

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion of Draft Shoreline Master Program		Meeting Date: August 16, 2010
Department: Community Development	Attachments: 1. Updated Summary of City Council and Staff Comments 2. Mayor McGilton's Comments 3. Councilmember Shaw's Comments	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Scott Greenberg, Comm. Devel. Director or David Johanson, Senior Planner		
Telephone: (206) 248-5510		
Adopted Initiative: <u>Yes</u> No	Initiative Description: Shoreline Master Program Update	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for Council to review, discuss and provide direction to staff on the July 2010 City Council Draft of the Burien Shoreline Master Program (SMP).</p> <p>BACKGROUND (Include prior Council action & discussion): Council discussed the SMP review process on April 5 and May 3, 2010. Educational sessions and public forums were held on June 14 and 21, 2010. Council discussed the July 2010 City Council Draft of the SMP on July 19 and August 2, 2010. This draft is not included with this agenda bill; please bring the draft with you or contact staff if you need a new copy. It is also available online at http://www.burienwa.gov/index.aspx?NID=851.</p> <p>Council comments and requested text changes received by staff beginning at your July 19th meeting are summarized on the attached matrix. The highlighted rows are what we believe to be the most significant discussion topics. We have also included recommendations for most items. Responses to a few comments and questions are still being developed and will be provided to Council at your meeting.</p> <p>The remaining schedule is as follows (subject to change):</p> <ul style="list-style-type: none"> • August 30: Public hearing • September 13: Discussion and adoption • Date TBD: Department of Ecology public hearing and decision on SMP <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Direct staff to prepare final ordinance based on Planning Commission recommendation. 2. Direct staff to make changes to draft ordinance. 		
Administrative Recommendation: Discuss draft and provide direction to staff.		
Committee Recommendation: N/A		
Advisory Board Recommendation: Planning Commission--Adopt draft SMP dated 3/30/10.		
Suggested Motion: N/A		
Submitted by: Scott Greenberg	Mike Martin	
Administration _____	City Manager _____	
Today's Date: August 11, 2010	File Code: R:\CC\Agenda Bill 2010\081610cd-1 Shoreline Master Program.docx	

**SHORELINE MASTER PROGRAM
Summary of City Council Comments
City Council DRAFT 8/11/2010**

Source*	#	TOPIC	PG	SUMMARY of COMMENT	STAFF RESPONSE	CC Direction
JM	1	General	None	Please include a brief description of the WAC, RCW or BMC when it is referenced in the document.	Suggested changes will be made.	
JM	2	General	None	Is there any policy in the Draft SMP that references Burien's Bike and Ped Plan?	There is no specific goal or policy that directly references the Bike and Pedestrian plan. The goals and policies of the SMP will be integrated with the existing comprehensive plan where the plan is referenced and incorporated. Also, Policy REC-10 (pg II-7) refers to bike paths and Policy CI-5 (pg II-7) encourages accommodating bike paths.	
RC	3	SMP Overview	4	A list or description of activities that the City has completed and continues to do showing its commitment to environmental stewardship and dedication to improve the health of the Puget Sound and its associated drainage basins.	Suggested change will be made.	
GS	4	SMP Overview	4	Mention lack of detrimental uses such as commercial or industrial on shorelines. Mention that only non-gov't (park) use is long established residential use which has highest priority under the SMA.	Information about which uses are on (and not on) Burien's shorelines can be added. The highest priority use of the shorelines is to "Recognize and protect the statewide interest over local interest" —it is not residential use (RCW 90.58.020).	
JM	5	SMP Overview	4	Paragraph 2 is too narrow. The underlying goal of the SMP is more than "... preserving public access and enjoyment of the state's shorelines." In fact it is to preserve the health and public safety of Puget Sound.	The new language is not from DOE. We would be happy to review any suggested language	
JM	6	SMP Overview	5	Document convention typically has a separate paragraph description for each chapter to inform the reader what is in each section. Separate out Chapters II and IV and add in Chapter VI description	Suggested changes will be made.	
JM	7	SMP Overview	5	The last paragraph is the most important one and should be moved to the second paragraph on page 4.	Suggested change will be made.	
JM	8	20.10.001 User's Guide	I-2	Figure 1: Provide RCW/BMC reference numbers	Suggested change will be made.	
JM	9	20.10.001 User's Guide	I-3	There is a typo in RCW 90.5 8.020. Eliminate the space in the number. Shows up twice on that page	Suggested changes will be made.	

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JM	10	20.20.015 Public Access	II-3	PA-5: Reinsert previous language stating "Highest priority should be placed on reaches without existing public access."	This was language from the Shoreline Advisory Committee that was removed by the Planning Commission.	
JM	11	20.20.020 Recreation	II-6	REC-4, Special Use Park: 1st Example: The PA Figure notes another street end on the south end of 172nd. Should be added to the text.	This policy is taken directly from the existing comprehensive plan. The original text lists examples of special use parks, the text could be updated. That location may have been omitted because it was unimproved.	
JM	12	20.20.020 Recreation	II-7	REC 9: Correct the name of WDFW.	Suggested change will be made.	
GS	13	20.20.025 Circulation	II-7	CI-2: Eliminate policy. A cross-sound bridge would be an essential public facility and we would not have local decision-making authority.	No changes recommended. This policy represents the City's opinion on a cross-sound bridge and can inform future City actions on the issue if needed.	
JM	14	20.20.030 Land Use	II-9	USE 6: Is this language still correct after the other non-conforming word revisions?	No changes recommended. This policy originated from the existing comprehensive plan and zoning code. The proposed draft regulations are consistent with the policy and zoning code language.	
GS	15	20.20.030 Land Use	II-10	USE-11: Items 1.g and 2 are redundant.	Item 1.g should be eliminated and the section renumbered.	
JM	16	20.20.045 Flood	II-16	Where can the reader find the flood hazard map in the SMP?	There is not a specific flood hazard map in the SMP, but they are shown in the critical areas maps (inventory figures 8A-8E).	
JM	17	20.25.001 Shorelines of Statewide Significance 20.25.010 Aquatic Environment	III-1	Section 20.25.010 should apply to both marine and lake shorelines. Add in sentence to mention and clarify "Shorelines of Statewide Significance" in 20.25.001.	20.25.001 should be clarified -- Lake Burien is not a Shoreline of Statewide Significance, but is a Shoreline of the State. 20.25.010 should be clarified to state that both the marine and lake shorelines contain aquatic environments.	
JM	18	20.25.010 Aquatic Environment	III-1	The terms Aquatic, Urban Conservancy and Shoreline Residential are not in the list of definitions. Please clarify in the "purpose" sections with geographic locations that represent each category.	No changes recommended. The map showing the locations of these designations is on Page III-5 and is referenced in Sec. 20.25.005.	

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Source *	#	TOPIC	PG	SUMMARY of COMMENT	STAFF RESPONSE	CC Direction
LK JM	19	20.25.015 [3.b] Urban Conservancy	III-3	LK: Should the new wording in the draft "...such as importation of invasive species to Lake Burien,..." be moved from 20.25.015-Urban Conservancy to 20.25.020 – Shoreline Residential JM: I suspect Lake Burien is NOT in Urban Conservancy.	The added/underlined text in the Urban Conservancy section (20.25.015.3.b) should be removed since the Lake is not located in the Urban Conservancy designation. The complete text (including underlines) from 20.25.015.3.b should be added to the Shoreline Residential management policies.	
JM	20	20.25.020.3.e Residential Environment	III-4	No net loss is not defined.	No changes recommended. "No net loss" is not specifically defined in the draft SMP nor in the State SMP guidelines. The DOE has an informational document on no net loss that we can use.	
LK	21	20.30.001, Figure 4 Permit Matrix	IV-1	Explain the meaning of shoreline residential, aquatic and conservancy in the permit matrix.	These are shoreline environment designations. We should add a reference to the descriptions of the designations in 20.25 and a reference to the map showing the locations of the designations on the shoreline (20.25.025 Fig. 3).	
JM	22	20.30.001 Figure 4 Permit Matrix	IV-1	Earlier in the document can a description of the processes (Shoreline Substantial Dev. Permit, Conditional Use and Variance) be included. Clarify the differences between SDP and CU. Note 4 is not easy to understand.	SDP and CU are fully explained in Chapter V. However, the footnotes can be changed to read: SDP-Shoreline Substantial development Permit (City Decision)—see Chapter V for procedures CU—Conditional Use Permit (Dept. of Ecology Decision)—see Chapter V for procedures Note 4 can be clarified to read: "Construction of the normal protective bulkhead common to single-family residences must comply with BMC 20.30.070 but is not required to obtain a substantial development permit."	
LK	23	20.30.007.1 Existing Development	IV-3	Can an appurtenance be maintained without it being removed? A. Ryan commented that the language was not clear enough to specifically allow maintenance of appurtenances without triggering removal. Requests that the SMP clearly state an appurtenance may be maintained without it requiring removal.	No changes recommended. 20.30.007 is clear that legally established appurtenances are conforming to the SMP . The SMP does not need to state that conforming structures may be maintained; we do not make this statement in any other land use regulation.	
JM	24	20.30.007.1 Existing Development	IV-3	The 2 paragraphs run together but they appear to be different topics. Can you clarify the language?	A paragraph break before the last sentence ("Replacement of any portion...") can be added.	

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Source *	SHORELINE MASTER PROGRAM Summary of City Council Comments City Council DRAFT 8/11/2010					
#	TOPIC	PG	SUMMARY of COMMENT	STAFF RESPONSE	CC Direction	
JM	20.30.010.2.D Impact Mitigation	IV-4	The language "In determining appropriate mitigation measures appropriate..." seems to address the homeowner concerns regarding vegetation management in the 50-foot buffer. I would like to see a hierarchy of priority measures spelled out much like the decision trees you sent in the email.	Comment noted. Priority hierarchy and decision trees can be part of administrative handouts following adoption of the SMP.		
STF	20.30.025 [2.a.ii] Critical Areas/Wetlands	IV-7	<p>20.30.025 [2.a] BMC 19.40—Critical areas (City of Burien Ordinance 394, adopted October 20, 2003) shall apply to the shoreline jurisdiction with the following exceptions:</p> <p>i. The reasonable use provisions contained in BMC 19.40.070 (4) do not apply.</p> <p>ii. The following types of wetlands are <u>not</u> regulated by the SMP:</p> <p>(a). Small wetlands less than 1,000 square feet and hydrologically isolated;</p> <p>(b). Man-made ponds smaller than one acre and excavated from uplands without a surface water connection to streams, lakes, or other wetlands</p>	Department of Ecology requested change.		
LK	20.30.030 [1-f] Flood Hazard Reduction	IV-8	20.30.030 [1.f] – the policy regarding the weir at Lake Burien should be removed.	Suggested change will be made.		
JM	20.30.035 Public Access	IV-9	Remove "can" from the first sentence. Leave in the first strikeout phrase "...to view the water..."	We will remove "can" from the first sentence. The second change is not recommended. It would create a redundancy as "view the water" is already in the second sentence.		
LK	20.30.035 [1.a] Public Access	IV-9	Public access to publicly owned shoreline areas should be designed to provide for public safety and minimize potential impacts to protect private property and public health and safety individual property.	Staff does not recommend adding the terms "publicly owned" because the policy statement should apply to all accesses. We can support the remainder of the edits.		
JB	20.30.040 Shoreline Vegetation	IV-11	Landscaping and vegetation standards should be recommended rather than mandatory.	No changes recommended. Mandatory standards are needed to establish a minimum that must be met. There are multiple ways of achieving the minimum standards. There are online and published resources available to assist homeowners in making appropriate choices. We can prepare a list of these documents and resources for our website and as handouts at city hall.		
JM	20.30.040 Shoreline Vegetation	IV-11	Provide a list of priorities and buffer depths to give the applicant some amount of flexibility for where the greatest impact can be mitigated. In areas that already demonstrate substantial (more than 50%) no net loss, offer incentives.	This can be provided as part of our post-adoption handouts.		

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GS	32	20.30.040 [2.a] Shoreline Vegetation	IV-11	There should be more clarification on what constitutes alteration of vegetation that requires a vegetation management plan.	No changes recommended. The proposed 7/14/10 draft definition of "alteration" (in 20.40.000) text is consistent with (and also less restrictive than) the existing Zoning Code definition of "alteration" (BMC 19.10.020).	
STF	33	20.30.030 [2.d.vi] Shoreline Vegetation	IV-12	Replacement or new lawn areas are prohibited in the vegetation-conservation shoreline riparian buffers due to their limited functional benefits and need for chemical and fertilizer application; and	This provision should only apply in the shoreline riparian buffers rather than the 150 foot vegetation conservation buffer.	
JM	34	20.30.045.1.ii Water Quality	IV-14	This paragraph, with the citation of the RCW Shorelines of the State does not clearly state what point you are making.	At the end of 20.35.045 1.a.ii), recommend adding "regarding the level of protection for critical areas within shorelines of the state."	
JM	35	20.30.050 Dimensional Standards	IV-14	Include "Buffer" in the title. To conform with the format, shouldn't the words "1. Policy" be placed under the title for 20.30.050	No changes recommended. This section refers to more than buffers. There are no policies in this section; they are all regulations.	
GS	36	20.30.050 Dimensional Standards	IV-14 IV-15	How does this section relate to 20.30.007 Existing Development?	The effect is the same. Buffers and setbacks do not apply to existing legally established structures.	
JM	37	20.30.050 Dimensional Standards Figure 5 20.30.055 Buffers	IV-14 to IV-16	Pages IV-14 through IV-16: I want to go officially on the record to state that the buffers proposed in the July 2010 City Council Draft SMP are reasonable and give individual property owners flexibility to make substantive revisions if they are not building waterward of their existing structures. I find that a 20-ft buffer, under consideration, as a general rule gives the homeowners in the SMP special consideration that other homeowners in the City cannot share in this benefit. From my understanding, the setbacks in the CAO are 30-ft or more. Please consider leaving the buffers as they are and considering variances in cases where they become necessary rather than making the regulation so meaningless that WDOE must reject the overall SMP Plan based on this premise. See Section 20.30.095 Residential Development Policy and Regulations (Pages IV-29 through IV-31)	Comment noted	
JM	38	20.30.050 Dimensional Standards	IV-15	Leave the text as is. This language clarifies what activity can and cannot be done within the 50-foot buffer. Number 2 limits buffer widths to new development and structures and additional expansion of existing structures. No existing structure is affected by the 50-foot buffer.	Comment noted.	

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BB	20.30.050.1 Dimensional Standards	IV-15	Should the term "existing" be changed to "established" to ensure consistent language throughout the document.	The term "structures legally existing" should be changed to "legally established structures".	
JM	20.30.050 Dimensional Standards Figure 5	IV-15	Lot Size: Not all lots within the 200-ft SMP are 12,000 ft. Some are much smaller. I don't know how to reconcile the lot size with the zone requirement and the CAO overlay with the steep slopes. I would like to see language in the document rather than simply a footnote in the figure for both (2) and (3).	We can add a footnote to referencing Zoning Code section 19.17.170 that addresses undersized lots throughout the City (including shorelines).	
STF	20.30.050 Dimensional Standards Figure 5	IV-15	Reference in footnote 1 should be changed to "g" rather than "q".	Technical change needed as a result of formatting changes.	
STF	20.30.050 Dimensional Standards Figure 5	IV-15	Add footnote "3" to Marine Riparian Buffer and Lake Burien Riparian Buffer	Added footnote applies to both the riparian buffers and should be denoted in the table.	
LK, JB	20.30.050 Dimensional Standards Figure 5	IV-15	Reduce marine shoreline riparian buffer to 20 feet.	No changes recommended. If Council makes this change additional studies and analysis will be needed to support the reduction before the final document can be sent to DOE. The studies and analysis will have to document that the proposal will meet the objectives of the SMA and guidelines.	
	20.30.055 Shoreline Buffers	IV-16			
GS	20.30.050 Dimensional Standards Figure 5	IV-15 IV-16	Reduce marine shoreline riparian buffer to 0 feet behind a bulkhead, with the inclusion of low impact development features.	No changes recommended. See #43 above.	
	20.30.055 Shoreline Buffers	IV-15			
JM	20.30.050 Dimensional Standards Figure 5	IV-15	Strongly agree with the 50-ft marine riparian buffer and the 30-ft Lake Burien buffer for new development or upon redevelopment of an existing property. What is the typical buffer that Ecology finds satisfactory in the Shoreline Residential designation for both the marine shoreline and Lake Burien properties?	Comment noted. There is no "typical buffer" acceptable to Ecology. Buffers are reviewed and accepted on a case-by-case basis for each jurisdiction and shoreline.	
	20.30.055				

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JM	46	Shoreline Buffers 20.30.050 Dimensional Standards Figure 5 20.30.055 Shoreline Buffers	IV-15	The impact of these buffer standards on existing homeowners seems to be minimal at best. In the BHMA report dated July 19, 2010, it declares there are only 11 undeveloped lots along the marine shoreline and most of them are unbuildable. I would think that the requirements that benefit less than 11 property owners should not rule the State's decision making process for minimizing the impact to Puget Sound.	Comment noted.	
JM	47	20.30.050 Dimensional Standards Figure 5 20.30.055 Shoreline Buffers	IV-15	For any changes under consideration for redevelopment of existing properties, it appears that the current document allows for flexibility and variances if it can be demonstrated that there is no reasonable alternative but to reasonably decrease the buffer width in specific circumstances. For those properties that currently demonstrate substantial net loss due to existing building conditions within the 50-ft buffer (asphalt/concrete patios, walks and driveways), any future modifications would appear to provide a true net benefit and should be reasonably permitted.	Comment noted	
JM	48	20.30.055 Shoreline Buffers	IV-16	For new additions/expansions: Can language be drafted to acknowledge cumulative adverse impacts in the 50-foot buffer and to encourage mitigation/incentives to improve function?	Staff is reviewing this.	
JM	49	20.30.070.1.a Bulkheads	IV-18	The last part of the sentence "...to avoid the need for future shoreline stabilization to the greatest extent feasible.", is contrary to both established science and to the recommendation that the Puget Sound Partnership (PSP) is going to be making to the Governor's Office in the near future. Language approved by the South Central Puget Sound Action Area, a subset of the PSP states: "Change SMA statutes and regulations to severely limit shoreline armoring and overwater coverage associated with residential development. For new armoring or repair of existing armoring, provide incentives and guidance for using bioengineered or more natural approaches that protect shoreline habitat functions." Both WDOE and WDFW are in accordance with removing as much shoreline armoring as possible.	Comment noted.	
STF	50	20.30.070.2 Bulkheads	IV-19	Re-number section to follow appropriate formatting sequencing.	Technical change needed as a result of formatting changes.	

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GS	51	20.30.070.2.a.b Bulkheads	IV-19	No incentives to encourage replacement of existing bulkhead with a less destructive one.	Comment noted.	
GS	52	20.30.070.2.b	IV-20	What situation is this section written to address? Would mitigation be allowed to achieve no net loss? Should be encouraging the type of structures we want rather than having restrictive language.	Staff is reviewing.	
JM	53	20.30.070.2.b.b.i Bulkheads	IV-20	Same comment as above. Remove the phrase "...in imminent danger..." and the three-year timeframe. Both do not provide enough assurance that reasonable requirements will be in place. How can a geotechnical engineer predict either imminent danger or the amount of erosion that will occur in 3 years? If this scenario could be predicted, there would be no need for property insurance. Please rewrite (i) to be more descriptive.	This was requested by DOE. Staff is reviewing possible alternatives.	
JM	54	20.30.075.2.f Over-Water Structures	IV-23	My understanding is that WDOE is moving forward to limit the number of overwater structures. Keep the language as it is.	Comment noted.	
LK	55	20.30.075 [2-g] Overwater Structures	IV-23	Only one overwater structure is allowed for each single family detached residential lot. <u>On Lake Burien, each single family lot may have one dock or pier, and one float.</u>	No changes recommended. At both the Shoreline Advisory Committee and the Planning Commission staff heard from some lake residents that there was concern that the Lake could have too many floats. They felt that too many floats potentially added to navigation challenges and visually cluttered the lake.	No change. 8/2/10
GS	56	20.30.080.2.f Habitat Restoration	IV-24	What does this mean in context of this section on restoration and enhancement?	Staff is reviewing this question.	
LK	57	20.30.085 [2.h] Public Access	IV-27	Should public access occur on Lake Burien, only hand-carried watercraft shall <u>not</u> be allowed to be launched from the public access areas.	If this was left as amended theoretically all other water craft would be allowed. If the intent is to not allow water craft from a public access point, it may be best to remove the entire regulation or specifically state that no watercraft access is allowed at public access points. Example: " <u>Should public access occur on Lake Burien, no watercraft access is allowed.</u> "	
GS	58	20.30.095.2.a Residential	IV-29	Does this restrict one person from obstructing another person's view with "residential development"?	Staff is reviewing this question.	

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GS	59	20.30.095.2.c Residential	IV-29	If criteria i-v are met (common-line setback/buffer), is a CUP required?	Staff is reviewing this question.	
GS	60	20.30.105.2.j Utilities	IV-35	Why did "practical" change to "feasible"?	Staff is reviewing this question.	
GS	61	20.35.010.2 Permit Procedures	V-2	As written, an exemption requires a variance and a DOE decision (due to reference to paragraph 8 of BMC 20.35.025). Can we eliminate the exempt category?	<p>The Exempt category is required by the SMA. A proposal could be exempt from a Shoreline Substantial Development Permit but have elements that would trigger a Conditional Use Permit or Variance process. This section could be revised as follows:</p> <p>Exempt Development. Development within the City of Burien's shoreline jurisdiction that is exempt from the requirement to obtain a <i>Shoreline Substantial Development Permit</i> shall comply with paragraph 8 below and with BMC 20.35.025. An exempt development that requires a Conditional Use Permit or Variance shall also comply with applicable provisions related to those <u>processes.</u></p>	
JM	62	Chapter VI Definitions	None	Define Aquatic, Urban Conservancy, and Shoreline Residential	No changes recommended. These are designations, like a zone, and are defined/shown in Chapter III.	
JM	63	Chapter VI Definitions	None	Define Substantial Development and Conditional Use Is the definition for WDOE Conditional Use different than the one in the draft?	<p>"Shoreline Substantial Development" is defined in BMC 20.40.145.</p> <p>Yes, the Burien SMP definition is different that the WAC definition for Conditional Use:</p> <p>Burien SMP (20.40.130): "a use or modification classified by the City of Burien Shoreline Master Program as a conditional use or modification for certain shoreline environments or is an unlisted use/modification."</p> <p>WAC 173-27-030(4): "a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program" (WAC 173-27-030(4))</p>	
JM	64	Chapter VI Definitions	None	Type I Decisions	No changes recommended. A Type 1 decision is a process not a definable item.	

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JM	Chapter VI Definitions		Geologically Hazard Areas	No changes recommended. The term is defined in the Zoning Code (BMC 19.10.190).	
LK	Appendices		Include data and reports from Lake Burien and the Burien Marine Homeowners Association (BMHA).	The additional information is a part of the public record and will be provided to DOE as a part of the formal review process in a public comment volume.	

*-BB (Councilmember Brian Bennett), JB (Councilmember Jack Block, Jr.), RC (Deputy Mayor Rose Clark), LK (Councilmember Lucy Krakowiak), JM (Mayor Joan McGilton), GS (Councilmember Gordon Shaw), STF (City Staff)

Scott Greenberg

From: David Johanson
Sent: Monday, August 02, 2010 10:24 AM
To: Scott Greenberg
Subject: FW: Joan's Comments to Council Draft 2010 SMP

So you have a copy as well.

-----Original Message-----

From: Joan McGilton
Sent: Sunday, August 01, 2010 5:57 PM
To: David Johanson
Cc: Mike Martin
Subject: Joan's Comments to Council Draft 2010 SMP

David: My comments. Joan

SMP Overview

Page 4: Is the new added language from WDOE? if it is the City's language, I think paragraph 3 is too narrow. The underlying goal of the SMP is more than "... preserving public access and enjoyment of the state's shorelines." In fact it is to preserve the health and public safety of Puget Sound.

SMP Overview Page 5: Document convention typically has a separate paragraph description for each chapter to inform the reader what is in each section. Separate out Chapters II and IV and add in Chapter VI description

The last paragraph is the most important one and should be moved to the second paragraph on page 4.

Users Guide, Chapter I:

Page 1-2: Figure 1: Provide RCW/BMC reference numbers

Page 1-3: There is a typo in RCW 90.5 8.020. Eliminate the space in the number. shows up twice on that page

General Goals and Policies, Chapter II

Page II-3: Pol PA.5: reinsert previous PC language stating the "... Highest priority should be..."

Page II-6, 1st Example: The PA Figure notes another street end on the south end of 172nd. Should be added to the text.

Page II-7 Pol.REC 9: Correct the name of WDFW.

Is there any policy in the Draft SMP that references Burien's Bike and Ped Plan?

Page II-9, Pol.USE 6: Is this language still correct after the other non-conforming word revisions?

Page II-16 20.20.045: Where can the reader find the flood hazard map in the SMP?

Shoreline Environment Designations, Chapter III

Pages III-1, 20.25.010: (Is page III-2 out of order?) Clearly define this section is to apply to both the marine shoreline and Lake Burien. It could be interpreted to only to mean marine. Add in sentence to mention and clarify " Shorelines of Statewide significance."

The terms Aquatic, Urban Conservancy and Shoreline Residential are not in the list of definitions. Please clarify in the "Purpose" sections with geographic locations that represent each category.

Page III-3 Management Policies: I suspect Lake Burien is NOT in Urban Conservancy. Am I wrong?

Page III-4 in Management Policies, last bullet: No net loss is also not defined.

Shoreline Uses and Modifications, Chapter IV:

Page IV-1 Figure 4 Footnotes: Find a place nearby to clarify the differences between SDP and CU. Note 4 is not easy to understand.

Page IV-3, Existing Development, para 1: The 2 paragraphs run together but they appear to be different topics. Can you clarify the language?

Page IV-4, Regulations, para 4: (This is a comment): The language " In determining appropriate mitigation measures appropriate...", seems to address the homeowner concerns regarding vegetation management in the 50-foot buffer. I would like to see a hierarchy of priority measures spelled out much like the decision trees you sent in the email.

Page IV-9, Public Access, 1st paragraph: Take out the word "can" from the first sentence. Leave in the first strikeout phrase "...to view the water...". This language is fact-based and should not be seen by readers as granting or NOT granting access.

Page IV-11, Shoreline Vegetation Conservation: 1. Policies and 2. Regulations: I find these sections too vague to be helpful to either the applicant, to the permit grantor and/or to WDOE. A list of priorities and buffer depths would give the applicant some amount of flexibility for where the greatest impact can be mitigated. In areas that already demonstrate substantial (more than 50%) no net loss, incentives can be generated that will offer some relief upon redevelopment requests.

DAVID: More to follow. Joan

Scott Greenberg

From: Joan McGilton
Sent: Monday, August 02, 2010 3:17 PM
To: David Johanson; Scott Greenberg
Cc: Mike Martin
Subject: Further Comments on the Draft SMP

David: My comments for the rest of Chapter IV of the SMP and Chapter VI:

Chapter IV, Shoreline Uses and Modifications:

Page IV-14, Water Quality, 1. Policies (ii): I find that this paragraph, with the citation of the RCW Shorelines of the State does not clearly state what point you are making. I have the RCW reference in front of me and I still don't get what is meaningful in this paragraph.

Page IV-14, Dimensional Standards: Please include the word Buffer in the title. To conform with the format, shouldn't the word 1. Policy be placed under the title for 20.30.050

Page IV-15, Figure 5, Dimensional Standards: I strongly agree with the 50-ft marine riparian buffer and the 30-ft Lake Burien buffer. My understanding is that this buffer width only is put in place with new development or upon redevelopment of an existing property. I also understand that WDOE has preferred the 150-ft buffer in some instances. I would like to have confirmation of the typical buffer that Ecology finds satisfactory in the Shoreline Residential designation for both the marine shoreline and Lake Burien properties.

Now that the Draft has removed all reference to non-conforming use, the impact of these buffer standards on existing homeowners seems to be minimal at best. In the BHMA report dated July 19, 2010, it declares there are only 11 undeveloped lots along the marine shoreline and most of them are unbuildable. I would think that the requirements that benefit less than 11 property owners should not rule the State's decision making process for minimizing the impact to Puget Sound.

For any changes under consideration for redevelopment of existing properties, it appears that the current document allows for flexibility and variances if it can be demonstrated that there is no reasonable alternative but to reasonably decrease the buffer width in specific circumstances. For those properties that currently demonstrate substantial net loss due to existing building conditions within the 50-ft buffer (asphalt/concrete patios, walks and driveways), any future modifications would appear to provide a true net benefit and should be reasonably permitted.

Pages IV-14 through IV-16: I want to go officially on the record to state that the buffers proposed in the July 2010 City Council Draft SMP are reasonable and give individual property owners flexibility to make substantive revisions if they are not building waterward of their existing structures. I find that a 20-ft buffer, under consideration, as a general rule gives the homeowners in the SMP special consideration that other homeowners in the City cannot share in this benefit. From my understanding, the setbacks in the CAO are 30-ft or more. Please consider leaving the buffers as they are and considering variances in cases where they become necessary rather than making the regulation so meaningless that WDOE must reject the overall SMP Plan based on this premise. See Section 20.30.095 Residential Development Policy and Regulations (Pages IV-29 through IV-31)

Page IV-15, Figure 5 Dimensional Standards, Lot Size: Not all lots within the 200-ft SMP are 12,000 ft. Some are much smaller. I don't know how to reconcile the lot size with the zone requirement and the CAO overlay with the steep slopes. I would like to see language in the document rather than simply a footnote in the figure for both (2) and (3).

Page IV-18, Bulkheads, 1. Policies (a): The last part of the sentence "...to avoid the need for future shoreline stabilization to the greatest extent feasible." , is contrary to both established science and to the recommendation that the Puget Sound Partnership (PSP) is going to be making to the Governor's Office in the near future. Language approved by the South Central Puget Sound Action Area, a subset of the PSP states: "Change SMA statutes and regulations to severely limit shoreline armoring and overwater coverage associated with residential development. For new armoring or repair of existing armoring, provide incentives and guidance for using bioengineered or more natural approaches that protects shoreline habitat functions." Both WDOE and WDFW are in accordance with removing as much shoreline armoring as possible.

Page IV-19, Bulkheads, 2. Regulations (b)(i): Same comment as above. this language should be modified. Remove the phrase "...in imminent danger..." and the three-year timeframe. Both do not provide enough assurance that reasonable requirements will be in place. How can a geotechnical engineer predict either imminent danger or the amount of erosion that will occur in 3 years? If this scenario could be predicted, there would be no need for property insurance. Please rewrite (i) to be more descriptive.

Page IV-23, 2. Regulations (f): My understanding is that WDOE is moving forward to limit the number of overwater structures. Keep the language as it is.

Chapter V, Shoreline Permit Procedures:

DAVID: I haven't read this section yet, but I predict my comments will be minimal.

Chapter VI, Shoreline Definitions

Page VI -1 through VI-7: Add the following definitions:

Aquatic, Urban Conservancy, Shoreline Residential
Substantial Development and Conditional Use Is the definition for WDOE Conditional Use different than the one you have in the definitions now?
Type I Decisions
Geologically Hazard Areas

Thanks, Joan

Scott Greenberg

From: Joan McGilton
Sent: Wednesday, August 04, 2010 5:15 PM
To: David Johanson; Scott Greenberg
Cc: Mike Martin

David and Scott: I suspect that we will not go through each of the "Summary of Comments" at the next Council meeting. Since I want to provide my input to my fellow council members, I am forwarding my written responses to you. I'm not certain what you can do with them but we can talk on Friday. I still have Items 14 and 15 to complete this week.

Thanks, Joan

SHORELINE MASTER PROGRAM Summary of City Hall Comments

City Council Draft 7/14/2010

The following are my ongoing comments regarding the Matrix Items review by City Council on August 2, 2010:

Item 1. Ok, no comment

Item 2. I agree, remove Lake Burien from Urban Conservancy. It does not belong

Item 3. I agree to put language in 20.25.005 Urban Environmental Designation Map but couldn't these terms also be put under definitions in Chapter 6?

Item 4. I agree with staff. The language regarding appurtenance is clear as written.

Item 5. I agree with the additional language as requested by Ecology

Item 6. I do not disagree with removing the language around the Lake Burien weir but I would like to know who put it there, is it strictly for overflow control during high water events and if the weir should fail, would the city be responsible for residential property damages?

Item 7. I agree with the concept of the language but we are defining a 30-foot buffer on Lake Burien and a 50-foot buffer along the Shoreline Residential corridor as the document now stands. I would prefer to develop and implement a vegetation management plan that puts vegetation choices listed in a series of priorities with lawn being the least desirable choice. This model already exists. The brochure is titled "Green Shorelines" and was prepared by the City of Seattle under a KCD grant.

Item 8. I disagree with the wording for public access as proposed in the Staff Response. RCW 35.79.035 "Limits on vacations of streets abutting bodies of water – Procedure" is very clear on what and what not can be permitted. I would think more that just the RCW number could improve the reasons for including the following language regulations in the Draft SMP

Page IV-9, Public Access, First sentence: Take out the "can". Public access, by definition, includes both aspects. I agree with the strikeouts and adds.

Page IV-9, Policies (a) leave this sentence as is.

Page II-3, Chapter II. General Goals and Policies POL. PA 4: We talked about removing the words "...and personal privacy..." in the first sentence. I agree. "Individual privacy" also shows up in POL. PA 8 (f) on the same page.

Item 9. I agree with the Staff Response that minimum vegetation standards must be met. But the language could be clearer and more helpful

Page IV-11, Policies (b): This paragraph needs to be clarified. There are more options than slope bioengineering to protect the nearshore. That is more than one option. Others are beach setback, soft armoring, logs, immediate (0 to 10 or 15-foot) vegetated buffers

Page IV-11 Policies (c): The first sentence should read "Vegetation within the designated buffers should be enhanced over time to...". The last sentence should be removed. It reads " Emphasis on vegetation maintenance and enhancement should be focused in degraded areas and areas that are most beneficial to shoreline ecological function" This is true but a more positive approach that gives incentives to those who are planning redevelopment would be more palatable to the reader.

Page IV-11, Regulations (a and b): The word Substantial should be placed at the beginning of the first sentence. I agree with previous commenters. The regulation must be relevant and meaningful. This will take some staff work to structure these terms but this has been done for other city codes that require examples.

Page IV-11(c): Put at the front of the paragraph" If the City determines mitigation is necessary,..."

Page IV-12, Regulation 2 (c ii): This might be a place to discuss a priority based vegetation management plan (to be developed by the City in the next year) that would provide a reasoned range of alternatives to meet the standards required by 20.30.040. The other option is to develop language and add it to the Policies section.

Page IV-12 Regulations (d): Please add vegetation conservation buffer to the definitions chapter. I think this entire section needs some positive restructuring

(i-vii). It would be helpful to note that this section applies only to new development as well as redevelopment and not to existing conditions. Again, I strongly believe that a vegetation plan, with clear priorities to maintain no net loss, will not be as confrontational to those seeking permits.

Item 10. My response to item 10 is the same as my comments to Item 9.

Item 11. Ok, no comment

Item 12. Ok, no comment

Item 13. Ok, no comment

Item 14. Buffers. (Not done)

Item 15. Buffers. (Not done)

Item 16. Ok, no comment

Item 17. Ok, as agreed by Council on Monday

Item 18. I agree with the 2nd staff recommendation to incorporate the example language that prohibits all watercraft from being launched at the public access on Lake Burien, if future public access is ever possible.

Item 19. Ok, no comment

Item 20. Ok. I agree with staff response

Item 21. Ok, no comment

Item 22. Ok, no comment

Scott Greenberg

From: Joan McGilton
Sent: Friday, August 06, 2010 8:22 AM
To: David Johanson; Scott Greenberg

David and Scott: This is the last of my comments. i will see you at 9 AM today.

Item 14. Dimensional Standards (Buffers).

Page IV-15 Numbers 1. And 2: Leave the text as is. This language clarifies what activity can and cannot be done within the 50-foot buffer. Number 2 limits buffer widths to new development and structures and additional expansion of existing structures. No existing structure is affected by the 50-foot buffer.

Page IV-16, Regulations: (For new and additions/expansion only) Can language be drafted to acknowledge cumulative adverse impacts in the 50-foot buffer and to encourage mitigation/incentives to improve function?

Item 15. Buffers. See comment above.

Still some sticky points for me with the draft

Gordon Shaw

I would like to see something in the overview statement that addresses the current status of our shorelines compared with other marine jurisdictions. Something that accounts for what Burien has done and has planned to do to improve our stewardship of the actual condition of the shoreline, as Rose has suggested. Something that describes the lack of detrimental uses such as commercial & industrial uses even the lack of permitted residential uses such as floats and piers. Something that identifies the only non-governmental (park) use of our shoreline as being a long established single family home use which has the highest priority of any sanctioned use under the SMA.

20.30.050 (IV-14/15) How does this provision relate to 20.30.007 Existing development.

20.30.070 (IV-19) (2) regulations (b) replacement For something that seems to be an acknowledged right under the SMA these conditions to allow replacement seem unnecessary. In addition there is no carrot here to encourage someone to replace his bulkhead with a less destructive one. Example if he wanted to put in an angled concrete bulkhead instead of a vertical concrete bulkhead the process is still the same there is no encouragement here to give us the improved shoreline we are looking for.

20.30.070 (IV-20) Second paragraph I need an explanation of what situation this section is meant to address and if mitigation would be considered to achieve no net loss. Again it seems to me that we get more acceptance and cooperation if we structured the language to encourage the kind of structures we want rather than this restrictive avoidance language. We are forcing people to go out and hire experts and lawyers to achieve an inferior result than we could achieve by allowing some options that are less damaging than vertical concrete without all of the justification

20.30.080 (IV-24) (2) Regulations (f) existing artificial structures. Please explain what this means in the context of this section which is about restoration and enhancement.

20.30.095 (IV-29) (2) Regulations (a) Does this section restrict a property owner from obstructing his neighbors view with "residential development". Does this go beyond the intent of the SMA which covers views from public property. (c) (i-v) My reading of this is that there is no conditional use permit if you meet any of the criteria in i-v.

20.30.105 (IV34) Utilities (2) regulations (j) Why the change from practical to feasible. If it's about \$ they both have a subjective relationship to money in my mind.

20.35.010 (IV-34) v-2 shoreline permit types This section moves from non-exempt development to exempt development which a reasonable person would say is a less procedure oriented direction yet the exempt development is subject to a variance procedure WITH A DOE DECISION! Requiring more procedure and undoubtedly more time. If it were me the last thing I would want would be to be declared an exempt activity. Can we just eliminate the exempt category?

20.20 025 (II-7) Circulation element Pol. CI 2 I thought this comment about prohibiting Cross Sound bridges had been eliminated. Having something like this in the plan just makes us look silly. A Cross Sound Bridge would be an essential public facility and local decision making authority would be gone. So it's meaningless. Ask those that fought against the third runway.

20.20.030 (II-10) USE 11 (1-g) & 2 are redundant