



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3010285
Applicant Name: Paul Engert for Saint Gobain Containers
Address of Proposal: 5801 East Marginal Way South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to install a 34-foot tall, 17-foot by 29-foot bag house (mechanical equipment) to collect airborne glass dust particulates to support crushing and blending of recycled glass for bottle manufacturing.

The following approvals are required:

Shoreline Substantial Development Permit - to allow an expansion of an existing manufacturing facility in an Urban Industrial (UI) shoreline environment.
(Section 23.60.840, Seattle Municipal Code)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The subject site is located at 5801 East Marginal Way South on the east bank of the Duwamish Waterway approximately one-half mile north of the 1st Avenue South Bridge over the Duwamish Waterway. The site is zoned Industrial General-1 with an 85 ft. height limit (IG1-U85'). The shoreline portion of the site is within the Urban Industrial (UI) shoreline environment.

The overall site is large and comprises numerous parcels, some that front the river and extend eastward to Ohio Avenue South with others extending from this street further eastward to front on East Marginal Way South. The surrounding uses include other industrial activities and warehouse and service buildings.

Proposal Description

The applicant proposes to construct a bag house structure, a large mechanical glass dust collector, as described in *Summary of Proposed Action* above and at the exterior of the complex's Warehouse #14. The structure will be mostly outside of the 200-foot shoreline setback, but approximately one-third of it will be within the shoreline setback. This location is required due to the interior layout of the associated manufacturing equipment within Warehouse #14. No other work in the shoreline is proposed.

Public and Agency Comments

No comments were received during the public comment period, which ended on July 24, 2009.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: "*A substantial development permit shall be issued only when the development proposed is consistent with:*"

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The proposed equipment installation is considered an appurtenance to the site's manufacturing use. Manufacturing uses are allowed outright in the Urban Industrial shoreline zone. Based on this, the subject application is consistent with the procedures outlined in RCW 90.58.

B. The Regulations of Chapter 23.60.

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 which are found in the Seattle Comprehensive Plan, and meets the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria, general development standards, and the development standards for specific uses.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate and required.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with Best Management Practices (BMP's) for the specific use or activity. All shoreline development and uses must in part:

- 1) Minimize any increases in surface runoff and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected;
- 2) Utilize permeable surfacing where practicable to minimize surface water accumulation and runoff;
- 3) Control erosion during project construction and operation;

- 4) Be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- 5) All shoreline development and uses shall be designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area;

Toward these ends, this proposal shall abide by the following “Best Management Practices” for construction activity in a shoreline environment:

- The owner(s) and/or responsible party (ies) shall take care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. Appropriate equipment and material for hazardous material cleanup must be kept at the site.
- All disposed materials must be deposited in a landfill, which meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.

As ***Conditioned***, the proposed development as will be consistent with these development standards.

SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Industrial (UI) environment as set forth in SMC 23.60.220.C.11 is to provide for efficient use of the industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses but also allows manufacturing uses outright. The proposal is to construct a mechanical device related to this permitted manufacturing use.

SMC 23.60.840 – Uses Permitted Outright in the UI Environment

The Urban Industrial environment permits manufacturing as a principal use.

SMC23.60.870, Development Standards for UI Environments

All development must conform to the development standards in the UI shoreline environment, as well as the underlying Industrial zone (IG 1 U 85). No pertinent standards are being affected by this proposal.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Conclusion

SMC Section 23.60.064E provides authority for approval, denial, or conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings). Thus, as proposed and analyzed above, this development is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED**.

CONDITIONS - SHORELINE

During Construction

1. The owner(s) and/or responsible party (ies) shall take care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. Appropriate equipment and material for hazardous material cleanup must be kept at the site.
2. All disposed materials must be deposited in a landfill, which meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.

Signature: (signature on file)
Art Pederson, Land Use Planner
Department of Planning and Development

Date: August 10, 2009