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CITY OF BURIEN

To- The Burien City Council  
To-The Burien Planning Commission  
Re-Shoreline Master Plan Document  
From-Chestine Edgar  
February 6, 2010

This letter is in response to the January 26, 2010 meeting of the Planning Commission and to the topics identified on the "Public Comment Summary Chart" dated 2/4/2010.

Topic #3 In addition to Commercial and Office being added back into the table matrix, Commercial and Office needs to also be added back into Chapter IV, 20.30.075 (per the Sept. 1, 2009 draft) as Commercial, Institutional and Office and it needs to be noted that all of these uses were prohibited by the Shoreline Advisory Committee (SAC).

Topic #15 Again I am requesting the term Critical Freshwater Habitats be added to 20.30.025(2.c). Also I am attaching the page from the WAC173-26-221 which states under (A) Applicability that this section on Critical Freshwater Habitats applies to "portions of streams, rivers, wetlands and lakes, their associated channel mitigation zones and flood plains designated as such." Also, under (C) (i) Standards it states, "Provide for the protection of ecological functions associated with critical freshwater habitat as necessary to assure no net loss." As these are noted in the WAC, it is a term recognized by the scientific community and the Department of Ecology.

Topics #15, 16, 17 These refer to problems with the wetland rating system being used by Burien. This rating system *does not use the current, best science for wetland protection*. I am requesting that **Washington State Wetland Rating System for Western Washington-Revised** be used in the Burien SMP. This would provide small wetlands and Lake Burien with the correction classifications and protections needed to result in no net loss to these environments. For some reason, Burien has put Lake Burien into a Category 4 wetland with no explanation or scientific parameters of what indicators, point scoring items, and habitat features a scientist used to reach the conclusion of Wetland Category 4. This is the reason that there were numerous errors in the Shoreline Inventory, Shoreline Analysis and Characterization, and Cumulative Impacts Analysis that refer to Lake Burien as a Category 2 Wetland. Other scientists and wetland specialists in the state, using the Department of Ecology's recommended classification system, score Lake Burien differently than the City of Burien does using its scoring guide from the CAO document. Futurewise submitted comments to the Planning Commission that Burien needed to change its rating system and I concur with Futurewise.

To not make this change in rating system in the SMP would be to act in opposition to Pol. CON. 9 Page II-12 of the SMP draft 11/17/2009 which states, "The City requires the use of Best Available Science for protecting critical areas within the community pursuant to the Growth Management Act RCW 36.70.172(1)." Because Burien has used a different, less scientific system in the past is not a sufficient enough argument by the City to hold on to this system rather than adopting the one I and Futurewise are requesting and that is recognized by Washington State.

CFTR: 02/22/10

Topics # 20, 21, 22 These refer to a request that a "Plan For Public Access" be included as part of the SMP. A *plan* according to Webster's New World Dictionary is an "outline, map, diagram, structure, a scheme for making things work, a series of steps to follow." The City's response on the chart to these requests is that there are Policies 3, 4 and 9 in the policies on Public Access. A *policy* is defined "as a governing principle." Policies do not provide the structure and detail that plans attend to. The city essentially is refusing to create a plan by saying that a policy is the same as a plan. I am requesting that a Plan For Public Access be added to the SMP as an Appendix. Other cities have added these to their SMP. It is a pro-active element that addresses public concerns about what steps will be followed by the city when Public Access comes up as a topic for consideration.

Topic #25 The concern is about the aggressive actions of the city and the SMP to immediately open unrestricted, physical, public access to Lake Burien without a plan/process in place to thoroughly examine the issue, adequately secure baseline data on the lake and the possible impact to Miller Creek-to guarantee no net loss. The draft response from the city is "No public access is being proposed."-dated 2/4/10. However in the same time period that this statement was being put out to the public, the City Manager was directed by a city council member to contact the Ruth Dykeman Children's Center (RDCC) about possibly buying a part of the RDCC property for city use. This is not an honest and ethic way to deal with the public about the SMP and the concerns that they have. It erodes away any confidence that the public has about the processes that the city claims it is going to follow. Changing items on the charts, inserting or removing language, providing incomplete inventories and analysis which may have been perceived by the public as innocent oversights all appear as much more premeditated, anti-citizen attitudes by the city. In light of the above mentioned, there appears to be an attempted end run at the RDCC property. *In good government this should not happen. It destroys public trust.* Additionally, Visual Access is available to Lake Burien from several street points. No effort has been made by the city or the SAC to examine how these could easily be enhanced. This could very easily be discussed in a Plan For Public Access and Analysis of Current Public Access Areas.

Topic #42 I believe came from me as I expressed a concern that Critical Freshwater areas (Lake Burien) were being treated differently in the SMP than Critical saltwater areas. This concern is with regard to the differences in setbacks and the lack of critical analysis data that is missing for Lake Burien in the Cumulative Impact Analysis regarding impervious surfaces and non-point pollution. This data is missing because the Cumulative Impact Analysis draws the wrong conclusions based on the category of Lake Burien's wetlands. I am requesting that the Cumulative Impact Analysis (CIA), the Shoreline Analysis and Characterization, and the Shoreline Inventory be corrected with regard to Lake Burien and that the discussion item #3 in the CIA (Foreseeable Future Development of the Shoreline) be reanalyze to address the impacts of sub-dividing the current lots to 7,200 sq. ft. on Lake Burien. *If it is impossible to correct these above mentioned baseline documents for Lake Burien, then I am requesting that an Environmental Impact Statement be done on Lake Burien before any decision is made on setbacks for Lake Burien.*

Topic #57 Technical Documents. All decisions about the use of critical areas are *required* to be based on the Best Available Science. There are three documents that are the keystone documents

on which this SMP is based. They are the Shoreline Inventory, the Cumulative Impacts Analysis and the Shoreline Analysis and Characterization. All three of these documents have incorrect, incomplete and missing information about Lake Burien.

- 1) There are three different parameters given for Lake Burien. *The wetland specialist needs to decide on the correct one and put it into all three of the documents.*
- 2) The lake is classified as low density residential in some areas of the documents and moderate density residential in other areas. *The wetland specialist needs to make up his/her mind about what it is or explain why these differences keep being repeated in the three documents.*
- 3) In some parts there is a statement that Lake Burien is developed to its full potential, in other parts it states it could have a little more development than the critical areas on the Sound. In reality it can increase the number of homes that are currently on it by three times the current number. *The wetland specialist needs to address what is the correct scenario for the future on Lake Burien and put that into all three of the documents and it must be based on the Best Available Science.*
- 4) The Ruth Dykeman Children's Center is listed as a school. It is not a school. It is a residential treatment center for children. *The wetland specialist needs to make this correction in the tables.*
- 5) The Wetland Category and buffers are correct or incorrect in all three documents depending on whose rating scale is being used. As a result the wrong conclusions are drawn in all three of the documents about the Foreseeable Future and in the Opportunities for Conservation and Restoration. *the wetland specialist needs to correct these so that they reflect reality and the correct conclusions are based on the Best Available Science.*
- 6) No interview of the Lake Steward was mentioned in the Methodology Section or Bibliography Sections of the three documents. *If it was done, this needs to be appropriately documented by the wetland specialist.*
- 7) No Priority Species and Habitats are listed for Lake Burien. However, the lake has been private for the last 100 years. So it probably would be a good idea to confirm the accuracy of the species and habitats with a Lake Burien resident. Priority Species do use the lake for perching, hunting and as a migratory stop over. *The wetland specialist needs to verify and correct this in these documents.*
- 8) There are fish in Lake Burien. This information could have been obtained from a Lake Burien resident. Additionally data on reptiles, mammals, plants, crustaceans and amphibians are missing in the documents. *I suggest that this data be gathered by the wetland specialist and noted.*
- 9) If these documents were well vetted during the Committee process as is stated in the Draft Response section of the Public Comment Summary Chart, I am surprised that the City Planner and the Technical Staff did not catch many of these errors.

*In the meeting summary notes of March 12, 2008, it is noted that the public can bring in new information and that it is welcome. I am bringing in new information and I am requesting that it be added, completed, corrected or redone so that it reflects the quality of the Best Available Science.*

Topics #59, 60, 61, 62, 63,64 The Methodology section of The Shoreline Inventory states that a desk and online review of a number of documents and sources was done. There was "one person" who was interviewed about archeological data and history. The City's draft response is that there were actual site visits done to the area by researchers and scientists. If this is true, it is

not correctly documented and needs to be added to both the Methodology and Bibliography. The City's response also states that information about Lake Burien was obtained from an online inventory. *The Lake Burien Shore Club had no online newsletters or shoreline inventories at the time this document was drafted.* So I am not sure how they could have been used to support the Shoreline Inventory. Additionally, if these items were used in the documents, the source of the information should be properly referenced in the Bibliography. Currently, the source information is not documented and, therefore, cannot be located or verified. While the Lake Steward was present at all of the meeting of the SAC, he was not interviewed for his knowledge about the lake. *If he had been interviewed, it would be reflected in the meeting notes, corrections to the three documents and would have been noted in the meeting summary minutes.* None of that information is noted in the meeting summaries. In Topic# 56, the draft response states that the minutes of what occurred at the SAC meetings were taken, compiled and approved by the Committee (see the summary minutes for March 12, 2008). Lastly, it was never noted in any of the summary meeting minutes that the Department of Ecology gave the seal of approval for the baseline data in the Shoreline Inventory. That review does not even occur until the complete SMP document is submitted to the Department of Ecology.

Topic #71 Definition is requested for "joint-use activities". None is provided in the draft response.

Topic #74 The Cumulative Impact Analysis does not correctly address the Foreseeable Future issues for Lake Burien because information is incorrect or missing. This document and the Shoreline Analysis and Characterization were never reviewed or revised by the SAC. These documents were never vetted by the SAC. The baseline information needs to be corrected before the Best Available Science conclusions can be drawn. *Both the Cumulative Impact Analysis and Shoreline Analysis and Characterization need to be corrected and revised.*

Topic # 78 The standard of "no net loss" cannot be measured if the Shoreline Inventory Document is incorrect or missing data. *Fix these things in the document and then redraw the conclusions based on the corrected information and the Best Available Science.*

There items that were presented to the City Staff failed to place the "Public Comment Summary Chart" dated 2/4/2010 that need some kind response:

1. Kathi Skarbo's concern about changes in the document regarding public access and how many newly developed houses generate a public access,
2. John Uptegrove's question about how the SAC could reset the priorities for the Burien SMP above those of Washington State,
3. The request that a disk of the SMP be made available for free use at the library as the SMP has been difficult to view and costly to purchase privately.
4. The concern about private property liability when public access points are opened to unregulated public access.

Additionally, I would like to request that these revisions be added to the SMP Nov. 2010 Draft:

1. Chapter I. User's Guide 20.10.001, Overview. The first Pointer should be changed to read, *"Protect the quality of the water and result in no net loss to the natural environment."*
2. Chapter I. User's Guide 20.10.001 Overview. The third Pointer should be changed to read, *"Preserve and enhance public access or increase recreational opportunities for the public along publicly owned shorelines."*
3. Chapter I. User's Guide 20.10.001 Overview. I strongly suggest that the Figure 1 be removed. It makes no sense to the average reader. Additionally, since there seems to be an ongoing discussion in the courts about the controls between the GMA and the SMA, overtime it may be inaccurate.
4. Chapter I. User's Guide 20.10.010, Components, Figure 2 makes no sense to the reader. The four boxes on the right (which are in the Appendices) appear to have no direct relationship to the document. However, they are the cornerstones to the document as they provide the scientific background/data for the development of the document. Connect them correctly to the figure or eliminate the figure.
5. Chapter V. Administration and Shoreline Permit Procedures. Throughout areas of the SMP document there are references to a "Director" and "Shoreline Administrator" but there is no description of these persons, their specific roles and responsibilities and what skill sets they are required to possess. So that it is clear who these persons are, who appointed them, what skills and authority they have, I am requesting that the following definition and description of the Shoreline Administrator be added to Chapter V:

*"20.35.007 Shoreline Administrator*

*The City Manager shall designate a responsible official to administer the Shoreline Program who shall perform all the duties ascribed to the responsible official in this regulation. The responsible official shall administer the shoreline permit and notification systems, and shall be responsible for coordinating the administration of shoreline regulations with zoning enforcement, building permits, and all other regulation governing land use and development in the City.*

*The responsible official shall be familiar with regulatory procedures pertaining to shorelines and their use, and, within the limits of his/her authority, shall cooperate with other jurisdictions and agencies in the administration of these procedures. Permits issued under the provisions of this Shoreline Program shall be coordinated with other land use and development regulatory procedures of the City. The responsible official shall establish means to advise all persons applying for any development authorization of the need to consider possible impacts to the shoreline. It is the intent of the City, consistent with its regulatory obligations, to simplify and facilitate the processing of shoreline permits and exemptions."*

This was directly taken from the City of Medina's Shoreline Master Program Document.

6. Chapter IV. Shorelines Uses, Regulations, 20.30.070 Bulkheads and 20.30.075 Docks. I am requesting that these two statements be added:

"A. Normal maintenance or repair of existing shoreline components (including damage by accident, fire, or elements) shall be permitted.

B. Shoreline structures shall be designed to minimize the transmission of wave energy."

Both of these statements are taken directly from the City of Medina's SMP. Burien's document does not adequately speak to these issues as it is currently written.

7. Public Access is discussed throughout the SMP document but there is never a clear analysis of what Burien has, what are the current uses and how those have been analyzed for public access. Also, I have not been able to find a City of Burien document or policy that clearly explains the steps, studies, checklists to be completed, considerations for the best use of the land with no net loss and a Department or Commission that will put a plan for Public Access together. There should be reference to how ongoing monitoring is going to take place so no net loss occurs and who is responsible for it. Lastly, there needs to be a figure or flow chart of how the final decision is reached to add or decrease public access in a publicly owned shoreline area. I suggest that an Appendix be created titled "Plan For Public Access" that provides this type of information and it be added to the SMP. This will help to reduce citizen anxiety on this topic and provide a clear direction for Public Access planning. Other cities in Washington have included such a plan in their SMP.

Example of Table for Plan For Public Access - Table 1

Table 1: Existing, Planned and Opportunities for Public Access For Burien, WA

Shoreline	Existing Public Access	Planned Public Access	Other Opportunities
Lakes			
Lake Burien	None - but there is visual access from several street surrounding Lake Burien's	Along Streets # and #, there is sufficient space to a roadside turn out viewing space to accommodate 3 cars and foot traffic. Plan to develop these with signage, parking + picnic table are being worked on -	Pol # speaks to steps the city will follow to consider further Public Access to the lake. Part B of the Plan For Public Access details the process to be followed + checklist to use.

This should be done for Marine, Rivers + Streams also