



## PLANNING COMMISSION AGENDA

February 9, 2010, 7:00 p.m.

Burien City Hall, **Miller Creek Room**

400 SW 152<sup>nd</sup> Street, **3<sup>rd</sup> Floor**

Burien, Washington 98166

### I. ROLL CALL

### II. AGENDA CONFIRMATION

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

**IV. APPROVAL OF  
MINUTES** January 26, 2010

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

**VI. NEW BUSINESS** a. None

### VII. PLANNING COMMISSION COMMUNICATIONS

### VIII. DIRECTOR'S REPORT

### IX. ADJOURNMENT

#### Future Agendas (Tentative)

February 23

- Discussion and Possible Recommendation: Shoreline Master Program Updates

March 9

- Discussion and Possible Recommendation: Shoreline Master Program Updates

Jim Clingan (Vice Chair)  
Rebecca McInteer

#### Planning Commissioners

Joe Fitzgibbon (Chair)  
Rachel Pizarro

Stacie Grage  
Janet Shull

*City of Burien*

BURIEN PLANNING COMMISSION MEETING

January 26, 2010

7:00 p.m.

Miller Creek Room, Burien City Hall

MINUTES

**Planning Commission Members Present:**

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

**Absent:**

None

**Others Present:**

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

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

**Agenda Confirmation**

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

**Public Comment**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

That concluded public comments.

### **Approval of Minutes**

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

### **Old Business**

#### *a. Discussion about Shoreline Master Program Update*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**New Business**

None

**Planning Commission Communications**

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

**Director's Report**

None

**Adjournment**

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

Approved: \_\_\_\_\_

\_\_\_\_\_  
Joe Fitzgibbon, chair  
Planning Commission

DRAFT

**CITY OF BURIEN, WASHINGTON  
MEMORANDUM**

**DATE:** February 4, 2010  
**TO:** Planning Commission  
**FROM:** David Johanson, AICP, Senior Planner  
**SUBJECT:** Discussion regarding Shoreline Master Program Updates.

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**PURPOSE/REQUIRED ACTION:**

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

The SMP update team has prepared the beginnings of a comment response table. The draft table is intended to be a tool that the Planning Commission can use to facilitate discussions of the issues raised during the public hearing and subsequent public comment. Please note this is a DRAFT and we will continue to research and prepare responses to comments received.

Staff and the consultant recommend that we proceed through the comment summary in order. However we are open to other methods of review that meet the needs of the Planning Commission.

**BACKGROUND:**

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

At your January 26, 2010 meeting a majority of the time was devoted to receiving additional public comments. Following the public comment, staff presented information requested by the Planning Commission regarding non-conformances, a comparison of existing and proposed buffers and setbacks, and an overview of existing critical area buffers and setbacks that also apply in shoreline areas

**PLANNING COMMISSION ACTION**

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

**NEXT STEPS**

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

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

**Attachments:**

**Written Public Comments**  
**Shoreline Master Program Public Comment Summary, working Draft 2/4/2010**

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

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JAN 2 2010

CITY OF BURIEN

January 21, 2010

To: Burien City Council  
Burien Planning Commission

Re: Proposed Shoreline Management Plan

To Whom It May Concern:

I am a property owner, resident, and tax-payer on SW 172<sup>nd</sup> St. I am writing to express my concerns about the proposed Shoreline Management Plan. Since the plan directly references and impacts Lake Burien and the Three Tree Point area, residents of those areas are understandably concerned about any plan that involves changes that could negatively impact private property or the safety of residents. While everyone agrees that protection of the shoreline's ecology is a worthy goal, there are concerns about the potential negative impact that increasing public access to these shorelines may have.

One of my objections to the document is that there is no assurance that the people directly affected by this plan will be involved in decisions and/or changes that occur as a result of the SMP. There needs to be language in the document that specifically assures that the residents directly affected by this plan (Lake Burien and Three Tree Point residents) will be involved in decision making and implementation of any changes that occur in their communities because of the SMP. This means that the City of Burien needs to provide multiple opportunities for residents to get their concerns on the public record and to be directly involved in decision-making about issues that may affect their welfare, safety, and property rights. In addition, there needs to be some language in the document that assures that restrictions placed on property owners related to building or construction in the affected areas also apply equally to the City. If indeed the restrictions are in place for the good of the shoreline, then they apply to everyone, including the City of Burien.

Thank you for your consideration of my concerns.



Carol Jacobson  
3324 SW 172<sup>nd</sup> St.  
Burien, WA 98166  
(206) 246-8700

CFTB: 02/01/10

# Kathi Skarbo

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

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JAN 21 2010

CITY OF BURIEN

January 20, 2010

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

Dear Commissioners:

I wish to convey to you some of my thoughts regarding the draft Shoreline Master Program (SMP) update.

My understanding is that the overarching purpose of the SMP is to insure “no net loss of shoreline ecological functions and processes...” (Section 20.20.005 General Goals and Policies). In other words, to preserve the environment surrounding water bodies and shorelands. I fail to see how increasing the amount of public access will preserve or improve the ecology of Lake Burien or Puget Sound. It seems to me that more public access would do the opposite of that. I was pleased that questions regarding the impact to the environment were already brought up during the discussion period at your meeting on January 12, 2010. I hope you will actively pursue this issue. I believe that using common sense to evaluate some of the provisions in the draft SMP relating to public access will lead you to ask more questions about these issues, in relation to providing maintenance and security, and you will determine that public access will negatively impact the environment of the shoreline.

When I look at the process for updating this SMP, it seems like the Citizens Advisory Committee has tried to subvert the intent of the SMP. A couple of citizens who do not reside in Burien were appointed to the committee and concentrated on advancing the public access issue. It is understandable that people would like to access the water, and Burien already has a wonderful location to do so – Seahurst Park. Apparently this wasn't good enough for these citizens and so they focused on getting public access to Lake Burien. It astounds me that the negative impacts of this access were not seriously considered or studied – the negative impacts to both the environment and the property owners residing on the lake. The water quality of the lake is currently very good and is monitored well and maintained by the residents. I would hate to see one irresponsible fisherman ruin that by bringing milfoil to Lake Burien on a boat that's been on Lake Washington or a number of other local lakes.

I urge you to re-evaluate the sections of the draft SMP relating to public access, starting with section 20.20.015 of the goals, and to delete language that will lead to negative impacts to the ecological function of Lake Burien and Puget Sound.

Sincerely,



Kathi Skarbo

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JAN 25 2010

CITY OF BURIEN

Linda M. (Plein) Boscarine  
1600 S.W. 156<sup>th</sup> Street  
Burien, WA 98166

January 21, 2010

Members of the Planning Commission:

The Washington State Department of Ecology passed the Shoreline Management Act which establishes a broad policy directive giving preference to the shoreline uses.

The first use listed is to "protect the quality of water and the natural environment". Since this is the utmost goal let's examine this statement closely.

First, to protect the quality of water means to keep the quality at the same level or better. By allowing more people to use the lake, many foreign substances will be introduced into the water. Things such as milfoil from other lakes brought in on boats and fishing tackle will be added to the water. Looking at other public access areas nearby reveals no shortage of trash such as discarded food wrappers and used diapers, as well as deposits of fecal matter and urine from both humans and their pets.

This type of access is not protecting the quality of the water.

Furthermore the natural environment means leaving the reeds and cat tails for the resident and migratory ducks and birds. Natural means leaving the vegetation that is in place. Removing any of the plants will destroy the habitat of the animals. How can the destruction of the habitat be considered protection of the natural environment?

We already have public access at Seahurst Park. It even has rest rooms and public parking.

Please help us to protect our lake from human encroachment.

Sincerely,



Linda M. (Plein) Boscarine

RECEIVED

JAN 26 2010

CITY OF BURIEN

January 25, 2010

To: Burien City Council  
Burien Planning Commission  
Re: Proposed Shoreline Management Plan  
To Whom It May Concern:

We are property owners on SW 172<sup>nd</sup> St (Three Tree Point). We are very concerned about the proposed Shoreline Management Plan and how it would affect Lake Burien and the Three Tree Point area. The "Plan" involves changes that could negatively impact private property or the safety of residents. By increasing traffic ie: public access to the shorelines that are now privately owned, it appears the negatives far outweigh the positives.

We would assume the Shoreline Management Plan's ultimate goal would be to not do anything that puts this area at risk for property destruction, littering, vandalism and other crimes, as well to not jeopardize the integrity of the beach/shoreline. We have been told over and over by local law enforcement personnel that they don't have the manpower to address even the current issues in this community, where will we be when the issues multiply?

The City of Burien already has the large, beautiful, Seahurst Park, Eagles Landing, and at least 3 public access points to the TTP beach area. Why is there a need for more than those? The areas proposed would take large amounts of funding to develop and maintain for the proposed intent. (We are already maintaining and improving the above mentioned existing parks)

We are requesting, as THE TAX-PAYERS on this property affected, that the Shoreline Management Plan include language that assures that before any changes are made that affect our neighborhood communities (Lake Burien and Three Tree Point specifically, since they are at the greatest risk of being destroyed by irresponsible decisions), the residents of those areas must be given:

1. Notice of any specific plans that the City may already have and adequate opportunities to respond and express concerns about the impact of those plans on the community.
2. Opportunity to be involved in decisions affecting our communities BEFORE specific plans are made.
3. Opportunity to offer alternative ideas or suggestions to reduce the impact of any such plans on the residents of affected communities, their private property, and their safety and well-being.

In addition, the document should read clear, assuring that restrictions placed on property owners related to building or construction in the affected areas, apply equally to the City. If indeed the restrictions are in place for the good of the shoreline, then they apply to everyone, including the City of Burien.

Sincerely,  
Mark & Maria Ottolino  
3130 SW 172<sup>nd</sup> St.  
Burien, WA 98166  
(206) 433-1793

CFTR: 02/01/10

Don Warren,  
Lake Burien Shore Club President 2008-2010,  
Steward Lake Burien 2003-present  
15702 13<sup>th</sup> Ave SW  
Burien, WA 98166-2120  
January 26, 2010

RECEIVED  
JAN 26 2010  
CITY OF BURIEN

City of Burien  
Planning Commission  
Suite 300  
400 SW 152<sup>nd</sup> St  
Burien, WA 98166

RE: Public comment on deficiencies in present draft of SMP

Good evening,

As the Lake Steward for Lake Burien over the past 7 years, I am part of a tradition of care for the lake by the people most interested in its health and ongoing ecological viability sustained through low use rates. The position of Lake Steward has existed in the Shore Club for about 30 Years. The Shore Club has existed as a legal entity for more than 50 years. The Lake has been well cared for more than 100 years by private citizens with a long term commitment to assuring the ecological function of the lake and its shorelines.

Tonight I want to direct your attention to specific deficiencies in the present draft of the SMP that was submitted for your review in December, 2009. Generally, the document lacks any measured baseline against which anyone could reasonable assess changes good or bad for ANY reach in the City of Burien.

Please refer to the "Shoreline Inventory" in your binder as prepared by Grette Associates, LLC, revision dated 23 October 2008.

Section 1.2 Methodology – pg 1 .. This section paragraph one refers to supporting sources in Bibliography, Section 7 , Appendix A. In that Bibliography there are reference to a variety of sources realted to specifics in the Marine reaches. There is a stated lack of reference for Lake Burien reach. Lacking evidence of any and every kind is not a scientific baseline as required by law, practice, and precedent.

Section 1.4 Inventory Reaches – pg 2 . This section continues to exist with a typographical error for perimeter measurement of lake. The "miles" don't match the feet. And the feet are not known to be correct since source of the measurement is not cited. Evidence of lack of detail

Section 2.1, page 4, last paragraph and four bullets below it ... Statements indicate conflating the Marine and Freshwater reaches' conditions. Specifically they note in the fourth bullet .. "Contributing toxic chemicals and harmful organixc compounds to

nearshore waters and sediments." I challenge the document and ask for copies of the studies and methods by which they were conducted that resulted in the assessment for Lake Burien specifically and all reaches of Burien in General. Reference to Kerwin and Nelson 2000 is not sufficient for the Planning Commission. They do not have time to research all this. Further, by reference the 2000 study referred to is a rather general work for all the green/Duwamish watershed and most likely contains little detail of any specific location, instead treating with conditions generally throughout the watershed. Therefore the study is not useful as a baseline for MSP impacts assessment, control, or future abatement/redraft of the SMP.

Section 10.5, Reach LB (Lake Burien), first paragraph again refers to a perimeter that is in question as to actual length. .. then ... Third paragraph "Critical Areas" refers to "...there are no Priority Habitat and Species documented within Lake Burien".. So, I call your attention to both the phrasing and to the actual facts admitted in the paragraph; there are no documents at all on the wildlife, resident or migratory of Lake Burien. There are no documents for flora or fauna noted in this or any document associated with the SMP that are of any detail that would allow for baseline adjudication against future status and conditions. With the SMP lacking that for Lake Burien and really for all reaches since there is no location specific detail, the SMP is deficient and needs to be fixed thru evidentiary collection and documentation. Or the city can strike the focus on making highest priority for public access on untouched reaches. Instead I suggest the City reword the document to focus funds and energies on the largest of Burien's parks, Seahurst Park and others already providing public access to the sound.

Finally in section 10.5 page 28, Critical Areas, paragraph 2 .. "Lake Burien is not in the 100-year floodplain and there are no landslide or seismic hazards associated with the lake." .. therefore there is no reason at all to have any reference in the SMP to the weir at the outlet from Lake Burien on the Ruth Dykeman Children's Center property. Please see the section 20.30.030 FLOOD HAZARD REDUCTION, , sub 1-Policies, sub "f." .. Maintain outlet weir at Lake Burien .. to minimize the potential for flooding." Whoever wrote this section is completely uninterested in the Lake. There is no history of flooding on the Lake in the past 100+ years. There's no history of flooding since the weir existed, which was put in place to keep water in once the Lake lost inflow with provisioning of storm drains on roads around the lake in the mid 20<sup>th</sup> century. Further, the phrasing may lead the public to think the City has any rights at all to that installation and the property owned by Ruth Dykeman Children Center in which the weir exists. **Strike the list item "f." is the best correction here. There is no risk to city or private property owners. No risk to lake or ecology. No reason known to keep the item in. keepin it in does lead to risk for RDCC should public misinterpret who is to maintaint the weir. Rest assured tha Shore Club always has maintained it; it only requires vegetation removal which a fun neighborhood event and has never relied on city, county or state for it to be accomplished.**

Donald Warren  
January 26, 2010  
Page 3

Sincerely,

Don Warren



RECEIVED  
JAN 26 2010  
CITY OF BURIEN

Peter J. Eglick  
eglick@ekwlaw.com

January 26, 2010

*Via Facsimile and U.S. Mail*

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

Re: Notice of Appearance and Initial Comment by Counsel for Lake Burien Shore Club

Dear Planning Commission:

This office has been engaged to represent the Lake Burien Shore Club with regard to the treatment of Lake Burien in the proposed Burien SMP Amendments. This letter is submitted for the record to ensure that the Planning Commission does not pass the SMP Amendments forward to the City Council without revision of the manner in which Lake Burien is addressed in the draft currently before you.

As you know, Lake Burien is a very small body of water within the City, completely surrounded by private property. For almost a century, the property owners surrounding the lake have been careful stewards of its shores and water quality, protecting against commercial development and overloading of its carrying capacity. See, e.g., Turtle v. Fitchett, 156 Wash. 328, 287 Pac. 7 (1930) (Washington Supreme Court decision upholding objections to public use on Lake Burien shoreline, citing, inter alia, testimony of King County Health Officer that lake was too small a body of water to support proposed uses). Lake Burien Shore Club has for the past three decades gathered data and monitored the lake's water quality, as well as maintained the weir integral to its health. As a result, the lake supports waterfowl and wildlife populations in relative peace, considering its urban setting.

The proposed SMP revisions calling for public access to reaches such as Lake Burien that currently do not have it would jeopardize these many years of stability for the lake. This is particularly inappropriate because the proposed direction for public access is not supported by the scientific inquiry and data necessary to justify the proposal. The Shoreline Inventory and Characterization is little more than a description. There are no data or analysis of the lake, its water quality, and carrying capacity – nothing to support the apparent assumption that public access will do no harm and cause no net environmental loss.

EGLUCK KIKER WHITED PLLC

January 26, 2010

Page 2

SMP preparation is not just a matter of matching shoreline reaches with policies (for example, matching a lake with public access); it requires individualized analysis of the water body in question to determine whether the policy can be appropriately applied in the particular instance. See, e.g., <http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/Chapter7.pdf> (DOE SMP Handbook description of questions to ask and data to gather as part of Shoreline Inventory and Characterization). In light of the absence of such critical, required analysis with regard to Lake Burien, the proposed SMP revisions for it should be "DOA" in this Planning Commission and before the City.

The cardinal rule for physicians is, "First, do no harm." The same principle applies here. With a long-acknowledged fragility and a history of stability reinforced by neighborhood stewardship, any decision to set the City on a policy course toward public access must first be proven to be beneficial, rather than harmful. There is no such proof in the record before you. Therefore, the SMP provisions that would have the effect of setting a course toward public access on Lake Burien should be eliminated from the proposed SMP amendments.

Sincerely,

EGLUCK KIKER WHITED PLLC



Peter J. Eglick

Attorney for Lake Burien Shore Club

cc: Client

To: Burien Planning Commission  
From: Chestine Edgar  
Subject: Document submitted for the meeting of 1/23/10 concerning future impervious surfaces and land development on Lake Burien and the Shoreline Master Plan Document.

RECEIVED  
JAN 26 2010  
CITY OF BURIED

In the materials I submitted to you, I mentioned that I had additional concerns about the update to the Shoreline Master Program (SMP) Document and process used to update the SMP.

In summary they are:

1. The Shoreline Inventory is incomplete. Under WAC 173-26-201 (2) a., relevant parties should be contacted for available information. Lake Burien has had a Lake Steward for over 30 years. The current one was trained by King County. He was not contacted for any information about Lake Burien. There were no site visits to the area. A review of the literature was the methodology for the study. Best Available Science methodology usually involves at least one site visit. As a result, the inventory is inaccurate and incomplete in its discussions about fish and wildlife habitat and migratory species that use the lake. I have eagles daily using my property for perching and feeding (see attached photo). During the spring, summer and fall, I have blue herons using my secondary shore lands for feeding. There is no listing of fish, amphibian, mammals or reptile species present. There is nothing about vegetation in the lake, the wetlands and secondary shore lands that provide food and shelter for the species I previously mentioned as well as the fish species and crustaceans that are present.

The Shoreline Inventory considers the current zoning density as low impact on the lake but does not note that the real zoning is for greater impact than the lower impact on Puget Sound and does not include a projection study or make recommendations for a study to determine what will be required to maintain no net loss of ecological functions.

The section on Opportunities for Conservation and Restoration does not address what impact this increased significant amount of impervious surface will have as a result of, storm water input and non-point runoff/pollution nor does it suggest a monitoring or data collection plan to maintain no net loss of ecological functions (See document I prepared on impervious surfaces). There is no discussion of the weir and how it functions or why it exists or how it got to be there.

The section on Wetlands shows Lake Burien to be a Category 2 wetland with a buffer width at 100 ft. per City of Burien code. This does not correlate to SMP document that puts the setback at 30' with a 15' buffer. Nothing is mentioned in the Opportunities for Conservation and Restoration Section to explain how this difference in buffer width could come about. Short term and long term impacts have "to be addressed to assure that the end result will not diminish the shoreline resources and the value as they currently exist." After The Shoreline Inventory and the Cumulative Impacts Analysis were completed, the City went to the Dept. of Ecology and appealed to have the setback and buffer changed. The consultants never reworked their reports to address the future impacts that could result from this change. This is required in WAC 173-26-221.

Lastly, nowhere is it mentioned that Lake Burien is one of the headwaters/tributaries of Miller Creek which is a salmon bearing creek that could be adversely impacted by increased impervious surface runoff, storm water input and non point runoff/pollution. Nothing is discussed in the Opportunities for Conservation and Restoration section about the relationship between Miller Creek and Lake Burien. There is no discussion about the current rules that the residents have agreed to that maintains the lake's water quality as "very good" by King County's grading system. This set of rules will need to be maintained if there is to be no net loss of ecological functions. I am requesting that additional scientific information and management recommendations be added to the Shoreline Inventory per WAC 173-26-201, (2)(a)(i-iii).

2. The lot size and reduced buffer size on Lake Burien put the lake at much greater risk for net loss of ecological functions than the lands on Puget Sound per the SMP document. As mentioned previously, there is no explanation about how a Category 2 wetland that is supposed to have a buffer of 100' has a setback of 30' and a buffer of 15' in the SMP document. I have seen no scientific studies or data analysis in the Shoreline Inventory or in the SMP document to support those numbers. I had asked that a provision for this situation be put into the SMP document and was told by David Johanson/COB that it could not be done. Then I asked that something then be done to affect lot size. David Johanson told me that could not be done either as it was the job of the Planning Commission to address the issue. When I took this issue to the Planning Commission, David Johanson told them that this was never really an issue to be considered the SMP document. As I previously stated, the purpose of the SMP is to protect and preserve critical shorelines. If this is not considered, there will be a net loss of ecological functions on Lake Burien. This is an issue that should be addressed per WAC 173-26-221(2)(b) (iv), and (c)(I) And (A),(B),(C),(D) and WAC 173-26-201(2)(e). I am requesting that this issue be addressed in Chapter 4, 20-30-050 and 20.30.055 of the SMP document or by the Planning Commission as a zoning issue.

3. The SMP Cumulative Analysis is incomplete. It in no way examines the impact of redevelopment in the Lake Burien area due to lot size. Also, it assumes in its analysis that the buffer on Lake Burien is 100'. Therefore its assumptions about setbacks and future impervious surface and the impact on the lake are incorrect. Additionally, the fact that in excess of 8 public access points could result from redevelopment on this small lake is not discussed in the analysis in the Section 3, "Reasonably Foreseeable Future Development and Use of the Shoreline". This kind of access will result in net loss of ecological functions of the lake. This section currently states that significant damage could happen to the aquifer recharge area if increased amounts of impervious surface were added to it. I am requesting that an improved study of the Lake Burien area be done and added to The SMP Cumulative Analysis to reflect the correct impact that could occur to Lake Burien in the foreseeable future due to development and redevelopment.

4. The Figure 4 in Chapter IV has been altered and Commercial and Office have been deleted from the chart since the SMP committee met and discussed the Figure 4. By consensus of the committee, Commercial and Office were prohibited in all shoreline uses of the table. Figure 4, as currently presented, suggests that these uses were never

considered or rejected as uses in the design of the SMP document (see attachments dated Draft September 1, 2009). Additionally, Chapter IV, 20.30.075 which was titled Commercial, Institutional and Office in the September 1, 2009 draft has been stripped out of the November draft. It had been agreed by Shoreline Advisory Committee that this section would be retained in the SMP document with the explanation that this category of land use was to be prohibited in all areas. The Shoreline Advisory Committee wanted to make clear to future readers and citizens that this category of land use had not been overlooked and to ensure that this type of land use was not open to further interpretation and discussion. I am requesting that Figure 4 be restored to reflect the discussion and consensus decision made on October 21, 2009 or that something be added to the document that reflects the discussion and decision in Meeting Summary #8. Once again I would like to say that the committee elected to prohibit these uses in all areas of Figure 4. The properties being considered are shoreline residential, aquatic and an urban conservancy. David Johanson globally told the Committee that they were not allowed to do that. I recall nothing in the comprehensive plan or zoning plan that shows Lake Burien as land available for three story office buildings or commercial development. I have reviewed the SMP Cumulative Impacts Analysis and Lake Burien currently has no zoning or planning for Office and Commercial. So I don't understand his prohibitive comment. I am requesting that Commercial and Office be included back in the chart and or that the document reflect what was discussed by the committee so that future interpreters of this document do not think these uses were not considered and rejected.

5. The regulations in Chapter IV 20.30.025 Critical Areas of the SMP document do not adequately speak to Critical Freshwater Habitat. I requested that a statement somewhat like the one in section "2.c. Regulations" be added to include the protection of Critical Freshwater Habitats or that they be added to 2.c. I was told that the state did not define Critical Freshwater Habitats and so it could not be added. In addition, I was told by the Chair of the Committee that he did not even know what I was talking about because he had not brought his copy of the Draft to the meeting. This area is addressed in WAC 173-26-221,(iv) Critical freshwater habitats. I am requesting that a statement be added to this section to reflect the protection of Critical Freshwater Habitats as equal to those protections given to Critical Saltwater Habitats.

6. Public Access as defined in spirit and tone in the SMP document is not a match for what is in the WAC 173-26-221(4) (i), "Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety." The SMP Pol. ALL 5 does not reflect the idea of protection to private property as stated in the WAC. The SMP uses the term "*recognize*" which does not imply protection. Also, it does not make clear that increased public access is to be on publicly owned land. Again, it is inconsistent with the WAC. SMP Pol. PA 3 does not reflect the aspect of protecting private property and public safety. The term "*minimize potential impacts*" does mean the same as to "provide protection". The definition for Public Access and the requirements under the SMP are not clearly stated in Chapter IV, 20.30.035. Public Access refers to publicly owned lands. In addition, there are two types of public access--either physical or visual access. Either types of access meet the requirements for public access under WAC 173-26-221 and WAC 173-26-201. In the

study done by Reid Middleton, they noted these were several street areas where visual access to the lake is currently available. I am requesting that the wording be changed in these areas of the SMP document to correctly reflect the definition of public access as well as include the requirement for protecting private property and public safety.

7. The wording in Chapter IV, 20.30.035(2)(d) was changed without the approval of the committee on a decision they had come to consensus on. That wording was changed in the November 17, 2009 SMP draft document without approval of the committee. In the September 1, 2009(2)(e) document it read, *“Public access shall be required for all new shoreline development and uses, except for water dependent uses and single family residences not part of a development planned for more than four parcels.”* The committee agreed to keep this number which complies with WAC 173-26-221(4)(C). For some reason, the wording was changed in the November 17 draft (2)(e) to read, *“Public access shall be required for all new shoreline development uses, individual single family residences and subdivisions of less than four parcels.”* I am requesting that the wording be changed back to what the committee agreed on and what is the requirement stated in WAC 173-26-221(4)(C).

8. SMP Pol. REC 3. This should reflect that the recreation facilities in the shoreline area being discussed in this policy are in the “public shoreline” area. I am requesting that the word “public” be inserted to reflect the correct area being discussed.

9. SMP Pol. REC 2. Recreational developments should be required to do more than just minimize adverse impacts on the environmental quality as is currently stated. They should be held to the standard of no net loss of ecological functions as is covered in WAC 173-26-221. I am requesting that the wording be changed to state that, “Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave the natural areas with no net loss of ecological functions.”

10. SMP Pol. USE 8. Planned densities for single-family development should encourage a lower development potential in areas with development constraints. This policy is in contradiction to the situation that I have described on Lake Burien. I am requesting that this policy be reexamined with regard to Lake Burien.

11. SMP Pol. USE 17. It is unclear to the reader what is meant by *“Encourage joint-use activities in proposed shoreline developments.”* Joint-use activities is not defined. Where else is it cover or fleshed out in the SMP document? Does it mean that private owners have to compete for parking space in front of their own property, if the only parking they have is on the street or a street end? I am requesting that this be better defined some place in this document.

12. SMP Section 20.20.35 Conservation Element. No part of this section mentions that, in critical shoreline areas, the over-lying principle to be followed is no net loss of ecological functions and if there is the possibility of net loss then the steps spelled in WAC 173-26-

201(2)(e) be followed. I am requesting that these two items be included in this policy section.

13. There was a citizen comment made at the last meeting that stated there were holding tanks all around Lake Burien that would protect the lake from impervious surface runoff, stormwater and non point pollution as a result of new development and redevelopment and so these did not have to be considered as future foreseeable issues for the lake. I am requesting that the Planning Commission study the diagrams in the SMP document because it does not match what she claims .

14. There was a citizen comment that said private property owners did not have to have concerns about liability or law suits resulting from public access and intrusion on to their property. I have checked with my insurance carrier and this is not correct.

The Shoreline Master Program is a very difficult document to read and interpret. The average citizen will have a hard time trying to use it and understand it. The real spirit of the document should be to protect critical area shorelines and to enhance public access (physical and/or visual) to publicly owned lands while protecting private property rights and public safety. This is not intended as a public take over of privately owned land.

Additionally, the intent of the state SMP is the protection of the shoreline environment as the first priority. Construction needs are secondary and must be worked to protect the environment as the first priority. Impact of development must be thoroughly examined. There is case law in the state that makes this mandate clear. The SMP document does not do this adequately.

As a citizen, it was difficult to know what the rules were for citizen input to the Shoreline Advisory Committee as well as understanding the entire process. The committee's operating procedures were at times very vague. Some members of the committee were extremely hostile to each other and unpleasant things were said. This should have been covered in the operating rules for the committee so that this did not happen.

The Meeting Summaries did not always completely reflect what had occurred and what had been discussed. They were only distributed right at the start of the meeting so they could not be thoroughly reviewed before they had to be approved. The time between some of the meetings was sometimes as long as 7 months. And once an area of the document was covered, the committee was never allowed to go back and revisit it because of time constraints set by the city. As a group, the Shoreline Advisory Committee never reviewed the final version of the sections they had completed, especially from the last meeting. The committee was formally disbanded at the end of Meeting #9. This means that they did not have an opportunity to check the work they thought they had just completed. Even though I attended many of the meetings up until the end, I never got to see the complete November Draft document until the last open house and I never had access to the Meeting #9 Summary-if one was ever created. The entire draft document was difficult to secure and required a great deal of persistence to even be able to view it in entirety. The November 30

public open house about the document did not provide the needed information for the average citizen to understand the content of the document.

In conclusion, I believe that this may be the reason that there are some inconsistencies in the document. This document needs to have the Shoreline Advisory Committee reconvene to complete the draft process and then it should be passed on to the Planning Commission for review, edits, etc. Then their recommendations will be pass it on to the Burien City Council.

Sincerely,

Chestine Edgar

Attachments-Cummulative Impacts Analysis,photos



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*Attachment from*

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*C. Edgar*

City of Burien Shoreline Master Program

## **Cumulative Impacts Analysis**

August 2009

*SMA Grant No. G0800116*

*Task 4.1*

**Reid Middleton**

# 1. Introduction

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The Washington State *Shoreline Master Program Guidelines* state that local Shoreline Master Programs are required to “evaluate and consider” the cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions promoted by the Shoreline Management Act. The guidelines further state that “to ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities.”

Specifically, the guidelines state that the evaluation of cumulative impacts should consider:

- i. Current circumstances affecting the shorelines and relevant natural processes;
- ii. Reasonably foreseeable future development and use of the shoreline; and
- iii. Beneficial effects of any established regulatory programs under other local, state, and federal laws.

Additionally, the guidelines indicate that an appropriate cumulative impacts analysis will also consider the effects of unregulated activities and development exempt from permitting on shoreline ecological functions and other shoreline functions and uses. Furthermore, the guidelines indicate that particular attention should be paid to policies and regulations concerned with the platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development.

The guidelines note that methods for determining reasonably foreseeable future development may vary depending on local circumstances, including demographic and economic characteristics and the nature and extent of shorelines.

This cumulative impacts analysis is organized into five sections:

1. Introduction
2. Current Circumstances Affecting the Shorelines and Relevant Natural Processes
3. Reasonably Foreseeable Future Development and Use of the Shoreline
4. Beneficial Effects of Any Established Regulatory Programs Under Other Local, State, and Federal Laws
5. Cumulative Impacts Summary

the perimeter of the lake. Additionally, there are approximately 5 overwater structures in the lake that are unattached to the surrounding uplands.

#### *Hydrologic and Hyporheic Function*

The shoreline of Reach LB is highly altered and is surrounded almost entirely by privately-owned residences. Given the relatively small size of the lake, there is not much wave action affecting the shoreline; however, the shoreline would effectively attenuate any waves produced in the lake. The lakeshore bank is low bank with a very gentle upland gradient. Flooding along the shoreline of the lake is not a documented problem, as Lake Burien is not located within the 100-year floodplain.

While a system of stormwater drainage pipes has been installed to divert runoff flowing into the lake, several drainage points into the lake remain and the lake still functions as a water storage area. Lake Burien is mapped as an Aquifer Recharge Area, a type of critical area. Alterations to the surface conditions within an Aquifer Recharge Area associated with development, such as changes in impervious surface area, channeling of runoff, and changes in the soils, can affect the rate and quantity of water entering the aquifer. Additionally, contamination of waters within the Aquifer Recharge Area can adversely impact the aquifer.

#### *Vegetation Function*

Due to the mostly residential land use surrounding Lake Burien, much of the vegetation within the shoreline of Reach LB consists of manicured lawns. Maintenance of lawns often increases the input of chemicals (fertilizers and herbicides) into the water and limits the input of organic material (including large woody debris) into the lake. However, any trees present contribute to the shading of the shoreline. Due to the topography around Lake Burien, the lack of native vegetation does not greatly increase erosion along the shore; there are no landslide hazard areas associated with the lake.

#### *Other Habitat Function*

Lake Burien in its entirety has been rated a Category 2 wetland. The buffer associated with a Category 2 wetland is 100 feet. While there are no Priority Habitat and Species documented within Lake Burien or along the shoreline, wetlands provide habitat for other small mammals, birds, and fish (such as feeding, breeding, and spawning). There is no fish access into Lake Burien; therefore, anadromous salmonids are not expected within the lake.

**Table 2.7: Shoreline Master Program Reach Summary.**

Reach	Total Parcels (adjacent to OHWM)	Average Setback to SFR	Minimum Setback	% Impervious (between SFR & OHWM)	Area of Structures Beyond OHWM	Average Setback to Accessory Structures	Buoys
<b>M1</b>	67	55.34	1	44%	6,435	N/A	11
<b>M2</b>	14	429.79	50	4%	39	N/A	0
<b>M3</b>	118	68.16	1	22%	1,713	18.8	40
<b>M4</b>	103	82.29	9	52%	503	26.78	46
<b>Lake Burien</b>	67	100	35	5%	28,723	43	2 rafts
<b>TOTALS</b>	369	183.90		31.75%	37,413	44.29	24.25

Based on: July 2007 Aerial Photo

### 3. Reasonably Foreseeable Future Development and Use of the Shoreline

This section describes the reasonably foreseeable future development and use in each of Burien’s five shoreline reaches.

In general, Burien’s shorelines have little potential for new future development since they are already largely developed to their current potential. The predominant single-family residential use of the shoreline is not expected to change significantly; therefore, the majority of the reasonably foreseeable future shoreline development activity is expected to consist of the redevelopment of existing structures. Neither activities that would establish a pattern for future development (such as the platting or subdividing of property, laying of utilities, and construction of new neighborhood streets), nor effects of unregulated activities and development exempt from permitting affecting shoreline functions, are expected to occur to a significant extent.

#### 3.1 Reach M1

The zoning designation for Reach M1 is RS 12,000 Residential Single-Family; the comprehensive plan designations for Reach M1 are Low Density Residential Neighborhood and Public Park/Schools/Recreation/Open Space. Additional shoreline development and use information for Reach M1 is summarized in Table 3.1.

Because the comprehensive plan designations closely match current land uses, reasonably foreseeable future use is not expected to change significantly.

Reasonably foreseeable future development in this reach is expected to consist of the redevelopment of existing structures and the possible development of some of the currently vacant parcels (approximately 18). However, the development of the currently vacant parcels is expected to be limited, as they generally have development constraints that would make construction expensive.

**Table 3.1. Reach M1 Shoreline Development and Use Summary.**

<b>Total Acreage/ Current Land Use<sup>1</sup></b>	<b>Current Vacant Parcels</b>	<b>Current Zoning Designation(s)</b>	<b>Comprehensive Plan Designation(s)</b>
25.00 acres Single-family: 72% Vacant: 23% Tracts/Other: 4% Low Density MFR: 1% Institutional: 0.01%	Approximately 18 (all privately owned)	RS 12,000 Residential Single-Family	Low Density Residential Neighborhood & Public Park/Schools/Recreation/Open Space

<sup>1</sup> Percentages may not total 100 percent due to rounding during GIS analysis.

### 3.2 Reach M2

The zoning designation for Reach M2 is RS 12,000 Residential Single-Family; the comprehensive plan designations for Reach M2 are Low Density Residential Neighborhood and Public Park/Schools/Recreation/Open Space. Additional shoreline development and use information for Reach M2 is summarized in Table 3.2.

Because the comprehensive plan designations closely match current land uses, reasonably foreseeable future use is not expected to change significantly.

Reasonably foreseeable future development in this reach is expected to consist of the redevelopment of existing structures and the possible development of some of the currently vacant parcels (approximately 6). However, the development of the currently vacant parcels is expected to be limited, as they generally have development constraints (such as steep slopes) that would make construction expensive. Additionally, Seahurst Park is currently in the process of redevelopment and restoration.

**Table 3.2. Reach M2 Shoreline Development and Use Summary.**

Total Acreage/ Current Land Use <sup>1</sup>	Current Vacant Parcels	Current Zoning Designation(s)	Comprehensive Plan Designation(s)
28.72 acres Park: 78% Single-family: 14% Vacant: 9%	Approximately 6 (all privately owned)	RS 12,000 Residential Single-Family	Low Density Residential Neighborhood & Public Park/Schools/Recreation/Open Space

<sup>1</sup> Percentages may not total 100 percent due to rounding during GIS analysis.

### 3.3 Reach M3

The zoning designation for Reach M3 is RS 12,000 Residential Single-Family; the comprehensive plan designation for Reach M3 is Low Density Residential Neighborhood. Additional shoreline development and use information for Reach M3 is summarized in Table 3.3.

Because the comprehensive plan designation closely matches current land uses, reasonably foreseeable future use is not expected to change significantly.

Reasonably foreseeable future development in this reach is expected to consist of the redevelopment of existing structures and the possible development of some of the currently vacant parcels (approximately 31). However, the development of the currently vacant parcels is expected to be limited, as they generally have development constraints (such as steep slopes).

To: Planning Commission  
Date: January 26, 2010  
Subject: Shoreline Master Program – Shoreline Appendices

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JAN 26 2010  
CITY OF BURIEN

Bob Edgar, 12674 Shorewood Drive SW, Burien

Washington Administrative Code (WAC) section 173-26-201, (2) Basic concepts, (e) Environmental impact mitigation, (i), (A) states that the “*top priority*” in protecting and mitigating impacts of shoreline ecological functions is to “*avoid the impact altogether by not taking action or parts of an action*”. In other words, taking a proactive stance against further degradation to the current ecological functions.

I have a concern about the methodology and thoroughness of the current appendices supporting the Shoreline Program Plan and their ability to be used as a baseline measure that protects the current ecological functions of Burien’s critical freshwater habitats from future degradation as mandated by the State of Washington.

In section “1.2 Methodology” on page 1, the Shoreline Inventory states that the methodology for determining the current conditions of Burien’s critical freshwater shorelines is primarily based on the review of previous studies. No primary source data is collected or longitudinal studies are conducted to determine a current inventory of critical freshwater habitats. Nor are there any scientific studies of predictive risks to ecological functions that might occur if elements of the SMP, as currently written, were to be implemented over the next 10 to 15 years.

Evidence of Best Available Science appears to be lacking. The Burien Municipal Code Title 19, 19.40 Critical areas, 19.40.060, Best available science, Page 40-4, states: “*'best available science' is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, ...*”.

There are some who would argue that there is no value in using Best Available Science or conducting studies of any kind on critical freshwater or saltwater habits. The intended consequence of this approach is that, with a lack of baseline data, unchecked degradation of critical freshwater or saltwater habits could occur and any legal challenge concerning degradation would be circumstantial and unsubstantiated without definitive proof.

Private interests have promoted the long term health of the only freshwater habit in the City of Burien. As a result, the quality of the fresh water in Lake Burien is at a much higher level than most other lakes located in heavily urbanized areas. Historically, public municipalities have a very poor track record of protecting the public shorelines and the quality of adjacent waters and aquatic habitats.

Chapter II of the Shoreline Master Program, section 20.20.005 General Goals and Policies Pol. ALL 2, Page II-I, states: “*Regulation and management of Burien’s shorelines should be guided by ongoing and comprehensive science.*”

The table on page 20 of SMP Cumulative Impact Analysis written by Reid Middleton documents that the average setback of homes on Lake Burien is 100 feet and that 5% the land between homes and the shoreline are covered with impervious surfaces. It identifies that Lake Burien “*in its entirety has been rated as a Category 2 wetland*”. It also notes that “*(t)he buffer associated with a Category 2 wetland is 100 feet*”. The analysis of Cumulative Impact on Lake Burien was then based on these pieces of information.

However, City staff has stated that they negotiated with the Washington State Department of Ecology to reduce buffers/setbacks around Lake Burien to 45 feet. The cumulative effect of this change will:

- 1) allow the potential of addition development around Lake Burien, and
- 2) increase the amount of impervious surfaces that can cover critical freshwater wetlands and aquifer recharge areas.

The appendices supporting the Shoreline Master Program as currently written do not provide thorough science-based facts and duration of study to support a future comparative analysis that would determine positive or negative ecological impacts induced by changes advanced through the Shoreline Master Program or any other actions in the freshwater shoreline habitats of Burien.

Therefore,

- 1) Best Available Science must be used in a longitudinal scientific study of critical freshwater shoreline habitats, and
- 2) The Cumulative Impact Analysis needs to address the cumulative impact of reducing the buffer/setback from 100 feet to 45 feet.

Both updated studies should be included as part of the Shoreline Master Program before the program is adopted by the City of Burien.

January 26, 2010

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

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JAN 26 2010

CITY OF BURIEN

It has come to my attention that a change was made to the Shoreline Master Program between an earlier draft and the final draft that I believe is a significant change.

I attended the Shoreline Advisory Committee meeting on Sept. 23, 2009 where a draft of Chapter IV (Policies and Regulations), dated Sept. 1, was distributed. Please see the reverse side of this sheet to see Section 20.30.035 Public Access, paragraph 2.d. (page IV-8 in the final draft) which read:

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

I understood this to mean public access is required if a property is developed into 5+ lots. If my parcel can only be divided into 4, the paragraph does not apply to me. A committee member requested it be changed to “development planned for more than five parcels,” but someone stated that the language came directly from a WAC. (That is correct – WAC 173-26-221 section 4 Public Access.) The Meeting #6 Summary reflects that the committee chose to “keep the language as proposed.”

A few days ago, I came back to the same paragraph in the final draft, dated 11/17/2009. It now reads:

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

Now public access is required if a property is developed into 4+ lots – more restrictive and *a significant change*.

I have these three questions:

1. How, when, and why was this paragraph changed? How did “more than four parcels” become “less than four parcels?”
2. Did the Advisory Committee have an opportunity to review the final document and approve it?
3. Does the final document *accurately* represent the recommendations of the Advisory Committee?

I encourage the Planning Commission to ask these questions and share the answers with the public. And I respectfully request that the paragraph be changed back to the original intent that was approved by the Advisory Committee.

Thank you.

- b. The vacation or sale of <sup>city</sup> street ends or other public right of ways and tax title properties that abut shoreline areas shall be prohibited as these areas provide shoreline public access and viewpoints.
- c. Visual access to outstanding scenic areas shall be provided with the provision of roadside pullovers or broadening of road shoulders.
- d. If a <sup>public</sup> road is located within shoreline jurisdiction, any unused right of way shall be dedicated to open space and public access.
- e. Public access shall be required for all <sup>new</sup> shoreline development and uses, except for water dependent uses and individual single family residences (not part of a development planned for more than four parcels.)

- d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses, individual single family residences and subdivisions of less than four parcels.
- e. Public access to shoreline areas shall not be required where it is demonstrated to be infeasible because of incompatible uses, safety, security, or constitutional and other legal limitations that may be applicable.
- f. The City shall utilize alternate methods of providing public access when appropriate and *feasible*, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.
- g. Public access improvements shall not result in a net loss of shoreline ecological functions.
- h. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
- i. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land and shall occur at the time of permit approval.
- j. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

January 25, 2010

To: Burien Planning Commission

From: Carol Jacobson  
3324 SW 172<sup>nd</sup> St  
Burien, WA 98166

RECEIVED  
JAN 26 2010  
CITY OF BURIEN

Re: Shoreline Management Program

I live on SW 172<sup>nd</sup> St. and my major concerns about the proposed Shoreline Management Program relate to public access issues and the negative impact that would surely have on our community. No one disagrees with the overall concept of preserving the shoreline ecology, and no one cares more about that than the people who actually live on the shoreline. However, we all share the same concerns about the negative effects that increased public access would have on this area. I am sure that the residents of Lake Burien have the same concerns for their community.

We live here for a reason: we love the peace and quiet and the beauty of this area. We don't want to see our community turned into anything that even remotely resembles Alki or Redondo or Greenlake. If we wanted to live in an area like that we would not have moved here. We have worked hard all our lives to be able to purchase a house in the Three Tree Point community, and we continue to pay an ungodly amount of taxes for the privilege of living here. It is not OK for this shoreline program or any other plan to result in anything that destroys the character of our community, lowers our property values, increases property damage and other crime, or decreases the safety of the residents who live here.

Increasing public access is contradictory to the stated purpose of shoreline management, which is protection of the shoreline ecology. More people = more trampling of shoreline, more litter/garbage/ more crime, more private property trespass and damage, and less safety for residents of these communities. Look at Alki, where a constant police presence is required for safety and crime concerns. Consider the cost of maintenance of more public access sites as well as additional police protection needed for public safety, not to mention the negative impact hundreds or thousands of more people will have on the ecology of the beaches. And where would all of these people park? Parking is so limited now that even residents in the community barely have space to park our own cars – and having visitors at your own house requires negotiation with neighbors for parking.

Even with the existing public access, we have people parking on our property with their car radios blaring at high volume, eating lunch at our picnic table, changing their baby diapers on the picnic table, leaving their garbage, throwing our possessions on to the beach, sleeping in their cars overnight parked in our lot, and then urinating in our lot before leaving. Most of these things have happened in the last 2 months and many times before. We have in the past found syringes, needles, and discarded condoms on our property. I have no interest in seeing this type of behavior and activity multiplied hundreds of times over with additional public access. According

to the maps in this document there are already 4 public access points in the immediate Three Tree Point area, plus Seahurst Park and Eagle Landing Park – how many do we need?

In Chapter IV, page 8, items a, b and c need to be clarified so that existing property along SW 172<sup>nd</sup> (and anywhere else potentially affected by these items) is not impacted or disturbed in any way in order to provide physical or visual access to the water. Reference to “unused right of way” in item c should be removed from the document. Nothing in the SMP should be allowed to negatively impact property or existing structures that were present before this act is approved, and homes and structures that exist now need to be grandfathered into this document. The same is true regarding the building restrictions that could prevent our ability to rebuild our homes as they now exist if they were damaged or destroyed. Existing homes and their footprints need to be grandfathered in wherever the proposed restrictions would prevent rebuilding as the home now exists .

Finally, this proposed Shoreline Management Program is not a plan. It should serve as the guidelines for any plans that are ultimately developed related to shoreline areas. The City of Burien may have a “plan” for our community, but we have not seen any such plan in writing. There needs to be assurance in the SMP that residents of affected communities (in this case Lake Burien and the Three Tree Point area especially) are involved in the development of any plans that affect us. There needs to be assurance that there is sufficient funding for any such plans and for the ongoing maintenance of public access areas, as well as for additional police protection that may be necessary to maintain the safety of the community. In addition, there needs to be some language that assures that developers and the City of Burien have to live by the same rules, regulations, and restrictions that this program places on private citizens.



Carol Jacobson

January 29, 2010

To: Burien City Council  
Burien Planning Commission

Re: Proposed Shoreline Master Program

To Whom It May Concern:

RECEIVED  
JAN 26 2010  
CITY OF BURIEN

I first moved to Burien about 25 years ago, attracted by its quiet out of the way bedroom community feel where neighbors were more likely to see their neighbors than anyone else. Burien seemed unharmed by the growth, noise, traffic, crime, and natural environmental destruction that accompanied growth in other nearby communities to the north and east where they are overrun with population and its impacts, but with a more functional community feel than our neighbors to the south. During most of almost any day in the neighborhood, we were more likely to see people out working or recreating in their yards, walking alone or with family or friends, with or without dogs, jogging, or riding bicycles on streets that by virtue of a lack of car traffic were safe for foot traffic without the need for the increased pavement and its costs caused by vehicular traffic.

Fortunately, in my 25 years here, spread across 3 homes in differing communities, I have continued to appreciate my community for what it still is, an out of the way quiet bedroom community which has been self preserved by the residents in the quest to preserve the qualities they moved here for: safety; privacy; low population density; minimal traffic in the neighborhood; natural beauty (if even only in ours and our neighbor's yards); and proximity to plenty of places to safely walk, run, or ride a bicycle where we could enjoy rather peaceful and quiet public access to the more or less intact northwest outdoor experience, even while in the heart of the populated county and mere minutes from Seattle. Over the years, I turned each property where I lived into a more natural, clean, quiet place where people and nature could exist hand in hand to the betterment of each other, making each property better off than I found it from a preservation perspective, and in the sort of condition anyone from the future would consider a place where nature was respected and preserved even though someone did have the footprint of a home and human existence on it.

Recently, I became aware of the Burien Shoreline Master Program related documents, documents whose framework should serve as a guide for preserving our natural environment and quality of life, just as many Burien citizens have striven to do with their own private properties, but on a public scale. Comments I have seen in response to the document demonstrate that many Burien residents value preservation, understand the effort and priority it requires, and the reward to be found in preservation of the communities we moved to because of what they were, not because of what someone from outside thought they could be or they could profit from.

The documents start off well, stating that it should establish a comprehensive vision of how the shoreline areas will be used and developed over time, and goes on to state that the program would indeed be the guideline for that comprehensive vision of how areas will be used and developed. Unfortunately, the documents are really just a collection of broad direction statements which lack any significant definition and clarity from which a person can discern any clear, real description of how the shoreline areas will be developed and used over time, a set of limitations and procedures for what private citizens can do on their property, environment survey type documents, and a single actual plan for the restoration of Seahurst Park and Eagle Landing. The documents say absolutely nothing about what the city has to do to intake, evaluate, approve, plan, and execute any public projects which it desires to undertake in the spirit of the program (preservation, access, minimizing negative impacts to private property and the environment).

For a program to be a program, it should be a collection of specific definitions, activities, and projects which collectively achieve the goals of the program. There should also be a process spelled out for how such definitions, projects, or activities, both private and public, are brought forth for consideration, considered, brought into the governance mechanisms of the program, planned according to requirements of the program, implemented (including mitigating negative impacts and identifying funding mechanisms), measured for success, and remediated if success was not achieved. Without that additional foundation as it pertains to public projects and activities, this set of documents should not qualify as a program. This program only includes one project, and none of the process definition for how new projects will be added. I sincerely doubt if the intent is to have no more public projects once Seahurst and Eagle Landing restoration are completed. What are those projects? What is the process for adding them? What is the process for clarifying the intent of the overly generalized verbiage used in the direction statements which appear throughout these documents?

Here are examples of overly generalized statements that can easily be misused:

In section 20.30.035 item 2 – Regulations it states “a. Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035.”

In fact, RCW 35.79.035 has only to do with the “Limitations on vacations of streets abutting bodies of water.”

Statement a. should either be stricken altogether or modified to state that actions to shoreline street ends, rights-of-way, and other public lands shall comply with RCW 35.79.035.

In section 20.30.035 item 2 – Regulations it states “c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access.”

There is no definition of “unused right of way” or how to deal with property owner’s rights to access and use their property through which the road (wherein people pass through their property) passes.

## David Johanson

---

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

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

February 1, 2010

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

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

As I've read through more documents, both state and city, I've become more concerned about Burien's draft Shoreline Master Program update. I read WAC 173-26-221, section (4) Public access, and found that the first Principle states:

"Local master programs shall:

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

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

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

February 2, 2010

To: David Johanson, Senior Planner  
City of Burien

Cc: City of Burien Planning Commission

From: John Upthegrove  
1808 SW 156<sup>th</sup>, Burien, WA 98166

Re: City of Burien Shoreline Master Program

RECEIVED  
FEB 03 2010  
CITY OF BURIEN

Gentlemen:

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

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

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

**Len Boscarine**  
**1600 SW 156<sup>th</sup> Street**  
**Burien, WA 98166**  
**(206) 248-0222**

February 4, 2010

Members of the Planning Commission:

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

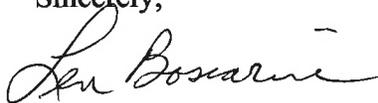
For example, the shoreline Inventory is not thorough enough in science-based facts to support a future comparative analysis that would determine positive or negative ecological impacts induced by changes advanced through the SMP or any other actions in the Shoreline areas of Burien.

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

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

Thank you for considering my comments.

Sincerely,



Len Boscarine

**RECEIVED**  
FEB - 4 2010  
**CITY OF BURIEN**

**SHORELINE MASTER PROGRAM  
PUBLIC COMMENT SUMMARRY  
Planning Commission WORKING DRAFT 2/4/2010**

#	TOPIC	SUMMARY of COMMENT	DRAFT RESPONSE	WAC
1	Conservation Element 20.20.035	Request that the over-lying principle of no net loss of ecological functions be implemented and if there is a possibility of net loss then the steps of WAC 173-26-201(2.e) be followed.	BMC 20.30.010 addresses no net loss in Policy 1a and Regulation 2.c outlines the mitigation sequence consistent with WAC 173-26-201(2.e).	173-26-201[2.e]
2	Urban Conservancy 20.25.015 & Shoreline Residential 20.25.020	<p>There are some areas designated as Residential that have much intact riparian vegetation. These areas have low intensity residential uses (spaced with riparian vegetation between sites) or residences set back well away from the water. These areas need to be protected better than just using the small buffer. We recommend that they be designated as Urban Conservancy, because they meet the criteria for that environment, as noted above. Three stretches of Residential environment have low density segments in them:</p> <ul style="list-style-type: none"> <li>· Along the area where Maplewild Avenue’s NE to SW segment lies closest to the sound.</li> <li>· Along the area of Maplewild Avenue’s north-south segment and continuing north to 152nd Place</li> <li>· A segment of shore near the intersection of Shorewood Dr. and 30th Ave.</li> </ul> <p>These areas need to be re-evaluated and appropriate areas re-designated as Urban Conservancy.</p>	<p>These areas have significant residential development. It may appear highly vegetated on the aerial photos however there is a significant amount of residential development.</p> <p>It appears they are referencing the Shorewood Community Club property which in all likelihood would not be developed. It should be noted that this property does meet some of the designation criteria for “urban conservancy”, however the area does also match the purpose of the “shoreline residential” environment. The shoreline permit matrix (20.30.001) allows community beaches and a conditional use in the Residential designation, while in the Conservancy designation it is listed as a prohibited use.</p>	173-26-221 [5. E] and [5.f]
3	Shoreline Permit Matrix 20.30.001, Figure 4	Commercial and Office have been deleted from Figure 4 by the SAC and section 20.30.075 Commercial, Institutional and Office was removed. These uses should be included in the table and specifically listed as prohibited uses to accurately reflect the consensus of the SAC.	This is an accurate comment and the table should be amended to include commercial and office as strictly prohibited uses.	173-26-241
4	Shoreline Permit Matrix 20.30.001	<p>We recommend including Community Services, such as government buildings/uses, schools, churches, hospitals, etc., with commercial uses, such that the category becomes Commercial Uses and Community Services.</p> <p>The definition of Commercial should be expanded to include Community Services, or a separate definition should be added. Regulations in several locations and also the tables include provisions for Schools, which would be similar to community services and should</p>	Allowing these uses does not fit local circumstances. Other than the existing Ruth Dykeman facility, these types of uses are not planned for shoreline areas.	173-26-241

		be treated as such. Community services should be limited the same as commercial uses in their location in shoreline areas and their placement within buffers/setbacks.		
5	Shoreline Permit Matrix 20.30.001	The SMP needs to include Commercial Uses and Community Services in the development standards, which in turn need to address the SMP Guideline requirements – especially the limits on non-water-dependent uses and limits on over-water construction.	Commercial use was specifically removed at the SAC level. These uses are not allowed by the existing zoning or comprehensive planning designations. Please also see #3 above.	173-26-241
6	Shoreline Permit Matrix 20.30.001	The SMP Guidelines have specific requirements for parking. These need to be added to the table and the development standards.	It may need to be added to the table but please note there is a parking section with standards, see 20.30.100.	173-26-241 [3.k]
7	Shoreline Permit Matrix 20.30.001	Cell Towers are listed in the table, but there is no indication that they are subject to the utility standards. This needs to be clarified.	We believe this code section can be clarified.	173-26-241 [3.l]
8	Shoreline Permit Matrix 20.30.001	We also recommend that boating facilities have to be added to the use table, and development standards need to be established. The SMP Guidelines require local SMPs to deal with recreational Boating Facilities as a specific use category. These facilities (excluding docks serving four single-family residences or less) are intensely used and need special provisions for dealing with such use.	The relevant types of boating facilities for Burien shorelines are included in the permit matrix (e.g., buoys, ramps, covered moorage, docks, piers and floats).	173-26-241
9	Shoreline Permit Matrix 20.30.001	Concern is that the proposed table doesn't cover all the different land use possibilities nor all the uses and modifications listed in the SMP Guidelines – leaving gaps. · The following are uses and modifications that are missing in the use table, and also do not have development regulations: Commercial, Agriculture, Boating Facilities and Marinas, Parking Areas. · The following is missing from the table, even though they are covered in the development regulations: Shore stabilization measures other than bulkheads. · The following is allowed in the table, but has no development regulations: Forestry.	It is suggested that the following uses are added to the table and specifically listed as “prohibited”. 1) Commercial 2) Agricultural 3) Forestry.  It is recommended that shoreline stabilization measures other than bulkheads should be added to the table.  The shoreline permit matrix table should be modified to include “Transportation Facilities <i>and Parking</i> ” to be consistent with the development regulation section BMC 20.30.100.	173-26-241
10	Impact Mitigation 20.30.010	Section 20.30.010 Impact Mitigation. Regulation A states that “development and uses shall occur in a manner that results in no-net-loss of ecological functions” as required by the SMP Guidelines. However, it goes on to add that doing so is only required “to the greatest extent feasible,” which implies that some loss of functions is acceptable. Such an exception to the no-net-loss standards is not found in the Guidelines, and is contrary to the concept of mitigation sequencing - which requires avoidance of impacts first, then mitigation of impacts, then replacement or compensation for any lost impacts. If ecological functions are lost, they must be replaced in full,	The proposed changes are recommended to be included.	173-26-201[2.e]

		not “to the greatest extent feasible.” This phrase needs to be removed from the regulation. In the context of mitigation in the Guidelines, the term “to the extent feasible” is only used as it relates to the first two sequencing steps. Projects have to avoid and minimize “to the extent feasible.” All impacts still have to be mitigated.		
11	Impact Mitigation 20.30.010	A policy link between conservation and restoration is needed. Suggested Language: <i>Policy (a) – Impacts to the ecological functions and values shall be mitigated to result in not net loss of shoreline ecological functions and process. <u>Mitigation for impacts of new development projects should use enhancement of degraded conditions to offset the impacts of the new development near shoreline resources.</u></i>	Staff/consultant support the proposed change.	
12	Land Use 20.30.015	The regulations do not implement the water dependency preference. Simply restating the water dependency preferences from the SMP Guidelines does not result in preferences being implemented. The regulations need to actually do something to make that preference real. This can be accomplished in several ways: · Not allowing uses or modifications based on their lack of water-dependency in different environments. This can be done in the use table by making distinctions in different uses for water-dependency. For example, water-dependent or water related uses commercial uses could be allowed while commercial uses that do not depend on a waterfront location can be prohibited or only allowed as a conditional use. · When non-water-oriented uses and modifications are allowed, they can be required to obtain a Conditional Use Permit. This can be done in the table by using the CU entry for some environments. · More stringent development standards can be applied based on lack of water dependency.	This comment does not relate or fit local circumstances. Water dependent and commercial uses do not exist and not are planned for the shoreline areas.	173-26-176[3.a]
13	Land Use (20.30.015) or in the use table notes:	We support the idea of “Shoreline uses and modifications should be compatible with the adjoining shoreline environment and designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.” But there is no implementing regulation Suggested language: <u>“Where a use or modification may occur in the Aquatic environment as indicated in Figure 4 and in the corresponding regulations for that use, it shall also be subject to any more restrictive permit processes or prohibitions on that use or modification as indicated for the adjacent shoreland environment.”</u>	This appears to make sense and should be added.	

14	Critical Areas BMC 19.40 20.30.025 [2.a]	Exemptions for stormwater, utilities and trails allowed in the CAO (BMC 19.40) should not be allowed in the shoreline jurisdiction. Exemptions for water dependent uses should however remain.	Trails provide public access and should be allowed in shoreline jurisdiction. Policy CI 9, 10 and 11 state that utility crossings in shoreline areas should preserve shoreline ecology and water quality.	
15	Critical Areas 20.30.025 (2.c)  And  Definitions 20.40  Fresh Water	Requests that Critical Freshwater Habitats be section be added to 20.30.025 (2.c) pursuant to WAC 173-26-221(iv) and be given equal protection similar to Critical Fresh Water Habitats.  Lake Burien is considered a critical area, but there is no definition in the draft SMA of fresh-water habitat. Fresh-water habitat should be added to the SMP. Freshwater habitat needs to be defined and practiced in the SMP so there is no net loss. This can be done by identifying the habitat of birds and fish.  The protection of freshwater habitat is not mentioned in the SMP. According to the consultant, it was not included because they do not know how to define it. Research has been done and scientists consider freshwater habitat definable by threatened species that use the area as well as by what were and are the continued native species that currently use the area.  The overall goal of the SMP is to protect the ecological function of the shorelines of the State that are located within the boundaries of the City of Burien. Small, fresh water habitats are in far shorter supply on this planet compared to saltwater habitats and should be afforded greater, if not, equal protection. Critical freshwater habitat of Lake Burien is recognized in the SMP, but no definition is provided. However, it does define a critical saltwater habitat. This suggests that protecting the freshwater habitat is of less importance than protecting saltwater habitat.	The guidelines do not define critical freshwater habitat for lakes. To the best of our knowledge the term “critical freshwater habitat” is not a term that is used by the scientific community or Department of Ecology. However it should be noted that fresh water is partially protected through the existing Critical Areas Ordinance (BMC 19.40), primarily in the wetlands and streams sections. Note that Lake Burien has been identified as a Category 4 wetland (BMC 19.40.300[4.A.iv]).The Critical Areas Ordinance has been adopted by reference in the proposed Shoreline Master Program regulations section.  The Shoreline Advisory Committee acknowledged the protections needed for fresh water by including provisions to protect freshwater habitats through the SMP, including but not limited to: dock materials, vegetation conservation, setbacks, and buffers.	173-27-030
16	Critical Areas 19.40.300 20.30.025 [2.a]	BMC 19.40.300 excludes small wetlands from protection. This provision needs to be excluded from the parts of the CAO incorporated into the SMP.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
17	Critical Areas 19.40.300[3,4] 20.30.025 [2.a]	The wetland rating system needs to be changed to use the current science for wetland protection. We recommend the use of Ecology’s <b><i>Washington State Wetland Rating System for Western Washington – Revised.</i></b>	The SMP inventory on pg. 9 discusses the sources used for wetland identification that included the City of Burien CAO, King County GIS data, National Wetland Inventory, Ecology’s Digital Coastal Atlas, WDFW Priority Habitat, and a 2005 report for Seahurst Park.	173-26-221[2.c.i]
18	Critical Areas	Storm water and utility alterations to streams, wetlands and their	BMC 20.30.105 (2.k) requires reclamation and maintenance to ensure success	173-26-221[2.c.i]

	BMC 19.40 20.30.025 [2.a]	buffers should be required to mitigate or impacts – currently facilities only have to repair damage to the pre-damage condition, not compensate for the new impacts from corridors or facilities....	of newly planted vegetation.	
19	Critical Areas 19.40.310 – 350 20.30.025 [2.a]	Stream and Wetland buffer reductions should require that the option of buffer averaging be tried first. To implement the mitigation sequencing concept.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
20	Shoreline Public Access Element 20.20.015	Increasing the amount of public access will not achieve the “no net loss standard”; improve the ecology of the Lake or Puget Sound. If access is granted things such as milfoil will be introduced to the lake. There are no data or analysis of the lake, its water quality, and carrying capacity to support the assumption that public access will do no harm and cause no net environmental loss. (See Turtle v. Fitchett upholding objections to public use on Lake Burien, 1930).	<p>The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4.</p> <p>Public access to shorelines of the state is generally required by the SMA. The Shoreline Master Program Guidelines state....</p> <p><i>173-26-176 (2) General Policy Goals of the Act and Guidelines for Shorelines of the State. “The policy goals for the management of shorelines harbor potential for conflict. The Act recognizes that the shorelines and water they encompass are “among the most valuable and fragile” of the state’s natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. .... Thus, the policy goals of the Act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The Act call for the accommodation of “all reasonable and appropriate uses” consistent with “protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life and consistent with “public rights of navigation.” The Act’s policy of achieving both shoreline utilization and protection is reflected in the provision that “permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public’s use of the water.” RCW 90.58.020</i></p> <p>An existing policy statement (PA 9) addresses the concern regarding the process by which public access points are designed improved or created. This provides guidance on the public process to ensure that it is designed consistent with the policy intent and address neighborhood concerns.</p>	RCW 90.58.020 173-26-176 [2] 173-26-221[4]
21	Shoreline Public Access Element	Access will increase littering, vandalism, property destruction. There are already access points available to the public and it would be	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in	173-26-241

	20.20.015	expensive to fund and maintain that which is proposed in the plan. The plan should include language to assure that before any changes are made the residents of those areas be given: <ol style="list-style-type: none"> <li>1) Notice of any specific plans that the City may already have and adequate opportunities to respond and express concerns about impacts of those plans on the community.</li> <li>2) Opportunity to be involved in decisions affecting our communities BEFORE specific plans are made.</li> <li>3) Opportunity to offer alternative ideas or suggestions to reduce the impact o any such plans on the residents of affected communities, their private property, and their safety and well-being.</li> </ol>	the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4.  Policy language exists (PA 9) that provides direction on public involvement when shoreline projects are being planned.	
22	Shoreline Public Access Element 20.20.015 & Public Access 20.30.035	Determinations of adequacy of public access should be based on individualized analysis of the water body to determine if a policy can be appropriately applied.	Please see #'s 20 and 21 above.	
23	Public Access 20.30.035.2.e (pg IV-8)	The words 'historically significant community' should be to the added to the regulation. Comment was related to ( <i>SW 172<sup>nd</sup> Street</i> )	It is unclear what is intended by the comment and how it would affect the implementation of the regulation.	
24	Public Access 20.30.035.2.e (pg IV-8)	No net good will flow to the City through public access to Lake Burien. No net good will come to the Lake from providing public access. Harm will occur to Lake Burien through public access. Therefore, there is no rational reason the City could have to provide public access to Lake Burien. Including Lake Burien in the reaches that the City should attempt to provide public access is very problematic and jeopardizes the Lake and the City.	Please see # 20 above and # 25 below.	
25	Public Access 20.30.035.2.e (pg IV-8)	A major factor to Lake Burien's health and freshwater habitats is the low impact of human use. Opening up Lake Burien to unrestricted access threatens to impact the water quality of the lake as well as any unintended consequences downstream such as Miller Creek in Normandy Park. The Shoreline Master Program must play a key role in protecting the critical freshwater habitat of Lake Burien by not allowing unfettered, unregulated public access.	No new public access is being proposed. Public access is described in Policy section 20.30.035 as "Public access includes physical access or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered visual access." In addition, any access that may occur in the future should follow the policy direction contained in the shoreline master program.	
26	Public Access 20.30.035.2.e (pg IV-8)	There was a drive to provide public access to all reaches of Burien shorelines without regard to impacts.	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft.	

			Many of the policies provided in the SMP are taken from the existing comprehensive plan. Eight (8) of the 14 goals and policies in the SMP are taken directly from the comprehensive plan and one (PA 5) was a comprehensive plan that was modified by the SAC.	
27	Public Access 20.20.015 20.30.035	Public access can be defined as physical or visual. Why is physical access being the only one discussed for Lake Burien?	Public access is described in section 20.30.035 as <i>"Public access includes <u>physical access</u> or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered <u>visual access</u>."</i> Sections regulating access do not specifically state that access must be "physical".	
28	Public Access 20.35.035	Items a, b, and c need to be clarified that existing property along SW 172 <sup>nd</sup> Street is not impacted or disturbed in any way in order to provide physical or visual access to the water. Reference to "unused right-of-way" in item c should be removed from the document.	Comment noted but no changes are recommended.	
29	Public Access 20.20.015	Parking is limited at some access points and infringes on parking of existing residents.	There are existing policies in the comprehensive plan as well as the SMP that address provision of parking and the design of access areas as well as impacts to adjoining properties. See PA 3, PA 4 and PA 8.	
30	Public Access 20.20.015	This is not a plan, it serves as guidelines for any plans that are made. There needs to be assurance in the SMP that residents of affected communities are involved in the development of any plans and there needs to be assurances that there is sufficient funding for such plans.	Please see # 20 above.	
31	Public Access 20.30.035[2.a]	This section references RCW 35.79.035 but this only concerns limitations on vacations of streets abutting bodies of water.	The RCW sets forth limitations on Cities with regard to vacations of rights-of-way abutting bodies of water. The emphasis of including the reference is on the phrase "maintain, enhance and preserve...access". It provides a connection to the state law regarding any consideration of vacating the public rights-of-ways abutting bodies of water.	
32	Inventory, Flood Hazard Reduction 20.30.030	Section 10.5 Lake Burien is on in the 100-year flood plain and there are no landslide or seismic hazards associated with the lake therefore there is no reason to reference the weir at the lake outlet. Item F in 20.30.030 should be removed.	The weir exists within shoreline jurisdiction and must be periodically maintained. It is appropriate to include this in the SMP.  The proposed language removed the notion of the City having an obligation to maintain the weir. The change from the SAC draft to the current version was following discussion with the city legal department. The Lake residents have stated that it is their desire to maintain the weir and this policy change would remove any reference to city having an obligation to do so, it also removes the notion that the City will use this as a method to gain access to the lake.	
33	Shoreline Vegetation	There is no general statement that vegetation removal in the buffer is	Vegetation alterations require review pursuant to 20.30.040(2.b).	

	<p>Conservation 20.30.040</p>	<p>not allowed without shoreline review. More language is needed to cover different vegetation alteration situations. Suggested Language: <i>b. Alterations to vegetation within shoreline jurisdiction <u>(except for the maintenance of existing or approved conditions) are not allowed without shoreline review. When allowed, alterations to the vegetation shall result in no net loss of shoreline ecological value or function.</u></i> <i>c. Alterations within the shoreline vegetation conservation buffer shall <u>provide mitigation for new impacts of the development, and shall only be allowed through approval of a vegetation management plan. Mitigation should take the form of vegetation enhancement and improvements to ecological functions.</u> The plan shall be prepared by qualified professional and shall be consistent with the provisions of this chapter and BMC Chapter 19.40. <u>At a minimum, mitigation shall include:</u></i> <i>i. <u>Revegetation of degraded buffer areas within 20 feet of the ordinary highwater mark (or top of shore armoring if applicable) or wetland edge with dense native vegetation meeting the standards of paragraph (b)(iii-iv), below. The Administrator may require wider widths or other improvements to mitigate greater impacts.</u></i> <i>ii. <u>The above revegetation area may be modified using area averaging when existing structures encroach into the 20 foot width, when access through the area to waterfront facilities is needed, or when water-dependent activities need to take place in the area.</u></i> <i>d. Within a shoreline riparian buffer as set forth in BMC 20.30.050 alterations shall comply with the following;</i> <i>i. The applicant shall provide a vegetation management plan prepared by a qualified professional; and</i> <i>ii. At least 75% of the buffer area shall be <u>revegetated, where it is degraded;</u></i> <i>and</i> <i>iii. Where vegetation is proposed within the buffer it shall be provided at a density to mimic natural conditions <u>rather than a landscaped yard;</u></i> <i>and</i> <i>iv. Vegetation <u>planting areas</u> shall consist of <u>a mix of native trees, shrubs and ground cover – lawn is not an acceptable groundcover;</u></i></p>	<p>There appears to be a mistake in the outline numbering used in the comment letter. b is a, c is b. The correct nomenclature is used below</p> <ol style="list-style-type: none"> <li>a. Staff/consultant can support this clarification.</li> <li>b. Staff/consultant are not sure the term “enhancement” can be used. OK it focuses the re-vegetation in the area that is the most beneficial to the functions and values.</li> </ol>	
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		<del>and</del> <del>v. When alterations are proposed within a buffer, the end result shall be no loss of vegetated areas; and</del>		
34	Conservancy Park/Restoration Pol. REC 9 (pg II-7)	Seahurst Park North Seawall Removal – could debris be place at 60-80’ depth off park as an artificial reef? Ex: reef of Des Moines Marina/Pier was enhanced as a marine life environment	Seahurst Park has an approved Master Plan. The plan does not include an artificial reef and a component however when the plan is updated or reconsidered this project could be considered.	
35	Dimensional Standards 20.30.050 (Fig. 5) (pg IV-12)	Lots adjacent to Lake Burien should be rezoned back to 12,000 square foot minimum lot size to protect the health of the lake or a method should be created to limit development based on shoreline footage.	Pursuant to WAC 17-26-211 (3) “local comprehensive plans constitute the underlying framework within which master program provisions should fit.” Therefore zoning and comprehensive plan changes were not included in the scope of the update process.	WAC 17-26-211 (3)
36	Dimensional Standards 20.30.050 (Figure 5) Shoreline Buffers 20.30.055 (1)	The buffer width for the Urban Conservancy area should be a science based buffer which is at least 100 feet wide (150 feet preferred).	We could support this change; however future developments in Seahurst Park will be the most affected. It appears only one SFR would be impacted, which is located south of the Park.	
37	Restoration	There needs to be a funded monitoring program to watch the water quality/fresh-water habitat on Lake Burien. None is currently written into the SMP.	Suggested that this could be included, but need to identify the specifics of what should be monitored, by whom and if there is a funding source.	
38	Shoreline Buffers 20.30.055	There doesn’t appear to be a policy for how vegetation is to be protected. A policy needs to be provided or supplemented the provides a foundation for the vegetation and setback regulations, and describes the SMP’s strategy for riparian vegetation	A policy could be added to clarify the relationship between vegetation protection and the associated strategy.	
39	Bulkheads and Other Shoreline Stabilization Structures 20.30.070	Shore stabilization standards should be in the general standards section with other environmental protection standards. A project proponent, and perhaps even staff, may not normally go the shore stabilization section for find standards about avoiding shore stabilization.	Comment noted but no changes are recommended.	
40	Docks, Piers and Floats 20.30.075	The policies and regulations in Section 20.30.075 do not refer to docks and piers together consistently... These facilities need to be treated the same, especially for standards that allow or don’t allow them.	The code should be amended to include both facilities having similar regulations.	
41	Docks, Piers and Floats 20.30.075 Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045 (FW)	The issue of repair and replacement is not addressed as it relates to bringing piers and docks into conformance with the code as substantial parts are replaced over time. We recommend that you supplement the materials to fully address the issues. The City of Kirkland and City of Kent have thorough piers/docks provisions that we recommend you use as templates.	We could research additional guidance if requested by the Planning Commission. The Shoreline Advisory Committee did not discuss this.	

42	Dimensional Standards for Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	Saltwater reaches have been treated similar to fresh water reaches.	Saltwater reaches were treated differently than freshwater reaches. Saltwater and freshwater reaches have different buffer widths, 50 feet for saltwater and 30 feet for fresh water.	
43	Dimensional Standards for Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	Requesting that the issue of reduced lot size and buffers around the lake need to be analyzed to ensure there is no net loss of ecological functions pursuant to WAC 173-26-221 (2.b.iv), and c, l and A, B, C, D and WAC 173-26-201 (2.e). Request that this issue be addressed in 20.30.050 and 20.30.055 or as a zoning issue.	See # 35 above, responding to zoning and comprehensive plan land use related comment. In addition see response to potential conflicting policy goals of the SMA and uses adjacent to shorelines (173-26-176[2]). The Act's policy objective is to achieve both shoreline utilization and protection.	
44	Docks, Piers and Floats 20.30.075	The piers/docks section needs to address the problem of the proliferation of boating structures, as required by the SMP Guidelines; 8 and we recommend adding specifics to better guide how it's done. This is a primary issue for us, as it is needed to protect the shoreline functions. We recommend the following new regulation to reduce proliferation through a comprehensive strategy that addresses all aspects of piers and docks. Avoid the proliferation of pier/dock & boating structures through the use of mitigation sequencing, using the following preference criteria: 1. New single family residential subdivisions may only use shared or community facilities. Such facilities should have limits on their size, and single-user structures are not allowed. 2. For existing single family residential lots: · Non-waterfront lots may not have boating structures, but rather must use a marina, community, or public facility. · Waterfront lots first should try to share nearby existing facilities or use nearby public facilities. When that is not possible, new facilities shall be shared with adjacent or nearby lots that do not have facilities, if there are any present. Cost sharing or late-comer agreements, similar to those used for shared roads, driveways, and utilities shall be established as necessary. 3. Multi-family development is not water-dependant, and may not have such structures, unless permitted as a Boating Facility use.	1. Staff and consultant do not object to including this language. 2. Staff and consultant support the inclusion of this language. 3. Staff and consultant support the inclusion of this language.	
45	Residential Development 20.30.095	The residential standards need to be supplemented to address accessory uses and facilities, such as utilities, transportation, recreation, etc. Mitigation sequencing needs to be built into these provisions: avoid first, then minimize, then compensate. We recommend that: ● -Non-water-dependent facilities (storage sheds, decks,	These appear to be good clarifications and should be included in the document.	

		<p>driveways, utility lines, entertainment decks/patios) should meet the buffer/setback.</p> <ul style="list-style-type: none"> <li>• -Only water dependent facilities (crossings, boat facilities, etc.) should be within the setback/buffer.</li> <li>• -Waterfront facilities should be co-located with each other to reduce the footprint of the facilities.</li> <li>• -Water-dependent facilities should be minimized, rather than maximized (smaller dock rather than larger dock, boat slip rather than boat garage, pocket swim area rather than frontage-wide swim area)</li> </ul>		
46	Residential Development 20.30.095[c]	The Common Line Setback and buffer reduction process (Regulation (c)) allows buffers smaller than those in the buffer table. However, this provision needs to be clear in reminding the reader that they still must meet the vegetation conservation and mitigation standards.	Clarification could be added but it may not be needed, the development regulations apply and require vegetation management and that development comply with the no net loss standard.	
47	Residential Development 20.30.095[c]	The common line setback provision needs to be limited to only the Residential environment, where the situations it is designed for are prevalent.	The code section specifically references “residential development”. It however could be expressed more clearly and directly.	
48	Residential Development 20.30.095(2.C.ii)	This section should not make a difference if the shoreline resident lives next to a vacant lot. The proposed restrictions for reconstruction next to an empty lot would leave little or no property upon which to rebuild for many property owners. Undeveloped green space should not be a punishment to current adjacent homeowners. They should be allowed to rebuild after a disaster within their current existing footprint, including deck overhangs beyond existing foundation or pilings supporting decks.	The City proposed code allows the reconstruction of non-conforming structures in their legally established location (see # 52 below). The common line setback line scenario that is provided would only apply when a structure is proposed to constructed or expanded. In addition, there always is an opportunity to apply for a shoreline variance, however the project must meet the applicable criteria.	
49	Residential Development 20.30.095[2.i & j]	<p>This section needs to strengthen the proposed requirements for sharing facilities, otherwise it will not happen. This is part of the first and second steps in mitigation sequencing – avoidance and minimization of shoreline development.</p> <p>Suggested Language:  <i>Stairs and trams to the beach are allowed, except on feeder bluffs, provided the project proponent demonstrates that existing shared, public or community facilities are not adequate <u>or available for use and the possibility of a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible. New facilities shall be shared with adjacent properties that do not already have such facilities, and shall include shared maintenance easements and agreements as necessary. Only one stair or tram system is allowed – duplicate facilities are not allowed.</u></i></p>	The City could support this language, although it is very unlikely that adjacent property owners will share a beach tram or stairs (too many legal issues could be involved)	

50	Exemptions from Shoreline Substantial Development Permits 20.35.025[4.B]	The exemption for Repair and Maintenance includes provisions for when replacement is an acceptable means of repair. A statement should be included: <u>“The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair.”</u>	Staff and the consultant have no objections to the proposed language.	173-27-040(2)(b)
51	Letter of Exemption 20.35.030.1	Section 20.35.030.1 Letter of Exemption, General states: “Applicants for other permits or approvals must obtain a written letter of exemption.” We recommend that for ANY development project subject to the SMA that might qualify for an exemption, the city should document what is being authorized in a Letter of Exemption. This provides documentation of compliance to the applicant. It also helps the city track the development occurring on its shorelines. So we recommend that “Applicants for other permits or approvals” be deleted and “Persons requesting an exemption” be substituted in Section 20.35.030.1.	The City has no objection to the proposed change in language.	173-27-050(1)
52	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 20.35.045(4)	Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers. If damage occurs to the residence, property owner should be allowed to rebuild exactly as structure was before damage. A policy should be added to SMP that Burien will not see a re-build as a ‘take-away’ & that reconstruction is not viewed as a harm to the community’s ‘no net loss’ goal.	<p>The existing language of 20.35.045 could be improved to clarify the intent of the regulations, which is to allow reconstruction of legally established structures in the same location so long as there is no net loss of ecological functions.</p> <p>Non-conformance thresholds were taken from the existing non-conforming chapter in the Burien zoning code. The decision to use the language in the draft SMP was to treat non-conformances citywide the same. Consistency with other local regulations was the approach. Consistency avoids confusion on the issue on nonconformance. Please see BMC 19.55.030[3.B], for the source used as a basis for determining the non-conformance threshold. It contains the 50% threshold. It should also be noted that the existing SMP contains the same 50% threshold; however it is based on market value.</p> <p><b><u>Proposed Revision</u></b></p> <p><b>4. Reconstruction.</b> A nonconforming structure which is destroyed, deteriorated, or damaged more than 50% of the assessed value of the <i>nonconforming structure</i> as established by the most current county assessor’s tax roll at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed only insofar as it is consistent with <del>existing regulations</del> and the following:</p>	173-27-080

			<ul style="list-style-type: none"> <li>a. The structure must be located landward of the ordinary high water mark.</li> <li>b. The area between the nonconforming structure and the OHWM shall meet the vegetation conservation standards of this Master Program.</li> <li>c. The remodel or expansion shall not cause adverse impacts to shoreline ecological functions or processes.</li> <li>d. The action shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into the riparian buffer than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into the riparian buffer, or the minimum required side yard setbacks require a variance.</li> <li>e. An application is filed to reconstruct the structure within 18 months of the date of the damage.</li> </ul> <p><b>Policy question:</b> Should the reconstruction of non-conformances only apply to dwelling units and not accessory structures such as sheds and garages?</p>	
52 A	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 20.35.045(4)	Concern was expressed regarding the language relating to expansions and the language was unclear.	<p>The suggested language should add further clarity and align with terminology used in the zoning code.</p> <p><b>20.35.045 Alteration or Reconstruction of Nonconforming Structures or Uses</b></p> <p><b>4. Expansion.</b> Enlargement or expansion of single family residences less than 500 square feet of <del>roof area</del> <u>building coverage</u> may be approved by a shoreline substantial development permit subject to the criteria listed in this section. Enlargement or expansions of a single family residence greater than 500 square feet of <del>roof area</del> <u>building coverage</u> by the addition of space to the primary structure or by the addition of normal appurtenances as defined in <u>Section 20.40</u> <del>20.40.000</del> that would increase the nonconformity and/or encroach further into areas where new structures or developments would not be allowed under this Master Program may be approved by a shoreline conditional use permit if all of the following criteria are met:</p> <p>The existing definition of building coverage in the zoning code is as follows;</p> <p>BMC 19.10.050 <u>Building coverage</u> – The percentage of the area of a <i>lot</i> that is covered by the total horizontal surface area of the roof of a <i>building</i>.</p>	

53	Stormwater	Burien should make a policy to regulate grass and lawns for all Burien property owners, not just property owners on the shoreline. Most stormwater run-off flows to the Puget Sound and all property owners should be treated equally.	The jurisdiction of the Shoreline Master Program is the upland area within 200' of the ordinary high water mark as well as any associated wetlands and therefore this document can not regulate all other properties in Burien.	
54	Shoreline Advisory Committee	The Citizen's Advisory Council (CAC) composition and affiliations were not documented in the SMP nor the notes. There was a lack of proper notion of consensus of people who live in Burien.	The comment has been noted and an acknowledgements section was always envisioned and will be added to the Shoreline Master Program in future drafts.	
55	Process	Public participation promised was not delivered by City planner et al. Lack of promised public participations during the early stage of the process.	There were several opportunities and more opportunities to come for public participation. There were two open houses, nine (9) Shoreline Advisory Committee meetings and a public hearing with the Planning Commission. There will be additional public hearings with the City Council, as well as a public hearing with the Washington State Department of Ecology.	
56	Process	Poor method of documenting what was said in the meetings to the point that much of the important stuff was lost and much was misquoted.	Meeting summaries were compiled at each Shoreline Advisory Committee. After the meeting, the summaries were prepared and included in the next meeting's packet for the Shoreline Advisory Committee to review, comment on, and approve/disapprove. All meeting summaries were approved by the Committee.	
57	Technical documents	All decisions about the use of critical areas are not required to be based on the Best Available Science about the critical area. Not once during the process of preparing the SMP Update has the Lake Steward for Lake Burien been contacted by the City of information about the lake with regard to: water quality practices, noxious weed control, studies on the lake residents have been involved in, flood issues, operational aspects of the weir, threatened species that use the lake, habitat areas used by threatened species, rules that neighbors follow that protects the lake, historical data about the lake, or a basic tour of the lake.	There were presentations to the Shoreline Advisory Committee on the shoreline inventory to specifically ensure that it accurately captured the best information available. The inventory and shoreline characterization were vetted during that process. In addition other attendees that had opportunities to review the inventory and characterization reports to pursue accuracy and thoroughness of the documents. The Lake Steward was a member of the Shoreline Advisory Committee.	
58	Land use	The saltwater waterfront lot size on the shorelines of Puget Sound is zoned RS-12,000. The freshwater waterfront lot size on the shorelines of Lake Burien is zoned as RS-7,200. As a result, the city is allowing that the land around Lake Burien develop to a higher density that it is requiring for land development on the Puget Sound. Since small, freshwater habitats should be afforded greater, if not equal protection. This seems to be just the opposite and contrary to the intent of the SMP to protect the ecological function of Lake Burien's shoreline.	Whether the zone is RS-12,000 or RS 7,200, the Shoreline Master Program requires all development to obtain no net loss. In requiring no net loss associated with development, the ecological functions of all shorelines are being protected.  Please also see # 35 above.	
59	Inventory 1.2	Section 1.2 of the inventory refers to supporting sources in the Bibliography, Section 7, Appendix A. There is a stated lack of reference for Lake Burien reach. Lacking evidence of any and every	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions. The inventory research also included King County lake information for the Lake Burien, as well as, the Lake Burien Shore Club online	

		kind is not a scientific baseline as required by law, practice, and precedence.	inventories and description of fish, birds and wildlife using the lake.	
60	Inventory 1.4	Section 1.4 of the inventory contains a typographical error for perimeter measurement of the lake. Source of the measurement is not cited.	Comment noted. The inventory table will be corrected.	
61	Inventory 2.1	Section 2.1 a statement challenging the studies and methods that resulted in the assessment for Lake Burien an all reaches of Burien. The studies referenced are too general and is not use full as a base line for impact assessment.	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions.	
62	Inventory 10.5	Section 10.5 there are no document at all on the wildlife, resident or migratory of Lake Burien, there are no documents for flora or fauna noted in this or any document associated with the SMP of are of any detail that would allow for baseline adjudication against future status and conditions.	King County lake information for the Lake Burien watershed was studied, including water quality data and aquatic plants and fish. In addition, the Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated.	
63	Inventory	The shoreline inventory is incomplete because WAC 173-26-201 (2) a., states that relevant parties should be contacted for available information. The Lake Steward was not contacted for any information about the lake.	The Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated. A representative of the club was a regularly attending member of the Shoreline Advisory Committee.	
64	Inventory	There were also no site visits to confirm the conditions and the inventory is inaccurate and incomplete with regard to fish and wildlife habitat, migratory species and vegetation.	The consultant team visited the site several times in 2007 and 2008 to confirm site conditions.	
65	Inventory	The section on Wetlands shows Lake Burien as Category 2 with a 100 foot buffer and the SMP has a 30 foot setback with a 15 foot buffer.	This was a typographical error in the inventory. The Cumulative Impacts Analysis evaluated the lake as a category 4 wetland and utilized the 30 foot buffer in the evaluation.	
66	Inventory	There is no connection made between the lake outlet waters and the Miller/Walker stream basin. Request that additional scientific information and management recommendations be added to the Shoreline Inventory per WAC 173-26-201, (2)(a)(i-iii).	The consultant team did evaluate the Miller/Walker stream basin and Figure 2 in the shoreline inventory depicts the hydrologic connection.	
67	Public Access Policies ALL 5 and PA 3	Request that wording the Policies ALL 5 and PA 3 be amended to correctly define public access and include the requirement to protect private property and public safety.	Comment noted these policies are the consensus of the SAC and the Planning Commission may consider amendments to address the comment. There is an existing goal and policy that addresses the topics of protection of private property and public safety (Goal PA, Policies PA 3, REC 6)	
68	Recreation Policy REC 3	SMP policy REC 3 should have the word "public" inserted to reflect the correct area being discussed.	Comment noted however the policy currently refers to both private and public lands. The Planning Commission may consider amendments to address the comment.	
69	Recreation Policy REC 2	SMP policy REC 2 should be changed to read "Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave the natural areas <del>undisturbed and protected</del> with no net loss of ecological	Staff and the consultant have no objection to the proposed language.	

		functions.”		
70	Policy USE 8	Request that this policy be re-examined with regard to Lake Burien.	Comment noted this policy reflects the consensus of the SAC and could be considered by the Planning Commission.	
71	Policy USE 17	Request that the term “joint-use activities” be better defined.	Comment noted, no changes recommended.	
72	Stormwater	There are claims that there are holding tanks that protect the lake from impervious surface runoff and non point pollution and the diagrams in the SMP do not match these claims.	The diagrams in the appendix are based on the best available information in the city data base. Private stormwater detention tanks, if they exist, may not be captured at this time in the city stormwater system inventory.	
73	Inventory and Cumulative Impact Analysis	There is a high level of re-development potential around the lake due to its current zoning. This development potential was not adequately captured in the inventory or cumulative impacts analysis.	See # 35 above	
74	Cumulative Impact Study	The Cumulative Impacts Analysis is incomplete in does not examine the impact of redevelopment in the Lake Burien area based on zoning and a 30 foot rather than a 100 foot buffer. An improved study is needed to reflect the impact of new development, increased access.	See # 35 above	
75	Best available science. 19.40.060 (pg 40-4)	Best available science pursuant to 19.40.060 (pg 40-4) appears to be lacking.	Best available science is described in WAC 173-26-201 (2) (a) as: “Base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available.	
76	Existing Structures	Nothing in the document should be allowed to negatively impact property or existing structures that were present before this act is approved.	Comment noted.	
77		The City must also follow its own rules in shorelines.	Comment noted.	
78		What date is ‘no net loss’ measured from?	Generally, ‘no net loss’ is measured using the shoreline inventory document, which was completed in March 2008.	
79	Land Use/Zoning	Fresh water is a very scarce and valuable resource. Freshwater, wetlands, and aquifer recharge areas need protection from over-development if they are to remain clean and useable for things. At some point in time in order to satisfy King County’s density requirements, the City of Burien rezoned the land surrounding Lake Burien to the lot size of 7,200 square feet without thoroughly analyzing the impact it would have to this critical area.	Past Comprehensive Plan land-use decisions are not part of the scope of this Shoreline Master Program update. See #35 above.	
80	Lake Burien	The City should remove all language associated to Lake Burien, relying instead on the rest of the regulations of the City, such as the Critical Areas Ordinance and building codes. All notion of controlling Lake Burien through the Shoreline Master program should be removed. The private property owners on the lake will always take action in the best possible health of the lake, its shorelines, and the flora and fauna in and around it.	The Shoreline Management Act and associated update guidelines require the City to apply the provisions within the shoreline jurisdiction which includes Lake Burien. Therefore removing any reference to the Lake Burien would not be consistent with the Washington State Shoreline Management Act or the Shoreline Master Program Update Guidelines.	
81	Restoration	What are the restoration projects beyond Eagle Landing and Seahurst Park? What is the process of adding new projects? What is the	Please see the restoration appendix. Typically city projects are evaluated and prioritized through the Capital Improvement Program process which is done in	

		process for clarifying the intent of the overly generalized verbiage used in the direction statements which appear throughout the document?	coordination with adoption of the city budget.	
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