

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit ) CUP2011-0010  
Application for )  
)  
*Shawn Bannon* ) FINDINGS OF FACT,  
*"S.A.B. Recycling"* ) CONCLUSIONS OF LAW,  
) AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant is requesting a Zoning Conditional Use Permit to operate a Type I Solid Waste Handling Facility (indoor recycling center) from within an existing building located at the Cascade Business Park. The business will purchase, process, and re-sell nonferrous metals such as brass, aluminum, copper, wire, radiators, etc.

Decision: The requested Zoning Conditional Use Permit is approved, subject to conditions.

**FINDINGS OF FACT**

**INTRODUCTION**

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

**I.**

Applicant: Shawn Bannon

Site Location/Address: 5373 Guide Meridian, Suite E3  
Bellingham, Washington

Legal Description: Lots 1, 2, and 3, Cascade Business Park I Short Plat

Assessor's Parcel Number(s): 390225 499133

Zoning: Rural Industrial & Manufacturing (RIM) District

Comprehensive Plan: Rural Community

Subarea: Lynden/Nooksack

Total Acreage: Approximately 3.8 acres  
Roads: Guide Meridian  
Water Supply: Deer Creek Water Association  
Sewage Disposal: On-Site Sewage System (OSS)  
Fire Protection: Whatcom County Fire District No. 21  
Law Enforcement: Whatcom County Sheriff's Office  
Public Schools: Meridian School District No. 505  
Topography: The parcel is relatively flat.  
Vegetation: The site consists primarily of asphalt including parking around the various buildings. Approximately 3,000 square feet of the site consists of the OSS drainfield.

Adjacent Land Uses: North: RIM – Developed  
East: Guide Meridian & RIM - Undeveloped  
South: RIM - Undeveloped  
West: RIM – Developed

Easements: Easement for power lines  
Easement for water line

Authorizing Codes, Policies, Plans, and Programs

Whatcom County Comprehensive Plan  
Whatcom County Code, Title 12, Roads & Bridges  
Whatcom County Code Chapter 15, Building Code  
State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11;  
Whatcom County Environmental Policy Administration Chapter 16.08  
Whatcom County Code Chapter 16.16, Critical Areas  
Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance  
Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – September 28, 2011  
Mailed – August 4 and September 23, 2011  
Published – August 4, and September 29, 2011

Hearing Date: October 12, 2011; Record remained open for additional comments from County Engineering, dated November 7, 2011

Parties of Record:

Shawn Bannon  
Cascade Business Park  
5373 Guide Meridian, Suite E3  
Bellingham, WA 98226

Sherman Bronsink  
c/o Pacific Continental Realty  
114 West Magnolia, Ste 302  
Bellingham, WA 98225

Jesse Stoner  
2091 Willow Court  
Ferndale, WA 98248

Lee Carter  
Division of Engineering

Suzanne Bosman  
Planning and Development Services

Exhibits:

- 1 Land Use Application with attachments
  - 1-1 Supplemental Application
  - 1-2 Project Narrative
  - 1-3 Letter dated June 6, 2011, from Pacific Continental Realty to PDS
  - 1-4 Fee Responsibility
  - 1-5 Agent Authorization
  - 1-6 Statutory Warranty Deed
  - 1-7 Determination of Completeness, July 21, 2011
  - 1-8 Copy of Mailing Labels
  - 1-9 PDS Land Disturbance and Clearing Application
  - 1-10 Preliminary Traffic and Concurrency Information
  - 1-11 Revocable Encroachment Permit Application
  - 1-12 Health Department Notification of Public Water
  - 1-13 Health Department Repair Sewage Disposal System Application and Permit
  - 1-14 Whitson Geologic Consulting, letter dated August 13, 1991 to Whatcom County Health Department, re: Cascade Business Park Sewage System Up-Grade
  - 1-15 Customer Receipt
  - 1-16 PDS Hearing Examiner Checklist, July 21 and Sept 13, 2011
  - 1-17 Staff/Applicant email correspondence
- 2 Staff Report, dated September 28, 2011
- 3 Agency Comments
- 4 Floor Plan
- 5 Aerial Photo
- 6 Vicinity Map

- 7 Zoning Maps
- 8 Site Plan
- 9 Cascade Business Park Short Plat, SSS97-0077
- 10 SEPA MDNS, August 29, 2011, with Checklist
- 11 Bellingham Herald Tear-Sheet, Published August 4, 2011: Notice of Application
- 12 Certificate of Mailing Notice of Application, August 4, 2011
- 13 Certificate of Mailing Notice of Public Hearing, September 23, 2011
- 14 Certificate of Posting Notice of Public Hearing, September 28, 2011
- 15 Legal Notice of Public Hearing, September 29, 2011
- 16 Email from Kurt Baumgarten, DOE, dated October 11, 2011 to Jesse Stoner
- 17 Email from William Angel, Whatcom County Health Dept, dated October 11, 2011 to Jesse Stoner
- 18 Conditional No Exposure Certificate – DOE Exposure Checklist
- 19 Memorandum, updated in red November 7, 2011 [original dated September 9, 2011], from Lee Carter, Whatcom County Engineering Services

## II.

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Division are set forth in a Staff Report, Exhibit #2, dated September 28, 2011, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. With the exception of a request for further review and modification of conditions recommended by the Division of Engineering in a memorandum dated September 9, 2011, the Applicant indicated no objection to the Conditions of Approval requested by Staff. There was no public comment on this matter at the public hearing. The Hearing Examiner left the written record open for further review of the requirements and recommendation of County Engineering Staff.

The Division of Engineering submitted modified Conditions of Approval to the Hearing Examiner in an updated Memorandum, dated November 7, 2011 [Exhibit No. 19 in the Hearing Examiner's file]. These modifications have been reviewed and accepted by the Applicant. The Hearing Examiner concurs with Staff's recommended modifications and hereby adopts the revised Conditions of Approval as set forth in the Memorandum updated on November 7, 2011, a copy of which is attached hereto and incorporated herein.

## III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

### CONCLUSIONS OF LAW

#### I.

The proposed operation of a Type I Solid Waste indoor recycling center for non-ferrous

metals business can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (2 through 8). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning Conditional Use Permit should be granted, subject to conditions.

## II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

### DECISION

*A Zoning Conditional Use Permit is hereby granted to Shawn Bannon for the proposed operation of S.A.B. Recycling, a Type I Solid Waste indoor recycling center for non-ferrous metals, a business to be located on Assessor's Parcel No. 390225 499133, Cascade Business Park, 5373 Guide Meridian, Unit E3, Bellingham, Washington, subject to the following conditions:*

#### **A. Planning Division**

1. The use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Business Hours: Monday through Friday, 8:00 AM to 5:00 PM.
3. The Applicant shall comply with WCC 20.80.450 regarding sign requirements for the RIM zone district. A building permit shall be required for all signs.
4. Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.
5. The Applicant shall comply with all of the Whatcom County Zoning Ordinance criteria for lighting, noise, pollutants, odor, vibration, etc., as referenced in the attached staff report, dated September 28, 2011, and as found in WCC 20.69.
6. The Applicant shall comply with all local and state requirements and licensing, including but not limited to, approval by Washington State to operate as a licensed Scrap Processor.
7. The Applicant shall comply with the SEPA Mitigated Determination of Non-significance as issued on August 29, 2011, under Permit, SEPA2011-00058.
8. The Applicant shall ensure that all vehicle fluids are stored in closed leak-proof containers and in compliance with the Whatcom County Fire Code and Fire Marshal's requirements.
9. The Applicant shall submit an approved Spill Control Plan, Employee Training, and a plan to utilize Optional and Structural Best Management Practices (BMP's) pursuant to the Washington State Department of Ecology and Whatcom County Environmental Health recommendations and/or requirements.

### **B. Building Services Division**

1. A building permit is required for this proposal. The permit application will be for a tenant improvement to change a portion of the building's current occupancy classification.
2. A pre-application screening is required prior to building permit submittal. The Applicant shall contact the Building Services Division to schedule an appointment and to find out the submittal requirements.
3. Prior to application for a building permit, a special inspection of the existing facilities will be conducted by the Building Inspector and/or Deputy Fire Marshal (at the applicant's expense) to determine occupancy classification and code compliance.

### **C. Fire Marshal**

1. The Applicant shall install fire extinguishers on-site. Fire extinguisher size shall be 2A10BC for office and metal (D) rated for the warehouse. The locations of all fire extinguishers shall be approved by the Fire Marshal.
2. The Applicant shall comply with Whatcom County Fire Code for Hazardous Materials (battery storage) and shall provide safety data sheets and quantities to the Fire Marshal's Office.
3. The Applicant shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.

### **D. Public Works – Engineering Division**

1. Access to the proposed facility will not be sufficient to utilize large semi or combination truck/trailer vehicles due to the layout of the parking areas and emergency access lanes.
2. The Applicant shall provide proof of an updated access permit from the Washington State Department of Transportation, based on a change of use of the existing building/facility or a letter negating the need of an updated access permit. This shall be provided to the Whatcom County Public Works, Division of Engineering Department.
3. There shall be adequate BMP's installed or retro-fitted to the catch basins to prevent pollutants from entering the storm system or septic system. The applicant has obtained a recommendation from J.P. Slagel, P.E. as to a catch basin fixture to be installed to aid in the management of pollutant materials entering the storm water system and PW Engineering Services has agreed to the proposed installation. There shall be a Spill Control Separator (i.e. Fig 11.3-1992 Ecology Manual) installed within 90-days of the approval of this CUP with the invert elevation and overtopping elevation determined by J.P. Slagel, P.E. and a verification notice provided to PW Engineering Services (email or letter is acceptable). In the event of a spill, the catch basin shall be vactored immediately. The catch basin shall otherwise be maintained and vactored routinely with the other catch basins within the business park.
4. The proposed development is exempt from Concurrency Evaluation (WCC 20.78.030) because it will generate nine or less new p.m. peak hour trips in one direction, based on submitted Preliminary Traffic & Concurrency Information.

5. The Applicant shall concur with the requirement that Whatcom County maintain the ability to monitor and require the catch basin to be cleaned out if excessive material is observed, or repaired, if found to be in disarray.

#### **E. Health Department**

1. Water is to be provided by the Deer Creek Water Association.
2. The Applicant shall thoroughly read the exemption criteria found at <http://www.ecy.wa.gov/biblio/ecy040153.html> to determine if the S.A.B. Recycling facility is exempt from obtaining a solid waste handling permit. If the facility does not meet the exemption criteria listed above, the Applicant may be subject to solid waste permitting requirements. The Applicant shall contact the Whatcom County Health Department and the Washington State Department of Ecology for more information.

The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this Decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this Permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The Applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance. An extension shall be granted if the Hearing Examiner finds that the Applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

#### NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

#### NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to County Council. Within ten business days of the date of the decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 14<sup>th</sup> day of November 2011.

  
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Michael Bobbink, Hearing Examiner

**WHATCOM COUNTY**  
Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-676-6907, TTY 800-833-6384  
360-738-2525 Fax



**J.E. "Sam" Ryan**  
Director

**EXHIBIT**  
#2

**WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES  
STAFF REPORT**

Date: September 28, 2011  
Hearing Date: October 12, 2011

The application of <b>Shawn Bannon of S.A.B. Recycling</b> for a Zoning Conditional Use Permit	CUP2011-00010 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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**I. SUMMARY OF APPLICATION AND RECOMMENDATIONS**

**Summary:** The applicant is requesting zoning conditional use approval to operate a Type I solid waste handling facility (indoor recycling center) from within an existing building located at the Cascade Business Park. The business will purchase, process and resell non ferrous metals such as brass, aluminum, copper, wire, radiators, etc.

**Recommendation:** The Technical Review Committee recommends approval of the proposed conditional use permit subject to the conditions in this document.

**II. PRELIMINARY INFORMATION**

**A. BACKGROUND INFORMATION**

**Applicant:** Shawn Bannon  
5373 Guide Meridian, Suite E3  
Bellingham, WA 98226

**Site Location/Address:** 5373 Guide Meridian, Suite E3

**Legal Description:** Lots 1, 2, and 3, Cascade Business Park I Short Plat

**Assessor's Parcel Number(s):** 390225 499133

**Zoning:** Rural Industrial & Manufacturing (RIM) District

**Comprehensive Plan:** Rural Community

**Subarea:** Lynden/Nooksack

**Total Acreage:** Approximately 3.8 acres

**Roads:** Guide Meridian

**Water Supply:** Deer Creek Water Association

**Sewage Disposal:** On-Site Sewage System (OSS)

**Fire Protection:** Whatcom County Fire District No. 21

**Law Enforcement:** Whatcom County Sheriff's Office

<u>Public Schools:</u>	Meridian School District # 505
<u>Topography:</u>	The parcel is relatively flat.
<u>Vegetation:</u>	The site consists primarily of asphalt including parking around the various buildings. Approximately 3,000 square feet of the site consists of the OSS drainfield.
<u>Adjacent Land Uses:</u>	North: RIM – Developed East: Guide Meridian & RIM - Undeveloped South: RIM - Undeveloped West: RIM – Developed
<u>Easements:</u>	Easement for power lines Easement for water line

**B. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:**

1. Whatcom County Comprehensive Plan
2. Whatcom County Code, Title 12, Roads & Bridges
3. Whatcom County Code Chapter 15, Building Code
4. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
5. Whatcom County Code Chapter 16.16, Critical Areas
6. Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
7. Whatcom County Code Title 24, Health Regulations

**III. APPLICATION PROPOSAL**

The applicant, Shawn Bannon, has applied for a zoning Conditional Use Permit (CUP) to operate a Type I solid waste handling facility within the Rural Industrial Manufacturing (RIM) zone district pursuant to WCC 20.69.160.

Pacific Continental Realty, LLC is the management company for the owner, Sherman Bronsink, and they have granted permission for their tenant Shawn Bannon, to make application for this project proposal.

The proposed business, known as S.A.B. Recycling, will operate from Suite E3 located in Building “E” of the Cascade Business Park located at 5373 Guide Meridian in Bellingham, Washington.

The rental unit is approximately 1,750 square feet and consists of a small office, a bathroom, and the warehouse where the recycling will occur. The site itself is fully developed with buildings, parking, driveway access, stormwater and fireflow. Therefore, no new construction is anticipated in order to operate this business.

The business is an indoor recycling center and is proposing to operate between the hours of 8:00 AM to 5:00 PM, Monday through Friday. It is projected that 5-10 customers will come to the site to drop off recyclable materials in which they’ll receive compensation. The recyclable materials will consist of non-ferrous items such as aluminum cans, aluminum, brass, copper, wire, catalytic converters, old radiators, old batteries, and aluminum rims. These items are weighed on a 5,000 pound scale and then they are sorted, separated, and placed in enclosed bins according to their category.

In addition to customers bringing recyclable materials to the business the property owner and his two employees intend to pick up materials from local businesses. These materials may come from such places

as radiator shops, wrecking yards, auto shops, and plumbing and electrical shops. The materials are then brought back to the business where they are processed and sorted.

The final step in the recycling process is to transport the recyclables to other recyclable dealers throughout Western Washington where they are sold for profit. This occurs on an average of 2-3 times per week which allows the inventory levels at the shop to be kept relatively low.

#### **IV. SITE DESCRIPTION**

The subject property is located approximately ¼ mile north of the Guide Meridian and Smith Road intersection and is situated on the west side of the road. The site address is 5373 Guide Meridian, which lies within a tract of land located in the Cascade Business Park I Short Plat, Section 25, Township 39, Range 2 East, W.M., Whatcom County, WA.

The ~3.8 acre site is located off of Guide Meridian which is classified a state highway. The site is predominately paved with asphalt and was constructed for use as a business park.

All properties surrounding the subject site are zoned Rural Industrial and Manufacturing (RIM). In addition, a majority of the surrounding parcels are developed with light industrial uses.

#### **V. PUBLIC NOTICE AND COMMENT**

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: The Notice of Application for this proposal was published on August 4, 2011. The Optional Mitigated Determination of Nonsignificance (MDNS) process was utilized. The fifteen (15) day comment period ended on August 19, 2011.

Pursuant to WCC 20.84.235(2), Notices were mailed on August 4, 2011 to property owners whose boundaries lie within 1,000 feet of the subject property.

Notice of Public Hearing: The Notice of Public Hearing for this application was published in a one-time newspaper publication in the Bellingham Herald.

#### **Public Comments:**

During the joint notice of application and SEPA comment period staff received two written comments on the proposal. A summary of these concerns and staff's responses are outlined below:

1. A party of record requested that we ensure that the ground water remains safe to protect private adjacent wells.

There should be no direct impacts to any private wells in the vicinity since the business, "S.A.B. Recycling" will be conducting their recycling activities entirely indoors.

In addition, the SEPA Mitigated Determination of Non-significance (MDNS) will require that Best Management Practices (BMP's) be implemented to control any spills that may occur within the structure. The applicant will also be required to keep all of the recyclable materials in covered bins within the building. Hazardous materials, such as battery storage, shall comply with the International Fire Code (IFC) per the Fire Marshal's requirements for conditions of approval of this CUP. Safety Data Sheets specifying the types and quantities of all hazardous materials will also be required to be provided to the Whatcom County Fire Marshal.

2. The Whatcom County Health Department submitted comments during the SEPA comment period regarding the proposed solid waste handling facility. According to the health department the proposed business is more suitable as a Type III solid waste handling facility; not a Type I.

S.A.B. Recycling made application to Whatcom County to operate an indoor recycling center (Type I solid

waste handling facility) pursuant to WCC 20.97.429. The Whatcom County Health Department states that according to state law the proposed facility is a Type III solid waste handling facility and should be processed as such.

The Washington Administrative Code (WAC), Chapter 173-350-100, defines Recycling as “transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.”

“Recyclable Materials” means those solid wastes that are separated for recycling or reuse, including, but not limited to, paper, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

It is staff’s opinion that the intent of the Whatcom County Zoning Ordinance was to classify the four types of solid waste handling facilities according to their environmental impact. Indoor recycling centers are classified as a Type I solid waste handling facility because the recycling occurs indoors whereby the potential of solid waste contamination effecting ground water or other sources is highly improbable.

Whatcom County Code refers to solid waste handling facilities as any facilities for the collection, transfer, treatment, recycling or ultimate disposal of solid waste. There are four types of solid waste handling facilities as defined in the Whatcom County Zoning Code, Title 20.

WCC 20.97.429(2) defines a Type I solid waste handling facility as a low to moderate risk facility such as clean-green yard waste facilities and indoor recycling centers.

Type II solid waste handling facilities are outdoor recycling centers where materials, other than organic materials, are stored in containers.

Examples of a Type III solid waste handling facilities are municipal solid waste landfills, incinerators, biomedical waste operations and other uses that deal with materials that could present a significant threat to public health.

A Type III solid waste handling facility can also include all other solid waste facilities that aren’t specifically listed as a Type I, II, or IV solid waste facility.

Lastly, a Type IV solid waste handling facility is specific to composting and mushroom composting facilities.

The Whatcom County Zoning Ordinance defines solid waste handling facilities as any facility for the collection, transfer, treatment, recycling, or ultimate disposal of solid waste. S.A.B. Recycling is proposing to collect, transfer and dispose of solid waste materials. Therefore, staff believes this proposal in terms of zoning, is a Type I solid waste handling facility. Whether or not the permit is processed as a Type I or a Type III will not result in a change in the outcome of the proposal.

Since the writing of this report staff has received an amended memorandum from the Whatcom County Health Department dated August 30, 2011. In this memo, the Whatcom County Health Department agrees that S.A.B. Recycling is best described in the Whatcom County Code (WCC 20.97.429) as a recycling center.

The memo further states that although the facility is not engaging in “recycling” as defined by WAC 173-350, it does in fact fit into the category of “recycling center” for zoning purposes. However, the Health Department wants to go on record by stating that an indoor recycling center is not a facility type that is

outline in the Washington Administrative Code (WAC 173-350). Recycling centers are not defined in the WAC173-350 and are therefore generally classified as transfer stations. Transfer stations under the Whatcom County Zoning Code, are Type III solid waste handling facilities.

Per the Whatcom County Health Department, if the proposed facility cannot meet the state exemption criteria as specified in the memo from them, then the business may be subject to the solid waste permitting requirements.

For the purpose of this CUP proposal, the Whatcom County Health Department concedes that for zoning purposes, S.A.B. Recycling is a Type 1 solid waste handling facility.

#### **VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review.

The Whatcom County SEPA Official has reviewed the completed SEPA checklist submitted by the applicant, and has made a determination that with proper mitigation and by compliance with applicable codes and requested conditions, no significant adverse impacts to the environment would be likely to occur as a result of approving the proposed zoning conditional use.

The Optional MDNS process was utilized and a Mitigated Determination of Non-significance (MDNS) was issued on August 29, 2011. During the SEPA comment period, staff received one comment from the Whatcom County Health Department. Their comment was previously addressed within this document. The appeal period for this MDNS ended on September 8, 2011. No appeals to this determination were filed.

#### **VII. FINDINGS OF FACT and CONSISTENCY WITH REGULATIONS**

##### **A. Whatcom County Comprehensive Plan**

Zoning regulations are meant to implement the goals and policies of the County's Comprehensive Plan. Conditional uses are those uses that may be approved within a zoning district if it is determined that the specific use is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan. The proposed use of a Type I solid waste handling facility has been reviewed for consistency with the following goals and policies of the Whatcom County Comprehensive Plan:

**Goal 7F:** Encourage development that creates local re-investment funds and provides jobs in the local community.

**Policy 7F-1:** Support existing local businesses as the major contributors of job creation and regeneration and afford them every opportunity to continue their success in the community.

**Goal 2A:** Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.

**Policy 2A-7:** Provide sufficient and appropriately located residential, commercial and industrial lands.

The Technical Review Committee finds that the application for a conditional use permit to authorize the establishment of an indoor recycling center (Type I solid waste handling facility) in the Rural Industrial and Manufacturing (RIM) zone district is consistent with the goals and policies of the Whatcom County Comprehensive Plan.

##### **B. Official Whatcom County Zoning Ordinance (Title 20, WCC)**

The purpose of the Rural Industrial and Manufacturing District is to provide for industrial and manufacturing uses that are commonly accepted in the rural area, with preference to those uses which

facilitate the production of agricultural, forest, and aquatic products; and to provide employment opportunities for residents of the rural area. This zoning designation allows related processing facilities, limited direct resource sales and limited support services that are not detrimental to the natural resource base in the long term.

Solid waste handling facilities are facilities meant for the collection, transfer, treatment, recycling or ultimate disposal of solid waste. There are four types of solid waste handling facilities as defined in the Whatcom County Code, Title 20. Type I, Type II and Type III solid waste handling facilities are permitted by approval of a conditional use permit in the RIM zone district. A Type IV solid waste handling facility which consists of composting and mushroom composting is not permitted in this zone.

S.A.B. Recycling meets the definition of a Type I solid waste handling facility since the proposed use is an indoor recycling center. The use is allowed through the issuance of a discretionary land use permit subject to the code criteria set forth in WCC 20.84.220. Subject to review, conditions on application approval are set forth by the hearing examiner to ensure that criteria are satisfied and potential impacts are mitigated.

### **C. Compliance with WCC 20.84.200 & WCC 20.84.220 Criteria**

Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:

#### **(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.**

The purpose of the Rural Industrial and Manufacturing District is to provide for industrial and manufacturing uses that are commonly accepted in the rural area. The purpose of the RIM district is to implement the Comprehensive Plan by providing for those uses which facilitate the production of agricultural, forest, and aquatic products and to provide employment opportunities for residents in the rural area.

The Whatcom County Comprehensive Plan encourages locally owned and operated businesses to re-invest profits and wages in the local community. Local businesses use local banks and other support services which help the local economy.

The proposed use is located in the Rural Industrial and Manufacturing and is specifically permitted pursuant to an approved Conditional Use Permit. The proposed use is relatively benign in terms of solid waste and is therefore harmonious and in accordance with the objectives of the Whatcom County's Comprehensive Plan and zoning regulations.

#### **(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.**

The Whatcom County zoning ordinance separates residential, commercial, and industrial districts to preserve the individual characteristics of each zone district to create attractive, healthful residential areas. In addition, zoning helps assure property owners and residents that the characteristics of nearby areas will remain consistent with the intent and objectives of the Comprehensive Plan.

Light industrial and manufacturing uses are primarily related to services, distribution, manufacturing and assembly of finished products that have a relatively light impact on adjacent uses and districts. It is also the purpose of this district to accommodate limited commercial uses that are incompatible with other commercial uses. The RIM zone district does not permit single-family residences because the intent is to allow more intense uses such as rail, truck and freight terminals, manufacturing, contractor storage and equipment yards, and other uses such as Type I solid waste handling facilities. These uses would not be

characteristic or conducive of a residential zone. Instead, they are outright permitted or conditionally permitted in the RIM district.

The Cascade Business Park already exists so no new construction is expected. In addition, the essential character of the vicinity will not change since the business will operate from within a building. No unsightly scrap will be visible to the public.

The Technical Review Committee finds the proposal will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the area.

**(3) Will not be hazardous or disturbing to existing or future neighboring uses.**

The proposed use, as conditioned, is not considered hazardous by the Health Department, Engineering Division, the Fire Marshal or Building Services Division.

Auto and scrap recycling businesses used to be junkyards whereby salvage dealers burned, buried, or dumped scrap and garbage. These bad practices often led to soil and groundwater contamination. Few auto and scrap dealers followed environmentally sound dismantling and storage practices.

In addition to the conditions imposed as requirements of approval for this facility, several state agencies also regulate scrap metal processors. A Master Business Application form and a Vehicle Transport/Disposal Addendum is required by the Washington State Department of Licensing to be a Scrap Processor.

By granting approval of this CUP, Whatcom County can place conditions on the permit to ensure compliance and compatibility with all county and state regulations.

S.A.B. Recycling does not pose a hazardous threat to the general welfare of the public. We can find hazardous chemicals in the floors of our homes, in the solid Polystyrenes used in disposable plastic cutlery and in fertilizers we use in our own yards.

The proposed Type I solid waste handling facility does not consist of biomedical, arsenic, carcinogens, or other suspected highly toxic recycled agents. The Fire Marshal has placed specific conditions on this permit if approved by the Whatcom County Hearing Examiner. These conditioned can be found in the section of this report titled, "*Conditions of Approval*", Pages 20-21.

**(4) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.**

The site is serviced adequately by necessary public facilities. The level of service for access, fire, and police will remain the same. Emergency Services are provided by Whatcom County Fire District #21 and the Whatcom County Sheriff's Department.

Whatcom County Public Works, Division of Engineering reviewed the proposal and has required that Best Management Practices (BMP's) be installed or retro-fitted to the catch basins to prevent pollutants from entering the storm water system or septic system.

Public water is currently provided by the Deer Creek Water Association and the applicant has demonstrated adequate sewage capacity for the proposed use.

**(5) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.**

Approving the conditional use application for S.A.B. Recycling will not create excessive additional requirements at public cost. The business provides a much needed service to the community.

**(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.**

There is a small potential for exposure to toxic chemicals, spills, and hazardous waste. This could occur when processing the recycled materials such as with radiators, catalytic converters, etc. Antifreeze or other engine liquids could leak during the processing.

However, there are several measures in place to reduce or control any environmental health hazards. When processing potentially hazardous materials employees will be wearing long pants, gloves, and goggles. Secondly, all processing is done inside the warehouse on a concrete floor that does not have a drain. Therefore, there is not a risk for contamination to ground water.

In addition, if any hazardous waste does spill on the floor it will be immediately cleaned up with an approved hazardous waste absorbent powder. The used powder then goes into a separate waste receptacle and is taken to a hazardous waste disposal site once a week. As previously mentioned, all recycling occurs indoors and no parts are left on the floor of the warehouse overnight (whether the materials have been processed or not). All recyclable materials are kept in large, non-porous storage bins that are located within the warehouse.

Activities generated on the site will not be detrimental to persons, property, or the general welfare because conditions placed on the operation and use of the property for the business will serve to mitigate potential impacts.

**(7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.**

The site has an existing paved parking lot and two access points onto SR539 (Guide Meridian). SR539 is classified as a State Highway and access permits are managed by the Washington State Department of Transportation (WSDOT). Proof of an updated access permit from WSDOT or a letter negating the need for such, will be required.

The existing vehicular approaches will not create additional interference with traffic on surrounding public streets.

**(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.**

The proposed use will not result in the destruction, loss or damage of natural, scenic or historic feature of major importance.

The Technical Review Committee finds the proposal as conditioned, will comply with WCC 20.80.200 and WCC 20.84.220.

**D. WCC Title 20.69 – RIM Uses and Site Requirements**

The Whatcom County Zoning Ordinance, Title 20, allows for Type I solid waste handling facilities (WCC 20.69.160).

**20.97.429 - Solid Waste Handling Facilities:**

“Solid waste handling facilities” means any facilities for the collection, transfer, treatment, recycling or ultimate disposal of solid waste...”

An indoor recycling center is a Type I solid waste handling facility pursuant to WCC 20.97.429(1)(b).

It is staffs opinion that the proposed recycling center, S.A.B. Recycling, meets the zoning criteria specified in WCC 20.69.160 and WCC 20.97.429(1)(b).

If approved, compliance with the following Whatcom County Zoning Ordinance criteria will be required:

**20.69.551 - Buffer Area:**

When a parcel situated within this district adjoins an Agriculture, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks of adjoining area shall be increased to 25 feet. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

**20.69.600 - Sign Regulations:**

Sign regulations shall be administered pursuant to WCC 20.80.450.

**20.69.651 – Facility Design:**

Rural Industrial and Manufacturing developments within this zone district should be designed to accommodate additional industrial, manufacture, or commercial development on adjacent RIM or other commercially zoned property in an integrated manner. Consistent architectural treatment is encouraged. Each development shall screen roof-mounted mechanical equipment so as not to be visible by surrounding uses or roads.

**20.69.652 – Landscaping:**

Refer to WCC 20.80.300 for landscaping requirements.

**20.69.653 – Off Street Parking and Loading:**

Off-street parking and loading provisions shall be administered pursuant to WCC 20.80.500. In addition, loading areas must be located in such a manner that no loading, unloading and/or maneuvering of trucks associated therewith takes place on public rights-of-way.

**20.69.656 - Driveways:**

Pursuant to WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways, as applicable.

**20.69.657 - Access:**

Access shall conform to the provisions of WCC 20.80.565 and 20.80.660.

**20.69.658 - Maintenance:**

The owner, lessee or user shall be responsible for maintaining an orderly appearance of all properties, and shall be responsible for assuring the care and maintenance of any natural growth where appropriate. All required yards, parking areas, storage areas, operation yards and other open uses on the site which are adjacent to a public right-of-way shall be maintained in a neat and orderly manner appropriate for the district at all times.

**20.69.659 - Enclosure:**

All manufacturing or fabrication processes which produce physical off-site impacts of a detrimental nature shall be sufficiently enclosed to mitigate the impact.

**20.69.70 - Pollution Control and Nuisance Abatement:**

Each industrial and/or manufacturing activity is required to continuously employ the best pollution control and nuisance abatement technology when reasonable and practicably available; provided, that where federal, state, or regional laws or regulations provide for the level of technology to be employed, the appropriate standards shall apply.

**20.69.702 - Heat, Light and Glare:**

All operations and facilities producing heat, light or glare, including exterior lighting, shall be so constructed, screened or used as to not unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.

**20.69.703 - Ground Vibrations:**

No ground vibration other than that caused by highway vehicles, trains or construction activity shall be permitted which is discernible, without instruments, at or beyond the property line for the use concerned.

**20.69.704 - Odor, Dust, Dirt, and Smoke:**

No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district. (Ord. 2011-013 § 2 Exh. B, 2011).

**20.69.705 - Noise:**

No use in this district shall exceed the maximum environmental noise level established by Chapter 173-60 WAC.

**20.69.706 - Toxic Gases and Fumes:**

There shall be no emission of toxic gases or fumes.

**20.69.707 - Liquid Pollutants:**

There shall be no off-site release to soil or surface drainage ways of water borne or liquid pollutants.

**E. WCC Chapter 20.78 - Transportation Concurrency**

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

The Engineering Division determined that the proposed development is exempt from Concurrency Evaluation (WCC 20.78.030) because it will generate 9 or less new p.m. peak hour trips in one direction, based on submitted Preliminary Traffic & Concurrency Information.

**F. WCC Chapter 12.08 – Roads and Bridges**

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as “Whatcom County development standards” and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.

The Whatcom County Public Works, Division of Engineering, reviewed the proposal and submitted their comments to staff in a memo dated September 9, 2011. The following is a list of their comments:

1. Access to the proposed facility will not be sufficient to utilize large semi or combination truck/trailer vehicles due to the layout of the parking and emergency access.
2. There shall be BMP's installed or retro-fitted to the catch basins to prevent pollutants from entering the storm system or septic system.
3. The proposed development is exempt from Concurrency Evaluation (WCC 20.78.030 because it will generate 9 or less new p.m. peak hour trips in one direction, based on submitted Preliminary Traffic & Concurrency Information.

**\*\*All appropriate permits must be obtained before construction. Obtaining a county permit does not replace or over-ride other state and federal statutes and regulations that may apply to this project.**

The applicant shall comply with all of the conditions set forth by the Whatcom County Public Works, Division of Engineering unless modified by the Division of Engineering or appealed to the appropriate agency.

*The Technical Review Committee has determined that the project meets the requirements of WCC Chapter 12.08.*

#### **F. WCC Title 15 – Fire Code**

WCC Title 15 adopts and amends the applicable building, mechanical, plumbing and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County planning and development services department.

The Whatcom County Fire Marshal's Office submitted a memo dated August 5, 2011 with the following comments:

- Fire Flow has been provided for the Cascade Business Park and it is okay for this CUP at this time.
- Fire extinguisher size shall be 2A10BC for office and metal (D) rated for the warehouse. The locations shall be approved by the Fire Marshal.
- Fire department access is currently good. There shall be no outside storage in bins or containers added for this Conditional Use Permit.
- Hazardous Materials (battery storage) shall comply with the fire code. Safety data sheets and quantities shall be provided to the Fire Marshal's Office.
- The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.

The applicant shall comply with all of the conditions of the Whatcom County Fire Marshal unless modified by the Whatcom County Fire Marshal's Office or appealed to the appropriate agency.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 15.*

### **G. WCC Title 16 – Critical Areas**

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County's critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

Information for the proposed indoor recycling facility was routed to Critical Areas staff for review in conformance with WCC 16.16, Critical Areas Ordinance. A memo dated August 3, 2011 was provided to staff with the following comments:

Because the facility will be located within an existing building, it has been determined that there will be no wetland or habitat conservation area impacts as a result of this proposal.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 16.16.*

### **H. WCC Title 24 – Health Code**

The purpose of Title 24 is to provide minimum standards to safeguard public health and welfare by regulating and controlling the activities considered in this title and any related work.

The Whatcom County Health Department submitted three memorandums to Whatcom County. The first one was received on August 11, 2011 and was written in response to the materials that were routed to the health department for comments for the conditional use permit. These comments remain valid and are as follows:

**Water:** Water is provided by the Deer Creek Water Association.

**Sewage:** The applicant has demonstrated adequate sewage capacity for the proposed use.

On August 12, 2011, Whatcom County Planning and Development Services received comments from the Whatcom County Health Department in regards to the SEPA legal notification. There comments regarding the solid waste handling facility have already been addressed in this document. However, a recent amended memo dated August 30, 2011 was submitted to staff with the following comments:

**Solid Waste:** S.A.B. Recycling may be exempt from being required to obtain a solid waste handling permit if they comply with the exemption criteria listed by William Angel in his SEPA comments. The criteria are:

1. Recyclable material recovery activity can be exempt from solid waste permitting and requires facilities to provide specific 30-day prior notification to Whatcom County Health Department and the Washington State Department of Ecology, found at <http://www.ecy.wa.gov/biblio/ecy040153.html>

2. Facilities and operators must meet the following conditions to maintain an exemption from solid waste handling permitting: <http://apps.leg.wa.gov/wac/default.aspx?cite=173-350-310>;  
<http://apps.leg.wa.gov/wac/default.aspx?cite=173-350-040>

3. The S.A.B. Recycling facility wants to identify itself as an indoor recycling center, and operate under the Chapter 20.97.429 WCC designation of a Type I solid waste handling facility. However, "Recycling" as defined in Chapter 173-350 WAC, means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.

The S.A.B. facility does not intend to "recycle" solid wastes at the site, but intends to recover, collect, and store recyclable solid waste materials that are separated for recycling or reuse at some other location. I did

not find an alternate definition of "recycling" in the zoning code that would moderate the solid waste code definition.

The S.A.B. facility fits better into the Type III solid waste facility definition, as (c) Transfer stations that serve as a collection point for solid waste from large areas of the county or multiple local areas. Or as, (h) All other solid waste facilities that are specifically listed as Type I, II, or IV solid waste facilities.

-Amendment-

Whatcom County Health Department has amended comment #3 as referenced above which states that S.A.B. Recycling would be better suited and processed as a Type III solid waste handling facility.

After discussing the definition of recycling and recycling center with the Whatcom County Health Department and Whatcom County Planning & Development Services, staff agrees that S.A.B. Recycling is best described in the WCC 20.97.429 as a recycling center. Therefore they would be a Type I solid waste handling facility.

Although the facility is not engaging in "recycling" as defined by WAC 173-350 it best fits into the category of "recycling center" for zoning purposes. Indoor recycling center is not a facility type that is outlined in WAC 173-350. In the absence of a definition in WAC 173-350 recycling centers are generally classified as transfer stations.

The zoning code does contain a classification of solid waste handling facilities for indoor recycling centers. It is logical that S.A.B. Recycling would be classified as an indoor recycling center under zoning code. However, they are not classified taking part in recycling per WAC 173-350. If the facility does not meet the exemption criteria listed above, they may be subject to solid waste permitting requirements.

The applicant shall comply with all of the conditions of the Whatcom County Health Department unless modified by the Whatcom County Health Department or appealed to the appropriate agency.

*The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 24.*

#### **I. Title 15 - Building Code**

WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County Planning and Development Services department.

The Whatcom County Plans Examiner submitted a memo dated August 22, stating the following:

The following preliminary conditions are required for this permit. They are subject to change and additional conditions will be included when more detailed plans are submitted. These findings are based on review of the applicant's 7.13.11 Conditional Use Application, a project narrative and the following drawings: Site Plan and Floor Plan.

#### **Project description – Change of Occupancy**

Suite E-3, a 1,750sf tenant space will be used as a recycling center for non-ferrous metals. The space is located within an existing building of approximately 14,700sf. The building was originally permitted in 1995 (BLD95-00997) under the 1994 *Uniform Building Code (UBC)*. Occupancy classification was Group B – office use and construction type appears to have been Type II-NC (non-combustible).

1. A commercial building permit is required for this proposal. It will be reviewed under the 2009 *International Building Code (IBC)* and comply with all other applicable codes and ordinances adopted by Whatcom County. The permit application will be for a tenant improvement to change a portion of the building's current occupancy classification.
2. A pre-application *screening* is required prior to building permit submittal. Contact the Building Services division to schedule and for submittal requirements.
3. The following requirements/findings are from the 2009 *IBC*:
  - a) Preliminary occupancy classifications:
    - Office & restroom Business Group B
    - Warehouse/sorting room Storage Group S-2 (*low-hazard*) or Factory Industrial Group F-2 (*low-hazard*)
  - b) No change of occupancy or use shall be made in any building unless the building is made to comply with the requirements of with all current applicable codes. If the new use is less hazardous, based on life and fire risk than the existing use, the building official may waive or modify some code requirements (*IBC Section 3408.1*).
  - c) Where required, occupancy separation (fire walls) shall be constructed per *IBC Table 508.3.3*. If proposed uses are considered as non-separated occupancies, separation walls are not required.
  - d) Exits shall meet the requirements of *Chapter 10*.
  - e) Minimum plumbing facilities (restrooms) are required in accordance with WA State Amendments (WAC) to *IBC Chapter 29*.
4. Prior to application for a building permit, a special inspection of the existing facilities will be conducted by the Building Inspector and/or Deputy Fire Marshal (at the applicant's expense) to determine occupancy classification and code compliance.
5. Heating, cooling and lighting shall comply with the 2009 *WA State Nonresidential Energy Code (NREC)*. Ventilation shall comply with the 2009 *International Mechanical Code (IMC)*.
6. Storage building - storage of flammable or combustible materials and/or high-pile storage items shall comply with the *International Fire Code (IFC)*.
7. All signage (free-standing and building-mounted) requires a separate permit.

The applicant shall comply with all of the conditions of the Plans Examiner's unless modified by the Whatcom County Plans Examiner or appealed to the appropriate agency.

*The Technical Review Committee has determined that as conditioned, the proposal meets the requirements of Title 15, Whatcom County Code.*

#### **VIII. RECOMMENDATION**

The Technical Review Committee has determined that the proposed conditional use permit for S.A.B. Recycling to operate an indoor recycling center in a building located in the Cascade Business Park, complies with applicable Whatcom County regulations, including WCC 20.80.200 and WCC 20.84.220. Staff recommends the Hearing Examiner approve the proposal subject to the following conditions:

## **IX. CONDITIONS OF APPROVAL**

### **A. Planning Division**

1. Permit Changes or Modifications: The use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Business Hours: Monday through Friday, 8:00 AM to 5:00 PM.
3. Signage: The applicant shall comply with WCC 20.80.450 regarding sign requirements for the RIM zone district. A building permit shall be required for all signs.
4. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the hearing examiner.
5. Zoning Criteria: The applicant shall comply with all of the Whatcom County Zoning Ordinance criteria for lighting, noise, pollutants, odor, vibration, etc., as referenced in the staff report for this CUP and as found in WCC 20.69.
6. Local & State Requirements: The applicant shall comply with all local and state requirements and licensing including but not limited to, approval by Washington State to operate as a licensed Scrap Processor.
7. SEPA MDNS Requirements: The applicant shall comply with the SEPA Mitigated Determination of Non-significance as issued on August 29, 2011 under permit: SEPA2011-00058.
8. Fluid Containment: Ensure that all vehicle fluids are stored in closed leak-proof containers and in compliance with the Whatcom County Fire Code and Fire Marshal's requirements.
9. BMP's and Spill Control: Submit an approved Spill Control Plan, Employee Training, and a plan to utilize Optional and Structural Best Management Practices (BMP's) pursuant to the Washington State Department of Ecology and Whatcom County Environmental Health recommendations and/or requirements.

### **B. Building Services Division**

1. A building permit is required for this proposal. The permit application will be for a tenant improvement to change a portion of the building's current occupancy classification.
2. A pre-application screening is required prior to building permit submittal. Contact the Building Services division to schedule an appointment and to find out the submittal requirements.
3. Prior to application for a building permit, a special inspection of the existing facilities will be conducted by the Building Inspector and/or Deputy Fire Marshal (at the applicant's expense) to determine occupancy classification and code compliance.

### **E. Fire Marshal**

1. Fire extinguishers shall be installed on-site. Fire extinguisher size shall be 2A10BC for office and metal (D) rated for the warehouse. The locations of all fire extinguishers shall be approved by the Fire Marshal.
2. Hazardous Materials (battery storage) shall comply with the fire code. Safety data sheets and quantities shall be provided to the Fire Marshal's Office.

3. The business shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.

**F. Public Works – Engineering Division**

1. Access to the proposed facility will not be sufficient to utilize large semi or combination truck/trailer vehicles due to the layout of the parking areas and emergency access lanes.
2. The applicant shall provide proof of an updated access permit from the Washington State Department of Transportation, or a letter negating the need for such access. This shall be provided to the Whatcom County Public Works, Division of Engineering Department prior to occupancy.
3. There shall be adequate BMP's installed or retro-fitted to the catch basins to prevent pollutants from entering the storm system or septic system.

**G. Health Department**

1. Water is to be provided by the Deer Creek Water Association.
2. The applicant shall thoroughly read the exemption criteria found at <http://www.ecy.wa.gov/biblio/ecy040153.html> to determine if the business, S.A.B. Recycling is exempt from obtaining a solid waste handling permit. If the facility does not meet the exemption criteria listed above, the applicant may be subject to solid waste permitting requirements. Contact the Whatcom County Health Department and the Washington State Department of Ecology for more information.

Report prepared for the Technical Review Committee by:

Suzanne Bosman,  
Senior Planner

WHATCOM COUNTY  
PUBLIC WORKS DEPARTMENT  
FRANK M. ABART  
Director



ENGINEERING SERVICES  
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5280 Northwest Dr.  
Bellingham WA 98226-9098  
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Fax: 360.676.6558

EXHIBIT  
#19

# MEMORANDUM RECEIVED

**TO:** SUZANNE BOSMAN, Planning & Development Services

**FROM:** LEE CARTER, PW Engineering Services

**DATE:** September 9, 2011 (UPDATED 11/07/11)

**SUBJECT:** CUP2011-00010, S.A.B.Recycling, 5373 Guide Meridian (Suite E3)

NOV 09 2011  
WHATCOM COUNTY  
HEARING EXAMINER

The applicant is requesting a Conditional Use Permit in order to operate a Type I Solid Waste indoor recycling center for non-ferrous metals. The business proposes to have a total of two employees that provide purchasing and processing services to onsite customers; they also provide a pick-up service and process those materials at the business location. The facility comprises approximately 1750 sq ft of space within a larger building (BUILDING E). The site has an existing paved parking lot and two access points onto SR539 Guide Meridian. The parcel is zoned as Rural Industrial and Manufacturing (RIM).

The Guide Meridian (SR539) is classified as a State Highway and access permits are managed by WSDOT. Provide proof of an updated access permit from WSDOT based on a change of use of the existing building/facility or a letter negating the need of an updated access permit.

The following comments apply to the proposed project:

1. Access to the proposed facility will not be sufficient to utilize large semi or combination truck/trailer vehicles due the layout of the parking areas and emergency access lanes.
2. Proof of the WSDOT access permit (as noted above).
3. There shall be adequate BMP's installed or retro-fitted to the catch basins to prevent pollutants from entering the storm system or septic system. The applicant has obtained a recommendation from J.P. Slagel, P.E. as to a catch basin fixture to be installed to aid in the management of pollutant materials entering the storm water system and PW Engineering Services has agreed to the proposed installation. There shall be a Spill Control Separator (i.e. Fig 11.3-1992 Ecology Manual) installed within 90-days of the approval of this CUP with the invert elevation and overtopping elevation determined by J.P. Slagel, P.E. and a verification notice provided to PW Engineering Services (email or letter is acceptable). In the event of a spill, the catch basin shall be vactored immediately. The catch basin shall otherwise be maintained and vactored routinely with the other catch basins within the business park.
4. The proposed development is exempt from Concurrency Evaluation (WCC 20.78.030) because it will generate 9 or less new p.m. peak hr. trips in one direction, based on submitted Preliminary Traffic & Concurrency Information.
5. Whatcom County maintains the ability to monitor and require the catch basin to be cleaned out if excessive material is observed or repaired if found to be in disarray.

WHATCOM COUNTY  
PUBLIC WORKS DEPARTMENT  
FRANK M. ABART  
Director



ENGINEERING SERVICES  
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**\*\*All appropriate permits must be obtained before construction. Obtaining a county permit does not replace or over-ride other state and federal statutes and regulations that may apply to this project.**

If you have any question, please call me at 676-6730, Thank you.

**COPY**  
*Originals sent to  
Hearing Examiner's Office*