DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 100th Ave NE., P.O. BOX 90012
BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Tammy Miller, Property Owner

LOCATION OF PROPOSAL: 1025 134th Ave NE

NAME & DESCRIPTION OF PROPOSAL:

Miller Residence Kelsey Creek Bridge Replacement

Retroactive Critical Areas Land Use Permit for the replacement of one footbridge over Kelsey Creek. The project also calls for stream buffer enhancement along the banks of Kelsey Creek. Related to Code Compliance Case # 09-102677-EA.

FILE NUMBER: 11-104629-LO

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

☐ There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.

X This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **September 1, 2011**.

☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project): or if the DNS was procured by misrepresentation or lack of material disclosure.

Michael M. for — **August 18, 2011**

Environmental Coordinator — Date

OTHERS TO RECEIVE THIS DOCUMENT:
State Department of Fish and Wildlife
State Department of Ecology,
Army Corps of Engineers
Attorney General
Muckleshoot Indian Tribe

City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Miller Residence Kelsey Creek Bridge Replacement**
Proposal Address:	**1025 134th Ave NE**
Proposal Description:	Retroactive Critical Areas Land Use Permit for the replacement of one footbridge over Kelsey Creek. The project also calls for stream buffer enhancement along the banks of Kelsey Creek. Related to Code Compliance Case # 09-102677-EA.
File Number:	**11-104629-LO**
Applicant:	**Tammy Miller, Property Owner**
Decisions Included:	Critical Areas Land Use Permit (Process II. LUC 20.30P)
Planner:	**David Pyle**, Planner
State Environmental Policy Act Threshold Determination:	**Determination of Non-Significance** Carol V. Helland, Environmental Coordinator Development Services Department
Director's Decision:	**Approval with Conditions** Carol V. Helland, Land Use Director Development Services Department

Application Date:	February 25, 2011
Notice of Application Publication Date:	March 24, 2011
Decision Publication Date:	August 18, 2011
Project/SEPA Appeal Deadline:	September 1, 2011

For information on how to appeal a proposal, visit the Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

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Attachments

1. Floodplain Analysis – In File
2. Environmental Checklist – In File
3. Site, Construction and Restoration Plan – In File

I. Proposal Description

The applicant is requesting a retroactive Critical Areas Land Use Permit for the reconstruction of a failed footbridge that provides a crossing over Kelsey Creek (Type F stream) as part of a soft surfaced footpath that connects two adjacent properties under common ownership. The project site is characterized by a Type F stream (Kelsey Creek), Native Growth Protection Easement (NGPE plat condition), and an Area of Special Flood Hazard (FEMA Floodplain). LUC 20.25H provides for a 50-foot critical area buffer from the Type F stream measured from the top of the bank and limits development within the floodplain. Plat conditions restrict development within an NGPE.

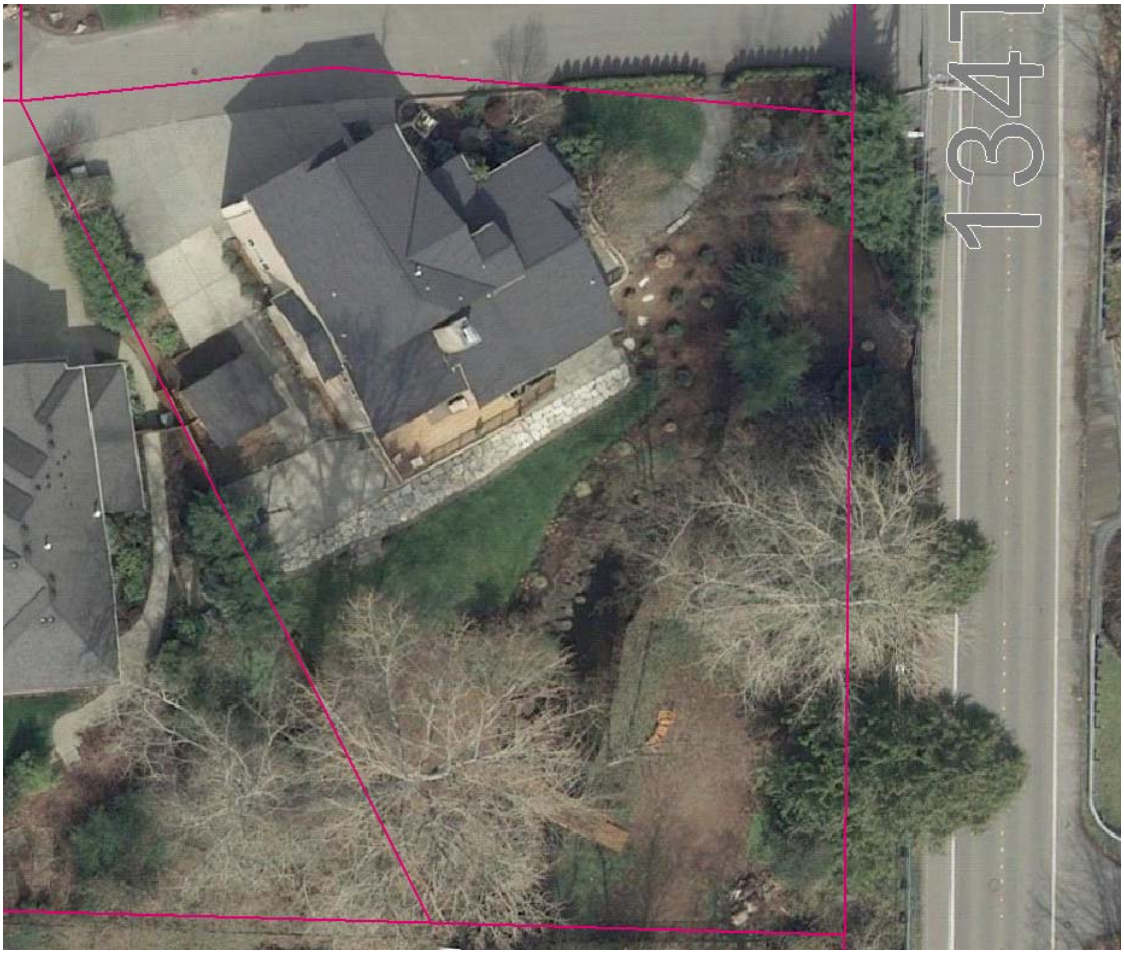
The bridge was reconstructed in 2009 without permit after the existing bridge failed. Upon receipt of complaint that work was being done in the stream buffer without permit, the Code Compliance Division of the Development Services Department initiated a compliance action (file #09-102677-EA) and documented the work completed. A notice requesting voluntary compliance was issued to the property owner. Following receipt of the notice the property owner provided details on the construction of the bridge and submitted application for Critical Areas Land Use Permit to retroactively permit the construction of the replacement bridge. The application was deemed complete and the permit processed. Findings of the permit review are outlined in this staff report.

The bridge, as designed and constructed, consists of a perpendicular crossing over Kelsey Creek with footings located on both sides of the stream channel above the top of bank. The bridge and bridge footings are located within the stream buffer, floodplain, and NGPE. A photo of the bridge is included as **Figure 1** below.

Figure 1 – Bridge Photo

Land Use Code (LUC) section 20.25H.055 classifies the proposal as a component of a private nonmotorized trail (LUC 20.25H.055.C.3.f), is considered necessary to connect two adjacent single family properties under common ownership, and is allowed in critical areas and critical area buffers provided the proposal complies with applicable performance standards for the use (as identified under LUC 20.25H.055) and the critical areas on site (for each critical area). A map demonstrating the location of the bridge is included as **Figure 2** below.

Figure 2 – Site Aerial Photo



II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description

The project is located in the Wilburton neighborhood of Bellevue, Washington. The project is physically located at 1025 134th Ave NE. Kelsey Creek flows in a south west direction across the south half of the property and enters the property after passing under the Kelsey Creek bridge on 134th Ave NE.

B. Zoning and Land Use Context

The property is zoned R-2.5 and has a Comprehensive Plan Land Use Designation of SF-M. The site is developed with a single family residence which is consistent with the both the zoning and land use designation.

C. Critical Areas Functions and Values

i. Streams and Riparian Areas

A healthy aquatic environment relies on a sustained dynamic interaction between

the stream and the adjacent riparian area. Riparian vegetation along stream banks mitigates the impacts of urbanization. Healthy riparian areas support healthy stream conditions.

Riparian vegetation affects water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, slowing or preventing increases in water temperature. Vegetated wetlands and riparian areas also retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in runoff, protecting water quality in streams. The plant roots hold soil and prevent erosion and sedimentation that may affect spawning success or other behaviors, such as feeding.

Both upland and wetland riparian areas reduce the effects of flood flows. Riparian areas and wetlands reduce and desynchronize peak crests and flow rates of floods. Undeveloped upland and wetland areas can infiltrate floodflows, which in turn, are released to the stream as baseflow

Stream riparian areas, or buffers, can be a significant factor in determining the quality of wildlife habitat. Vegetated riparian areas provide a source of large woody debris that helps create and maintain diverse in-stream habitat, as well as create woody debris jams that store sediments and moderate flood velocities.

ii. Floodplains

The value of floodplains can be described in terms of both the hydrologic and ecological functions that they provide. Flooding occurs when either runoff exceeds the capacity of rivers and streams to convey water within their banks, or when engineered stormwater systems become overwhelmed. Studies have linked urbanization with increased peak discharge and channel degradation. Floodplains diminish the effects of urbanization by temporarily storing water and mediating flow to downstream reaches. The capacity of a floodplain to buffer upstream fluctuations in discharge may vary according to valley confinement, gradient, local relief, and flow resistance provided by vegetation.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-2.5 zoning district. The proposal involves the replacement of a bridge structure that serves two residential properties. The property is currently nonconforming to lot coverage requirements and as constructed the bridge increases the level of nonconformity to LUC 20.20.010 footnote (13) which limits lot coverage to 35% of the useable site area (calculated by subtracting critical areas and stream critical area buffers from net lot area). Due to the presence of a Type F stream that is protected by a 50 foot buffer, a majority of the site is considered non-developable and is deducted from the gross lot area for the purpose of making this calculation. To

continue the existing level of nonconformity, the applicant is required to remove structural coverage that is at least the equivalent of the bridge area. To accomplish this the applicant has indicated that the storage shed located at the end of the driveway to the west of the residence will be removed effectively reducing the structural coverage on the site. The bridge is in compliance with other dimensional restrictions found in LUC 20.20.010 and a building permit is required.

B. Critical Areas Requirements LUC 20.25H:

i. Performance Standards for Allowed Uses LUC 20.25H.055.C.3.f – Private Nonmotorized Trails

Construction of a footbridge that provides a stream crossing and connects adjacent properties is allowed under LUC 20.25H.055.C.3.f if the proposal conforms to the trail standards outlined in LUC 20.25H.055.C.3.g.i. The bridge replacement meets applicable criteria and has been designed to avoid impacts to stream habitat, avoid tree removal. The bridge is oriented as perpendicular to the stream and is the minimum size necessary to provide a safe crossing while being high enough in elevation to avoid impacting the floodplain. A stream buffer enhancement plan is included in the application and is designed to increase the density and diversity of the vegetation found along the stream bank on either side of the bridge.

ii. Performance Standards for streams LUC 20.25H.080

The main channel of Kelsey Creek, a Type F stream, runs through the site and under the footbridge. The replacement bridge was constructed over the stream channel, although no in-water work was required and the bridge footings are located upland of the top of bank. The applicant has demonstrated compliance with the applicable performance standards found in LUC 20.25H.080 for development in stream critical areas and associated buffers. A stream buffer enhancement plan is included in the application and is designed to increase the density and diversity of the vegetation found along the stream bank on either side of the bridge.

iii. Performance standards for Areas of Special Flood Hazard LUC 20.25H.180.C and 20.25H.180.D

The entire project area lies within the 100-year floodplain. An analysis of the replacement of the footbridge was completed by the City's Floodplain Engineer and a included a determination that the new bridge will not increase flood elevations. A copy of the floodplain analysis is included as **Attachment I** to this staff report.

IV. Public Notice and Comment

Application Date:	February 25, 2011
Public Notice (500 feet):	March 24, 2011
Minimum Comment Period:	April 7, 2011

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on March 24, 2011. It was mailed to property owners within 500 feet of the project site. No comments were received from the public as of the writing of this staff report.

V. Summary of Technical Reviews

Clearing and Grading:
The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development. The proposal will be reviewed for compliance with the clearing and grading standards under the subsequent building permit.

VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

A. Earth and Water

A construction stormwater pollution prevention plan is included in the project proposal and addresses all requirements for restoring the site to its current condition as well as erosion and sedimentation management practices. Erosion and sediment control best management practices include the installation of silt fencing around the work area and covering exposed soils to prevent migration of soils to the adjacent wetland. The applicant will also be required to submit information regarding the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources. The proposed work will occur over the water. No impact to aquatic resources is expected.

B. Animals

This is a proposal to retroactively permit the replacement of a failed footbridge to provide a crossing over Kelsey Creek as part of an existing soft surfaced path that provides a connection between two adjacent properties under common ownership. The proposed work will occur over the water and the proposal includes stream buffer enhancement plan designed to increase the density and diversity of the vegetation found along the stream bank on either side of the bridge improving habitat structure.

C. Plants

A stream buffer enhancement plan is included in the application and is designed to increase the density and diversity of the vegetation found along the stream bank on either side of the bridge. Mitigation for temporary and permanent disturbance will be approved pursuant to an approved re-vegetation and monitoring plan. See Section X for related conditions of approval.

D. Noise

The site is adjacent to single-family residences whose residents are most sensitive to disturbance from noise during evening, late night and weekend hours when they are likely to be at home. Construction noise will be limited by the City's Noise Ordinance (Chapter 9.18 BCC) which regulates construction hours and noise levels. See Section X for a related conditions of approval.

VII. Changes to proposal as a result of City review

No changes were made to the proposal as a result of City review.

VIII. Decision Criteria

A. Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The proposal is required to obtain a minor building permit prior to beginning removal and replacement of the bridge structures.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal has been designed to minimize disturbance to the critical area and critical area buffer. The design takes into account the 100-year flood elevation and places the bridge footings outside of the top of bank moving the bridge footing

further away from the open water portion of the side channel to further reduce impacts from the bridge.

3. **The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;**

Finding: The proposal incorporates all of the applicable performance standards for the allowed use and the critical areas present. See Section III for a complete discussion of these performance standards.

4. **The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;**

Finding: The property is currently served by adequate public facilities. The proposal will not change the need for any public services at the site.

5. **The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and**

Finding: The proposal includes a restoration plan for those areas temporarily disturbed by the bridge removal and replacement activity, and a plan for restoration of a portion of the stream buffer that is currently covered by invasive non-native vegetation.

6. **The proposal complies with other applicable requirements of this code.**

Finding: As discussed in Section IV & V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of Planning and Community Development does hereby **approve with conditions** the proposal to retroactively permit the replacement of a footbridge over Kelsey Creek at 1025 134th Ave NE.

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for the necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-7860
Land Use Code- BCC 20.25H	David Pyle, 425-452-2973
Noise Control- BCC 9.18	David Pyle, 425-452-2973

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. **Building Permit:** Before commencing any construction activity, the applicant must apply for and obtain a Building Permit.

   Authority: Bellevue City Code Section 23.10
   Reviewer: David Pyle, Development Services Department

2. **Restoration for Areas of Temporary Disturbance:** A restoration plan for all areas of temporary disturbance is required to be submitted for review and approval by the City of Bellevue prior to the issuance of the Building Permit. See LUC 20.25H.220.H for more details on the requirements associated with this plan

   Authority: Land Use Code 20.25H.220.H
   Reviewer: David Pyle, Development Services Department

3. **Mitigation, Maintenance, and Monitoring Plan:** To ensure the proposed restoration plan is successful, the mitigation, maintenance, and monitoring plan submitted as part of this application shall be submitted as part of the underlying building permit required to implement the project. The mitigation, maintenance, and monitoring plan shall include a specification of no less than three entries per year for maintenance activities for the full five years of maintenance and a requirement that monitoring reports be submitted annually for a period of five years at the end of each growing season before the last day of the calendar year.

   Authority: Land Use Code 20.25H.220, 20.25H.180.C.5
   Reviewer: David Pyle, Development Services Department

4. **Mitigation Installation:** Mitigation installation shall commence immediately following permit issuance where technically feasible and shall be installed according to the mitigation plans submitted as part of this application within one year of project completion.

   Authority: Land Use Code 20.25H.220, 20.25H.180.C.5
   Reviewer: David Pyle, Development Services Department

5. **Submittal of Mitigation Maintenance and Monitoring Reports:** As part of the required five years of mitigation maintenance and monitoring, the applicant shall

submit annual monitoring reports to the Development Services Department Land Use Division at the end of the growing season by no later than December 31 for each year monitored.

Authority: Land Use Code 20.25H.220.D
Reviewer: David Pyle, Development Services Department

6. **Rainy Season restrictions:** Due to the proximity to a Type F stream, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

   Authority: Bellevue City Code 23.76.093.A,
   Reviewer: Janney Gwo, Clearing and Grading Division

7. **Pesticides, Insecticides, and Fertilizers:** The applicant must submit as part of the required Clearing and Grading Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

   Authority: Land Use Code 20.25H.220.H
   Reviewer: David Pyle, Development Services Department

8. **Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

   Authority: Bellevue City Code 9.18
   Reviewer: David Pyle, Development Services Department