David Johanson

n:	Susan Coles
:	Monday, February 01, 2010 5:19 PM
To:	David Johanson
Subject:	FW: Correspondence
Attachments:	To Burien Planning Commission 1-20-2010.doc

From: Kathi Skarbo [mailto:kskarbo@comcast.net]
Sent: Monday, February 01, 2010 3:49 PM
To: Susan Coles
Subject: Correspondence

February 1, 2010

To: Burien Planning Commission
From: Kathi Skarbo
Re: Previous Correspondence

I hand-delivered the attached letter to the Planning Commission on January 21, 2010 and apparently it did not reach the commissioners. I am requesting that it be distributed now and become part of the public record.

As I've read through more documents, both state and city, I've become more concerned about Burien's draft Shoreline Master Program update. I read WAC 173-26-221, section (4) Public access, and found that the first Principle states:
"ocal master programs shall:
) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety."

It is the last part of this sentence that concerns me - "...**while protecting private property rights and public safety**." It seems the Shoreline Advisory Committee was not aware of this when they chose to prioritize access to Lake Burien and Puget Sound over the rights of any of the property owners. Or maybe they chose to ignore it. I encourage the Planning Commissioners to follow the state guidelines and revise the draft SMP to reflect the proper priorities.

Thank you for your hard work as you review this complicated document.

February 2, 2010

To: David Johanson, Senior Planner
City of Burien

Cc: City of Burien Planning Commission

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

Re: City of Burien Shoreline Master Program

Gentlemen:

1. At the December 2009 meeting of the Burien Planning Commission and in a letter on January 20, 2010, I requested language be removed in Section PA5 of the above referenced document regarding giving highest priority to reaches without existing public access. I am writing once more reiterate that I would like to see this done. It is against Washington State policy and established law to give priority to public access. The State Shoreline Management Act places environmental concerns ahead of public access.

2. Both references to the Lake Burien weir should be removed from Section 20.30.30. The weir **has no function regarding flood control**. Aside from the fact that the weir is located on private property, the writer apparently had no understanding of the weir and its function, or this reference would not have been included.

Thank you for your attention to these two items. Please place this letter into the public record.

Len Boscarine
1600 SW 156th Street
Burien, WA 98166
(206) 248-0222

February 4, 2010

Members of the Planning Commission:

I am concerned that the proposed Shoreline Management Program (SMP) is too broad in its scope to be enacted with in a two or three month timeline.

For example, the shoreline Inventory is not thorough enough in science-based facts to support a future comparative analysis that would determine positive or negative ecological impacts induced by changes advanced through the SMP or any other actions in the Shoreline areas of Burien.

No primary source data collection, best available science or longitudinal studies were conducted to compile a current Shoreline Inventory. The methodology for determining the current conditions of Burien shorelines was based simply on the review of previous studies. (Shoreline Inventory, 1.2 Methodology, page 1).

How will we really know if damage has occurred to the ecological functions of these shorelines? What will be the baseline? What will be the key indicators?

Thank you for considering my comments.

Sincerely,

Len Boscarine

Len Boscarine

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February 8, 2010

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To: Burien Planning Commission
Burien City Council

From: Carol Jacobson
3324 SW 172nd St.

Re: Shoreline Management Plan

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

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.

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;

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

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

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 polices 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.

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 Childen'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 on 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, complied 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 theses 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 Appen

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

Shoreline	Existing Public access	% + 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					
Seahurst Park					

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:

WAC

• 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 [illegible];

• 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

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.

evise 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~~,~~ <u>and</u> individual single family residences ~~and subdivisions of less~~ <u>not part of a development planned for more</u> 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
CITY OF BURIEN

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

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 refuge 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 refuge 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. <u>I am recommending that these items be added to the SMP protections.</u>

Thank you for your consideration. Robbie Howell

Table of Contents

King County Comprehensive Plan 2008

List of Maps

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.**

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

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 are 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 to 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

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-

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

To The Burien City Council
To The Burien Planning Commission
From-Chestine Edgar
Re-The SMP and the presentation by Nicole Faghin/Reid Middleton at the 2/23/10 Planning Commission meeting
Date of letter-3/01/10

I am writing to you because citizens are no longer allowed to speak to the Planning Commission at their meetings. This letter is to clarify some misinformation that Nicole Faghin/Reid Middleton presented to the Planning Commission during the February 23, 2010 meeting. You can review the posted video of her presentation by advancing to the 2 hour point. http://www.burienmedia.org/default.aspx

Definition and Use of Best Available Science (BAS) Ms. Faghin stated that BAS was required in the Growth Management Act and the Critical Areas Ordinance but was not required in the Shoreline Master Act (SMA). However that is not completely correct as a statement. BAS is required in the SMP if the shoreline is in a Critical Area. Lake Burien is designated as a Critical Area. For that reason, Policy CON 9 of the Burien SMP, page II-12 specifically 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(l)*".

Burien Wetland Rating Scale Lake Burien was always designated as a Category 2 wetland under King County. In 2003, when the City of Burien created its own wetland rating scale for the Critical Areas Ordinance, it created a category not based on any best science, current science or any science. The City of Burien created a category based on a geographic location. There are no size, function, habitat or plant and animal descriptors to explain how a Category 4 wetland is designated. The City of Burien simply states that any wetland associated with Lake Burien is automatically Category 4. (page 40-25, chapter 19.40, Ord.394). Now perhaps no one caught this error in the wetland rating scale up until this point in time, but now that it has been called to the City's attention, the City can not continue to use it into the future by saying "that's the way we did it in the past in the CAO and we are not going to address or correct it in the SMP." Ms. Faghin is incorrect in stating that the SMP does not have to address this issue for the Critical Area of Lake Burien. I encourage the Planning Commission and the City Council to have the city attorney investigate this issue immediately. Additionally, I encourage the Planning Commission and The City Council to request a presentation from the Department of Ecology to clarify what is required. The Burien Critical Areas Ordinance (BMC 19.40.300) establishes a wetland classification system that does not match the currently accepted science-based systems. It even includes the provision that all Lake Burien wetlands are Class 4 wetlands and applies a default 30 foot buffer to them regardless of their characteristics. Additionally the Class 4 designation is based solely on a geographical name and does not have any scientific characteristics of the wetland. The wetland system must be changed to use the current science for wetland protection. I am recommending the use of the Washington State Wetland Rating System for Western Washington-Revised. This supports both 20.30.25(2. a.) and Policy CON 9 of the Burien Shoreline Master Program.

No Net Loss as a concept Ms. Faghin stated that the development is not going to stop because of the SMP. All development causes "net loss' and so the environment is going to experience degradation and then we are going to work to bring it back to its baseline (no net loss point) and hopefully exceed the baseline. This is an incorrect presentation on this concept. There is a sequence to be followed in the WAC 173-26-201 that states, in priority steps, the first step to be considered is *"avoiding the impact altogether by taking no action or parts of an action"*. However, she then goes on to explain that the baseline measure for not net loss is established through the Technical Documents.

Technical Documents Ms. Faghin stated to the Planning Commissioners that they did not need to read or bother with the Technical Documents (appendices) because they were already vetted with the State. She went on to state that the Technical Documents were correct as they were written and did not really need to be revised. This is incorrect. The Planning Commission is responsible for reading those technical documents to check for their accuracy as they will set the baseline for no net loss in the SMP document. If there are errors in the information, it is the Planning Commissioners responsibility to call these errors to the attention of the consultant for correction.

Additionally, Ms. Faghin stated to the Planning Commissioners that the Technical Documents only needed to be based on the current, available science not BAS. She failed to mention that the WAC also states that the information in these documents must be accurate and complete scientific and technical information. The WAC further states that information should be solicited through the public participation process. The consultant and the city have resisted correcting the errors in these technical document by attempting to discredit the public input on these documents through the *5 D Process (deny, delay, discredit, derail and don't take anymore oral comments).*

The Shoreline Inventory, Cumulative Impacts Analysis, and the Shoreline Analysis and Characterization Technical Documents have serious flaws in their content with regard to Lake Burien. This happened because the consultant did not even use the current available science to write the documents and did not thoroughly review the CAO for Burien. Additionally, the consultant claimed to use sources of information that do not exist and claimed to have made site visits to Lake Burien that are not documented in the Methodology. I have written to the Planning Commission and the City Council about this on at least 3 different occasions and I have made oral comments on these documents also. In spite of that input, Ms. Faghin has advised the Planning Commission that the documents do not need to be accurate and complete because they are vetted with the State.

Again, here is a listing of the documents and the areas of them that contain errors and need to be corrected:

Shoreline Inventory Sections 1.1,1.2, 1.4,2.3, 2.9,3.1, 3.5, 9,10.5 (Current Land Use, Critical Areas, Opportunities for Conservation and Restoration), Bibliography(Lake Burien was part of the King County, 10 year small lakes study. None of this material was reviewed or included in this inventory. It can easily be found online by just searching under the parameter *Lake Burien*). Additionally the CAO for Burien (stating that Lake Burien is a class 4 wetland) was not reviewed because repeatedly Lake Burien is referred to as Class 2 wetland in all 3 documents and as a result the wrong conclusions are drawn about future development, cumulative impacts and restoration issues. By the way, using current science, Lake Burien really is a Class 2 wetland. Therefore, no buffer recommendation in the SMP for Lake Burien should be considered until the correct information is put into all 3 of the discussed Technical Documents and further analysis is done.

Shoreline Analysis and Characterization Sections 1.4, 3.2 (Reach LB, Table 7, Current Land Use, Other Habitat Function), 4.1.5., Bibliography.

Cumulative Impacts Analysis Sections 2.2.1 (Reach LB, Table 2.6, Other Habitat Function, Table 2.7, 3.4, 3.5, Summary, Bibliography.

These Technical Documents and the SMP cost the citizens of Burien and the state of Washington $98,000 for their development-up to this point in time. They should be accurate, complete, scientifically sound and of high quality as is reflected by their cost. It seems only reasonable that the consultant/Reid Middleton correct the errors in these documents at no further cost to the citizens of Burien as well as to the citizens of the State of Washington.

Chestine Edgar

RECEIVED
MAR 01 2010
CITY OF BURIEN

To The Burien Planning Commission
The Burien City Council
Department of Ecology
Director of Fish and Wildlife
House Legislative Committee on Ecology and Parks:
Representative Dave Upthegrove
Sen. Joe McDermott

Re: Citizen Concerns Regarding The Burien Shoreline Master Plan Update Public Comment Summary

The City of Burien is in the process of updating The Burien Shoreline Master Plan. They have an impressive list of scientific sources but unfortunately these sources do not show accurate information concerning Lake Burien. If you are going to be producing policy concerning Lake Burien the city needs to obtain information that is current and accurate.

As evidence of this lack of accurate data, we refer to the Shoreline Inventory (March 27,2008) for the Burien SMP. Note that on page 11, in Table 4 "Documented Priority Habitats and Species within the City of Burien shoreline jurisdiction", Inventory Reach LB which states "None listed specifically for Lake Burien". (i.e. we did not find any published data about this area). Essentially they are saying, we don't know anything about this area so there must not be any thing there. We have requested that the City of Burien document Lake Burien Priority Habitats and Species just like it has done for the other shorelines.

Additionally the city and Reid Middleton (the consultant) have claimed to use, "Lake Burien Shore Club on line inventories of fish, birds and wildlife." We do not find these inventories listed in the bibliography and as members of the LBSC we are unaware of any on line inventory of fish, birds and wildlife for Lake Burien. They also claim to have made several site visits to the lake but the findings are not noted in the Methodology of Scientific Method used.

In 2008 King County updated their Comprehensive Plan to refine the states 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 quanity. King County policy makers realize more localized declines of species within King County may not be captured by state and federal listings. King County advises protection of native species of local importance. King County Comprehensive Plan 2008, Federal and State Listed and Candidate Species E-484 through E-498.

Lake Burien residents gave input to the city of Burien that ten of the native bird species listed as priority species by King County migrate to the lake for a time each year, making their habitat on Lake Burien. These include but are not limited to the Western Grebe,

Great Blue Heron, Hooded Merganser, Barrows Goldeneye, Common Goldeneye, Osprey, Band-tailed pigeon, Belted Kingfisher, Purple Finch and Hairy Woodpecker. Numerous other birds are commonly found visiting and living on Lake Burien. Here they find a source of clean quality and quantity water where they can feed, mate and clean themselves.

Lake Burien is also a major hunting ground for the Bald Eagles that are found in Seahurst at Eagle Landing. They can be seen flying back and forth between the lake and the park, especially in the summer. The lake is a source of Coots, other small birds and fish for them to survive on.

The lake has also acquired more Marsh birds since the Port of Seattle built the third runway right over the top of the wet lands they previously called home. Among these are the Ruddy Ducks. As has been said before, "They didn't know they were supposed to move to their mitigation area in Auburn."

Because of its Priority Habitats, its importance for the survival of the Bald Eagles, Blue Herons, migrating bird's, native turtles, fish and crustaceans we hereby request that a physical inventory of Lake Burien be conducted to establish a proper baseline for the SMP before any changes are contemplated. Please reverse the deliberate invalidation of the Lake Burien Inventory Reach and validate it by adding it to Table 4, page 11 of City of Burien Shoreline Master Program Update Shoreline Inventory.

Respectfully submitted,

Robert C. Howell

Robbie L. Howell

Kathi Skarbo

RECEIVED

FEB 25 2010

CITY OF BURIEN

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

February 24, 2010

To: City of Burien Planning Commission
From: Kathi Skarbo
Re: Shoreline Master Program Update

After speaking at last night's Planning Commission meeting about section 20.30.035.2.d of the Shoreline Master Program, it seemed there was still some confusion among the commissioners. This is another attempt to explain and clarify the issue. This paragraph in the SMP defines at what point public access is required when a lot is developed into a number of parcels. I am providing the relevant sections of several documents, with emphasis on the phrase that defines the number, and a clear interpretation of what it means. I have previously provided to you copies of the complete sections of these documents, and I will excerpt only the appropriate paragraphs here.

1. In the current draft of the Burien SMP, dated 11/17/2009, section 20.30.035.2.d states:

   d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses, individual single family residences and **subdivisions of less than four parcels.**

   Interpretation: Developments/subdivisions of 4+ parcels require public access.

2. WAC 173-26-221[4.d.iii], states:

   (iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the **subdivision of land into more than four parcels.** In these cases, public access should be required except:

   Interpretation: Developments/subdivisions of 5+ parcels require public access.

3. WAC 173-26-221[4.d.iii.C], which follows the "except" in the above WAC, states:

   (C) For individual single-family residences **not part of a development planned for more than four parcels.**

   Interpretation: Developments/subdivisions of 5+ parcels require public access.

4. The Shoreline Advisory Committee approved the following language for section 20.30.035.2.d on September 23, 2009:

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

Note: It was suggested at the 9/23/2009 meeting that the number be changed to more than five parcels, and the committee chose to keep the language as proposed since it came directly from a WAC.

Interpretation: Developments/subdivisions of 5+ parcels require public access.

I was quite surprised when I saw staff's draft response (item 31A) on the matrix of public comments dated 2/18/2010. In essence, staff recommends that no changes be made to this section of the SMP because all they did was change the language to make it more understandable. I have tried to communicate to you that staff did much more than change the language – they changed the intent. You can see that very clearly from the above references. Apparently staff doesn't understand this. The language is very confusing, with some passages stated in the affirmative and some stated as exceptions, and even a negative of an exception. I believe it is your responsibility to take enough time to read through and understand the excerpts I have provided above, and then correct the mistake staff made. The state and the advisory committee set the number at "more than four" and the Burien SMP should also.

At the February 9, 2010 Planning Commission meeting, I suggested this change:

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~~,~~ <u>and</u> individual single family residences ~~and subdivisions of less~~ <u>not part of a development planned for more</u> than four parcels.

I believe this is the most appropriate wording to use because it reflects the language in the paragraph of the WAC that follows the words "except for," just as it does in the Burien SMP. It is ironic that it was suggested at last night's meeting to use the exact language from the WACs during discussions of other items on the matrix. The same should be done for section 20.30.035.2.d.

cc: Burien City Council
Burien City Manager
Department of Ecology
Department of Fish & Wildlife
Rep. Dave Upthegrove, House Ecology & Parks Committee Chair
Sen. Joe McDermott
Rep. Eileen Cody
Rep. Sharon Nelson

David Johanson

m:	Julie Dow [jbd@dowhotelco.com]
:	Wednesday, February 24, 2010 4:43 PM
To:	David Johanson
Subject:	SMP Comment Matrix 49a

Good afternoon David.

Concerning my comments included in the comment report and the staff response, item 49A.

RWC 50.58.900 reads : This chapter is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. –end-

Therefore requesting striking the wording in the Burien SMP which continues.... " policies and standards" and phrase "Exemptions to this Act or Master Program are to be narrowly construed". Each of the phrases in quotes is not required by RCW 50.58.900.

Thank you, Julie Dow

David Johanson

m: Mike Martin
t: Wednesday, February 24, 2010 11:19 AM
To: Scott Greenberg; David Johanson
Subject: FW: Requests in association with the proposed SMP that would revise the private Lake Burien shoreline to become Public Access

From: DANNA SIVERTS [mailto:dsiverts@msn.com]
Sent: Wednesday, February 24, 2010 11:18 AM
To: director@dfw.wa.gov; jcha461@ecy.wa.gov; Dave Upthegrove; mcdermott.joe@leg.wa.gov; cody.eileen@leg.wa.gov; nelson.sharon@leg.wa.gov; Council; Mike Martin; Susan Coles; gdia461@ecy.wa.gov; srud461@ecy.wa.gov; ldum461@ecy.wa.gov
Subject: RE: Requests in association with the proposed SMP that would revise the private Lake Burien shoreline to become Public Access

As a long time resident on Lake Burien, I am very concerned about protecting the health and environment of the lake. Elements of the revised SMP, if implemented, will seriously endanger the ecological balance of this small, shallow lake. Other lakes that have allowed public access have have been almost destroyed by millfoil brought in by transient boats. Lake Killarny is a prime example of millfoil encroachment. Residents of Lake Burien have a committment to the health of this very special lake, and allowing public access would take that process out of our hands and put the lake at risk. We enjoy a large variety of migrating birds who spend time on Lake Burien during migration. In addition we have resident eagles, osprey and other unique birds who depend on Lake Burien for their subsistance, which would be disrupted by public access. Please consider the requests made below.

Danna Siverts
15709 14th Pl SW
Burien, WA 98166
206-246-5678

The City of Burien is currently planning a SMP that as proposed would take private access on Lake Burien, a lake with abundant wildlife and minimal access limited to the private property owners residing there, and turn it into a high priority public access area.
I am against public access for this lake.

- **I request that you do an EIS** (Environmental Impact Study) **before the proposed SMP goes to the City Council**

- I request you change wording in the Public Access *Policy* in draft SMP section 20.20.015 Public Access Policy 5 to read **"Highest priority should be placed on reaches without existing public access <u>except for the Lake Burien reach because it cannot support the additional impact that public access would create</u>."** (the underlined portion is the revision)

- I request you revise the wording in the *regulation* for public access in draft SMP section 20.30.035 2. to read **"Public access improvements shall not result in a net loss of shoreline ecological functions. <u>For any reach without existing</u>**

161

public access, public access shall not be permitted unless it has been demonstrated that such use or access will not jeopardize the environment of the reach in question and will not interfere with pre-existing shoreline uses." (the underlined portion is the revision)

- **The SMP once approved must not be devolved into other policy and regulation documents in City of Burien.** If it is devolved in that fashion, the future updates of the SMP will not be able to be done against a single document. Also baseline affects and effects will not be easily assessed.

- **The City MUST commit in the SMP to a scientific baseline collection of water quality, flora and fauna inventories both resident and migratory over 3 years or more in order to have a solid baseline of conditions and standard variations before they can ever bring a park to the Lake.**

- **The City Planner is not well versed on environmental issues or the science.** Therefore the SMP should not be adjudicated in policies or regulations. There are other municipalities that have dealt with this same issue and they have defined requirements for the person in the role of SMP Administrator/Director

Thank you
Danna Siverts
15709 14th Pl SW
Burien, WA 98166
201-246-5678

Susan Coles

From:	Sue Love [mslove7@comcast.net]
Sent:	Tuesday, February 23, 2010 5:45 PM
To:	director@dfw.wa.gov; jcha461@ecy.wa.gov; upthegrove.dave@leg.wa.gov; mcdermott.joe@leg.wa.gov; cody.eileen@leg.wa.gov; nelson.sharon@leg.wa.gov; Council; Mike Martin; Susan Coles; gdia461@ecy.wa.gov; srud461@ecy.wa.gov; ldum461 @ecy.wa.gov
Subject:	Requests in association with the proposed SMP that would revise the private Lake Burien shoreline to become Public Access

The City of Burien is currently planning a SMP that as proposed would take private access on Lake Burien, a lake with abundant wildlife and minimal access limited to the private property owners residing there, and turn it into a high priority public access area.
I am against public access for this lake.

- **I request that you do an EIS** (Environmental Impact Study) **before the proposed SMP goes to the City Council**

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- I request you revise the wording in the *regulation* for public access in draft SMP section 20.30.035 2. to read **"Public access improvements shall not result in a net loss of shoreline ecological functions. <u>For any reach without existing public access, public access shall not be permitted unless it has been demonstrated that such use or access will not jeopardize the environment of the reach in question and will not interfere with pre-existing shoreline uses.</u>"** (the underlined portion is the revision)

- **The SMP once approved must not be devolved into other policy and regulation documents in City of Burien.** If it is devolved in that fashion, the future updates of the SMP will not be able to be done against a single document. Also baseline affects and effects will not be easily assessed.

- **The City MUST commit in the SMP to a scientific baseline collection of water quality, flora and fauna inventories both resident and migratory over 3 years or more in order to have a solid baseline of conditions and standard variations before they can ever bring a park to the Lake.**

- **The City Planner is not well versed on environmental issues or the science.** Therefore the SMP should not be adjudicated in policies or regulations. There are other municipalities that have dealt with this same issue and they have defined requirements for the person in the role of SMP Administrator/Director

Thank you
Sue Love

February 23, 2010

City of Burien
Attn: Planning Commission

RE: Proposed Shoreline Management Plan

After reviewing the proposed SMP I would like to make clear the impact this will have on the overwhelming majority of Burein waterfront homeowners and the City of Burien. While 90+% of existing Burien single family waterfront homes are within 65' of the Average High Water Level, the SMP would make all of these homes non-conforming. I have built three new Burien waterfront homes in the last eight years and while all were built to code through an extensive permitting process, not one of these structures will be conforming under the proposed SMP. Has the Planning Commission looked into the economic impact this will have on individual property values and City property tax revenue. Prospective homebuyers looking at purchasing waterfront properties here will no doubt significantly discount property values based on them being non-conforming. Since our homes are only worth what someone is willing to pay, this impact should be seriously considered before moving forward.

Sincerely,

Mike Keenan
2817 SW 172nd St
Burien, WA 98166

Mike Keen

RONALD A. FRANZ
2821 S. W. 172nd Street
BURIEN, WASHINGTON 98166
(206) 242-6322

RECEIVED
FEB 22 2010
CITY OF BURIEN

February 22, 2010

By hand delivery

Burien Planning Commission
400 152nd Street
Burien WA 98166

Re: Shoreline Master Program

Dear Commissioners:

Here are my comments and concerns with respect to the draft Shoreline Master Program.

Due process notice

I attended the open house on the SMP on November 30, 2009. I signed in as an attendee and was assured by a Burien representative that I would receive notice of future meetings. Unfortunately I received no such notice and this prevented me from commenting on the draft before now. A person from the planning department has now advised that no one who attended the November 30 meeting received notice of other meetings. See attached email from D. Johanson dated January 20, 2010.

The touchstone of due process is notice and opportunity to be heard. The city's failure to provide the notice it promised has deprived me of this right. I request that the city repeat the meetings for which it failed to provide notice. Any delay would be short and will enable me and other waterfront property owners to help you produce a better end product.

Protection of private property

The Shoreline Management Act and its implementing regulations require that a local program contain adequate measures to protect private property from public access and intrusions. The draft SMP does not meet this requirement. To the contrary, the draft allows and encourages encroachment onto private property. It is clear to me that this draft ignores WAC 173-26-186 with respect to the attorney general's article and takings.

I request that you add the following provision to 20.20.015 and 20.30.035:

> In the implementation of this program the city shall not impose any condition or take any action which may facilitate or allow physical public access to private waterfront property

absent the consent of the waterfront property owners.

Setback

The current setback for a single family residence from high water is 20 feet. The proposed setback of 65 feet makes no sense. Almost all of the shorelines in Burien are developed. A greater set back may have made more sense a hundred years ago before development began. It makes no sense now. Leave the setback at 20 feet.

Thank you for your consideration of these comments.

Very truly yours,

Ronald A. Franz

FW: Public Hearing Notice

From: **Bill Bailey** (b.bailey@baileysales.com)
Sent: Fri 2/19/10 6:09 PM
To: counselordogbone@msn.com
Attachments:
OpenHouseNoticeNov09.doc (124.0 KB), SMP Handout 11-30-09.docx (587.2 KB), Shorelines Mailing List.xls (61.5 KB)

Ron: Welcome home! I wanted you to be aware of this. I also have photos regarding the signage at each access points to the beach. See you tomorrow. Bill.

From: Bill Bailey
Sent: Thursday, January 21, 2010 2:03 PM
To: fosberg@msn.com; jilljudy@johnlscott.com
Subject: FW: Public Hearing Notice

FYI, Bill.

From: David Johanson [mailto:DAVIDJ@burienwa.gov]
Sent: Wednesday, January 20, 2010 9:18 AM
To: Bill Bailey
Subject: RE: Public Hearing Notice

Mr. Bailey,

Thank you for your inquiry regarding Burien's Shoreline Master Program update. The City appreciates your interest and participation in the process of crafting the required updates to our Shoreline Master Program.

By law, the City must meet minimum public noticing requirements by publishing in our paper of record, The Seattle Times (BMC 19.65.080[4]). The Planning Commission public hearing notice was published on December 22nd. Additionally, notice was posted on the City of Burien website and on the B-Town Blog. The City also included the hearing date on the notice for the November public open house and on handouts available at the open house outlining the adoption process (see the second pages of both documents). The open house notice was mailed to all property owners, based on King County property records, within the affected areas. Both of these documents are attached for your reference.

The City also mailed to parties that specifically requested to be on our shorelines mailing list. When I received your e-mail I double-checked the mailing lists; there were many, from each of the Shoreline Advisory Committee meetings and the two open houses. I was dismayed to discover that only the list from the May 2008 open house was used; it was not combined with the list from the November 2009 event. I have included both lists, as requested.

Although the oversight in merging the lists is disappointing, there are more opportunities for the public to provide input on the proposed Shoreline Master Program update. They are:

- Provide comment to the Planning Commission during the public comment portion of the agenda.
- Provide written comment at any time.
- Provide comment to the City Council during the public comment portion of its meetings; a

public hearing also is planned but no specific date has been set yet.

- A public hearing also will be conducted by the state Department of Ecology. Again, no specific date has been set, but it appears it will be near early summer.

Again, thank you for bringing this oversight to my attention. Your attention to this detail will ensure that our future expanded noticing efforts are comprehensive and thorough. Your interest is greatly appreciated.

Please feel free to contact me if you have any further questions.

David Johanson, AICP
City of Burien, Senior Planner
400 SW 152nd Street, Suite 300
Burien, WA 98166

Phone: (206) 248-5522

From: Bill Bailey [mailto:b.bailey@baileysales.com]
Sent: Tuesday, January 19, 2010 1:15 PM
To: David Johanson
Subject: Public Hearing Notice

Last week I attended the Public Hearing on January 12th and for your information we live in the Three Tree Point neighborhood. I was very surprised that just a handful of people from our area turned out for the meeting.

Within a couple of days after the meeting I asked neighbors why they didn't attend. The response was mostly that they didn't receive the notice as I had. My inquiries were to people that were at previous meetings or the open house at City Hall. This puzzles me because a lot of these people left their names and addresses on the sign in sheets. I remember that all that signed in would get notices of future meetings. If they didn't get the notice, who would have the mailing list with all names and addresses that should have received the notice?

I don't want to point any fingers but, I want to make sure people that have interest in this project are included in the process. Please have the list e-mailed to me or tell me where and when I could view the list.

If you don't have this information, please pass the request to the party that does. Thank you for your consideration.

Bill Bailey
Bailey Sales & Assoc Inc
12303 E Marginal Way So
Seattle, WA 98168
Phone 206-903-5387 Fax 206-433-7744
E-Mail: b.bailey@baileysales.com

February 17, 2010

To: David Johanson, City Planner
City of Burien

From: John Upthegrove
1808 SW 156th, Burien

Please place this document in the packets for the Febr. 23, 2010 Planning Commission meeting and make it part of the public record.

Please consider adding the following to the Draft Shoreline Management Plan:

Appendix: City of Burien Shoreline Advisory Committee Selection Process

1. Notification

   In addition to established city notification process, residents residing on the shorelines in Burien will be given at least a 30 day written notification of pending formation of such committee.

2. Committee Membership

   The Committee will be composed of no more than 20 members. Eleven members will be selected from residents of Burien, six of which will be shoreline residents. These eleven members may not include a member of the Planning Commission or staff or advisory members. These eleven will be the voting members of the committee. The city may select up to nine additional advisory members, including no more than one member from the Planning commission. Advisory members will not have a vote.

3. The Committee will perform its duties as prescribed by the Shoreline Advisory Committee Operating Guidelines (Appendix A).

David Johanson

m: Max B. Sprague [max.s@comcast.net]
t: Friday, February 12, 2010 3:56 PM
To: David Johanson
Subject: Land Use Planning

Mr. Johanson: my wife and I are property owners on Three Tree Point. We attended the 2/9/10 session @ the Burien Library. I assume the city staff at that hearing came to the same conclusion we did.....resistance to your proposals for water front "acquisition" is formidable, to say the least. I highly recommend you conduct a formal needs assessment of public use of existing waterfront parcels open to the public. As a regular "user" of both Seahurst Park and Eagle's Landing, I continue to be shocked at the under utilization of those established City properties. 2000+ foot frontage AND 178+ acres represents a significant portion of waterfront encompassed within the city limits of Burien!!! Given your current strategy, your tax base will erode substantially if you proceed with eliminating private waterfront properties. Common sense would dictate that you should optimize what public lands that are already available. Ask your members of the planning commission to HONESTLY reflect: how many times have we personally gone to Seahurst Park, Eagle's Landing, or accessed Three Tree Point (via current easements) over the last 12 months? The honest answer to that question I believe will clearly demonstrate the folly of your plan.

Thank you.

Max B. Sprague
M. B. Sprague & Associates, Inc.
Office: 206-938-2900
Fax: 206-938-0388
Email: max.s@comcast.net
maxbsprague@msn.com

David Johanson

m: Ryan, Andrew F [andrew.f.ryan@boeing.com]
t: Friday, February 12, 2010 3:00 PM
To: David Johanson; Susan Coles
Subject: SMP mtg

Good afternoon, there was an article in the Highline Times indicating the next SMP mtg is Feb 23. I see in the city website that there is a planning commision mtg that night. Will SMP be part of that? As I've been out of town on business for the last two meetings I want to make sure I'm able to attend the next SMP mtg if there is another one.

Related to the SMP, is there a process in which the affected residents can have a working meeting w/ the commision on the SMP? I don't mean the public forum where the citizens get their 3 minutes of fame, but the opportunity for a real side by side discussion where both "sides" can discuss their objectives, fears and concerns. I believe the current process by it's very nature puts us in adversarial postions and the end result will be highly controversial.

Sincerely
Andrew Ryan

RECEIVED
FEB 16 2010
CITY OF BURIEN

February 16, 2010

Greg and Ronda Dill
3568 SW 172nd
Burien, WA 98166

City of Burien Planning Commission
Suite 300
400 SW 152nd ST.
Burien, WA 98166

In the City of Burien there are unique aspects of both Puget Sound and Lake Burien shorelines that are unlike any other in the region and possibly the state. The way that some were developed and marketed as summer homes along with geographic, economic and cultural factors have created unique aspects within the neighborhoods.

Descending steep slopes to access your home, all your worldly possessions reside between the bottom of a steep slope and the edge of the water, parking and walking trails to and from your home and car, extremely limited parking, little or no yard, living with your front door opening onto a street, cars, bikes, runners and walkers passing by directly outside you windows, restrictions that do not exist at most residences, strangers arriving and using your property, litter and debris left by passers-by as well as the tide, dealing with groups of large birds and their by products, accelerated corrosion and weathering of everything you own, property taxes that take a heavy bite out of all and especially fixed incomes, absorbing the brunt of storms and dealing with their aftermath, maintaining your yard, the beach and adjoining public access in ways that protect each..... These are things that may not be obvious to the occasional visitor but are a way of life for residents of the Burien shoreline. The benefits were and are judged to be worth the costs by those living on the shoreline, let's not, through haste or inattention to the contents of the Burien Shoreline Master Program add to the struggles and put at risk those residents who own property within Burien.

Recognize that we are where we are because of decisions, policies and practices of the past, let's not penalize people for the legacy but chart a course that balances the current state with a vision for the future and recognizes that Burien's shoreline will always be unique.

We respectfully propose the following revisions to the Shoreline Advisory Committee Draft dated November 2009.

G. L. Dill
Greg Dill

Ronda Dill
Ronda Dill

20.20.010 Economic Development Element

Pol. ED 1

Protect the beauty and function of the natural environment to maintain a community where ~~workers~~ **people** want to live and work.

Rationale: Include a broader group who we want to encourage to live in Burien than 'workers'.

20.20.015 Shoreline Public Access Element

Pol. PA 13

Promote, within individual parks, 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 outdoor enjoyment. ~~walking and chances for personal discoveries~~.

Rationale: This seems to state that Pocket Parks, Regional Parks, Special Use Parks and Conservancy Parks should be connected by something other than the public roads that exist today. It is understood that 'promoting' and 'executing a plan' are two entirely different things but the prospect of even building sidewalks, which is arguably the most practical way to connect these locations, would be a massive undertaking. Connecting Seahurst Park, Eagle's Landing, the street ends on SW 170th, 163rd Pl and 172nd and any other locations the city now has or should acquire is not something I desire the City of Burien to promote.

We are fans of personal discoveries but also recognize that some personal discoveries are best kept to oneself and not targeted for exploration in public places. There are out-of-the-way, secluded areas, both public and private, in every neighborhood, the utility access trails in the Three Tree Point area are one example of this. These trails bring walkers uncomfortably close to homes, this is longstanding part of the neighborhood and with cooperation and tolerance between neighbors it usually isn't a problem. Increasing this type of pathway, sidewalk or passageways to join parks and promoting their use would create problems. Our ability to control crime and vandalism is already being tested and I'm not so sure we are winning, adding more difficult to police areas will require additional security resources or an admission that neighborhoods are on their own. Providing pathways and passageways located in neighborhoods, if promoted for 'personal discoveries', will turn into routes for those seeking to discover what personal items are in surrounding homes.

20.20.025 Circulation Element

Pol. CI 4

Public transit systems should provide service to Seahurst Park. ~~designated shoreline public access points.~~

Rationale: Providing public transportation to Special Use Parks would be a drain on public transportation and increase traffic on roads that have heavy pedestrian use. The limited capacity and activities available at street end parks make these marginally useable for recreation of any duration. People being dropped off will likely soon be ready to leave based on the lack of facilities and near-by amenities, leaving them there for extended periods will only promote decreased use and potential for trouble. Seahurst Park is a large facility

which can accommodate visitors with ease, this should be the beach destination targeted for transit service if passenger traffic is adequate to command it for any Burien park.

20.30.035 Public Access

2. Regulations

c. If a public road is located within shoreline jurisdiction, any unused right of way **may** ~~shall~~ be **considered for** ~~dedicated~~ **designation** as open space and public access **provided it is not infeasible because of incompatible uses, safety, security, or constitutional and other legal limitations.**

Rationale: Recognize that all unused right of way should not automatically be dedicated as open space and public access designation, the decision on how it will be used should be based on careful consideration on a case by case basis.

~~d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses, individual single family residences and subdivisions of less than four parcels.~~

Rationale: Placing penalties on developers or others which require them to surrender some of their property in order to be allowed to use their property for a legal purpose should not be the policy of our city. This would be another hurdle to those seeking to use their property to its highest and best purpose and considering the other protections on the shoreline we should not add a requirement that they surrender a portion for the use of the general public.

20.30.070 Bulkheads and Other Shoreline Stabilization Structures

2. Regulations d.ii

Replacement walls or bulkheads **may** ~~shall not~~ encroach waterward of the ordinary high water mark or existing structure to the minimum necessary to restore the structural viability of the bulkhead. ~~unless the residence was occupied prior to January 1, 1992, and there is overriding safety of environmental concerns.~~ In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

Rationale: This is in essence placing a limit on the duration of a presently occupied building site, which has a bulkhead. Limiting further encroachment waterward is appropriate but not through use of an arbitrary date to virtually condemn property. Maintaining bulkheads is critical as failure of one will lead to undermining and failure of adjoining bulkheads with a domino effect. Reasonable limits on waterward encroachment should not prevent an existing bulkhead from being replaced/repaired.

2. Regulations h.i

The maximum height of a **new** bulkhead on the marine shoreline shall be no greater than four (4) vertical feet above the OHWM.

Rationale: Establish the limitation for new construction but don't place previously constructed bulkheads in violation or require height reduction.

20.35.045 Alteration or Reconstruction of Nonconforming Structures or Uses

(sections a through e may remain)

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 role at present or at the time of its destruction~~ by fire, explosion, or other casualty or act of God, may be reconstructed **within it's previous footprint.** ~~only insofar as it is consistent with existing regulations and the following.~~

Rationale: Make it clear that existing structures can be reconstructed in their existing footprints without regard to the extent of damage or deterioration. Because of the limited buildable area of many lots, due either to lot sizes or terrain of the lot, accommodations should be extended to support the homeowner's ability to rebuild. Failure to have this option the ability to obtain loans and insurance could significantly degrade the value and desirability of properties.

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FEB 23 2010

CITY OF BURIEN

February 23, 2010

To: The Burien Planning Commission
CC; The Burien City Council
CC; With cover letter to Department of Ecology, and Director of the Department of Fish & wildlife.

Re: Burien Shoreline Master Plan Document, Public Comment Summary.

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

I wish to draw your attention to Public Comment Summary, Line item 75A.

The comment was a request for CON 27 to use the "Best available science" in determining the priority species and habitats. We noted that the Burien plan is using data from the King County Comprehensive Plan of November 1994 and pointed out that the data has been revised by King County in their Comprehensive Plan of 2008. We also pointed out that this updated information should be used if they really intend to use the best available science.

The draft response states "CON 27 was taken word for word from existing comprehensive plan policy E v4.3 pg 2-31"

While I admit that "best available science" is a moving target, this response tells me that the City of Burien has no intent or desire to use current data even when it is pointed out to them.

It is my hope the Planning Commission will insist on producing an up to date Shoreline Master Program.

Thank you for your consideration.

Bob Edgar
12674 Shorewood Dr SW
Planning Commission Comments
February 23, 2010

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The planning Commission has a daunting, and it might appear a thankless, task of reviewing the Shoreline Master Program update. In addition, it must seem that there is a never end to the sea of faces attending your meetings and if they would just go away, you would be able to get something done.

I would like to suggest an alternate perspective: Look at this group of concerned citizens as extra eyes, ears and minds that can help you to prepare a rational, usable Shoreline Master Program.

A number of Burien citizens have been contributing a lot of time and energy to review the draft Shoreline Management Program document, note obvious discrepancies, offer alternative wording, perform extensive research into various aspects of both freshwater and saltwater concerns and solutions, attend Planning Commission meetings (over 180 attended the 2/9 meeting), provide both written and oral comments, and double check the Planning Department's draft responses.

We can help to pursue concerns from being dropped along the wayside.

Here is a prime example of the need for many eyes to review the SMP document and double check the Planning Department's responses:

Concern: The trigger for mandating public access to shorelines on a parcel of land that can be subdivided.

A.1 <u>WAC 173-26-221, (4) Public Access, (d) Standards, (iii), (C):</u>

"Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels."

A.2 <u>Operational description of the WAC:</u>

A piece of shoreline property must be subdivided into at least 5 parcels before public access is required. Any subdivision less than 5 parcels would be exempt from requiring public access.

B.1 The September 1, 2009 Draft SMP presented to Shoreline Advisory Committee by the Burien Planning Department: Chapter IV, 20.30.035 Public Access, 2. Regulations, e.:

"Public access shall be required for all shoreline development and uses, except for water dependent uses and individual single family residences not part of a development planned for more than four parcels."

B.2 Operational description of the September 1, 2009 Draft SMP:

A piece of shoreline property must be subdivided into at least 5 parcels before public access is required. Any subdivision less than 5 parcels would be exempt from requiring public access.

C.1 Shoreline Advisory Committee Meeting #6 Summary, September 23, 2009 (5) Shoreline uses and modifications, policies and regulations, Chapter IV, 6. 20-.30.035 Public Access, fifth bullet:

"Don Warren asked that the threshold for providing public access in 2.e be increased to 5 lots. (ie. Change the wording to read "more than five parcels".) There was a consensus of the committee to keep the language as proposed (ie. "more than four parcels").

C.2 Operational description of the documented committee's consensus:

A piece of shoreline property must be subdivided into at least 5 parcels before public access is required. Any subdivision less than 5 parcels would still be exempt from requiring public access.

D.1 The November 2009 Draft SMP presented to Burien Planning Commission by the Burien Planning Department: Chapter IV, 20.30.035 Public Access, 2. Regulations, 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.

D.2 Operational description of the November Draft SMP:

A piece of shoreline property must be subdivided into at least 4 parcels before public access is required. Any subdivision less than four parcels would be exempt from requiring public access. This lowers the trigger for requiring public access from 5 to 4 parcels.

A citizen stated this discrepancy at the January 26th Planning Commission meeting where we were told that all citizen comments would be captured in a working matrix.

At the subsequent February 9th Planning Commission meeting the same citizen voiced the same concern that the discrepancy was not even included in the matrix.

The matrix from the February 9th Planning Commission meeting included the concern but gave essentially a two non-responses.

We are now at the February 23rd Planning Commission meeting and what appears to be a rather straightforward correction still has not been made.

So the Planning Commission should be asking this question: Why is the Planning Department, after three meetings, still reluctant to make such a simple correction?

It is this type of review that you can continue to expect from these concerned citizens you see in front of you. We are here to help.

To- The Burien City Council
To- The Burien Planning Commission
Re- Shoreline Master Plan
From-Chestine Edgar
February 27, 2010

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This Letter is in response to the February 9, 2010 meeting of the Planning Commission and to the topics identified on the "Public Comment Summary Charts" dated 2/4/2010 and 2/18/10.

Topic #0.01-In the draft response noted on the chart, you state that you are not going to make the change that I requested because it is not inconsistent with RCW 90.58.010. That section of the RCW that you refer to is simply the title of the document and sets no priorities. However, in WAC 173-26-020 and WAC 173-26-221, (6) (b)(i)(ii) which set the principles that the SMP must encompass in reference to RCW 90.58.20; it states" *(i)Prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological function, or significant impact to aesthetic qualities, or recreational opportunities.* It is important to note that while RCW 90.58 was passed in 1971, how that document translates into application is fleshed out in the WACs at a later date. In writing and developing a SMP the RCW as well as the WACs must be used concurrently. Therefore I am requesting that the first pointer reflect the above guiding principle cited, *Protect the quality of the water and result in no net loss to the natural environment.*

Topic#?-I addressed this on page 5(4.) of my February 9th comments and it did not get put onto the Comment Summary Chart; it refers to User's Guide 20.10.010, Components, Figure2. Figure 2 makes no sense to the reader. Some of the lines are missing on the chart or not connected correctly.
The four appendices boxes should be connected to each other because they build on the data and statements from each other and draw conclusions from each other. They are in an incorrect order from when they were created. So the Shoreline Inventory should be the top or the bottom box depending on how you read the sequence of development. It was the first document created in the group. The last document that was created was the Cumulative Impacts Analysis and again it should either be the top or bottom box depending on how you are ordering the creation of the documents. These four boxes should be labeled *baseline data* for the SMP/Appendices. Then they should have a connecting line over to the City Of Burien Shoreline Program sequence of boxes as they provided the baseline data for the creation of the Burien Program. If you cannot figure out how to do this then remove Figure 2 because it is incorrect and makes no sense to the reader. Also most readers miss these important Appendices because they appear to have no relationship to the SMP or to each other.

Topic16,17,17A,75 -All of this discussion relates to the fact that Burien is not using the *best available science* for the rating of *wetlands.* In 2003, The City of Burien hired Adolfson to work on the Critical Areas Ordinance; the wetlands scientist at that time recommended that the City of Burien adopt the *Washington State Wetland Rating System for Western Washington –Revised* because it was the best available science method for rating wetlands. While the city made a few changes to its own rating scale it never

followed the recommendation of that scientist. It continued it use its own scale. The SMP process allows cities to use their own scales for the Shoreline Inventory to establish just the Inventory but it does not grandfather in old rating scales that do not meet the test of best science. Burien's scale does not meet that test. Again in 2010 when a wetlands scientist from Futurewise reviewed the SMP draft document, he recommended that Burien adopt the *Washington State Wetland Rating System for Western Washington-Revised* and I recommended this change also. The response from the City of Burien has continued to be that they are going to keep their old scale no matter what because they have always used it. The flaws in the rating system are that it does not have the scientific detail necessary for the rating of Burien's wetlands. For example, Lake Burien is a category 4 wetland just because they say it is-there are no scientific descriptors. Small wetlands under a certain size get no protections just because they say they do not-while these wetlands in other cities around Burien are protected on *the WSWRSWW-Revised* those cities use. The *Washington State Wetland Rating System for Western Washington-Revised* is not just a" fly by night system"; it is the one endorsed by the Dept. of Ecology. Burien needs to adopt the *Washington State Wetland Rating System for Western Washington-Revised for its SMP*, use the best available science and step into the 21st century on how it rates its wetlands. The Planning Commission needs to insist that the SMP incorporate the *Washington State Wetland Rating System for Western Washington-Revised* in spite of what the Burien Planning Department says that it is not going to do. Not using the rating system is in direct conflict to the policy statement in the SMP that states Burien will use the best available science. P.S.-I encourage any Planning Commissioner to call the Dept. Of Ecology and have a discussion about this rating system issue.

Topic# 20,25A,78A,82- All of these topics relate to the concept of "no net loss "to the functioning shoreline environment. At the meetings of the Shoreline Advisory Committee as well as throughout this comment period to the Planning Commission, citizens have asked that the SMP have in the Administration Section-Chapter procedures for the on going monitoring of the shorelines for "no Net Loss". Each time the city has responded that; 1.it has no money for this, 2. they are not sure who will do this, 3. they do not know how to do and,4. this process will come later once the SMP is in place. In reality, if a procedure/plan is not written into the SMP document right now there will be not on going monitoring for "no net loss". Currently there is a documented loss of beach area over in the Shorewood area. It has been occurring over the last 12 years. Citizens have reported what is happening there with written comments, photos and verbal comments to the city. The CAO is supposed to take care of "no net loss" issues like this one. However, the city has still not proposed any study or monitoring to address this citizen documented issue of "net loss'. Additionally, the city has just issued a statement of non-significance on a new project to a citizen who is proposing even more work in this beach area without insisting on an Environmental Impact Statement to determine whether his property and structures are responsible for the "net loss' to his neighbors. Permits and Regulations do not address these long term issues that result. Even if someone cheats on their permit or in following the regulation, there is a 3 years window in which-if they do not get caught-the rest of us have to live with and pay for the damages. An on going monitoring program would help to prevent such problems. Therefore, I am requesting that the Administration Section of the SMP contain wording to the effect based on these policies in the draft SMP (Pol. RES 10,Pol ALL 1, Pol ALL2, Pol ALL 3, Pol ALL 4, Pol ALL7), The *City of Burien will*

conduct on going sampling studies annually to monitor for "no net loss" of its protected shorelines. This will be accomplished by the listed possible means and with authorization from The Shoreline Administrator and the WDFW.
a. Interagency agreements and partnerships with local environmental groups, city, state agencies, county agencies or tribes.
b. Interagency agreements with universities, colleges, vocational-technical training institutions, schools districts or The Seahurst Park Environmental Center.
c.Data can be collected and submitted by Citizen Scientists for review by the city or the group organizing the monitoring or study.
d.Data from these studies shall be made available to public on an annual basis. The argument by the city that it has no money for monitoring is a mute point. The SMP is a mandated program. The city has an obligation to prioritize its budget to fund mandated items first in the budget.

Topic 12, 21L,30A,30D, 30F, 30J,30K-All of these topics refer to one of the core principles of the in the SMP of protect of private property and public safety. At the Shoreline Advisory Committee Meetings, a number of members of the committee asked that in the Administrative Section-Chapter 5 that there be some kind of provisions or regulations that addressed the need for protection and enforcement to attend to the issues of protection of private property, public property and public safety. The city representative on the committee responded that this could not be put into the document because the city had no money for this. In a letter to the City Council and in an open letter to the B-Town Blog, Jim Branson requested information on how many citations, warnings of fines had been issues to citizens or park users who had violated posted rules or park policies. The answer appears to be none. Additionally, when park incidents have been reported to the police or city there seems to be an indecision on the part of both agencies about who should go and check on it, who is responsible to follow up and who takes action on it. I am reminded of a recent incident in Seahurst Park where a vagrant was living in the Park and threatening citizens trying to use the hiking trails. The police were called and they said that they would not go into the park. As the City has no Park Ranger System, there was no one from the city who had law enforcement authority to check out the situation. Additionally, the city offices are no open on the weekend for monitoring threats to public health and safety in the parks. Therefore, I am requesting the Adminstration Section of the SMP contain wording to the effect based on these policies in the SMP draft Pol PA 3, *The City will establish a working network of processes and procedures for the protection of private property, public property and public safety in the shoreline areas. This will be accomplished by the listed possible means and with authorization of the Shoreline Administrator, Burien Police (King County Police) and, Burien Department of Parks and Recreation.*
A. an interdepartmental and interagency plan will be developed to address the issues of protect of private property, public property and public safety in shoreline areas...
b.The interdepartmental and interagency plan will address violations of city laws and shoreline violations-such as who can write tickets, issue fines, etc.
c. A method for collection data on incidents in the reported in these areas will be established and will reflect which department or agency handled the issue. This data shall be available for public review.

d. Should the city develop a Park Ranger Program the plan will address the authority that these individuals have to enforce laws and rules: Again, these are components of the mandated SMP.

Topic 31A, 83-These two topics address the fact that the wording on how many homes being developed in an area will develop a public access. I am not sure why this discussion seems to be an unable to be resolved. Here is the history of what occurred-this can be verified by reviewing the Summary Notes from the SAC meetings.-
1. The SAC voted to keep the State wording-*d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses and individual single family residences not part of a development planned, for more than four parcels.*
2. The SAC met the next meeting and approved the minutes stating that they would stick with the state wording of more than four parcels-which was what was in their working draft at that time.
3. The editors of the Nov. 2009 SMP Draft then took the license to change the wording because they said they wanted to make it clearer. In the process they changed the wording to state *less than* rather than *more than.* I'm not sure how that can be construed to clarify anything. Citizens have appeared before the Planning Commission to complain about this change 2 times.
4. In the most recent issuing of the Shoreline Master Program Public Comment Summary, this still appears to be unresolved.
The statement in the SMP should base on WAC 173-26-221(4. Public Access)(c. Planning process to address public access)(iii) page 11; Which addresses that a public access should be required when there is a subdivision of land into more than 4 parcels with the other above stated exceptions. Please make this correction based on what the committee decided at its meeting, state SMP provisions recommended and on citizen input. Essentially keep the wording that was approved by the SAC in the meeting and minutes.
Please make this correction.

Topic 83-This refers to public access and again raises the issue of when a public access has to be created but also raises the issue of how many public access points should be created an a given shoreline area before there is real danger to the environment. As a specific example, should the Ruth Dykeman Children's Center ever be sold; the zoning formula would allow 43 new homes on Lake Burien. How many public access points would this create? Just several houses down the road, there are lots large enough so that they could be sub-divided into more than 4 parcels. Again according to the formula that would create another public access point on the lake. There are at least 5 points that this could happen to on the lake. Just how many public access points can a small lake like this sustain? Again this is why I believe that you need to create an Appendix titled Plan for Public Access to address how these issues will be handled. This kind of analysis does not typically happen in the typical permitting process that they say will take care of these future issues.

Topic 75A-In the draft response, you do not refer which comprehensive plan you are referring to. Again I request that you use the best available science and reference the King County Comp. plan for the protection the listed species in your SMP.

Topic 74, 74A- The cumulative impacts analysis is still incorrect as it does not take into account the amount of development that can occur on Lake Burien as well as the amount of impervious surface and non point pollution this will create. I request that this section of the analysis be reworked to reflect what could happen with future development.

Topic 31e- This area of the Shoreline Inventory is incomplete as it does not address visual access, street ends and utility access points. I m requesting that this section be reworked or that at a table be created in an Appendix to address a Plan for Public Access.

Topic 87- As this is the first time that this administrative position is included in the city documents and this position holds considerable power and demands a wealth of knowledge about shorelines, permitting and regulation of the city, is seems only intellectually correct to include a better description in the document of this administrator. This can be put into the Definitions or the Administrative Section. The public needs to be assured that this person has more qualifications than Brownie did in order to get his job running FEMA. I am requesting that a change be made to flesh out who this administrator is and what are the limits of the position.

There is nothing in the Administrative Section that speaks to the issue of Public Safety on shorelines which is a mandate of the SMP. Burien has no education programs or provisions for the education of the public on water safety or the use of the shorelines. Additionally, the city has very limited signage about how to use the shorelines. Some of the current signage is on the wrong locations, missing or a posted on private property which the public has to cross just to read. I am requesting that a section be developed and added to the Administrative Section-Chapter5 to address the issue of Public Safety on the Shorelines.

Kathi Skarbo

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

February 23, 2010

To: City of Burien Planning Commission
From: Kathi Skarbo
Re: Shoreline Master Program Public Comment Summary, Item #31A

Thank you for including my comments that were overlooked in the first draft of the matrix. The draft response to the issue of requiring public access when a piece of property is subdivided reads "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] was identified as the reference, which states, "Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the **subdivision of land into more than four parcels.** In these cases, public access should be required except: …" (my emphasis). This is different than the language used in the draft Burien SMP. "Subdivision of land into more than four parcels" is not the same as "subdivisions of less than four parcels." In my earlier request I referenced WAC 173-26-221[4.d.iii.C], which is an exception paragraph and uses the "not part of a development planned for more than four parcels" language. It is clear that both paragraphs in the WACs intend for the requirement to apply to property divided into more than four (5+) parcels. The Shoreline Advisory Committee agreed. A copy of section 4 of the WAC is attached. Please read it and make the correct revision to the SMP.

It is commendable that changes were made to make the regulation more understandable. Unfortunately, the language change that was made to the SMP changed the *meaning* of the regulation. I don't care which way it's stated, as long as the intent is accurate. Below are two suggested revisions, based on two references in the WACs. Please choose one of them and revise 20.30.035.2.d of the SMP.

To be consistent with WAC 173-26-221[4.d.iii], 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, individual single family residences and subdivisions of <u>four or</u> less ~~than four~~ parcels.

To be consistent with WAC 173-26-221[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~~,~~ <u>and</u> individual single family residences ~~and subdivisions of less~~ <u>not part of a development planned for more</u> than four parcels.

• Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

• Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new de ent includes appropriate protection of ecological functions.

• Development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.

• Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).

Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by he department that evaluates cumulative impacts to the watershed system.

(iii) Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas except for actions that increase ecological functions, such as wetland restoration, or as noted below. Provided that such flood hazard reduction rojects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and nalysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

(iv) Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access athways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security roblems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is isproportionate and unreasonable to the total long-term cost of the development.

(v) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this hapter and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, oes not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

lic access.

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of e state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state less stated otherwise.

(b) **Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private operty rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunit enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, erference with the public's use of the water.

(c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that entifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than plying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan ements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal itations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that n may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may o justify more flexible offsite or special area public access provisions in the master program. Public participation requirements in WAC 173-26-1 (3)(b)(i) apply to public access planning.

A imum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port s s, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variet shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access nts, consistent with other comprehensive plan elements.

(d) **Standards.** Shoreline master programs should implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both ıysical and visual public access. The master program shall address public access on public lands. The master program should seek to increase e amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights ıder the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, clude public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, curity, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more fective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local vernments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access quirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater pendent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-1 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or e to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate ethods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design, and stricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public operty or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical blic access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, less there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

(5) ***Shoreline vegetation conservation.***

(a) **Applicability.** Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines ıt contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant aring and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, cept for conversion to other uses and those other forest practice activities over which local governments have authority. As with all master ogram provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the quirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing es and structures, such as existing agricultural practices.

(b) **Principles.** The intent of vegetation conservation is to protect and restore the ecological functions and ecosystem-wide processes rformed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aestheti alities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses.

Master programs shall include: Planning provisions that address vegetation conservation and restoration, and regulatory provisions that dress conservation of vegetation; as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoic verse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

Local governments should address ecological functions and ecosystem-wide processes provided by vegetation as described in WAC 173-26-1 (3)(d)(i).

Local governments may implement these objectives through a variety of measures, where consistent with Shoreline Management Act policy, luding clearing and grading regulations, setback and buffer standards, critical area regulations, conditional use requirements for specific uses areas, mitigation requirements, incentives and nonregulatory programs.

In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in AC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the partment and *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish ar dlife where applicable.

Current scientific evidence indicates that the length, width, and species composition of a shoreline vegetation community contribute ostantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the acent upland vegetation. The ability of vegetated areas to provide critical ecological functions diminishes as the length and width of the getated area along shorelines is reduced. When shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater th that the functions will not be performed.