

City of Burien

BURIEN PLANNING COMMISSION MEETING

January 26, 2010

7:00 p.m.

Miller Creek Room, Burien City Hall

MINUTES

Planning Commission Members Present:

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

Absent:

None

Others Present:

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

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

Agenda Confirmation

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

Public Comment

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

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

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

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

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

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

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

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

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

John Uptegrove, 1808 SW 156th St., asked the Planning Commissioners how many of them had read the entire plan; all commissioners indicated that they had. He said he's been following the process to update the Shoreline Master Program since the first open house, in November 2008. He said an amendment was made to the plan putting the highest priority on public access, and that should be removed as he sees no reason for it. Also, he said, there was a sentence in the flood section of the plan that stated the City would maintain the weir on Lake Burien. No one on the Shoreline Advisory Committee, except Don Warren, the lake steward, knew what the weir is, where it is, and he said no one can tell him who put that sentence in. Mr. 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 13th Ave SW, called the commissioners' attention to a legal opinion from an attorney retained by the Lake Burien homeowners stating that the draft Shoreline Management Program contains no science providing a well-documented baseline from which to measure future impacts to the shoreline and that it should be included before the draft program is adopted. Mr. Warren said he was speaking on behalf of the Lake Burien Shore Club this evening, so he's entitled to speak for five minutes. He noted that he's been the steward of Lake Burien for seven years, there has been a lake steward for about 30 years, the shore club has been in existence more than 50 years, and the community has been very tight in the 100 years that the shoreline has been privately owned. He said he wanted to discuss deficiencies in the draft Shoreline Master Program. He asked the commissioners to refer to the Shoreline Inventory document prepared by Grette Associates. Directing their attention first to Section 1.2 Methodology, he said there is a lack of a baseline for both the lake and Puget Sound against which changes can be assessed. In Section 1.4 Inventory Reaches, he said, there is a typographical error for perimeter measurement of the lake. In Section 2.1, Historic Land Use and Watershed Conditions, Mr. Warren challenged the study cited and said it is not useful as a baseline. Finally, he wants reference to the Lake Burien outlet weir removed from the Shoreline Master Program as he believes it leads to risk for the Ruth Dykeman Children's Center if the public misinterprets who is responsible for maintaining the weir.

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

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

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

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

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

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

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

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

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

That concluded public comments.

Approval of Minutes

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

Old Business

a. Discussion about Shoreline Master Program Update

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

New Business

None

Planning Commission Communications

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

Director's Report

None

Adjournment

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

Approved: February 23, 2010

/s/ Joe Fitzgibbon, chair