

**SHORELINE MASTER PROGRAM
PUBLIC COMMENT SUMMARY
Planning Commission WORKING DRAFT 2/18/2010**

#	TOPIC	SUMMARY of COMMENT	DRAFT RESPONSE	WAC/RCW
0.01	20.10.001	The first pointer should be changed to read " <u>Protect the quality of the water and result in no net loss to the natural environment</u> ".	The pointers summarize the priorities as stated in RCW 90.58.010. No change is recommended as the statement is not inconsistent with the RCW	RCW 90.58.010
0.02	20.10.001	The third pointer should be changed to read " <u>Preserve and enhance public access or increase recreational opportunities for the public along publically owned shorelines</u> ".	<p>Suggestion noted, changes are recommended. The section should be replaced with the exact language of RCW 90.58.020 to provide the state legislative findings that offer a detailed explanation of why we are planning for/managing our shorelines.</p> <p><u>Option:</u> Removal of the third bullet and insert the following language, which is directly taken from the SMA to clarify the section.</p> <ul style="list-style-type: none"> ➤ <u>Increase public access to publically owned shorelines.</u> ➤ <u>Increase recreational opportunities for the public in the shoreline.</u> <p>The proposed bullets above are identical to what is stated in the RCW.</p>	RCW 90.58.020
0.03	20.10.001 Figure 1	Suggest that the figure be removed given the ongoing legal discussions regarding the controls of GMA vs. SMA.	The issue of GMA vs. SMA has yet to be resolved and it would be premature to make the changes based on this uncertainty. If the issue is resolved or clarified, the SMP can be updated to be consistent with the resulting legislative change.	
1	Conservation Element 20.20.035	Request that the over-lying principle of no net loss of ecological functions be implemented and if there is a possibility of net loss then the steps of WAC 173-26-201(2.e) be followed.	BMC 20.30.010 addresses no net loss in Policy 1a and Regulation 2.c outlines the mitigation sequence consistent with WAC 173-26-201(2.e).	173-26-201[2.e]
2	Urban Conservancy 20.25.015 & Shoreline Residential 20.25.020	<p>There are some areas designated as Residential that have much intact riparian vegetation. These areas have low intensity residential uses (spaced with riparian vegetation between sites) or residences set back well away from the water. These areas need to be protected better than just using the small buffer. We recommend that they be designated as Urban Conservancy, because they meet the criteria for that environment, as noted above. Three stretches of Residential environment have low density segments in them:</p> <ul style="list-style-type: none"> · Along the area where Maplewild Avenue's NE to SW segment lies closest to the sound. · Along the area of Maplewild Avenue's north-south segment and continuing north to 152nd Place · A segment of shore near the intersection of Shorewood Dr. and 30th Ave. 	<p>These areas have significant residential development. It may appear highly vegetated on the aerial photos however there is a significant amount of residential development.</p> <p>It appears they are referencing the Shorewood Community Club property which in all likelihood would not be developed. It should be noted that this property does meet some of the designation criteria for "urban conservancy"; however the area does also match the purpose of the "shoreline residential" environment. The shoreline permit matrix (20.30.001) allows community beaches and a conditional use in the Residential designation, while in the Conservancy designation it is listed as a prohibited use.</p>	173-26-221 [5. E] and [5.f]

		These areas need to be re-evaluated and appropriate areas re-designated as Urban Conservancy.		
3	Shoreline Permit Matrix 20.30.001, Figure 4	Commercial and Office have been deleted from Figure 4 by the SAC and section 20.30.075 Commercial, Institutional and Office was removed. These uses should be included in the table and specifically listed as prohibited uses to accurately reflect the consensus of the SAC.	This is an accurate comment and the table should be amended to include commercial and office as strictly prohibited uses.	173-26-241
3 A	Shoreline Permit Matrix 20.30.001, Figure 4	Commercial and office needs to be also added back into Chapter IV, 20.30.075 (per the Sept. 1, 2009 draft)	If the uses are prohibited then there would be no need to have regulations associated with them.	
4	Shoreline Permit Matrix 20.30.001	We recommend including Community Services, such as government buildings/uses, schools, churches, hospitals, etc., with commercial uses, such that the category becomes Commercial Uses and Community Services. The definition of Commercial should be expanded to include Community Services, or a separate definition should be added. Regulations in several locations and also the tables include provisions for Schools, which would be similar to community services and should be treated as such. Community services should be limited the same as commercial uses in their location in shoreline areas and their placement within buffers/setbacks.	Allowing these uses does not fit local circumstances. Other than the existing Ruth Dykeman facility, these types of uses are not planned for shoreline areas.	173-26-241
5	Shoreline Permit Matrix 20.30.001	The SMP needs to include Commercial Uses and Community Services in the development standards, which in turn need to address the SMP Guideline requirements – especially the limits on non-water-dependent uses and limits on over-water construction.	Commercial use was specifically removed at the SAC level. These uses are not allowed by the existing zoning or comprehensive planning designations. Please also see #3 above.	173-26-241
6	Shoreline Permit Matrix 20.30.001	The SMP Guidelines have specific requirements for parking. These need to be added to the table and the development standards.	It may need to be added to the table but please note there is a parking section with standards, see 20.30.100.	173-26-241 [3.k]
7	Shoreline Permit Matrix 20.30.001	Cell Towers are listed in the table, but there is no indication that they are subject to the utility standards. This needs to be clarified.	We believe this code section can be clarified.	173-26-241 [3.l]
8	Shoreline Permit Matrix 20.30.001	We also recommend that boating facilities have to be added to the use table, and development standards need to be established. The SMP Guidelines require local SMPs to deal with recreational Boating Facilities as a specific use category. These facilities (excluding docks serving four single-family residences or less) are intensely used and need special provisions for dealing with such use.	The relevant types of boating facilities for Burien shorelines are included in the permit matrix (e.g., buoys, ramps, covered moorage, docks, piers and floats).	173-26-241
9	Shoreline Permit Matrix 20.30.001	Concern is that the proposed table doesn't cover all the different land use possibilities nor all the uses and modifications listed in the SMP Guidelines – leaving gaps. · The following are uses and modifications that are missing in the use	It is suggested that the following uses are added to the table and specifically listed as “prohibited”. 1) Commercial 2) Agricultural 3) Forestry.	173-26-241

		<p>table, and also do not have development regulations: Commercial, Agriculture, Boating Facilities and Marinas, Parking Areas.</p> <ul style="list-style-type: none"> · The following is missing from the table, even though they are covered in the development regulations: Shore stabilization measures other than bulkheads. · The following is allowed in the table, but has no development regulations: Forestry. 	<p>It is recommended that shoreline stabilization measures other than bulkheads should be added to the table.</p> <p>The shoreline permit matrix table should be modified to include “Transportation Facilities <i>and Parking</i>” to be consistent with the development regulation section BMC 20.30.100.</p>	
10	Impact Mitigation 20.30.010	<p>Section 20.30.010 Impact Mitigation. Regulation A states that “development and uses shall occur in a manner that results in no-net-loss of ecological functions” as required by the SMP Guidelines. However, it goes on to add that doing so is only required “to the greatest extent feasible,” which implies that some loss of functions is acceptable. Such an exception to the no-net-loss standards is not found in the Guidelines, and is contrary to the concept of mitigation sequencing - which requires avoidance of impacts first, then mitigation of impacts, then replacement or compensation for any lost impacts. If ecological functions are lost, they must be replaced in full, not “to the greatest extent feasible.” This phrase needs to be removed from the regulation. In the context of mitigation in the Guidelines, the term “to the extent feasible” is only used as it relates to the first two sequencing steps. Projects have to avoid and minimize “to the extent feasible.” All impacts still have to be mitigated.</p>	<p>The proposed changes are recommended to be included.</p>	173-26-201[2.e]
11	Impact Mitigation 20.30.010	<p>A policy link between conservation and restoration is needed. Suggested Language: <i>Policy (a) – Impacts to the ecological functions and values shall be mitigated to result in not net loss of shoreline ecological functions and process. <u>Mitigation for impacts of new development projects should use enhancement of degraded conditions to offset the impacts of the new development near shoreline resources.</u></i></p>	<p>Staff/consultant support the proposed change.</p>	
12	Land Use 20.30.015	<p>The regulations do not implement the water dependency preference. Simply restating the water dependency preferences from the SMP Guidelines does not result in preferences being implemented. The regulations need to actually do something to make that preference real. This can be accomplished in several ways:</p> <ul style="list-style-type: none"> · Not allowing uses or modifications based on their lack of water-dependency in different environments. This can be done in the use table by making distinctions in different uses for water-dependency. For example, water-dependent or water related uses commercial uses could be allowed while commercial uses that do not depend on a waterfront location can be prohibited or only allowed as a conditional use. 	<p>This comment does not relate or fit local circumstances. Water dependent and commercial uses do not exist and not are planned for the shoreline areas.</p>	173-26-176[3.a]

		<ul style="list-style-type: none"> · When non-water-oriented uses and modifications are allowed, they can be required to obtain a Conditional Use Permit. This can be done in the table by using the CU entry for some environments. · More stringent development standards can be applied based on lack of water dependency. 		
13	Land Use (20.30.015) or in the use table notes:	<p>We support the idea of "Shoreline uses and modifications should be compatible with the adjoining shoreline environment and designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions." But there is no implementing regulation</p> <p>Suggested language: <u>"Where a use or modification may occur in the Aquatic environment as indicated in Figure 4 and in the corresponding regulations for that use, it shall also be subject to any more restrictive permit processes or prohibitions on that use or modification as indicated for the adjacent shoreland environment."</u></p>	This appears to make sense and should be added.	
14	Critical Areas BMC 19.40 20.30.025 [2.a]	Exemptions for stormwater, utilities and trails allowed in the CAO (BMC 19.40) should not be allowed in the shoreline jurisdiction. Exemptions for water dependent uses should however remain.	Trails provide public access and should be allowed in shoreline jurisdiction. Policy CI 9, 10 and 11 states that utility crossings in shoreline areas should preserve shoreline ecology and water quality.	
15	Critical Areas 20.30.025 (2.c) And Definitions 20.40 Fresh Water	<p>Requests that Critical Freshwater Habitats be section be added to 20.30.025 (2.c) pursuant to WAC 173-26-221(iv) and be given equal protection similar to Critical Fresh Water Habitats.</p> <p>Lake Burien is considered a critical area, but there is no definition in the draft SMA of fresh-water habitat. Fresh-water habitat should be added to the SMP. Freshwater habitat needs to be defined and practiced in the SMP so there is no net loss. This can be done by identifying the habitat of birds and fish.</p> <p>The protection of freshwater habitat is not mentioned in the SMP. According to the consultant, it was not included because they do not know how to define it. Research has been done and scientists consider freshwater habitat definable by threatened species that use the area as well as by what were and are the continued native species that currently use the area.</p> <p>The overall goal of the SMP is to protect the ecological function of the shorelines of the State that are located within the boundaries of the City of Burien. Small, fresh water habitats are in far shorter supply on this planet compared to saltwater habitats and should be afforded greater, if not, equal protection. Critical freshwater habitat of Lake</p>	<p>The guidelines do not define critical freshwater habitat for lakes. To the best of our knowledge the term "critical freshwater habitat" is not a term that is used by the scientific community or Department of Ecology. However it should be noted that fresh water is partially protected through the existing Critical Areas Ordinance (BMC 19.40), primarily in the wetlands and streams sections. Note that Lake Burien has been identified as a Category 4 wetland (BMC 19.40.300[4.A.iv]).The Critical Areas Ordinance has been adopted by reference in the proposed Shoreline Master Program regulations section.</p> <p>The Shoreline Advisory Committee acknowledged the protections needed for fresh water by including provisions to protect freshwater habitats through the SMP, including but not limited to: dock materials, vegetation conservation, setbacks, and buffers.</p>	173-27-030

		Burien is recognized in the SMP, but no definition is provided. However, it does define a critical saltwater habitat. This suggests that protecting the freshwater habitat is of less importance than protecting saltwater habitat.		
15 A	Critical Freshwater habitats	Again request that critical freshwater habitats be added to 20.30.025[2.c].	There is no specific definition of critical freshwater habitats, for lakes, comparable to the term used for saltwater habitats, but yes there is a section addressing how critical freshwater habitats are to be managed. The proposal is to use the existing wetland regulations found in BMC 19.40.	173-26-221 Gen Mste. Prg. Req[2.c.iv], pg 60
16	Critical Areas 19.40.300 20.30.025 [2.a]	BMC 19.40.300 excludes small wetlands from protection. This provision needs to be excluded from the parts of the CAO incorporated into the SMP.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
17	Critical Areas 19.40.300[3,4] 20.30.025 [2.a]	The wetland rating system needs to be changed to use the current science for wetland protection. We recommend the use of Ecology's Washington State Wetland Rating System for Western Washington – Revised.	The SMP inventory on pg. 9 discusses the sources used for wetland identification that included the City of Burien CAO, King County GIS data, National Wetland Inventory, Ecology's Digital Coastal Atlas, WDFW Priority Habitat, and a 2005 report for Seahurst Park.	173-26-221[2.c.i]
17 A	Critical Areas Wetlands 19.40.300[3,4]	The system reference in #17 above should be used to ensure the SMP is consistent with Policy CON 9 which requires the use of best available science. The current system in the BMC is a less scientific system.	The category 4 wetland rating was determined by review of the sources listed in #17 response above.	
18	Critical Areas BMC 19.40 20.30.025 [2.a]	Storm water and utility alterations to streams, wetlands and their buffers should be required to mitigate or impacts – currently facilities only have to repair damage to the pre-damage condition, not compensate for the new impacts from corridors or facilities....	BMC 20.30.105 (2.k) requires reclamation and maintenance to ensure success of newly planted vegetation.	173-26-221[2.c.i]
19	Critical Areas 19.40.310 – 350 20.30.025 [2.a]	Stream and Wetland buffer reductions should require that the option of buffer averaging be tried first. To implement the mitigation sequencing concept.	Comment noted. Wetlands within shoreline jurisdiction will be protected or mitigated consistent with provisions in Title 19.40.	173-26-221[2.c.i]
20	Shoreline Public Access Element 20.20.015	Increasing the amount of public access will not achieve the “no net loss standard”; improve the ecology of the Lake or Puget Sound. If access is granted things such as milfoil will be introduced to the lake. There are no data or analysis of the lake, its water quality, and carrying capacity to support the assumption that public access will do no harm and cause no net environmental loss. (See Turtle v. Fitchett upholding objections to public use on Lake Burien, 1930).	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4. Public access to shorelines of the state is generally required by the SMA. The Shoreline Master Program Guidelines state.... <i>173-26-176 (2) General Policy Goals of the Act and Guidelines for Shorelines of the State. “The policy goals for the management of shorelines harbor potential for conflict. The Act recognizes that the shorelines and water they encompass are “among the most valuable and fragile” of the state’s natural</i>	RCW 90.58.020 173-26-176 [2] 173-26-221[4]

			<p>resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. Thus, the policy goals of the Act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The Act call for the accommodation of “all reasonable and appropriate uses” consistent with “protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life and consistent with “public rights of navigation.”</p> <p>The Act’s policy of achieving both shoreline utilization and protection is reflected in the provision that “permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public’s use of the water.” RCW 90.58.020</p> <p>An existing policy statement (PA 9) addresses the concern regarding the process by which public access points are designed improved or created. This provides guidance on the public process to ensure that it is designed consistent with the policy intent and address neighborhood concerns.</p>	
21	Shoreline Public Access Element 20.20.015	<p>Access will increase littering, vandalism, property destruction. There are already access points available to the public and it would be expensive to fund and maintain that which is proposed in the plan. The plan should include language to assure that before any changes are made the residents of those areas be given:</p> <ol style="list-style-type: none"> 1) Notice of any specific plans that the City may already have and adequate opportunities to respond and express concerns about impacts of those plans on the community. 2) Opportunity to be involved in decisions affecting our communities BEFORE specific plans are made. 3) Opportunity to offer alternative ideas or suggestions to reduce the impact o any such plans on the residents of affected communities, their private property, and their safety and well-being. 	<p>The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft. There is specific policy that addresses how access is to be provided. Please see SMP policies: PA 3 and PA 4.</p> <p>Policy language exists (PA 9) that provides direction on public involvement when shoreline projects are being planned.</p>	173-26-241
21 A	Shoreline Public Access 20.20.015 Goal PA	Proposed language: Increase Promote and enhance public access to shoreline areas <u>on public lands</u> consistent with the natural shoreline character while protecting private property rights and public safety.	<p>This is a goal directly taken from the existing City Comprehensive plan. The term “Increase” is used in RCW 90.58.020 which states master programs shall give preference to specific uses. The statements include</p> <ol style="list-style-type: none"> 5) Increase public access to publically owned areas of the shorelines 6) Increase recreational opportunities for the public in the shoreline. 	
21 B	Shoreline Public Access 20.20.015 Pol. PA 1	Proposed language: <u>New</u> developments, uses and activities on or near the shoreline should not impair or detract from the public’s <u>existing public</u> access to the water.	Keep existing language, no changes recommended.	
21 C	Shoreline Public Access	Existing Language: Public access to the City’s shorelines should be	This is a policy that is directly taken from the existing City Comprehensive plan.	

	20.20.015 Pol. PA 3	designed to provide for public safety and to minimize potential impacts to private property and individual privacy. Proposed language: Public access to <u>shoreline areas on public lands within the City</u> must protect private property rights, public safety, and individual privacy.	The Planning Commission will consider the proposed language. It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations.	
21 D	Shoreline Public Access 20.20.015 Pol. PA 4	Proposed language: Public access <u>on public lands</u> should be provided as close as possible to the water's edge without adversely affecting a sensitive environment <u>with no net loss of shoreline ecological function</u> and should be designed for handicapped and physically impaired persons.	Note: The underlined text " <u>with no net loss of shoreline ecological function</u> " was suggested but not underlined in the original comment letter. Strikeouts added. No objection to the proposed changes.	
21 E	Shoreline Public Access 20.20.015 Pol. PA 5	Proposed language: The City should seek opportunities to develop new public access areas <u>on public lands in locations dispersed</u> throughout the shoreline. Highest priority should be placed on reaches without public access. Mechanisms to obtain access include: a. Tax-title properties; b. Donations of land and waterfront areas; and c. Acquisition using grants and bonds. <i>Note that that there is no reference to 'unused right-of-way' as a method of obtaining new public access.</i>	The Planning Commission will consider the proposed language. It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations	
21 F	Shoreline Public Access 20.20.015 Pol. PA 6	Proposed language: The vacation or sale of street ends <u>must comply with RCW 35.79.035.</u> other public right-of ways and tax title properties that abut shoreline areas shall be prohibited. Vacation or sale of publicly owned tax title properties that abut the shoreline areas shall be prohibited. The City should protect these areas for public access and public viewpoints.	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 G	Shoreline Public Access 20.20.015 Pol. PA 7	Proposed Language: <u>Publicly owned shoreline street ends</u> 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.	This is a policy that is directly taken from the existing City Comprehensive plan. Street ends are owned by the City, however the language does provide further clarification. Another option may be use of the term "city right-of-ways".	
21 H	Shoreline Public Access 20.20.015 Pol. PA 8	Proposed Language: The City should manage and develop <u>publicly owned shoreline waterfront</u> 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, <u>protects private</u>	Note: underlined text in the comment letter did not accurately reflect the proposed changes to the policy. The comment underlines were modified to accurately reflect the proposed changes. Strikeouts were also added. This is a policy that is directly taken from the existing City Comprehensive plan. The Planning Commission will consider the proposed language.	

		<p><u>property rights and individual privacy</u>, and is consistent with City risk management practices;</p> <p>b. Ensuring that public parking is available <u>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</u>, and that any new parking that is developed would be harmonious with the surrounding neighborhood;</p> <p>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;</p> <p>d. Installing signs that indicate the public's right of access and <u>the rules of use, and penalties for misuse; encourage appropriate use;</u></p> <p>e. Installing limited trail improvements and enhancements <u>in the street ends</u> to allow access to the water;</p> <p>f. <u>Protecting adjacent private property, individual privacy, and public safety; Minimizing the potential impacts associated with their use on adjacent private property;</u> and</p> <p>g. Developing a street ends plan that promotes <u>public shoreline waterfront access and public safety.</u></p>	It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations	
21 I	Shoreline Public Access 20.20.015 Pol. PA 9	Proposed Language: Waterfront Shoreline street ends or other <u>public</u> shoreline access should be planned in conjunction with the affected neighborhoods. However, the broader community should be notified during the public notification process.	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 J	Shoreline Public Access 20.20.015 Pol. PA 11	Proposed Language: The public's Existing visual access to the City's shorelines from streets, paths, trails, and designated viewing areas should be conserved and enhanced <u>preserved</u> .	This is a policy that is directly taken from the existing City Comprehensive plan. The Planning Commission will consider the proposed language.	
21 K	Shoreline Public Access 20.20.015 Pol. PA 12	Proposed Language: Public views from the shoreline upland areas should be enhanced and conserved <u>preserved</u> while recognizing that enhancement <u>preservation</u> of views should not be necessarily construed to mean removal of vegetation. <i>The state document is about preservation of shorelines and not making things worse, while the wording in the City document appears to be aimed at "increasing" or "enhancing" public access, both physical and visual.</i>	This is a policy that is directly taken from the existing City Comprehensive plan.	
21 L	Shoreline Public Access 20.20.015	Proposed Language: <u>On publicly owned lands</u> , promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that	The Planning Commission will consider the proposed language.	

	Pol. PA 13	increase the amount and diversity of opportunities for walking and chances for personal discoveries <u>while protecting private property rights, individual privacy, and public safety.</u>		
22 M	Shoreline Public Access Element 20.20.015 & Public Access 20.30.035	Determinations of adequacy of public access should be based on individualized analysis of the water body to determine if a policy can be appropriately applied.	Please see #'s 20 and 21 above.	
22 N	Shoreline Public Access Element	Request that a plan for public access be created and added to the SMP appendix. It is a pro-active document element that addresses public concerns about what steps will be followed by the city when Public Access come up as a topic for consideration.	Public access opportunities to Burien's shoreline areas would entail expanding and improving facilities at existing sites. Any new shoreline public access sites must minimize effects on adjacent properties, minimize adverse impacts to ecologically sensitive areas and not create a public safety risk consistent with the proposed polices in the SMP. Public access is addressed in the SMP Inventory and Shoreline Analysis and Characterization reports.	
23	Public Access 20.30.035.2.e (pg IV-8)	The words 'historically significant community' should be to the added to the regulation. Comment was related to (SW 172 nd Street)	It is unclear what is intended by the comment and how it would affect the implementation of the regulation.	
24	Public Access 20.30.035.2.e (pg IV-8)	No net good will flow to the City through public access to Lake Burien. No net good will come to the Lake from providing public access. Harm will occur to Lake Burien through public access. Therefore, there is no rational reason the City could have to provide public access to Lake Burien. Including Lake Burien in the reaches that the City should attempt to provide public access is very problematic and jeopardizes the Lake and the City.	Please see # 20 above and # 25 below.	
25	Public Access 20.30.035.2.e (pg IV-8)	A major factor to Lake Burien's health and freshwater habitats is the low impact of human use. Opening up Lake Burien to unrestricted access threatens to impact the water quality of the lake as well as any unintended consequences downstream such as Miller Creek in Normandy Park. The Shoreline Master Program must play a key role in protecting the critical freshwater habitat of Lake Burien by not allowing unfettered, unregulated public access.	No new public access is being proposed. Public access is described in Policy section 20.30.035 as "Public access includes physical access or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered visual access." In addition, any access that may occur in the future should follow the policy direction contained in the shoreline master program.	
25 A	Public Access	There must be base line information on the health of Lake Burien before access is contemplated, the response table says no access is proposed however the City Manager was directed by a city council member to explore purchasing property for city use.	Monitoring of lake water quality is not currently conducted by the City. No public access is proposed to Lake Burien.	
26	Public Access 20.30.035.2.e (pg IV-8)	There was a drive to provide public access to all reaches of Burien shorelines without regard to impacts.	The issue of access was discussed during the Shoreline Advisory Committee meetings. There was a specific policy decision to address access as shown in the Shoreline Advisory Committee Shoreline Master Program draft.	

			Many of the policies provided in the SMP are taken from the existing comprehensive plan. Eight (8) of the 14 goals and policies in the SMP are taken directly from the comprehensive plan and one (PA 5) was a comprehensive plan that was modified by the SAC.	
27	Public Access 20.20.015 20.30.035	Public access can be defined as physical or visual. Why is physical access being the only one discussed for Lake Burien?	Public access is described in section 20.30.035 as “ <i>Public access includes <u>physical access</u> or the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Access with improvements that provide only a view of the shoreline or water, but do not allow physical access to the shoreline is considered <u>visual access</u>.</i> ” Sections regulating access do not specifically state that access must be “physical”.	
28	Public Access 20.35.035	Items a, b, and c need to be clarified that existing property along SW 172 nd Street is not impacted or disturbed in any way in order to provide physical or visual access to the water. Reference to “unused right-of-way” in item c should be removed from the document.	Comment noted.	
29	Public Access 20.20.015	Parking is limited at some access points and infringes on parking of existing residents.	There are existing policies in the comprehensive plan as well as the SMP that address provision of parking and the design of access areas as well as impacts to adjoining properties. See PA 3, PA 4 and PA 8.	
30	Public Access 20.20.015	This is not a plan, it serves as guidelines for any plans that are made. There needs to be assurance in the SMP that residents of affected communities are involved in the development of any plans and there needs to be assurances that there is sufficient funding for such plans.	Please see # 20 above.	
30 A	Recreation element 20.20.020 Goal REC	Proposed Language: 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; <u>protects private property rights; and results in no net loss of shoreline ecological functions and processes.</u>	No objection to the proposed language.	
30 B	Recreation element 20.20.020 Pol. REC 2	Proposed Language: Recreational developments should be located , designed and operated <u>in a manner consistent with the purpose of the environment designation in which they are located; and result in no net loss of to be compatible with, and minimize adverse impacts on,</u> environmental quality and valuable natural features, as well as on <u>or</u> 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.	The proposed language was placed in strikeout underline based on the original text of the SMP.	

30 C	<p>Recreation element 20.20.020</p> <p>Pol. REC 4</p>	<p>Proposed Language: The City shall plan to provide, in coordination with other agencies, a range of park facilities <u>on public lands</u> that serve a variety of recreational and open space purposes. Such planning should use the following designations and guidelines to provide such diversity:</p> <p>1. Mini or Pocket Park</p> <p><i>Use Description:</i> Passive recreation or specialized facilities that may serve a concentrated or limited population such as children or senior citizens.</p> <p><i>Service area:</i> Approximately 1/3 of a mile radius.</p> <p><i>Size:</i> No minimum to approximately one acre.</p> <p><i>Desirable Characteristics:</i> 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.</p> <p><i>Examples:</i> 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.</p> <p><i>Other Considerations:</i> 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 <u>public shoreline shore</u>-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.</p> <p>2. Regional Parks</p> <p><i>Use Description:</i> Areas of natural or ornamental quality <u>on public property</u> 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.</p> <p><i>Service area:</i> Approximately 1/2 to 1 hour driving time.</p> <p><i>Size:</i> Approximately 90 acres.</p> <p><i>Desirable Characteristics:</i> Contiguous to or encompassing significant natural resources.</p>	<p>An existing policy taken directly from the Comprehensive Plan.</p>	
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		<p><i>Examples:</i> Seahurst Park.</p> <p>3. Special Use Park</p> <p><i>Use Description:</i> 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.</p> <p><i>Service area:</i> Variable.</p> <p><i>Size:</i> Depends on nature of facility.</p> <p><i>Desirable Characteristics:</i> Compatibility with adjacent facilities and uses.</p> <p><i>Examples:</i> Examples within Burien shoreline consist primarily of designated view points and historical markers, and <u>publicly owned shoreline waterfront</u> street ends (including those at SW 170th Pl., SW 163rd Pl., and at the intersection of Maplewild Ave. SW and SW 172nd St.).</p>		
30 D	<p>Recreation element 20.20.020</p> <p>Pol. REC 10</p>	<p>Proposed Language: 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 <u>and must protect private property rights and individual privacy.</u></p>	The Planning Commission will consider the proposed language.	
30 E	<p>Recreation element 20.20.020</p> <p>Pol. REC 11</p>	<p>Proposed Language: Development of recreational <u>facility-facilities</u> along <u>publically owned</u> City shorelines should implement Low Impact Development techniques whenever feasible.</p>	Low impact development techniques should be implemented regardless of location. No changes to the existing language are recommended.	
30 F	<p>Circulation element 20.20.025</p> <p>Goal CI</p>	<p>Proposed Language: 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 <u>and protecting private property rights and individual privacy.</u></p>	The proposed language creates a conflict that is inherent when providing necessary circulation systems (roads) and adjacent single-family or other noise sensitive uses.	
30 G	<p>Circulation element 20.20.025</p> <p>Pol. CI 3</p>	<p>Proposed Language: Provide andPreserve/or enhance <u>existing</u> physical and visual public access along shoreline public roads and trails when appropriate given topography, views, natural features, and surrounding land uses, <u>while protecting private property rights and individual privacy.</u></p>	Keep existing language, no changes recommended.	RCW 90.58.020
30 H	<p>Circulation element 20.20.025</p> <p>Pol. CI 4</p>	<p>Proposed Language: Public transit systems should provide service to designated <u>public parks within the City</u>shoreline public access points.</p> <p><i>(The designated 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</i></p>	The Planning Commission will consider the proposed language.	

		<i>harm to the shoreline. This is in direct opposition to the purpose of "no net loss" in the state program.)</i>		
30 I	Circulation element 20.20.025 Pol. CI 6	Proposed Language: Parking in shoreline areas should directly serve a permitted shoreline use 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.	Residential single-family is a permitted shoreline use. Parking is necessary for other facilities, Seahurst Park is one example. Suggest adding the last portion to further clarify the amount of parking. 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.	
30 J	Circulation element 20.20.025 Pol. CI 7	Proposed Language: Parking facilities should be located and designed to protect private property rights and individual privacy; and to minimize adverse impacts, including those related to: stormwater runoff; water quality; visual qualities; public access; and vegetation and habitat maintenance.	The Planning Commission will consider the proposed language.	
30 K	Circulation element 20.20.025 Pol. CI 8	Proposed Language: Public p 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. Where possible, parking should serve more than one use.	The Planning Commission will consider the proposed language.	
30 L	Circulation element 20.20.025 Pol. CI 11	Proposed Language: 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.	The Planning Commission will consider the proposed language.	
31	Public Access 20.30.035[2.a]	This section references RCW 35.79.035 but this only concerns limitations on vacations of streets abutting bodies of water.	The RCW sets forth limitations on Cities with regard to vacations of rights-of-way abutting bodies of water. The emphasis of including the reference is on the phrase "maintain, enhance and preserve...access". It provides a connection to the state law regarding any consideration of vacating the public rights-of-ways abutting bodies of water.	
31 A	Public Access 20.30.035[2.d]	Revise the section as follows: d. Public access shall be required for all new shoreline development and uses, except for; water dependent uses, and individual single family residences and subdivisions of less not a part of development planned for more than four parcels.	The language was changed to make the regulation more understandable. The language as shown in the WAC is somewhat difficult to interpret.	WAC 173-26-221[4.d.iii]
31 B	Public Access 20.30.035 (1)	Proposed Language: 1. Policies a. Public access to shoreline areas on public lands must protect private property rights, public safety, and individual privacy. should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. b. Public access on private lands should be provided as close as possible to the water's edge with no net loss of shoreline	The Planning Commission will consider the proposed language.	

		<p>ecological function without adversely affecting a critical area such as a wetland.</p> <p>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. 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.</p> <p><i>From page 67, item (iv) of WA State Shoreline Master Program Guidelines)</i></p>		
31 C	Public Access 20.30.035 (2)	<p>Proposed Language: 2. Regulations</p> <p>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. Vacation of streets or street ends abutting bodies of water must be in compliance with RCW 35.79.035. <i>(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)</i></p> <p>b. Existing Visual access to outstanding scenic vistas areas shall be preservedprovided with the provision of roadside pullovers or broadening of road shoulders.</p> <p>c. If a public road is located within shoreline jurisdiction, any unused right of way shall be dedicated as open space and public access. <i>(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.)</i></p> <p>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 fourfive parcels. <i>(Another example of wording suggesting the take-over of private property for public use – NOT the intent of the state shoreline management program.)</i></p> <p>e. Same</p> <p>f. Same</p>	<p>Item a - The Planning Commission will consider the proposed language.</p> <p>Item b – The Planning Commission will consider the proposed language.</p> <p>Item c - The Planning Commission will consider the proposed language.</p> <p>Response to comment; A road or right-of-way is public land and therefore there would be no “take over” of private property.</p> <p>Item d – The proposed language is very clear and should be used. It is also consistent with the WAC.</p>	

		<p>g. Same</p> <p>h. Required public access sites <u>on public lands</u> shall be fully developed and available for public use at the time of occupancy or use of the development or activity.</p> <p>i. Same</p> <p>j. Same</p>	<p>Item h - No changes are recommended.</p> <p>It should be noted that the goals and policies should be consistent with the regulations. Care should be taken to ensure the policies changes are consistent with the implementing regulations.</p>	
31 D	Public Access 20.30.085[2.h]	<p>Proposed Language: Delete 20.30.085[2.h] and replace with the following language.</p> <p><u>“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</u></p> <ol style="list-style-type: none"> 1) <u>No invasive species will ever be introduced into the lake.</u> 2) <u>Patrols, funded by the city, monitor the lake assuring no trespass of lands or vandalism of property.</u> 	The Planning Commission may consider this restriction.	
31 E	Public Access	There is not a document or policy that clearly explains the steps, studies and checklist to be completed to provide access. In addition there should be a plan for public access and how monitoring is going to take place. A table was provided to showing an example public access plan table that could be included as an appendix. See comment from C Edgar, dated 2/9/10, page 6	Comment noted. Any public access would proceed through the appropriate permit review process and apply all applicable environmental and shoreline regulations. A map of the access areas is included in the shoreline inventory, which is another method to illustrate existing public access points. It should be noted that the inventory primarily focused on physical access points.	
32	Inventory, Flood Hazard Reduction 20.30.030	Section 10.5 Lake Burien in on in the 100-year flood plain and there are no landslide or seismic hazards associated with the lake therefore there is no reason to reference the weir at the lake outlet. Item F in 20.30.030 should be removed.	<p>The weir exists within shoreline jurisdiction and must be periodically maintained. It is appropriate to include this in the SMP.</p> <p>The proposed language removed the notion of the City having an obligation to maintain the weir. The change from the SAC draft to the current version was following discussion with the city legal department. The Lake residents have stated that it is their desire to maintain the weir and this policy change would remove any reference to city having an obligation to do so, it also removes the notion that the City will use this an a method to gain access to the lake.</p>	
33	Shoreline Vegetation Conservation 20.30.040	<p>There is no general statement that vegetation removal in the buffer is not allowed without shoreline review. More language is needed to cover different vegetation alteration situations.</p> <p>Suggested Language:</p> <p><i>b. Alterations to vegetation within shoreline jurisdiction <u>(except for the maintenance of existing or approved conditions) are not allowed without shoreline review. When allowed, alterations to the vegetation shall result in no net loss of shoreline ecological value or function.</u></i></p> <p><i>c. Alterations within the shoreline vegetation conservation buffer shall <u>provide mitigation for new impacts of the development, and shall only</u></i></p>	<p>Vegetation alterations require review pursuant to 20.30.040(2.b).</p> <p>There appears to be a mistake in the outline numbering used in the comment letter. b is a, c is b. The correct nomenclature is used below</p> <ol style="list-style-type: none"> a. Staff/consultant can support this clarification. b. Staff/consultant are not sure the term “enhancement” can be used. OK it focuses the re-vegetation in the area that is the most beneficial to the functions and values. 	

		<p>be allowed through approval of a vegetation management plan. <u>Mitigation should take the form of vegetation enhancement and improvements to ecological functions.</u> The plan shall be prepared by qualified professional and shall be consistent with the provisions of this chapter and BMC Chapter 19.40. <u>At a minimum, mitigation shall include:</u></p> <p><u>i. Revegetation of degraded buffer areas within 20 feet of the ordinary highwater mark (or top of shore armoring if applicable) or wetland edge with dense native vegetation meeting the standards of paragraph (b)(iii-iv), below. The Administrator may require wider widths or other improvements to mitigate greater impacts.</u></p> <p><u>ii. The above revegetation area may be modified using area averaging when existing structures encroach into the 20 foot width, when access through the area to waterfront facilities is needed, or when water-dependent activities need to take place in the area.</u></p> <p>d. Within a shoreline riparian buffer as set forth in BMC 20.30.050 alterations shall comply with the following;</p> <p>i. The applicant shall provide a vegetation management plan prepared by a qualified professional; and</p> <p>ii. At least 75% of the buffer area shall be <u>revegetated, where it is degraded;</u> and</p> <p>iii. Where vegetation is proposed within the buffer it shall be provided at a density to mimic natural conditions <u>rather than a landscaped yard;</u> and</p> <p>iv. Vegetation <u>planting areas</u> shall consist of <u>a mix of native trees, shrubs and ground cover – lawn is not an acceptable groundcover;</u> and</p> <p><u>v. When alterations are proposed within a buffer, the end result shall be no loss of vegetated areas; and</u></p>		
34	Conservancy Park/Restoration Pol. REC 9 (pg II-7)	Seahurst Park North Seawall Removal – could debris be place at 60-80’ depth off park as an artificial reef? Ex: reef of Des Moines Marina/Pier was enhanced as a marine life environment	Seahurst Park has an approved Master Plan. The plan does not include an artificial reef and a component however when the plan is updated or reconsidered this project could be considered.	
35	Dimensional Standards 20.30.050 (Fig. 5) (pg IV-12)	Lots adjacent to Lake Burien should be rezoned back to 12,000 square foot minimum lot size to protect the health of the lake or a method should be created to limit development based on shoreline footage.	Pursuant to WAC 17-26-211 (3) “local comprehensive plans constitute the underlying framework within which master program provisions should fit.” Therefore zoning and comprehensive plan changes were not included in the scope of the update process.	WAC 17-26-211 (3)

36	Dimensional Standards 20.30.050 (Figure 5) Shoreline Buffers 20.30.055 (1)	The buffer width for the Urban Conservancy area should be a science based buffer which is at least 100 feet wide (150 feet preferred).	We could support this change; however future developments in Seahurst Park will be the most affected. It appears only one SFR would be impacted, which is located south of the Park.	
37	Restoration	There needs to be a funded monitoring program to watch the water quality/fresh-water habitat on Lake Burien. None is currently written into the SMP.	Suggested that this could be included, but need to identify the specifics of what should be monitored, by whom and if there is a funding source.	
38	Shoreline Buffers 20.30.055	There doesn't appear to be a policy for how vegetation is to be protected. A policy needs to be provided or supplemented the provides a foundation for the vegetation and setback regulations, and describes the SMP's strategy for riparian vegetation	A policy could be added to clarify the relationship between vegetation protection and the associated strategy.	
39	Bulkheads and Other Shoreline Stabilization Structures 20.30.070	Shore stabilization standards should be in the general standards section with other environmental protection standards. A project proponent, and perhaps even staff, may not normally go the shore stabilization section for find standards about avoiding shore stabilization.	Comment noted but no changes are recommended.	
39 A	Bulkheads and Other Shoreline Stabilization Structures 20.30.070 & 20.30.075	Requests that the following be added: A. <u>Normal maintenance or repair of existing shoreline components (including damage by accident, fire, or elements) shall be permitted.</u> B. <u>Shoreline structures shall be designed to minimize the transmission of wave energy.</u> (from Medina)	Item A - Please see 20.35.025(4.B) Item B – 20.30.070 [2.f] could be modified to include the proposed language. Staff would support this change.	
40	Docks, Piers and Floats 20.30.075	The policies and regulations in Section 20.30.075 do not refer to docks and piers together consistently... These facilities need to be treated the same, especially for standards that allow or don't allow them.	The code should be amended to include both facilities having similar regulations.	
41	Docks, Piers and Floats 20.30.075 Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045 (FW)	The issue of repair and replacement is not addressed as it relates to bringing piers and docks into conformance with the code as substantial parts are replaced over time. We recommend that you supplement the materials to fully address the issues. The City of Kirkland and City of Kent have thorough piers/docks provisions that we recommend you use as templates.	We could research additional guidance if requested by the Planning Commission. The Shoreline Advisory Committee did not discuss this.	
42	Dimensional Standards for Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	Saltwater reaches have been treated similar to fresh water reaches.	Saltwater reaches were treated differently than freshwater reaches. Saltwater and freshwater reaches have different buffer widths, 50 feet for saltwater and 30 feet for fresh water.	
43	Dimensional Standards for	Requesting that the issue of reduced lot size and buffers around the	See # 35 above, responding to zoning and comprehensive plan land use related	

	Shoreline Development 20.30.050 & Shoreline Buffers 20.30.055	lake need to be analyzed to ensure there is no net loss of ecological functions pursuant to WAC 173-26-221 (2.b.iv), and c, l and A, B, C, D and WAC 173-26-201 (2.e). Request that this issue be addressed in 20.30.050 and 20.30.055 or as a zoning issue.	comment. In addition see response to potential conflicting policy goals of the SMA and uses adjacent to shorelines (173-26-176[2]). The Act's policy objective is to achieve both shoreline utilization and protection.	
44	Docks, Piers and Floats 20.30.075	<p>The piers/docks section needs to address the problem of the proliferation of boating structures, as required by the SMP Guidelines; 8 and we recommend adding specifics to better guide how it's done. This is a primary issue for us, as it is needed to protect the shoreline functions. We recommend the following new regulation to reduce proliferation through a comprehensive strategy that addresses all aspects of piers and docks. Avoid the proliferation of pier/dock & boating structures through the use of mitigation sequencing, using the following preference criteria:</p> <ol style="list-style-type: none"> 1. New single family residential subdivisions may only use shared or community facilities. Such facilities should have limits on their size, and single-user structures are not allowed. 2. For existing single family residential lots: <ul style="list-style-type: none"> · Non-waterfront lots may not have boating structures, but rather must use a marina, community, or public facility. · Waterfront lots first should try to share nearby existing facilities or use nearby public facilities. When that is not possible, new facilities shall be shared with adjacent or nearby lots that do not have facilities, if there are any present. Cost sharing or late-comer agreements, similar to those used for shared roads, driveways, and utilities shall be established as necessary. 3. Multi-family development is not water-dependant, and may not have such structures, unless permitted as a Boating Facility use. 	<ol style="list-style-type: none"> 1. Staff and consultant do not object to including this language. 2. Staff and consultant support the inclusion of this language. 3. Staff and consultant support the inclusion of this language. 	
45	Residential Development 20.30.095	<p>The residential standards need to be supplemented to address accessory uses and facilities, such as utilities, transportation, recreation, etc. Mitigation sequencing needs to be built into these provisions: avoid first, then minimize, then compensate. We recommend that:</p> <ul style="list-style-type: none"> • -Non-water-dependent facilities (storage sheds, decks, driveways, utility lines, entertainment decks/patios) should meet the buffer/setback. • -Only water dependent facilities (crossings, boat facilities, etc.) should be within the setback/buffer. • -Waterfront facilities should be co-located with each other to reduce the footprint of the facilities. • -Water-dependent facilities should be minimized, rather 	These appear to be good clarifications and should be included in the document.	

		than maximized (smaller dock rather than larger dock, boat slip rather than boat garage, pocket swim area rather than frontage-wide swim area)		
46	Residential Development 20.30.095[c]	The Common Line Setback and buffer reduction process (Regulation (c)) allows buffers smaller than those in the buffer table. However, this provision needs to be clear in reminding the reader that they still must meet the vegetation conservation and mitigation standards.	Clarification could be added but it may not be needed, the development regulations apply and require vegetation management and that development comply with the no net loss standard.	
47	Residential Development 20.30.095[c]	The common line setback provision needs to be limited to only the Residential environment, where the situations it is designed for are prevalent.	The code section specifically references “residential development”. It however could be expressed more clearly and directly.	
48	Residential Development 20.30.095(2.C.ii)	This section should not make a difference if the shoreline resident lives next to a vacant lot. The proposed restrictions for reconstruction next to an empty lot would leave little or no property upon which to rebuild for many property owners. Undeveloped green space should not be a punishment to current adjacent homeowners. They should be allowed to rebuild after a disaster within their current existing footprint, including deck overhangs beyond existing foundation or pilings supporting decks.	The City proposed code allows the reconstruction of non-conforming structures in their legally established location (see # 52 below). The common line setback line scenario that is provided would only apply when a structure is proposed to constructed or expanded. In addition, there always is an opportunity to apply for a shoreline variance, however the project must meet the applicable criteria.	
49	Residential Development 20.30.095[2.i & j]	This section needs to strengthen the proposed requirements for sharing facilities, otherwise it will not happen. This is part of the first and second steps in mitigation sequencing – avoidance and minimization of shoreline development. Suggested Language: <i>Stairs and trams to the beach are allowed, except on feeder bluffs, provided the project proponent demonstrates that existing shared, public or community facilities are not adequate <u>or available for use and the possibility of a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible. New facilities shall be shared with adjacent properties that do not already have such facilities, and shall include shared maintenance easements and agreements as necessary. Only one stair or tram system is allowed – duplicate facilities are not allowed.</u></i>	The City could support this language, although it is very unlikely that adjacent property owners will share a beach tram or stairs (too many legal issues could be involved)	
49 A	SMP Applicability 20.30.005	The phrase “the plan shall be liberally construed... exemptions shall be narrowly construed” leads to value judgments, which could become overbearing and opens the city and its citizens to the possible abuse of government authority.	This is a requirement found in the SMA, see RCW 90.58.900.	90.58.900
50	Exemptions from Shoreline Substantial Development Permits 20.35.025[4.B]	The exemption for Repair and Maintenance includes provisions for when replacement is an acceptable means of repair. A statement should be included: <u>“The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair.”</u>	Staff and the consultant have no objections to the proposed language.	173-27-040(2)(b)

51	Letter of Exemption 20.35.030.1	Section 20.35.030.1 Letter of Exemption, General states: "Applicants for other permits or approvals must obtain a written letter of exemption." We recommend that for ANY development project subject to the SMA that might qualify for an exemption, the city should document what is being authorized in a Letter of Exemption. This provides documentation of compliance to the applicant. It also helps the city track the development occurring on its shorelines. So we recommend that "Applicants for other permits or approvals" be deleted and "Persons requesting an exemption" be substituted in Section 20.35.030.1.	The City has no objection to the proposed change in language.	173-27-050(1)
52	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 20.35.045(4)	Foundation walls should include allowing existing homes and their deck structures to be rebuilt to set overhang beyond the existing deck piers. If damage occurs to the residence, property owner should be allowed to rebuild exactly as structure was before damage. A policy should be added to SMP that Burien will not see a re-build as a 'take-away' & that reconstruction is not viewed as a harm to the community's 'no net loss' goal.	<p>The existing language of 20.35.045 could be improved to clarify the intent of the regulations, which is to allow reconstruction of legally established structures in the same location so long as there is no net loss of ecological functions.</p> <p>Non-conformance thresholds were taken from the existing non-conforming chapter in the Burien zoning code. The decision to use the language in the draft SMP was to treat non-conformances citywide the same. Consistency with other local regulations was the approach. Consistency avoids confusion on the issue on nonconformance. Please see BMC 19.55.030[3.B], for the source used as a basis for determining the non-conformance threshold. It contains the 50% threshold. It should also be noted that the existing SMP contains the same 50% threshold, however it is based on market value.</p> <p><u>Proposed Revision</u></p> <p>4. Reconstruction. A nonconforming structure which is destroyed, deteriorated, or damaged more than 50% of the assessed value of the <i>nonconforming structure</i> 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:</p> <ul style="list-style-type: none"> a. The structure must be located landward of the ordinary high water mark. b. The area between the nonconforming structure and the OHWM shall meet the vegetation conservation standards of this Master Program. c. The remodel or expansion reconstruction shall not cause adverse impacts to shoreline ecological functions or processes. 	173-27-080

			<p>d. The action shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into the riparian buffer than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into the riparian buffer, or the minimum required side yard setbacks require a variance.</p> <p>e. An application is filed to reconstruct the structure within 18 months of the date of the damage.</p> <p>RCW 90.58.100 6. Provides protection to SFR's and appurtenant structures.</p>	
52 A	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(4)	<p>Proposed Language: 4. A nonconforming structure which is destroyed, deteriorated, or damaged by 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 within the original footprint of the destroyed structure only insofar as it is consistent with existing regulations and the following:</p> <p><i>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.</i></p>	The proposed language does not preclude the ability for a single family home to be reconstructed.	
52 B	Alteration or Reconstruction of Nonconforming Structures or Uses 20.35.045(3) 20.35.045(4)	Concern was expressed regarding the language relating to expansions and the language was unclear.	<p>The suggested language should add further clarity and align with terminology used in the zoning code.</p> <p>20.35.045 Alteration or Reconstruction of Nonconforming Structures or Uses</p> <p>4. Expansion. Enlargement or expansion of single family residences less than 500 square feet of roof area building <u>coverage</u> may be approved by a shoreline substantial development permit subject to the criteria listed in this section. Enlargement or expansions of a single family residence greater than 500 square feet of roof area <u>building coverage</u> by the addition of space to the primary structure or by the addition of normal appurtenances as defined in Section 20.40 20.40.000 that would increase the nonconformity and/or encroach further into areas where new structures or developments would not be allowed under this Master Program may be approved by a shoreline conditional use permit if all of the following criteria are met:</p>	

			The existing definition of building coverage in the zoning code is as follows; BMC 19.10.050 <u>Building coverage</u> – The percentage of the area of a <i>lot</i> that is covered by the total horizontal surface area of the roof of a <i>building</i> .	
53	Stormwater	Burien should make a policy to regulate grass and lawns for all Burien property owners, not just property owners on the shoreline. Most stormwater run-off flows to the Puget Sound and all property owners should be treated equally.	The jurisdiction of the Shoreline Master Program is the upland area within 200' of the ordinary high water mark as well as any associated wetlands and therefore this document can not regulate all other properties in Burien.	
54	Shoreline Advisory Committee	The Citizen's Advisory Council (CAC) composition and affiliations were not documented in the SMP or the notes. There was a lack of proper notion of consensus of people who live in Burien.	The comment has been noted and an acknowledgements section was always envisioned and will be added to the Shoreline Master Program in future drafts.	
55	Process	Public participation promised was not delivered by City planner et al. Lack of promised public participations during the early stage of the process.	There were several opportunities and more opportunities to come for public participation. There were two open houses, nine (9) Shoreline Advisory Committee meetings and a public hearing with the Planning Commission. There will be additional public hearings with the City Council, as well as a public hearing with the Washington State Department of Ecology.	
56	Process	Poor method of documenting what was said in the meetings to the point that much of the important stuff was lost and much was misquoted.	Meeting summaries were compiled at each Shoreline Advisory Committee. After the meeting, the summaries were prepared and included in the next meeting's packet for the Shoreline Advisory Committee to review, comment on, and approve/disapprove. All meeting summaries were approved by the Committee.	
57	Technical documents	All decisions about the use of critical areas are not required to be based on the Best Available Science about the critical area. Not once during the process of preparing the SMP Update has the Lake Steward for Lake Burien been contacted by the City of information about the lake with regard to: water quality practices, noxious weed control, studies on the lake residents have been involved in, flood issues, operational aspects of the weir, threatened species that use the lake, habitat areas used by threatened species, rules that neighbors follow that protects the lake, historical data about the lake, or a basic tour of the lake.	There were presentations to the Shoreline Advisory Committee on the shoreline inventory to specifically ensure that it accurately captured the best information available. The inventory and shoreline characterization were vetted during that process. In addition other attendees that had opportunities to review the inventory and characterization reports to pursue accuracy and thoroughness of the documents. The Lake Steward was a member of the Shoreline Advisory Committee.	
57 A	Technical documents	The three technical documents have incorrect or incomplete information. Please see letter from Chestine Edgar, dated February 9, 2010, Topic # 57 that contain 9 items	The City will issue an errata sheet.	
58	Land use	The saltwater waterfront lot size on the shorelines of Puget Sound is zoned RS-12,000. The freshwater waterfront lot size on the shorelines of Lake Burien is zoned as RS-7,200. As a result, the city is allowing that the land around Lake Burien develop to a higher density that it is requiring for land development on the Puget Sound. Since small, freshwater habitats should be afforded greater, if not equal	Whether the zone is RS-12,000 or RS 7,200, the Shoreline Master Program requires all development to obtain no net loss. In requiring no net loss associated with development, the ecological functions of all shorelines are being protected. Please also see # 35 above.	

		protection. This seems to be just the opposite and contrary to the intent of the SMP to protect the ecological function of Lake Burien's shoreline.		
59	Inventory 1.2	Section 1.2 of the inventory refers to supporting sources in the Bibliography, Section 7, Appendix A. There is a stated lack of reference for Lake Burien reach. Lacking evidence of any and every kind is not a scientific baseline as required by law, practice, and precedence.	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions. The inventory research also included King County lake information for the Lake Burien, as well as, the Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake.	
60	Inventory 1.4	Section 1.4 of the inventory contains a typographical error for perimeter measurement of the lake. Source of the measurement is not cited.	Comment noted. The Restoration Plan, dated March 2009, Table 1 has been revised to include the corrected dimensions and conversion for the perimeter of Lake Burien.	
61	Inventory 2.1	Section 2.1 a statement challenging the studies and methods that resulted in the assessment for Lake Burien an all reaches of Burien. The studies referenced are too general and is not use full as a base line for impact assessment.	The SMP inventory was accepted by Ecology as adequate to establish the baseline conditions.	
62	Inventory 10.5	Section 10.5 there are no document at all on the wildlife, resident or migratory of Lake Burien, there are no documents for flora or fauna noted in this or any document associated with the SMP of are of any detail that would allow for baseline adjudication against future status and conditions.	King County lake information for the Lake Burien watershed was studied, including water quality data and aquatic plants and fish. In addition, the Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated.	
63	Inventory	The shoreline inventory is incomplete because WAC 173-26-201 (2) a., states that relevant parties should be contacted for available information. The Lake Steward was not contacted for any information about the lake.	The Lake Burien Shore Club online inventories and description of fish, birds and wildlife using the lake was researched and evaluated. A representative of the club was a regularly attending member of the Shoreline Advisory Committee.	
64	Inventory	There were also no site visits to confirm the conditions and the inventory is inaccurate and incomplete with regard to fish and wildlife habitat, migratory species and vegetation.	The consultant team visited the site several times in 2007 and 2008 to confirm site conditions.	
64 A	Technical documentation	Source information was not properly documented in the bibliographies	The bibliographies document the primary sources used.	
65	Inventory Wetland Category	The section on Wetlands shows Lake Burien as Category 2 with a 100 foot buffer and the SMP has a 30 foot setback with a 15 foot buffer.	This was a typographical error in the inventory. The Cumulative Impacts Analysis evaluated the lake as a category 4 wetland and utilized the 30 foot buffer in the evaluation.	
65 A	Shoreline Analysis and Characterization Wetland Category	Page 17 of this document also lists the lake as a Category 2 wetland rather than a Category 4. The trail of data, analysis and conclusions should be consistent to ensure the legality and legitimacy of the SMP document.	This correction will be made.	
66	Inventory	There is no connection made between the lake outlet waters and the Miller/Walker stream basin. Request that additional scientific information and management recommendations be added to the Shoreline Inventory per WAC 173-26-201, (2)(a)(i-iii).	The consultant team did evaluate the Miller/Walker stream basin and Figure 2 in the shoreline inventory depicts the hydrologic connection.	

67	Public Access Policies ALL 5 and PA 3	Request that wording the Policies ALL 5 and PA 3 be amended to correctly define public access and include the requirement to protect private property and public safety.	Comment noted these policies are the consensus of the SAC and the Planning Commission may consider amendments to address the comment. There is an existing goal and policy that addresses the topics of protection of private property and public safety (Goal PA, Policies PA 3, REC 6)	
68	Recreation Policy REC 3	SMP policy REC 3 should have the word "public" inserted to reflect the correct area being discussed.	Comment noted however the policy currently refers to both private and public lands. The Planning Commission may consider amendments to address the comment.	
69	Recreation Policy REC 2	SMP policy REC 2 should be changed to read "Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave the natural areas undisturbed and protected with no net loss of ecological functions."	Staff and the consultant have no objection to the proposed language.	
70	20.20.030 Policy USE 8	Request that this policy be re-examined with regard to Lake Burien.	Comment noted this policy reflects the consensus of the SAC and could be considered by the Planning Commission.	
71	20.20.030 Policy USE 17	Request that the term "joint-use activities" be better defined.	Comment noted, no changes recommended.	
72	Stormwater	There are claims that there are holding tanks that protect the lake form impervious surface runoff and non point pollution and the diagrams in the SMP do not match these claims.	The diagrams in the appendix are based on the best available information in the city data base. Private stormwater detention tanks, if they exist, may not be captured at this time in the city stormwater system inventory.	
73	Inventory and Cumulative Impact Analysis	There is a high level of re-development potential around the lake due to its current zoning. This development potential was not adequately captured in the inventory or cumulative impacts analysis.	See # 35 above	
74	Cumulative Impact Study	The Cumulative Impacts Analysis is incomplete in does not examine the impact of redevelopment in the Lake Burien area based on zoning and a 30 foot rather than a 100 foot buffer. An improved study is needed to reflect the impact of new development, increased access.	Evaluated on pages 28 and 34 of the August 2009 Cumulative Impacts Analysis.	
74 A	Cumulative Impact Study	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 impact of the sub-dividing the current lot to 7,200 sq. ft. on Lake Burien.	The potential for redevelopment along Lake Burien is discussed on page 28 of the Cumulative Impacts Analysis. A 30 foot buffer and 15 foot building setback from the ordinary high water mark would apply to any development.	
75	Best available science. 19.40.060 (pg 40-4)	Best available science pursuant to 19.40.060 (pg 40-4) appears to be lacking.	Best available science is described in WAC 173-26-201 (2) (a) as: "Base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available.	
75 A	Best available science. Policy CON 9 and CON 27	The city requires use of "Best available science" pursuant to CON 9 but it is not consistent with CON 27. CON 27 should be updated to reference the 2008 King County Comprehensive Plan, Chapter 4. Section E-487, Page 4-58.	CON 27 was taken word for word from existing comprehensive plan policy E V 4.3 pg. 2-31.	
76	Existing Structures	Nothing in the document should be allowed to negatively impact	Comment noted.	

		property or existing structures that were present before this act is approved.		
77	Implementation	The City must also follow its own rules in shorelines.	Comment noted.	
78	No Net Loss	What date is 'no net loss' measured from?	Generally, 'no net loss' is measured using the shoreline inventory document, which was completed in March 2008.	
78 A	Inventory	The standard of "no net loss" cannot be measured if the inventory is incorrect or missing data. Once corrected the conclusions need to be re-examined based on the corrected information.	Monitoring for no net loss will be part of the implementation of the SMP.	
79	Land Use/Zoning	Fresh water is a very scarce and valuable resource. Freshwater, wetlands, and aquifer recharge areas need protection from over-development if they are to remain clean and useable for things. At some point in time in order to satisfy King County's density requirements, the City of Burien rezoned the land surrounding Lake Burien to the lot size of 7,200 square feet without thoroughly analyzing the impact it would have to this critical area.	Past Comprehensive Plan land-use decisions are not part of the scope of this Shoreline Master Program update. See #35 above.	
80	Lake Burien	The City should remove all language associated to Lake Burien, relying instead on the rest of the regulations of the City, such as the Critical Areas Ordinance and building codes. All notion of controlling Lake Burien through the Shoreline Master program should be removed. The private property owners on the lake will always take action in the best possible health of the lake, its shorelines, and the flora and fauna in and around it.	The Shoreline Management Act and associated update guidelines require the City to apply the provisions within the shoreline jurisdiction which includes Lake Burien. Therefore removing any reference to the Lake Burien would not be consistent with the Washington State Shoreline Management Act or the Shoreline Master Program Update Guidelines.	
81	Restoration	What are the restoration projects beyond Eagle Landing and Seahurst Park? What is the process of adding new projects? What is the process for clarifying the intent of the overly generalized verbiage used in the direction statements which appear throughout the document?	Please see the restoration appendix. Typically city projects are evaluated and prioritized through the Capital Improvement Program process which is done in coordination with adoption of the city budget.	
82	Monitoring	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? A statement could be added "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.	Permitting will track changes and modifications.	
83	Public Access	Concern regarding public access and how many newly developed houses generate public access.	A detailed study has not been done to determine exactly how many access points could be possible. The number of possible access points is dependent greatly on the development proposal and how lots are configured.	
84	General Comment	How could the SAC reset the priorities of for the Burien SMP above	Comment noted. Local jurisdictions may choose as a part of their planning	

		those of the State?	effort to address issues of local concern.	
85	Process	Request a disk of the SMP available for free use.	Digital recordings of the Planning Commission have been posted on the city web site.	
86	Public Access	Concern about private property liability when public access points are opened to unregulated public access.	See RCW 4.24.210.	
87	Definitions	There are references to the Director and Shoreline Administrator. So that it is clear that who these persons are I am requesting the following description be added <u>The City Manager shall designate a responsible official to administer the Shoreline Master Program who shall perform all the duties as 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. Permit issued under the provision 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.</u> (from Medina)	The only use of the term "Director" is in 20.30.040[2.g] – minimum vegetation management plans standards, 20.35.010 - Permit decisions and 20.35.060-compliance and enforcement, which are appropriate actions/duties of the Director of Community Development.	
88	SMP Implementation	Consider ways to engage the public as partners in implementation of the SMP. Establishing regulations that prohibit or limit the ability to maintain the existing dwellings is not a formula of cooperation. The new SMP can be used to educate shoreline owners and promote environmental management, it also provides a good opportunity for creative program implementation.	See public education related policies REC 3, CON 10, CON 11, CON 14, CON 15 and CON 32.	
89	Ecological Functions	The definition of "ecological function" in not lean and opens the door for interpretation.	See the guidelines 173-26-201[3.d.C] which set forth the basic ecological functions.	
90	Adoption Date	What is the deadline to adopt the updated SMP?	The Act states that Burien should adopt by December 2009, however there is a provision to extend the deadline one year if DOE "determines that the local government is likely to adopt or amend its master program within the additional year."	RCW 90.58.080