

Lisa Clausen

From: Council
Sent: Thursday, February 25, 2010 10:34 AM
To: 'Kathi Skarbo'
Subject: RE: Burien Shoreline Master Program

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

L. Clausen
City Manager's Office

From: Kathi Skarbo [mailto:kskarbo@comcast.net]
Sent: Wednesday, February 24, 2010 6:29 PM
To: Council; Mike Martin
Subject: Burien Shoreline Master Program

I have been corresponding with the City of Burien's Planning Commission to express some of my concerns regarding the Shoreline Master Program update. I have been advised to provide copies of that correspondence to the Burien City Council and the City Manager. Please find attached five letters sent to the Planning Commission.

Thank you -
Kathi Skarbo
1621 SW 152nd St
Burien, WA 98166
206-242-9874

CFTR: 03/08/10

Kathi Skarbo

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January 20, 2010

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

Dear Commissioners:

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

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

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

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

Sincerely,

Kathi Skarbo

January 26, 2010

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

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

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

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

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

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

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

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

I have these three questions:

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

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

Thank you.

Kathi Skarbo

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February 9, 2010

To: City of Burien Planning Commission
From: Kathi Skarbo
1621 SW 152nd St
Burien, WA 98166
Re: Shoreline Master Plan draft update

I recently spoke to you about section 20.30.035.2.d of the SMP under Public Access. My comments are not included in the table that staff provided to you titled *Shoreline Master Program Public Comment Summary, Planning Commission Working Draft 2/4/2010*. The language in section 20.30.035.2.d was changed from the recommendation from the Shoreline Advisory Committee. Please delete the entire paragraph or restore the original language, which is consistent with WAC 173-26-221 section 4.d.iii.C.

Revise 20.30.035.2.d as follows:

- d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses; and individual single family residences ~~and subdivisions~~ of less not part of a development planned for more than four parcels.

Kathi Skarbo

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February 23, 2010

To: City of Burien Planning Commission
From: Kathi Skarbo
Re: Shoreline Master Program Public Comment Summary, Item #31A

Thank you for including my comments that were overlooked in the first draft of the matrix. The draft response to the issue of requiring public access when a piece of property is subdivided reads "The language was changed to make the regulation more understandable. The language as shown in the WAC is somewhat difficult to interpret." WAC 173-26-221[4.d.iii] was identified as the reference, which states, "Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the **subdivision of land into more than four parcels**. In these cases, public access should be required except: ..." (my emphasis). This is different than the language used in the draft Burien SMP. "Subdivision of land into more than four parcels" is not the same as "subdivisions of less than four parcels." In my earlier request I referenced WAC 173-26-221[4.d.iii.C], which is an exception paragraph and uses the "not part of a development planned for more than four parcels" language. It is clear that both paragraphs in the WACs intend for the requirement to apply to property divided into more than four (5+) parcels. The Shoreline Advisory Committee agreed. A copy of section 4 of the WAC is attached. Please read it and make the correct revision to the SMP.

It is commendable that changes were made to make the regulation more understandable. Unfortunately, the language change that was made to the SMP changed the *meaning* of the regulation. I don't care which way it's stated, as long as the intent is accurate. Below are two suggested revisions, based on two references in the WACs. Please choose one of them and revise 20.30.035.2.d of the SMP.

To be consistent with WAC 173-26-221[4.d.iii], revise 20.30.035.2.d as follows:

- d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses, individual single family residences and subdivisions of four or less ~~than four~~ parcels.

To be consistent with WAC 173-26-221[4.d.iii.C], revise 20.30.035.2.d as follows:

- d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses; and individual single family residences and subdivisions of less not part of a development planned for more than four parcels.

Kathi Skarbo

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February 24, 2010

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

After speaking at last night's Planning Commission meeting about section 20.30.035.2.d of the Shoreline Master Program, it seemed there was still some confusion among the commissioners. This is another attempt to explain and clarify the issue. This paragraph in the SMP defines at what point public access is required when a lot is developed into a number of parcels. I am providing the relevant sections of several documents, with emphasis on the phrase that defines the number, and a clear interpretation of what it means. I have previously provided to you copies of the complete sections of these documents, and I will excerpt only the appropriate paragraphs here.

1. In the current draft of the Burien SMP, dated 11/17/2009, section 20.30.035.2.d states:

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

Interpretation: Developments/subdivisions of 4+ parcels require public access.

2. WAC 173-26-221[4.d.iii], states:

- (iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the **subdivision of land into more than four parcels.** In these cases, public access should be required except:

Interpretation: Developments/subdivisions of 5+ parcels require public access.

3. WAC 173-26-221[4.d.iii.C], which follows the "except" in the above WAC, states:

- (C) For individual single-family residences **not part of a development planned for more than four parcels.**

Interpretation: Developments/subdivisions of 5+ parcels require public access.

4. The Shoreline Advisory Committee approved the following language for section 20.30.035.2.d on September 23, 2009:

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

Note: It was suggested at the 9/23/2009 meeting that the number be changed to more than five parcels, and the committee chose to keep the language as proposed since it came directly from a WAC.

Interpretation: Developments/subdivisions of 5+ parcels require public access.

I was quite surprised when I saw staff's draft response (item 31A) on the matrix of public comments dated 2/18/2010. In essence, staff recommends that no changes be made to this section of the SMP because all they did was change the language to make it more understandable. I have tried to communicate to you that staff did much more than change the language – they changed the intent. You can see that very clearly from the above references. Apparently staff doesn't understand this. The language is very confusing, with some passages stated in the affirmative and some stated as exceptions, and even a negative of an exception. I believe it is your responsibility to take enough time to read through and understand the excerpts I have provided above, and then correct the mistake staff made. The state and the advisory committee set the number at "more than four" and the Burien SMP should also.

At the February 9, 2010 Planning Commission meeting, I suggested this change:

Revise 20.30.035.2.d as follows:

- d. Public access shall be required for all new shoreline development and uses, except for; water dependant uses; and individual single family residences and subdivisions of less not part of a development planned for more than four parcels.

I believe this is the most appropriate wording to use because it reflects the language in the paragraph of the WAC that follows the words "except for," just as it does in the Burien SMP. It is ironic that it was suggested at last night's meeting to use the exact language from the WACs during discussions of other items on the matrix. The same should be done for section 20.30.035.2.d.

cc: Burien City Council
Burien City Manager
Department of Ecology
Department of Fish & Wildlife
Rep. Dave Upthegrove, House Ecology & Parks Committee Chair
Sen. Joe McDermott
Rep. Eileen Cody
Rep. Sharon Nelson