

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Chad Hillier
6295 North Green Road
Burlington, WA 98233

Contact: Skagit County Public Works Department
c/o Emily Derenne
1800 Continental Place
Mount Vernon, WA 98273

Request/File No: Shoreline Substantial Development Permit PL13-0045

Location: Friday Creek, at 6925 North Green Road, within a portion of the
NE1/4 Sec. 5, T35N, R4E, W.M.

Shoreline Designation: Rural

Summary of Proposal: To install a 90' long by 9.5' wide bridge across Friday Creek to
provide passage for livestock. The bridge will consist of a railroad
flatcar and ecology block abutments.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued
March 26, 2013. No appeal.

Public Hearing: August 14, 2013. Skagit County Planning and Development
Services (PDS) recommended approval. No public testimony.

Decision/Date: The application is approved, subject to conditions. August 20,
2013.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 5
days of this decision. The decision may be appealed to the Board
of County Commissioners by filing an Appeal with PDS within 5
days of the date of decision or decision on reconsideration, if
applicable.

Online Text: The entire decision can be viewed at
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Chad Hillier (applicant) seeks a Shoreline Substantial Development in order to install a bridge across Friday Creek.

2. The site is at 6295 North Green Road within a portion of the NW1/4 Sec. 5, T35N, R4E, W.M. Parcel numbers are P35806 and P35791. The zoning is Rural Reserve. The Shoreline Master Program (SMP) designation is Rural.

3. The property is an approximately 10-acre parcel with a residence and barn on the western portion. The majority of the acreage is used as pasture for livestock. Friday Creek bisects the parcel, resulting in about four acres of pasture west of the creek and about 5 acres of pasture east of the creek.

4. Currently livestock ford Friday Creek when passing from pasture to pasture. The result has been bank erosion and adverse impacts on the stream bed and the riparian habitat.

5. The applicant proposes a low-impact bridge project to provide a passage for cattle across the creek without fording. The structure would be a 90' long by 9.5' wide railway flatcar with ecology block bridge abutments. The abutments would be located above the Ordinary High Water Mark. The bridge would be placed about 15 feet upstream of the existing ford.

6. After the bridge is placed, some minor grading will be necessary to provide a suitable approach. No work will be done in the water in order to avoid turbidity and sediment inputs.

7. The project site is about 0.4 miles upstream of the confluence of Friday Creek with the Samish River. The creek is large enough at this point to constitute a regulated shoreline under the Shoreline Management Act. It provides habitat for several species of salmonids; juvenile rearing along channel margins, spawning areas, and refuge during high flows.

8. The area supports forest plant communities along the creek, interspersed with small scale farms, livestock pastures, roads, and residences. Bald eagles perch in suitable trees along the riparian corridor. The adjacent zoning is Rural Reserve.

9. The bridge is being requested in connection with a program by the County Department of Public Works to aid the agricultural community in protecting the environment. Public Works submitted a fish and wildlife site assessment, dated January 31, 2013. The assessment concludes that the project will meet Critical Areas requirements. Mitigation will involve improvement of riparian habitat conditions. There is no alternative route that would accomplish the project objectives without crossing the stream.

10. The application was reviewed under the State Environmental Policy Act (SEPA). An environmental checklist was submitted on February 6, 2013. The County issued a MDNS on March 26, 2013. The MDNS was not appealed.

The conditions imposed are follows:

1. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.
2. The applicant shall comply with Northwest Clean Air Agency requirements.
3. The applicant shall comply with provisions of Skagit County Code 14.24, Critical Areas Ordinance. All critical areas and associated buffers impacted by the proposal shall be, at a minimum, restored to its previous function and value immediately following completion of the project.
4. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works shall be in place prior to the initiation of the project pursuant to Skagit County Code (SCC) 14.32, Drainage Ordinance. The applicant shall maintain all temporary erosion/sedimentation measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
5. The project is limited to those activities described in the SEPA check list and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.
6. The applicant shall comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-302A as required to prevent surface and groundwater quality impacts. Best management practices shall be utilized to prevent interference and/or degradation of water quality.

11 .The application as routed to other County departments for review. None had critical comments.

12. The Staff reviewed the application under the Agricultural Practices and Transportation sections of the local SMP. They determined that, as conditioned, the project will meet the policies and regulations of the SMP. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is, by this reference, incorporated herein as though fully set forth.

13. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SMP 9.06.
2. The requirements of SEPA have been met.
3. The proposal, as conditioned, is consistent with relevant SMP policies and regulations for Agricultural Practices (7.01) and Transportation (7.17). No applicable requirements enunciated in the Shoreline Management Act or the state's shoreline regulations will be violated. The proposal meets the criteria for issuance of a Substantial Development Permit. SMP 9.02.
4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all permits required for this project and shall abide by the conditions of same.
3. The applicant shall comply with all conditions of the Mitigated Determination of Non-Significance (see Finding 10).
4. The applicant shall comply with all relevant state and local regulations, including, but not limited to: state water quality standards for surface and ground water; county drainage ordinance requirements; flood damage prevention, shorelines and critical areas regulations; and state laws regarding pesticides.
5. All excavated material shall be either used in construction of the bridge or removed from the project area and deposited in an approved upland location, outside of shoreline jurisdiction.
6. If the applicant proposes any modification of this proposal, he shall request and receive a permit revision from PDS.
7. The project shall be commenced within two (2) years of this approval and completed within five (5) years thereof.
8. Failure to comply with any condition may result in permit revocation.

DECISION

The application for a Shoreline Substantial Development Permit (PL13-0045) is approved, subject to the conditions set forth above.

DONE, this 20th day of August, 2013.



Wick Dufford, Hearing Examiner

Transmitted to Applicant: August 20, 2013.

See Notice of Decision, Page 1, for Reconsideration and Appeal information.