



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: 3003330
Applicant Name: R. G. Satterwhite for Kvichak Marine Industries
Address of Proposal: 3920 6th Avenue Northwest

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for the installation of a 37' x 3' retaining wall at the top of an existing bank, 20 c.y. of grading and construction of a concrete slab over existing impervious and pervious surface.

*Note: The project description has been revised from the original notice of application and includes an additional 10 feet of retaining wall that was constructed in the City of Seattle right of way.

The following Master Use Permit component is required:

Shoreline Substantial Development Permit – to allow development in the Urban Industrial (UI) Shoreline Environment - (SMC 23.60.020)

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 Description

The subject site is located south of Northwest Bowdoin Place on the northeasterly shore of the Lake Washington Ship Canal. This property is zoned General Industrial 2 (IG2 U/65) and the majority of this 90,724 sq. ft. (dry land) site lies within an Urban Industrial (UI) shoreline environment. The existing development on the subject site consists of a vessel manufacturing

building with accessory surface parking for forty-four (44) vehicles. The site is accessed via Northwest Bowdoin Place, 6th Avenue Northwest and a paved strip of land formerly owned by the Northern Pacific Railway along the site's easterly property line.

The development site is largely flat. There is a mapped Environmentally Critical Area (ECA)-Steep Slope along the property's shoreline. The applicant has been granted an ECA exemption from ECA steep slope development standards because the slope was artificially created when the ship canal was constructed. The retaining wall work and placement of the concrete slab is subject to review by the Department's geotechnical engineers.

Area Development

Development surrounding this site consists mainly of marine-related industrial uses. The site is bounded to the west by the waters of the Lake Washington Ship Canal. To the north is Northwest Bowdoin Place, which begins west as a dead-end street and continues to run in an easterly direction. To the east of the subject site is a privately owned paved land and the Burke Gilman Trail. Directly across NW 39th Street (an unimproved paved roadway) and just south of the site is an outdoor storage use consisting of gravel. Zoning surrounding the subject site is also IG2 U/65.

Proposal

The owner is requesting to legalize the installation of a 37'x 3' retaining wall, the placement of concrete slab over a 1,246 s.f. area of which 1,217 s.f. was asphalt and 29 s.f. was vegetated and 20 c.y. of grading. The purpose of this work is to expand the area of the site that can be used for manufacturing boats. Under a separate permit and project (2502643) the use of this site was established as general manufacturing and a prefabricated membrane structure was constructed. This membrane structure is expandable and will be used as necessary on the portion of the site that this proposal covers.

Public Comment

The public comment period for this project ended October 14, 2005. During the public comment period, DPD (Department of Planning and Development) received no comment letters.

Additional Information

DPD has started a case file (Case #1005609) and issued a stop work notice regarding the construction of the retaining wall, grading and slab installation without a construction permit. Due to the non-permitted activity occurring within the shoreline district, the owner must obtain a shoreline substantial development permit prior to acquiring a construction permit.

The owner has also performed unauthorized work within the right-of-way. A portion of the sheet pile retaining wall has been constructed in City Right of Way. The owner has obtained the appropriate permitting from Seattle Department of Transportation (SDOT). This additional work is included in this permit application.

The analysis and decision of this shoreline substantial development application is reviewed on its own merits, regardless of the non-permitted activity that has occurred on the site.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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 contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5,000. The proposed retaining wall, grading and construction of the concrete slab with the proposed mitigation of native vegetation planting has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, 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 requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

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 locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. An economic objective for the shoreline is to “Encourage economic activity and development of water-dependent uses by supporting the retention and expansion of existing water-dependent businesses and planning for the creation of new developments in areas now dedicated to such use.” (Please refer to Economic Development Goals, Policy LUG51). An area objective for this portion of the Ship Canal is to “retain and encourage the important role that the Ship Canal plays in state, regional and local fisheries by reserving the Ship Canal primarily for water-dependent and water-related uses” (please refer to Area Objectives For Other Shorelines Areas, Policy LU269 2a). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to “provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan”.

General manufacturing of boats is designated as a water dependent use and is the established use of this site. The proposed water-dependent general manufacturing use to be located in this area of the site and within the existing prefabricated membrane structure is supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

Development Standards

The proposal to install a retaining wall and slab on grade is permitted outright in SMC 23.60.840 governing the UI shoreline environment. The proposed action is therefore subject to:

1. *the general development standards for all shoreline environments (SSMP 23.60.152);*
2. *the development standards for uses in the UI environment (SSMP 23.60.870); as well as*
3. *the development standards for General Industrial 2 zones (SMC 23.50).*

1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

All uses and developments shall be subject to the following general development standards:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best Management Practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall 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. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall 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.

- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on protecting water quality. In conjunction with this effort DPD developed a Director's Rule 2000-16, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the extent of the proposed work associated with the installation of the retaining wall, grading and slab on grade placement, the potential exists for impacts to Lake Washington Ship Canal during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures. To ensure that these standards are conformed to, the proponent will be required to notify contractors and subcontractors of these requirements.

The nature of the use of this site is boat manufacturing. Per the applicant, the concrete slab area will be utilized to fabricate large commercial all-aluminum boats. The manufacturing process

consists of assembly of prefabricated aluminum sheet and other structural aluminum parts. The DPD structural engineer and a Seattle Fire Department plans examiner will review and determine the level of occupancy required for this use as part of this application. They will also determine whether or not certain activities such as painting and the usage of hazardous materials will be allowed. It is possible that at some time during operations spillage of debris or chemicals may occur. Therefore mitigation, including requirements for use of Best Management Practices (BMP) and Spill Prevention and Control Plan, is warranted.

The applicant has developed a BMP document and a Spill Prevention and Control Plan as conditions for Project # 2502642. These two documents will partially meet the mitigation requirements mentioned above and are included in the plans for this project and the associated Building Permit application plans for Project #2505740.

An increase in impervious surface of 29 s.f. has occurred at the site. To mitigate the impacts of the increase in impervious surface the applicant proposes to plant native vegetation within a 115 s.f. area adjacent to the shoreline as indicated on the plans.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned below, the operation of the proposed boat manufacturing, and related activities, should have minimal effects on migratory fish routes.

2. Development Standards for UI Shoreline Environments (SSMP 23.60.870)

The development standards set forth in the Urban Industrial Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all of the development standards for the UI environment.

3. Development Standards for Industrial Zone Uses (SMC 23.50)

The project proposal must meet the development standards of the underlying General Industrial 2 (IG2) zone. The development proposal has been reviewed by a Land Use Plans Examiner who has determined the project complies with the required development standards. The proposal meets the 65' height, related setback, screening and landscaping, venting, parking and access standards.

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 the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the UI environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms with specific development standards of the underlying zones, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal, as conditioned below, is hereby conditionally approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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

SHORELINE CONDITIONS

The owner(s) and/or responsible party(s) shall:

Prior to Issuance of the Construction Permit

1. The plans shall be updated to include the Best Management Practices document and the Spill Control and Countermeasures Plan.

Prior to Commencement of Construction

2. Notify in writing all contractors and sub-contractors of the requirements and conditions of this permit.

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices plans and procedures developed to prevent debris and other deleterious material from entering the water during construction including the installation of a silt fence to prevent debris from entering the water.

4. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
5. Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.
6. A 115 s.f. area adjacent to the shoreline, as indicated on the plans, shall be planted with native vegetation. This planting shall take place before the end of winter.

For the Life of the Project

7. The SPCC Plan shall be kept on site at all times, and persons performing work on site shall be required to comply with its provisions to prevent hazardous, toxic and/or other deleterious material from leaving the site during activities that occur on site.
8. Periodic inspection of all protection and containment measures shall be performed regularly to ensure their performance.
9. Hazardous, toxic and/or deleterious material or debris that enters the water during the life of the project shall be removed immediately and disposed of at an appropriate upland facility.
10. The appropriate equipment and material for hazardous material clean up shall be kept at the site for quick response to any toxic spill, such as fuel, at the site.
11. The native vegetation shall be maintained for the life of the project. Any plants that do not survive shall be replanted with a similar native plant species.
12. No pesticides, herbicides or chemical fertilizers shall be used in the vegetated area adjacent to the shoreline.

Signature: _____ (signature on file) _____ Date: February 6, 2006
Margaret Glowacki, Land Use Planner

MMG:bg

I:\glowacki\DOC\Projects\3003330\3003330_decision.doc