

City of Burien, Washington

Shoreline Advisory Committee Meeting Agenda

Wednesday, October 7, 2009, 4:00 – 6:00 pm

Burien Community Center
425 SW 144th Street, South Building, Room 11
(206) 241-4647

MEETING # 7

- (1) SIGN IN/ROLL CALL - (5 min.)
- (2) CONFIRM AGENDA - (5 min.)
- (3) REVIEW AND APPROVE MEETING #6 SUMMARY - (5 min.)
- (4) SHORELINE USE AND MODIFICATION POLICIES AND REGULATIONS, Chapter IV – (1hr 15 min.)
- (5) ADMINISTRATIVE PROCEDURES, Chapter V – (20 min.)
- (6) NEXT STEPS and NEXT MEETING (if needed) - (10 min.)

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City of Burien, Washington

Shoreline Advisory Committee

DRAFT

Meeting #6 Summary

September 23, 2009

4:00pm

(1) ATTENDANCE

SAC Members present	Technical Staff Present	Interested Parties Present
Brian Bennett Bruce Berglund Cyrilla Cook Victoria Hall Patrick Haugen Rebecca McInteer Lee Moyer Kim Otto George Yocum Don Warren	David Johanson Bob Fritzen Liz Ockwell Steve Roemer Karen Stewart	Chestine Edgar Robert Edgar Dick Franks Judy Franks Robert Howell Faith Ireland Kirk Lákey, WDFW Sandy Lievero Homer Lockett Dorothy Lockett Susan Luthy Cheryl Merritt Fred Reinke Denise Reinke Kathi Skarbo John Upthegrove Doug Weber

(2) CONFIRM AGENDA

1. The agenda was confirmed

(3) REVIEW AND APPROVE MEETING #5 SUMMARY

1. The meeting summary was accepted as presented with the following clarification:
 - A clarification question was raised regarding whether project monitoring applied to public or private projects as referenced in Section 5, Shoreline Restoration Plan. The response was that it could apply to both project types.

(4) SHORELINE MASTER PROGRAM UPDATE, PROGRESS REPORT AND

RECAP: David Johanson briefly summarized where we are in the SMP update process and referenced the latest version of the Shoreline Policy and Regulations Comparison Table. He went on to explain that the Department of Ecology still has to review the proposed Shoreline Master Program and this version is the 1st draft and he wants to get the committee's comments and issues incorporated before it moves forward to the Planning Commission and City Council for consideration and approval.

Karen Stewart gave an update of her work as a consultant with Reid Middleton and their coordination with the City and Department of Ecology. The goal is to work collaboratively with each agency to streamline the process.

David Johanson wrapped up the update and progress report stating that the committee would get through as much of the draft code as they can at this meeting, and if needed, discussion may continue at the next meeting scheduled for October 7, 2009. He wanted to ensure that the committed doesn't feel rushed.

- (5) **SHORELINE USES AND MODIFICATIONS, POLICIES AND REGULATIONS, CHAPTER IV:** Brian Bennett led the discussion of Chapter IV and stated comments could be taken and written down at the meeting, and staff would work on it and bring the incorporated comments back to the committee. Cyrilla asked that the committee go through the chapter from beginning to end, not jumping around through different sections.

1. **20.30.001 Figure 4 Shoreline Use/Modification Permit Matrix**

- Pat Haugen was concerned about boat ramps being prohibited and what would happen to existing boat ramps. The response was that existing boat ramps would fall under the nonconforming regulations in 20.35.045 as well as in the BMC and RCW (Revised Code of Washington). Karen Stewart brought attention to the footnotes to the chart and that boat ramps are permitted on community beaches with a conditional use permit.
- Lee Moyer asked about opening up a bulkhead to install a boat ramp that went no further waterward than the existing bulkhead. The response was that you would have to look at the shoreline designation directly adjacent to the bulkhead to determine if it is allowed. Bob Fritzen stated that a boat ramp is a boat ramp no matter if it's located landward or waterward of the ordinary high water mark. Boat ramps are prohibited based on the impact they have on the beach habitat and sediment transport. The committee was asked if they would like to further discuss this issue, but there were no further comments.
- Bob Fritzen would like language or a footnote added relating to 'Fill' in the use chart. He would like to add that fill should be allowed if associated with an otherwise allowed use.

2. **20.30.010 Impact Mitigation**

- Bruce Berglund asked for clarification regarding the wording 'to the fullest extent possible' in 20.30.010 [1.a]. He was directed to 2.a where 'to the greatest extent feasible' was used and that "feasible" was a defined term in the code.

There was a consensus that 'to the fullest extent possible' be removed from 1.a. since further detail is given in the regulations section 2.a.

- Don Warren feels that wetlands are missing from the impact mitigation section of the code. David Johanson stated that regulations regarding wetlands are located in the critical areas section of the BMC (Chapter 19.40). Bob Fritzen explained that the SMP will adopt the Critical Areas Ordinance into the SMP and provide some crossover regulations.
- Don Warren asked if compensatory measures as described in 'f' are able to be done off-site in another area or jurisdiction and would prefer that mitigation be done in the basin. It was pointed out that the language reads that the mitigation must be in the immediate vicinity or associated watershed.

3. **20.30.020 Archaeological and Historic Resources**

- Don Warren asked what RCW 42.17.310 discussed – he will look up the language on his own

4. **20.30.025 Critical Areas**

- Lee Moyer asked if aquifer recharge areas should be in the SMP or if they can they be covered only in BMC 19.40 Critical Areas. It was pointed out that there are regulations in the BMC.
- Cyrilla Cook asked for clarification on 2.c regarding the 10 foot buffer. There was confusion regarding what the buffer was for. Karen Stewart explained that it wasn't actually a buffer associated with the shoreline setback, but is related only to in/over water development and the protection of saltwater habitat such as eelgrass. There was a consensus of the committee to change the language from 'within a 10 foot buffer' to 'within 10 feet'.
- Based on a map from NOAA the entire shoreline is mapped as 'nearshore critical habitat' for Chinook Salmon, therefore it could be considered 'critical saltwater habitat' as stated in the draft SMP.
- The question was also asked if docks and ramps should be allowed in the critical saltwater habitat. The committee had no comments.

5. **20.30.030 Flood Hazard Reduction**

- In 1.a, a question was raised regarding 'should' vs. 'shall' in the policy language. The committee asked that the policy should use shall vs. should because the word 'feasible' is included in the policy which already gives flexibility. There was consensus that "shall" should be used. There was also

consensus that “when feasible” should be removed from the policy language.

- David Johanson noted that there are flood hazard regulations that will also apply for development proposals if the site is mapped as a flood hazard area. These regulations are found in other areas of the BMC.
- Don Warren asked if there will be noticing requirements when all development occurs in a flood hazard zone. David Johanson responded that it depends on the project. If the project includes a review that requires noticing such as a Type 1, Shoreline Substantial Development permit or Shoreline Conditional Use permits, then yes.
- Don Warren commented that 1.f. should be taken out of the SMP.
 - f. The City should maintain the outlet weir at Lake Burien to maintain a relatively constant lake level to minimize the potential for flooding.
- Don Warren stated that the Lake Burien community has always maintained it and that they do not want the city to step in for maintenance. There has never been a flooding issue involving the lake. A comment was made from other members that since it is on Ruth Dykeman’s property, that they should weigh in on the decision and if they want the legal responsibility to maintain it. Don Warren mentioned that he has been told that the weir was installed by King County on or about 1958.
- Rebecca McInteer suggested that the Burien City Attorney review this and all of the residents of Lake Burien could possibly sign a hold harmless regarding maintenance of the weir, because a flooding issue could affect all property owners on the lake not just those present at this meeting.
- Don Warren would like the language to be removed for now, then, if the City decides they will maintain the weir, the language could be put back in at that point.
- Kirk Lakey, with WDFW suggested research should be done as to who actually holds the permit for the weir to hold water in the lake and if it was permitted. Research will be done to determine permit information. There was a consensus that the language should stay pending further research.

6. 20.30.035 Public Access

- Don Warren commented on 1.c. and asked if views could be blocked by construction project. David Johanson responded that there are no regulations regarding view protection in the BMC. The SMP language states that

views should be considered, but historically the City has made a decision not to regulate views.

- Don Warren asked if regulation 2.a intended that utility easements could be constructed to provide public access. Staff responded that this regulation talks about existing street ends, utilities, and rights-of-way, and that those cannot be vacated for public access. Policy 20.30.110 [1.d] addresses this issue.
- There was confusion regarding whether this regulation applies to public or private property. There was a consensus of committee that 2.b be revised to read:
"The vacation or sale of City street ends or other public rights-of-way and tax title properties that abut shoreline areas shall be prohibited as these areas provide shoreline public access and viewpoints".
- There was a consensus of committee that 2.d be revised to read:
"If a public road is located within a shoreline jurisdiction, any unused right-of-way shall be dedicated to open space and public access".
- Pat Haugen pointed out that it was not clear if public access requirement 2.e be applied to existing development such as community beaches. It was clarified that that this applies to new development. There was consensus to add the term 'new' to regulation 2.e.
- Don Warren asked about restricting hours for public access points and if this applies to Lake Burien. He also asked if the code could specify hours of public access to beaches. Steve Roemer responded that this level of specification could not be added to the code because it may vary from access point to access point. He said the City would work with the homeowners on Lake Burien to determine appropriate hours on a project specific basis. It was noted that generally when there is a parks proposal they work with the surrounding property owners and residents to address design and operational issues.
- Don Warren asked that the threshold for providing public access in 2.e be increased to 5 lots. There was a consensus of the committee to keep the language as proposed.

7. 20.30.040 Shoreline Vegetation Conservation

- The committee asked if in policy 1.b if 'degraded shoreline' is defined. Staff responded that it was not, but degraded means whatever shoreline function has been disturbed or altered. The committee then suggested that 'alteration' be defined in the SMP because alteration leads to the

requirement of a vegetation management plan and bonding. David Johanson stated that alteration is a defined term in the zoning code and there will need to be more definitions added to the draft, specifically Chapter VI, Definitions.

- The committee asked if a degraded shoreline would be enforced, who decides what mitigation would be required, and what legal rights they have to determine that. Cyrilla Cook mentioned that degradation should only be associated with new development. She also suggested that policy[1.b] read as follows;

“Restoration and mitigation of ~~degraded~~ shorelines degraded due to natural or manmade causes should, wherever feasible, use bioengineering techniques to arrest the processes of erosion and sedimentation, to improve water quality and to provide for properly functioning conditions.”

There was *consensus* of the committee to change the language as proposed.

- The committee agreed that they would continue the review starting with Shoreline Vegetation Conservation at the next meeting.

(6) ADMINISTRATIVE PROCEDURES, CHAPTER V: Committee did not have time to discuss Chapter V at this meeting.

(7) NEXT STEPS AND NEXT MEETING:

1. Cyrilla Cook mentioned that it would be helpful to further the progress or SMP review that the committee read over the rest of the document and submit any comments or questions to staff prior to the next meeting. There was *consensus* that this was a good idea and that all comments shall be submitted to David Johanson by September 28th, 5pm. He will then compile the comments and provide them to the committee.
2. Another meeting for further discussion has been schedule for October 7, 2009, in the same location and at the same time.

The meeting concluded at 6:00pm.

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: September 30, 2009
TO: Burien Shoreline Advisory Committee
FROM: David Johanson, AICP, Senior Planner 
SUBJECT: Burien Shoreline Master Program Meeting No. 7

The purpose of this memo is to provide the Shoreline Advisory Committee information to help guide the discussion for its upcoming meeting on Wednesday, October 7, 2009 from 4-6:00 pm.

SPECIAL NOTE: Please note we will be meeting at the Burien Community Center located at 425 SW 144th Street
Room 11 (South Building)

At our last meeting it was decided that members should provide their comments in writing to help facilitate the document review process. The deadline to provide those comments was on September 28th at 5PM. Staff did not receive any new comments from the Committee.

For your convenience attached to this memo you will find the written comments from Cyrilla Cook that was handed out at our last meeting.

In addition to Ms. Cooks' comments I have received an e-mail from Chestine Edgar. In the interest of providing an open forum to discuss issues related to the shoreline update process I have attached this correspondence.

Please bring you packets from the last meeting.

Attachments

- 1) Draft meeting summary of meeting no. 6.
- 2) Comments from Cyrilla Cook, dated September 21, 2009
- 3) Comments from Chestine Edgar, dated September 23, 2009, 4:51 am

September 21, 2009

To: David Johanson, City of Burien
Fr: Cyrilla Cook, People For Puget Sound
Re: Burien SMP Update: Comments on Chapter IV

Thanks for the opportunity to review the chapters in advance of the September 24 meeting. Below are my comments and questions.

Page IV-7, 20.30.025 Critical Areas

Regulation 2.c. What is the basis of the ten-foot buffer from critical saltwater habitats, since the buffer is 50 feet? This seems inconsistent with best available science, and the adopted standards for buffer averaging in the CAO. A 50% reduction with buffer averaging would be a minimum of 25 feet. A 25-foot buffer will provide only minimal water quality and habitat functions, removing between 50-60% of sediments and pollution (Desbonnet et al 1994). The ten foot standard is also inconsistent with the minimum 20 foot buffer proposed on page IV-27 under common line riparian buffer. To maximize water quality treatment that supports the no net loss standard, the City should consider requiring enhancement of buffers through planting with native vegetation any time buffers less than the standard will apply.

Page IV-11, Shoreline Vegetation Conservation

Policy 1.a. Native plant communities on stable bluffs should also be maintained, as that may be what contributes to their stability.

Regulation 2.c. Item v refers to a “noncompliant” buffer and item ix refers to “non-conforming” buffers. Are these the same thing?

Page IV-17, Bulkheads and other shoreline stabilization structures

While the regulations in Subsection 2 make sense, they need a policy basis to support them. Regulations that favor nonstructural methods over structural methods avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, yet there are no policies in this section stating the city’s objective of protecting shoreline functions from structural shoreline stabilization.

Policy b speaks to the aesthetic qualities of the shoreline but does not clearly state the city’s preference for nonstructural stabilization. It could be modified as follows:

b. Bulkheads should be designed to blend in with the natural surroundings and not detract from the aesthetic qualities or degrade the natural processes of the shoreline.

I recommend adding the following additional policies:

Burien should take active measures to preserve natural unaltered shorelines, and prevent the proliferation of bulkheads and other forms of shoreline armoring.

Non-structural stabilization measures including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other measures are preferred over structural shoreline armoring.

Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.

Page IV-20, Docks, Piers, and Floats

Regulation 2.c.iii. implements Policy a, which seeks to minimize impacts to shoreline and nearshore ecological functions. Two potentially significant impacts of overwater structures are shading and interruption of sediment transport processes. (See Nightingale B., and C. Simenstad. 2001. Overwater structures: Marine Issues. White paper prepared for the Washington Department of Fish and Wildlife/Washington Department of Transportation). The proposed regulations do not appear to specifically address these types of impacts. I recommend the regulation be revised as follows:

iii. Minimize adverse effects on fish, shellfish, wildlife, water quality and geohydraulic processes by limiting the size of the structure and the use of hazardous materials, incorporating grating to allow light passage or reflective panels to increase light refraction; and spaced and oriented to minimize shading and avoid a 'wall' effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms.

Please also consider whether this policy is needed:

Overwater structures should be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in original moorage design shall not be grounds for approval of dredging.

Page IV-21, Habitat Restoration and Enhancement

This section would benefit from policies that express the city's desire to encourage uses that incorporate restoration projects along its shorelines. Here are some policies (from Jefferson County) to consider:

Protection of existing resources is the best way to ensure the long-term health and well-being of Burien shorelines. Restoration should be used to complement the protection strategies required by this Program to achieve the greatest overall ecological benefit.

Priority should be given to restoration actions that meet the goals and objectives of the Restoration Element of this Program.

Page IV-26, Residential Development

Common line Buffer

To ensure no net loss of ecological functions, the city has adopted shoreline buffers for new development. The common line buffer can be used in cases where new development is proposed on undersized lots, and application of the buffer would either preclude the development of the single family home or substantially affect views. This approach does, however, create new nonconforming structures. While we support the requirement that common line buffer proposals be reviewed as conditional uses, the draft appears to allow redevelopment or expansion of existing buildings to encroach into the buffer using the common line buffer approach. This is inconsistent with the SMA and state law, as it will result in the potential for increasingly more structures to become nonconforming, and will also result in additional loss of ecological functions. Existing buffers in the city are already smaller than that supported by best available science, so the city should limit the use of the common line buffer to only new development, not expansion of existing development. Expansion of existing structures should be prohibited from encroaching waterward of any existing buffer. If this policy is to remain, the City needs will need to assess the impacts of the waterward expansion of existing residential structures on ecological functions in its cumulative impacts analysis, and determine how no net loss will be met.

Regulations in General

This section would benefit from additional policies that provide the basis for the subsequent regulations that address environmental protection and use compatibility. Here are some to consider:

Residential use is not water-dependent but is a preferred use of the shorelines when such development is planned and carried out in a manner that protects shoreline functions and processes to be consistent with the no net loss provisions of this Program

All residential use and development should be planned, designed, located, and operated to avoid adverse impacts on shoreline processes, aquatic habitat, biological functions, water quality and quantity, aesthetics, navigation, and neighboring uses

To protect shoreline ecological functions and discourage the proliferation of shoreline structures, the joint use of residential shoreline facilities, including access stairs, is preferred.

1-574

David Johanson

From: Chestine Edgar [c_edgar2@yahoo.com]
Date: Wednesday, September 23, 2009 4:51 AM
Subject: David Johanson
RE: information

To David Johanson;

This e-mail is in response to the the previous e-mails that we have exchanged and I continued to have some additional questions and concerns about what I see happening in this committee that is supposed to represent the work of the citizens of Burien as well as respecting private as well as public interests. At my first meeting, I saw the Chair not managing the agenda but rather carrying on side conversations-the woman at the head of the table remarked on this also.

1. This committee has two citizens from each of the area represented except for Lake Burien. I am interested in why Lake Burien was given only one representative and one vote while three non-residents "at Large" were given seats on the committee-3 votes. Perhaps I have missed something in the counting but it appears that the count goes like this-7 citizen representatives and 11 other member positions that are non-citizens. As noted in the operating rules, a simple majority takes the vote. So things could easily become a part of this plan that the majority of citizen members did not support or favor. Have I miscounted how the numbers were assigned for membership?
2. The information that you sent to me on Lake Burien perplexes me because there was so little data to examine. Additionally, I pulled up data from the King County Lake Monitoring Site that stated that the water quality in Lake Burien was very good water quality, most of the noxious weeds that were a problem in other King County lakes were not present in Lake Burien, there were no reports of snail fever from this invasive animal carrier, there were relatively poor conditions for nuisance bluegreen growth and there was little phosphorous build-up in the deep water through the summer. I did water sampling this last winter on the lake(which I sent into the U of W) through a water quality study project and again found none of the reading to indicate that the lake was in bad shape as was suggested at the meeting. In comparing the data available on other King County lakes, I found Lake Burien to be one of the healthiest lake in King County. Perhaps you can send me to those other sites that paint a fair more alarming picture of the lake's health?
3. In attending the last meeting, I found that there was an inadequate amount of time given to cover the document that had been sent out. I heard the citizen members voice that concern and your response was that they should go home and read it and communicate with you via the e-mail- 2 week deadline on responses. After the meeting, I spoke with 4 of the the committee members and they were frustrated at the lack of allowed meeting time to go over and clarify things in the document. I am a good reader and have a high reading comprehension level and once again I find the contents of the second document(the one that will be discussed at this next meeting) far to lengthy to be adequately in the 2 hour meeting scheduled. The document is 4 months late is being discussed in committee as the scheduled meeting was for May,2009. As one of the citizen member's remarked to me at the end of the last meeting, "They give us very little time to discuss what is in the document they have created and then they want us to just rubber stamp their work. They have us around to be their rubber stamps." Is there a reason why so little time is available for discussion and clarification on these thick documents that are mailed out that will have a sweeping affect on how we manage our shorelines? Also, it is in the operating rules that comments can be taken from the audience and I notice that that is not happening. Why is not being allowed?
4. I have mentioned to you in a previous e-mail that there are members of your committee

that have tried to bartered land sales on lands that are not even for sale based on what they learned as members of the committee and additionally have organized pressure groups to try to get their wishes to prevail as shoreline policy and have gone out to blogs and newspapers to sensationalize their interests. As I have stated before, this appears to be a conflict of interest on their part as committee members. If this had been their position and they were running an organized lobby group, they should have identified their affiliation before seeking membership on the committee rather than just referring to themselves as members at large. I do not believe that you answered my question the last time I brought it up. Don Warren always identified himself as a resident of Lake Burien and a member of their community club. His position was always up front and honest. That is not true of the members I have referred to as having conflicts of interest. So what would constitute conflict of interest behavior on this committee?

Lastly, I have a number of questions on the document about public access vs. respecting private ownership. As it appears that the city plans to take control/ownership of a number of pieces(some private lands) of land for public access that currently do not have public access status. I will wait to hear if this is fleshed out at the meeting. However, at face value it reads now like eminent domain language, is that what is really being discussed in cloaked terms?

Thank you for your time.

Sincerely,

Chestine Edgar

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City of Burien
 Shoreline Master Program
 Advisory Committee Meeting
 October 7, 2009

Name	Address	City/Zip Code	Phone Number
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Kathie Skarbo	1621 SW 152nd	Burien 98166	206-242-9874
Susan Luthy	1807 SW 152	Burien 98166	206-246-6348
Bob Edger	18674 Shorewood Dr SW	Burien	
Robert Howell	15246 20th SW	Burien	206-244-6070

Note: Names and addresses can be made available to the public upon request

1-582

RECEIVED

OCT 07 2009

CITY OF BURIEN

To David Johanson/Don Warren:

This e-mail is a follow up to the 9/23/09 Burien Shoreline Master Program meeting that I attended. It contains some observations about the meeting process and the document currently being reviewed.

1. In previous e-mails I have questioned the membership of this advisory committee. All of the other shoreline areas of Burien were given two members for their area and Lake Burien was given one member and one vote. As a result there are six citizen members to speak for the protection of Puget Sound and one member voice allowed for Lake Burien. In following the conversation and interactions at the meeting, it became clear to me that that some members on the committee do not understand the CRITICAL/SENSITIVE nature of the Lake Burien area and should Don Warren become ill or absent the lake has no representation on the committee. Lake Burien is a critical area because it is:

- A. on seismically active land,
- B. on landslide prone land,
- C. on an aquifer,
- D. a headwater to Miller Creek,
- E. critical habit land for resident and migratory waterfowl, especially since the Port of Seattle filled/destroyed the 25+ acres that were previously used by these creatures,
- F. a clean, small, freshwater habitat which is in far shorter supply on this planet than saltwater habitats,
- G. contains protected wetlands.

2. Page IV-14, 20.30.050 Dimensional Standards for Shoreline Development, Figure 5, Lot Size.

The lot size on these lands was always RS-12,000 until the late 1990s. Then the City of Burien put together its growth plan (GMA) and rezoned the lot size to RS-7,200 without an adequate analysis of the critical/sensitive nature of this lake. The conversation at one of the rezoning meetings amounted to the COB saying that someone had to take the hit on lot size to complete their master plan. Many of the residents around the lake did not support this rezoning because they did not believe that the RS-7,200 would adequately protect the health and sustainability of the lake. None of the current residents have sold their property to allow that kind of lot development yet. However, when most of the lots are sold in the future, the number of houses allowed by the city on the current land will increase from anywhere to two to six houses per current lot. Compared to the RS-12,000 for salt-water lot sizes, the city is requiring that the land around Lake Burien be DEVELOPED AT 167% THE AMOUNT that it is requiring for land development on Puget Sound. If this lot size issue is not addressed by this committee (no matter how many buffers you stick in this plan), you will not be able to keep the water quality and shoreline of the lake FROM DECLINING. I believe that the shoreline master plan should address this.

I strongly suggest that this plan recommend that the lot size around Lake Burien be the same as the lot size on the other shorelines and the urban conservancy. This is urgent for the future protection of the lake shoreline.

The comment I heard at the last meeting suggested that the seller could keep a developer from developing at the level allowed by the COB. In fact, the seller has no control over lot size allowed to developers by the city. Therefore, it is urgent that you address this lot size issue for the protection of the lake shoreline. If you do not, are you really protecting the shoreline of Lake Burien in the same way you are protecting the other shorelines?

3. Page IV-7, 20.30.025 Critical Areas, 2. Regulations, c.

While there is a discussion about no intrusion into critical saltwater habitats, the whole buffer issue of intrusion into critical freshwater habitat is neglected. I suggest that some buffer and statement be added here. A definition for critical freshwater habitat needs to be created.

4. Page IV-10, 20.30.035 Public Access, 2. Regulations, e.

Due to the rezoning of the lots on Lake Burien, this now means that at least 5 to 8 current properties would be required to have public access when they are developed at RS-7,200. That many public access points on the lake would be a disaster to the shoreline, would present parking problems for the actual residents and the COB would not have the available staff or police to monitor them. Small lakes typically have a single access point that is regulated by the city county or state. As the law/regulation allows for exceptions to the 4 parcel rule, I suggest that that changed to read 6 parcels. (j. and k.) What that means makes no sense as it is currently written. What the heck does it mean?

5. Page IV-12, 20.30.040 Shoreline Vegetation Conservation, 2. Regulations, g & h.

Who is the Director? Is this the Shoreline Administrator? Currently, we get a flyer from the county telling us which noxious weeds to pull and which ones to eliminate. I cannot imagine each of us having a consultation with the shoreline administrator (see h) before we can proceed on? Perhaps this should say that a consultation or education program/document will be provided on the topic of noxious weeds.

6. 2. Page IV-14, 20.30.050 Dimensional Standards for Shoreline Development, Figure 5, Lot Size.

The lot size on these lands was always RS-12,000 until the late 1990s. Then the City of Burien put together its growth plan (GMA) and rezoned the lot size to RS-7,200 without an adequate analysis of the critical/sensitive nature of this lake. The conversation at one of the rezoning meetings amounted to the COB saying that someone had to take the hit on lot size to complete their master plan. Many of the residents around the lake did not support this rezoning because they did not believe that the RS-7,200 would adequately protect the health and sustainability of the lake. None of the current residents have sold their property to allow that kind of lot development yet. However, when most of the lots are sold in the future, the number of houses allowed by the city on the current land will increase from anywhere to two to six houses per current lot. Compared to the RS-12,000 for salt-water lot sizes, the city is requiring that the land around Lake Burien be DEVELOPED AT 167% THE AMOUNT that it is requiring for land development on Puget Sound. If this lot size issue is not addressed by this committee (no matter how many buffers you stick in this plan), you will not be able to keep the water quality and

shoreline of the lake FROM DECLINING. I believe that the shoreline master plan should address this.

I strongly suggest that this plan recommend that the lot size around Lake Burien be the same as the lot size on the other shorelines and the urban conservancy. This is urgent for the future protection of the lake shoreline.

The comment I heard at the last meeting suggested that the seller could keep a developer from developing at the level allowed by the COB. In fact, the seller has no control over lot size allowed to developers by the city. Therefore, it is urgent that you address this lot size issue for the protection of the lake shoreline. If you do not, are you really protecting the shoreline of Lake Burien in the same way you are protecting the other shorelines?

7. Page IV-14, 20.30.055 Shoreline Buffers

The language in this area is very confusing. Are the current properties grandfathered in as they stand without buffers or will residents be required to meet these new regulations? Item 3. The performance bond is not in the definitions section and the average home owner will not be able to make sense of it. Lastly, it appears that the home owner's money will be held for five years by whom?

8. Page IV-15, 20.30.065 Aquaculture.

Aquaculture should flat out not be allowed in Lake Burien. The chart and this section should state this. However, there should be some discussion about what would be allowed if there was a significant decrease in the fish population of Lake Burien as the fish are critical to maintaining the balance in the lake and are a food source for waterfowl and raptors. Additionally, I recall at the Shoreline meeting prior to the 9/23/09 meeting there was a brief discussion about recreational aquaculture. There was no discussion of commercial aquaculture in front residential properties. However, it now appears that commercial aquaculture will be allowed in front of residential properties?

9. Page IV-19, 20.30.075 Commercial, Institutional and Office

Lake Burien is a small, residential lake. Three story office buildings should not be allowed on it. If office development on Lake Burien is shown to be allowed in this shoreline plan, it implies that the city is willing to allow it. Citizens of Lake Burien should not have to constantly have to turn out to appear at hearing to constantly refile this issue. Office Development is a high intensity land use that is not appropriate to a critical area like Lake Burien.

10. Page IV-24, 20.30.075 Recreational Development

This section makes no sense for a small residential lake like Lake Burien. It provides little to no protections. Currently as the plan is written, a 3 story recreational complex could be put on the lake. That complex could act as a hotel and recreational center that provides swimming, boating, canoeing, kayaking, fishing, sailing, picnicking, hiking and just about anything else.. As long as they claimed "professional" (whatever that means), administrative, educational, "business" (whatever that means) or governmental services, they would have a right under this plan to put a business up on the lake. There is no restriction that people could not be housed there.

The impact of such a recreational site on this small lake would be like building another Disneyland on Lake Burien. The citizens of Lake Burien went to court once to keep such development from happening. However by keeping the current language in this plan, it again opens the door for another court battle that has to be fought by the residents to protect the lake. It costs a lot of money and is not in the best interest of protecting the shoreline. Also, I would like to add that Lake Burien is pretty much a catch and release lake by the mutual agreement of the residents. Boats, floatation devices and motors that have been in other lakes are not allowed to be used in the lake (to prevent the spread of noxious weeds) by mutual agreement of the residents, no one is on a septic tank (in spite of what the idiots write on the B-town Blog) and organic, low nitrogen or no fertilizers are used in residents yards by mutual agreement of the residents. Some place in this document, those provisions need to stay in place for the health and future of the lake.

11. Page IV-25, 20.30.095 Recreational Mooring Buoys

Lake Burien is too small to allow recreational mooring buoys. This document and the Shoreline Use/Modification Permit Matrix on page IV-3 should reflect that. Additionally, the lake has two anchored float/rafts in the center of the lake. Those should probably be allowed to stay and no more added. Those floats provide a safe resting area for waterfowl and raptors as the lake does not have logs and snags that normally provide those resting areas. During the fall, winter and spring I have observed many birds using this as a resting site. During the summer, it provides for safety issues for swimmers. This plan should speak to that issue. The lake provides a safe haven for thousands of waterfowl each year. If there was ever a Community Beach as mentioned in this plan, another float should not be installed in the lake.

12. Page IV-31, 20.30.110 Utilities, 1. Policies, d & g

What appears to this means is that wherever there is a utility easement there will be a public access to the shoreline. That could be quite a surprise to a number of private property owners that have utility easements on or adjacent to their properties. So what does this really say? And what the does (g.) on page IV-32 mean?

Chapter V. Administration and Shoreline Permit Procedures

13. Page V-16, 20.35.060 Compliance and Enforcement, C, 2, Amount of penalty

The expression is that small children, small animals, little old small people and small lakes can go downhill quickly. The amount of money required to rescue or cure them is usually large. The penalty amounts in this plan seems to be too small in relation to how much it can cost to repair damages. That is why many developers say it is easier and cheaper to do the damage and pay the low fines than to follow the rules. And again, who is the Director mentioned on this page?

14. Page V-18, 20.35.060 Compliance and Enforcement, C, 8, d, Hearing

The term "sua sponte" (line 5) needs to be in the definitions.

15. Page V-18, 20.35.060 Compliance and Enforcement, D, Criminal Penalties, 1 & 3

The fines seem to be so small as to be inconsequential.

16. Page VI-1, 20.40.000 Definitions

A definition for Critical Freshwater Habitat means to be created, added to this document and added to the definitions. And if there is really a Director, that responsibility needs to be defined. Page VI-3, Physical public access. What does access to tidelands mean for Lake Burien as there is no tidal movement and most property boundaries extend into the lake?

17. Comparison Table-Some of the unfilled in space do not make sense to the reader. They need to be fleshed out or corrected.

The operating rules of this committee continue to be perplexing to me.

The first two times that I got notice about the meetings, I was told that I could attend and watch but could say nothing. I took that to mean that I had no right to comment or have any input on the plan. I could just observe. Then I read in the operating rules that stated the Chair could take comments from the floor. Last meeting, I saw a person from the floor add comments without the Chair opening the floor.

The discussion on the Weir came up and it appeared as if a vote of some kind should be taken but I saw no voting going on. Perhaps you could clarify for me how things work? How will my citizen input suggestions be addressed?

Thank you for your time and attention to my input.

Sincerely,
Chestine Edgar

cc Karen Stewart

Burien SMP Update: Combined Comments of the SAC on Chapter IV

Page IV-7, 20.30.025 Critical Areas

Regulation 2.c. What is the basis of the ten-foot buffer from critical saltwater habitats, since the buffer is 50 feet? This seems inconsistent with best available science, and the adopted standards for buffer averaging in the CAO. A 50% reduction with buffer averaging would be a minimum of 25 feet. A 25-foot buffer will provide only minimal water quality and habitat functions, removing between 50-60% of sediments and pollution (Desbonnet et al 1994). The ten foot standard is also inconsistent with the minimum 20 foot buffer proposed on page IV-27 under common line riparian buffer. To maximize water quality treatment that supports the no net loss standard, the City should consider requiring enhancement of buffers through planting with native vegetation any time buffers less than the standard will apply.

Page IV-11, Shoreline Vegetation Conservation

Policy 1.a. Native plant communities on stable bluffs should also be maintained, as that may be what contributes to their stability.

Regulation 2.c. Item v refers to a "noncompliant" buffer and item ix refers to "non-conforming" buffers. Are these the same thing?

Page IV-17, 20.30.060 - Shoreline Uses

Assume Recreation includes a 'Private Community Beach', if so include those words. If not lets add that use. (This is loosely covered in 20.30.090.)

Another 'use' is Boat Ramps, which are allowed at a Private Community Beach. Also as the DO exist on other properties they should be listed even though restricted. These cannot just be ignored.

Page IV-17, Bulkheads and other shoreline stabilization structures

While the regulations in Subsection 2 make sense, they need a policy basis to support them. Regulations that favor nonstructural methods over structural methods avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, yet there are no policies in this section stating the city's objective of protecting shoreline functions from structural shoreline stabilization.

Policy b speaks to the aesthetic qualities of the shoreline but does not clearly state the city's preference for nonstructural stabilization. It could be modified as follows:

b. Bulkheads should be designed to blend in with the natural surroundings and not detract from the aesthetic qualities or degrade the natural processes of the shoreline.

I recommend adding the following additional policies:

Burien should take active measures to preserve natural unaltered shorelines, and prevent the proliferation of bulkheads and other forms of shoreline armoring.

Non-structural stabilization measures including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other measures are preferred over structural shoreline armoring.

Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.

Page IV-19 20.30.070[2.i] - Bulkheads

A height limitation of one foot above extreme high water virtually eliminates the function of any bulkhead in windy conditions. A perfect example is most of the homes on 30th Avenue SW where wind driven seas constantly broach bulkhead heights that exceed this limitation now. This one foot must be a misprint or have come from a lake specification.

Page IV-20, Docks, Piers, and Floats

Regulation 2.c.iii. implements Policy a, which seeks to minimize impacts to shoreline and nearshore ecological functions. Two potentially significant impacts of overwater structures are shading and interruption of sediment transport processes. (See Nightingale B., and C. Simenstad. 2001. Overwater structures: Marine Issues. White paper prepared for the Washington Department of Fish and Wildlife/Washington Department of Transportation). The proposed regulations do not appear to specifically address these types of impacts. I recommend the regulation be revised as follows:

iii. Minimize adverse effects on fish, shellfish, wildlife, water quality and geohydraulic processes by limiting the size of the structure and the use of hazardous materials, incorporating grating to allow light passage or reflective panels to increase light refraction; and spaced and oriented to minimize shading and avoid a 'wall' effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms.

Please also consider whether this policy is needed:

Overwater structures should be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in original moorage design shall not be

grounds for approval of dredging.

Page IV-21, Habitat Restoration and Enhancement

This section would benefit from policies that express the city's desire to encourage uses that incorporate restoration projects along its shorelines. Here are some policies (from Jefferson County) to consider:

Protection of existing resources is the best way to ensure the long-term health and well-being of Burien shorelines. Restoration should be used to complement the protection strategies required by this Program to achieve the greatest overall ecological benefit.

Priority should be given to restoration actions that meet the goals and objectives of the Restoration Element of this Program.

Page IV-26, Residential Development

Common line Buffer

To ensure no net loss of ecological functions, the city has adopted shoreline buffers for new development. The common line buffer can be used in cases where new development is proposed on undersized lots, and application of the buffer would either preclude the development of the single family home or substantially affect views. This approach does, however, create new nonconforming structures. While we support the requirement that common line buffer proposals be reviewed as conditional uses, the draft appears to allow redevelopment or expansion of existing buildings to encroach into the buffer using the common line buffer approach. This is inconsistent with the SMA and state law, as it will result in the potential for increasingly more structures to become nonconforming, and will also result in additional loss of ecological functions. Existing buffers in the city are already smaller than that supported by best available science, so the city should limit the use of the common line buffer to only new development, not expansion of existing development. Expansion of existing structures should be prohibited from encroaching waterward of any existing buffer. If this policy is to remain, the City needs will need to assess the impacts of the waterward expansion of existing residential structures on ecological functions in its cumulative impacts analysis, and determine how no net loss will be met.

Regulations in General

This section would benefit from additional policies that provide the basis for the subsequent regulations that address environmental protection and use compatibility. Here are some to consider:

Residential use is not water-dependent but is a preferred use of the shorelines when such development is planned and carried out in a manner that protects shoreline functions and processes to be consistent with the no net loss provisions of this Program

All residential use and development should be planned, designed, located, and operated to avoid adverse impacts on shoreline processes, aquatic habitat, biological functions, water quality and quantity, aesthetics, navigation, and neighboring uses

To protect shoreline ecological functions and discourage the proliferation of shoreline structures, the joint use of residential shoreline facilities, including access stairs, is preferred.

Page IV-26 20.30.100 - Residential Development

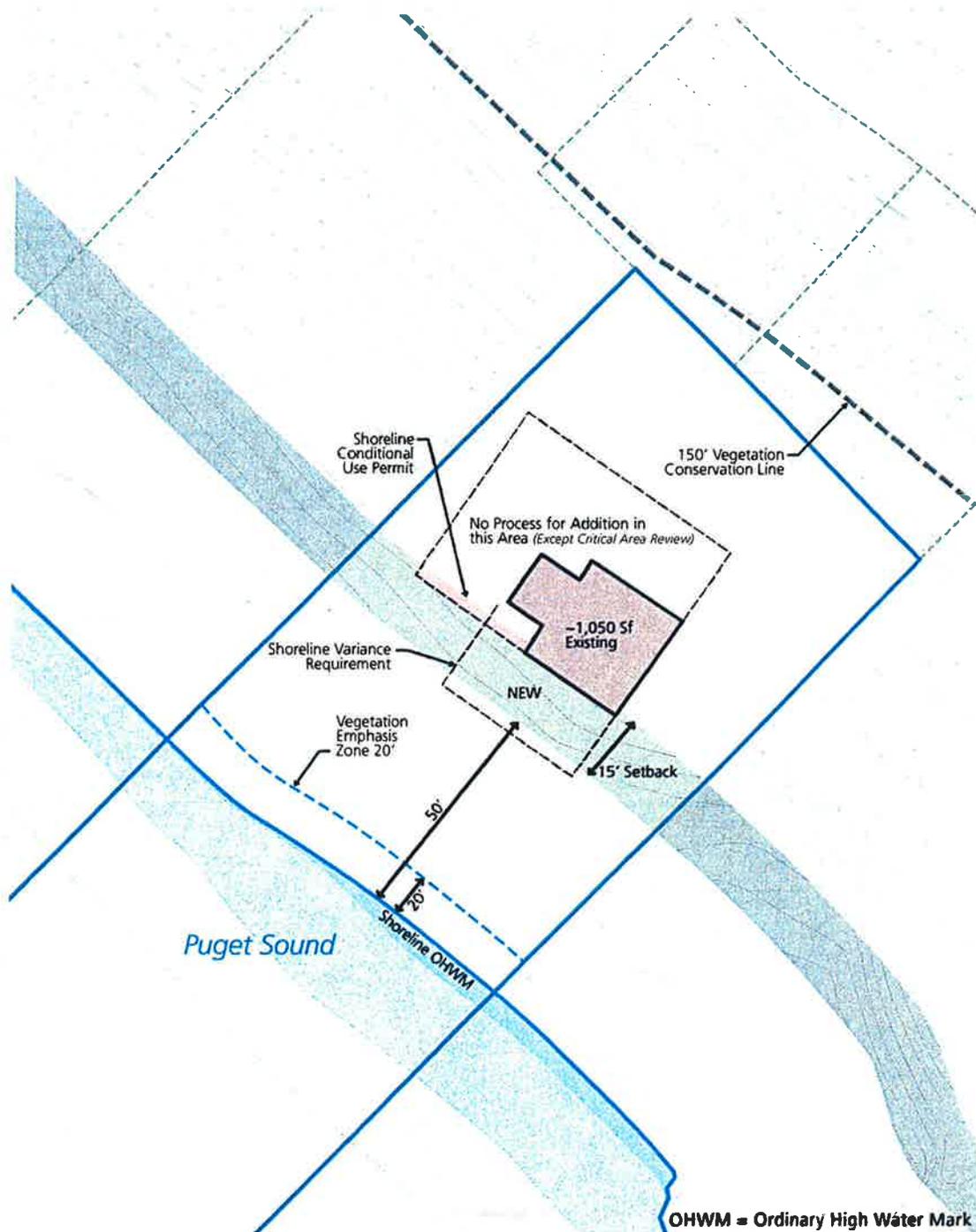
Is this section consistent with policies and regulations applicable to Accessory Dwelling Units (ADU's)??? Are all of these the same for Shoreline as for say a residential area in an upland residential area??

Same Section - 2a - Regulations GeneralProtect*existing Water Views*. You have stated that Burien policy is not to have a policy on *Water Views*. Needs to be consistent. (Would be very pleased to assist the City if view protection is to become a policy!!)

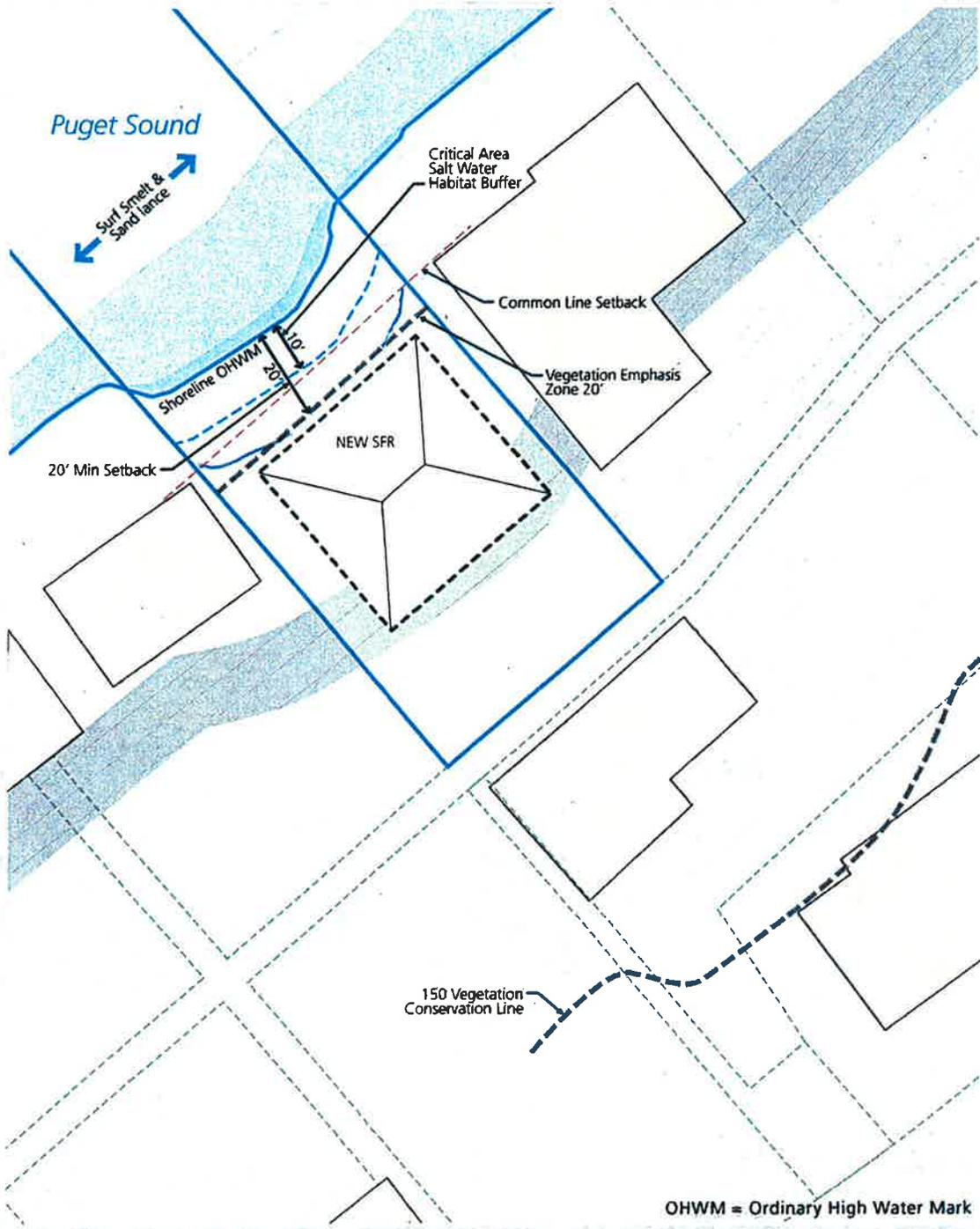
Page IV-27 20.30.100 - Residential Development

Same Section - 2g - Accessory structures. Assume this means ADU's??? If so there needs to be a specific height limitation on ADU's, as it exists an 800 sq ft ADU can consist of 3 stories and include a garage. Is this desirable on shoreline property????

1-592

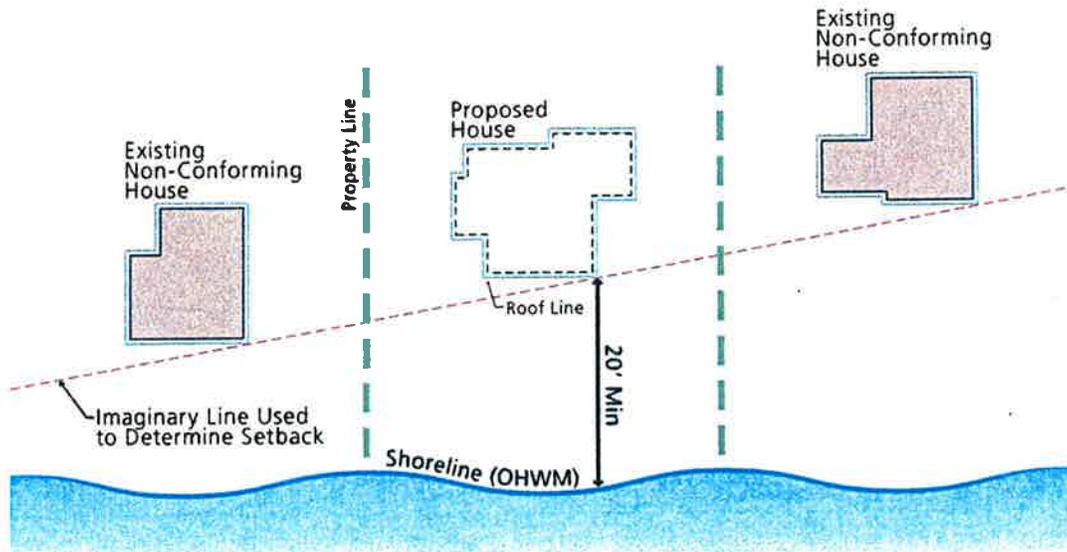


City of Burien Shoreline Master Program
 SINGLE-FAMILY EXPANSION SCENARIOS

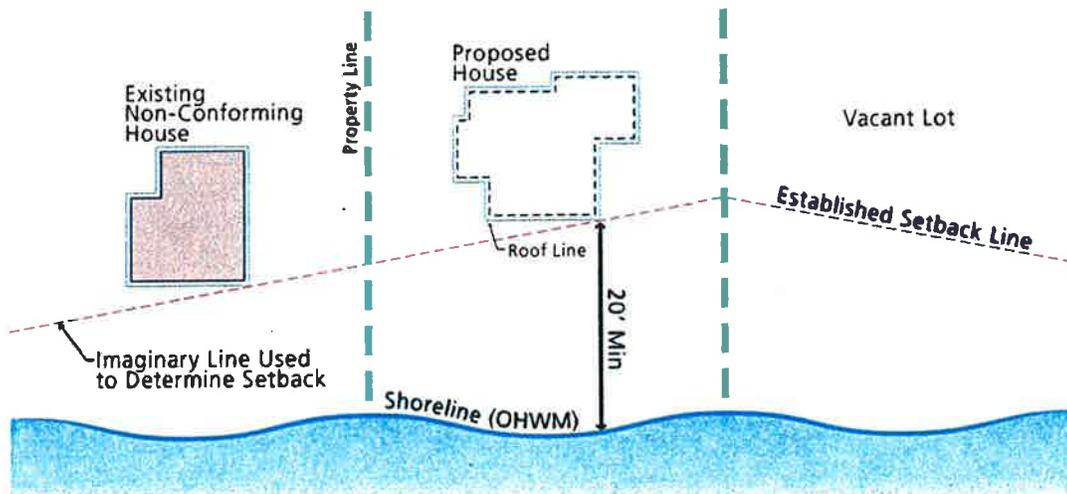


City of Burien Shoreline Master Program
COMMON-LINE SETBACKS DEVELOPMENT EXAMPLE

1-596



OHWM = Ordinary High Water Mark



OHWM = Ordinary High Water Mark

City of Burien Shoreline Master Program
COMMON-LINE SETBACKS FOR RESIDENTIAL USES

1-598