

February 8, 2010

To: Burien Planning Commission
Burien City Council

From: Carol Jacobson
3324 SW 172nd St.

Re: Shoreline Management Plan

RECEIVED
FEB 08 2010
CITY OF BURIEN

To Whom it May Concern:

As you know, this plan has generated a lot of discussion and concern among citizens who live in the areas most directly impacted by a shoreline management plan, specifically those on Lake Burien and along the saltwater shoreline within the City of Burien. Because we are limited to 3 minutes of time in which to speak at the Planning Commission meeting on Tuesday, February 9, 2010, and we have so much to say, I am attaching written suggestions for rewording sections of the document for your consideration. These are a compilation of comments and suggestions from citizens in the affected areas and we would like them to be included in the public record and incorporated into the shoreline management plan.

Surely you realize that we live here for a reason: we love the area, the peace and quiet and beauty of our communities. We must get this process right so as not to destroy what we have in this area by putting in to place a document that could potentially result in the ruination of the shoreline, an increase in property damage and other crime, and a decrease in safety of residents living in the areas most affected by this plan.

Thank you for your consideration of these suggestions.


Carol Jacobson

General observations regarding inconsistencies between the state master program and the wording in Burien's master program:

According to WAC 173-26-191: Master program contents: (1) (b) Master program elements;
(b) A public access element making provision for public access to publicly owned areas;

According to WAC 173-26-221: General master program provisions: (4) Public access:
(c) Planning Process to address public access: "The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights."
(d) (i): **The master program shall address public access on public lands.**

Neither Lake Burien nor saltwater shorelines in Burien are on public lands (except for existing public access points identified in Burien's document: Seahurst Park, Eagle Landing Park, accesses on TTP.) Any reference to public access in Burien's master program needs to be limited to these public access areas. It should be made clear in the City's document that public access relates to access on public lands, either in a general statement at the beginning of the Public Access sections or in each statement as done in the suggested rewording below.

In order to make Burien's SMP consistent with the state plan these changes should be made. Existing wording is in black, suggested rewording is in red:

Chapter II: General Goals and Policies

20.20.015: Shoreline Public Access Element (Chapter II page 2)

Goal PA

Increase and enhance public access to shoreline areas, consistent with the natural shoreline character, private property rights, and public safety.

Goal PA: reword to say:

Promote and enhance public access to shoreline areas on public lands consistent with the natural shoreline character while protecting private property rights and public safety.

Pol. PA 1 **Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water.**

Pol PA 1: New developments, uses, and activities on or near the shoreline should not impair or detract from existing public access to the water.

Pol. PA 2 **Publicly owned shorelines should be limited to water dependent or public recreational uses, otherwise such shorelines should remain protected open space.**

Pol. PA 3 Public access to the City's shorelines should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

Pol PA 3: Public access to shoreline areas on public lands within the City must protect private property rights, public safety, and individual privacy.

Pol. PA 4 Public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment and should be designed for handicapped and physically impaired persons.

Pol PA 4: Public access on public lands should be provided as close as possible to the water's edge with no net loss of shoreline ecological function and should be designed for handicapped and physically impaired persons.

Pol. PA 5 The City should seek opportunities to develop new public access areas in locations dispersed throughout the shoreline. Highest priority should be placed on reaches without existing public access. Mechanisms to obtain access to the shoreline include:

- a. Tax-title properties;
- b. Donations of land and waterfront areas; and
- c. Acquisition using grants and bonds.

Pol PA 5: The City should seek opportunities to develop new public access areas on public lands throughout the shoreline. Mechanisms to obtain access include: (keep a, b, and c as is)

Note that there is no reference to "unused right of way" as a method of obtaining new public access.

Pol. PA 6 The vacation or sale of street ends, other public right of ways and tax title properties that abut shoreline areas shall be prohibited. The City should protect these areas for public access and public viewpoints.

Pol PA 6: The vacation or sale of street ends must comply with RCW 35.79.035. Vacation or sale of publicly owned tax title properties that abut shoreline areas shall be prohibited.

Pol. PA 7 Waterfront street ends should be recognized as:

- a. An important community resource that provides visual and physical access to the Puget Sound;
- b. Special use parks which serve the community, yet fit and support the character of the surrounding neighborhoods;
- c. A destination resource, where limited facilities and enhancements are provided.

Pol PA 7: Publicly owned shoreline street ends should be recognized as: (keep items as they are).

Pol. PA 8 The City should manage and develop waterfront street ends by:

- a. Supporting their use by residents city-wide, yet ensuring that the street ends and their supporting facilities are developed at a level or capacity which are appropriate to the neighborhood character, promotes safety, and is consistent with City risk management practices;
- b. Ensuring that public parking is available, and that any new parking that is developed would be harmonious with the surrounding neighborhood;

- c. Ensuring that the waterfront street ends are preserved and maintained with limited enhancements, such as places to sit or rest which fit in with the natural environment of the area;
- d. Installing signs that indicate the public's right of access and encourage appropriate use;
- e. Installing limited trail improvements and enhancements to allow access to the water;
- f. Minimizing the potential impacts associated with their use on adjacent private property; and
- g. Developing a street ends plan that promotes waterfront access.

Pol PA 8: The City should manage and develop publicly owned shoreline street ends by:

- a. Supporting their use by residents city-wide, yet assuring that the street ends and their supporting facilities are developed at a level or capacity which are appropriate to the neighborhood character, promotes public safety, protects private property rights and individual privacy, and is consistent with City risk management practices.
- b. Ensuring that public parking is available and limited to a level appropriate to the capacity of the public access site that it supports when used in a manner that results in no net loss of shoreline ecological function, and is harmonious with the surrounding neighborhood.
- c. Keep as is
- d. Installing signs that indicate the public's right of access, the rules of use, and penalties for misuse.
- e. Installing limited trail improvements and enhancements in the street ends to allow access to the water.
- f. Protecting adjacent private property, individual privacy, and public safety; and
- g. Developing a street ends plan that promotes public shoreline access and public safety.

Pol. PA 9 Waterfront street ends or other shoreline access should be planned in conjunction with the affected neighborhoods. However, the broader community should be notified during the public notification process.

Pol PA 9: Shoreline street ends or other public shoreline access should be planned - - - (keep rest as is).

Pol PA 10: Keep as is

Pol. PA 11 The public's visual access to the City's shorelines from streets, paths, trails and designated viewing areas should be conserved and enhanced.

Pol PA 11: Existing visual access to the shorelines from streets, paths, trails, and designated viewing areas should be preserved.

Pol. PA 12 Public views from the shoreline upland areas should be enhanced and conserved, while recognizing that enhancement of views should not be necessarily construed to mean removal of vegetation.

Pol PA 12: Public views from the shoreline upland areas should be preserved while recognizing that preservation of views should not be necessarily construed to mean removal of vegetation or existing structures. The state document is about preservation of shorelines and not making

things worse, while wording in the City document appears to be aimed at "increasing" or "enhancing" public access, both physical and visual.

Pol. PA 13 Promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discoveries.

Pol PA 13: On publicly owned lands, promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discoveries while protecting private property rights, individual privacy, and public safety.

Section 20.30.035 Public Access (Chapter IV page 7)

1. Policies

- a. **Public access to shoreline areas should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.** Reword: Public access to shoreline areas on public lands must protect private property rights, public safety, and individual privacy.
- b. **Public access should be provided as close as possible to the water's edge without adversely affecting a critical area such as a wetland.** Reword: Public access on public lands should be provided as close as possible to the water's edge with no net loss of shoreline ecological function.
- c. **Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property or seek other similar private means of minimizing view obstruction.** Reword: Impacts to existing views from public property or substantial numbers of residences should be minimized by provisions such as maximum height limits, setbacks, and view corridors. (Page 67, item (iv) of WA State Shoreline Master Program Guidelines)

2. Regulations

- a. **Public access provided by shoreline street ends, rights-of-way, and other public lands shall provide, maintain, enhance and preserve visual access to the water and shoreline in accordance with RCW 35.79.035.** Reword: Vacation of streets or street ends abutting bodies of water must be in compliance with RCW 35.79.035. (The only mention of right of way in the state document relates to railroad ROW, ROW related to commercial or industrial use, and location of utilities in ROW)
- b. **Visual access to outstanding scenic areas shall be provided with the provision of roadside pullovers or broadening of road shoulders.** Reword: Existing visual access to scenic vistas shall be preserved.

- c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access. Remove this item. There is no mention of unused right of way in the state plan. Once again, wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.
- d. 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. Change last line to "less than five parcels" to be consistent with state guidelines. Another example of wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.
- e. Same
- f. Same
- g. Same
- h. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity. Reword: Public access sites on public lands shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
- i. Same
- j. Same

20.20.020 Recreation Element

Goal REC

Develop a well-maintained, interconnected system of multi-functional parks, recreation facilities, and open spaces that: is attractive, safe, and accessible for all geographic regions and population segments within the City; supports the community's well established neighborhoods and small town atmosphere; and does not adversely impact shoreline ecological functions and processes.

Reword: Develop a well-maintained, interconnected system of multi-functional parks, recreation facilities, and open spaces that: is attractive, safe, and accessible for all geographic regions and population segments within the City; supports the community's well established neighborhoods and small town atmosphere; protects private property rights; and results in no net loss of shoreline ecological functions and processes.

Pol. REC 1 Recreation facilities in the shoreline area should be restricted to those dependent upon a shoreline location, or those benefiting from a shoreline or in-water location that are in the public interest.

Pol. REC 2 Recreational developments should be located, designed and operated to be compatible with, and minimize adverse impacts on, environmental quality and valuable natural features as well as on adjacent surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.

Reword: Recreational developments should be designed and operated in a manner consistent with the purpose of the environment designation in which they are located; and result in no net loss of environmental quality, valuable natural features, or adjacent surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.

Pol. REC 3 Public information and education programs should be developed and implemented to help ensure that the public is aware of park regulations and private property rights, and to prevent the abuse of the shoreline and its natural ecological system.

Pol. REC 4 The City shall plan to provide, in coordination with other agencies, a range of park facilities on public land that serve a variety of recreational and open space purposes. Such planning should use the following designations and guidelines to provide such diversity:

1. Mini or Pocket Park

Shoreline Advisory Committee Draft II-5 11/30/2009

Use Description: Passive recreation or specialized facilities that *may* serve a concentrated or limited population such as children or senior citizens.

Service area: Approximately 1/3 of a mile radius.

Size: No minimum to approximately one acre.

Desirable Characteristics: These parks should be in close proximity to dwellings and or other centers of activity. Mini parks should be designed for intensive use and should be accessible and visible from surrounding area.

Examples: In Burien these types of parks are primarily private parks consisting of beach access for adjacent subdivisions, view appreciation areas (bench or platform), picnic tables and trees in a small area, children's play area, game tables, or planted areas.

Other Considerations: Since maintenance costs of these smaller parks are high relative to their service areas, few jurisdictions are able to meet the desired quantity. This type of park is most suitable to provide unique local needs, such as public shoreline access, or as a consideration in the design of new development. The City should seek a variety of means for financing and maintaining mini-parks, including considering opportunities for community stewardship and grant or private funding.

2. Regional Parks

Use Description: Areas of natural or ornamental quality on public property for outdoor recreation such as picnicking, boating, beach activities, swimming, and trails. Such parks may contain special amenities, facilities or features that attract people from throughout the surrounding region. Such facilities require extensive on-site parking and good access by automobile.

Service area: Approximately 1/2 to 1 hour driving time.

Size: Approximately 90 acres.

Desirable Characteristics: Contiguous to or encompassing significant natural resources.

Examples: Seahurst Park.

Shoreline Advisory Committee Draft II-6 11/30/2009

3. Special Use Park

Use Description: Specialized or single-purpose recreational activities such as walking and bicycle trails, street ends, or areas that preserve buildings, sites or features of historical significance.

Service area: Variable.

Size: Depends on nature of facility.

Desirable Characteristics: Compatibility with adjacent facilities and uses.

Examples: Examples within Burien shoreline consist primarily of designated view points and historical markers, and publicly owned shoreline street ends (including those at SW 170th Pl., SW 163rd Pl., and at the intersection of Maplewild Ave. SW and SW 172nd St.).

4. Conservancy Park

Use Description: Conservancy parks are formally designated public resource areas. In such parks the primary management objectives are protection and management of historical, cultural and natural resources, including fish and wildlife habitat areas and may include appropriate passive recreational activities.

Service area: None.

Size: As appropriate for the resource.

Desirable Characteristics: As appropriate for the resource.

Examples: Currently Salmon Creek Ravine is most appropriately classified in this category although its feasibility for including other types of park activities consistent with its character should be evaluated. This category would also apply to any significant formally designated land, protected wetlands or steep slope areas by private or public means.

Pol. REC 5 Access for motorized vessels should be discouraged at Seahurst Park. Access for non-motorized craft should be considered if access for such craft can be provided in an environmentally-sensitive manner.

Pol. REC 6 Where appropriate, recreational developments should make adequate provisions for:

- a. Vehicular and pedestrian access, both on-site and off-site;
- b. Proper water supply and sewage waste disposal methods;
- c. Security and fire protection;

Shoreline Advisory Committee Draft II-7 11/30/2009

- d. The prevention of overflow and trespass onto adjacent properties, including but not limited to landscaping, fencing and posting of property; and
- e. Buffering of such development from adjacent private property or natural area.

Pol. REC 7 Trails and pathways on steep shoreline bluffs should be located, designed and maintained to protect bank stability without the need for shoreline armoring.

Pol. REC 8 Mooring buoys, in general, are beneficial in enabling increased recreational opportunities. However, the City should ensure that their possible negative effects on physical and visual environments are avoided.

Pol. REC 9 Artificial marine life habitats should be encouraged in order to provide increased aquatic life for recreation. Such habitats should be constructed in areas of low habitat diversity and in consultation with the Department of Fisheries.

Pol. REC 10 The linkage of shoreline parks, recreation areas and public access points with linear systems, such as hiking paths, bicycle paths, easements and /or scenic drives, should be encouraged and must protect private property rights and individual privacy.

Pol. REC 11 Development of recreational facilities along publicly owned City shorelines should implement Low Impact Development techniques whenever feasible.

20.20.025 Circulation Element

Goal CI

Provide safe, reasonable, and adequate circulation systems in the shoreline area that will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline and protecting private property rights and individual privacy.

Pol. CI 1 Minimize impacts to the topography and other natural characteristics of the shoreline by appropriately locating transportation routes. New roadways for vehicle circulation should be located outside of or minimized within the shoreline area.

Pol. CI 2 Cross Puget Sound bridges should be prohibited within the Burien shoreline jurisdiction.

Pol. CI 3 Provide and/or enhance physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses.

Shoreline Advisory Committee Draft II-8 11/30/2009

Reword: Preserve or enhance existing physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses, while protecting private property rights and individual privacy.

Pol. CI 4 Public transit systems should provide service to designated shoreline public access points.

Reword: Public transit systems should provide service to designated public parks within the City. (The designated public access points on the saltwater shoreline [other than Seahurst Park] are so small that any public transit of people to these areas would overwhelm the capacity of the access points and result in harm to the shoreline. This is in direct opposition to the purpose of "no net loss" in the state program.)

Pol. CI 5 Wherever practicable, safe pedestrian and bicycle movement on and off

roadways in the shoreline area should be encouraged as a means of personal transportation and recreation.

Pol. CI 6 Parking in shoreline areas should directly serve a permitted shoreline use.

Reword: Parking in shoreline areas should directly serve private property owners within the shoreline area, and existing public access points. Parking developed for public access points should be limited to the number of spaces consistent with the capacity of those public access points and should be designed to protect private property rights and individual privacy.

Yet another example of wording aimed at depriving private property owners of their rights - in this case parking. This shoreline management program should not be used as a weapon of the City against its citizens!

Pol. CI 7 Parking facilities should be located and designed to minimize adverse impacts, including those related to: stormwater runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.

Reword: Parking facilities should be located and designed to protect private property rights and individual privacy; and to minimize adverse impacts related to: storm water runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.

Pol. CI 8 Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use.

This item should be deleted as it is covered in the reworded item # 6.

If not deleted then it should be reworded: Public parking facilities located on public land should be planned to achieve optimum use, result in no net loss of shoreline ecological function, and protect private property rights, individual privacy, and public safety.

Pol. CI 9 Utilities are necessary to serve shoreline uses and shall be properly installed so as to protect the shoreline and water from contamination and degradation.

Pol. CI 10 Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.

Pol. CI 11 Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology and minimizes conflicts with present and planned land uses.

Reword: Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, protects private property rights and individual privacy, and minimizes conflicts with present and planned land uses.

Pol. CI 12 Parking for non water dependent uses should be located as far away as feasible from shorelines.

Section 20.35.045 Alteration or Reconstruction of nonconforming Structures or Uses

Item #4. Reconstruction. A nonconforming structure which is destroyed, deteriorated, or damaged more than 50% of the assessed value of the nonconforming structure as established by the most current county assessor's tax roll at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed only insofar as it is consistent with existing regulations and the following:

Reword: An existing nonconforming structure which is destroyed, deteriorated, or damaged by fire, explosion, or other casualty or act of God, may be reconstructed within the original footprint of the destroyed structure.

Delete items a, b, c, d, e in this section.

This issue is **CRITICAL** because it will affect the ability to finance a loan to rebuild and the ability to obtain insurance on the house/property. Home Lenders will disallow mortgage financing if security for the loan (the house) cannot be rebuilt; and the inability to obtain property insurance will eliminate the ability to refinance. In effect, the City is potentially displacing homeowners if this is allowed to stand.

Honorable Members of the Planning Commission

My Name is: Robert Howell
15240 20th Ave SW
Burien, WA

RECEIVED
FEB 09 2010
CITY OF BURIEN

I would like to highlight the key points of my wife Robbie's letter to the commission, regarding the City of Burien Shoreline Master Program, Shoreline Advisory Committee Draft of November 2009 concerning section 20.20.035 Conservation Element.

Paragraph Pol. CON 9 states "The City requires the use of **Best Available Science** for protecting critical areas within the community pursuant to the Growth Management Act **RCW 36.70A.172(I)**."

Please note that, Pol. CON 27, item "b" refers to the priority species and habitats in the **Adopted King County Comprehensive Plan, November 1994**.

The data in this document is 16 years old!

Therefore I requesting that this item be changed to read, "**b. Priority species and habitats, Candidate species and habitats, and King County Species of Local Importance and habitats as noted and adopted in the King County Comprehensive Plan, October 2008, Chapter-4. Section E-487, Page 4-58.**"

Concerning the above referenced King County document, I would call to your attention that ten of the birds listed in section E-487, are commonly found visiting Lake Burien, to feed, court, mate, play and rest.

As a resident of Burien, with property bordering Lake Burien, I am particularly concerned with possible contamination by of Eurasian Watermillfoil and Brazilian Elodea, which would destroy the ecology of the lake. All of the lakes in King County with public access are infested with one or both of these noxious weeds. These weeds are introduced by bringing boats or other water toys from an infected source to the lake.

I would like to point out section, 20.30.035 Public Access, part 2 Regulations, line "e." "Public access to shoreline areas **shall not be required** where it is demonstrated to be infeasible because of incompatible uses, safety, security, or other **legal limitations** that may be applicable."

And then to Section 20.30.085 Recreational Development, part 2. Regulations, line "h." "Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access areas."

I propose line item "h." on page IV-23 be deleted. and replaced with:

"Public boating and swimming shall be prohibited on Lake Burien until such time as the city has defined and implemented a series of controls to assure

1. No invasive species will ever be introduced to the lake.
2. Patrols, funded by the city, monitor the lake assuring no trespass of lands or vandalism of property.

In conclusion, I would like to direct your attention to Robbie's letter and the attached sections of the King County Comprehensive Plan 2008, E-479 through E-498, of Chapter 4 Environment.

I specifically request you read the last paragraph on page 4-55 Which addresses the Washington Biodiversity Conservation Strategy Plan that reads in part, and I quote.

"The three primary goals set forth in the strategy are to protect quality of life for people, conserve species diversity, and restore and care for ecosystems."

I would recommend the Burien Shoreline Management Plan also follow these goals in conserving our shorelines and water resources.

Thank you.

To: The Burien Planning Commission
Subject: Shoreline Master Plan Document- Measuring SMP Goals
Date: February 9, 2010

RECEIVED
FEB 09 2010

I have some recommendations for the Burien Shoreline Master Program Update based on the City's Draft Responses to some of the comments received by the Burien Planning Commission.

Topic #65 The Shoreline Inventory dated March 27, 2008 pages 9 & 27, documented Lake Burien as a Category 2 wetland. The city's response is that this was "a typographical error in the Inventory". However, the Shoreline Analysis and Characterization dated June 12, 2008 page 17 also documented Lake Burien as a Category 2 wetland. The Planning Commission needs feel that they can assure the City Council that the trail of data, analysis, conclusions and especially the recommendations throughout all the documents, Chapter IV of the SMP, is consistent and based on the properly designated wetland category for Lake Burien. You should personally take that responsibility and not rely on "assurances" from the city that all is okay. After all, almost two years have passed and they should have been able to catch such a glaring "typographical error" sooner, especially considering the profound impact it would have on any legal actions that might have been brought against the City of Burien.

The Burien SMP has put together a comprehensive plan to protect the shorelines as mandated by Washington State. Many of the Goals & Policies stated in Chapter II are closely tied to the goals articulated by the State and Chapter IV identifies the regulations that should be followed to help meet the goals of both Burien and the State. What appears to be missing is the answer to the question: *How will the City of Burien be able to prove to the State of Washington that the regulations being followed are helping the goals to be realized?* The Planning Commission should consider "closing the loop" and establish a methodology that can validate and verify that the goals in Burien's SMP are being met.

There is an overall, general, inclusive goal for the SMP. There are also eight elements.

Key words from the eight policies associated with the overall goal include:

- Pol. 1 "no net loss of shoreline ecological functions and process"
- Pol. 2 "guided by ongoing and comprehensive science"
- Pol. 3 "proactive in managing activities"
- Pol. 4 "adaptive management approach"
- Pol. 5 "balance private use... with the greater public benefit"
- Pol. 6 "consider site-specific characteristics"
- Pol. 7 "coordinate with relevant local, state, federal and other programs"
- Pol. 8 "encourage redevelopment...with accepted shoreline best management and standards"

An example of a statement establishing a methodology that could validate and verify that the city is working towards meeting this overall goal:

“The City of Burien will establish an interagency agreement with the UW or another such expert scientific agency to proactively design and conduct an ongoing and comprehensive science-based approach that monitors the no net loss of shoreline ecological functions and process while balancing private and public interests.

Each of the eight elements has their own goal and associated policies. The progress towards each element’s goal can also be monitored and measured against its associated policies as well as how it contributes to the achievement of the overall goal.

The Planning Commission should consider requiring that an effective methodology to be included as part of the SMP to ensure that its implementation is moving the City of Burien toward its stated goals.

Bob Edgar
12674 Shorewood Dr SW
Burien 98166

To- The Burien City Council
To-The Burien Planning Commission
Re-Shoreline Master Plan Document
From-Chestine Edgar
February 9, 2010

RECEIVED

FEB 09 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.

CITY OF BURIEN

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.

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 Upthegrove'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 - Part of SMP Appendices

TABLE 1: Existing, Planned and Opportunities For Public Access in Burien

Shoreline	Existing Public access	No + length in Public ownership	Planned Public Ownership	Other Opportunities	Goal for Specific Water body
Lakes	↓	↓	↓	↓	↓
Lake Burien	None - but several streets have visual access	15' of the street at —	at street — and — put in parking + picnic tables	In the next 5 years build a viewing platform at — street	Maintain public viewing access
Marine					
Seaburst Park					

WAC

critical saltwater habitats.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

(C) **Standards.** Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

- The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW ~~90.03.020~~;
- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- The project is consistent with the state's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that:

- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

Until an inventory of critical saltwater habitat has been done, shoreline master programs shall condition all over-water and near-shore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, local governments should consult with department technical assistance materials for guidance.

✓ ~~(iv) Critical freshwater habitats.~~

(A) **Applicability.** The following applies to master program provisions affecting critical freshwater habitats, including those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and flood plains designated as such.

(B) **Principles.** Many ecological functions of river and stream corridors depend both on continuity and connectivity along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Environmental degradation caused by development such as improper storm water sewer or industrial outfalls, unmanaged clearing and grading, or runoff from buildings and parking lots within the watershed, can degrade ecological functions downstream. Likewise, gradual destruction or loss of the vegetation, alteration of runoff quality and quantity along the corridor resulting from incremental flood plain development can raise water temperatures and alter hydrographic conditions and degrade other ecological functions, thereby making the corridor inhospitable for priority species and susceptible to catastrophic flooding, droughts, landslides and channel changes. These conditions also threaten human health, safety, and property. Long stretches of river and stream shorelines have been significantly altered or degraded in this manner. Therefore, effective management of river and stream corridors depends on:

(i) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and

(ii) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

As part of a comprehensive approach to management of critical freshwater habitat and

9 February 2010

To: Burien Planning Commission
From: Nancy Tosta, 15931 Maplewild Ave SW, Burien, 98166
Re: Burien Shoreline Management Program

RECEIVED

FEB 09 2010

CITY OF BURIEN

Thank you for considering input on ways to improve the Burien Shoreline Master Program (SMP). I appreciate the work that's gone into developing the draft to this point and the importance of this Program to the health of Puget Sound and the viability of Burien as a community. I offer two comments.

First, to repeat my comments at the last Planning Commission meeting -- please consider ways to engage the shoreline owners as partners in the implementation of the SMP. We represent a significant portion of the tax-base in Burien and believe it's in the city's interest to maintain this base. To this end, I suggest that existing shoreline residences be acknowledged as such and "grandfathered in" to the SMP. Establishing regulations that will prohibit or limit our ability to maintain our dwellings (that represent the life-savings of many of us) is not a formula for cooperation. Currently, the SMP includes rules and regulations on what "not" to do rather than suggestions for how to improve shoreline health while still allowing us to live in our homes. Language in Section 20.35.005 Authority and Liberal Construction (pg V-1) states that the SMP will be "liberally construed" with exemptions from the SMP to be "narrowly construed." Given the many sections of the SMP that constrain homeowner options, this language implies significant disinterest in Burien shoreline residents.

Many of us are eager to manage (and have been managing) our properties to promote the health of the Sound. More could be done. Waterfront owners would benefit by understanding what to plant, how to manage bulkheads, options for encouraging eel grass growth, how to eliminate all toxics and their effects on fish/ aquatic species, ways to improve fish habitat, better management of runoff, etc. This type of information would move towards supporting one of the key objectives of the State Shoreline Management Act: "protect the quality of water and the natural environment." Without the City having to expend resources (that it does not have available), improvements could be made in shoreline conditions. Using the SMP to promote best environmental management practices provides an opportunity for creative program implementation.

Second, I believe that many parts of the plan use language that is not clear and opens the door for significant differences in interpretation. A primary example is the phrase "ecological function." Most scientists have a difficult time defining specifically what this means. The expectation that the City Planner (or other official designated as the "Shoreline Administrator") can make a clear-cut decision that a homeowner cannot rebuild because it will cause a "net loss of ecological function" is foolish and likely to be seen as arbitrary and open for contest.

Thank you again for the opportunity to comment and for all the work you do to support Burien's quality of life.

Kathi Skarbo

1621 SW 152nd Street
Burien, WA 98166
206-242-9874
e-mail: kskarbo@comcast.net

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

RECEIVED
FEB 09 2010
CITY OF BURIEN

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.

RECEIVED

FEB 09 2010

CITY OF BURIEN

February 1, 2010

To Whom It May Concern,

Modifying section 20.35.045 to allow existing nonconforming houses to be rebuilt due to fire or deterioration is an extremely important function to enable financing and property insurance. Home Lenders will disallow mortgage financing if security for the loan (the house) can not be rebuilt due to fire damage. Also, the inability to obtain property insurance will eliminate the ability to finance.

Steve Lemons
16215 Maplewild Ave SW
Burien WA 98166
26-241-9075

RECEIVED

FEB 09 2010

To: City of Burien Planning Commission
cc. Burien City Council and City Manager

CITY OF BURIEN

From: Robbie Howell
15240 20th Ave SW
Burien, WA 98166

Subject: City of Burien Shoreline Master Program, Shoreline Advisory Committee Draft of November 2009; concerning section 20.20.035 Conservation Element, paragraphs Pol. CON 9 and Pol. CON 27 (pg. II-12 & II-14)

Paragraph Pol. CON 9 states "The City requires the use of **Best Available Science** for protecting critical areas within the community pursuant to the Growth Management Act **RCW 36.70A.172(I)**." Conversely, Pol. CON 27, item "b" refers to the priority species and habitats in the **Adopted King County Comprehensive Plan, November 1994**.

Therefore I am requesting that changes be made to Pol. CON 27 that reflect the **most current science and concerns for fish and wildlife habitat protection rather than material from 1994**. It should read "b. Priority species and habitats, Candidate species and habitats, and King County Species of Local Importance and habitats as noted and adopted in the King County Comprehensive Plan, October 2008, Chapter-4, section E-487, Page 4-58." (pages 4-55 through 4-62 of the King County Comprehensive Plan 2008, IV. Land and Water Resources are attached for your convenience.)

Concerning the above referenced King County document, I would call your attention specifically to page 4-58 and subsection 4., Species and Habitats of Local Importance, and point out that ten of the birds listed in E-487, the Western Grebe, Great Blue Heron, Hooded Merganser, Barrow's Goldeneye, Common Goldeneye, Osprey, Belted Kingfisher, Purple Finch, Band Tailed Pigeon and Hairy Woodpecker are commonly found visiting Lake Burien. There they find a source of clean quality and quantity water to feed, mate, play and wash themselves.

The King County Comprehensive Plan 2008 promotes the protection of the above native species.

I am wondering why the eagles on Lake Burien as well as the eagles at "Eagles Landing" are not mentioned in the Burien SMP. I'm also wondering why Burien is not working with King County to identify and protect habitat networks at jurisdictional and property boundaries. I am recommending a thorough inventory of the species and "Species and Habitats of Local Importance" be done for Burien as well as a cross-reference to the King County Growth Management 2008 be listed as protected species in the Burien SMP.

Private Property Owners Concerns

The Planning Commission and City Council should work with the Lake Burien Community because it has been the keeper of the lake's water quality for many years. Lake Burien is one of the cleanest lakes around because we have taken measures to see that it is. This is why many species of birds live or migrate to this clean lake. If you have questions about our inventory ask me. If the public is admitted to the lake, this quality of life for the birds and the humans would end forever.

The members of Lake Burien Shore Club have agreed to a standard of conduct for residents of the lake that promotes good lake conditions. This includes using environmentally safe products in our yards and lawns. We all agree that gasoline powered motor boats must not be used and that owners wash their boats before they put them into the lake if they have been in another lake. This is why we do not have milfoil or many of the invasive species that lakes with public access have. (We notice that every lake that has public access has millfoil problems and other infestations.)

If boaters and swimmers are allowed on the lake, who will make sure the boats are washed at a place located away from the lake shore line, so the lake will be the viable habitat that it is now? ...And at the end of the day who will secure the safety of the boaters, swimmers and property owners by making sure the park guests have returned to the park?

Good swimmers can swim around the lake. Who will police them to see that they don't vandalize our property? Who will be responsible for the swimmers if they try to swim around the lake when they do not have the strength and training? Who will rescue them if they are drowning? Many young people tend to overestimate their swimming skills.

If you lived on Lake Burien you would quickly see that the lake is a body of water that carries any accidentally spilled waste or refuse directly to the neighbor's shoreline somewhere across the lake where the wind and currents take it. You would also see that we dispose of our neighbor's refuse if it lands on our shore. Who would pick up the public's garbage? How would it be done and who would pay for its disposal?

Another consideration that has not been addressed is how public access can be achieved with no net loss to the lake environment. Currently the city does not have **Best Science** baseline data on the lake and no plan for public access.

I am recommending that there be a higher quality of scientific study/data collections in the Cumulative Impact Analysis, plus Shoreline Inventory that looks at the circulation patterns in the lake, as well as the impact of the increased population and increased impervious surfaces that will happen on the lake. This area of unknown documentation that is not adequately addressed is consideration for the foreseeable future for Lake Burien.

It grieves me that the Burien SMP designates many policies towards development and citizenry and hardly any priority on the quality of water and the natural environment.

On page IV-8, 2 Regulations e. Public access to shoreline areas shall not be required where it is demonstrated to be infeasible because of incompatible uses, safety, security, or other legal limitations that may be applicable.

With reference to 20.30.085 Recreational Development, 2. Regulations, section line item "h." "Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed to be launched from the public access areas." **should be changed to protect the quality of the lake.** Property owners on the lake have a vested interest in maintaining the lake quality, but the general public does not have the same concern.

Since there are no good answers for preserving and keeping the lake clean for the only fresh water bird habitat in Burien, or for protecting and making the environment safe, clean and healthy for the residents and general public I propose line item "h." on page IV-23 be deleted. and replaced with:

Public boating shall be prohibited on the lake until such time as the city has designed and implemented a series of controls to assure

1. No invasive species ever be introduced to the lake
2. Patrols, paid by the city, monitor the lake assuring no vandalism or trespass of lands or property

Introduction of millfoil and elodea would destroy the ecology of the lake. Millfoil and elodea are carried on boats from lake to lake.

Private property on the lake is threatened by people arriving by boats.

At the Planning Commission meeting the representative for the City of Burien was not willing to commit to any protections, data collection plans or personnel to protect the lake from no net loss. I am recommending that these items be added to the SMP protections.

Thank you for your consideration. Robbie Howell

Table of Contents

King County Comprehensive Plan 2008

Introduction	Introduction-1
Chapter One – Regional Planning	1-1
I. Defining Regional Objectives.....	1-3
II. Planning Framework.....	1-7
III. Comprehensive Plan Amendments.....	1-12
IV. Review and Evaluation.....	1-15
Chapter Two – Urban Communities	2-1
I. Urban Land Use.....	2-2
II. Potential Annexation Areas.....	2-34
III. Housing.....	2-38
IV. Sustainable Development.....	2-53
Chapter Three – Rural Area and Natural Resource Lands	3-1
I. Rural Legacy and Communities.....	3-3
II. Rural Designation.....	3-6
III. Rural Densities and Development.....	3-15
IV. Rural Public Facilities and Service.....	3-29
V. Rural Commercial Centers.....	3-31
VI. Resource Lands.....	3-39
Chapter Four – Environment	4-1
I. Natural Environment and Regulatory Context.....	4-4
II. Climate Change.....	4-12
III. Air Quality.....	4-19
IV. Land and Water Resources.....	4-24
V. Geologically Hazardous Areas.....	4-64
VI. Cooperative Salmon Recovery and Puget Sound Partnership.....	4-69
VII. Monitoring and Adaptive Management.....	4-74
Chapter Five – RESERVED	

Chapter Six – Parks, Open Space and Cultural Resources	6-1
I. Parks, Recreation and Open Space	6-2
II. Cultural Resources	6-11
Regional Trail Needs Report Summary	6-12
Chapter Seven – Transportation	7-1
I. System and Services.....	7-5
II. Linking Transportation with Growth.....	7-11
III. Transportation System Planning and Design.....	7-18
IV. Finance.....	7-28
V. Coordinate and Public Outreach	7-31
Chapter Eight – Services, Facilities and Utilities	8-1
I. Regional Services.....	8-2
II. Facilities and Services.....	8-4
III. Energy & Telecommunications.....	8-30
Chapter Nine - Economic Development	9-1
I. Overview.....	9-1
II. Business Development – Creation, Retention, Expansion, and Recruitment.....	9-5
III. Workforce Development – Skilled Workers, Employer Involvement, and Economic Opportunities	9-9
IV. Regional Plans, Regional Projects, and Public-Private Partnerships	9-12
V. The Rural Economy.....	9-14
Chapter Ten – Community Plans	10-1
I. Bear Creek	10-2
II. East Sammamish	10-8
III. Enumclaw.....	10-11
IV. Federal Way	10-13
V. Highline.....	10-14
VI. Newcastle.....	10-15
VII. Northshore.....	10-16
VIII. Shoreline	10-20
IX. Snoqualmie Valley.....	10-21
X. Soos Creek.....	10-33
XI. Tahoma/Raven Heights.....	10-37
XII. Vashon	10-39
XIII. West Hill/White Center	10-46
Chapter Eleven – Implementation	11-1
I. Land Use Designations & Zoning Classifications/Code	11-3
II. Other Implementing Codes	11-5
III. Incentives	11-7
Glossary	G-1
Land Use and Area Zoning Map Amendments	M-1

List of Maps

Chapter One

Land Use Map 1-16

Chapter Two

Interim Potential Annexation Areas Map..... 2-56
Urban Centers Map..... 2-57

Chapter Three

Agricultural and Forest Lands Map..... 3-56
Mineral Resources 2004..... 3-57

Chapter Four

Wildlife Habitat Network and Public Ownership Map..... 4-78

Chapter Six

Open Space System Map..... 6-25

E-479 King County should work with landowners, the state Department of Health, sewer districts, and the Puget Sound Partnership to develop more effective strategies and additional resources for addressing failing septic systems in constrained shoreline environments.

D. Fish and Wildlife

It is King County's goal to conserve fish and wildlife resources in the county and to maintain countywide biodiversity. This goal may be achieved through implementation of several broad policy directions that form an integrated vision for the future. Each of the pieces is necessary for the whole to be successful. The policy objectives are to (1) identify and protect fish and wildlife habitat conservation areas, (2) link those habitat areas and other important conservation areas, and protected lands through a network system, (3) integrate fish and wildlife habitat and conservation goals into new and existing developments, and (4) initiate multi-species, biodiversity management approaches. Conservation of biodiversity is necessary if wildlife benefits currently enjoyed by residents of the county are to be enjoyed by future generations.

Federal and state laws have been enacted over the past century to protect a wide range of species. In addition to the Endangered Species Act (ESA), other federal laws include the Marine Mammal Protection Act, and the Migratory Bird Treaty Act. Marine mammals and migratory birds in King County are protected under the provisions of these laws. Additionally, King County maintains policies regarding specific species.

King County's current fish and wildlife policies and regulations have been shaped by federal and state fish and wildlife protections, which include requirements for protection of specific species and habitats. However, both the federal and state governments have recognized the need for a comprehensive approach to addressing biodiversity conservation. In December 2007 the Washington Biodiversity Council released the Washington Biodiversity Conservation Strategy. The three primary goals set forth in the strategy are to protect quality of life for people, conserve species diversity, and restore and care for ecosystems. The three core initiatives set forth by the strategy propose (1) a landscape approach to guide investments and actions, (2) incentives and markets for landowners, and (3) citizens working together with scientists to inventory and monitor the state's biodiversity. The Washington State Department of Fish and Wildlife (WDFW) is also working to integrate landscape-level approaches to promoting the conservation and sustainability of biodiversity, and is in the process of updating its Priority Habitats and Species recommendations to reflect a more integrated, landscape approach. In order to integrate a more landscape-level approach to fish and wildlife protection at the county level, the county will need a methodical approach to mapping the county's biodiversity and identifying areas that support

rare species and the greatest diversity of native wildlife. The current policy amendments are intended to fulfill federal and state requirements for protection of specific species and habitats while making a transition to more landscape-based approaches to fish and wildlife conservation.

1. General Policies

E-480 The county shall strive to conserve the native diversity of species and habitats in the county.

E-481 In the Urban Growth Area, King County should strive to maintain a quality environment that includes fish and wildlife habitats that support the greatest diversity of native species consistent with GMA-mandated population density objectives. In areas outside the Urban Growth Area, the county should strive to maintain and recover native landscapes, ecosystems, and habitats that can support viable populations of native species. This should be accomplished through coordinated conservation planning and collaborative implementation.

E-482 Terrestrial and aquatic habitats should be conserved and enhanced to protect and improve conditions for fish and wildlife.

2. Fish and Wildlife Habitat Conservation Areas

The Growth Management Act requires jurisdictions to designate Fish and Wildlife Habitat Conservation Areas for protection. The Washington Administrative Code (WAC 365-190-080) sets out guidelines that jurisdictions must consider when designating these areas.

King County has reviewed these guidelines and has developed policies E-483 through E-499a, which address the various species included in the Washington Administrative Code (WAC) guidelines. These policies recognize the tiered listing of these species and their habitats as defined by the United States Fish and Wildlife Service, National Marine Fisheries Service, and the WDFW (i.e., endangered, threatened, sensitive, and candidate). These policies also recognize the need to regularly review the information developed on species and habitats and amend the tiered listing as appropriate. The WAC guidelines also suggest that aquatic areas and wetlands be considered when designating fish and wildlife habitat conservation areas. Aquatic areas and wetlands and their associated buffers are highly valuable wildlife habitat, and protections for these areas are addressed in other provisions of this chapter.

- E-483** King County shall designate and protect, through measures such as regulations, incentives, capital projects or purchase, the following Fish and Wildlife Habitat Conservation Areas found in King County:
- a. Habitat for federal or state listed endangered, threatened or sensitive species;
 - b. Habitats of Local Importance and Habitats for Species of Local Importance
 - c. Commercial and recreational shellfish areas;
 - d. Kelp and eelgrass beds;
 - e. Herring and smelt spawning areas;
 - f. Wildlife habitat networks designated by the county, and
 - g. Riparian corridors.

Protections for other Fish and Wildlife Habitat Conservation Areas, including waters of the state and lakes, are addressed in other sections of this chapter.

3. Federal and State Listed and Candidate Species

- E-484** Habitats for species that have been identified as endangered, threatened, or sensitive by the state or federal government shall not be reduced and should be conserved.

Federal and state listings of species as endangered or threatened generally encompass relatively large geographic areas. More localized declines of species within King County may not be captured by state and federal listings. For example, local monitoring data indicates significant declines in the Middle and Late Lake Sammamish Kokanee salmon runs, and the extinction of the Early Lake Sammamish Kokanee run. However, this species has not been listed by the state or federal government as threatened or endangered.

The federal and state governments also designate "candidate" species. In the context of the ESA, candidate means any species being considered for listing as an endangered or a threatened species but not yet the subject of a proposed rule. Lists of federal candidate species are updated annually. Review of these lists and the supporting assessments can provide valuable information about threats to species found within King County and can help the county to be proactive in preparing for potential future listings.

- E-485** King County should review fish and wildlife surveys and assessments with local application to King County and consider additional habitat protections where warranted. Habitat protection should be accomplished through incentives,

cooperative planning, education, habitat acquisition, habitat restoration, or other appropriate actions based on best available science.

E-486 King County should review federal and state candidate listings for information about candidate species found in King County. King County shall protect habitat for candidate species, as listed by the WDFW or a federal agency. Information regarding candidate species should be used to inform King County's long-term wildlife conservation and planning efforts.

4. Species and Habitats of Local Importance

The state defines species of local importance as those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species. King County refines the definition to include native species listed as priority species by WDFW, bird species whose populations in King County are known to have declined significantly over the past 150 years, anadromous salmonids, and aquatic species whose populations are particularly vulnerable to changes in water quality and quantity. King County policy-makers have also provided additional local protection to specific species, including red-tailed hawk, in response to concerns of community groups and schools.

E-487 King County should protect the following native Species of Local Importance, or their habitats, as appropriate. Protection should be accomplished through regulations, incentives or habitat purchase.

Species of Local Importance are:

- a. Salmonids – kokanee salmon, sockeye/red salmon, chum salmon, coho/silver salmon, pink salmon, coastal resident/searun cutthroat, rainbow trout, Dolly Varden, and pygmy whitefish, including juvenile feeding and migration corridors in marine waters;
- b. Native Freshwater Mussels – Western pearlshell mussel, Oregon floater, and western ridge mussel;
- c. Shellfish – Red Urchin, Dungeness crab, Pandalid shrimp, Geoduck clam, and Pacific oyster;
- d. Marine Fish – White sturgeon, Green Sturgeon, Pacific herring, longfin smelt, surfsmelt, lingcod, Pacific sand lance, English sole, and rock sole;
- e. Birds – Western grebe, American bittern, great blue heron, Brant, Harlequin duck, Wood duck, Hooded merganser, Barrow's Goldeneye, Common Goldeneye, Cinnamon teal, Blue-winged teal, Surf scoter, White-winged scoter, Black scoter, osprey, Red-tailed hawk, Sooty grouse, Ruffed grouse, Band-tailed pigeon,

- Belted kingfisher, Hairy Woodpecker, American three-toed woodpecker, Olive-sided Flycatcher, Mountain chickadee, Western Meadowlark, Cassin's Finch, and Purple Finch;
- f. Mammals – Marten, mink, Columbian black-tailed deer, elk in their historic range, mountain goat, Douglas Squirrel, and Townsend Chipmunk;
 - g. Amphibians – Red-legged frog; and
 - h. Reptiles – Alligator lizard and western fence lizard.

It should be noted that under the Migratory Bird Treaty Act, with few exceptions, no migratory bird or its nest may be harmed.

Wildlife habitats such as caves, cliffs, and talus occupy a very small percent of the total land area, yet they are disproportionately important as wildlife habitats. Each of these habitats concentrates and supports a unique animal community, and adjacent plant associations provide food sources, help stabilize light and wind patterns, and provide perches for raptors. Caves, cliffs, and talus are fragile environments that can be easily destroyed, but not restored. Additionally, some of these special wildlife habitats have unique or significant value to a diverse assemblage of species, not just one particular species.

E-488 King County should protect the following priority habitats listed by the WDFW that are not otherwise protected by policies and codes. Protection should be accomplished through regulations, incentives or purchase. These areas include: caves, cliffs, consolidated marine/estuarine shorelines, estuary, old growth/mature forest, unconsolidated marine/estuarine shorelines, snag-rich areas, and talus slopes.

Protections of other priority habitats, including riparian habitat, instream habitat, and freshwater wetlands can be found in other policies in this chapter.

E-489 King County should regularly review the WDFW's list of Priority Species and other scientific information on species of local importance, and evaluate whether any species should be added to or deleted from the lists in E-487 and E-488. Any additions or deletions should be made through the annual amendment process for the comprehensive plan.

E-490 Development proposals should be assessed for the presence of species of local importance. A comprehensive assessment should follow a standard procedure or guidelines and shall occur one time during the development review process.

Salmon are particularly important because of their significance to local and regional character, tribes, salt and freshwater ecosystems, and recreational and commercial fisheries. A growing number of salmon stocks within King County and other areas of Puget Sound are in a serious state of decline. Three salmonid species present within King County have been listed under the ESA, several others have significant potential for listing, and the salmon-dependent Orca whale has been listed as endangered.

The protection and restoration of river and stream channels, riparian corridors, lakes, wetlands, headwaters and watersheds that provide or impact spawning and rearing habitat, food resources and fish passage is essential to the conservation of native fish populations. Intermittent streams also can be critical to native fish populations.

Hatcheries and other artificial propagation facilities that are properly managed to protect the abundance, productivity, genetic diversity, and spatial distribution of native salmon may contribute in the near term to both maintaining sustainable salmon stocks and harvest opportunities while habitat protection and restoration measures for salmon are implemented.

E-491 King County should conserve salmonid habitats by ensuring that land use and facility plans (transportation, water, sewer, electricity, gas) include riparian and stream habitat conservation measures developed by the county, cities, tribes, service providers, and state and federal agencies. Project review of development proposals within basins that contain hatcheries and other artificial propagation facilities that are managed to protect the abundance, productivity, genetic diversity, and spatial distribution of native salmon and provide harvest opportunities should consider significant adverse impacts to those facilities.

5. Landscape Approaches to Fish and Wildlife Habitat Conservation

Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. Fish and Wildlife Habitat Conservation Areas are intended to ensure the conservation of individual species recognized as declining or imperiled; however, this approach of protecting individual animals is only one aspect of protecting the county's biodiversity. Because biodiversity encompasses a variety of levels, from genes to ecosystems, and occurs at multiple spatial scales, a wider approach beyond single-species management is necessary to conserve biodiversity in King County. Additionally, most fish and wildlife species are not confined to small portions of the landscape; rather, they move about for feeding,

breeding, rearing young, and interacting with other members of their species to insure adequate genetic exchange and population viability.

E-492 King County should collaborate with other governments, private and non-profit organizations to establish a bioinventory, an assessment and monitoring program, and a database of species currently using King County to provide baseline and continuing information on wildlife population trends in the county.

E-493 Distribution, spatial structure, and diversity of native wildlife and plant populations should be taken into account when planning restoration activities, acquiring land, and designing and managing parks.

Standard buffers for streams and wetlands will not always adequately protect wildlife resources that utilize those sensitive areas. Areas with critical wildlife resources may need larger buffers to protect the resource.

E-494 Stream and wetland buffer requirements may be increased to protect species of local importance, as listed in this chapter, and their habitats, as appropriate. Whenever possible, density transfers and/or buffer averaging should be allowed.

Protection of isolated blocks of habitat will not always adequately protect wildlife in King County. Critical wildlife habitats and refuges also need to be connected across the landscape through a system of habitat corridors, or networks. Some areas may be important more because they connect other important areas together rather than because of any particular species present.

Network width is related to requirements of desired wildlife species, length of network segment and other important characteristics within the network. Wider corridors will be required for larger species if the distance between refuges is great or if multiple uses, such as public access and trails, are desired. Because it may not be possible to protect wide corridors in the Urban Growth Area, it may not be possible to accommodate larger wildlife species in all areas. Networks will address some of the problems of habitat fragmentation for smaller species within the Urban Growth Area.

Potential linkages are identified on the Wildlife Network and Public Ownership Map. Open spaces set aside during subdivision of land should be located to make connections with larger offsite systems. This approach will also benefit other open space goals.

E-495 **Dedicated open spaces and designated critical areas help provide wildlife habitat. Habitat networks for threatened, endangered and priority Species of Local Importance, as listed in this chapter, shall be designated and mapped. Habitat networks for other priority species in the Rural Area should be designated and mapped. These mapping efforts should proceed from a landscape perspective using eco-regional information about the county and its resources, and should be coordinated with state and federal ecosystem mapping efforts as appropriate.**

E-496 **King County should work with adjacent jurisdictions, state and federal governments, tribes, and landowners during development of land use plans, WRIA plans, and site development reviews to identify and protect habitat networks at jurisdictional and property boundaries.**

A key element in local wildlife conservation is the integration of wildlife and habitats into developments of all types. Wildlife protection does not have to be at odds with many types of development. Urban multifamily projects, industrial developments, new school facilities and rural open space projects all provide opportunities to enhance wildlife amenities. Residential developers and businesses have been able to use wildlife in marketing strategies to attract more potential homeowners, renters and quality employees.

Techniques such as minimizing clearing during site preparation, using native plant species in required buffers, landscaping, using bridges rather than culverts to cross streams and innovative site design can be used to promote wildlife and minimize problems with nuisance wildlife. Other plan elements, such as open space, road system design and housing density, also have related impacts on the remaining wildlife values that must be considered.

Benefits to wildlife are enhanced if screening and landscaping is composed of native vegetation. Retention of natural vegetation can provide the same wildlife and aesthetic benefits at a lower cost.

E-497 **New development should, where possible, incorporate native plant communities into the site plan, through both through preservation of existing native plants and addition of new native plants.**

E-498 **The county should be a good steward of public lands and should integrate fish and wildlife habitat considerations into capital improvement projects whenever feasible. Fish and Wildlife Habitat Conservation Areas should be protected and, where possible, enhanced as part of capital improvement projects.**

RECEIVED

FEB 09 2010

Andrew and Diane Ryan
16525 Maplewild Ave SW
Burien, WA 98166
206-248-1822

CITY OF BURIEN

8 February 2010

The Burien Planning Commission
c/o Susan Coles, Community Development Department Assistant
The City of Burien
400 SW 152nd Street
Burien, WA 98166

To the Burien Planning Commission,

We appreciate the time and effort you have spent in developing the Shoreline Management Program ("SMP") and the goals it represents.

However, as waterfront property owners and taxpayers in Burien, we are very concerned regarding implementation of some of the requirements and the cost associated with implementation and enforcement. Additionally we're concerned that there appears to be limited input to the creation of this document by anyone that actually is a waterfront property owner.

We have the following high level comments regarding aspects of the plan.:

Section 20.30.035 Public Access: Relative to the two street ends on Three Tree Point, the City currently does not comply with elements of this paragraph, such as access, enforcement of restrictions, or "fully developed for public use". Does City have funding to comply with the requirements identified in this plan? The City does little presently to protect neighboring property owners rights from issues associated with these public areas.

Section 20.30.040 Shoreline Vegetation Conservation: Alterations is not well defined. Inference is that we as affected property owners need to create (fund) a vegetation management plan to be able trim brush or to plant annual flowers in our yard (except that flowers don't comply w/ goal of all native plants). Likewise, consultation w/ the "Shoreline Administrator" is required (daily, weekly, annually?) should we want to remove (only if by hand) any of the invasive weeds (i.e. the English Ivy so prevalent in our area). It also states "lawn is prohibited" which creates a bit of a problem for those that have lawn abutting the beachfront. Besides being highly impractical, it creates additional bureaucracy, and is totally subjective, unmanageable and creates significant expense for both the City and property owners.

Section 20.30.070 Bulkheads and Other Shoreline Stabilization Structures: This section needs to definitively state that existing structures and locations are grandfathered in such that damaged bulkheads may be rebuilt. Such language needs also include non-primary structures such as boat sheds, gazebos, etc. Additionally, many of the current bulkheads are waterwards of the Ordinary High Water Mark (OHWM) and should be able to rebuilt in the same location in the event of a catastrophic failure. Limitations such as prior to January 1, 1992, etc, do nothing to protect the property owner. Also curious as to who is taking responsibility for item (2) h regarding sizing of structures and how that, and the 4 foot maximum height restriction above OHWM discussed elsewhere in the plan, relate to recent FEMA Basic Flood Elevation determinations.

Section 20.30.075 Docks, Piers, and Floats: Regulations indicate new floats shall be limited to permitted use and require certain light refraction, board spacing, and other requirements. These are identified as Regulations, not recommendations. This sounds like additional expense to the city and poor use of our tax dollars. Additionally the definitions don't address temporary floats such as inflatable's. For someone desiring to build a pier, there is a highly involved process already required, and a 150 sq ft limitation on such a structure is unrealistic.

Section 20.30.080 Habitat Restoration and Enhancement: Our entire property fits w/i the Vegetation Conservation boundaries. Between this section and 20.30.040 our rights as property owners are ridiculously restrictive. It is extremely difficult to believe that the uphill area between our residence and Maplewild Ave SW has such an impact on the shoreline that it justifies the limits identified in the restrictions in these paragraphs.

Section 20.30.090 Recreational Mooring Buoys: Who is paying for our new buoy location and configuration enforcement? Is this really a problem that City Government needs to concern themselves with?

Section 20.30.095 Residential Development/ 20/35/025 Exemptions from Shoreline Substantial Development: These need to be written in such a way that property owners are allowed to protect, rebuild, remodel, expand if desired, their existing properties. Three Tree Point is a unique area where many of the existing structures, both primary and secondary, do not comply w/ existing codes and requirements, including already extending beyond OHWM. Additionally, w/ lot sizes ranging from 30 – 60' wide, and in critical ordinance areas, this language has the appearance that certain property owners are in danger of losing everything should there be a catastrophic event. The \$5,718 and 50% limits are ludicrous. **These, and related regulations, needs to revised such that all existing properties are grandfathered in w/ the capability to be rebuilt as is.**

Section 20.35.045 Alterations or Reconstruction of Non-Conforming Structures or Uses: Why should non-conforming structures be limited from uphill, non-waterwards, expansions. More significantly however, the proposed regulations could force a property owner bound by the vegetation conservation area and OHWM restrictions to lose everything.. **Property owners must have the rights to completely restore their properties in case of a disaster. These rights need to be expressly written, not in subjective terms, and not subject to arbitrary criteria (i.e. < 50% damaged)**

The above represents just an overview of our concerns as the plan and our subsequent document are both too voluminous to discuss in the context of this letter. We would be more than willing to entertain a dialogue on more discrete points if an opportunity exists. Unfortunately, three minute speaking limitations at the public meetings do not lend themselves to detailed discussions either.

While being highly critical of numerous sections of the SMP, we strongly support the long term goal of improving public access, and especially the health and welfare of Puget Sound. Those of us who are fortunate enough to have waterfront property are highly incentivized to protect that resource. Unfortunately, in our opinion, many of the items in this plan do little to benefit that goal, and instead are just additional bureaucratic and financial impositions aimed in our direction. An educational process starting with the status quo working towards common practical goals rather than authoritative regulations that threaten the properties that we have worked a lifetime to acquire would be a more desired approach.

Please enter our comments into the applicable public records.

Sincerely,

Andrew & Diane Ryan

Murray and Julie Dow
9 SW Three Tree Point Lane
Burien, WA 98166
206-431-9293

7 February 2010

The Burien Planning Commission
c/o Susan Coles, Community Development Department Assistant
The City of Burien
400 SW 152nd Street
Burien, WA 98166

RECEIVED
FEB 11 2010
CITY OF BURIEN

To the Burien Planning Commission,

Thank you for your time in representing our community and care in crafting a Shoreline Management Program ("SMP") which reflects the values of our citizens and an informed viewpoint.

As taxpayers in Burien, we are very concerned as to the cost of implementing and enforcing this complex plan. Unfunded mandates will only plunge our city further into red-ink.

We have reviewed the proposed plan and offer the following comments:

Are existing laws being enforced before we add more? Does Burien have the funding to "increase recreation elements"? Currently there is not enforcement of public beach access: especially the dawn-to-dusk rules and unleashed pets. While most people are respectful, some are not. It would be irresponsible for the city to increase/promote beach access without a funded plan to enforce the existing laws. Our understanding is that there is not funding to increase patrol/enforcement services.

A basic premise of law enforcement is lighting, if public access to The Three Tree Point area is to enhanced or promoted, the city should also assume full responsibility for the street lighting in the area, a portion of which residents currently pay as the city will not. (We have to ask, if the city can't/won't pay to even keep the street lights on now, how would the city responsibly propose to increase and promote beach access including parking etc?).

Preservation of Views/Public Utilities/Passageways: We are generally supportive of the idea to improve the "pathways, sidewalks, passageways" and bike access in our neighborhood, (and throughout the city, for all citizens) as an appropriate function of government and the greater good, assuming that the city has the means to pay for it and can do so in way which respects private property. In addition to planning how to protect & regulate private property, the city should also plan for relocating utility lines which currently obscure many of the bluff and waterfront views as part of the plan, it would increase enjoyment of the shorefront views for all.

Shoreline "conservation elements" and "recreation elements" a conflict?: Access is a concept that should be approached carefully, if an area is to remain as a natural ecosystem, then paving over parking areas and enhancing services (for, as the plan states "community values"), environmental conservation can/does conflict. For example, a baby sea lion was placed on our land by her mother while she hunted. We shooed away the off leash dogs and people screaming "oh how cute, take a picture", if we had allowed the people to approach the animal, it likely would have been abandoned by its mother.

As residents of the beach nearby an existing public access "street end", we have experience to comment on the feasibility of increasing such access as proposed by the plan. We believe that private landowners are incented to take care of their natural surroundings and take an active role in preservation more than anyone who can just walk on the beach, perhaps unknowingly, disturb wildlife and plant life, leave their garbage etc and walk away without any responsibility. Rather than chop up areas of well cared for coast to add "pocket parks" and "street ends" (and they really need services if we are going to do so) we think it would be much more responsible to use the city's limited resources to enhance current parks of Seahurst and Eagle Landing.

-continued-

Page Two

Murray and Julie Dow to City of Burien Planning Commission regarding Shoreline Management Program
7 February 2010

To gain acceptance to pass the SMP, The Commission needs to grandfather existing homes: We submit that all current legal existing structures should be grandfathered into the plan, using that exact language. We think this will go a long way toward gaining support of the citizens, and assist the city in maintaining the tax base it currently has.

Catastrophic Rebuilding Regulations: Most importantly, without the express and written right to completely restore their property in a disaster, many homeowners will not be able to insure their property, and therefore will not be able to re-finance and/or sell to anyone who needs a mortgage, sending property values and the tax base into a tailspin. If true rebuilding is the intent of the regulation, it seems simple enough to state it.

Without public support and a tax base to fund the plan, the SMP it is just not workable, even if mandated by the state, which also has no money. We need to balance ideals with practical budgetary realities.

In particular the phrases in 20.35.005 "the plan shall be liberally construed...exemptions shall be narrowly construed" is troubling. This leads to value judgments, which could become overbearing and opens the city and its citizens to the possible abuse of government authority. It exposes the city to litigation as written. That there will be some sort of "trade offs" made in the regulation and permitting process, requiring value judgments on the part of the city employees is scary. This must be corrected and clarified.

For many of us at "Three Tree Point", our homes are our biggest investment and represent our lives work. We take our environmental and community stewardship responsibilities seriously. We are very willing to work together on a board that provides representation of shoreline homeowners for the greater good of our city and our environment.

We thank you for your efforts in representing the entire community in this complex issue. We are very concerned with the expense of these regulations without a plan to pay for them, and the erosion of the entire area's property values. Yet we are optimistic that public sentiment will be considered.

Please enter our comments into the applicable public records.

Most sincerely,



Murray and Julie Dow

cc: David Johnson, AICP – Senior Planner, The City of Burien –
Burien City Council
The Highline Times
The B-Town Blog