

## Susan Coles

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From: Gary Christianson [garychr@msn.com]  
Sent: Monday, March 29, 2010 1:23 PM  
To: Susan Coles  
Cc: Public Council Inbox

To:  
Members of the Burien Planning Commission  
Members of the Burien City Council

From Gary Christianson  
15625 Maplewild Ave. SW  
Burien, WA 98166  
March 29, 2010

I'm writing to express my continued concern about the process the city is engaged in to update the Shoreline Master Program. First, the process itself – the Planning Commission has not responded to a petition with hundreds of signatures asking that the process be slowed down so all important issues can be given due consideration with input from affected citizens. Instead the Commission has stepped up its schedule, and even held a meeting at which important decisions were made with only three Commission members present (March 16).

My primary concern is the proposed language in the SMP relating to marine shoreline bulkheads. Letters have been written, testimony given, solutions suggested, and alternative language offered, which as near as I can tell has been largely ignored. Many shoreline owners are concerned that if their bulkheads were damaged or destroyed they would not be able to repair or replace them unless the absence of a bulkhead would result in a primary residence falling into the water. State law, unlike Burien's proposed SMP Update, provides for bulkheads to protect "appurtenances" and "legally existing shoreline uses" in addition to protecting primary residences.

The SMP update fails to make clear that owners will be able to repair their bulkheads. This is essential to preserving the value of our properties and being responsible homeowners. To not be able to do so would seriously reduce the value of many shoreline properties. If the Planning Commission this week wraps up what it and city staff consider to be its responsibility in this process I would respectfully ask that the City Council take the time to listen to and address all citizens' concerns when it takes up the SMP Update.

Thank you,  
Gary Christianson

Susan Coles

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From: Burién Shoreline [burienshoreline@yahoo.com]  
Date: Monday, March 29, 2010 4:40 PM  
To: Susan Coles  
Subject: SMP Bulkhead Language

Dear Planning Commissioners,

I am writing to you to express my confusion and concern about the current language in the Shoreline Master Plan as relates to bulkheads. My research indicates that the current language is needlessly prohibitive and exceeds the Washington's Shoreline Master Act, the law upon which the Shoreline Master Program is based.

The Shoreline Master Act specifically requires that master programs include language that provides for "the protection of single family residences and appurtenant structures against damage or loss due to erosion." RCW 90.58.100

Additionally, WAC 173-26-231(2)(a) states, that shoreline modification is allowed where there is a need to protect "a legally existing shoreline use that is in danger of loss or substantial damage..."

Burién's master program contains no language with regard to protecting appurtenant structures or legally existing uses.

Current draft language puts forth soft shoreline stabilization as the remedy to an eroding shoreline. This is however cannot be adopted as a prescriptive measure for shoreline stabilization nor ecological restoration because there are simply too many circumstances where these methods are not effective. In fact, the Department of Ecology concludes this in its publication "**Alternative Bank Protection Methods on Puget Sound Shoreline**" (publication 00-06-012). The authors outrightly state that alternative erosion techniques are new, experimental, and have not been monitored sufficiently to firmly conclude anything close to documented science, nor success. See excerpts below:

### **Introduction**

*"Unfortunately, little technical guidance is available to those interested in recommending, designing, or constructing alternative erosion control measures and no formal demonstration projects exist. Numerous projects have been carried out, however, but they have received no systematic review or documentation. Hugh Shipman, Department of Ecology"*

### **Project Performance**

*"Most of the projects examined in this report were built recently and there has been too little time to allow assessment of their success. In addition, few are being actively monitored (see previous section), so there is little information from which to evaluate performance, other than qualitative observations of distinct features such as erosion scarps, exposed anchor cables, or movement of placed logs. With beach nourishment projects [Shipman, in preparation], we are finding that success is relative -- for example, a project may be viewed as successful in addressing past erosion, yet fail to achieve biological restoration. Also, standards of success vary. Most nourishment projects gradually erode and generally require renourishment. Some individuals accept this as part of the design whereas others see this as an indication of a project that cannot be naturally sustained. Some soft-bank projects succeed locally in reducing the biological*

*impacts that might have resulted from a traditional seawall, yet do not address more systemic ecological concerns, such as the long term supply of sediment to the littoral system. Perhaps in an area of innovation and experimentation such as alternative erosion control, we should view as successful those projects where the documentation of the project is sufficiently rigorous so that we can learn from our mistakes."*

### Conclusions

*"Few of these projects have been in existence long enough for final conclusions to be drawn about their success."*

*"Finally, this report should be used with caution. The inclusion of a shoreline project here is neither an endorsement of the design for application elsewhere nor a guarantee of a project's likely success."*

*"The fact that alternatives may be applicable in some situations does not mean that an alternative is appropriate in all situations. Many of the measures described in this report entail significant modifications of the shoreline and of natural shoreline processes. Many will require ongoing maintenance and few guarantee that a property will never experience erosion or storm damage."*

With the DOE freely and frequently stating the fact that alternative shoreline erosion is an "area of experimentation" with "no systematic review or documentation", it is unconscionable and clearly unacceptable to create regulation based upon this science that will prohibit replacement of existing shoreline stabilization measures with a similar structure. As stated above, the DOE concludes they want the opportunity to "learn from their mistakes". Hardworking Burien citizens will not stand by and watch their property values subjected to guinea pig experimentation. Let the DOE do their experimentation on public land, monitor the long term effects on public land, document their claims based upon public land, create designs, implementation techniques and standards for residential application that actually work, and then, and only then should any government entity consider prohibitive regulation for **private** land. Anything less is irresponsible and will result in lost property values and expensive lawsuits. Neither of which can the City of Burien, nor its citizens, afford. One such Washington lawsuit that illustrates this danger is Luhrs vs. Whatcom County. In this ten year long case, a homeowner's shoreline property had suffered severe erosion due to wave action. Whatcom county regulation only allowed for soft shore armoring which was dangerously insufficient and ineffective for the circumstances. Still, the city refused the resident's emergency permit request on the grounds that bulkheads were simply prohibited. The courts ruled in an unpublished review that government regulation that prohibits a homeowner from being able to protect their property from erosion or damage can constitute a government "taking", with all financial reimbursements applicable. I urge you to review this case.

Finally, as a community, shoreline homeowners recognize and have a *vested interest* in Puget Sound's long term shoreline health. We also know that Seahurst Park represents one of the longest stretches (if not the longest stretch) of natural undeveloped shoreline in all of Central Puget Sound. Through the continued use of Burien tax payer dollars for Seahurst Park's maintenance, expansion and environmental education programs (however unsubstantiated the science), Burien citizens contribute to King County shoreline health more directly and more vigorously than perhaps any other urban shoreline residential community in Washington. Burien residents do their part.

As a Planning Commissioner with a responsibility toward the Burien community as a whole, you no doubt

understand that prohibitive regulation regarding existing bulkheads will severely impact property values, and therefore subsequent city revenue. I urge you to take responsible action with regard to the DOE's environmental goals and its unsubstantiated "science", and the City of Burien's revenue and growth goals, and its citizens right protection of property. The Shoreline Management act provides for protection of appurtenant structures and legally existing uses against damage or loss due to erosion, and so must Burien's SMP revision. It's the law.

Due to the lack of DOE substantiated science and Shoreline Master Act laws, please direct city staff to make certain that SMP regulations allow all Burien shoreline property owners to replace existing shoreline stabilization in order to protect appurtenant structures, to protect legally existing uses, and most importantly to protect property values and the substantial revenue that it creates for the community of Burien.

Thank you.

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

VICTORIA M. LUHRS, )  
 ) No. 62534-9-1  
 Appellant/Cross-Respondent, )  
 ) DIVISION ONE  
 v. )  
 ) UNPUBLISHED OPINION  
 WHATCOM COUNTY, a subdivision of )  
 the State of Washington, )  
 )  
 Respondent/Cross-Appellant. ) FILED: September 21,  
 2009

Grosse, J. — Washington’s Shoreline Management Act mandates that a local government’s shoreline management program contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. Victoria Luhrs claims that the absolute prohibition of bulkheads on feeder bluffs contained in a former version of Whatcom County’s Shoreline Management Program conflicts with this statutory mandate. But, as the parties acknowledge, the issue of whether Luhrs’ proposed revetment is the only means by which she can protect her residence against loss or damage due to shoreline erosion has not yet been decided. The record before us is therefore inadequate to permit resolution of the issue presented.

**FACTS**

Victoria Luhrs purchased a six-acre parcel located on a bluff on Lummi Island in 1992. In 2000, Whatcom County Planning and Development Services (PDS) issued a correction notice requiring that Luhrs remove a wooden

bulkhead constructed on the property because PDS determined that the bulkhead was on a feeder bluff and bulkheads are not permitted on feeder bluffs.<sup>1</sup> Luhrs appealed to the county hearing examiner, who agreed that the bulkhead was not permitted. Luhrs next appealed to the county council, which also determined that the bulkhead was not permitted and had to be removed. Luhrs then filed a petition under the Land Use Petition Act (LUPA)<sup>2</sup> in Whatcom County Superior Court. The court affirmed the county council's decision.

In October 2006, Luhrs filed an application for a shoreline exemption to build a revetment on her property.<sup>3</sup> PDS denied this application, which is the subject of this appeal, in March 2007, determining that the site of the project was a feeder bluff, the proposed project constituted a bulkhead under the County's Shoreline Management Program (SMP), and bulkheads are prohibited on feeder bluffs. Luhrs appealed this decision to the hearing examiner, who upheld PDS's decision on the same grounds. She then appealed to the county council, and the council affirmed the hearing examiner's decision.

Luhrs filed a LUPA petition in Snohomish County Superior Court. That court issued a letter decision in July 2008, affirming the denial of Luhrs'

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<sup>1</sup> "Bulkheads are wall-like structures placed parallel to shore primarily for retaining uplands and fills prone to sliding or sheet erosion, and secondarily to protect uplands and fills from erosion from wave action." Former Whatcom County Code (WCC) 23.110.B.12 (1998).

<sup>2</sup> Ch. 36.70C RCW.

<sup>3</sup> A revetment is "a sloped wall constructed of rip rap or other suitable material placed on stream banks or other shorelines to retard bank erosion from high velocity currents or waves respectively." Former WCC 23.110.R.6. Rip rap is "dense, hard, angular rock free from cracks or other defects conducive to weathering used for revetments or other stream control works." Former WCC 23.110.R.7.

application to construct a revetment. In October 2008, the trial court entered its final LUPA decision and order, affirming the county council's decision except to the extent that the council decided issues arising under the critical areas ordinance that were not, by agreement of the parties, before the council for decision. The court issued a separate order finding that there was no prevailing party in the matter and that "[t]herefore there is no award of statutory 'costs to be called the attorney fee,' under the authority of RCW 4.84.020."

Luhrs appeals the denial of her application to construct the revetment. Whatcom County cross-appeals, asking for an award of attorney fees under RCW 4.84.370.

#### ANALYSIS

In reviewing an administrative decision in a LUPA proceeding, an appellate court stands in the same position as the superior court.<sup>4</sup> We review errors of law de novo and review the hearing examiner's decision as a whole for substantial evidence supporting the decision.<sup>5</sup>

Under LUPA, a court may grant relief only if the party seeking relief has carried the burden of establishing that one of the following standards has been met:

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

<sup>4</sup> Habitat Watch v. Skagit County, 155 Wn.2d 397, 405-06, 120 P.3d 56 (2005).

<sup>5</sup> City of University Place v. McGuire, 144 Wn.2d 640, 647, 30 P.3d 453 (2001).

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief.<sup>[6]</sup>

There is no dispute that the location of Luhrs' proposed revetment is a feeder bluff. At the time of Luhrs' application, the Whatcom County SMP absolutely prohibited bulkheads on feeder bluffs.<sup>7</sup> Also under that SMP, revetments closer than ten feet to the ordinary high water mark (OHWM) are considered bulkheads and are subject to the regulations pertaining to bulkheads.<sup>8</sup> Luhrs' proposed revetment was to be located closer than ten feet to the OHWM and was therefore considered a bulkhead under the SMP in effect at that time and was prohibited.<sup>9</sup>

Luhrs argues that the County's prohibition of bulkheads (or revetments closer than ten feet to the OHWM) on feeder bluffs conflicts with the provision in Washington's Shoreline Management Act of 1971 (SMA) that requires a local

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<sup>6</sup> RCW 36.70C.130(1).

<sup>7</sup> Former WCC 23.100.150.32(e).5 (1998).

<sup>8</sup> Former WCC 23.100.70.32(f).

<sup>9</sup> We reject Luhrs' argument that the County misinterpreted its SMP in concluding that her proposed revetment is a bulkhead under the SMP. Under the plain meaning of the SMP, considered in its entirety, Luhrs' proposed revetment constitutes a bulkhead under the SMP because it was to be located closer than ten feet from the OHWM.

government's shoreline management program to

contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion.<sup>[10]</sup>

As the parties acknowledged at oral argument, the issue of whether construction of a revetment in accordance with Luhrs' proposal is the only means by which to protect her property has not yet been resolved. By agreement of the parties, the issues before the hearing examiner were limited to (1) whether the 2002 administrative decision had a preclusive effect on Luhrs' current application and (2) whether PDS erred in interpreting its regulations to prohibit Luhrs' proposed revetment. Without resolution of the issue of whether the revetment Luhrs wants to construct is necessary to protect her property, we cannot address whether the SMP under which the County denied her application conflicts with the SMA. Accordingly, we remand this matter to the superior court with directions to take whatever steps the court deems necessary to ascertain the relevant and necessary facts as to whether Luhrs' proposed revetment is the

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<sup>10</sup> RCW 90.58.100(6). We reject the County's arguments that Luhrs (1) waived this issue by raising for the first time in her reply brief in the LUPA appeal, (2) is barred by collateral estoppel from raising this issue, and (3) cannot raise this issue because she failed to provide notice to the Attorney General pursuant to RCW 7.24.110. First, Luhrs raised this issue in several briefs at the administrative level and also in her briefs before the superior court. Second, a crucial element of collateral estoppel—identity of the issues—is not present here. Finally, RCW 7.24.110 has no applicability here because Luhrs did not bring her action under the Uniform Declaratory Judgments Act.

only means by which she can protect her property against loss or damage due to shoreline erosion. On remand, the superior court may send the matter back to the hearing examiner for further fact-finding.<sup>11</sup>

Alternatively, upon remand, the parties may dismiss this proceeding and commence a new proceeding under the SMP the County adopted on February 27, 2007, and the Department of Ecology approved on August 8, 2008. That SMP does not absolutely prohibit bulkheads on feeder bluffs under all circumstances, but rather provides:

Bulkheads and other similar hard structures are prohibited on marine feeder bluff and estuarine shores, and on wetland and rock shores; provided that, such structures may be permitted as a conditional use where valuable primary structure(s) are at risk and no feasible alternatives exist and where ongoing monitoring, maintenance and mitigation for impacts to shoreline ecological functions and processes are provided.<sup>[12]</sup>

The proceedings involving Luhrs' property have been going on for nine years. According to Luhrs, her property is eroding at an alarming rate. The issues must be resolved without delay and Luhrs afforded whatever relief, if any, to which she is entitled. Should the aggrieved party on remand decide to appeal to this court once again, we stress that we will be unable to provide an effective remedy unless and until we are presented with a fully developed record.

We vacate the superior court's decision and remand this matter to the

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<sup>11</sup> See RCW 36.70C.140 ("The court may affirm or reverse the land use decision under review or remand it for modification or further proceedings. If the decision is remanded for modification or further proceedings, the court may make such an order as it finds necessary to preserve the interests of the parties and the public, pending further proceedings or action by the local jurisdiction.").

<sup>12</sup> WCC 23.100.13.B.2.b.

No. 62534-9-1 /7

superior court for further proceedings consistent with this opinion.<sup>13</sup> We deny the County's request for an award of attorney fees under RCW 4.84.370.

Grosse, J

WE CONCUR:

Leach, J.

Edenfor, J

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<sup>13</sup> We reject Luhrs' argument that any of the ex parte communications she identifies between with hearing examiner's clerk and the County's attorney require vacation of the decision under the appearance of fairness doctrine. Luhrs has not sustained her burden of showing evidence of actual or potential bias resulting from the ex parte communications. No bias resulted from the e-mail regarding the County's intent to argue collateral estoppel because the issue was decided adverse to the County. Luhrs' assertions of bias resulting from the e-mail regarding the Kovalik/Ritchie case are speculative at best. Further, we note that Luhrs herself included the document granting the Kovalik exemption as an exhibit to her reply brief submitted to the hearing examiner. Finally, Luhrs fails to show any actual or potential bias resulting from the clerk's request for copies of other decisions regarding Luhrs' property.

Dear Council Members,

March 29<sup>th</sup>, 2010

I would like to express my confusion and concern about the current language in the Shoreline Master Plan as relates to bulkheads. My research indicates that the current language is needlessly prohibitive and exceeds the Washington's Shoreline Master Act, the law upon which the Shoreline Master Program is based.

The Shoreline Master Act specifically requires that master programs include language that provides for "the protection of single family residences and *appurtenant structures* against damage or loss due to erosion." RCW 90.58.100

Also, WAC 173-26-231(2)(a) states, that shoreline modification is allowed where there is a need to protect "*a legally existing shoreline use that is in danger of loss or substantial damage...*"

Burien's master program contains no language with regard to protecting "appurtenant structures" or "legally existing uses" and we urge you to correct it.

Current draft language puts forth soft shoreline stabilization as the remedy to an eroding shoreline. However adopting these methods as a prescriptive measure for shoreline stabilization and ecological restoration is doomed for failure because there are simply too many circumstances where these methods are not effective. In fact, the Department of Ecology concludes this in its own publication "**Alternative Bank Protection Methods on Puget Sound Shoreline**" (publication 00-06-012). The authors state that alternative erosion techniques are new, experimental, and have not been monitored sufficiently to firmly conclude anything close to documented science, nor success.

Excerpts from the DOE's **Alternative Bank Protection Methods on Puget Sound Shoreline**" (publication 00-06-012)

Preface: PG v

"Unfortunately, little technical guidance is available to those interested in recommending, designing, or constructing alternative erosion control measures and no formal demonstration projects exist. Numerous projects have been carried out, however, but they have received no systematic review or documentation. Hugh Shipman, Department of Ecology"

Project Performance PG 123

"Most of the projects examined in this report were built recently and there has been too little time to allow assessment of their success. In addition, few are being actively monitored (see previous section), so there is little information from which to evaluate performance, other than qualitative observations of distinct features such as erosion scarps, exposed anchor cables, or movement of placed logs. With

beach nourishment projects we are finding that success is relative -- for example, a project may be viewed as successful in addressing past erosion, yet fail to achieve biological restoration. Also, standards of success vary. Most nourishment projects gradually erode and generally require renourishment. Some individuals accept this as part of the design whereas others see this as an indication of a project that cannot be naturally sustained. Some soft-bank projects succeed locally in reducing the biological impacts that might have resulted from a traditional seawall, yet do not address more systemic ecological concerns, such as the long-term supply of sediment to the littoral system. **Perhaps in an area of innovation and experimentation such as alternative erosion control, we should view as successful those projects where the documentation of the project is sufficiently rigorous so that *we can learn from our mistakes.***"

#### Conclusions PG 124

"Few of these projects have been in existence long enough for final conclusions to be drawn about their success."

"Finally, this report should be used with caution. The inclusion of a shoreline project here is neither an endorsement of the design for application elsewhere nor a guarantee of a project's likely success."

"The fact that alternatives may be applicable in some situations does not mean that an alternative is appropriate in all situations. Many of the measures described in this report entail significant modifications of the shoreline and of natural shoreline processes. Many will require ongoing maintenance and few guarantee that a property will never experience erosion or storm damage."

With the DOE freely (and frequently) stating that they believe alternative shoreline stabilization methods to be an "area of experimentation" with "no systematic review or documentation", it is unconscionable and clearly unacceptable to create prohibitive bulkhead regulation based upon this science.

The DOE concludes that they want the opportunity to "*learn from their mistakes*". As representative members of our community we urge you to stand opposed to this outrageous and irresponsible guinea pig experimentation on private property. We urge you to insist that city staff provide clearly substantiated science for any prohibitive bulkhead regulation that is proposed. We urge you to insist that DOE "learn from their mistakes" on *public* land, monitor long-term results on *public* land, document their mistakes on *public* land, and then create designs, implementation techniques and standards for residential application that actually work and are fully supported by "documentation that is sufficiently rigorous". Then, *and only then* should changes to current bulkhead regulation be considered for **private** property. Anything less is negligent and will result in lost property values and expensive lawsuits.

One such Washington lawsuit that illustrates this situation is the Luhrs vs. Whatcom County. In this ten year long case, a homeowner's shoreline property has suffered severe erosion due to wave action. Whatcom county regulation only allowed for soft shore stabilization, which has been dangerously insufficient and ineffective for the circumstances. Still, the city refused the resident's bulkhead permit request on the grounds that bulkheads were simply prohibited. In an unpublished ruling, the court found that government regulation that prohibits a homeowner from being able to protect their property from erosion or damage can constitute a "government taking", with all financial reimbursements applicable. It is the very act of mandating alternative stabilization methods that **do not** work while prohibiting methods that **do** work that has been deemed a "government taking". I urge you to review this ongoing case.

As City Council members it is your responsibility to ensure that the citizens of Burien are treated fairly and that tax dollars are being spent wisely. That means ensuring that citizens are provided with conclusive evidence that alternative stabilization methods actually work, that they are a proven no-net loss alternative to current methods, and that the scientific evidence will stand up in court. To be clear, DOE maintains, "little technical guidance is available to those interested in recommending, designing, or constructing alternative erosion control measures and no formal demonstration projects exist." Where some research has been done, DOE further states, "few are being actively monitored, so there is little information from which to evaluate performance". In recognition of this gross lack of science, as well as Attorney General Rob McKenna's Advisory Memorandum to state agencies and local governments entitled, "Avoiding Unconstitutional Takings of Private Property"- the Shoreline Management Act and the WAC *require* that SMP language provide for the protection of "appurtenant structures" and "legally existing uses, against damage or loss due to erosion".

We believe that due to 1) the "experimental" nature of alternative shoreline stabilization methods, 2) the lack of "systematic review or documentation", as well as the 3) clearly stated Shoreline Master Act laws, and 4) the ongoing litigation in this area, there is overwhelming reason for the City Council to mandate that SMP regulations allow all shoreline property owners to replace existing shoreline stabilization with a similar structure in order to protect "appurtenant structures", to protect "legally existing uses", and most importantly to protect property values and the substantial revenue that it creates for the entire community of Burien.

Thank you,  
John Zimmerman  
Seahurst, Wa. 98166

To- The Burien City Council  
To- The Burien Planning Commission  
Re- Burien Comprehensive Plan, Burien SMP documents  
March 30, 2010

RECEIVED  
MAR 30 2010  
CITY OF BURIEN

I am requesting that the following changes be made to the Technical Document-Cumulative Impacts Analysis so that it correctly identifies the zoning density of the properties immediately adjacent to the Lake Burien as low density residential zoning and then addresses the correct impacts analysis for the future on the lake with regard to the low density zoning.

1. Lake Burien has always been **low density residential zoning**. It was placed into that zoning density by Policy REC 1.5, page 2-8 of the Burien Comprehensive Plan. From 1997 to 2010, Lake Burien has matched this policy for low density zoning by its characteristic neighborhood (4 or less houses per acres) and by the fact that it has 2 critical areas almost covering all of the properties.
2. The Cumulative Impacts Analysis incorrectly identifies Lake Burien as a moderate density residential zoning area. This is impossible because according to Pol REC 1.5 moderate density areas cannot contain significant amounts of critical areas.
3. The Cumulative Impacts Analysis needs to address the issues that are created by trying to apply the lot size to the Policy that states that there can only be 4 or less houses per acres in low density zoning areas. The issue here is about allowing the amount of impervious surface at a 70% or 45% level. Low density zoning, by its lot size, would only allow impervious surface coverage at a 45% level.

As a result of the SMP process, it is clear there are some significant errors in the Critical Areas Ordinance and the Comprehensive Plan. I have requested information on how this will be taken care of. I still have not received a response from the City. I would appreciate that as soon as possible.

Additionally, I remain concerned and confused by the lack of information that was provided at the 03-23-2010 Planning Commission meeting about how Appendix 8-C will apply to wetland classification for Lake Burien. I am requesting that further information be provided to the public on this topic and allow public comment on it. How the appendix works and why Lake Burien is not being addressed as a continuous shoreline but rather as separate slices of land on a shoreline were not explained.

Lastly, I remain deeply concerned about the continued lack of public input that has been allowed and truly considered in the Shoreline Master Plan process. The Planning Commission as well as the City Staff seem to be concerned with only rushing this document through. There appears to a greater effort as a speedy job rather than a quality document. The City of Burien states that they are "Innovative Stewards of the Public Trust". It is hard for citizens to trust you if you do not listen to them.

**Lisa Clausen**

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om: Public Council Inbox  
ent: Friday, April 02, 2010 3:11 PM  
To: 'Marco Spani'  
Subject: RE: Burien and Haltern am see

Thank you for writing to the Burien City Council. Your message will be included in the Correspondence for the Record for an upcoming Council meeting.

Lisa Clausen  
City Manager's Office

-----Original Message-----

From: Marco Spani [mailto:mspani@cpnw.com]  
Sent: Friday, April 02, 2010 10:47 AM  
To: Public Council Inbox  
Subject: Burien and Haltern am see

Dear Councilmembers  
Please see the attached letter concerning Lake Burien...

Marco Spani  
3761 SW 171st  
Burien, WA 98166

CFTR: 04/12/10

I'm sure Boris Seiverts is a nice guy, but his "letter to Burien about its lake" is WAY off the mark. Let's start with some facts about Burien and the city he makes a comparison with, Haltern am See, Germany.

Haltern am See is a rural town with a population of around 38,000 people in 61 sq. miles of land area and a population density of 621 people per sq. mile. The "lake" is a reservoir created by a dam built in 1930 that holds over 700 million cubic feet of water for distribution to surrounding communities. The extensive shoreline is largely undeveloped. Haltern has no other shoreline.

Burien is an urban city with a population of around 31,000 people in 7.4 sq. miles of land area and a population density of 4,287 people per sq. mile. Lake Burien is a natural lake that is a very small fraction of the size of the Haltern See. The shoreline is fully developed with homes. Burien owns Seahurst Park including approximately one mile of Puget Sound shoreline that is largely undeveloped.

Perhaps we should build a dam on Lake Burien? Or rename the city "Burien on the Sound", so our home prices will double, as happened in Haltern? Mr. Sieverts' letter suggests public access at Lake Burien would not harm the water quality of the lake if the city took the right approach, such as providing a public bath, with attendants. I wonder why property owners near public access locations on Puget Sound are always picking up garbage left by the public. Must be the lack of attendants. Mr. Sieverts may have relatives here, but he knows nothing about Burien or issues relating to the conflict between public access and private shorelines. If you are going to print an article that goes on for 3 pages in your paper, at least make it something relevant to our community.

Sincerely,

Marco Spani

Haltern am See, Germany from elevation approx. 1 mile



Burien WA from elevation approx 1 mile



To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
APR 14 2010  
CITY OF BURIEN

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council seek public comment for at least 90 days and conduct at least three open public forums on the Shoreline Master Program update.

I strongly disagree with a non-conforming designation being placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty in selling.

I request that you leave existing structures in their current designation of "conforming" and that you not restrict and compromise my property boundaries with new setbacks or buffer zones.

Signed

Shawn Rischardson

CCTR: 04/12/10

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 05 2010

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

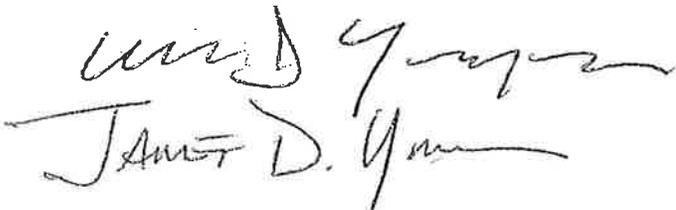
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I strongly disagree with a non-conforming designation being placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty in selling.

I request that you leave existing structures in their current designation of "conforming" and that you not restrict and compromise my property boundaries with new setbacks or buffer zones.

Signed

William & Janet Younger

Handwritten signatures of William and Janet Younger. The signature for William is written above the signature for Janet. Both signatures are in cursive and appear to be written in black ink.

CFTR 04/12/10

RECEIVED

APR 10 2010

CITY OF BURIEN

To: Burien City Council

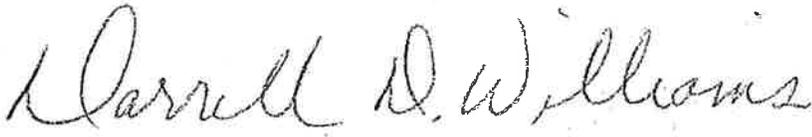
400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council seek public comment for at least 90 days and conduct at least three open public forums on the Shoreline Master Program update.

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Signed 

Darrell & Barbara Williams

CFTE: 04/12/10

RECEIVED

APR 11 2010

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

Gay and Joane Evanger

A handwritten signature in cursive script, appearing to read "Joan Evanger". The signature is written in dark ink and is positioned below the typed name.

CSTR: 04/12/10

RECEIVED  
APR 12 2010

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

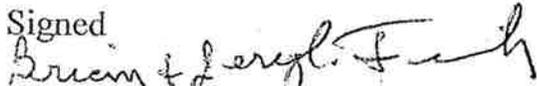
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Signed

  
Brian & Jerry Finch

JFTR: 04/12/10

RECEIVED

APR 09 2010

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

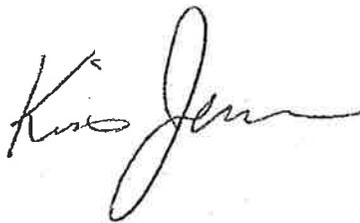
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Signed

Kris & Mollie Jensen



CFR:04/12/10

RECEIVED

APR 07 2010

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

CITY OF BURIEN

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Signed

*Richard W. Roberts (M.D.)*  
Richard Roberts

*Land topography in slide areas  
cannot be excavated to meet other  
than current reqs.*

CFTL:04/12/10

# BURIEN MARINE HOMEOWNERS ASSOCIATION

A non profit corporation

P O Box 300

Seahurst, WA 98062

April 5, 2010

Mayor and City Council

City of Burien

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

Burien, WA 98166

Re: Draft shoreline master program

Greetings to the Mayor and Council members:

Our members are homeowners on the city's marine shoreline. On your agenda this evening is the adoption of the process for your analysis and adoption of amendments to the city's shoreline master program. We offer these suggestions for your process.

**Involve your counsel.** This is an important piece of legislation that requires clarity. Clarity is independent of substance. The draft you have received from the planning commission is not well written. We ask that your counsel have the lead in drafting this document. This level of involvement must be much more than a superficial review.

**Non-conforming structures.** Under the current draft 181 marine shoreline residences will become non-conforming structures. The planning commission has recommended this draft to you without sufficient analysis and consideration of existing residential shoreline development or the consequences of creating this non-conformity. There has been no analysis of what this will do to our property values or to the city's tax revenues. The Council needs to take a hard look at these consequences.

**Regulation vs. taking.** From the very beginning of land use regulation there has been a tension between allowable regulation and a constitutional taking that requires compensation. The Council needs to take a hard look at the regulatory takings issue. The DOE regulations for the implementation of the Shoreline Management Act recognize this tension and reference a memorandum prepared by the state's attorney general. This thoughtful memorandum is entitled "Recommended Process for Evaluation of

CFTR:04/12/10

Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property.” This memorandum is available on the city’s web site as part of the SMP materials.

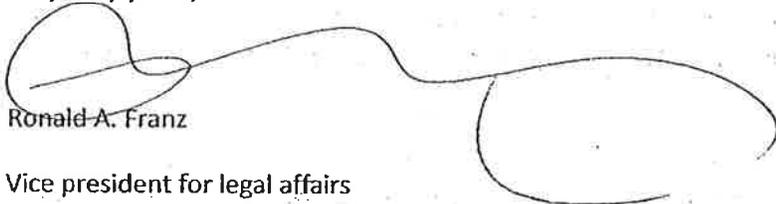
**EHB 1653.** This bill was signed on March 18, 2010 and became effective on the same date. With this law the legislature has revised the Growth Management Act and the Shoreline Management Act to clarify the standard to be applied by Burien when adopting regulations that protect critical areas within the regulated shoreline. The current draft SMP needs to be revised to meet the requirements of this new law. For example those portions of the planning commission draft that incorporate GMA critical area regulations by reference will need to be revised or eliminated. Your counsel can help with this. Furthermore the law reinforces the legislature’s intent to avoid creation of non-conforming structures during the shoreline master program update process.

**BMHA redline.** Our group prepared a redline version—one containing strikeouts and deletions—of the city’s SMP draft for the planning commission. Our redline is no longer up to date because the planning commission amended the SMP before passing it along to you. In the next week or so we will have an updated redline based upon the draft now before you.

**BMHA presentation.** Our group has or will hire technical and financial experts to help us present our issues. The technical experts will address the “no net loss of ecological function” SMA requirement and the financial experts will address the financial impacts to our properties and loss of tax revenues. Should you wish, we will have our experts make a presentation for you. We could do such a presentation as part of an official meeting or as a workshop.

Those of us who live on the water realize that we are blessed and with that the blessing comes the responsibility of stewardship. We want to do our part to reduce the impact of urbanization on Puget Sound. We can help the city make its SMP better for everyone.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald A. Franz". The signature is fluid and cursive, with a large loop at the end.

Vice president for legal affairs

Burien Marine Homeowners Association



CITY OF BURIEN, WASHINGTON

Written Public Comments For Meeting Of 4/5/2010

For those who do not wish to speak, but would like to make comments, please use this sheet. Your comments will be summarized and become part of the permanent record for this Council meeting. You may leave your completed sheet with the City Clerk. Thank you.

Please include the attached  
comments as part of the public  
~~record~~ record for this Council meeting

Name: Bob Edgar  
Address: 12674 Shorewood Dr SW  
City / Zip Code: Burien 98146  
Telephone:                     

CFTR: 04/12/10

April 5, 2010

Bob Edgar, 12674 Shorewood Dr SW, Burien

The Shoreline Master Program is being passed on to the Council for review.

The Planning Department has drafted a schedule by which the Council might review the SMP. The schedule is thoughtfully laid out, with six meetings covering a period of 11 weeks and includes a couple of Public Hearings. There appears to be ample time for meaningful discussion, understanding and review. I would caution the Council about depending solely on Public Hearings and written comments as a means of rationalizing that "public involvement" has occurred. The three minute sound-bites are only one-way and the focus is less on the quality of the involvement and more on churning people through the Process.

During this evening's discussion of the SMP review schedule, I would like to suggest that the Council explore ideas on how some of the meetings during this 10 -11 week period can be designed to be more inclusive, open to dialogue and include direct interaction between the Council and the citizens.

Thank you.

**Lisa Clausen**

---

From: Public Council Inbox  
Sent: Monday, April 05, 2010 9:35 AM  
To: 'Ryan, Andrew F'  
Subject: RE: Draft Shoreline Mgmt plan

Thank you for cc'ing the Burien City Council on your correspondence. Your message will be included in the Correspondence for the Record for an upcoming City Council meeting.

L. Clausen  
City Manager's Office

-----Original Message-----

From: Ryan, Andrew F [mailto:andrew.f.ryan@boeing.com]  
Sent: Monday, April 05, 2010 9:05 AM  
To: Mike Martin  
Cc: Public Council Inbox  
Subject: Draft Shoreline Mgmt plan

Mr Martin,

As you know, the Planning Commission has completed their review of the Shoreline Management Program and will be forwarding it to the City Council. Minimal citizen involvement was allowed, only 2 weeks for 1 way (citizens to commission) comments. No subsequent comments or dialogue was permitted in the public meetings. Mr Johansen, as he stated at a recent commission mtg, only included the initial written comments into his matrix that was used for the Commission's review process, thereby for all practical purposes ignoring all subsequent citizen concerns.

I stated in City Council meeting in March, since you are the soon to be Shoreline Administrator (ref Section 20.40.125, page VI-4), I felt it prudent to request your clarification of draft language that may soon become part of BMC 20.

In the draft it states:

Page IV-10, Section 20.30.040, 2(a) discusses "shoreline jurisdiction", which is all property under control of the Burien SMP. It says Alterations are not allowed but then the latest revision allows "maintenance of existing conditions". I would think most peoples definition of normal yard maintenance would include weeding pruning, trimming, but under definitions, section 20.40.000, pg VI-1, Alteration, specifically precludes those activities. Mr Johansen, in response to a question from Mr Clingan, said, something to the effect of "pruning your rose bushes is probably ok, but tree branches are not". How the hell are we supposed to know what's "allowed" with responses like that? It is certainly not clear in the written documentation. How much minutia do we need to get into here? What's an existing condition, a dandelion that was not apparent a week ago, but now is - is that an existing or a new condition? Does removal of that weed cause a loss of ecological function? Bottom line - what is acceptable vs not acceptable?

Paragraph 2(b) is more specific and says NO Alterations (the revision for maintenance was not included within the 150' shoreline vegetation buffer w/o a vegetation mgmt plan) But then Para 2(c) states that alterations w/i the 50' shoreline riparian buffer shall (mandatory) comply with i. "shall provide veg mgmt plan" - I'm guessing these things can run thousands of dollars, this is an absolutely absurd requirement for someone doing normal yard maintenance or minor home repairs.

iii. must mimic natural conditions - does this mean if you pull your dandelion or cut ivy you need to re-landscape with all native trees, shrubs, and groundcover (see iv. below) iv.

"Vegetation planting areas planting areas shall consist of mix of native trees, shrubs, and groundcover". Does this mean I can't plant flowers, vegetables, or have fruit trees if I make any alterations (i.e. - weed or prune)?

CFTR: 04/12/10

vi. "Lawn is a prohibited vegetation...." - does this mean I can no longer have a lawn if I choose to mow it? (I'm assuming mowing is same as cutting which would fall under the definition of "Alterations"? (or if I "alter" something else?)

H. "Hand removal of noxious weeds or invasive vegetation may be allowed w/o approval of a vegetation mgmt plan.... Following a consultation with the shoreline administrator...." It sounds like I can pull noxious weeds in the 50' shoreline riparian buffer after talking w/ you. But in the 150' shoreline vegetation buffer but I can do maintenance, as long as I don't do alterations, and if I'm in the shoreline jurisdiction (which is defined as all property regulated by City of Burine SMP). Does this sound confusing to anyone but me? What does this mean?

The overall goal is good, and it would make sense for these types of regulations to apply to new construction, so that new work sites did not devastate and diminish the surrounding vegetation, damage the ecology, etc. But there are few of those properties around. These rules should just apply to major new development with a different set developed for existing developed properties. The majority of us that have lived here for a while take pride in maintaining our properties, performing normal yard maintenance, including pruning trees and don't need these Orwellian regulations. With Puget Sound as our front yard, we have as much, or more, interest in maintaining the ecological functions as anyone, but this is regulation is extreme overkill in my opinion.

If you could please clarify what is allowed and what buffers apply in the new revised draft SMP, I would greatly appreciate it.

In the meantime, I'll continue performing a basic right of private property ownership, normal yard maintenance, as I have for the past 10 years w/o your assistance. This potential TAKING of my property rights has slowed my progress however as it's hard working one handed when the other one is giving the one-fingered salute of contempt in the general direction of city hall. This regulation, as written, is unclear and absolutely ridiculous.

Sincerely  
Andrew Ryan

RECEIVED

APR 07 2010

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

I am sending this to request that the City Council seek public comment for at least 90 days and conduct at least three open public forums on the Shoreline Master Program update.

I strongly disagree with a non-conforming designation being placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty in selling.

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Signed

Dean & Hope Misterek



CFTR: 04/26/10

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 15 2010

CITY OF BURIEN

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Signed

*Howard Clark 4/15/10*

Howard Clark

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
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Signed

Lars Holmberg

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
APR 18 2018  
CITY OF BURIEN

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Signed



Alan & Lisena Battersby

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
APR 15 2011  
CITY OF BURIEN

Subject: proposed Shoreline Master Program update

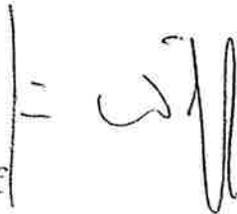
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Signed

Jim Wiehoff

A handwritten signature in black ink, appearing to read 'Jim Wiehoff', written over a vertical line that separates the signature from the typed name below.

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

  
Judy Moore

To: Burien City Council

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Signed

Margaret Smith

*Margaret A. Smith*

*4/15/10*

*3775 S.W. 171<sup>st</sup> St*

*Burien, Wa 98166*

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

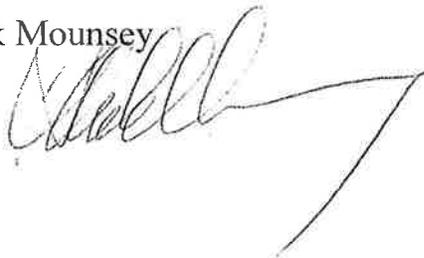
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Signed

Clark Mounsey

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Burien, WA 98166

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Signed

Milo & Paulette Mateer

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Signed

Carl Hove

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

*April 14<sup>th</sup>, 2010*

Subject: proposed Shoreline Master Program update

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Signed



Kenneth & Darcy Peterson

RECEIVED

APR 15 2010

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Jean Patterson

To: Burien City Council

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Signed

  
Carol Schroeter

To: Burien City Council

400 SW 152nd St  
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Burien, WA 98166

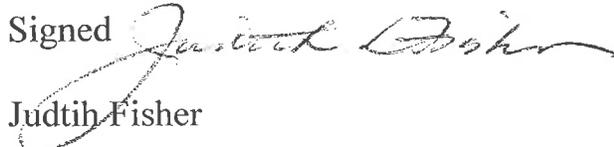
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Signed

  
Judith Fisher

To: Burien City Council

400 SW 152nd St  
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Signed

Jill Moodie

*Jill Moodie*  
16031 114<sup>th</sup> Avenue SW

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

*James & Judith Schorsch*  
James & Judith Schorsch

*Judith Schorsch 4-12-10*

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed  
  
Tetsuo Mori

4/11/2010

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 1 2009

CITY OF BURDEN

Subject: proposed Shoreline Master Program update

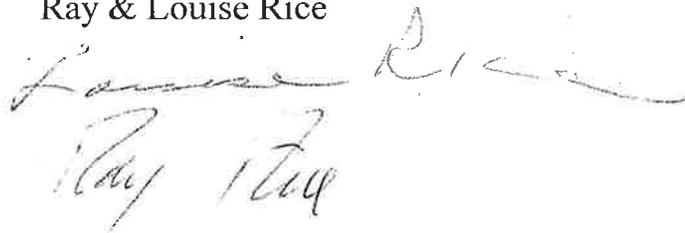
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Signed

Ray & Louise Rice



Handwritten signatures of Louise Rice and Ray Rice.

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 12 2009

CITY OF BURIEN

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Signed



Joan Benson

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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I insist that you leave existing structures in their current designation of "conforming" and that you not restrict and compromise my property boundaries with new setbacks or buffer zones.

Signed

Charles & Kathleen Johnson

*Charles D. Johnson*  
*Kathleen Johnson*

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

  
Dennis & Susan Reed

 Susan Reed 7/8/10

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed



Alan Ellison

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
APR 1 1998  
CITY OF BURIEN

Subject: proposed Shoreline Master Program update

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Signed

Ruby Leonard



To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

  
Rob Halpin & Mak Chan

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 13 2006

CITY OF BURIEN

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Signed



Marco Spani

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

*Karl & Nancy Kaseburg*  
Karl & Nancy Kaseburg

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

Arden Leffler

A handwritten signature in black ink, appearing to read "Arden Leffler", written over a horizontal line.

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

A handwritten signature in black ink that reads "David M. Stout". The signature is written in a cursive style with a large initial "D".

David Stout

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

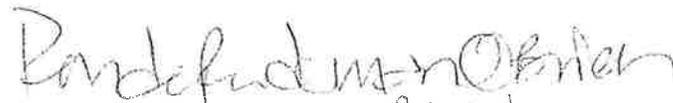
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Signed



Terrence O'Brien & Ronda Ruderman O'Brien

4/12/10

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

Linda Balabuch

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

  
Harold Kitson

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

W Chinn

A handwritten signature in cursive script, appearing to read "W Chinn", written over the printed name.

To: Burien City Council

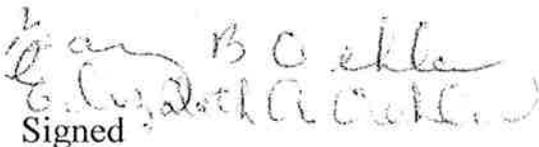
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Signed

Gary & Elizabeth Oehler  
12423 Standby Ln SW  
Burien WA 98146

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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Signed

  
Theodore & Ester Frey

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

A handwritten signature in cursive script that reads "S.W. Davis". The signature is written in dark ink and is positioned above the printed name "Davis Home".

Davis Home

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

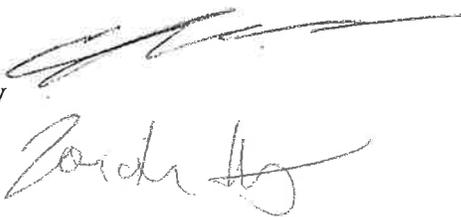
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Signed

Jonathan & Romanova Hartley

A handwritten signature in black ink, appearing to read "Jonathan & Romanova Hartley", written over the printed name.

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

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*William Halstead*

Signed

William Halstead

To: Burien City Council

400 SW 152nd St  
Suite 300  
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Signed

Micheal Steiner

A handwritten signature in black ink, appearing to read 'Micheal Steiner', with a stylized, sweeping flourish at the end.

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
CITY OF BURIEN

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Signed



Asher & Stacey Bearman

—To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

Craig & Nicole Ueland

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED  
APR 19 2016  
CITY OF BURIEN

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Signed

Lynn & Patricia Frary

Handwritten signatures of Lynn and Patricia Frary in cursive script.

RECEIVED

APR 11 2011

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

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Signed

Carolyn Ablott



To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 19 2010

CITY OF BURIEN

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Signed,

  
Point House LLC

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

6 April 2010

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

At the May 3 Burien City Council meeting, City staff provided an overview of the state SMP guidelines and a recommended plan forward. Critical information regarding the protection of private property goals of the SMA/SMP were omitted from the staff presentation.

The intent of this letter is to provide some information regarding the private property element from the Washington State SMP and RCW 90.58 (entitled Shoreline Management Act of 1971) to supplement the staff presentation and to address what appears to be an ongoing pattern of data bias in the staff provided information.

Attached below are excerpts from the Shoreline Master Programs (SMP)/Guidelines/Wa State Dept of Ecology Website.  
<http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>

The first set of references appears to be the source material for the initial slide provided by staff at the May 3 council meeting.

### **WAC 173-26-181 Special Policy Goals of the Act and Guidelines for Shorelines of State-Wide Significance.**

In accordance with RCW 90.58.020, the "department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;

(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.”

Summary listing of additional references regarding the Public aspect of the State SMP are listed below. The full text is provided at the end of this letter

(b) The utilization of shorelines and the waters they encompass for public access and recreation. **(RCW 90.58.020 & RCW 90.58.100:**

(c) Protection and restoration of the ecological functions of shoreline natural resources. **(RCW 90.58.020)**

**Points that were provided in the staff briefing emphasized the Public aspect of the plan but omitted any reference to the Private aspect of the program. These references are provided below: (emphasis is mine)**

**(h) Recognizing and protecting private property rights.**

**RCW 90.58.020:**

“The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership;...and, therefore coordinated planning is necessary...while, at the same time, recognizing and protecting private rights consistent with the public interest.”

**(i) Preferential accommodation of single family uses.**

**RCW 90.58.020:**

“Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures...”

**RCW 90.58.100:**

Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 9 of 100

“(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.”

What I find disturbing about the private aspect missing from the May 3 presentation is that there is the increasing appearance of intentional omissions of data that are clearly relevant to the SMP issues in city staff presentations and responses to questions asked by either City Council, the Planning Commission, and /or comments made in public forums, or releases.

The staff’s presentation to the Council gave the impression that the intent of the SMP is strictly public and environmentally orientated and completely **ignored the State’s private protection guidelines.**

Examples of what I consider to be other omissions of pertinent data are provided as follows:

- 1) Commissioner Clingan asked staff at one of the Planning Commission meetings for a clarification on the impact of not allowing appurtenant structures waterwards of the primary structure. The response provided by staff indicated that this regulation only applied to construction, which alleviated Comm. Clingan's concern that the new language would negatively impact existing property owners. The language, provided below, clearly includes "**OR EXTERIOR ALTERATIONS**". There is a **huge** difference in implication to property owners between new construction vs exterior alterations. Exterior alteration could include exterior painting, re-roofing, siding replacement, or other normal maintenance functions. Proposed BMC 20.30.095 would appear to force existing property owners to make a choice between primary structure exterior maintenance (or to be legally permitted) or removal of their waterward appurtenant structures. The staff response failed to address this rather large nuance.

Here is what the regulation really says: (emphasis is mine again)

#### **20.30.095 Residential Development**

Single family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. **Residential development shall mean the construction or exterior alteration of one or more buildings, structures or portions thereof** which are designed for and used to provide a place of abode for human beings including one and two family detached dwellings, multi-family residences, townhouses and condominiums, together with appurtenances and accessory structures.

Item g. below is a subset of 20.30.095 above

**g. Accessory structures and Appurtenances.** Accessory structures and appurtenances must be proportional in size and purpose to the residence and compatible with onsite and adjacent structures, uses and natural features. **Accessory structures and appurtenances that are not water-dependent are not permitted waterward of the principal residence unless clearly water-dependent** (buoys, docks and floats) and used for recreational or personal use. Except for fences less than 6 feet high, accessory and appurtenant structures shall not be located within shoreline buffers or riparian buffer setbacks to assure that buffer integrity is maintained.

It should be noted, the language stating that "Accessory structures and appurtenances that are not water-dependent are not permitted waterward of the principal residence" was **added subsequent** to the SAC recommendation by the Planning Commission. This was not a SAC or State requirement.

- 2) Staff has gone on record a number of times declaring that redefining existing properties does not make properties unbuildable. An example, from a City of Burien FAQ sheet, is provided below: (the question is bolded, the staff response is the "A." item)

**11. Are there limits on repairing houses, fences, bulkheads, docks or other structures?**

A: Provisions in state law allow for the repair and maintenance of existing, lawfully constructed structures. State shoreline guidelines allow for the repair and maintenance of existing structures, **subject to any building requirements imposed separately by local jurisdictions**

(FAQ Rev. date 3/10/2010) R:\PLADA\VID\Shorelines\PublicOutReach\SHORELINE MASTER PROGRAM FAQ FINAL.do

This is another example of a truthful, but partial response. The requirements being imposed by the local jurisdiction are the issue driving this whole problem and the above response downplays any significance of that. It is the local jurisdiction changes that are being imposed that apply the limits on repairing our properties (ref 20.30.095 above).

Another example from the same FAQ

**14. Can I replace or repair my existing bulkhead?**

A: Yes. Existing bulkheads may be replaced with a similar structure if the new structure does not extend toward the water. Repair is also allowed if the proposed repair is comparable to the original condition including factors such as its size, shape, configuration, location and external appearance.

The actual regulations says:

**20.30.070 Bulkheads and Other Shoreline Stabilization Structures**

An existing shoreline stabilization structure may be replaced with a similar structure if the following apply:

- i. The existing structure can no longer adequately serve its purpose of stabilizing the shoreline to protect the *primary structure*

Source: Planning Commission Draft IV-19 3/30/2010

This is another example of a partial, and potentially misleading, response from staff. Per the regulation, bulkheads can only be repaired to protect primary structure, not appurtenances or property.

**3) Public "Open House" meetings**

Staff stated that public meetings were held, along w/ breakout teams, etc. Again, a true statement, however the nature of those meetings were significantly different than the output from the SAC and Planning Commission.

Items like "you're house will be reclassified non-conforming, you have to re-vegetate your property if you want to rebuild/remodel/etc, or you can only rebuild your bulkhead to protect primary residence, not appurtenances. Things that were presented were items like :recommended buoy configurations, preferred native plants for our locations, and classification of the beach areas into different reaches. As one of my neighbors so aptly stated to me after the Gregory Heights open house, " I just came to make sure the City isn't trying to f@#! us over, looks like it will be OK." In the end those meetings resulted in the shoreline property owners dropping their guard with the assumption that the SMP revision was just an administrative process w/ no real impact. How wrong could we have been?

I have attended the majority of the public open house meetings, the planning committee meetings, and City Council meetings related to the SMP, and these are just a few examples of incomplete or misleading responses that I have observed. I believe the actual, or appearance this kind of activity, whether intentional or not, will drive more of a wedge between property owners and the City on this important SMP issue. I am not aware of any of the property owners that are against protecting the environment, and am hoping we can get to some honest roundtable discussions to address workable solutions to the issues before us. The devil is truly in the details here, and we cannot afford to gloss over relevant points that have significant implications.

Sincerely,

Andrew Ryan

#### Additional Reference Material

Full text of additional references regarding the Public aspect of the State SMP are listed below.

#### **(b) The utilization of shorelines and the waters they encompass for public access and recreation.**

##### **RCW 90.58.020:**

“[T]he public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.

“Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for...development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.”

##### **RCW 90.58.100:**

“(2) The master programs shall include, when appropriate, the following:

(b) A public access element making provisions for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;...”

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.”

#### **(c) Protection and restoration of the ecological functions of shoreline natural resources.**

##### **RCW 90.58.020:**

“The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization protection, restoration, and preservation.”

“This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life...”

“To this end uses shall be preferred which are consistent with the control of pollution and prevention of damage to the natural environment.”

“Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area....”

Burien Washington  
April 12, 2010

Burien City Council  
400 SW 152nd St  
Burien WA 98166

We would like to thank the Council for their clear commitment to working together and with the community to continue the work to develop an update to Burien's Shoreline Master Program that we can all be proud of. We are grateful that the Council recognizes that many of the city's citizens have devoted a considerable effort to attempt to understand the SMA, the SMP guidelines, the Burien draft Update, and the current condition of our Shoreline. We appreciate that you recognize the complexity of this task and that you have committed yourselves to a thorough understanding of the issues.

We heard that many of the counsellors favor adding public forums to the schedule and we are grateful for their consideration of this. I listened with particular interest to your discussion of the "SMP 101" to be held on May 3 and of the June 14 meeting which I believe will include expert advice from a number of sources. We are in the process of assembling a small group of experts who can appear and speak to the core issues. We would be pleased to make them available to you and we request at least 30 minutes at one or both of these meetings so that they might do so.

We recognize that there is some concern about the role of lawyers in this process. As we stated last week, we believe it is very important that you direct the new City attorney to be fully involved in the crafting of this Document. We would certainly welcome his presence at every meeting. In a similar fashion we believe that our attorneys, a prominent team of Land Use lawyers with specific experience in SMA and SMP issues, can add a great deal of value to this process and can help to craft a document that minimizes the potential for future costs and risks to the city and its citizens. However we would be happy to work with you to structure the overall format of the presentations, the parties who will attend, and the role they are playing at the meeting.

Thank you for your time.

Respectfully,

*Michael D. Noakes*

Michael D. Noakes  
President Burien Marine Homeowners Association

**Lisa Clausen**

---

om: Public Council Inbox  
ent: Monday, April 12, 2010 3:11 PM  
To: 'Ryan, Andrew F'  
Subject: RE: SMP Vegetation information

Thank you for cc'ing the Burien City Council on your message. It will be included in the Correspondence for the Record for an upcoming Council meeting.

Lisa Clausen  
City Manager's Office

-----Original Message-----

From: Ryan, Andrew F [mailto:andrew.f.ryan@boeing.com]  
Sent: Monday, April 12, 2010 9:58 AM  
To: David Johanson  
Cc: Mike Martin; Scott Greenberg; Public Council Inbox  
Subject: RE: SMP Vegetation information

David,

Thank you for your timely and detailed response to my questions regarding proposed vegetation regulations in the draft SMP. I appreciate the difficulty in trying to combine rules, flexibility, and clarification in a written document but it does seem odd to me to write regulations and then have to create informational handouts after the fact to translate them into "common terms". It also bothers me that the City's overwhelming assumption here seems to be that I want to somehow degrade all the vegetation on my property and therefore feel compelled to regulate my actions. This is far from the truth. One of the reasons I purchased my lot, and maintain it as I do, was for all the greenery and vegetation, and privacy it provides. As stated before, I find it unbelievable that I need to talk w/ vegetation management experts (at my private expense) or city planners to trim a few branches (or noxious weeds) that over the course of time block passageway or view. Hopefully we will be able to dialogue and resolve these and other SMP issues in future City Council SMP meetings.

Again, thank you for your time and effort on this

Sincerely  
Andrew Ryan

CFR: 04/26/10

RECEIVED

APR 17 2010

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

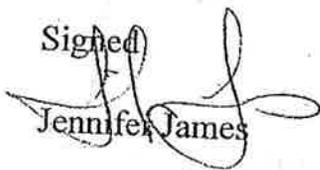
Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

  
Jennifer James

you are relying on bad information. The Puget Sound Keepers Alliance reports that bulkheads are not the issue. The core problem is run-off from roads, etc. of pollutants. This Shoreline Master plan is a sledge hammer that will not improve the →

CFTR: 04/26/10

Sand. It was written, according to a member of the Planning Commission as a way to "punish" the wealthy owners of waterfront. Appraisers estimate that this will reduce land values along Maplewild SW by 50% - thus the tax base for no positive - saving the Sand - income

RECEIVED

APR 16 2010

CITY OF BURIEN

To The Burién City Council  
To The Burién Planning Commission

✓ To David Johanson

To Scott Greenberg

April 15, 2010

At the Planning Commission meeting of March 30, 2010, The Shoreline Master Plan Draft was voted on by the Commissioners and approved to be sent out to the City Council. At the end of that meeting, I asked the question as to whether the Technical Documents (Shoreline Inventory, Shoreline Restoration, Cumulative Impacts Analysis, Shoreline Analysis and Characterization) had been corrected and were available to the public. Joe Fitzgibbon told me that those documents would be discussed after the meeting ended. The meeting was ended and no discussion followed on the documents.

As two of the Planning Commissioners (Rachel Pizarro and Janet Shull) were going out the door, I asked them about the Technical Documents. Both of them responded that they did not know what I was talking about and I should speak to Joe Fitzgibbon (chair) about them. I went over to the front desk and asked Joe Fitzgibbon about when the corrected Technical Documents would be available to the public. He said that he did not understand. I told him that these documents were the Appendices to the SMP. He then told me he would give me his copy and tried to give me Appendix 8-C. Again I said that was not what I was speaking about. I was talking about the four baseline Technical Documents. His response was that he did not know what they were and that I would have to talk with David Johanson (city staff member) about them.

I stepped over to speak with David Johanson. I asked him when the corrected Technical Documents would be available to the public. He told me that they had not been completed. David's response was that the city staff had been busy making the corrections in the SMP draft and did not have time to correct the Technical Documents. I asked when they would be ready and he said that he could not say. Again I requested that the documents be ready so that the public could review them before the SMP draft was given to the City Council. I stated that I thought they were germane to the SMP draft as they are the foundation to the SMP. He agreed with me but again said he did not know when they would be corrected.

My Concerns:

1. At least three members of the Planning Commission had no idea of what the Technical Documents were and how they related to the SMP,
2. Nicole Faghin from Reid Middleton told them that they did not even need to be bothered with these documents,
3. The flow chart in the SMP draft on page I-4 identifies the Technical Documents but does not correctly indicate how these documents are related to the SMP draft,

4. The four Technical Documents are the foundation/baseline that the SMP is to be built upon. They are supposed to contain the current/best available science about these shoreline areas and they are supposed to contain the information by which "no net loss" is measured against for the shoreline areas. These documents create the baseline measure for the SMP. Additionally when the SMP is adopted, they become the Critical Areas Ordinance for these shoreline areas. The original four documents contained errors,

5. The four corrected Technical Documents are still not available for the public to view and they are not available for the City Council to review. Additionally, the original Cumulative Impacts Analysis has never been online for the public to review and,

6. These four corrected documents should be read before a review of the SMP draft is read and reviewed by the Council in order to understand the SMP draft.

While I and other citizens repeatedly submitted both oral and written comments about these documents, the Planning Commission paid no attention to comments about these documents. At least three of the five members did not even know what the Technical Documents were.

I would like to be notified when these corrected documents will be made available to the public. The public cannot comment intelligently on what it has not been given the opportunity to review.

Lastly, I am requesting that this letter be made a part of the city's SMP file.

Sincerely,  
Chestine Edgar

**Phyllis Dickey**

---

**om:** Public Council Inbox  
**Sent:** Friday, April 16, 2010 8:54 AM  
**To:** 'Burien Shoreline'  
**Cc:** David Johanson  
**Subject:** RE: Shoreline Master Plan/ BULKHEADS

Dear Mr. Zimmerman,

Thank you for your email. The email and attached letter will be included in the next Council agenda packet as Correspondence for the Record.

Phyllis Dickey

---

**From:** Burien Shoreline [mailto:burienshoreline@yahoo.com]  
**Sent:** Thursday, April 15, 2010 1:22 PM  
**To:** Public Council Inbox  
**Subject:** Shoreline Master Plan/ BULKHEADS

Attached is a letter for the City Council regarding the Shoreline Master Plan and currently bulkhead language. Please include it in the public record. Thank you.

John Zimmerman

CFTR: 4/26/10

Dear Council Members,

March 29<sup>th</sup>, 2010

I would like to express my confusion and concern about the current language in the Shoreline Master Plan as relates to bulkheads. My research indicates that the current language is needlessly prohibitive and exceeds the Washington's Shoreline Master Act, the law upon which the Shoreline Master Program is based.

The Shoreline Master Act specifically requires that master programs include language that provides for "the protection of single family residences and *appurtenant structures* against damage or loss due to erosion." RCW 90.58.100

Also, WAC 173-26-231(2)(a) states, that shoreline modification is allowed where there is a need to protect "*a legally existing shoreline use that is in danger of loss or substantial damage...*"

Burien's master program contains no language with regard to protecting "appurtenant structures" or "legally existing uses" and we urge you to correct it.

Current draft language puts forth soft shoreline stabilization as the remedy to an eroding shoreline. However adopting these methods as a prescriptive measure for shoreline stabilization and ecological restoration is doomed for failure because there are simply too many circumstances where these methods are not effective. In fact, the Department of Ecology concludes this in its own publication "**Alternative Bank Protection Methods on Puget Sound Shoreline**" (publication 00-06-012). The authors state that alternative erosion techniques are new, experimental, and have not been monitored sufficiently to firmly conclude anything close to documented science, nor success.

Excerpts from the DOE's **Alternative Bank Protection Methods on Puget Sound Shoreline**" (publication 00-06-012)

Preface: PG v

"Unfortunately, little technical guidance is available to those interested in recommending, designing, or constructing alternative erosion control measures and no formal demonstration projects exist. Numerous projects have been carried out, however, but they have received no systematic review or documentation. Hugh Shipman, Department of Ecology"

Project Performance PG 123

"Most of the projects examined in this report were built recently and there has been too little time to allow assessment of their success. In addition, few are being actively monitored (see previous section), so there is little information from which to evaluate performance, other than qualitative observations of distinct features such as erosion scarps, exposed anchor cables, or movement of placed logs. With

beach nourishment projects we are finding that success is relative -- for example, a project may be viewed as successful in addressing past erosion, yet fail to achieve biological restoration. Also, standards of success vary. Most nourishment projects gradually erode and generally require renourishment. Some individuals accept this as part of the design whereas others see this as an indication of a project that cannot be naturally sustained. Some soft-bank projects succeed locally in reducing the biological impacts that might have resulted from a traditional seawall, yet do not address more systemic ecological concerns, such as the long-term supply of sediment to the littoral system. **Perhaps in an area of innovation and experimentation such as alternative erosion control, we should view as successful those projects where the documentation of the project is sufficiently rigorous so that we can learn from our mistakes.**"

#### Conclusions PG 124

"Few of these projects have been in existence long enough for final conclusions to be drawn about their success."

"Finally, this report should be used with caution. The inclusion of a shoreline project here is neither an endorsement of the design for application elsewhere nor a guarantee of a project's likely success."

"The fact that alternatives may be applicable in some situations does not mean that an alternative is appropriate in all situations. Many of the measures described in this report entail significant modifications of the shoreline and of natural shoreline processes. Many will require ongoing maintenance and few guarantee that a property will never experience erosion or storm damage."

With the DOE freely (and frequently) stating that they believe alternative shoreline stabilization methods to be an "area of experimentation" with "no systematic review or documentation", it is unconscionable and clearly unacceptable to create prohibitive bulkhead regulation based upon this science.

The DOE concludes that they want the opportunity to "*learn from their mistakes*". As representative members of our community we urge you to stand opposed to this outrageous and irresponsible guinea pig experimentation on private property. We urge you to insist that city staff provide clearly substantiated science for any prohibitive bulkhead regulation that is proposed. We urge you to insist that DOE "*learn from their mistakes*" on *public* land, monitor long-term results on *public* land, document their mistakes on *public* land, and then create designs, implementation techniques and standards for residential application that actually work and are fully supported by "*documentation that is sufficiently rigorous*". Then, *and only then* should changes to current bulkhead regulation be considered for *private* property. Anything less is negligent and will result in lost property values and expensive lawsuits.

One such Washington lawsuit that illustrates this situation is the Luhrs vs. Whatcom County. In this ten year long case, a homeowner's shoreline property has suffered severe erosion due to wave action. Whatcom county regulation only allowed for soft shore stabilization, which has been dangerously insufficient and ineffective for the circumstances. Still, the city refused the resident's bulkhead permit request on the grounds that bulkheads were simply prohibited. In an unpublished ruling, the court found that government regulation that prohibits a homeowner from being able to protect their property from erosion or damage can constitute a "government taking", with all financial reimbursements applicable. It is the very act of mandating alternative stabilization methods that **do not** work while prohibiting methods that **do** work that has been deemed a "government taking". I urge you to review this ongoing case.

As City Council members it is your responsibility to ensure that the citizens of Burien are treated fairly and that tax dollars are being spent wisely. That means ensuring that citizens are provided with conclusive evidence that alternative stabilization methods actually work, that they are a proven no-net loss alternative to current methods, and that the scientific evidence will stand up in court. To be clear, DOE maintains, "little technical guidance is available to those interested in recommending, designing, or constructing alternative erosion control measures and no formal demonstration projects exist." Where some research has been done, DOE further states, "few are being actively monitored, so there is little information from which to evaluate performance". In recognition of this gross lack of science, as well as Attorney General Rob McKenna's Advisory Memorandum to state agencies and local governments entitled, "Avoiding Unconstitutional Takings of Private Property"- the Shoreline Management Act and the WAC *require* that SMP language provide for the protection of "appurtenant structures" and "legally existing uses, against damage or loss due to erosion".

We believe that due to 1) the "experimental" nature of alternative shoreline stabilization methods, 2) the lack of "systematic review or documentation", as well as the 3) clearly stated Shoreline Master Act laws, and 4) the ongoing litigation in this area, there is overwhelming reason for the City Council to mandate that SMP regulations allow all shoreline property owners to replace existing shoreline stabilization with a similar structure in order to protect "appurtenant structures", to protect "legally existing uses", and most importantly to protect property values and the substantial revenue that it creates for the entire community of Burien.

Thank you,  
John Zimmerman  
Seahurst, Wa. 98166

RECEIVED

APR 19 2010

CITY OF BURIEN

To: Burien City Council  
400 S.W. 152<sup>nd</sup> Street  
Burien, WA 98166

On behalf of: Arlene Conover  
12051 30<sup>th</sup> Avenue S.W.  
Burien, WA 98146

From: William Rose (Arlene's brother)\  
102 Park Avenue  
Cranston, RI 02905  
401-467-4803  
suebillrose@verizon.net

Date: April 17, 2010

Subj: Proposed Shoreline Master Plan update

I am the brother of Arlene Conover, who resides on waterfront property in Burien. She has lived there for over 50 years, in the house that she and her late husband Joseph built 40 years ago. I helped with the building during the summer of 1965, right after I graduated from Woodrow Wilson High School in Tacoma. Arlene is elderly and lives there with 24/7 live-in care. I reside in Cranston, RI where I have lived for 22 years and am a professor at Connecticut College.

I am writing on her behalf because I am the only living member of her immediate family, and I have Durable Power of Attorney for her interests. One day, hopefully far in the future, I will inherit her home and eventually retire to live there with my wife. Therefore I have a direct personal and financial interest in her property and the rules governing her property.

I am sending this letter to insist that the City Council seek public comment for at least 90 days and conduct at three open public forums on the Shoreline Master Program update.

I have read all the information on this plan that is available through the website, and I strongly disagree with a non-conforming designation being place on this residence. I very much wish to avoid the significant problems caused by the non-conforming designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty in selling.

I respectfully request that you leave existing structures in their current designation of "conforming" and that you not restrict and compromise the property boundaries with new setbacks or buffer zones.

Sincerely,



CFTR:04/26/10

To: Burien City Council

RECEIVED

400 SW 152nd St  
Suite 300  
Burien, WA 98166

APR 20 2010

CITY OF BURIEN

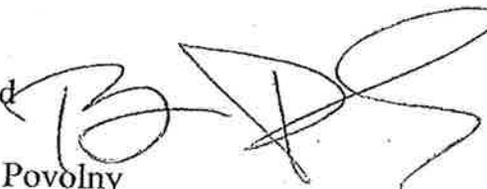
Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

  
Brian Povolny

PS - This is going to  
cause me financial  
ruin !!

CFTR: 04/26/10

RECEIVED

To: Burien City Council

APR 21 2016

400 SW 152nd St  
Suite 300  
Burien, WA 98166

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

*Lance Puckett / Ardys Puckett*

Lance & Ardys Puckett

CTR:05/03/16

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 30 2010

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate public comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

  
John Ester

## Conspiracy Theory and the SMP –

As I was unable to complete my public comment at the April 26 City Council Meeting w/i the 3 minute limit, I am providing a written draft of what I intended to discuss.

I was going to address more specific issues of the SMP like Bulkheads or non-conformity, but since SMP 101 starts next week, thought I would have some fun w/ conspiracy theory discussion instead

Conspiracy Theories always make fun reading or good movie viewing. They tend to take a series of seemingly unrelated events that when strung together give you an improbable but possible scenario that you just can't quite deny.

In my opinion, the SMP can be looked at that way.

SMP has 2 stated goals

1<sup>st</sup> is No net loss of environmental function (or no less than the status quo)

- 1) How does making our houses non-conforming contribute to no net loss?
- 2) How does not being able to rebuild our bulkheads to protect our appurtenances (contrary to state law by the way) maintain the status quo?
- 3) How does limiting catastrophic rebuilds to 75% of appraised structure value, which is also more restrictive than state requirements, help the environment
- 4) Or not be able to have our appurtenant structures waterwards of our primary dwellings if we make exterior modifications to our primary structures, conform to no net loss?

None of those regulations appear consistent w/ maintaining the status quo

But the other goal of the SMP is to create public access. This is where the conspiracy theory argument comes into play. Few to none of the new SMP regulations maintain the status quo of no net loss, but a lot of them could contribute to the long term achievement of creating more public access.

Zoning our residences non-conforming, and denying our ability to to rebuild bulkheads has the potential of moving setback requirements back so far as to make lots more difficult or impossible to rebuild on. Inability to protect appurtenances, or even primary structures, if potential erosion damage can be avoided for three years, definitely hurts our property usage and values, and doesn't seem consistent with no net loss. Loss of one bulkhead (I know of 5 failures in the 10 years I've lived here) can start a chain reaction of bulkhead failures. On the North side of the point, over the long road, a potential string of events resulting from either major storm, or catastrophic event, could easily create a scenario where property owners utility diminishes, property values fall, and properties could get vacated. Examples of these types of events have occurred in both Whatcom

and Jefferson Counties. As the houses disappear, the public view access from the Indian Trail increases. With diminished property values, it will be easier for the city to swoop in and buy additional shoreline, which because of new vegetation requirements, will be mostly natural like Eagle Landing. Then, on the North side, the city will have accomplished the goal of both physical and visual access

On the southern side, along SW 172<sup>nd</sup>, again bulkheads can not be protected to save appurtenances, but can be rebuilt to save the road. Not too difficult to see a scenario where a bad southerly takes out all the private structures but then see the city step in to save the road, put in the sidewalk that many believe the city has always wanted, and now both physical & visual access with an "Alki South" is created. If mother nature doesn't create the solution, proposed regulation BMC 20.30.095 will. This little gem only allows water related appurtenances waterwards of the primary residence. Carports, garages, cabanas are all restricted. Since we will all be non-conforming, it appears that residents get a choice of either performing development or exterior modifications to their house or removing their appurtenances if they have cabanas or carports waterwards of their primary structure. Not sure how that is no net loss of ecological function but it certainly provides the opportunity for the city to get desired public view access if they can't get the physical access. Losing the carports and associated parking also creates a conflict w/ BMC 19.20 which requires 2 off-street parking spots per single family dwelling. I don't know how that all could play out, but I'm going to go out on a limb and guess it's not favorable to the property owners.

And then there is the Shoreline Advisory Committee, the source of the original draft – not a lot of property owners were represented, but a lot of individuals w/ special interest public access agendas appear to have been.

These are just a few examples of how the SMP seems to lean heavily toward creating more public access at the property owner's expense rather than maintaining the no net loss goal. Far fetched, maybe, but that's the kind of stuff that conspiracy theory is all about.

I look forward to being able to work with the Burien City Council to help address these issues over the next few months

Thank you

Andy Ryan

RECEIVED

APR 28 2010

CITY OF BURIEN

Burien City Council

April 2, 2010

Dear Honorable City Council Members,

As waterfront property owners on Burien's shoreline, we recently learned about the possibility of changes resulting from the Shoreline Master Program (SMP.) We have concerns, specifically with regard to safety, if citizens are allowed to access the beach through our property, and also regarding insurance and protection of our home.

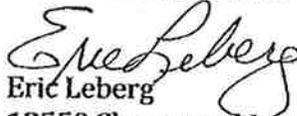
1. Access through our property goes via a steep concrete boat ramp, which is very slippery. If citizens, (including children) were to fall and injure themselves, would the City of Burien be assume costs of injuries and/or harm to these people?
2. Recently our neighbor had a stroke, and the first responders needed to come down our long driveway to provide emergency assistance. (She was incidentally the mother of King County Prosecutor Dan Satterberg.) Will provision be made so that emergency responders can have adequate access to our homes under such circumstances?
3. A neighbor's house burned down recently. Will adequate provisions be made so that the fire department can access our property without the parked cars blocking access, in the event of a similar incident? What are those provisions?
4. If we understand correctly, recommendations are being forwarded to the council changing the classification of our homes, which would make it difficult/impossible to insure, and possibly sell. Since we have invested our life earnings in this home as our primary support for retirement, what steps will Burien take to protect our investment from such changes?

For everyone's welfare, we request that you to provide specific answers to these important questions, or advise us how we can have these questions answered.

We personally encourage the public's use and preservation of our beautiful natural resources, and we also feel that everyone's safety should be paramount in any changes that occur. We look forward to your response.

Sincerely,

  
Marie Annette Brown

  
Eric Leberg  
12550 Shorewood Lane SW  
Burien, WA 98146

CFTR: 05/10/10  
PC: 04/27  
CC: Comm. Devel.  
City Attorney  
Fire Chief

  
Windermere  
Burien

April 27, 2010

RECEIVED

APR 27 2010

CITY OF BURIEN

Re: City of Burien SMP

To Whom It May Concern:

Upon review of the proposed City of Burien Shoreline Management Plan, we are very concerned that the Plan, in its current form, will have profound negative impacts on property values in Burien.

Specifically, the pieces of the Plan that:

- 1) Restrict grandfathered home footprints in the event of catastrophe for waterfront owners;
- 2) Establish greater waterside yard restrictions for waterfront owners, and;
- 3) Allow for greater public access on or near waterfront owner's parcels.

Generally speaking, these pieces of the Plan would lower waterfront and all property values in Burien from 0-40% dependant on location and condition.

Please contact us with any questions, and thank you for your attention to this matter.

Sincerely,



Chad Ohrt, Cyndi Ohrt, Matt Parker  
Windermere Real Estate South Inc  
401 SW 152<sup>nd</sup> St  
Burien, WA 98166  
206.244.5900  
[chadohrt@windermere.com](mailto:chadohrt@windermere.com), [mattparker@windermere.com](mailto:mattparker@windermere.com)

CFTR: 05/03/10

Windermere Real Estate/South, Inc.

401 S.W. 152nd Street • Seattle, Washington 98166 • 206/244-5900 • Fax 206/241-6837

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 28 2010

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

Wanda Golka & Kris Bolt

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 21 2010

CITY OF BURIEN

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

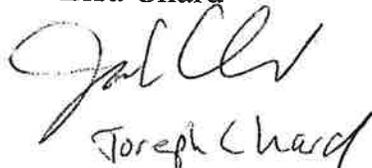
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Signed

Lisa Chard



Joseph Chard  
CFTR: 05/05/10

RECEIVED

APR 2 2010

CITY OF BURIEN

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council seek public comment for at least 90 days and conduct at least three open public forums on the Shoreline Master Program update.

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I request that you leave existing structures in their current designation of "conforming" and that you not restrict and compromise my property boundaries with new setbacks or buffer zones.

Signed

Ray Armstrong



CFR-05/03/10

To: Burien City Council

400 SW 152nd St  
Suite 300  
Burien, WA 98166

RECEIVED

APR 27 2010

CITY OF BURIEN

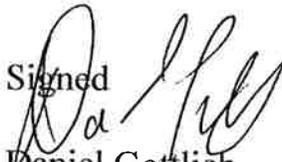
Subject: proposed Shoreline Master Program update

I am sending this to insist that the City Council facilitate comment for at least 180 days, conduct at least three public hearings on, and support changes to the current Shoreline Master Program update.

I strongly disagree with the non-conforming designation that has been placed on my home and wish to avoid the significant problems caused by this designation regarding increases in restrictions and costs for renovations and repair, the loss of property value, and difficulty of sale.

I insist that you leave existing structures in their current designation of "conforming" and that you do not introduce any new setbacks or buffer zones.

Signed

  
Daniel Gottlieb

LFCC: 05/03/10