

THE FOLLOWING MEMO HAS BEEN
SCANNED WITHOUT EXHIBITS FOR THE
HEARING TO BE CONDUCTED BY THE
BENTON COUNTY
SHORELINES HEARING BOARD
THURSDAY, APRIL 5, 2012 7 P.M. BENTON
COUNTY PLANNING ANNEX – 1002 DUDLEY
AVENUE – PROSSER, WA

IF YOU WISH TO OBTAIN A COMPLETE
PACKET INCLUDING THE EXHIBITS
PLEASE CONTACT THE
BENTON COUNTY PLANNING DEPARTMENT
BY CALLING 736-3086 FROM TRI-CITIES
OR 786-5612 FROM PROSSER
OR EMAIL TO
PLANNING.DEPARTMENT@CO.BENTON.WA.US

**SHORELINES
CONDITIONAL USE PERMIT**

SCUP 11-01

**APPLICANT:
PACLAND INDUSTRIAL
ASSOCIATES, LLC.**

EXHIBIT LIST FOR SCUP 11-01/EA 11-43
 PACLAND INDUSTRIAL ASSOCIATES, LLC.

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff Memo	February 22, 2012
	BOAM 1.2	Notice of Open Record Hearing	February 7, 2012
	BOAM 1.3	Notice of Application	December 19, 2011
	BOAM 1.4	Notice of Application	January 9, 2012
	BOAM 1.5	Determination of NonSignificance	January 31, 2012
	BOAM 1.6	Benton County Building Dept. comments	December 7, 2010
	BOAM 1.7	Benton County Building Dept. comments	December 29, 2011
	BOAM 1.8	Benton Franklin Health District comments	December 30, 2012
	BOAM 1.9	City of Kennewick comments	January 3, 2012
	BOAM 1.10	Benton County Fire Marshal comments	January 10, 2012
	BOAM 1.11	Benton Clean Air Authority comments	January 11, 2012
	BOAM 1.12	Benton County Public Works comments	January 12, 2012
	BOAM 1.13	Dept. of Ecology comments	January 12, 2012
	BOAM 1.14	Dept. of Natural Resources comments	February 7, 2012
	BOAM 1.15	Benton County Fire Marshal comments	February 10, 2012
	BOAM 1.16	Benton County Building Dept. comments	February 13, 2012
	BOAM 1.17	Benton Franklin Health District comments	February 14, 2012
	BOAM 1.18	Map – Flood Zone	
	BOAM 1.19	Map New/Old Boundary Lines	
	BOAM 1.20	Site Map	December 21, 2011 printed
	BOAM 1.21	Aerial of the site - 2008	December 21, 2011 printed
	BOAM 1.22	Record Survey	
	BOAM 1.23	Dept. of Ecology comments	February 23, 2012

BOARD OF ADJUSTMENT – APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Shorelines Application	December 8, 2011
	BOAR 1.2	Driveway Cross Section	
	BOAR 1.3	Environmental Checklist	December 8, 2011

BOARD OF ADJUSTMENT HEARING MARCH 1, 2012			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE

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EXHIBIT SHEET – E-1 – Exhibit listing
BOAR – Board of Adjustment Record Exhibits
BOAM – Board of Adjustment Memo Exhibits
BOAH 1 - Documents submitted during the hearing

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

MEMO DATE: FEBRUARY 22, 2012

HEARING DATE: MARCH 1, 2012

BOARD: BENTON COUNTY SHORELINES HEARING BOARD

FROM: BENTON COUNTY PLANNING DEPARTMENT
CLARK A. POSEY, SENIOR PLANNER 

RE: SHORELINES CONDITIONAL USE PERMIT APPLICATION SCUP 11-01

APPLICANT: PACLAND INDUSTRIAL ASSOCIATES. LLC.
605 SEQUIM VILLAGE CENTER
P.O. Box 667
SEQUIM, WA 98343

SPECIFIC REQUEST:

The applicant is proposing to install underground utilities, grade, gravel, and asphalt the existing gravel driveway. The area to be paved is a pre-existing 24' by approximately 2000' length road surface for access into the Industrial site for a building for commercial polymer construction, manufacturing and production business in the Heavy Industrial Zone. The existing gravel road is within 110 feet from the freshwater lagoon shoreline running for approximately 1000 feet within the 200-foot shoreline setback designation. The Shorelines Management Master Plan designates this Shorelines area as Urban Environment. Proposed location is on Hedges Point in Finley Washington and next to the Columbia River.

BACKGROUND:

Site Location: The site is located between a freshwater lagoon and the Columbia River on a tract of land lying in Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 14, Township 8 North, Range 30 East, W.M.

Land Use: The site is currently a bare lot surrounded by heavy industrial uses.

Zoning: The site and surrounding areas are zoned Heavy Industrial.

Comprehensive Plan: The Comprehensive Plan designated the site and surrounding areas as Heavy Industrial.

Shoreline Master Plan: The Benton County Shorelines Plan designates this portion of the shoreline of the Columbia River as Urban Environment.

State Environmental Policy Act: Environmental Review EA 11-43/SCUP 11-01 has been reviewed under the requirements of the State Environmental Policy Act. A Determination of Non-Significance was issued on January 31, 2012. Accordingly, an Environmental Impact Statement is not required. The determination and environmental checklist are attached to this memo.

ANALYSIS:

History Shoreline Conditional Use Application SCUP 11-01 was submitted to the Benton County Planning Department on December 8, 2011 and was determined a complete application for processing on December 19, 2011. The application was sent to the Benton Franklin Health District, Corps of Engineers, Washington State Department of Ecology – Shoreline Division Yakima and Olympia, Washington State Department of Natural Resources; Washington State Department of Fish and Wildlife, Yakama Indian Nation; Natural Resource Conservation Service, Fire District 1 and 4, Department of Transportation, FEMA, Archeological/Historical Preservation, Washington State Department of Health, Bureau of Land Management, Benton County Building Department, Benton Clean Air Authority, Benton County Public Works, Benton County Fire Marshal, Department of Agriculture, City of Kennewick, Port of Kennewick and the Bureau of Reclamation.

Applicable Development Regulations

1. Section 7.00 of Phase II of the Benton County Shoreline Master Program provides the following purpose and definition for the Urban Environment:

Purpose The purpose of assigning an area to an Urban Environment is to ensure optimum utilization of shorelines occurring within urbanized areas by providing for intensive public use and by managing development so that it enhances and maintains shorelines for a multiplicity of urban uses.

Definition The Urban Environment is an area of high intensity land-use including residential, commercial, recreational and industrial development. It is particularly suitable to those areas presently subject to extremely intensive use, as well as areas planned to accommodate urban expansion. Shorelines planned for future urban expansion should present few bio-physical limitations for urban activities and not have a high priority for designation as an alternative environment.

2. Benton County Shoreline Master Program provides the following for utilities in an Urban Environment: Section 8.09 (Utilities):

- a. All transmission lines for power, gas, sewage, communications, oil, water, etc. shall be underground, whenever feasible.
- b. After location of utilities, the area shall be returned to its natural state as much as possible.
- c. Utilities shall be designed and installed in such a way as to minimize damage to the scenic view or aesthetic qualities of the shoreline area.

The building proposed for the manufacturing business is located outside the 200' shoreline setback area. The proposed parking area is also outside the 200' shoreline area. The placement of the utilities and paving of the existing gravel road of 24' X 1000' feet of the 2000' to be paved will be within 112' of the freshwater lagoon shoreline.

3. The Benton County Master Program Regulations provides the following information for conditional use permits: Section 16.00 (Conditional Uses):

"Conditional uses are those uses which may be permitted to locate in shoreline areas, but are usually seen as uses which either do not need, or depending on the environment, considered not to be suitable for sitting in shoreline locations. It is understood, however that there may be special circumstances or special types or styles of conditional uses that would make shoreline sitting of special cases acceptable to the goals, policies, and intentions of the Master Program.

The applicant must supply whatever evidence, information, or agreements to assure the local hearings board that the following conditions will be met:

1. That there is some necessity for a shoreline site for the proposed use, or that the particular site applied for is essential for this use, and that denial of the conditional use request would create a hardship on the applicant to locate the proposed use anywhere outside the shoreline jurisdiction area.
2. That the design of the proposed use will make it compatible with the environment it will be placed in.
3. That water, air, noise and other classes of pollution will not be more severe than pollution that would result from the uses, which are permitted, in the particular environment.
4. That none of the goals, policy statements or specific aims of the particular environment would be violated, abrogated, or ignored.
5. That no other applicable regulations will be violated.

Should the local hearings board find insufficient evidence, explanation, or guarantees that the above conditions will be met, they may deny the request or indicate to the applicant what changes he could make that would cause the local hearings board to reconsider."

Should the local hearings board approve the request, the specific conditions of approval, i.e., any specific required structures, designs, or actions of the applicant shall be written on the permit issued to the applicant.

The applicant must then go on to the Department of Ecology as with the regular permit procedure.

4. Washington Administrative Code states the following for review criteria for conditional use permits:

"The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

(I) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

- (a) That the proposed use is consistent with the policies of 90.58.020 and the master program;
- (b) That the proposed use is consistent with the policies of RCW proposed use and will not interfere with the normal public use of public shorelines;
- (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
- (d) That the proposed use will cause no significant adverse effect to the shoreline environment in which it is to be located; and
- (e) That the public interest suffers no substantial detrimental effect.

(II) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

5. Section 9.00 (Miscellaneous Use Regulations) of the Benton County Master Program Regulations provides the following. This section applies to all environments and to all activity regulations; other applicable ordinances must also be followed and may be more restrictive.

1. Parking areas shall be located upland of the uses they serve.
2. Public access rights of way and improvements shall be required in large developments if the shorelines or waters are of an appropriate nature and can withstand the access. Access will be restricted if the development could pose a hazard by its very nature.
3. All development shall prepare the land to prevent wind and water erosion.
4. Protection from siltation and erosion shall be provided for all earth changing acts.
5. No debris shall be allowed to enter the water. Accidentally injected debris shall be immediately removed.
6. No equipment or machinery of any kind shall enter any body of water or wetland, except when authorized under the terms of a substantial development permit. This prohibition shall not apply to floating equipment.
7. Vegetation along the water's edge shall be returned or left in the original condition unless permit stipulations allow or require otherwise.
8. Any permit in, on or near an area designated or considered an archaeological or historical site shall apply for a conditional use permit. This applies to all uses in all environments.

6. Shoreline structures and roads and railroads shall be constructed so as not to constitute a hazard to river navigation.

7. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

8. Sections 15.20.060 and 15.20.070 of the Benton County Code (Title 15 is Protection of Critical Areas and Resources) provides the following regulations related to rivers:

15.20.060 Development-General Requirements. In addition to other provisions of this title, the applicant shall provide, that the flood carrying capacity of the river or creek is maintained and has not impacted the flood zone from its original intent.

15.20.070 PROHIBITED ACTS. The introduction of any vegetation or wildlife, which is not indigenous to the Pacific Northwest into any river or creek or its near shore riparian area, is prohibited unless authorized by a State of Washington or a federal license or permit.

9. Businesses that manufacture polymer products are often required to submit annual Toxics Release Inventory (TRI) reports as required by Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313. Along with reports listed above. Activities commonly manufacturing polymer products often generate waste streams that designate as dangerous wastes as defined in Chapter 173-303 of the Washington Administrative code (WAC) Contact Holly Cushman, Toxics Reduction Specialist, in the Hazardous Wastes and Toxics Reduction Program with the Washington State Department of Ecology Central Regional Office in Yakima, WA. Ms. Cushman is also available for technical assistance to the business upon your request. Her contact information is (509) 575-2724. Complete comment letter attached.

10. As the Columbia River belongs to the State of Washington and is managed by the Department of Natural Resources (DNR). The activity that is planned would require a use authorization from DNR. Department of Natural Resources comment letter is attached.

11. An on-site inspection will need to be conducted by the Benton Franklin Public Health District to determine the suitability of the sewage disposal system for the proposed use. The business must be serviced by an approved public water supply in accordance with Washington Administrative Code 246.290. (WAC) Health District comments are attached.

12. The Benton County Fire Marshal's comments were based on an intern site plan submitted by the applicant. The official comments on the subjects of fire flow storage and installation of a fire pump capable of supplying 1,000 gpm of water at a residual pressure of 20 psi distant hydraulic fire hydrant is required. Applicant stated that the building would have fire sprinklers and be fully supervised. In addition, the property will be fenced with gates with an installed Knox Lock Box keyed to Benton County Fire District #1. The applicant will need to contact Fire Marshal Ken Williams to make certain the correct unit has been obtained and grading permits obtained. The Benton County Fire Marshal's comments are attached.

13. Benton County Grading and Building Permits will be required, in addition to any Federal or State permits which may be required prior to the time of construction.

FINDINGS OF FACT:

The Planning Staff has reviewed the application and information received in the SCUP 11-01 application. Based on the application and information received the planning staff makes the following findings.

1. The applicant for this project is Pacland Industrial Industries, LLC., 605 Sequim Village Center. P O Box 667 Sequim, WA 98382.
2. The applicant is proposing to install underground utilities, grade, gravel and asphalt the existing 24' driveway into the Industrial site for the construction and operation of a commercial polymer construction manufacturing and production business. The existing gravel road is within 110 feet from the lagoon for approximately 1000 feet in the designated 200-foot shoreline setback classified by Benton County as Urban Environment in the Shorelines Management Plan. The total length of the existing gravel road is approximately 2000 feet. The plan of construction is 2" of basalt or top rock on sub-grade and 2" of asphalt on top of finish grade. Additionally 2" of basalt or top rock on the parking area and apron areas located on Hedges Point in Finley Washington and next to the Columbia River.
3. The site is located along the Columbia River between a freshwater lagoon and the Columbia River on a tract of land lying in the Northeast Quarter of the Southwest Quarter and in the Southeast Quarter of Section 14 of Township 8 North, Range 30 East, W.M.
4. The applicant is proposing to construct and operate a commercial polymer construction manufacturing building and production business in the Urban Designation of the freshwater lagoon shoreline next to the Columbia River.
5. The application for SCUP 11-01/EA 11-43 was submitted to Benton County on December 8, 2011. It was declared complete for the purpose of processing and routing for comments on December 19, 2011.
6. The application was sent out for comments to the Benton Clean Air Authority, Benton-Franklin District Health Department, Benton County Fire Marshall, Benton County Building Department, Benton County Department of Public Works, Corps of Engineers, Washington State Department of Ecology – Shoreline Division Yakima and Olympia, Washington State Department of Natural Resources; Washington State Department of Fish and Wildlife, Yakama Indian Nation; Natural Resources Conservation Service, Natural Resource Conservation Service, Fire District 1 and 4, Department of Transportation, FEMA, City of West Richland, Archeological/Historical Preservation, Washington State Department of Health, Benton Clean Air Authority, Bureau of Land Management and Bureau of Reclamation.
7. The Notice of Application for SCUP 11-01/EA 11-43 was published on, December 29 and January 11, 2012 for a thirty (30) day comment period. This notice was published and mailed to property owners of record within 300 feet of the outer boundaries of the parcel, described in the application as required by BCC 17.10.100.
8. The notice for the Benton County Shoreline Hearing Board's Open Record Hearing for application SCUP 11-01 was published on February 14, 2012 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for March 1, 2012.

9. An Environmental Determination of Non-Significance for SCUP 11-01/EA 11-43 was made on January 31, 2012.
10. The property is zoned Heavy Industrial and the business use proposed for this lot is permitted outright.
11. The 2012 Benton County Comprehensive Plan designates the site as Heavy Industrial.
12. The Benton County Shoreline Master Program designated the site as Urban Environment
13. The manufacturing business proposed for SCUP 11-01 is allowable outright as stated in Benton County Shoreline Master Program Phase II, Section 8.11 Shoreline Structures, page, 19.
14. The Benton County Shoreline Master Program provides the following policies statements for Shoreline Structures Use Regulations:

Shoreline Master Program Phase II

(I) General Regulations:

- A. Earth changes shall not interfere with free passage of river and floodwater except where such is specifically intended and authorized.
 - B. All applications for a conditional use permit shall be reviewed to determine if the proposed activities are consistent with the goals and policies of the Benton County Shoreline Management Master Plan.
 - C. Shoreline structures shall be constructed so as not to constitute a hazard to river flow or navigation.
15. The Benton County Master Program requires that the applicant must supply evidence, information, or agreements that there is some necessity for a shoreline site for the proposed use, or that the particular site applied for is essential for this use, and that denial of the conditional use request would create a hardship on the applicant to locate the proposed use anywhere outside the shoreline jurisdiction area.
 16. The Benton County Master Program requires that the applicant must supply evidence, information, or agreements that the design of the proposed use will make it compatible with the environment that it will be placed in
 17. The Benton County Master Program requires that the applicant must supply evidence, information, or agreements that water, air, noise and other classes of pollution will not be more severe than pollution that would result from the uses, which are permitted, in the particular environment.
 18. The Benton County Master Program requires that the applicant must supply evidence, information, or agreements that none of the goals, policy statements or specific aims of the particular environment would be violated, abrogated, or ignored, and that no other applicable regulations will be violated. Based on the above findings it appears all goals of the Benton

County Shoreline Master Program will be met. If this permit is approved the Planning Department suggests the following conditions be listed as requirements for the approval of SCUP 11-01 and placed upon the final permit. The applicant shall continue to meet these requirements while EA 11-43 and SCUP 11-01 is in effect. In addition the applicant must comply with all applicable local, state and federal regulations.

CONDITIONS OF APPROVAL:

If the Benton County Shoreline Hearings Board is able, after receiving all public testimony, makes the required findings and approves the proposed conditional use application, the Benton County Planning Department recommends that the following conditions be added to the approval:

1. During construction precautions must be taken to prevent siltation, erosion or other debris from entering into the surface waterway. Should any debris accidentally be interjected into the surface water it should be immediately removed to the greatest degree possible. Spoilage and construction debris should be stockpiled and the original materials should be used to replace or backfill the project area. Spoilage not used should be disposed of upland of the project and outside of the shoreline area.
2. The original contour of the landscape should be restored upon completion of construction. In the wetland and riparian areas only native soils should be used to backfill and level the disturbed area.
3. All areas that are cleared or backfilled or otherwise disturbed shall be replanted with native vegetation that is representative of the site (natural reference site) immediately following any earthwork or grading of the site.
4. Copies of all permits pertaining to approval and/or construction (building and/or grading) of the project shall be submitted to the Benton County Planning Office and shall be considered as a condition of this Shorelines/SCUP Permit. Benton County Building Permits will be required, in addition to any Federal or State permits which may be required prior to the time of construction.
5. No construction is authorized for any structure within the shoreline setback without prior approval from the Benton County Shorelines Hearing Board and the Washington State Department of Ecology; see RCW 90.58.140(5) and WAC 173-14-090.
6. If no appeal to the local decision to approve is received from the Department of Ecology, or by others the Department of Ecology will allow the decision of the local government to stand and at the end of a 45 day appeal period, if the local governments decision was to approve, and no other permits are needed or have been granted, the project may proceed. Should there be an appeal, the project applied for may not begin until all appeals are settled by the States Hearing Board.
7. Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of any required Federal, State, or local permits.

8. If the Planning Department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee.

9. If the Planning Department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescinding of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

10. Businesses that manufacture polymer products are often required to submit annual Toxics Release Inventory (TRI) reports as required by Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313. Along with reports listed above. Activities commonly manufacturing polymer products often generate waste streams that designate as dangerous wastes as defined in Chapter 173-303 of the Washington Administrative code (WAC) A copy of this annual report must be submitted to the Benton County Planning Department.

11. As the Columbia River belongs to the State of Washington and is managed by the Department of Natural Resources (DNR). The activity that is planned would require a use authorization from DNR. A copy of this permit must be submitted to the Benton County Planning Department.

12. An on-site inspection will need to be conducted by the Benton Franklin Public Health District to determine the suitability of the sewage disposal system for the proposed use. The business must also be serviced by an approved public water supply in accordance with Washington Administrative Code 246.290. (WAC) Prior to construction permits, approval from the Benton/Franklin Public Health District must be submitted to the Benton County Planning Department.

13. The Benton County Fire Marshal's comments were based on an intern site plan submitted by the applicant the official comments on the subjects of fire flow storage and installation on a fire pump capable of supplying 1,000 gpm of water at a residual pressure of 20 psi distant hydraulic fire hydrant is required. Applicant stated that the building would have fire sprinklers and be fully supervised. In addition, the property will be fenced with gates and an installed Knox Lock Box keyed to Benton County Fire District # 1. Contact Fire Marshal Ken Williams to make sure you obtain the correct unit.