



YELLOWSTONE COUNTY ZONING COMMISSION
YELLOWSTONE COUNTY, MONTANA
Monday, June 13, 2011

SUBJECT: Special Review #322 – Pacific Steel - 4240 Neibauer Road
THROUGH: Candi Beaudry, AICP, Planning Director
FROM: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

This is a special review application to allow the location of a new scrap and waste material (auto wrecking) recycling, processing and storage of salvage inside structures and in the open including a full auto processing facility in a Controlled Industrial (CI) zone. The 16.342 acre parcel is located at 4240 Neibauer Road on the former Elk River Concrete plant and storage yard and located north and west of the old Shiloh Road overpass. The legal description is Tract 1 of Certificate of Survey 759 and the property owner is FFB, LLC and the agent is Crowley Fleck, PLLP, Kristin Omvig. Planning Staff is forwarding a recommendation of conditional approval.

APPLICATION DATA

OWNERS: FFB, LLC – Pacific Steel
AGENTS: Kristin Omvig, Crowley Fleck, PLLP
LEGAL DESCRIPTION: Tract 1, C/S 759
ADDRESS: 4240 Neibauer Road
CURRENT ZONING: CI
EXISTING LAND USE: Vacant – former Elk River Concrete plant and storage yard
PROPOSED LAND USE: New scrap processing yard and recycling facility
SIZE OF PARCEL: 16.342 acres

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Surrounding Property

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-150
Land Use: Single family homes
SOUTH: Zoning: A-1 and EGC
Land Use: Railroad, Interstate 90 and Furniture Row
EAST: Zoning: CI
Land Use: American Steel
WEST: Zoning: CI
Land Use: Anderberg Nursery

REASONS

The applicant is requesting a special review to allow the location of a new scrap processing and recycling facility. These uses require special review approval when located in a Controlled Industrial (CI) zone. Pacific Steel, currently located at 777 4th Avenue North, is considering moving the main processing and shipping facility to this location. The location at 777 4th Avenue North would be retained but would be primarily used as a consumer drop off point. Materials dropped at 777 4th Avenue North would be transferred to the new processing facility at 4240 Neibauer Road. The parcel is currently vacant but was formerly the Elk River Concrete manufacturing and storage yard until 2006. Elk River Concrete was first established in 1962 at 4240 Neibauer Road. The applicant intends to install five main areas of operations – 1) an office and drop-off area; 2) an aluminum yard, truck docks and maintenance shed; 3) a shredder for auto recycling; 4) a shredder for other materials; and 5) a shear system. The site plan shows outdoor storage for each of the three processing areas. The site access point will not be altered but new landscaping along Neibauer Road is proposed along with a perimeter fence. The applicant proposes to construct a rail spur to assist in shipping out processed recycled materials although the site will also be served by trucks for shipping and receiving. The applicant proposes to install a metal shredder that can process up to 5,000 tons of metal per month – 5 times the current capacity at its 4th Avenue North location. The shredder has the capacity to take full vehicles in for shredding. The current 4th Avenue North location is 4 acres while this new site is 16.342 acres. The Montana Department of Environmental Quality will also need to license the facility. The facility will need to meet the requirements for handling potential hazardous fluids and managing all storm water on the site.

Neibauer Road is a principal arterial street and carries approximately 1,100 vehicle trips per day. Speed limits at this location are reduced due to the location of the north curve into Shiloh Road and the stop sign at the Shiloh Road overpass. Neibauer Road appears to be sufficiently constructed to handle truck traffic. A traffic analysis was not submitted but was not required for the special review approval. The entry and exit road will not be relocated since it provides a clear vision of traffic on Neibauer Road traveling east or west.

The Planning Division has not processed a similar request in the County in recent history. There are three listed scrap yards in the Billings area and all pre-date the current zoning (1973). There was a special review (SR #236) approved in 1997 for the log home manufacturing on the south side of I-90 near the Wise Lane intersection with South Frontage Road. The Planning staff did not receive any comments from County agencies regarding this application. Additional traffic may be generated by this new use but the existing road has capacity to handle the volume. Reduced traffic speeds at this location should make turns into and out of the access point relatively safe. Water service would have to be provided by either on-site well or cistern. Wastewater treatment would be by a private on-site septic system. Water and wastewater system would be approved through local and state authorities. Storm water management would be approved through MT Department of Environmental Quality.

Planning staff reviewed this application and is recommending conditional approval. There are several industrial users in the area as well as some intense commercial uses to the east. Although the County has not processed an application for a scrap yard and recycling facility in the recent past, similar special reviews for large gravel mining operations with asphalt plants, refinery

based manufacturing and power generation facilities have been proposed in the past ten years. Similar impacts to surrounding properties can be anticipated with this application. One nearby property owner, Dan Austin of 4424 Harvest Lane, has submitted an objection to the proposed use.

Special review uses must meet three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within a zoning district where scrap processing and recycling facilities may be allowed by special review approval.

The application also conforms to the second and third criteria. The zoning regulations adopted by the Board of County Commissioners have designated only two zoning districts where scrap processing and recycling facilities may be allowed by special review approval – CI and Heavy Industrial (HI). The CI zone is intended accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.

The 2008 Growth Policy encourages new development that is compatible and similar in form and use. The existing American Steel to the east and the previous use of the property by Elk River Concrete for manufacturing and storage are compatible with the proposed use. The residential area to the north and west as well as the agricultural uses to the west are not compatible and maybe impacted, and the Planning staff is recommending several conditions to mitigate those potential impacts. The visual impact of the use to interstate traffic is also a concern and there are conditions of approval recommended to reduce this impact.

RECOMMENDATION

The Planning Division recommends conditional approval.

CONDITIONS

1. The approval shall be limited to Tract 1 of C/S 759 generally located at 4240 Neibauer Road.
2. This special review approval is for the location of a new scrap processing and recycling facility with an office and associated parking, and a new rail spur. The location will include facilities to shred, shear, bale and process all types of recyclable materials included in Standard Industrial Classification 5093 except for waste oil. No other special review use is intended or implied by this approval.
3. The development of the lot shall be in substantial conformance with the submitted site plan from Sanderson Stewart dated May 2, 2011. Minor adjustments to the location of parking spaces, the office building or internal driveways are allowed.
4. The development of the lot for landscaping compliance will include the landscaped berms along Neibauer Road and near the main access drive. The landscaping shall also include the trees and shrubs, at a minimum, as shown on the submitted site plan from Sanderson

- Stewart dated May 2, 2011. Seventy-five percent (75%) of the bermed and landscaped area along the Neibauer Road frontage must be living materials. All landscaped area shall be continuously maintained and dead material will be replaced within the same growing season. Minimum caliper at chest height for all trees will be 1 ½ inches at the time of planting. Minimum container size for all shrubs shall be 1-gallon at the time of planting.
5. The perimeter fence shall be a minimum of 8 feet in height. The fence wherever it abuts or parallels a public right of way including the railroad right of way must be a sight obscuring fence. This sight obscuring fence may be chain link with opaque inserts. All gates must also be made of sight-obscuring materials. All sight-obscuring fence materials must be non-reflective material. If the perimeter fence will have barbed wire or sharp wire, the the barbed or sharp wire will be mounted above the top of the fence.
 6. No scrap storage pile outside of an enclosed building will exceed the height of the adjacent or nearest perimeter fence unless located 50 feet or more from such perimeter fence. No scrap storage pile outside of an enclosed building shall exceed 35 feet in height regardless of its location on the site.
 7. All exterior lighting shall have full cut-off shields so light is directed to the ground and not on to adjacent property. No part of the lense fixture or light element will project below the light shield.
 8. Hours of operation are restricted to 7 AM to 7 PM daily.
 9. All areas around the office, drop off area, the parking areas, the aluminum yard and maintenance shop will be paved with asphalt or cement. Other areas of the site need not be paved.
 10. Unpaved portions of the site will control dust on a routine basis.
 11. The proposed pylon sign on the southwest corner of the site will not exceed 35 feet in height from grade at the sign location. The sign will comply with all other parts of the County sign code including the requirement to submit a sign permit application.
 12. The operator of the site shall appoint an individual to act as a contact person. Complaints about failure to comply with these conditions shall be directed to that person in writing as a first step in resolving the problem. Failure to reasonably address the complaint will be considered a violation of the conditions of approval.
 13. The proposed development must comply with all other zoning requirements including but not limited to landscaping (Section 27-1100), off-street parking (Section 27-1200), and the County sign code (Article X).
 14. The proposed development shall comply with all other limitations of Sec. 27-613 concerning special review uses.
 15. Within 36 months of special review approval, the applicant shall submit a zoning compliance permit and receive approval of such permit from the Planning Division prior to construction of any building, installation of pavement, landscaping or fencing.
 16. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
 17. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations. Enforcement of the regulations and conditions shall be as set forth in Section 27-1601 et seq. of the Unified Zoning Regulations.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, zoning compliance permit, sign permit, or fence permit. Compliance with all applicable local codes will be reviewed at the zoning compliance permit level.

ZONING COMMISSION ACTION

The County Zoning Commission shall make a recommendation to the Board of County Commissioners to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Resolution;
2. Is consistent with the objectives and purposes of the County Zoning Regulations and the Growth Policy;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting;
8. Noise, vibration, air pollution and similar environmental influences.

The proposed use fits with the existing industrial land uses on neighboring properties to the east and south. The proposed land use complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns.

Approval of this special review is consistent with neighboring properties to the east and south. One special review has been approved for a log home manufacturer south of the interstate. Impacts to adjacent residential zones to the north will be minimized by a landscaped berm along the Neibauer Road frontage. Neibauer Road is a principal arterial street and should have the capacity to handle the truck and vehicle traffic in and out of the site. A new rail spur will provide shipping access for processed recycled

materials. Compliance with the conditions of approval will ensure compatibility with the neighborhood.

- Goal: New developments that are sensitive to and compatible with the character of existing neighborhoods.

The proposed use is consistent with the surrounding commercial and industrial developments and consistent with the zoning. The lot is large enough to accommodate the facility. The area is not within the annexation limits of the city but is included in the area to be considered at a future time.

ATTACHMENTS

Attachment A: Zoning Map

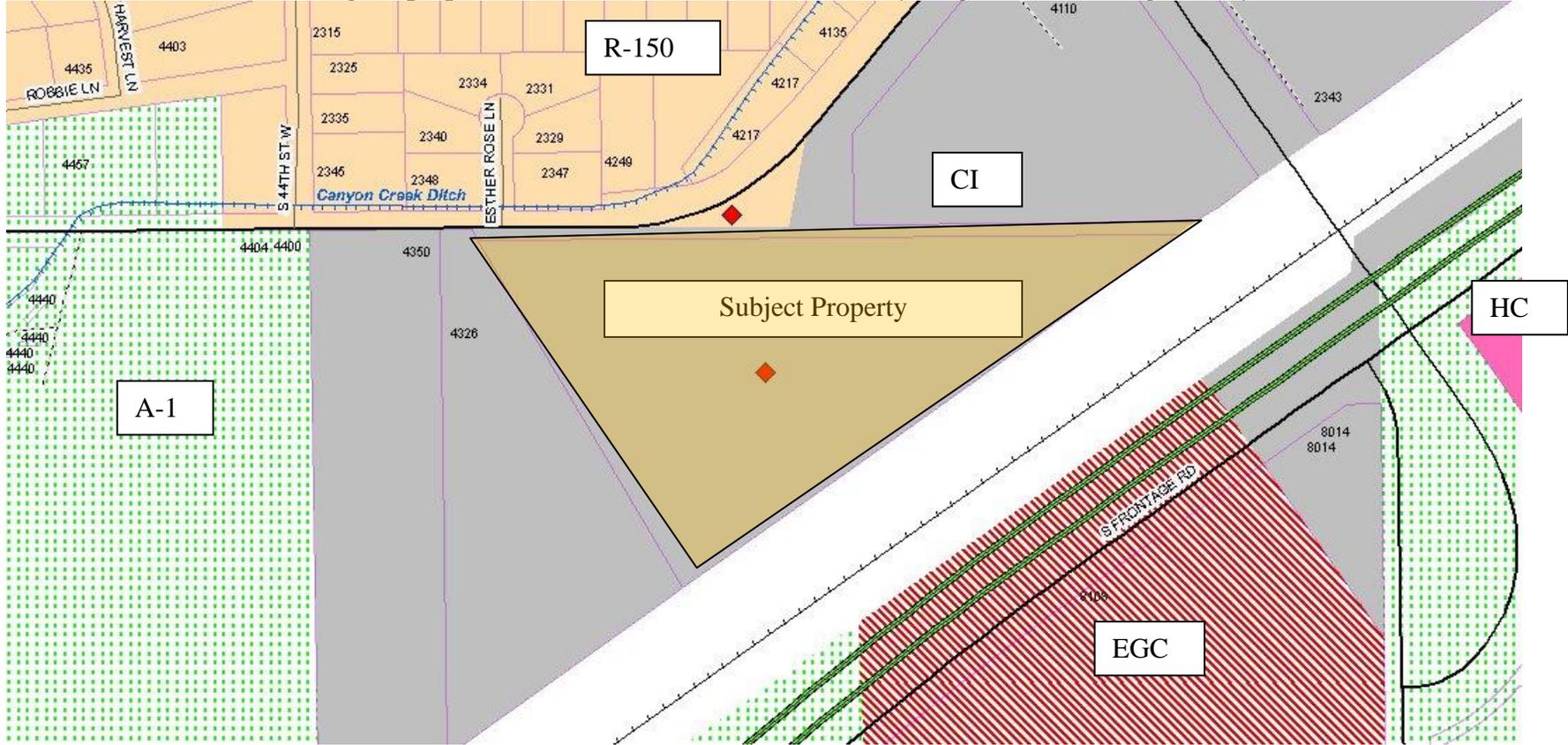
Attachment B: Site Plan

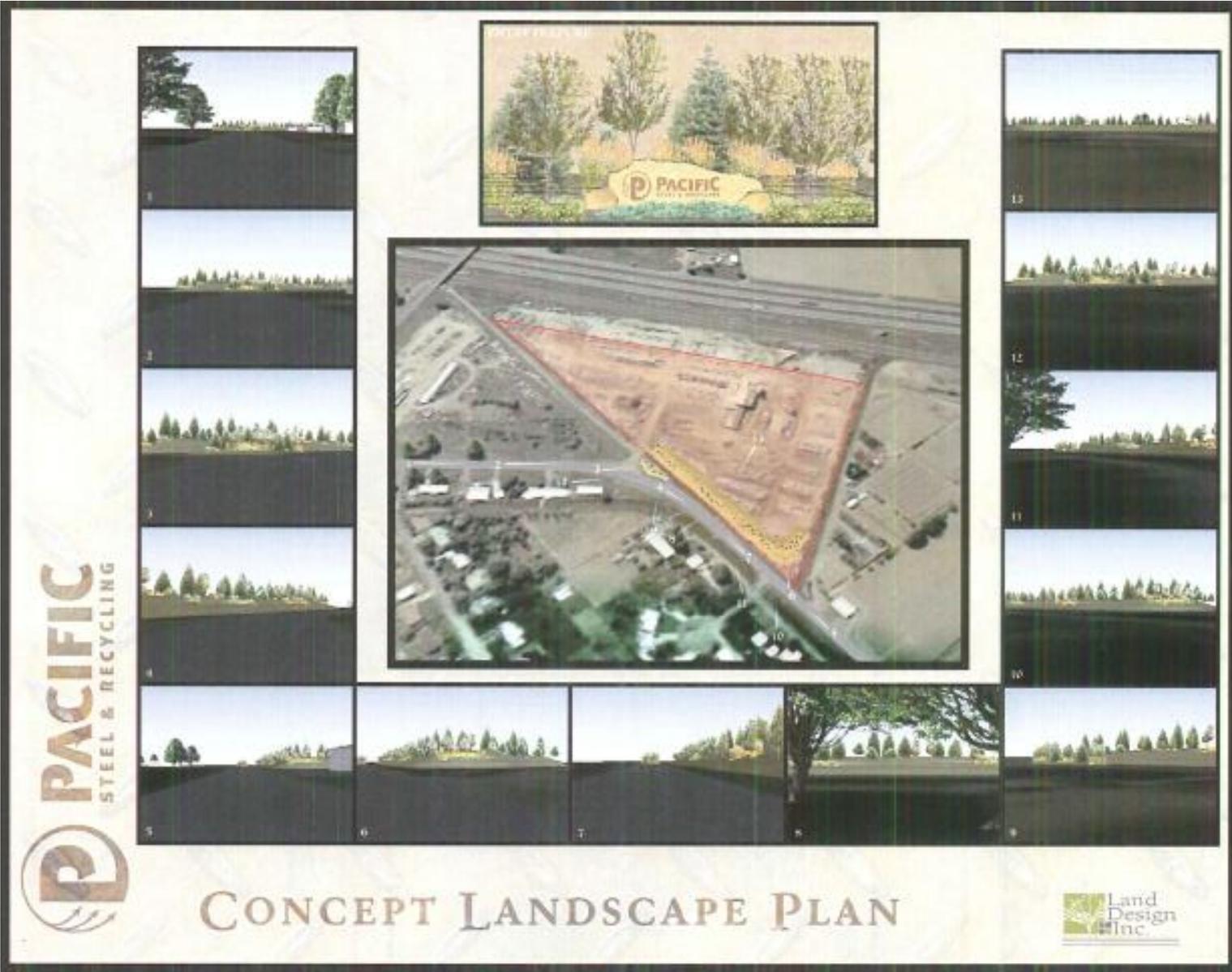
Attachment C: Site Photos

Attachment D: Applicant's Letter and exhibits

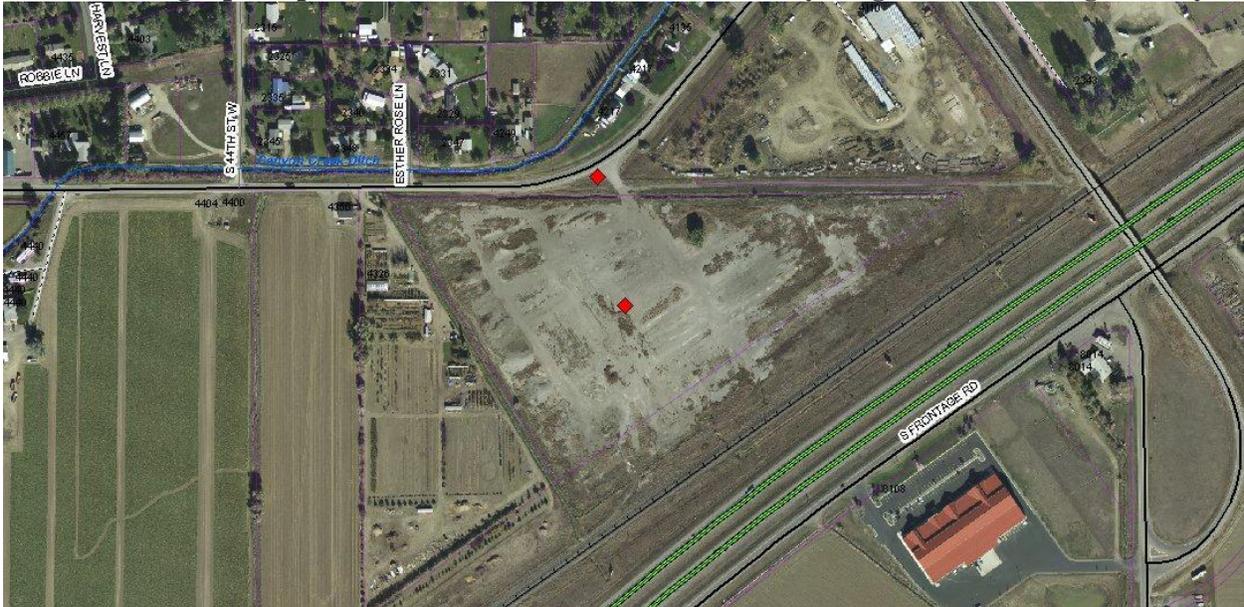
Attachment E: Letter of Opposition from Dan Austin

Attachment A
Zoning Map Special Review #322 – Pacific Steel Recycling and Processing Facility





Attachment C
Site Photographs Special Review #322 - Pacific Steel Recycling and Processing Facility



Subject Property – aerial view



May 2003 – Elk River Concrete operation view east along Neibauer Road



Elk River Concrete operations view west from overpass



Elk River Concrete operations view south and east along Neibauer Road

Attachment D
Applicant's Letter Special Review #322 – Pacific Steel Recycling and Processing Facility

SPECIAL REVIEW SUBMITTAL
4240 Neibauer Road
Billings, Montana

May 2, 2011

QUESTION 1: IN WHAT WAYS IS YOUR PROPOSAL CONSISTENT WITH THE GOALS AND POLICIES OF THE ADOPTED GROWTH POLICY?

A. THE PROPOSED SPECIAL REVIEW IS CONSISTENT WITH THE GOALS AND POLICIES OF THE ADOPTED GROWTH POLICY.

The subject property located at 4240 Neibauer Road, Billings, Yellowstone County, Montana, is a triangular shaped parcel of land adjacent to Neibauer Road and Montana Rail Link Railroad. (See attached Exhibit "A".) It consists of approximately a total of 14.0 acres, more particularly described as 4240 Neibauer Road, Billings, Yellowstone County, Montana (the "Property"). The Property is unique given its size and location next to an existing rail line making it easily accessible for rail transportation. Of significance, the Property was purchased in 1962 by Elk River Concrete for use as a concrete pipe storage and manufacturing facility. Buildings were placed on the Property in 1970 (6,000 SF) and 1975. From 1962 to 1970 the Property was used primarily for the outdoor storage of a volume of concrete piping. (See Exhibit "B".) In approximately 1970, Elk River Concrete also began manufacturing concrete pipes at the site and continued to do so until 2006 when it sold the facility to FFB, LLC, a South Dakota limited liability company. After the 2006 sale, the buildings were leveled.

The Property is zoned *Controlled Industrial*. It is bordered to the north by Neibauer Road, a minor arterial, and a narrow County road. Some adjacent properties are also zoned *Controlled Industrial*. A former steel fabrication property also lies to the north, along with a warehouse and outside storage facility. The Montana Rail Link Railroad runs along the south side of the Property. A tree farm and nursery is located to the west. The overpass lies to the east. Approximately two (2) residences lie directly north of the Property on the other side of Neibauer Road and the County road. A residential area lies beyond to the north.

Pacific Steel and Recycling ("Pacific Recycling") is the Intermountain Northwest's largest Steel Service Center and Scrap Metals Recycler. It is an employee owned corporation headquartered in Great Falls, Montana, and has 42 branch offices located in Washington, Idaho, Utah, Nevada, Wyoming, South Dakota, North Dakota, Colorado, and Montana. Approximately 22 employees are at the Billings location. The proposed new facility will initially increase employment by 8-10 people, and as many as 18 or more in the future. Its offices are uniquely committed to serving their communities by providing exceptional steel and recycling services while supporting local schools, youth sports teams, and charitable causes. Pacific Recycling is driven by the desire to develop long-term, successful relationships with its customers, vendors,

employees, communities and the mills, treating each as a vital business partner. In general, Pacific Recycling facilities offer steel processing services and steel products including but not limited to steel tubing and pipe products, bar products and structurals, concrete reinforcing, flat rolled products, expanded metal and grating and stainless steel and aluminum products. It also offers recycling services emphasizing eco-friendly recycling. Customer testimonials are attached hereto as Exhibit "C". Pacific Recycling is an avid supporter of Earth week and shows its Passion for the World Around Us offering specials for customers' recyclables.

The Billings office is currently based at 777 4th Avenue North, Billings, Yellowstone County, Montana. Its current general business hours are from 8:00 a.m. to 5:00 p.m. (Monday through Friday) and 8:00 a.m. to 2:00 p.m. (Saturday), which may vary seasonally. Pacific Recycling has expressed an interest in expanding its downtown Billings business to the Property, subject to grant of a special review with reasonable conditions. Its business operations and activities are consistent with the Property's underlying zoning, as well as general land uses in the area. More particularly, Pacific Recycling is engaged in the processing to mill specifications of metals (including but not limited to steel, aluminum, automobiles, appliances, copper and brass), cardboard, plastic, newspapers, magazines and car batteries for shipment to mills and export yards. Processing equipment includes the use of, but is not limited to shearers, cutting torches, shredder machines and balers. In sum, materials are received on site, processed, stored in piles and are then moved off site via rail or truck to mills or export yards.

Recycling is a significant part of preserving the future of our Earth for generations to come. Scrap recyclers supply 40% of the world's raw material needs in the form of specification-grade products. A third of all the U.S. aluminum supply comes from recycled materials. Recycling one ton of steel conserves 2500 lbs. of iron ore, 1400 lbs. of coal, and 120 lbs. of limestone. Further, scrap recycling employs over 85,000 people in the United States and has been creating "green jobs" for decades. ISR Image Tool Kit, Institute of Scrap Recycling Industries, Inc. (2008). In 2007, the scrap recycling industry recycled 150 million tons of materials creating savings in both energy and natural resources. (*See* also attached Exhibit "D".)

The purpose of the Request and Special Review Application (the "Special Review") is to obtain authorization and approval to allow for the processing and storage of metals (including but not limited to steel, aluminum, automobiles, appliances, copper and brass), cardboard, plastic, newspapers, magazines and car batteries for shipment to mills and export yards. This use of the Property is supported by the governing regulations. If the Special Review is granted with reasonable conditions, Pacific Recycling anticipates moving its primary processing operations to the Property. The current 777 4th Avenue North location would remain a buy back center which would provide customers with the convenience of dropping off materials at the site. Materials received at the 777 4th Avenue North location would be moved to the west end Property for processing, thereby reducing the impact and size of materials at the current location. The business expansion would also translate into increased tax revenues as well as generating new skilled jobs in the Billings market expected to range from \$15 to \$22 per hour for skilled jobs including mechanics, CDL drivers, warehousemen, equipment operators and the like.

The 2003 Yellowstone County Growth Policy Plan (the “Plan”) recognizes that growth and change will occur in Yellowstone County. (“*Our choice is not whether we grow, but how well we will grow. The general vision for our community is one where there is a quality of life that attracts people who have capital, skills, knowledge, and creativity. Our community should ideally offer a wide range of opportunities to live, work, learn and play. We agree we want our children to find future jobs here so they remain in our community.*”) (Plan p. 1.) The Plan also recognizes that “[g]rowth pressures are being felt, particularly to the west and northeast of Billings.” (Plan p. 14; see also p. 23.) Growth necessitates change. And, the Plan recognizes that change is appropriate in order to adapt to the realities of growth. “*The Growth Policy directs basic policy choices and provides a flexible framework for adapting to real conditions over time.*” (Plan p. 2.)

1. **Predictable Land Use Decisions that Are Consistent with Neighborhood Character and Land Use Patterns.** (Plan Goal 1, p. 5.) Land Use Goal No. 1 encourages preservation of neighborhood integrity, empowerment of neighborhood groups and consistency in land use patterns. *Id.* The requested Special Review promotes this goal. The Property is located within a *Controlled Industrial* zone which allows scrap and auto wrecking with a special review. The Special Review seeks to allow the processing and storage of recyclable materials on the Property, as more fully set forth on Request for Special Review. That is a logical and predictable extension of the Property’s prior use and is consistent with area land use patterns.

Consider the area’s existing land use mix: The Property is zoned *Controlled Industrial*. It is bordered to the north by Neibauer Road and a narrow County road. A former steel fabrication property also lies to the north along with a warehouse and outside storage facility. The Montana Rail Link Railroad runs along the south side of the Property. A tree farm and nursery is located to the west which is also zoned *Controlled Industrial*, along with the former fabrication facility. The overpass lies to the east. Two residences and a residential area exist to the north on the other side of Neibauer Road and the County road.

The Property’s prior use supports the Request for Special Review: From 1962 to 1970, the Property was used primarily for the outdoor storage of a volume of concrete piping. (*See Exhibit “B”.*) Concrete industries also require a special review in a *Controlled Industrial* zone. In approximately 1970, Elk River Concrete also began manufacturing and storing concrete pipes at the site and continued to do so until 2006. Approval of the Special Review is reasonable and permissible under the local ordinances, rules and regulations. Processing of metal, paper and plastic products is not detrimental to the health, safety or general welfare of the community. Nor, is it an unreasonable use of the Property that exists in an area of mixed uses. In fact, it is one of the only sites of sufficient size, with rail access, for Pacific Recycling’s operations. Clearly, Pacific Recycling’s proposed operations are a logical addition to the area.

2. **New Developments that are Sensitive to and Compatible with the Character of Adjacent City Neighborhoods and County Townsites.** (Plan Goal 2, p. 6.) Land Use Goal No. 2 promotes compatible uses in areas adjacent to existing city neighborhoods in an effort to maintain a high quality of life for new and existing residents, reduce conflicts between neighbors and improve the appearance of land uses. *Id.* While this is not a “new development,” per se, the

proposal is compatible with the character of the neighborhood and prevents commercial sprawl by revitalizing an already existing *Controlled Industrial* property.

Pacific Recycling is engaged in the processing of metals (including but not limited to steel, aluminum, automobiles, appliances, copper and brass), cardboard, plastic, newspapers, magazines and car batteries for shipment to mills and export yards, which typically includes and requires an office space, warehouse and processing areas and storage area, with exterior bulk storage of materials, including steel products, on the premises. The proposed use of the Property is sensitive to, and compatible with, the character of the adjacent neighborhoods. Neighbors include Montana Rail Link, a tree farm and nursery, and a storage facility. All of these businesses activities are commercial in nature.

Two residences and a residential area lies to the north of the Property. Neibauer Road lies between the Property and the residential area. Pacific Recycling anticipates a site plan designed to reduce visual effects so that the requested Special Review will not significantly impact that neighborhood. The interstate, a railroad right of way, power poles and the like currently exist in the area. The anticipated landscaping site plan includes the future placement of fencing, berms, trees and vegetation to reduce visual impact to neighbors and those traveling along the interstate and neighboring arterials. (*See* attached Exhibit "E".) The design plan also anticipates lighting which will be sensitive to neighboring properties.

Pacific Recycling is mindful of environmental impacts, including those related to groundwater impact. Pacific Recycling complies with all federal, state and local regulations and is subject to water permitting requirements issued by the Montana Department of Environmental Quality. The site plan design also addresses those concerns.

Pacific Recycling has adopted and adheres to environmental policies and operating practices wherein it has dedicated itself to responsible and environmentally safe operating procedures and practices through compliance with all applicable local, state, and federal environmental laws and regulations. In doing so, Pacific Recycling has adopted industry developed comprehensive environmental operating guidelines and operating practices for the safe processing of recyclable materials and disposal of organic compounds including but not limited to petroleum, oil and lubricants. Petroleum products are contained on site and disposed of without impact to the natural environment. Further, Pacific Recycling adheres to and complies with the Clean Air Act and regulations pertaining to the recovery of refrigerant and similarly defined products.

Storm water management

The proposed site development will be subject to the requirements of the Montana Department of Environmental Quality (DEQ) for management of storm water discharge from the site. DEQ issues specific permits associated with industrial activities, including the proposed use, categorized by DEQ as scrap recycling.

Storm water discharge permits associated with industrial activity have increased levels of management and monitoring requirements over a non-industrial discharge permit. Permit holders

are required to plan, implement and monitor a storm water pollution prevention plan that is specifically designed for the site and type of activity. The proposed site will be paved at all material handling areas, potential contaminant activities such as the motor block stockpile area will have storm water containment and oil/water separators.

The intent of the DEQ storm water management requirement is to eliminate or minimize the discharge of pollutants to surface waters through the development of a storm water management plan and implementation of the best management practices outlined within the plan.

Traffic

Shiloh Road and Neibauer Road are both classified as principal arterials by the Billings urban area functional classification map. The proposed site development will utilize the existing approach on Neibauer Road for access to the site. This approach location has been utilized for a number of years by the Elk River Concrete manufacturing operation. The proximity of the adjacent principal arterial roadway and the I-90 corridor allows for convenient access by customers and truck deliveries to the site, with minimal impacts to residential neighborhoods.

The proposed site is has rail service available. Site development will include construction of a rail spur to service the facility. Outbound rail transport of recycled materials will help minimize trucking operations from the site.

3. **Contiguous Development Focused in and Around Existing Population Centers Separated by Open Space.** (Plan Goal 4, p. 6.) Land Use Goal No. 4 encourages contiguous development focused in and around existing population centers separated by open space. According to the Plan, this Goal ensures the continued functionality of natural systems, use of City and County resources in a cost effective manner, and creates attractive communities. The requested Special Review also promotes this Goal. This is a unique piece of property, that is triangular in shape and which borders Neibauer Road and the Montana Rail Link Railroad. Further, it is unique given its size and location next to the rail line.

Special review would ensure the re-occupancy and continued viability of the Property. The existing zoning allows scrap and auto wrecking with a special review. By way of special review, you are being asked to approve use of the Property for purposes of scrap and waste materials (auto wrecking), recycling, processing, storage, and salvage yard for both indoor and outdoor operation, including full auto processing on the Property. Open space is not being eliminated or changed. Rather, grant of the Special Review, as requested, around an existing population center and is consistent with the land use patterns in the area.

4. **More Housing and Business Choices within each Neighborhood.** (Plan Goal 6, p. 6.) Land Use Goal No. 6 encourages more housing and business choices within each neighborhood. *Id.* This Goal seeks to improve the quality of life; encourage more live-work environments; reduce commuting and subsequent drain on natural resources; and to develop more self-contained neighborhoods. *Id.* The requested Special Review promotes this Goal by offering a continued business choice and quality products to area residents. The expansion of existing businesses in our community creates jobs and business opportunities for residents, adds

revenues to our tax base, reduces commuting and the subsequent drain on natural resources and ultimately improves our quality of life. (Plan p. 46.) Expansion of the Pacific Recycling site will allow it to offer more services, including but not limited to a metal shredding operation which will increase skilled jobs in the Billings market. The metal shredding operation would be the first of its kind in the state of Montana and would afford scrap yards in Montana and Wyoming the choice of processing items such as automobiles through the shredder. For example, installation of the shredder would allow the processing of 5,000 tons of metal per month, as opposed to 1,000 tons per month under current processes. That process would logically translate into higher production of processing, lower shipping costs and would create more jobs in the Billings, Montana, area.

Customers patronize the Billings, Montana, Pacific Recycling location from as far as Sheridan and Cody, Wyoming. Expansion to the Property also provides the west end of Billings with a recycling option for communities such as Laurel, Red Lodge, Columbus, Park City, and beyond, as no recycling options currently exist on the Billings west end. The Special Review promotes Plan Goal No. 6.

* * * * *

The Plan recognizes that “[t]he economy has a central role in determining and maintaining the quality of life in our community.” (Plan p. 46.) The Special Review also supports the following “**Economic Development Goals:**”

1. **Coordinated Economic Development Efforts that Target Business Recruitment, Retention, and Expansion.** (Plan Goal 1, p. 6.) Economic Development Goal No. 1 encourages the improvement of the quality of life for residents, strengthening of the economy and the creation of living-wage jobs. *Id.* This area is primarily commercial in nature and is expected to experience more growth in the future. “[T]he primary residential and commercial centers are located in Billings, Laurel and Lockwood and to a lesser extent, the communities of Custer, Shepherd, Huntley, Worden, Ballantine, Pompey’s Pillar and Broadview.” (Plan pg. 14.) With further growth anticipated, the Plan supports business recruitment, retention and expansion of all businesses, including businesses such as Pacific Recycling. Indeed, given the significant growth Billings has experienced in the past twenty (20) years, Pacific Recycling is a prime example of the type of business Billings hopes to recruit and retain. Expansion of the Pacific Recycling site will allow it to offer more services, including but not limited to a metal shredding operation. The metal shredding operation would be the first of its kind in the state of Montana and would afford scrap yards in Montana and Wyoming the choice of processing items such as automobiles through the shredder. For example, installation of the shredder would allow the processing of 5,000 tons of metal per month, as opposed to 1,000 tons per month under current processes. That process would logically translate into lower shipping costs and would create more jobs in the Billings, Montana, area.

Pacific Recycling not only creates local jobs, but may also directly and indirectly impact individuals, businesses and the community as a whole, without changing the character of the Property. “A strong economy provides economic opportunity to our citizens by creating jobs and business opportunities. Earnings from these activities are recycled in our community in the

form of retail purchases, housing, business and personal investments, charitable giving, spending on recreation and in many other ways. In turn, earnings and the assets that they purchase help to create a tax base that pays for schools, public safety services, parks, roads and other community services, facilities and amenities.” (Plan p. 46.)

2. **Increase the Median Income and Households and Individuals.** (Plan Goal 2, p. 7.) Economic Development Goal No. 2 focuses on improving the quality of life for residents, attracting and retaining skilled labor, and reducing dependency on social programs created by a lack of living-wage jobs. Businesses such as Pacific Recycling create jobs that impact living wage jobs both directly and indirectly. The Plan recognizes the importance of recruiting and retaining businesses and their long term effect on the Billings’ economy: *“[e]arnings from these activities are recycled in our community in the form of retail purchases, housing, business and personal investments, charitable giving, spending on recreation and in many other ways. In turn, earnings and the assets that they purchase help to create a tax base that pays for schools, public safety services, parks, roads and other community services, facilities and amenities.”* (Plan p. 46.)

3. **Attractive and Accessible Communities.** (Plan Goal 3, p. 7.) Economic Development Goal No. 3 promotes: getting businesses to locate to Billings and gateway areas, reducing travel time through town, conveying a business friendly attitude, and increasing the visual appeal of our highway and railroad corridors. *Id.* Likewise, the proposed Special Review also promotes the existence of businesses along gateway areas such as Laurel and Park City, thereby offering consumers in these growing areas additional business choices, while creating a community that is more attractive and accessible to residents and businesses alike.

There will be minimal impact upon goals relating to aesthetics, natural resources, open space and recreation, transportation, public services or cultural and historic resources. In addition, grant of the Special Review will allow Pacific Recycling to expand its operations from its current site located at 777 4th Avenue North, Billings, Yellowstone County, Montana, which contains approximately 4.0 acres to the Property which contains approximately 14.0 acres. That expansion will move the processing operations to the Property, thereby decreasing the visual impact at the current site.

The Plan recognizes that a shift is occurring from a town center commercial land use pattern to other land use patterns, such as neighborhood commercial nodes. *“This traditional commercial pattern is truly a neighborhood center designed to serve and be part of the surrounding residential neighborhoods.”* (Plan p. 27.) *“[I]t is further the intent to encourage unique development or re-development through a flexible, timely and efficient process.”* City of Billings and Yellowstone County Jurisdictional Area Unified Zoning Regulations § 27-1301 (2005). Residential and commercial land uses may co-exist in a compatible manner. And, in fact, history shows they have coexisted in this area for years. Elk River Concrete previously operated at the Property for over forty (40) years. Billings has experienced significant growth in the past twenty (20) years. Economic growth history and trends suggest that growth will continue in Yellowstone County. Pacific Recycling provides a business choice not only for residents in the immediate area, but also the communities of Billings, Laurel, Park City, Molt,

Huntley, Worden, Shepherd, and Ballantine, while utilizing property already commercial in nature. It also serves the states of Montana and Wyoming.

QUESTION 2: WHY IS THERE A NEED FOR THE INTENDED USE OF THE PROPERTY AT THIS LOCATION?

B. THE SPECIAL REVIEW IS NECESSARY TO FACILITATE THE RELOCATION OF PACIFIC RECYCLING.

The proposed Special Review is necessary, in part, to respond to the changing needs of a growing population and the changing land use patterns in an area that is transitioning to a commercial goods and service center. The Property has been vacant since approximately 2006. Pacific Recycling desires to expand its operations to the Property, subject to reasonable approval of the Special Review. It is engaged in the purchasing and processing of recyclable materials.

The Property is located within a *Controlled Industrial* zone. It is already developed as commercial property. Grant of the Special Review is needed at this Property and it promotes, among other things:

- the Plan by continued occupation and development of an already existing *Controlled Industrial* building site;
- the Plan by its consistency with neighboring land use patterns while reducing commercial sprawl;
- positive impacts for Billings' residents and the economy (as well as surrounding communities) by the creation of jobs, creation of business opportunities, convenience for users and providing quality products; and
- encourages the retention and recruitment of quality businesses within our community.

QUESTION 3: HOW WILL THE PUBLIC INTEREST BE SERVED IF THIS APPLICATION IS APPROVED?

C. THE PUBLIC INTEREST WILL BE SERVED BY INCREASED CHOICE OF PRODUCTS, ADDITION OF LOCAL JOBS, INCREASED REVENUES AND THE LIKE.

If the Application is approved, without unreasonable conditions, it would allow the expansion of Pacific Recycling to the Property. The public interest is served by providing amenities to meet the needs of the general public. Businesses such as Pacific Recycling create jobs that impact living wage jobs both directly and indirectly. In addition, the general welfare and well being of area residents is promoted by potential job creation and increase in business choices. The Plan forecasts future growth in this area. It also recognizes the importance of recruiting new businesses: "*[e]arnings from these activities are recycled in our community in the form of retail purchases, housing, business and personal investments, charitable giving, spending on recreation and in many other ways. In turn, earnings and the assets that they*

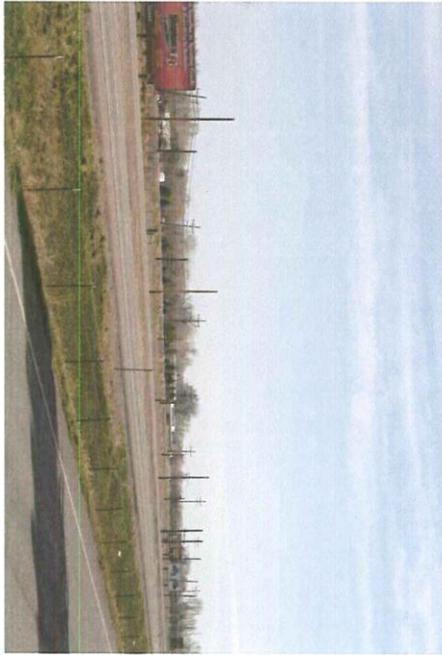
purchase help to create a tax base that pays for schools, public safety services, parks, roads and other community services, facilities and amenities.” (Plan p. 46.) Focusing commercial development in this area is convenient for users, reduces commercial sprawl and reduces the distances consumers have to travel for goods and services.

Retention of Pacific Recycling, in particular, serves the public interest by providing quality steel and recycling opportunities to residents and locals who patronize our community while creating jobs. Increased employment, of any type, benefits local residents. Increased employment means more wages are paid and there is an increase in dollars to be spent at local businesses. Grant of the Special Review will also revitalize a property that is currently vacant, while concentrating commercial businesses in an already existing commercial area, as opposed to creating commercial sprawl into undeveloped areas.

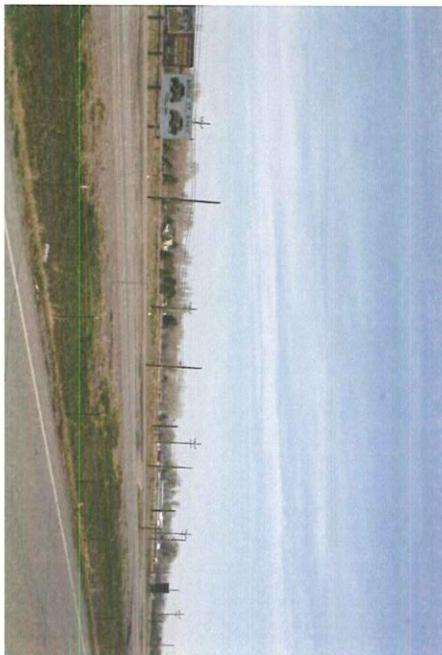
D. INTENDED USE OF THE PROPERTY AS PACIFIC RECYCLING.

Pacific Recycling, a Great Falls based business, desires to locate to the Property if reasonable special review is approved. Its business operations and activities are consistent with the Property’s underlying zoning, as well as general land uses in the area. More particularly, Pacific Recycling is primarily engaged in the processing to mill specifications of metals (including but not limited to steel, aluminum, automobiles, appliances, copper and brass), cardboard, plastic, newspapers, magazines and car batteries for shipment to mills and export yards. It anticipates expanding its operations once receiving the Special Review to include a shredder operation. Recycling is an important part of preserving our resources for generations in years to come. As technology changes Pacific Recycling expects to adjust to meet changing needs and processes. Grant of the Special Review will afford it, and its customers, those options and possibilities.

INTERSTATE VIEW



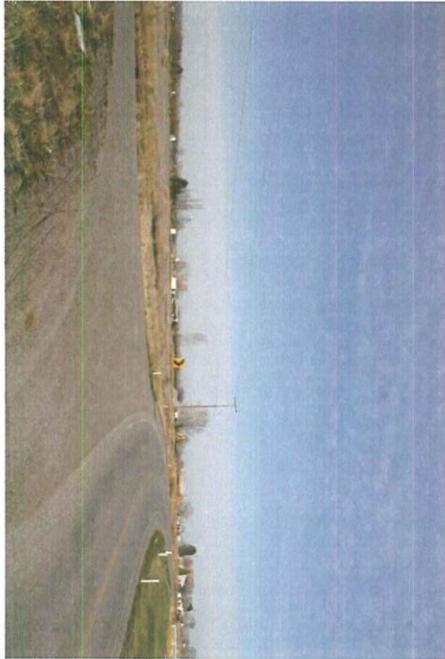
Billboard, Power Lines, and Tracks



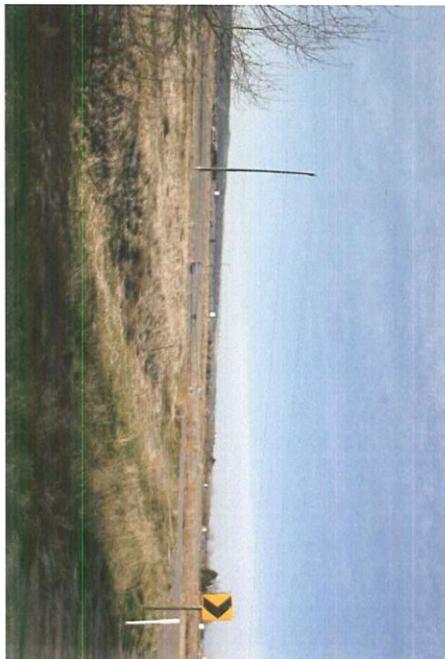
Billboards and Traffic



NEIBAUER ENTRY VIEW



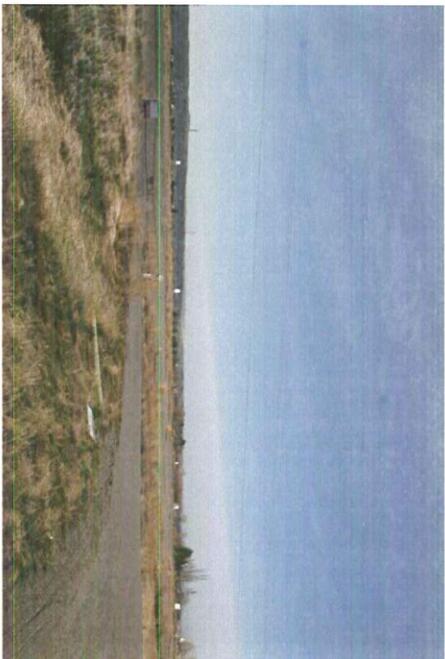
Property Entry and Neibaauer Road



Property Entry

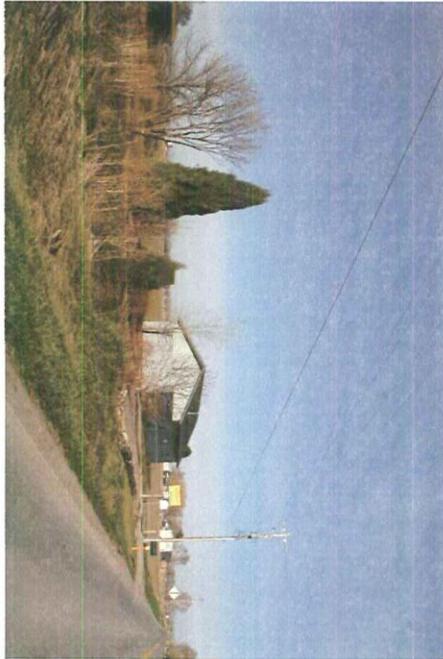


Property Entry - Looking South/East



Property Entry - Looking South/West

NEIBAUER NEIGHBORS



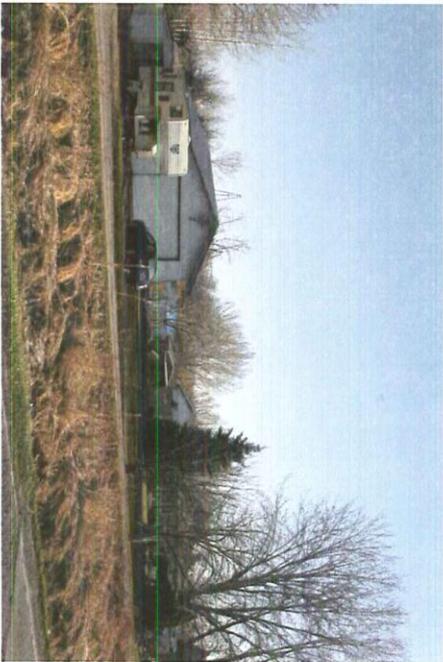
Tree Farm/Nursery on West Side



North of Road – Warehouse / Open Storage



North of Road – House with Horse Corral



North of Road – House with Open Storage

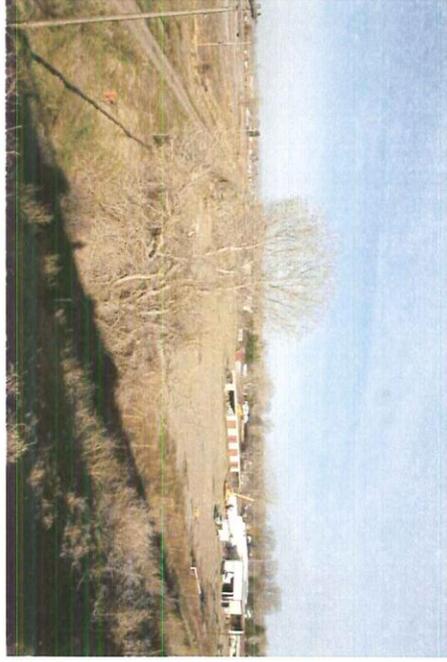
OVERPASS VIEW



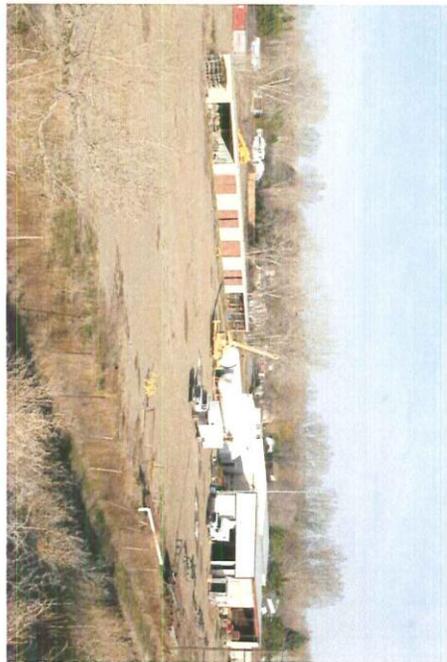
View from Overpass on East Side



Interstate, Tracks, Power Lines and Billboards



Steel Yard Neighbor on North Side



Steel Yard Neighbor































Attachment E
Letter of Opposition - Pacific Steel Recycling and Processing Facility

From: Dan Austin <dan@austinlehman.com>
Sent: Friday, June 03, 2011 2:22 PM
To: Cromwell, Nicole; Dan Austin
Subject: RE: Upcoming Special Review #322

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Nicole,

Your name was given to me to submit the following letter/comments regarding County Special Review #322, Project: 11-216

Please take a minute and review the following note regarding the above captioned forthcoming review. I plan on digging in a bit deeper and working within the neighborhoods effected, but wanted to give you a quick heads-up so that you had an idea what was to come. Thank you in advance for your time and consideration. With all due respect, my first request would be to grant an extension of this hearing so that the residents being so adversely effected have time to respond.

That said, It has come to my attention and that of my neighbors that there is a Public Hearing Schedule for June 13th and a follow up County Commission Public Hearing on June 28th to review and approve or deny the request to locate a scrap processing and recycling facility at 4240 Neibauer Road. I am sure you are aware that over the years this area has moved in the direction of residential with existing agricultural lands still being farmed.

I would be hard pressed to picture a more inappropriate business then to establish a recycling center in this area. Self serving as I live in the area, perhaps a little. But more importantly it is time Billings and Yellowstone County gave considerable thought to our collective foot print and planned accordingly. Again as I am sure you are aware we have recently completed the Shilo Corridor.. a wonderful example of the direction Billings should be going.. this landscaped tribute to proper planning is a main corridor opening up this section of the west end to high end planned communities (as well as the existing neighborhoods already long established). Myself, my family and my neighbors have all just started enjoying the pleasant bike trails along Shilo taking us to work, shopping and recreation.

Conversations with realtors representing this area have made it clear that housing values with absolutely be negatively affected. One will have to learn to deal with the noise, smells, the constant eye sore and traffic associated with scrap yards. Is this something one wants to see mixed in with the tranquil farms and neighborhoods?

This corridor is a peaceful and established gem within Yellowstone County, something we can all be proud of. Would you want the below as a neighbor?



As I noted, I will get busy and start working on a more formal approach to protest such a development, I just wanted to give you the benefit of as much notice as possible.

And again, thank you for your time and consideration, your efforts to make Yellowstone County all it can be have always been appreciated.

[Dan Austin](#)

Director | Austin-Lehman Adventures

Phone: 800.575.1540 | Cell: 406-671-6067