

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Samish Water District
c/o Byron Gaines, District Manager
2195 Nulle Road
Bellingham, WA 98229

Request/File No: Shoreline Substantial Development Permit and Shoreline
Variance Permit, PL 13-0474;
Critical Areas Variance Permit, PL 14-0003

Location: Friday Creek shoreline at 2195 Nulle Road, within NE 1/4 Sec. 1,
T36N, R3E. W.M. Parcel No. P47500

Land Use Designations: Shoreline: Rural
Comprehensive Plan: Rural Reserve

Summary of Proposal: To renovate the 39-year old Samish Water District influent/effluent
sewer lift station, and replace the existing dry-pit station with two
separate submersible stations. Improvements will include ground
vault upgrades, a new effluent sampling shed, a larger generator/
storage shed, a circular gravel driveway, upgrading the existing
culvert. All construction will occur within the presently fenced
portion of the site.

SEPA Compliance: The Water District issued a Determination of Non-Significance
(DNS) on November 14, 2013. The DNS was not appealed.

Public Hearing: July 23, 2014. Presentation by Staff. No public testimony.
Planning and Development Services (PDS) recommended
approval.

Decision/Date: Approved, subject to conditions. August 5, 2014.

Reconsideration/Appeal: For the shorelines approvals, 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. The reconsideration and appeal
times for the critical areas decision are 10 and 14 days.

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

FINDINGS OF FACT

1. The Samish Water District (Applicant) seeks a Shoreline Substantial Development Permit, a Shoreline Variance Permit and a Critical Areas Variance in connection with the renovation of its facilities near Friday Creek.
2. The location is at 2195 Nulle Road, within the shoreline of Friday Creek. The site is within the NE1/4 Sec. 1, T36N, R3E, W.M. The Parcel number is P47500.
3. The site is approximately 27 acres in size and generally flat except for the dikes built around the treatment lagoons. Approximately 14 acres are developed with the water district office building and associated parking, storage sheds, two sewage treatment lagoons, associated pump stations, sewage conveyance systems and supporting structures. The area of improvements is not within a flood hazard area.
4. The remaining approximately 13 acres are wooded or otherwise heavily vegetated. This portion of the property contains three wetlands (Categories II, III and IV) and is crossed by Bear Creek (south of the lagoons), Friday Creek (northeast of the lagoons) and one unnamed stream between the main buildings and the lagoons.
5. The proposed improvements will be within shoreline jurisdiction, approaching 100 feet from the Ordinary High Water Mark (OHWM) at the closest point. The project constitutes a shoreline substantial development. The relevant shore setback is 150 feet from the OHWM, triggering the need for a Shoreline Variance.
6. The Critical Areas Ordinance (CAO) establishes buffers of 200 feet inland from the OHWM of Friday Creek, 100 feet from the Category II and III wetlands, and 50 feet from the Category IV wetland. Critical areas variances are sought to reduce the buffer to 100 feet for Friday Creek, 88 feet for the Category II wetland, 56 feet for the Category III wetland and 36 feet for the Category IV wetland.
7. The property lies west of Interstate 5. The surrounding land is predominantly undeveloped. There are a few single family residences and recreation cabins upstream of the site. Existing topography and vegetation provide adequate screening. No adverse aesthetic impacts are anticipated as a result of the project.
8. The district's facilities are enclosed with a fence. All of the work covered by this application will be within the existing fenced enclosure.
9. The property is accessed from Nulle Road. Paved parking is located onsite north of the office building. No additional parking is planned.
10. The application was determined to be complete on January 16, 2014, and a Notice of Development Application was published on January 23, 2014. Notification was given to nearby property owners by mail. No comment letters were received from members of the public.

11. Environmental review was conducted pursuant to the State Environmental Policy Act (SEPA). A DNS was issued by the Applicant on November 14, 2013. The DNS was not appealed.

12. For critical areas compliance, a site assessment with mitigation plan was prepared by qualified professionals using the best available science. The assessment includes a plan to enhance the remaining buffer areas with native vegetation and monitoring.

13. A professional cultural resource review found no record of such resources on site and stated that an archaeological survey of the project area does not appear to be necessary.

14. The Washington State Department of Fish and Wildlife advised that a Hydraulic Project Approval will be required in the event that the culvert for the type N stream is replaced.

15. The existing wastewater treatment facility has been permitted and is consistent with local planning. The additions proposed are likewise consistent with local land use and zoning requirements. The facility will continue to serve the larger vicinity around Lake Samish. The variances required are solely for relief from the standard setbacks and buffers.

16. A minor new impact within the shoreline zone will be construction of a new access to the generator/storage shed. This road will be over 100 feet from Friday Creek and landward of the generator/storage shed. None of the proposed site upgrades will have an adverse impact on Friday Creek or any of the associated wetlands if the proposed mitigation is carried out.

17. The existing facilities cannot feasibly be relocated. The need for variances relates to the natural features of the property. Lagoons already take up eight acres of the cleared area of the site and their size and location leaves only a small open area in the northeast corner for the proposed pump stations. The proposed variances are the minimum that will make possible the reasonable use of the property.

18. Because no other similar facilities are likely to be developed in the vicinity, cumulative impacts to the shoreline are not anticipated. The variances sought will not be injurious to the neighborhood or otherwise detrimental to public welfare.

19. The Staff analyzed this application in light of the criteria for approval of a Shoreline Substantial Development Permit and the criteria for approval of the dimensional variances sought under both the local Shoreline Master Program and the Critical Areas Ordinance. The Staff found that as conditioned the project will be consistent with the approval criteria. 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.

20. The granting of the variances will be in harmony with the general purpose and intent of the Unified Development Code.

21. 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.
2. The requirements of SEPA have been met.
3. The project, as conditioned, meets the criteria for approval of a Shoreline Substantial Development Permit. SCC 9.02.
4. The project, as conditioned, meets the criteria for approval of a Shoreline Variance. SCC 10.03.
5. The project, as conditioned, meets the criteria for approval of a Critical Areas Variance. SCC 14.24.130(3), SCC 14.10.030
6. 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 other required approvals and abide by the conditions of same.
3. The applicant shall comply with all applicable state and local regulations, including but not limited to, using temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance, Chapter 14.32 SCC.
4. The recommendations of the site assessment (Critical Areas Delineation Report and Mitigation Plan, Northwest Ecological Services, LLC, December 2013) shall be considered conditions of approval.
5. The mitigation plan shall be fully implemented. All mitigation plants shall maintain a survival rate of 80%. If the plants do not meet that survival rate at any time during the monitoring period, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
6. The remaining critical area buffer shall be placed into a Protected Critical Area (PCA) as required by SCC 14.24.090. The PCA shall be recorded at the time of building permit application.

7. This decision, if approved by the Department of Ecology, shall be submitted with the building permit application.

8. The shoreline permits require commencement of the project within two years of final approval and completion within five years thereof.

9. The critical areas variance shall expire if the use or activity is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

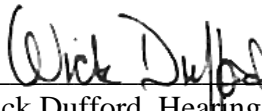
10. If any modification of the project is contemplated, the applicant shall request permit revisions from PDS prior to the start of construction.

11. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit and Shoreline Variance (PL13-0474) and Critical Areas Variance (PL14-0003) are approved, subject to the conditions set forth above.

DONE, this 5th day of August, 2014.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, August 5, 2014

See Notice of Decision, Page 1, for appeal information