areas that preserve buildings, sites or features of historical significance.</p> <p><i>Service area:</i> Variable.</p> <p><i>Size:</i> Depends on nature of facility.</p> <p><i>Desirable Characteristics:</i> Compatibility with adjacent facilities and uses.</p> <p><i>Examples:</i> Examples within Burien shoreline consist primarily of designated view points and historical markers, and <u>publicly owned shoreline waterfront</u> street ends (including those at SW 170th Pl., SW 163rd Pl., and at the intersection of Maplewild Ave. SW and SW 172nd St.).</p>		
30 D	<p>Recreation element 20.20.020</p> <p>Pol. REC 10</p>	<p>Proposed Language: The linkage of shoreline parks, recreation areas and public access points with linear systems, such as hiking paths, bicycle paths, easements and /or scenic drives, should be encouraged <u>and must protect private property rights and individual privacy.</u></p>	The Planning Commission will consider the proposed language.	
30 E	<p>Recreation element 20.20.020</p> <p>Pol. REC 11</p>	<p>Proposed Language: Development of recreational <u>facility-facilities</u> along <u>publically owned</u> City shorelines should implement Low Impact Development techniques whenever feasible.</p>	Low impact development techniques should be implemented regardless of location. No changes to the existing language are recommended.	
30 F	<p>Circulation element 20.20.025</p> <p>Goal CI</p>	<p>Proposed Language: Provide safe, reasonable, and adequate circulation systems in the shoreline area that will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline <u>and protecting private property rights and individual privacy.</u></p>	The proposed language creates a conflict that is inherent when providing necessary circulation systems (roads) and adjacent single-family or other noise sensitive uses.	
30 G	<p>Circulation element 20.20.025</p> <p>Pol. CI 3</p>	<p>Proposed Language: Provide andPreserve/or enhance <u>existing</u> physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses, <u>while protecting private property rights and individual privacy.</u></p>	Keep existing language, no changes recommended.	RCW 90.58.020
30 H	<p>Circulation element 20.20.025</p> <p>Pol. CI 4</p>	<p>Proposed Language: Public transit systems should provide service to designated <u>public parks within the City</u>shoreline public access points.</p> <p><i>(The designated access points on the saltwater shoreline [other than Seahurst Park] are so small that any public transit of people to these areas would overwhelm the capacity of the access points and result in</i></p>	The Planning Commission will consider the proposed language.	

		<i>harm to the shoreline. This is in direct opposition to the purpose of "no net loss" in the state program.)</i>		
30 I	Circulation element 20.20.025 Pol. CI 6	Proposed Language: Parking in shoreline areas should directly serve a permitted shoreline use private property owners within the shoreline area, and existing public access points. Parking developed for public access points should be limited to the number of spaces consistent with the capacity of those public access points and should be designed to protect private property rights and individual privacy.	Residential single-family is a permitted shoreline use. Parking is necessary for other facilities, Seahurst Park is one example. Suggest adding the last portion to further clarify the amount of parking. Parking developed for public access points should be limited to the number of spaces consistent with the capacity of those public access points and should be designed to protect private property rights and individual privacy.	
30 J	Circulation element 20.20.025 Pol. CI 7	Proposed Language: Parking facilities should be located and designed to protect private property rights and individual privacy; and to minimize adverse impacts, including those related to: stormwater runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.	The Planning Commission will consider the proposed language.	
30 K	Circulation element 20.20.025 Pol. CI 8	Proposed Language: Public p Parking facilities located on public land should be planned to achieve optimum use, result in no net loss of shoreline ecological function, and protect private property rights, individual privacy, and public safety. Where possible, parking should serve more than one use.	The Planning Commission will consider the proposed language.	
30 L	Circulation element 20.20.025 Pol. CI 11	Proposed Language: Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, protects private property rights and individual privacy, and minimizes conflicts with present and planned land uses.	The Planning Commission will consider the proposed language.	
31	Public Access 20.30.035[2.a]	This section references RCW 35.79.035 but this only concerns limitations on vacations of streets abutting bodies of water.	The RCW sets forth limitations on Cities with regard to vacations of rights-of-way abutting bodies of water. The emphasis of including the reference is on the phrase "maintain, enhance and preserve...access". It provides a connection to the state law regarding any consideration of vacating the public rights-of-ways abutting bodies of water.	
31 A	Public Access 20.30.035[2.d]	Revise the section as follows: d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses, and individual single family residences and subdivisions of less not a part of development planned for more than four parcels.	The language was changed to make the regulation more understandable. The language as shown in the WAC is somewhat difficult to interpret.	WAC 173-26-221[4.d.iii]
31 B	Public Access 20.30.035 (1)	Proposed Language: 1. Policies a. Public access to shoreline areas on public lands must protect private property rights, public safety, and individual privacy. should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. b. Public access on private lands should be provided as close as possible to the water's edge with no net loss of shoreline	The Planning Commission will consider the proposed language.	

		<p>ecological function without adversely affecting a critical area such as a wetland.</p> <p>C. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property or seek other similar private means of minimizing view obstruction. Impacts to existing views from public property or substantial numbers of residences should be minimized by provisions such as maximum height limits, setbacks, and view corridors.</p> <p><i>From page 67, item (iv) of WA State Shoreline Master Program Guidelines)</i></p>		
31 C	Public Access 20.30.035 (2)	<p>Proposed Language: 2. Regulations</p> <p>a. Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035. Vacation of streets or street ends abutting bodies of water must be in compliance with RCW 35.79.035. <i>(The only mention of right of way in the state document relates to railroad ROW, ROW related to commercial or industrial use, and location of utilities in ROW)</i></p> <p>b. Existing Visual access to outstanding scenic vistas areas shall be preservedprovided with the provision of roadside pullovers or broadening of road shoulders.</p> <p>c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access. <i>(There is no mention of unused right of way in the state plan. Once again, wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.)</i></p> <p>d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses, individual single family residences and subdivisions of less than fourfive parcels. <i>(Another example of wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.)</i></p> <p>e. Same</p> <p>f. Same</p>	<p>Item a - The Planning Commission will consider the proposed language.</p> <p>Item b – The Planning Commission will consider the proposed language.</p> <p>Item c - The Planning Commission will consider the proposed language.</p> <p>Response to comment; A road or right-of-way is public land and therefore there would be no “take over” of private property.</p> <p>Item d – The proposed language is very clear and should be used. It is also consistent with the WAC.</p>	

		<p>g. Same</p> <p>h. Required public access sites <u>on public lands</u> shall be fully developed and available for public use at the time of occupancy or use of the development or activity.</p> <p>i. Same</p> <p>j. Same</p>	<p>Item h - No changes are recommended.</p> <p>It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations.</p>	
31 D	Public Access 20.30.085[2.h]	<p>Proposed Language: Delete 20.30.085[2.h] and replace with the following language.</p> <p><u>“Public boating and swimming shall be prohibited on Lake Burien until such time as the city has defined and implemented a series of controls to assure</u></p> <p>1) <u>No invasive species will ever be introduced into the lake.</u></p> <p>2) <u>Patrols, funded by the city, monitor the lake assuring no trespass of lands or vandalism of property.</u></p>	The Planning Commission may consider this restriction.	
31 E	Public Access	There is not a document or policy that clearly explains the steps, studies and checklist to be completed to provide access. In addition there should be a plan for public access and how monitoring is going to take place. A table was provided to showing an example public access plan table that could be included as an appendix. See comment from C Edgar, dated 2/9/10, page 6	Comment noted. Any public access would proceed through the appropriate permit review process and apply all applicable environmental and shoreline regulations. A map of the access areas is included in the shoreline inventory, which is another method to illustrate existing public access points. It should be noted that the inventory primarily focused on physical access points.	
32	Inventory, Flood Hazard Reduction 20.30.030	Section 10.5 Lake Burien in on in the 100-year flood plain and there are no landslide or seismic hazards associated with the lake therefore there is no reason to reference the weir at the lake outlet. Item F in 20.30.030 should be removed.	<p>The weir exists within shoreline jurisdiction and must be periodically maintained. It is appropriate to include this in the SMP.</p> <p>The proposed language removed the notion of the City having an obligation to maintain the weir. The change from the SAC draft to the current version was following discussion with the city legal department. The Lake residents have stated that it is their desire to maintain the weir and this policy change would remove any reference to city having an obligation to do so, it also removes the notion that the City will use this an a method to gain access to the lake.</p>	
33	Shoreline Vegetation Conservation 20.30.040	<p>There is no general statement that vegetation removal in the buffer is not allowed without shoreline review. More language is needed to cover different vegetation alteration situations.</p> <p>Suggested Language:</p> <p><i>b. Alterations to vegetation within shoreline jurisdiction <u>(except for the 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.</u></i></p> <p><i>c. Alterations within the shoreline vegetation conservation buffer shall <u>provide mitigation for new impacts of the development, and shall only</u></i></p>	<p>Vegetation alterations require review pursuant to 20.30.040(2.b).</p> <p>There appears to be a mistake in the outline numbering used in the comment letter. b is a, c is b. The correct nomenclature is used below</p> <p>a. Staff/consultant can support this clarification.</p> <p>b. Staff/consultant are not sure the term “enhancement” can be used. OK it focuses the re-vegetation in the area that is the most beneficial to the functions and values.</p>	

		<p>be allowed through approval of a vegetation management plan. <u>Mitigation should take the form of vegetation enhancement and improvements to ecological functions.</u> The plan shall be prepared by qualified professional and shall be consistent with the provisions of this chapter and BMC Chapter 19.40. <u>At a minimum, mitigation shall include:</u></p> <p><u>i. Revegetation of degraded buffer areas within 20 feet of the ordinary highwater 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.</u></p> <p><u>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.</u></p> <p>d. Within a shoreline riparian buffer as set forth in BMC 20.30.050 alterations shall comply with the following;</p> <p>i. The applicant shall provide a vegetation management plan prepared by a qualified professional; and</p> <p>ii. At least 75% of the buffer area shall be <u>revegetated, where it is degraded;</u> and</p> <p>iii. Where vegetation is proposed within the buffer it shall be provided at a density to mimic natural conditions <u>rather than a landscaped yard;</u> and</p> <p>iv. Vegetation <u>planting areas</u> shall consist of <u>a mix of native trees, shrubs and ground cover – lawn is not an acceptable groundcover;</u> and</p> <p><u>v. When alterations are proposed within a buffer, the end result shall be no loss of vegetated areas; and</u></p>		
34	Conservancy Park/Restoration Pol. REC 9 (pg II-7)	Seahurst Park North Seawall Removal – could debris be place at 60-80’ depth off park as an artificial reef? Ex: reef of Des Moines Marina/Pier was enhanced as a marine life environment	Seahurst Park has an approved Master Plan. The plan does not include an artificial reef and a component however when the plan is updated or reconsidered this project could be considered.	
35	Dimensional Standards 20.30.050 (Fig. 5) (pg IV-12)	Lots adjacent to Lake Burien should be rezoned back to 12,000 square foot minimum lot size to protect the health of the lake or a method should be created to limit development based on shoreline footage.	Pursuant to WAC 17-26-211 (3) “local comprehensive plans constitute the underlying framework within which master program provisions should fit.” Therefore zoning and comprehensive plan changes were not included in the scope of the update process.	WAC 17-26-211 (3)

36	Dimensional Standards 20.30.050 (Figure 5) Shoreline Buffers 20.30.055 (1)	The buffer width for the Urban Conservancy area should be a science based buffer which is at least 100 feet wide (150 feet preferred).	We could support this change; however future developments in Seahurst Park will be the most affected. It appears only one SFR would be impacted, which is located south of the Park.	
37	Restoration	There needs to be a funded monitoring program to watch the water quality/fresh-water habitat on Lake Burien. None is currently written into the SMP.	Suggested that this could be included, but need to identify the specifics of what should be monitored, by whom and if there is a funding source.	
38	Shoreline Buffers 20.30.055	There doesn't appear to be a policy for how vegetation is to be protected. A policy needs to be provided or supplemented the provides a foundation for the vegetation and setback regulations, and describes the SMP's strategy for riparian vegetation	A policy could be added to clarify the relationship between vegetation protection and the associated strategy.	
39	Bulkheads and Other Shoreline Stabilization Structures 20.30.070	Shore stabilization 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.	Comment noted but no changes are recommended.	
39 A	Bulkheads and Other Shoreline Stabilization Structures 20.30.070 & 20.30.075	Requests that the following be added: A. <u>Normal maintenance or repair of existing shoreline components (including damage by accident, fire, or elements) shall be permitted.</u> B. <u>Shoreline structures shall be designed to minimize the transmission of wave energy.</u> (from Medina)	Item A - Please see 20.35.025(4.B) Item B – 20.30.070 [2.f] could be modified to include the proposed language. Staff would support this change.	
40	Docks, Piers and Floats 20.30.075	The policies and regulations in Section 20.30.075 do not refer to docks and piers together consistently... These facilities need to be treated the same, especially for standards that allow or don't allow them.	The code should be amended to include both facilities having similar regulations.	
41	Docks, Piers and Floats 20.30.075 Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045 (FW)	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.	We could research additional guidance if requested by the Planning Commission. The Shoreline Advisory Committee did not discuss this.	
42	Dimensional Standards for Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	Saltwater reaches have been treated similar to fresh water reaches.	Saltwater reaches were treated differently than freshwater reaches. Saltwater and freshwater reaches have different buffer widths, 50 feet for saltwater and 30 feet for fresh water.	
43	Dimensional Standards for	Requesting that the issue of reduced lot size and buffers around the	See # 35 above, responding to zoning and comprehensive plan land use related	

	Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	lake need to be analyzed to ensure there is no net loss of ecological functions pursuant to WAC 173-26-221 (2.b.iv), and c, l and A, B, C, D and WAC 173-26-201 (2.e). Request that this issue be addressed in 20.30.050 and 20.30.055 or as a zoning issue.	comment. In addition see response to potential conflicting policy goals of the SMA and uses adjacent to shorelines (173-26-176[2]). The Act's policy objective is to achieve both shoreline utilization and protection.	
44	Docks, Piers and Floats 20.30.075	<p>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:</p> <ol style="list-style-type: none"> 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: <ul style="list-style-type: none"> · 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. 	<ol style="list-style-type: none"> 1. Staff and consultant do not object to including this language. 2. Staff and consultant support the inclusion of this language. 3. Staff and consultant support the inclusion of this language. 	
45	Residential Development 20.30.095	<p>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:</p> <ul style="list-style-type: none"> • -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 	These appear to be good clarifications and should be included in the document.	

		than maximized (smaller dock rather than larger dock, boat slip rather than boat garage, pocket swim area rather than frontage-wide swim area)		
46	Residential Development 20.30.095[c]	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.	Clarification could be added but it may not be needed, the development regulations apply and require vegetation management and that development comply with the no net loss standard.	
47	Residential Development 20.30.095[c]	The common line setback provision needs to be limited to only the Residential environment, where the situations it is designed for are prevalent.	The code section specifically references “residential development”. It however could be expressed more clearly and directly.	
48	Residential Development 20.30.095(2.C.ii)	This section should not make a difference if the shoreline resident lives next to a vacant lot. The proposed restrictions for reconstruction next to an empty lot would leave little or no property upon which to rebuild for many property owners. Undeveloped green space should not be a punishment to current adjacent homeowners. They should be allowed to rebuild after a disaster within their current existing footprint, including deck overhangs beyond existing foundation or pilings supporting decks.	The City proposed code allows the reconstruction of non-conforming structures in their legally established location (see # 52 below). The common line setback line scenario that is provided would only apply when a structure is proposed to constructed or expanded. In addition, there always is an opportunity to apply for a shoreline variance, however the project must meet the applicable criteria.	
49	Residential Development 20.30.095[2.i & j]	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. Suggested Language: <i>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 <u>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 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.</u></i>	The City could support this language, although it is very unlikely that adjacent property owners will share a beach tram or stairs (too many legal issues could be involved)	
49 A	SMP Applicability 20.30.005	The phrase “the plan shall be liberally construed... exemptions shall be narrowly construed” leads to value judgments, which could become overbearing and opens the city and its citizens to the possible abuse of government authority.	This is a requirement found in the SMA, see RCW 90.58.900.	90.58.900
50	Exemptions from Shoreline Substantial Development Permits 20.35.025[4.B]	The exemption for Repair and Maintenance includes provisions for when replacement is an acceptable means of repair. A statement should be included: <u>“The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair.”</u>	Staff and the consultant have no objections to the proposed language.	173-27-040(2)(b)

51	Letter of Exemption 20.35.030.1	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.	The City has no objection to the proposed change in language.	173-27-050(1)
52	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 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. If damage occurs to the residence, property owner should be allowed to rebuild exactly as structure was before damage. A policy should be added to SMP that Burien will not see a re-build as a 'take-away' & that reconstruction is not viewed as a harm to the community's 'no net loss' goal.	<p>The existing language of 20.35.045 could be improved to clarify the intent of the regulations, which is to allow reconstruction of legally established structures in the same location so long as there is no net loss of ecological functions.</p> <p>Non-conformance thresholds were taken from the existing non-conforming chapter in the Burien zoning code. The decision to use the language in the draft SMP was to treat non-conformances citywide the same. Consistency with other local regulations was the approach. Consistency avoids confusion on the issue on nonconformance. Please see BMC 19.55.030[3.B], for the source used as a basis for determining the non-conformance threshold. It contains the 50% threshold. It should also be noted that the existing SMP contains the same 50% threshold, however it is based on market value.</p> <p><u>Proposed Revision</u></p> <p>4. Reconstruction. A nonconforming structure which is destroyed, deteriorated, or damaged more than 50% of the assessed value of the <i>nonconforming structure</i> as established by the most current county assessor's tax roll at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed only insofar as it is consistent with existing regulations and the following:</p> <ol style="list-style-type: none"> a. The structure must be located landward of the ordinary high water mark. b. The area between the nonconforming structure and the OHWM shall meet the vegetation conservation standards of this Master Program. c. The remodel or expansion reconstruction shall not cause adverse impacts to shoreline ecological functions or processes. 	173-27-080

			<p>d. The action shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into the riparian buffer than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into the riparian buffer, or the minimum required side yard setbacks require a variance.</p> <p>e. An application is filed to reconstruct the structure within 18 months of the date of the damage.</p> <p>RCW 90.58.100 6. Provides protection to SFR's and appurtenant structures.</p>	
52 A	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(4)	<p>Proposed Language: 4. A nonconforming structure which is destroyed, deteriorated, or damaged by more than 50% of the assessed value of the nonconforming structure as established by the most current county assessor's tax roll at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed within the original footprint of the destroyed structure only insofar as it is consistent with existing regulations and the following:</p> <p><i>This issue is CRITICAL because it will affect the ability to finance a loan to rebuild and the ability to obtain insurance on the house/property. Home Lenders will disallow mortgage financing if security for the loan (the house) cannot be rebuilt; and the inability to obtain property insurance will eliminate the ability to refinance. In effect, the City is potentially displacing homeowners if this is allowed to stand.</i></p>	The proposed language does not preclude the ability for a single family home to be reconstructed.	
52 B	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 20.35.045(4)	Concern was expressed regarding the language relating to expansions and the language was unclear.	<p>The suggested language should add further clarity and align with terminology used in the zoning code.</p> <p>20.35.045 Alteration or Reconstruction of Nonconforming Structures or Uses</p> <p>4. Expansion. Enlargement or expansion of single family residences less than 500 square feet of roof area building <u>coverage</u> may be approved by a shoreline substantial development permit subject to the criteria listed in this section. Enlargement or expansions of a single family residence greater than 500 square feet of roof area <u>building coverage</u> by the addition of space to the primary structure or by the addition of normal appurtenances as defined in Section 20.40 20.40.000 that would increase the nonconformity and/or encroach further into areas where new structures or developments would not be allowed under this Master Program may be approved by a shoreline conditional use permit if all of the following criteria are met:</p>	

			The existing definition of building coverage in the zoning code is as follows; BMC 19.10.050 <u>Building coverage</u> – The percentage of the area of a <i>lot</i> that is covered by the total horizontal surface area of the roof of a <i>building</i> .	
53	Stormwater	Burien should make a policy to regulate grass and lawns for all Burien property owners, not just property owners on the shoreline. Most stormwater run-off flows to the Puget Sound and all property owners should be treated equally.	The jurisdiction of the Shoreline Master Program is the upland area within 200' of the ordinary high water mark as well as any associated wetlands and therefore this document can not regulate all other properties in Burien.	
54	Shoreline Advisory Committee	The Citizen's Advisory Council (CAC) composition and affiliations were not documented in the SMP or the notes. There was a lack of proper notion of consensus of people who live in Burien.	The comment has been noted and an acknowledgements section was always envisioned and will be added to the Shoreline Master Program in future drafts.	
55	Process	Public participation promised was not delivered by City planner et al. Lack of promised public participations during the early stage of the process.	There were several opportunities and more opportunities to come for public participation. There were two open houses, nine (9) Shoreline Advisory Committee meetings and a public hearing with the Planning Commission. There will be additional public hearings with the City Council, as well as a public hearing with the Washington State Department of Ecology.	
56	Process	Poor method of documenting what was said in the meetings to the point that much of the important stuff was lost and much was misquoted.	Meeting summaries were compiled at each Shoreline Advisory Committee. After the meeting, the summaries were prepared and included in the next meeting's packet for the Shoreline Advisory Committee to review, comment on, and approve/disapprove. All meeting summaries were approved by the Committee.	
57	Technical documents	All decisions about the use of critical areas are not required to be based on the Best Available Science about the critical area. Not once during the process of preparing the SMP Update has the Lake Steward for Lake Burien been contacted by the City of information about the lake with regard to: water quality practices, noxious weed control, studies on the lake residents have been involved in, flood issues, operational aspects of the weir, threatened species that use the lake, habitat areas used by threatened species, rules that neighbors follow that protects the lake, historical data about the lake, or a basic tour of the lake.	There were presentations to the Shoreline Advisory Committee on the shoreline inventory to specifically ensure that it accurately captured the best information available. The inventory and shoreline characterization were vetted during that process. In addition other attendees that had opportunities to review the inventory and characterization reports to pursue accuracy and thoroughness of the documents. The Lake Steward was a member of the Shoreline Advisory Committee.	
57 A	Technical documents	The three technical documents have incorrect or incomplete information. Please see letter from Chestine Edgar, dated February 9, 2010, Topic # 57 that contain 9 items	The City will issue an errata sheet.	
58	Land use	The saltwater waterfront lot size on the shorelines of Puget Sound is zoned RS-12,000. The freshwater 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 develop to a higher density that it is requiring for land development on the Puget Sound. Since small, freshwater habitats should be afforded greater, if not equal	Whether the zone is RS-12,000 or RS 7,200, the Shoreline Master Program requires all development to obtain no net loss. In requiring no net loss associated with development, the ecological functions of all shorelines are being protected. Please also see # 35 above.	

		protection. This seems to be just the opposite and contrary to the intent of the SMP to protect the ecological function of Lake Burien's shoreline.		
59	Inventory 1.2	Section 1.2 of the inventory refers to supporting sources in the Bibliography, Section 7, Appendix A. There is a stated lack of reference for Lake Burien reach. Lacking evidence of any and every kind is not a scientific baseline as required by law, practice, and precedence.	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions. The inventory research also included King County lake information for the Lake Burien, as well as, the Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake.	
60	Inventory 1.4	Section 1.4 of the inventory contains a typographical error for perimeter measurement of the lake. Source of the measurement is not cited.	Comment noted. The Restoration Plan, dated March 2009, Table 1 has been revised to include the corrected dimensions and conversion for the perimeter of Lake Burien.	
61	Inventory 2.1	Section 2.1 a statement challenging the studies and methods that resulted in the assessment for Lake Burien an all reaches of Burien. The studies referenced are too general and is not use full as a base line for impact assessment.	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions.	
62	Inventory 10.5	Section 10.5 there are no document at all on the wildlife, resident or migratory of Lake Burien, there are no documents for flora or fauna noted in this or any document associated with the SMP of are of any detail that would allow for baseline adjudication against future status and conditions.	King County lake information for the Lake Burien watershed was studied, including water quality data and aquatic plants and fish. In addition, the Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated.	
63	Inventory	The shoreline inventory is incomplete because WAC 173-26-201 (2) a., states that relevant parties should be contacted for available information. The Lake Steward was not contacted for any information about the lake.	The Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated. A representative of the club was a regularly attending member of the Shoreline Advisory Committee.	
64	Inventory	There were also no site visits to confirm the conditions and the inventory is inaccurate and incomplete with regard to fish and wildlife habitat, migratory species and vegetation.	The consultant team visited the site several times in 2007 and 2008 to confirm site conditions.	
64 A	Technical documentation	Source information was not properly documented in the bibliographies	The bibliographies document the primary sources used.	
65	Inventory Wetland Category	The section on Wetlands shows Lake Burien as Category 2 with a 100 foot buffer and the SMP has a 30 foot setback with a 15 foot buffer.	This was a typographical error in the inventory. The Cumulative Impacts Analysis evaluated the lake as a category 4 wetland and utilized the 30 foot buffer in the evaluation.	
65 A	Shoreline Analysis and Characterization Wetland Category	Page 17 of this document also lists the lake as a Category 2 wetland rather than a Category 4. The trail of data, analysis and conclusions should be consistent to ensure the legality and legitimacy of the SMP document.	This correction will be made.	
66	Inventory	There is no connection made between the lake outlet waters and the Miller/Walker stream basin. Request that additional scientific information and management recommendations be added to the Shoreline Inventory per WAC 173-26-201, (2)(a)(i-iii).	The consultant team did evaluate the Miller/Walker stream basin and Figure 2 in the shoreline inventory depicts the hydrologic connection.	

67	Public Access Policies ALL 5 and PA 3	Request that wording the Policies ALL 5 and PA 3 be amended to correctly define public access and include the requirement to protect private property and public safety.	Comment noted these policies are the consensus of the SAC and the Planning Commission may consider amendments to address the comment. There is an existing goal and policy that addresses the topics of protection of private property and public safety (Goal PA, Policies PA 3, REC 6)	
68	Recreation Policy REC 3	SMP policy REC 3 should have the word "public" inserted to reflect the correct area being discussed.	Comment noted however the policy currently refers to both private and public lands. The Planning Commission may consider amendments to address the comment.	
69	Recreation Policy REC 2	SMP policy REC 2 should be changed to read "Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave the natural areas undisturbed and protected with no net loss of ecological functions."	Staff and the consultant have no objection to the proposed language.	
70	20.20.030 Policy USE 8	Request that this policy be re-examined with regard to Lake Burien.	Comment noted this policy reflects the consensus of the SAC and could be considered by the Planning Commission.	
71	20.20.030 Policy USE 17	Request that the term "joint-use activities" be better defined.	Comment noted, no changes recommended.	
72	Stormwater	There are claims that there are holding tanks that protect the lake form impervious surface runoff and non point pollution and the diagrams in the SMP do not match these claims.	The diagrams in the appendix are based on the best available information in the city data base. Private stormwater detention tanks, if they exist, may not be captured at this time in the city stormwater system inventory.	
73	Inventory and Cumulative Impact Analysis	There is a high level of re-development potential around the lake due to its current zoning. This development potential was not adequately captured in the inventory or cumulative impacts analysis.	See # 35 above	
74	Cumulative Impact Study	The Cumulative Impacts Analysis is incomplete in does not examine the impact of redevelopment in the Lake Burien area based on zoning and a 30 foot rather than a 100 foot buffer. An improved study is needed to reflect the impact of new development, increased access.	Evaluated on pages 28 and 34 of the August 2009 Cumulative Impacts Analysis.	
74 A	Cumulative Impact Study	Requesting that the Cumulative Impact Analysis (CIA), the Shoreline Analysis and Characterization, and the Shoreline Inventory be corrected with regard to Lake Burien and that the discussion item #3 in the CIA (Foreseeable Future Development of the Shoreline) be reanalyze to address the impact of the sub-dividing the current lot to 7,200 sq. ft. on Lake Burien.	The potential for redevelopment along Lake Burien is discussed on page 28 of the Cumulative Impacts Analysis. A 30 foot buffer and 15 foot building setback from the ordinary high water mark would apply to any development.	
75	Best available science. 19.40.060 (pg 40-4)	Best available science pursuant to 19.40.060 (pg 40-4) appears to be lacking.	Best available science is described in WAC 173-26-201 (2) (a) as: "Base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available.	
75 A	Best available science. Policy CON 9 and CON 27	The city requires use of "Best available science" pursuant to CON 9 but it is not consistent with CON 27. CON 27 should be updated to reference the 2008 King County Comprehensive Plan, Chapter 4. Section E-487, Page 4-58.	CON 27 was taken word for word from existing comprehensive plan policy E V 4.3 pg. 2-31.	
76	Existing Structures	Nothing in the document should be allowed to negatively impact	Comment noted.	

		property or existing structures that were present before this act is approved.		
77	Implementation	The City must also follow its own rules in shorelines.	Comment noted.	
78	No Net Loss	What date is 'no net loss' measured from?	Generally, 'no net loss' is measured using the shoreline inventory document, which was completed in March 2008.	
78 A	Inventory	The standard of "no net loss" cannot be measured if the inventory is incorrect or missing data. Once corrected the conclusions need to be re-examined based on the corrected information.	Monitoring for no net loss will be part of the implementation of the SMP.	
79	Land Use/Zoning	Fresh water is a 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 things. At some point in time in order to satisfy King County's density requirements, the City of Burien rezoned the land surrounding Lake Burien to the lot size of 7,200 square feet without thoroughly analyzing the impact it would have to this critical area.	Past Comprehensive Plan land-use decisions are not part of the scope of this Shoreline Master Program update. See #35 above.	
80	Lake Burien	The City 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. All notion of controlling Lake Burien through the Shoreline Master program should be removed. The private property owners on the lake will always take action in the best possible health of the lake, its shorelines, and the flora and fauna in and around it.	The Shoreline Management Act and associated update guidelines require the City to apply the provisions within the shoreline jurisdiction which includes Lake Burien. Therefore removing any reference to the Lake Burien would not be consistent with the Washington State Shoreline Management Act or the Shoreline Master Program Update Guidelines.	
81	Restoration	What are the restoration projects beyond Eagle Landing and Seahurst Park? What is the process of adding new projects? What is the process for clarifying the intent of the overly generalized verbiage used in the direction statements which appear throughout the document?	Please see the restoration appendix. Typically city projects are evaluated and prioritized through the Capital Improvement Program process which is done in coordination with adoption of the city budget.	
82	Monitoring	How will the City of Burien be able to prove to the State of Washington that the regulations being followed are helping the goals to be realized? A statement could be added "The City of Burien will establish an interagency agreement with the UW or another such expert scientific agency to proactively design and conduct an ongoing and comprehensive science-based approach that monitors the no net loss of shoreline ecological functions and process while balancing private and public interests.	Permitting will track changes and modifications.	
83	Public Access	Concern regarding public access and how many newly developed houses generate public access.	A detailed study has not been done to determine exactly how many access points could be possible. The number of possible access points is dependent greatly on the development proposal and how lots are configured.	
84	General Comment	How could the SAC reset the priorities of for the Burien SMP above	Comment noted. Local jurisdictions may choose as a part of their planning	

		those of the State?	effort to address issues of local concern.	
85	Process	Request a disk of the SMP available for free use.	Digital recordings of the Planning Commission have been posted on the city web site.	
86	Public Access	Concern about private property liability when public access points are opened to unregulated public access.	See RCW 4.24.210.	
87	Definitions	There are references to the Director and Shoreline Administrator. So that it is clear that who these persons are I am requesting the following description be added <u>The City Manager shall designate a responsible official to administer the Shoreline Master Program who shall perform all the duties as ascribed to the responsible official in this regulation. The responsible official shall administer the shoreline permit and notification systems, and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulation governing land use and development in the City. The responsible official shall be familiar with regulatory procedures pertaining to shorelines and their use, and, within the limits of his/her authority, shall cooperate with other jurisdictions and agencies in the administration of these procedures. Permit issued under the provision of this Shoreline Program shall be coordinated with other land use and development regulatory procedures of the City. The responsible official shall establish means to advise all persons applying for any development authorization of the need to consider possible impacts to the shoreline. It is the intent of the City, consistent with its regulatory obligations, to simplify and facilitate the processing of shoreline permits and exemptions.</u> (from Medina)	The only use of the term “Director” is in 20.30.040[2.g] – minimum vegetation management plans standards, 20.35.010 - Permit decisions and 20.35.060-compliance and enforcement, which are appropriate actions/duties of the Director of Community Development.	
88	SMP Implementation	Consider ways to engage the public as partners in implementation of the SMP. Establishing regulations that prohibit or limit the ability to maintain the existing dwellings is not a formula of cooperation. The new SMP can be used to educate shoreline owners and promote environmental management, it also provides a good opportunity for creative program implementation.	See public education related policies REC 3, CON 10, CON 11, CON 14, CON 15 and CON 32.	
89	Ecological Functions	The definition of “ecological function” in not lean and opens the door for interpretation.	See the guidelines 173-26-201[3.d.C] which set forth the basic ecological functions.	
90	Adoption Date	What is the deadline to adopt the updated SMP?	The Act states that Burien should adopt by December 2009, however there is a provision to extend the deadline one year if DOE “determines that the local government is likely to adopt or amend its master program within the additional year.”	RCW 90.58.080