

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY

DEPT: Planning And Community Development BOARD AGENDA #: 9:00 a.m.

AGENDA DATE: October 25, 2016

**SUBJECT:**

Continuation of the October 18, 2016 Public Hearing to Consider the Planning Commission's Recommendation for Revocation of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc., Located at 522 and 524 South 9th Street, North of Hosmer Avenue, in the Ceres Area

BOARD ACTION AS FOLLOWS:

No. 2016-537

On motion of Supervisor DeMartini, Seconded by Supervisor Chiesa  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

ATTEST: Elizabeth A. King  
ELIZABETH A. KING, Clerk of the Board of Supervisors

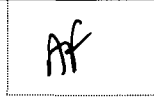
File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Planning And Community Development

BOARD AGENDA #: 9:00 a.m.

Urgent  Routine



AGENDA DATE: October 25, 2016

CEO CONCURRENCE: \_\_\_\_\_

4/5 Vote Required: Yes  No

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**SUBJECT:**

Continuation of the October 18, 2016 Public Hearing to Consider the Planning Commission's Recommendation for Revocation of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc., Located at 522 and 524 South 9th Street, North of Hosmer Avenue, in the Ceres Area

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**PLANNING COMMISSION RECOMMENDATION:**

1. Continue the public hearing to consider the Planning Commission's recommendation for revocation of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc., located at 522 and 524 South 9<sup>th</sup> Street, north of Hosmer Avenue, in the Ceres area.
2. Revoke Use Permit No. PLN2013-0078, Central Valley Recycling, Inc.

**DISCUSSION:**

The business identified as "Central Valley Recycling Inc." (CVR) is operated on two adjoining parcels (Assessor's Parcel Number (APN) 038-012-008 and 009), totaling 2.2 acres, located in the C-2 (General Commercial) zoning district. The areas to the north, south, and west of the parcels are also zoned C-2. The area to the east of the parcels, across Bystrum Road, are zoned R-3 (Multiple-Family Residential) and are developed with single-family and multi-family residences. The western 0.81 acre parcel, APN 038-012-008, is improved with two Quonset hut-type buildings, one of which has been used since 1991 to primarily collect California Redemption Value recycling. The second Quonset hut was incorporated into the recycling operation and used for storage when the two properties were acquired by the current owner, Donald G. Francis, on December 27, 2013. California Redemption Value recycling typically includes household items such as aluminum cans, and plastic and glass bottles.

In 2009, CVR obtained a business license to operate a recycling center for both California Redemption Value and scrap metal on both parcels, excluding use of the northern Quonset hut. Over time, the outdoor scrap metal component, operated on the eastern 1.38 acre parcel, grew exponentially and resulted in numerous complaints from neighbors. On September 5, 2012, CVR was notified that the County would not approve a business license renewal and determined that the operation of the scrap metal recycling business was no longer in character with permitted C-2 uses because of complaints received from surrounding neighborhood of nuisance conditions arising out of CVR's operation.

Beginning in 2012, neighboring residents expressed concerns relating to noise and air quality impacts originating from the CVR site. Heavy machinery, such as an excavator with shearers, an excavator with a grappler, and an unimproved (dirt) site, were the cause of these impacts. It was determined that the scope and intensity of the scrap metal portion of this business had changed and was no longer appropriate for the South 9th Street location. Enforcement action

Continuation of the October 18, 2016 Public Hearing to Consider the Planning Commission's Recommendation for Revocation of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc., Located at 522 and 524 South 9th Street, North of Hosmer Avenue, in the Ceres Area

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ultimately resulted in the recycling operation being deemed a nuisance by the Nuisance Abatement Hearing Board and forwarded to the Board of Supervisors for consideration. A Settlement Agreement was approved on September 10, 2013. It required CVR apply for a conditional use permit to determine the appropriate level of intensity for the scrap metal recycling along with appropriate conditions of approval. (See Attachment "1")

On May 7, 2015, the Planning Commission approved Use Permit Application No. PLN2013-0078, Central Valley Recycling, Inc., including adoption of a Mitigated Negative Declaration on a 5-1 vote. The Use Permit provides for the intensification of the existing California Redemption Value and scrap metal recycling facility. The Use Permit was approved to allow use of two excavators to handle the recyclables on-site. Scrap metal is to be collected, sorted, cut, crushed, baled on-site and transported off-site for further processing. Recycling scrap metals consists of a variety of surplus or discarded ferrous and non-ferrous (non-magnetic) metals including, but not limited to, whole vehicles and vehicle parts. A detailed project description along with a site and operational description, area and zoning maps, and site plans for the project site are provided in the May 7, 2015, Planning Commission Staff Report. (See Attachment "2")

On May 18, 2015, an appeal of the Planning Commission's approval of the use permit was submitted by Ms. Rebecca Harrington. On June 16, 2015, the Board of Supervisors considered and denied the appeal request and voted to uphold the Planning Commission's decision, subject to findings and amended Conditions of Approval. (See Attachment "3")

On August 12, 2016, the Planning Department provided notice of the September 1, 2016 public hearing to consider revocation of the Use Permit. (See Attachment "4") The notice included a compliance review of the Conditions of Approval with performance measures requiring completion within a specified time frame and pictures reflecting site conditions on July 8, 2016.

#### September 1, 2016 Planning Commission Public Hearing

A public hearing to consider revocation of the CVR Use Permit was conducted on September 1, 2016. During the public hearing, two persons spoke in opposition of the revocation of the Use Permit: Mr. Richard Francis, a family member of the applicant, and Mr. Donald Francis, the applicant, part owner of Central Valley Recycling Inc., business and full owner of the two parcels.

Mr. Richard Francis commented that if the Use Permit was revoked, it was his understanding that CVR would still be eligible to receive some volume of scrap metal in for recycling. He added that he believes that there are neighboring recycling businesses operating in violation of their Conditions of Approval. Staff is not aware of any complaints or confirmed violations associated with neighboring recycling businesses. The Planning Commission asked Mr. Richard Francis if he and the applicant were aware of CVR's Conditions of Approval, and that some of the Conditions of Approval had not been met. Mr. Francis replied that he was aware, but the metal recycling market had a downturn and the business is not able to financially afford completion of the required improvements. Since the approval of the Use Permit, the business went from 20 employees to 2 employees. The portion of scrap metal recycling ranges from about 50% to 70% of the overall business. Mr. Richard Francis commented that he was not

aware of any complaints received by the County. Planning Department staff has personally relayed verbal complaints expressed at the Board of Supervisor's meetings to the business owner, Mr. Donald Francis. Mr. Richard Francis added that he is aware that the Conditions of Approval are needed to address health and safety needs of the neighboring community. Mr. Donald Francis said he was also aware of the project's Conditions of Approval and wants to meet them, but cannot afford the improvements.

Three persons spoke in favor of revocation of the Use Permit: Ms. Marisol Aguilar of California Rural Legal Assistance, representing Terri Lujan, one of the residents living in the area; Ms. Rebecca Harrington and Mr. Matthew Harrington.

Ms. Aguilar submitted a letter dated August 25, 2016, requesting revocation due to CVR not fulfilling the conditions of approval for the use permit. The letter was provided to the Planning Commission at the start of the public hearing and is included as Attachment "6" of this report. Ms. Aguilar also noted that CVR's operations continue to be a nuisance and pose health risks for residents. She commented that the business has developed a track record of not complying with County requirements and residents have been affected by dust, noise, safety, water contamination, and creation of a neighborhood eyesore. She also noted that the County has found scrap metal recycling to be a nuisance and added that the residents do not have faith the applicant will follow through to address the nuisance by completing the approved Conditions of Approval. She further commented that she is not requesting to shut down the whole business, but to only close the part of the operation that is a nuisance.

Ms. Rebecca Harrington also spoke in favor of revocation of the Use Permit. Her family has owned their property located immediately east of the CVR site since 1950. Since February 2013, she has felt the shaking of her house from use of the excavator operated by CVR. She commented that she is not opposed to the household recycling, but is opposed to the scrap metal recycling component as it generates a lot of dust, vibration, and noise. She commented further that the business still takes in vehicles and that the business should be located in an industrial area. She also commented that the applicant could have made required improvements to the property when the value of scrap metal was higher, but did not.

After the close of the public hearing, the Commission opened the hearing again and Mr. Richard Francis requested that CVR be allowed to recycle a smaller tonnage volume of scrap metal. Mr. Matthew Harrington commented that the residents need to have the nuisances end. He further stated that the applicants did not make improvements when their earnings were higher. Ms. Aguilar further commented that the residents have been living with these issues for some time and she recommends revocation.

The following response was not provided at the Planning Commission, but is shared with the Board as additional background information. The Use Permit issued to CVR in 2015 was for the intensification of a CVR and scrap metal recycling facility. As reflected in the 2013 Settlement Agreement, the County has acknowledged that some level of scrap metal recycling activities conducted on the site in 2009 is permitted when conducted in compliance with the County Code. However, the Board of Supervisors, in its 2015 determination of the appeal of the Planning Commission's approval of the Use Permit, found that the on-site processing of scrap metal requiring the on-going regular use of heavy machinery, which is not customary or consistent with permitted uses in the C-2 zoning district, is inconsistent with the "Commercial"

General Plan designation when located in close proximity to residential uses, without application of conditions of approval and mitigation measures to protect the health, safety, and general welfare of nearby residents, and to protect property and improvements in the neighborhood. As such, if the Use Permit is revoked, any outdoor collection or processing of scrap metal would be subject to approval of a new use permit application. This requirement was relayed by staff at the Planning Commission meeting. The recycling activities conducted within the southern Quonset hut-type building, on the 0.81 acre parcel, may include scrap metal recycling activities provided such activities are conducted in a manner which does not create a nuisance condition and CRV recycling is the primary use.

The Planning Commission in its deliberation discussed the nuisances and CVR's impact on the quality of life of the residents. They noted that the applicant has had time to address nuisances, complete and adhere to adopted Conditions of Approval, including limiting use of the excavators to west of the scrap pile, which the applicant has failed to do. Furthermore, given the current metal recycling market, the applicant may not be in a financial position to fulfill the Conditions of Approval.

The Commissioners were presented with two options. Option one was to make certain findings and amend the Conditions of Approval to *not* allow on-site scrap metal recycling to occur until all Conditions of Approval of the Use Permit have been completed and verified by the Planning Department. Option two was to recommend revocation of the Use Permit to the Board of Supervisors. Staff recommended option one to recognize that another operator could purchase the business and complete the Conditions of Approval and to acknowledge that some level of scrap metal recycling, without the use of the excavators, could be conducted indoors. The Planning Commission unanimously voted, 8-0, to recommend revocation of the Use Permit 2013-0078, Central Valley Recycling, Inc. to the Board of Supervisors (Option 2).

**POLICY ISSUE:**

Chapter 21.104 of the Zoning Ordinance prescribes the process for consideration of revocation of approved land use permits. The Board of Supervisors is required to act on the Planning Commission's recommendation within sixty days after receipt of the recommendation of the Planning Commission.

**FISCAL IMPACT:**

Costs associated with processing of the revocation, including setting of public hearing, publishing of required notices, and conducting the hearing, will be covered by the General Fund.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Board's priorities of A Well Planned Infrastructure System and A Strong Local Economy by providing a land use determination consistent with the overall goals and policies of the Stanislaus County General Plan and provisions of the Stanislaus County Zoning Ordinance.

Continuation of the October 18, 2016 Public Hearing to Consider the Planning Commission's Recommendation for Revocation of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc., Located at 522 and 524 South 9th Street, North of Hosmer Avenue, in the Ceres Area

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**STAFFING IMPACT:**

Planning and Community Development Department staff is responsible for preparing all reports associated with this request and there are no staffing impacts associated with this item.

**CONTACT PERSON:**

Angela Freitas, Planning and Community Development Director Telephone: (209) 525-6330

**ATTACHMENT(S):**

1. Settlement Agreement between the County of Stanislaus and Central Valley Recycling – Approved by the Stanislaus County Board of Supervisors on September 10, 2013.
2. Planning Commission Staff Report, May 7, 2015 with Exhibits A-D only:
  - Exhibit A – Findings and Actions Required for Project Approval
  - Exhibit B – Maps and Site Plans
  - Exhibit C – Conditions of Approval
  - Exhibit D – Applicant's Project Information
3. Board of Supervisors Agenda Item, June 16, 2015 with Attachment 1 only
  - Attachment 1 – Appeal Letter from Rebecca Harrington dated May 18, 2015
4. Planning Commission Staff Memo, September 1, 2016 with Exhibits B and C only
  - Exhibit B – Notification of Revocation Hearing to Central Valley Recycling, Later dated August 12, 2016
  - Exhibit C – Site Pictures
5. Planning Commission Minutes, September 1, 2016
6. Letter from Marisol Aguilar, California Rural Legal Assistance, Inc., dated August 25, 2016.

# **ATTACHMENT 1**

APPROVED AND APPROVED BY  
THE BOARD OF SUPERVISORS  
ON 9/10/2013

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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between the County of Stanislaus ("County") and STANLEY A. GOBLIRSCH and JOYCE O. GOBLIRSCH ("Owners") and CENTRAL VALLEY RECYCLING, INC., ("CVR").

WHEREAS, the undersigned agree that the following agreement in the best interest of the Parties;

WHEREAS, the business identified as "Central Valley Recycling" (CVR) is operated on two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned General Commercial District (C-2) and identified as Assessor's Parcel Number (APN) 038-012-008 (524/526 S. 9th St, Modesto) and APN 038-012-009 (0 Bystrum Rd, Modesto) and are owned by Stanley A. Goblirsch and Joyce O. Goblirsch;

WHEREAS, the parcel identified as APN 038-012-008 is improved with two (2) Quonset hut-type buildings used to primarily collect California Redemption Value (CRV) recycling.

WHEREAS, the parcel identified as APN 038-012-009 is improved with a truck scale and scale house, containers, machinery, and piles utilized for the processing and sale of scrap metal items.

WHEREAS, the scrap metal portion of the business and the operating practices employed by the operator have resulted in noise and air quality complaints, which appear to relate to the crushing of motor vehicles ("Vehicle Crushing")

WHEREAS, in 2009, the County determined that CVR's scrap metal recycling operation was similar in character and purpose to permitted uses in County Code Chapter 21.56 General Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal recycling, in addition to CRV type recycling, on both APN 038-012-008 and 009;

WHEREAS, on September 5, 2012, the County informed CVR that the County would not approve the business license and determined that the operation of the scrap metal recycling business is not in character with permitted C-2 uses because of complaints received from the surrounding neighborhood of nuisance conditions arising out of CVR's operations;



1 WHEREAS, on April 2, 2013, the County issued a Notice and Order to Abate, ("N&O")  
2 for the following alleged violations: (1) §21.56.020 and §21.16.040 of the Stanislaus County  
3 Code. Non-Permitted Land Use (scrap metal recycling operation); and (2) §21.56.040(D) of the  
4 Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on  
5 any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke,  
6 vibration or electrical interference detectable off the site;

7 WHEREAS, On June 27, 2013, based on the evidenced presented the County's Nuisance  
8 Abatement Hearing Board recommended the Board of Supervisors find the property a nuisance  
9 and order the abatement of the nuisance conditions;

10 WHEREAS, on July 16, 2013, the Board held a hearing on the matter and continued the  
11 hearing to continuing the hearing at CVR request to August 20, 2013; and

12 WHEREAS, CVR has maintained (a) that it enjoys a vested right under applicable law to  
13 operate the scrap metal recycling operation and (b) that its use of the property does not constitute  
14 a nuisance; and

15 WHEREAS, the parties recognize the potential for costly and protracted litigation as to  
16 the foregoing issues, and desire to implement a compromise under which CVR could operate the  
17 scrap metal recycling operation under certain operating protocols and conditions which would  
18 limit its environmental effects and potential nuisance complaints, and desire to resolve the  
19 question of the appropriate intensity of use using the Conditional Use Permit process set forth in  
20 Stanislaus County Code Chapter 21.96; and

21 WHEREAS, prior to the August 20, 2013, hearing the parties agreed in principal to the  
22 following terms to resolve the matter.

23 NOW, THEREFORE, in consideration of the following covenants and agreements, the  
24 Parties agree as follows:

25 1. The Parties Agree that the use of the property for scrap metal recycling, at the  
26 intensity currently conducted by Owners and CVR, is a nuisance as described in the N&O.

27 2. County acknowledges that Owners and CVR's use of the Property for scrap metal  
28 recycling activities as conducted on July 21, 2009 that were in compliance with Stanislaus County

1 Code section 21.56.040(D) are in character with permitted uses in the C-2 Zoning District.  
2 County agrees to allow the use to continue as currently operated during the pendency of the  
3 Conditional Use Permit process outlined herein under the following conditions:

- 4 a. The tin pile to be relocated 150 feet from the fence line to the east;
- 5 b. Excavator usage to be limited to areas in front of the tin pile, and the excavator  
6 shall not operate in the back of the site;
- 7 c. Concrete blocks to be placed around the tin pile in a U-shape to form a partial  
8 noise barrier to the east;
- 9 d. Trucks to be loaded in the front of the tin pile (further west of the nearest  
10 residences to the east), and cars are to be unload in front of the tin pile instead of  
11 the previous locations behind the pile;
- 12 e. Concrete blocks to be placed around the metal bailer to block the noise from the  
13 nonferrous material and bailer in the direction of the nearest residences to the east;
- 14 f. Keep excavator and sheer equipment away from the back fence along Bystrum  
15 Rd.;
- 16 g. Vehicle Crushing shall be limited to the hours of 11:00 a.m., to 2:00 p.m., Monday  
17 through Saturday; and
- 18 h. As set forth below, Owners and CVR shall timely submit and diligently process a  
19 Conditional Use Permit application seeking approval by County of scrap metal  
20 recycling at greater intensity than the property was operated during the term of the  
21 2009 business license.
- 22 i. All operations shall be conducted in a manner that complies with section  
23 21.56.040(D) and Chapter 10.46 of the Stanislaus County Code, including without  
24 limitation, all regulations and orders of the San Joaquin Valley Air Pollution  
25 Control District.

26 3. County's performance under this agreement is expressly conditioned on Owners  
27 and CVR diligently applying for and processing the Conditional Use Permit as described herein.  
28

**OWNERS' OBLIGATIONS**

- 1  
2 4. Owners shall:  
3 a. Within 14 days of the full execution of this Agreement either:  
4 i. Apply and pay the associated fee to the County for the Conditional Use  
5 Permit ("CUP") regarding the subject scrap metal recycling use, or, in the  
6 alternative, authorize CVR to make and process said application(s). Owner  
7 shall take all reasonable steps to complete the approval process.  
8 ii. Cause CVR to cease the subject scrap metal recycling use that is not  
9 consistent with the terms of this Agreement.

10  
11 **CVR's OBLIGATIONS**

- 12 5. CVR shall:  
13 a. Cooperate with Owner in making application for and subsequent processing of a  
14 Conditional Use Permit for the subject scrap metal recycling use.

15  
16 **RELEASES**

17 6. Release: Owners and CVR on behalf of themselves, their heirs, executors,  
18 administrators, successors and assigns, in consideration of the terms set forth herein, hereby fully  
19 release the County of Stanislaus and each of its entities, agents, contractors, officers and  
20 employees, known or unknown, from all claims and causes of action by reason of any injury  
21 and/or damage which may have arisen before the date of this Agreement.

22 7. Owners and CVR certify that they have read section 1542 of the Civil Code,  
23 which provides:

24 A general release does not extend to claims which the  
25 creditor does not know or suspect to exist in his or her  
26 favor at the time of executing the release, which if known  
27 by him or her must have materially affected his or her  
28 settlement with the debtor.

8. Owners and CVR hereby waive application of section 1542 of the Civil Code.  
9. Owners and CVR understand and acknowledge that the significance and

1 consequences of this waiver of section 1542 of the Civil Code is that the Owners and CVR will  
2 not be permitted to make any claims for injury and/or damages that may exist as of the date of  
3 this release but which Owners and CVR do not know exist, and which, if known, would  
4 materially affect the Owners' and CVR's decision to execute this release, regardless of whether  
5 Owners and CVR's lack of knowledge is the result of ignorance, oversight, error, negligence or  
6 any other cause.

7 10. Attorney Fees and Costs: The parties agree to bear their respective costs  
8 associated with this matter, which includes but is not limited to attorneys' fees, expert and  
9 consultant fees and costs, and any and all costs incurred by each side respectively.

10 11. County's Release: Subject to the reservations set forth herein and Owners' and  
11 CVR's performance of all the duties and obligations set forth in this Agreement, County hereby  
12 fully releases the Owners and CVR from all claims and causes of action, which could or might  
13 have been alleged arising out of or relating to the facts and circumstances described in this  
14 Agreement.

15 12. New Violations: Owners and CVR acknowledge that nothing in this Agreement  
16 precludes any Federal, State, or County agency or department from assessing new penalties,  
17 issuing new orders, or taking any other actions for violations of laws or orders that occur after the  
18 date this Agreement.

19 13. Owners and CVR acknowledge and agree that nothing in this Agreement precludes  
20 the County from immediately taking action to abate any violation of any State or Federal law  
21 including but not limited to, the California Building Code, California Housing Code, the  
22 California 2009-0009-DWQ Construction General Permit, or the Federal Porter-Cologne Clean  
23 Water Act present upon the Property. Owners and CVR acknowledge and agree that the County  
24 may take all appropriate legal action to abate any violation of law occurring upon the Property  
25 that in the opinion of the County constitutes an imminent health hazard or a significant threat or  
26 danger to the health of the County's residents.

27 14. Owners and CVR acknowledge and agree that nothing in this Agreement precludes  
28 any Federal, State, or County agency or department from assessing penalties, issuing orders, or

1 taking any other actions for violations of laws or orders relating to matters or conditions existing  
2 prior to or concurrently with the date of this Agreement so long as such matters or conditions do  
3 not arise out of or relate to the facts and circumstances which are the subject of this Agreement.

4 15. Owners and CVR acknowledge and agree that nothing in this Agreement precludes  
5 any Federal, State, or County agency or department from assessing new penalties, issuing new  
6 orders, or taking any other actions for violations of laws or orders that occur after the date of this  
7 Agreement, including new violations relating to matters or conditions existing prior to or  
8 concurrently with the date of this agreement so long as such matters or conditions do not arise out  
9 of or relate to the facts and circumstances which are the subject of this Agreement.

10 16. Owners and CVR acknowledge and agree that nothing in this Agreement shall be  
11 construed as an approval of any particular land use nor shall it create an expectation that any  
12 particular land use will be approved. Neither performance under this agreement, nor any sums  
13 spent by Owners or CVR in performing work required under this Agreement, nor any sums spent  
14 in preparation to obtain a building permit, nor the issuance of any building permit, shall create a  
15 vested right to proceed with any particular development plans.

16  
17 **OTHER MATTERS**

18 17. Governing Law and Integration: This is a fully integrated Agreement, made and  
19 entered into in the State of California and shall in all respects be interpreted, enforced and  
20 governed under the laws of California, except that parole evidence shall not be admissible to  
21 interpret, vary or modify any of the terms of this Agreement. The language of all parts of this  
22 Agreement shall in all cases be construed as a whole, according to its fair meaning, and not  
23 strictly for or against any of the parties. This Agreement sets forth the entire agreement between  
24 the parties with regard to the subject matter hereof. All agreements, covenants, representations  
25 and warranties, express or implied, oral or written, of the parties with regard to the subject matter  
26 hereof are contained herein, and the documents referred to herein or implementing the provisions  
27 hereof. No other agreements, covenants, representations or warranties, express or implied, oral or  
28 written, have been made by either party to the other with respect to the subject matter of the

1 Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged  
2 agreements and representations, covenants, and warranties with respect to the subject matter  
3 hereof are waived, merged herein and superseded hereby.

4 18. Amendment: This Agreement cannot be amended, altered, modified, waived or  
5 superseded, in the whole or in part, except by a written agreement so stating which is signed by  
6 all parties to this Agreement and approved by a court of competent jurisdiction. No delay or  
7 omissions on the part of any party to this Agreement shall operate as a waiver of any such right or  
8 any other right. Waiver of any one breach of any provision hereof shall not be deemed to be a  
9 waiver of any other breach of the same or any other provision hereof.

10 19. Counterparts: The parties hereby agree that facsimile signatures of the parties to  
11 this Agreement shall be as binding and enforceable as original signatures; and that this  
12 Agreement may be executed in multiple counterparts with the counterparts together being deemed  
13 to constitute the complete agreement of the parties.

14 20. Advice of Attorney: Owners and CVR warrant and represent that in executing  
15 this Agreement they have relied on legal advice from the attorney of their choice, that the terms  
16 of this Agreement and its consequences have been completely read and explained to the Owners  
17 and CVRs by their attorney, and that Owners and CVRs fully understand and agree to be bound  
18 by said terms.

19 21. Warranties: Each of the parties to this Agreement warrants that it or they have not  
20 assigned or transferred any cause of action, claim for relief, or other matter released under the  
21 Agreement. Each person who executes this Agreement on behalf of any party to the Agreement  
22 represents and warrants that he or they have been duly authorized by such party to execute the  
23 Agreement.

24 22. This Agreement shall inure to the benefit of and be binding on each party, as well  
25 as its or their respective successors or assigns.

26 23. Section headings are for convenience only and are not part of the Agreement.

27 24. All notices, requests, demands and other communications under the Agreement  
28 shall be in writing and by personal delivery or overnight courier, and shall be deemed having

1 been duly given on the date of receipt (receipt shall also include communications that are  
2 delivered to the designated address and left at the premises if no one is at the premises). Notices  
3 shall be addressed as follows, or as the parties may subsequently designate by written notice:

- 4
- 5 To County: STANISLAUS COUNTY COUNSEL  
6 Attn: THOMAS E. BOZE, Deputy County Counsel  
7 City-County Administration Building  
8 1010 Tenth Street, Suite 6400  
9 Modesto, California 95354
- 10 To Owners: Stanley A. Goblirsch  
11 Joyce O. Goblirsch  
12 P.O. Box 1010  
13 Ceres, CA 5307
- 14 To CVR: Central Valley Recycling  
15 524 9<sup>th</sup> Street  
16 Modesto, CA 95351

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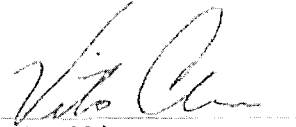
IN WITNESS WHEREOF, the Parties have executed the Agreement in the County of Stanislaus, State of California.

AS FILED AND APPROVED BY  
THE BOARD OF SUPERVISORS  
ON 9/10/2013

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COUNTY OF STANISLAUS

OWNERS:

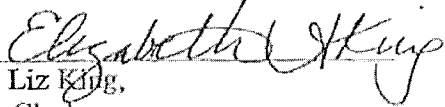
By:   
Vito Chiesa,  
Chairman

By: \_\_\_\_\_  
Stanley A. Goblirsch

By: \_\_\_\_\_  
Joyce O. Goblirsch

ATTEST:  
Christine Ferraro Tallman,  
Clerk

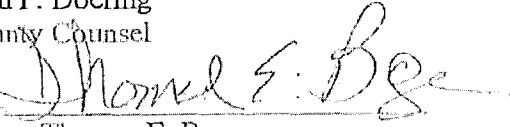
CENTRAL VALLEY RECYCLING

By:   
Liz King,  
Clerk

By: \_\_\_\_\_  
Donald Francis Sr.

By: \_\_\_\_\_  
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering  
County Counsel  
By:   
Thomas E. Boze,  
Deputy County Counsel

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AS RE ED AND APPROVED BY  
THE BOARD OF SUPERVISORS  
ON 9/10/2013

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COUNTY OF STANISLAUS

By: \_\_\_\_\_  
Vito Chiesa,  
Chairman

ATTEST:  
Christine Ferraro Tallman,  
Clerk

By: \_\_\_\_\_  
Liz King,  
Clerk

APPROVED AS TO FORM:

John P. Doering  
County Counsel

By: \_\_\_\_\_  
Thomas E. Boze,  
Deputy County Counsel

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OWNERS:

By: Stanley A. Goblirsch  
Stanley A. Goblirsch

By: Joyce O. Goblirsch  
Joyce O. Goblirsch

CENTRAL VALLEY RECYCLING

By: \_\_\_\_\_  
Donald Francis Sr.

By: \_\_\_\_\_  
Donald Francis Jr.

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COUNTY OF STANISLAUS

OWNERS:

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Clerk

CENTRAL VALLEY RECYCLING

By: \_\_\_\_\_  
Liz King,  
Clerk

By: \_\_\_\_\_  
*Donald Francis Sr.*  
Donald Francis Sr.

By: \_\_\_\_\_  
*Donald Francis Jr.*  
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering  
County Counsel

By: \_\_\_\_\_  
Thomas E. Boze,  
Deputy County Counsel

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# **ATTACHMENT 2**

## STANISLAUS COUNTY PLANNING COMMISSION

May 7, 2015

### STAFF REPORT

USE PERMIT APPLICATION NO. PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.

**REQUEST: REQUEST TO INTENSIFY A CALIFORNIA REDEMPTION VALUE (CRV) AND SCRAP METAL RECYCLING FACILITY BY INCREASING THE VOLUME OF SCRAP METAL RECYCLING ALLOWED.**

#### APPLICATION INFORMATION

Applicant:	Central Valley Recycling, Inc.
Owner(s):	Donald Francis Sr. and Donald Francis Jr.
Agent:	Mark Niskanen, J.B. Anderson Land Use Planning
Location:	522 and 524 South 9 <sup>th</sup> Street, on the east side of S. 9 <sup>th</sup> Street, north of Hosmer Avenue, in the Ceres area
Section, Township, Range:	4-4-9
Supervisory District:	Five (Supervisor DeMartini)
Assessor's Parcel:	038-012-008 and 038-012-009
Referrals:	See Exhibit J Environmental Review Referrals
Area of Parcel(s):	2.2 Acres
Water Supply:	City of Modesto
Sewage Disposal:	City of Ceres
Existing Zoning:	C-2 (General Commercial)
General Plan Designation:	Commercial
Sphere of Influence:	Ceres
Community Plan Designation:	Not Applicable
Williamson Act Contract No.:	Not Applicable
Environmental Review:	Mitigated Negative Declaration
Present Land Use:	California Redemption Value (CRV) and scrap metal recycling facility
Surrounding Land Use:	Commercial uses to the north, west and south, and low and medium density residential development to the east.

#### RECOMMENDATION

Staff recommends project approval based on the following operating conditions: (1) approving intensification of the scrap metal operation to collect up to a maximum of 2,000 tons of scrap metal per month, instead of the maximum 2,500 tons per month requested by the applicant; (2) including a provision that limits use of the two excavators in terms of time and location of use; and (3) including a provision that will require that the use permit be brought back to the Planning Commission after one year of operation for possible amendments to operations and/or conditions of approval or at the

discretion of the Planning and Community Development Director (see Exhibit C – Conditions of Approval).

Should the Planning Commission decide to approve the request, as recommended by staff, based on the discussion below and on the whole of the record provided to the County, Exhibit A provides an overview of the all of the findings required for project approval which includes use permit findings.

### **PROJECT DESCRIPTION**

This is a request to intensify an existing California Redemption Value (CRV) and scrap metal recycling facility. The applicant is requesting increasing the volume of scrap metal collected on-site from a monthly average of 1,350 tons to a maximum of 2,500 tons per month, and increase the number of employees from nine (9) full-time employees to eighteen (18) and five (5) part time employees. The applicant proposes to use two excavators to handle the recyclables on-site. Scrap metal is collected, sorted, cut, crushed, baled on-site and transported off-site for further processing. Recycling scrap metals consists of a variety of surplus or discarded ferrous and non-ferrous (non-magnetic) metals including, but not limited to, whole vehicles and vehicle parts.

The applicant, Central Valley Recycling (CVR), proposes to make site improvements consisting of installing concrete in the interior yard, incorporating an on-site storm water retention system, installing a 10-foot high masonry wall along the east property line and installing landscaping along the Bystrum Road frontage of the property.

### **SITE AND OPERATIONAL DESCRIPTION**

The site is generally located on the east side of South 9<sup>th</sup> Street, north of Hosmer Avenue in the Ceres area. The subject site consists of two parcels totaling approximately 2.2 acres in the C-2, (General Commercial) zoning district, in the Ceres Sphere of Influence; refer to Exhibit B – Maps, Area and Zoning Maps.

The site is presently developed with two storage buildings (Quonset huts) on the western portion of the property, measuring 6,000 and 5,200 square feet respectively. The southern Quonset hut building includes the site's main office space. Other buildings on site include a 350 square foot mechanic's shed, and a storage shed, both located along the southern property line. A 144 square foot scale office and truck scale is located in east half of the property near the northern property line. The operation also utilizes a variety of storage containers throughout the site; refer to the site plans included in Exhibit B – Maps, Site Plans.

The site includes three access driveways onto South 9<sup>th</sup> Street. The southern access driveway is used for incoming customer vehicle traffic and outgoing vehicular traffic associated with the scrap metal recycling; the facility's transportation trucks. The middle access driveway is used for recycling patrons exiting the indoor collection of CRV recycling in the southern Quonset hut. The northern driveway is used to access an employee parking lot and the northern Quonset hut, which is used for storage.

The recycling operation consists of outdoor storage of non-ferrous storage of metals on each side of the southern entrance driveway, baled cardboard, aluminum and plastics are also stored here on occasion. A large stationary baler is located mid-property, near the south property line. A 6-foot high concrete block wall is located east of the baler (each concrete block measures about 2 feet high, 6 feet long and 2 feet deep.) Scrap metal is weighed and then received in the center of the property, unloaded and stored outdoors in a pile (referred to as the "tin pile"). The tin pile is surrounded by

concrete block walls along the north, east and south. The height of the tin pile concrete block wall presently varies in height from 2 to 6 feet high. The height of the "tin pile" reaches up to 13 feet in height.

A second pile of scrap metal (referred to as the "steel pile") is located northwest of the central tin pile. The steel pile is bounded by a 6-foot high concrete block wall along the north and west edge of the pile. An excavator with a shearer arm attachment operates near the steel pile, cutting scrap metals. A second excavator with a grappler arm attachment operates west of the tin pile to crush, move, unload and load scrap metal. Loose scrap metal is transported off site in dump body trailers or transfer boxes. Baled recycling material is transported off-site on flatbed trailers.

The rear or east half of the property is used for outdoor storage, internal circulation and employee parking. The northern and southern property lines are presently developed with an 8-foot high chain link fence with privacy slats and barbed wire. The rear or eastern property line is bounded by a 6-foot high concrete block wall and 6-foot high chain link fence with slats and capped with 2-feet of razor ribbon wire. The front of the business is enclosed with a 6-foot high chain link fence with privacy slats and razor ribbon wire and an entrance gate.

The southern Quonset hut is used to receive CRV (aluminum cans, plastic bottles, glass bottles, and card board). Vehicles enter the site along the southern entrance and turn northwest into the Quonset hut from the east, exiting onto South 9<sup>th</sup> Street. Employee parking is provided in front and to the north of the business and at the rear of the property. The interior driveway appears to be composed of a mixture of road base and deteriorated concrete.

The properties to north are also zoned C-2 (General Commercial), and consists of a truck bed/top and a trucking business (Rocha Trucking). South 9<sup>th</sup> Street, lies to the west of the site and a trailer park, church, motel, tire shop and a recycling center (Zaff's Scrap Metal, opened in 1989) are located west of S. 9<sup>th</sup> Street. The area to the south is also zoned C-2 and is developed with a donut shop, an auto body shop, and a truck driving school. Another recycling center (Universal Service Recycling, opened in 2014) lies to the south, across Hosmer Avenue. The properties to the east of the site, across Bystrum Road, are zoned R-3 (Multiple Family Residential) and are developed with single family and multi-family residences. Bystrum Road is used by neighboring trucking businesses and local residents.

The Central Valley Recycling facility is open to the public between 8:00 a.m. and 4:30 p.m., Monday through Friday and between 8:00 a.m. and 4:00 p.m. on Saturday. The business is closed on Sundays. Presently, vehicle crushing and cutting is limited to the hours of 11:00 am and 2:00 p.m. The business typically operates privately a half-hour before opening to set-up and a half-hour after closing, to put things away. The business receives an average of 250 customers per day. The operation generates approximately 6 loading truck trips per day leaving the site. An on-site storm water retention system is planned to be located on-site. The yard area and interior driveway are "watered down" by a water truck on an as needed basis to address dust generated at the site.

## **BACKGROUND**

The business has been in operation recycling CRV material since 1991. In 2009, the applicant obtained a business license to operate a recycling center for both CRV and scrap metal. Over time, the scrap metal component grew exponentially and resulted in numerous complaints from neighbors. On September 5, 2012, the County informed CVR that the County would not approve a business license renewal and determined that the operation of the scrap metal recycling business had grown exponentially and was no longer in character with permitted C-2 uses because of

complaints received from surrounding neighborhood of nuisance conditions arising out of CVR's operation (dust and noise).

Beginning in 2012, neighboring residents expressed concerns relating to noise and air quality impacts originating from the Central Valley Recycling site. Heavy machinery, such as an excavator with shearers, an excavator with a grappler, and an unimproved (dirt) site, were the cause of these impacts. It was determined that the scope and intensity of the scrap metal portion of this business had changed and was no longer appropriate for the South 9<sup>th</sup> Street location. Enforcement action ultimately resulted in the recycling operation being deemed a nuisance by the Nuisance Abatement Hearing Board and forwarded to the Board of Supervisors for consideration. A Settlement Agreement was approved on September 10, 2013, refer to Exhibit F, which included the following terms:

1. The County would recognize that a certain level of intensity of scrap metal recycling is consistent with the C-2 zone;
2. CVR would apply for a conditional use permit to determine the appropriate level of intensity, conditions of approval, and environmental impacts; and
3. CVR would be allowed to continue operating under certain operating conditions while diligently pursuing the conditional use permit, including limiting its on-site crushing activities to three (3) hours a day (11:00 a.m. to 2:00 a.m. only), to minimize impacts to the surrounding neighborhood.

(A copy of the September 10, 2013, Stanislaus County Board of Supervisors Agenda Item B-6 can be viewed at this web link: <http://stancounty.com/bos/agenda/2013/20130910/B06.pdf>.)

Since the settlement agreement, Central Valley Recycling applied for a Use Permit application, conducted a series of noise studies, incorporated recommendations from the noise studies and is proposing additional project modifications to address identified nuisances - which are discussed in more detail in the Issues Section below.

Planning Staff conducted two neighborhood meetings, one on November 13, 2013, for this project along with the Universal Service Recycling Use Permit Application (a request to expand a permitted household recycling business to allow for the on-site collection of scrap metal on a 1.44 acre parcel in the C-2 (General Commercial) zoning district at 570 S. 9<sup>th</sup> Street, Modesto) and a second neighborhood meeting on January 22, 2015, neighborhood comments are summarized below.

The site is presently approved to collect and store CRV and an unspecified limit of scrap metal tonnage at the facility for eventual recycling.

## **ISSUES**

The following section is a discussion of issues identified by County staff. Staff has evaluated these issues and provides the following comments, which will be reflected as conditions of approval and/or mitigation measures.

### **A. Air Quality**

The applicant represents that the entire surface of the Central Valley Recycling facility is paved with concrete and, in most areas, covered with dirt/sediment that has been tracked in overtime via

customer and commercial vehicle traffic. The loose dirt and sediment is currently sprayed by a water truck multiple times a day as a dust control measure.

The project was referred to the San Joaquin Valley Air Pollution Control District (SJVAPCD) who responded with standard conditions of approval and a determination that project specific criteria pollutant emissions are not expected to exceed the District's significance thresholds (10 tons/year NOX, 10 tons/year ROG, and 15 tons/year PM10). Additional comments indicate 250 daily truck trips result in diesel truck emissions which are a source of toxic air contaminants (TACs) that are known to the State of California to have a potential health impact on sensitive receptors.

The SJVAPCD also commented that, due to potential exposure to heavy metals, a screening level analysis for potential risk associated with project related daily truck traffic will be required. If the screening analysis indicated a risk of greater than 10 in one million, the SJVAPCD recommended the preparation of a health risk assessment. Planning staff and the SJVAPCD recommended a screening level analysis for potential risk associated be prepared prior to project consideration. However, the applicant elected to postpone conducting this analysis to receiving Planning Commission approval. If the health risk assessment concludes a risk of greater than the Air District's threshold, the Air District may elect to modify or close the operation of the recycling facility.

The following mitigation measure has been incorporated into the project and is reflected as Condition of Approval 38

Mitigation Measure:

1. *A Screening Level Analysis for potential risk associated with project related truck traffic and exposure to heavy metals is required within 60 days of project approval to determine if preparation of a health risk assessment is warranted as determined by the San Joaquin Valley Air Pollution Control District.*

Condition of Approval No. 15 is included to address timing for completing the health risk assessment, if needed, and implementation of any findings associated with the health risk assessment.

**B. Hydrology and Water Quality**

The applicant proposes to pave the entire site and will maintain stormwater run-off on-site. An on-site storm water retention basin system will need to be designed and approved by the Stanislaus County Department of Public Works. Condition of Approval No. 24 is proposed.

The project proponents submitted a Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Program as prepared by H2E Consulting. The draft SWPPP and Monitoring Plan identify Best Management Practices (BMP) to protect water quality. BMPs are methods that will be, or have been, implemented to effectively reduce the potential for pollution associated with storm water run-off. BMPs include maintenance and operation procedures, use of devices for control of site run-off, spills, leaks, and drainage from the storage areas. They also contain a list of actions to be taken to reduce the discharge of pollutants.

The following mitigation measure has been incorporated into the project and is reflected as Condition of Approval 40.



Mitigation Measure:

2. *Implementation of Best Management Practices identified on pages 16 thru 23 of the Storm Water Pollution Prevention Plan and Monitoring Program prepared for Central Valley Recycling, 524 S. 9<sup>th</sup> Street, Modesto by H2E Consulting, which is Attachment 1 of the Initial Study and hereby incorporated by reference.*

### **C. Noise and Vibration**

In January of 2013, Central Valley Recycling (CVR) retained Bollard Acoustical Consultants (BAC), to conduct noise measurements of the facility during normal operations and prepare a noise analysis. In August of 2013, BAC conducted additional noise testing to determine if noise levels had decreased. In January 2015, a subsequent noise analysis was conducted by BAC to analyze the increased tonnage to 2,000 tons per month and to evaluate potential impacts associated with vibration. These studies and their results are highlighted below.

1. The Environmental Noise Analysis, prepared by BAC, dated January 30, 2013, concluded that noise generated during typical operations at the Central Valley Recycling facility exceeded the County's exterior noise standards and recommended noise mitigation measures to reduce facility noise generation to a state of compliance with Stanislaus County noise standards. In response to the Noise Analysis, the following noise control measures were identified, some of which have already been implemented.
  - a) The tin pile was relocated 150 feet away from the fence line located along the eastern property line. Implemented.
  - b) Excavator usage is now limited to areas in front of the tin pile, and the excavator no longer operates in the back of the site. Implemented.
  - c) Concrete blocks were placed around the tin pile in a U-shape to form a partial noise barrier to mitigate noise level emanating to the east. Partially implemented, the concrete block wall has not been fully installed and maintained as recommended by BAC.
  - d) Trucks are now loaded in front of the tin pile and cars are unloaded in front of the tin pile instead of the previous locations behind the pile. Partially implemented as County staff has observed truck loading conducted south of the tin pile, where block wall components are missing.
  - e) Concrete blocks were placed around the metal baler to block the noise from the nonferrous material and baler to mitigate noise levels heard by residences located to the east. Implemented.
  - f) Other facility equipment was also moved away from the back fence along Bystrum Road. Implemented
2. On August 19, 2013, BAC conducted additional noise testing in follow-up to implementation of noise control measures identified on January 30, 2013. This analysis states:

"This analysis concludes that the noise mitigation measures implemented by CVR in recent months have resulted in a clearly noticeable decrease of facility noise

emissions at the nearest residences to the east (4-5 dB reduction). Although the resulting noise levels still exceeded the County's noise standards, the magnitudes of the exceedances (1-4 dB over the County standards), were greatly reduced relative to the pre-mitigation conditions. To further reduce facility noise emissions at the nearby residences to the east, the following additional mitigation measures are recommended:

- a) The new block walls which have been erected near the eastern property line and around the tin pile should be increased an additional 4 feet in height each. This measure would provide further shielding of CVR noise at the existing residences to the east.
- b) Continue to limit excavator usage to areas in front of the tin pile.
- c) Continue to load trucks in the front of the tin pile (further west of the nearest residences to the east).
- d) Continue to unload cars in front of the tin pile.

These measures are expected to both lower overall facility noise emissions at the nearest residences to the east and reduce the potential for adverse public reaction from those residences to noise generated by CVR."

These measures were identified in the CEQA Initial Study and added to the project's Conditions of Approval as Mitigation Measures.

3. January 2015 Noise Analysis to Evaluate Increased Tonnage and Vibration Impacts.

In October 2014, Stanislaus County requested additional analysis pertaining to potential noise impacts associated with increasing the permitted scrap volume tonnage to 2,500 tons per month from the current baseline of approximately 950 tons per month, along with an evaluation of potential impacts associated with project generated vibrations. In response to the County's request, BAC conducted vibration monitoring at the project site in December of 2014, as well as additional analysis of impacts associated with a tonnage volume of 2,000 tons instead of the 2,500 tonnage requested by County staff. The results of this analysis were published in January 2015 and represent an update to the August 19, 2013 Noise Analysis for Central Valley Recycling.

The 2015 analysis concluded that "no adverse noise impacts are expected as a result of the proposed increase in monthly tonnage." (See Exhibit E – Initial Study – Special Studies)

The data listed on Table 5 of the January 2015 report indicates that the noise mitigation measures incorporated into the current CVR operations has resulted in achieving a state of compliance with the County's noise standards. Specifically, CVR noise generation was found to range from 3 to 16 dB below County noise standards in the various categories. As a result, no additional noise attenuation measures beyond those identified in the August 19, 2013 noise analysis appear to be warranted for this facility to achieve compliance with County noise standards. Elevated noise levels heard at test sites located by the residents were attributed to the tractor-trailer truck traffic that uses Bystrum Road.

As this vibration analysis is very technical, staff has only incorporated highlights of BAC January 2015 vibration analysis, which is included in its entirety as Exhibit E – Special Studies).

“To quantify vibration levels associated with CVR operations, Bollard Acoustical Consultants, Inc. conducted vibration measurements of all major activities occurring at the project site on December 9, 2014. The measurements were conducted near the CVR project site boundaries, and adjacent to Bystrum Road opposite the nearest existing residences. Figure 4 of the 2015 report shows the locations where vibration monitoring was conducted. Figure 5 shows photographs of representative vibration monitoring locations.

The vibration measurements consisted of peak particle velocity sampling using a Larson Davis Laboratories Model HVM100 Vibration Analyzer with a PCB Electronics Model 353B51 ICP Vibration Transducer. The test system is a Type I instrument designed for use in assessing vibration as perceived by human beings, and meets the full requirements of ISO 8041:1990(E). The results of the vibration measurements are shown in Table 6.” [Source: page 11 of the January 16, 2015 Environmental Noise Analysis for Central Valley Recycling Facility.]

“This analysis concludes that the noise mitigation measures implemented at the CVR facility in Stanislaus County have effectively reduced facility noise generation to a state of compliance with Stanislaus County noise standards. In addition, this analysis concludes that vibration levels generated by heavy equipment and operations at the CVR site would be well below thresholds for annoyance and damage to structures at sensitive locations of neighboring uses, including the existing residences to the east. Finally, this analysis concludes that the proposed increase in tonnage would not cause an exceedance of the County’s noise level standards at the nearest noise-sensitive land uses to the project site (residences to the east). These conclusions are based on noise level data collected at the project site in 2013 and 2014, vibration data collected at the project site in 2014, operational information provided by CVR, and on the analysis contained herein.” [Source: page 15 of the January 16, 2015 Environmental Noise Analysis for Central Valley Recycling Facility.]

The project will be conditioned to continue to implement the following Mitigation Measures:

3. *Maintain the height of the solid block wall around the tin pile to eight feet high and install a 10-foot high block wall along the eastern property line.*
4. *Limit use of excavators to the west of the tin pile.*
5. *Continue to load and unload trucks west of the tin pile.*
6. *Limit the use of the excavators and metal baler to the hours between 8:30 a.m. and 5:00 p.m., Monday through Saturday.*
7. *Vehicle crushing and/or vehicle cutting shall be limited to the hours of 11:00 a.m. and 2:00 p.m., Monday through Saturday.*

8. *Install and maintain trees and landscaping along the eastern property line and a distance of 50 feet along the north and south property lines from the eastern property line. Landscaping plans and materials to be in conformance with City of Ceres Standards and Specifications or as approved by Stanislaus County.*

D. Vehicular Access and On-site Circulation

The project will have direct access to S. 9<sup>th</sup> Street, which is a County-maintained road and the project is not expected to substantially increase traffic for this area. The project was referred to Caltrans and the Stanislaus County Department of Public Works. A referral response was not received from Caltrans; however, Public Works responded with standard conditions of approval and a mitigation measure to address any future issues with vehicles stacking in the right-of-way. Stacking contributes to traffic impacts and safety issues if autos trying to enter the site back up into the County right-of-way. Should stacking occur two (2) times in any two (2) week period, the applicant will be responsible for preparing and implementing a traffic circulation plan within 15 calendar days of the second incident.

The following mitigation measure has been incorporated into the project and is reflected as Condition of Approval 47.

Mitigation Measure:

9. *Vehicle stacking in the public road right-of-way is not permitted. Should the number of vehicles entering the property back up onto 9<sup>th</sup> Street for more than two (2) consecutive days within any two (2) week period, the applicant shall submit a new traffic circulation plan for the site within 15 calendar days of the violation. The plan shall be designed in such a way as to eliminate any stacking onto 9<sup>th</sup> Street and submitted to the Department of Public Works for approval of the Public Works Director or his designee.*

The project site consists of two parcels, the western parcel fronts on S. 9<sup>th</sup> Street and eastern parcel fronts on Bystrum Road. Vehicular access is not proposed between the eastern parcel and Bystrum Road. A Staff Approval Application will be required for any subsequent and separate use of the eastern parcel. To accommodate separate development options and maintain no access onto Bystrum Road, a vehicular access easement will be required as a Condition of Approval on this Use Permit to provide vehicle access from the eastern parcel, across the western parcel, to access S. 9<sup>th</sup> Street.

E. Nuisances and Neighborhood Concerns

Neighbors through neighborhood meetings and phone calls to County staff have expressed a variety of concerns relating to the operation of Central Valley Recycling. Fifteen people attended a County sponsored neighborhood meeting on November 13, 2013. Six residents attended a second neighborhood meeting held on the January 22, 2015. Concerns expressed during these meetings and phone calls to planning staff include nuisances complaints associated with the following issues:

- Increased litter in the neighborhood surrounding the recycling centers.
- Accumulation of abandoned shopping carts near the recycling centers;
- Increased dust, dirt, noise, vibration;
- Unsightliness of piled metal;
- Motor vehicle fluids leaking onto the ground;

- vehicular traffic trespassing on adjacent businesses to reach the site.; and
- Increased truck traffic and parking in the vicinity.

Identified nuisance issues associated with CVR operations will be addressed by project conditions of approval, and code enforcement efforts if necessary, as follows. Trash cans will be required to be placed at the business entry and exit points for customer use to address any on-site litter. A shopping cart rack will be maintained on site and located out of the public view to store shopping carts brought on site, until shopping carts are returned. Dust, noise and vibration issues have already been addressed. The project will be required to install interior landscaping to help screen the view of piled metals. The project will be required to maintain and adhere to its hazardous material management plan in addressing any hazardous material leaks. The project will be required to install a 3-foot high chain link fence in the front yard along the southern property line to keep traffic flow and access off of the adjacent property to the south. "No parking" signs have already been installed along the project's frontage to Bystrum Road.

Condition of Approval No. 18 is proposed to require that the Use Permit be brought back to the Planning Commission one year after approval for review, if necessary, amendments to operational limits; and to allow the permit to be subsequently brought back at the discretion of the Planning Director to address nuisance concerns.

#### **CORRESPONDENCE**

Staff received signed form letters of support from 7 residents and 2 businesses, refer to Exhibit G

#### **GENERAL PLAN CONSISTENCY**

This site, located within the City of Ceres Sphere of Influence (SOI), is currently designated "Commercial" in the Stanislaus County General Plan and this designation is consistent with the C-2 (General Commercial) zoning district. The Commercial designation indicates areas best suited for various forms of light or heavy commercial uses including, but not limited to, retail, service, and wholesaling operations. Building intensity, setbacks, landscaping, height, and parking requirements are determined by the Stanislaus County Zoning Ordinance.

#### **Land Use Element:**

**Goal Five:** Compliment the general plans of cities within the County.

**Policy 24:** Development, other than agricultural uses and churches, which requires discretionary approval and is within the sphere of influence of cities or in areas of specific designation created by agreement (e.g., Sperry Avenue and East Las Palmas Corridors), shall not be approved unless first approved by the city within whose sphere of influence it lies or by the city for which areas of specific designation were agreed. Development requests within the spheres of influence or areas of specific designation of any incorporated city shall not be approved unless the development is consistent with agreements with the cities which are in effect at the time of project consideration. Such development must meet the applicable development standards of the affected city as well as any public facilities fee collection agreement in effect at the time of project consideration. (Comment: This policy refers to those development standards that are transferable, such as street improvement standards, landscaping, or setbacks. It does not always apply to standards that require connection to a sanitary sewer system, for example, as that is not always feasible.)

The Implementation Measures for Policy 24 require that all discretionary development proposals within the SOI of cities, or in areas of specific designation of a city, shall be referred to that city to determine whether or not the proposal shall be approved and whether it meets the city's development standards. This project was referred to the City of Ceres, provider of sewer service to the project site and, in compliance with SOI General Plan requirements, and to the City of Modesto, provider of water service to the project site. The City of Modesto reviewed this project, but provided no comments.

The City of Ceres provided two responses. The Early Consultation referral response, a letter dated October 24, 2013, indicated that the City would reserve comment until the environmental review process. The Initial Study referral response, an e-mail dated April 2, 2015, requested that a condition of approval be placed on the project to allow the County Planning Commission to conduct revocation proceedings of the use permit "if the owner/operator of the recycling facility fails to comply with the use permit or if the conditions of approval and mitigation measures imposed on the project do not adequately address the impacts of this project." This condition was not added to the project as Chapter 21.104 of the County Code allows the County to begin revocation proceedings if any of the conditions or terms of a permit are violated.

The City also commented that it appears that mitigation measures proposed would be adequate to address potential impacts that may arise with the project. The City also requested the opportunity to provide comment on the final conditions of approval, if necessary. (See Exhibit E – Initial Study Comments – *e-mail from the City of Ceres.*)

**Conservation Element:**

**Goal Seven:** Support efforts to minimize the disposal of solid waste through source reduction, reuse, recycling, composting, and transformation activities.

**Policy 22:** Implementation Measure No. 1 states that the County shall encourage and promote activities, projects, legislation, business, and industries that cause solid waste to be reduced at the source, reused, recycled, and/or composted.

**Goal Eleven:** Conserve resources through promotion of waste reduction, reuse, recycling, composting, ride-share programs, and alternative energy sources such as min-hydroelectric plants, gas and oil exploration, and transformation facilities such as waste-to-energy plants.

**Policy 31:** The County shall provide zoning mechanisms for locating material recovery facilities, recycling facilities, composting facilities, and new energy producers when the proposed location does not conflict with surrounding land uses.

Staff believes that recycling facilities help fulfill goals included the Conservation Element with the reduction of solid waste that may end up in long term solid waste disposal facilities. The County allows certain levels of recycling in commercial and industrial zones provided that nuisance activities are eliminated or reduced to acceptable levels.

**ZONING ORDINANCE CONSISTENCY**

The property is zoned C-2 (General Commercial) which permits the establishment of CRV recycling. Scrap metal collection is not permitted outright; however, the potential impacts are consistent with other uses permitted by use permit and, therefore, it requires a use permit be obtained to address

the environmental impacts, including potential conflicts with surrounding uses, of the intensified use. Two other CRV and scrap metal recyclers have been approved in the vicinity; Universal Service Recycling received use permit approval in May 2014. Zaff's Scrap Metal Recycling has operated at 571 S. 9<sup>th</sup> Street since 1989.

Planning staff believes this CRV and scrap metal recycling is consistent with the character of the surrounding businesses along South 9<sup>th</sup> Street. However, a significant distinction between this proposal and other recycling and auto wrecking uses in the area exists in the nature of how the business is operated. Specifically, CVR is proposing a use that through noise studies and neighborhood complaints has confirmed that nuisances are generated on-site that needs to be mitigated.

The General Plan and Zoning Ordinance's overarching goals deal with land use compatibility and prevention of conflict between adjacent land uses. Section 21.56.040(D) Nuisance states:

"No operation shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site."

Central Valley Recycling has made changes to their past operation to address nuisance issues. It has identified additional mitigation measures that need to be incorporated into the project's operation to minimize impacts. However, nuisance complaints are still being voiced by neighboring residents. Recycling facilities and auto wrecking uses in the area are not known to generate this level of concern. Consequently, staff is recommending the following operating conditions:

- (1) Approving intensification of the scrap metal operation to collect up to a maximum of 2,000 tons of scrap metal per month, instead of the maximum 2,500 tons per month requested by the applicant; (See Condition of Approval No. 20.)
- (2) A provision that limits use of the two excavators to Monday through Friday and not on Saturday or Sunday; use of the excavator with a shearer attachment limited between the hours of 11:00 a.m. and 2:00 p.m. Monday through Friday; use of the excavator to crush vehicles between the hours of 11:00 a.m. and 2:00 p.m. Monday through Friday; the use of either of the excavators to be kept at least 150 feet away from the fence/property line to the east. (See Condition of Approval No. 20.)
- (3) The Use Permit shall be brought back to the Planning Commission one year after approval for review and, if necessary, amendments to operational limits; and the permit shall be subsequently brought back at the discretion of the Planning Director, as necessary, to address nuisance concerns.

In conclusion, Planning staff believes this project is consistent with the General Plan and zoning of the site and that the project scope and handling of scrap metal recycling, as amended by staff's recommendation, does not conflict with the surrounding land uses; however, due to the presence of residential subdivisions and the potential for conflict, mitigation measures and conditions of approval have been added to this project and are discussed in the Environmental Review section of this report.

Consequently, planning staff believes all of the findings required for approval, as outlined in Exhibit A - *Findings and Actions Required for Project Approval*, can be made.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised (see Exhibit J - *Environmental Review Referrals* and Exhibit E – Initial Study comments.) For the record, Bollard Acoustical Consultants, Inc. submitted a letter dated April 17, 2015, reporting that the block wall around the tin pile was 6 feet high and that no additional increase to the barrier height at the boundary of the tin pile is recommended. The Mitigation measures will reflect this change in the Conditions of Approval (see Exhibit E - Initial Study Comments). A Mitigated Negative Declaration has been prepared for approval prior to action on the use permit itself as the project will not have a significant effect on the environment. (See Exhibits H - *Mitigated Negative Declaration and Exhibit I Mitigation Monitoring Plan.*) Conditions of Approval reflecting referral responses have been placed on the project. (See Exhibit C - *Conditions of Approval.*)

\*\*\*\*\*

**Note:** Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay **\$2,267.00** for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Miguel A. Galvez, Senior Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps and Site Plans
- Exhibit C - Conditions of Approval
- Exhibit D - Applicant's Project Information
- Exhibit E - Initial Study, Special Studies and Initial Study Comments
- Exhibit F - Settlement Agreement between the County of Stanislaus and Central Valley Recycling – approved by the Stanislaus County Board of Supervisors on 9/10/2013.
- Exhibit G - Correspondence
- Exhibit H - Mitigated Negative Declaration
- Exhibit I - Mitigation Monitoring Plan
- Exhibit J - Environmental Review Referral



**Exhibit A**  
**Findings and Actions Required for Project Approval**

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that:
  - A. The establishment, maintenance, and operation of the proposed use or building applied for, as amended, is consistent with the General Plan designation of "Commercial" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; and
  - B. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
4. Approve Use Permit Application No. PLN2013-0078 – Central Valley Recycling, Inc., subject to the attached conditions of approval.

UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC  
AREA MAP

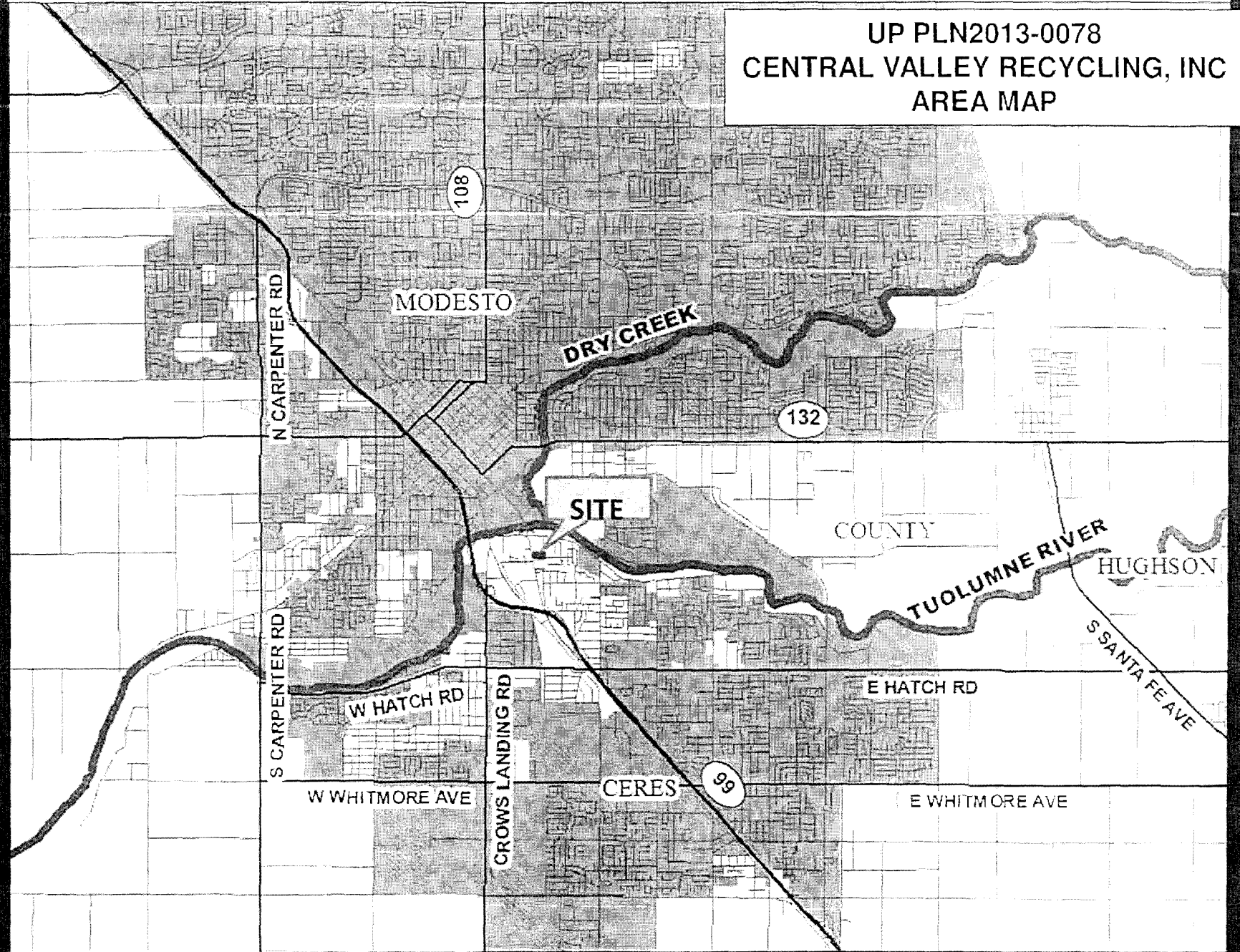
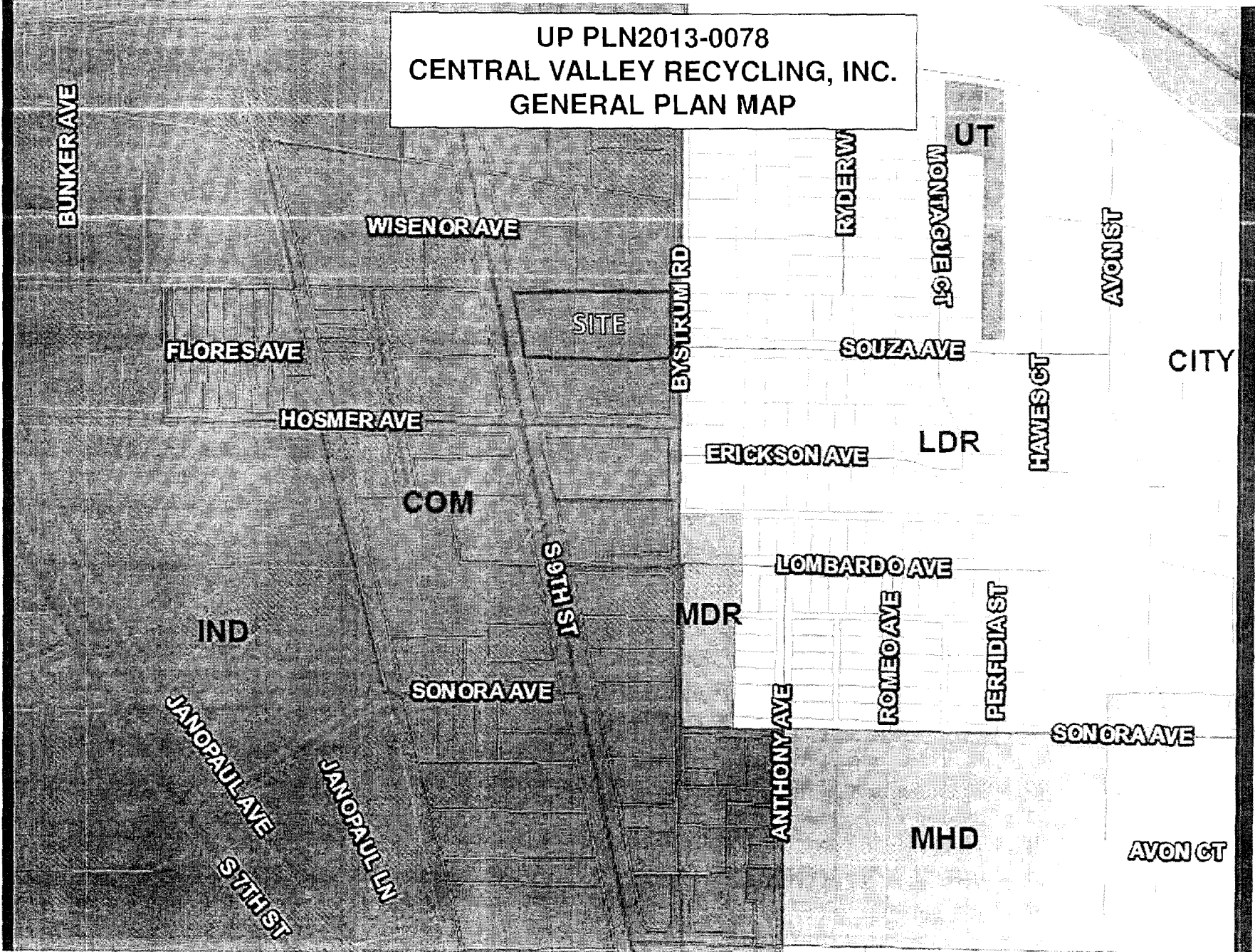
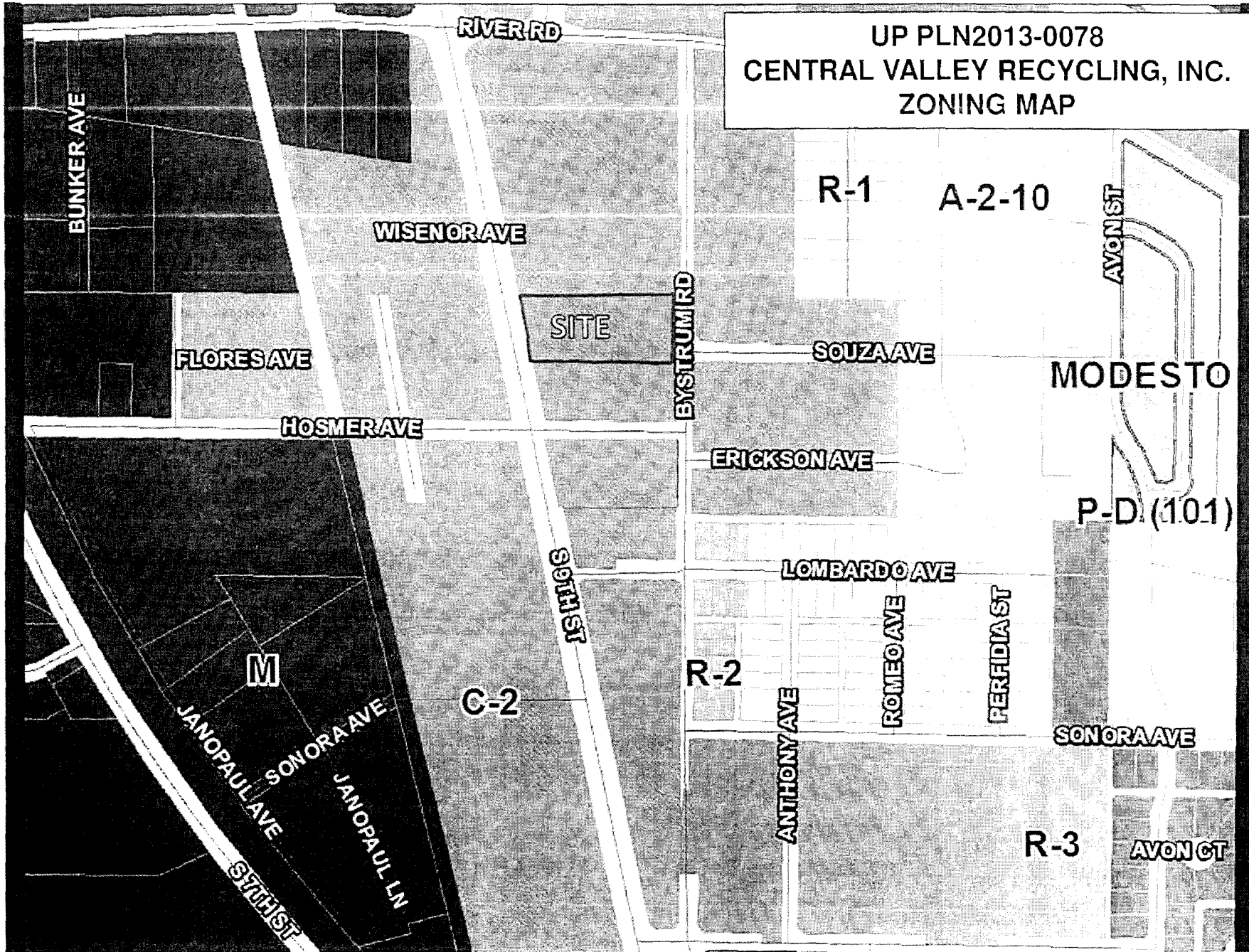


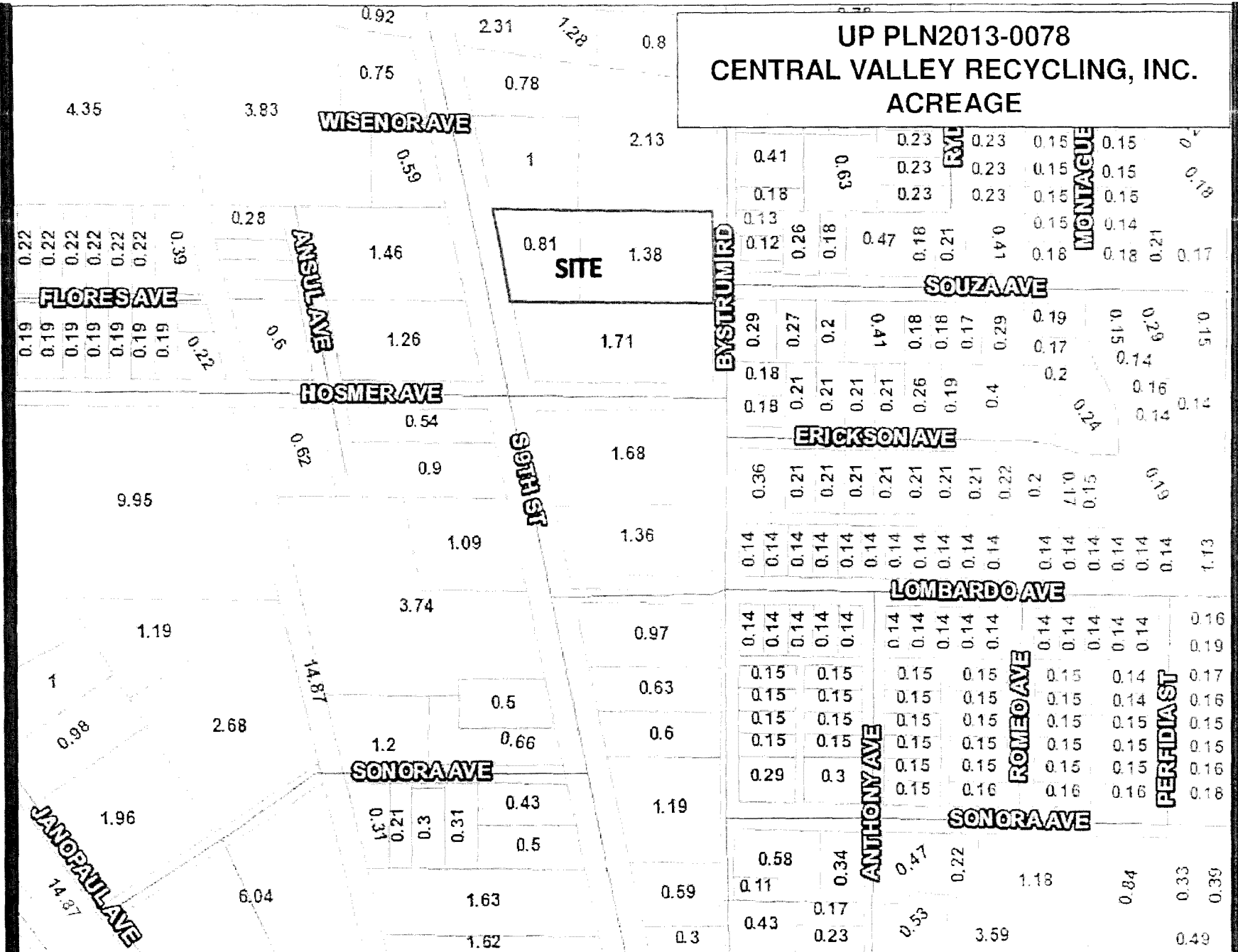
EXHIBIT B

UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
GENERAL PLAN MAP



UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
ZONING MAP





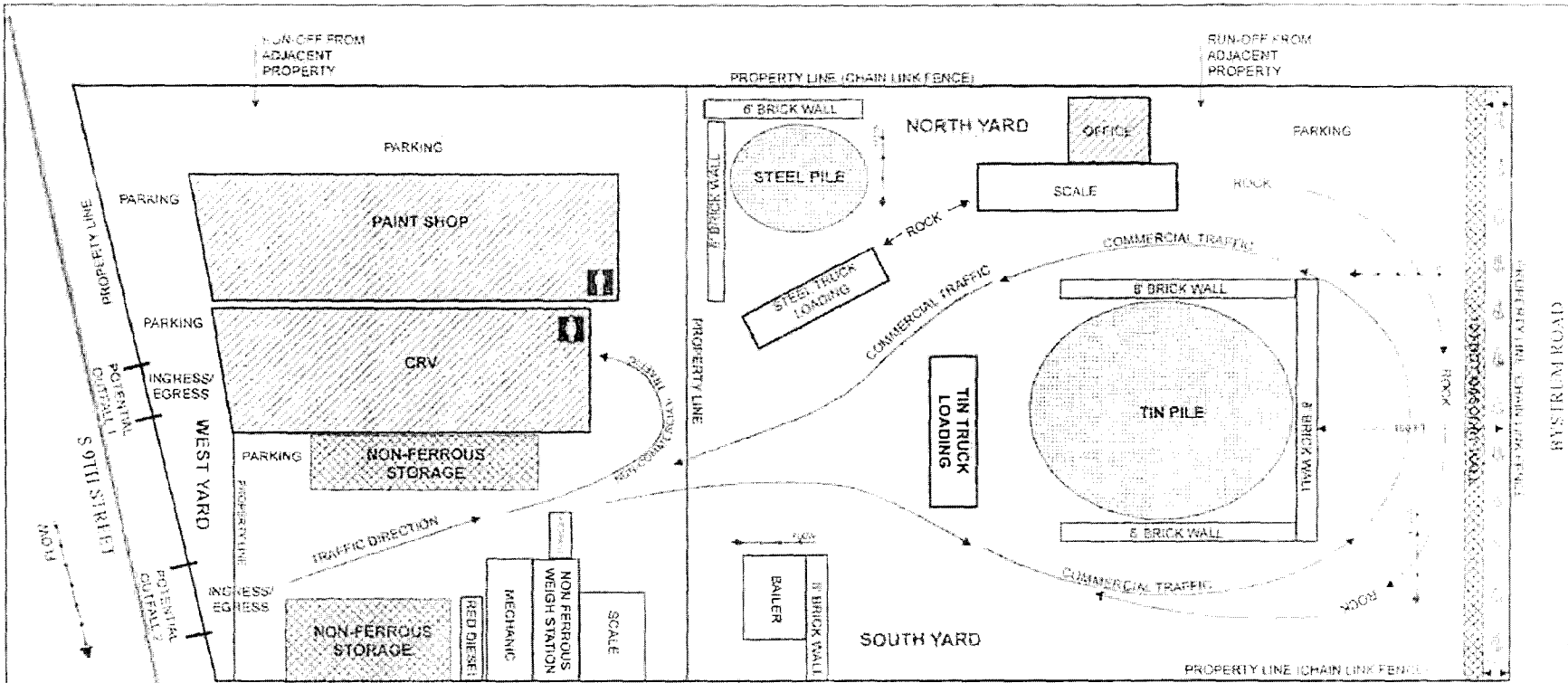
**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
ACREAGE**

**SITE**

UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2013 AREIAL



EXHIBIT B-4



**MAP DATA AND PROJECT STATISTICS:**

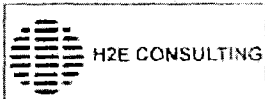
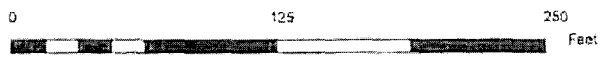
INFORMATION DEPICTED IN THIS MAP IS DERIVED FROM FIELD OBSERVATIONS MADE BY H2E CONSULTING ON JULY 16, 2012. INFORMATION PROVIDED BY CENTRAL VALLEY RECYCLING AND AVAILABLE AERIAL IMAGES AND GIS DATA

JURISDICTION: COUNTY OF STANISLAUS  
 SITE ZONING: C-2  
 RWOCB: CENTRAL VALLEY REGION 5

**STORAGE INVENTORY DESCRIPTION:**

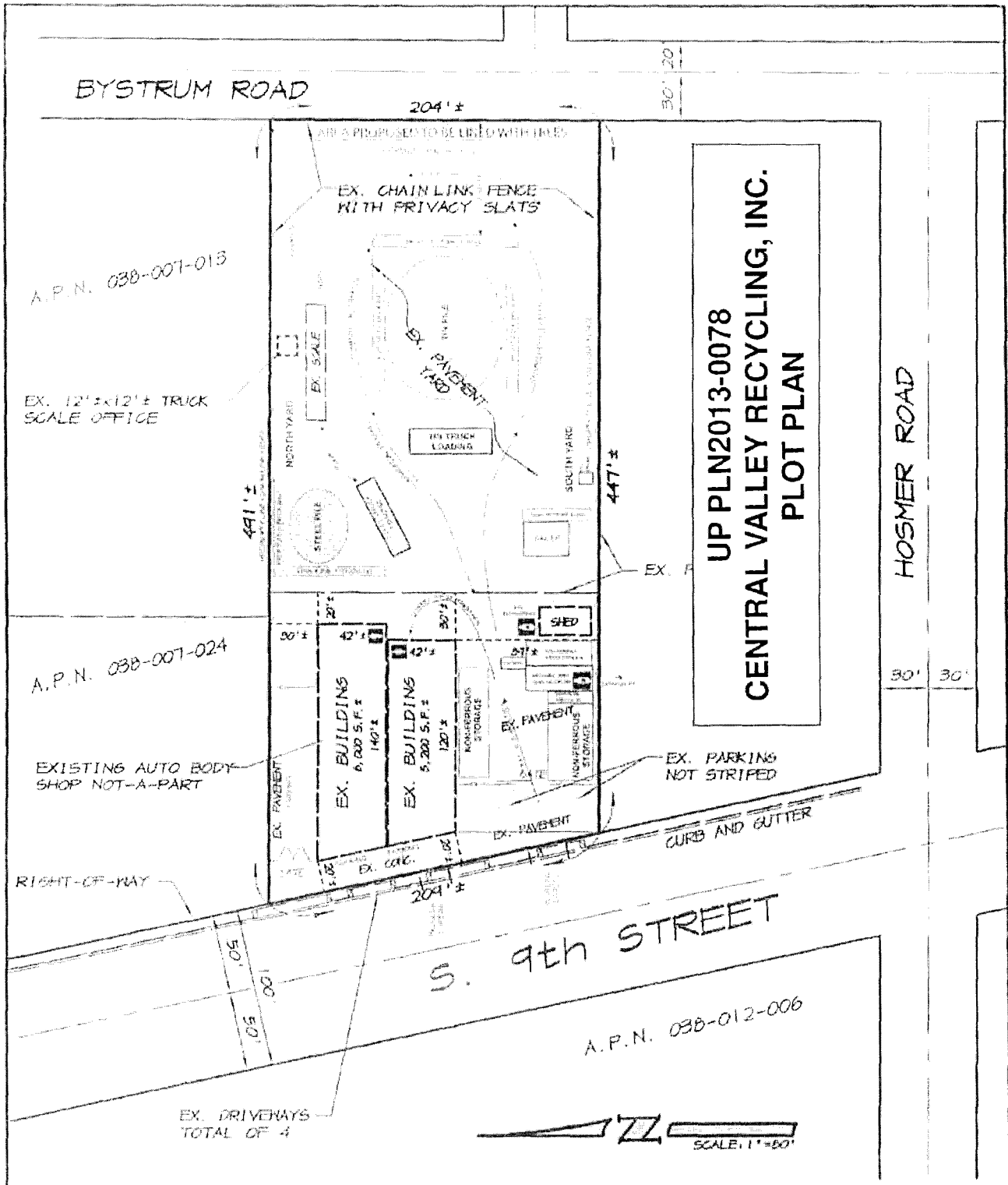
CRV ALUMINUM CANS  
 PLASTIC (HDPE)  
 GLASS  
 ALUMINUM  
 BRASS  
 COPPER  
 RADIATORS  
 STAINLESS STEEL  
 BATTERIES  
 INSULATED WARE  
 CARDBOARD (PAPER)  
 E-WASTE

**UP PLN2013-0078  
 CENTRAL VALLEY RECYCLING, INC.  
 SITE PLAN**



SITE PLAN  
 CENTRAL VALLEY RECYCLING  
 MADISON, CA  
 JULY 16, 2012

EXHIBIT B-5



**UP PLN2013-0078**  
**CENTRAL VALLEY RECYCLING, INC.**  
**PLOT PLAN**

DRAWN: J.F.  
 DATE: 11/15/13  
 SCALE: NOTED  
 JOB #: 952-13  
 DWG: PLOT\_PLAN

524 S. 9th STREET  
**PLOT PLAN**  
**CENTRAL VALLEY RECYCLING, INC.**  
 STANISLAUS COUNTY CALIFORNIA


**ASSOCIATED ENGINEERING GROUP**  
 4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356  
 PHONE: (209) 545-3300 FAX: (209) 545-3875 www.aeseng.com



**AS APPROVED BY THE PLANNING COMMISSION**  
**MAY 7, 2015**

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NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

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**CONDITIONS OF APPROVAL**

**USE PERMIT APPLICATION NO. PLN2013-0078  
CENTRAL VALLEY RECYCLING**

**Department of Planning and Community Development**

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2015), the business operator and/or property owner is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the business operator and/or property owner shall submit to the Department of Planning and Community Development a check for **\$2,267.00**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.

3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The business operator and/or property owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the business operator and/or property owner of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
5. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).

6. Landscaping shall be maintained in compliance with Chapter 21.102 of the Zoning Ordinance. Dead and dying plants shall be replaced within 30 days.
7. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
8. New or replacement signage shall be approved by the City of Ceres and the Stanislaus County Planning Director, or appointed designee(s), prior to installation. The sign plan for all proposed on-site signs shall include plans indicating the location, height, area of the sign(s), size of letters, color scheme, and message
9. A valid Stanislaus County Business License shall be maintained for all operating businesses.
10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
11. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.
12. The business operator and/or property owner shall provide a shopping cart rack where shopping carts can be stored on-site, out of the view of the public, until the shopping carts are removed.
13. The business operator and/or property owner shall provide and maintain trash containers for use by patrons entering and exiting the site.
14. The business operator and/or property owner shall provide and maintain screen landscaping along the east property line and along the northern and southern property lines, a distance of 50 feet, west of the Bystrum Road street right-of-way. The landscaping plan to be as approved by the City of Ceres or Stanislaus County. The approved landscaping shall be installed within 60 days of Use Permit approval.
15. The business operator and/or property owner shall implement any conditions associated with the findings of the Health Risk Assessment as required by the San Joaquin Valley Air Pollution Control District. Implementation of identified conditions shall commence no later than 3 months of Air District determination and shall be fully completed within six months.
16. A Staff Approval Application shall be submitted for any subsequent and separate use of the eastern parcel. To accommodate separate development options and maintain no access onto Bystrum Road, a vehicular access easement shall be required as a Condition of Approval to provide vehicle access from the eastern parcel, across the western parcel, to access South 9<sup>th</sup> Street.

17. The business operator and/or property owner shall install a 3-foot high chain-link fence in the front yard along the southern property line to keep traffic flow and access off of the adjacent property to the south. The fence shall be installed within 60 days of Use Permit approval.
18. The Use Permit shall be brought back to the Planning Commission one year after approval for review and, if necessary, amendments to operational limits; and the permit shall be subsequently brought back at the discretion of the Planning Director, as necessary, to address nuisance concerns.
19. The business operator and/or property owner shall maintain the height of the solid block wall on the north, east and south side of the tin pile to six feet high and install a 10-foot high block wall along the eastern property line. The business operator and/or property owner shall obtain a building permit for the 10-foot high block wall within 60 days of project approval and construction of the wall completed within 6 months of permit issuance.
20. A maximum of 2,000 tons of scrap metal per month is permitted. Use of the two excavators is limited to Monday through Friday and not on Saturday or Sunday. Use of the excavator with a shearer attachment is limited to operate between the hours of 11:00 a.m. and 2:00 p.m. Monday through Friday. Use of the excavator to crush vehicles is limited to the hours between 11:00 a.m. and 2:00 p.m. Monday through Friday. The use of the excavators shall be kept at least 150 feet away from the fence/property line located to the east.

**Building Permits Division**

21. The project shall comply with the 2013 California Code of Regulations Title 24 as well as handicap accessibility to the entire site.

**Department of Public Works**

22. The business operator and/or property owner shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way for South 9<sup>th</sup> Street. Access will only be allowed onto South 9<sup>th</sup> Street for both parcels. Access to Bystrum Road will not be allowed.
23. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
24. The business operator and/or property owner shall design and construct an on-site storm water run-off retention basin to serve the site. The drainage plan design shall be completed and submitted for review and approval by the Public Works Department within six months of project approval. The business operator and/or property owner shall complete on-site storm basin within 6 months of design approval by the County.
25. A grading and drainage plan for the project site shall be submitted before any building permit for the site is issued. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
  - A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.

- B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
- C. The grading and drainage plan shall comply with the current Stanislaus County National Pollutant Discharge Elimination System (NPDES) General Permit and the Quality Control standards for New Development and Redevelopment contained therein.
- D. An Engineer's Estimate shall be submitted for the grading and drainage work.
- E. The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.

The business operator and/or property owner of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.

- 26. The business operator and/or property owner of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. A preliminary Engineer's Estimate for the grading and drainage work shall be submitted to determine the amount of deposit for the inspection of the grading. The deposit shall be made prior to the issuance of the building permit. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site. The Public Works inspector will not sign on the grading or building permit until such time that all inspection fees have been paid. Any fees left over from the deposit shall be returned to the business operator and/or property owner at the completion and acceptance of the grading and drainage construction by Stanislaus County Public Works.
- 27. An acceptable financial guarantee for the road improvements shall be provided to the Department of Public Works prior to the issuance of any building permit. This may be deferred if the work in the right-of-way is done prior to the issuance of any building permit.
- 28. An Engineer's Estimate shall be provided and approved by Public Works for any road and sidewalk improvements so that the amount of the financial guarantee can be determined.
- 29. No parking, loading, or unloading of vehicles shall be permitted within the county road right-of-way of the South 9<sup>th</sup> Street and Bystrum Road.

**Department of Environmental Resources**

- 30. The business operator and/or property owner shall contact the Department of Environmental Resources within 30 days of project approval regarding appropriate permitting requirements for hazardous materials and/or wastes. The business operator and/or property owner and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to the following: (Calif. H&S, Division 20)
  - A. Permits for the underground storage of hazardous substances at new or the modification of an existing tank facility.
  - B. Requirements for registering as a handler of hazardous materials in the County.

- C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
- D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section §302.
- E. Generators of hazardous waste must notify the Department relative to the:
  - (1) quantities of waste generated; (2) plans for reducing wastes generated; and
  - (3) proposed waste disposal practices.
- F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
- G. Medical waste generators must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

**Turlock Irrigation District**

- 31. A review of District maps and records indicate that there are no known irrigation facilities located within this subject property. If facilities are found during construction, please contact the District.
- 32. The District's electric utility maps show an existing overhead 12kV distribution line along the north property line. We are requesting that a 13 foot wide electrical easement be dedicated to maintain this line.
- 33. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

**Modesto City Schools**

- 34. Modesto City Schools does not have any specific conditions to be placed on this project. The appropriate commercial fees will be assessed on all construction during the building permit process.

**Central Valley Regional Water Quality Control Board**

- 35. Dischargers whose projects disturb one or more acres of soil, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, and disturbances to the ground such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).
- 36. The Phase I and II MS4 permits require the permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP).

37. Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

San Joaquin Valley Air Pollution Control District

38. The proposed project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). As such, the District recommends the business operator and/or property owner contact the District's Small Business Assistance (SBA) office prior to starting construction regarding the requirements for an Authority to Construct (ATC) and to identify other District rules and regulations that apply to this project

MITIGATION MEASURES

**(Pursuant to California Public Resources Code 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:**

- 1) Hold a public hearing to consider the project; and**

**Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)**

39. *A Screening Level Analysis for potential risk associated with project related truck traffic and exposure to heavy metals is required within 60 days of project approval to determine if preparation of a health risk assessment is warranted as determined by the San Joaquin Valley Air Pollution Control District*
40. Implementation of Best Management Practices identified on pages 16 thru 23 of the Storm Water Pollution Prevention Plan and Monitoring Program prepared for Central Valley Recycling, 524 S. 9<sup>th</sup> Street, Modesto by H2E Consulting, which is Attachment 1 of the Initial Study and hereby incorporated by reference.
41. Maintain the height of the solid block wall around the tin pile to six feet high and install a 10 foot high block wall along the eastern property line.
42. Limit use of excavators to the west of the tin pile.
43. Continue to load and unload trucks west of the tin pile.
44. Limit the use of the excavators and metal baler to the hours between 8:30 a.m. and 5:00 p.m., Monday through Friday.
45. Vehicle crushing and/or vehicle cutting shall be limited to the hours of 11:00 a.m. and 2:00 p.m., Monday through Friday.
46. Install and maintain trees and landscaping along the eastern property line and a distance of 50 feet along the north and south property lines from the eastern property line. Landscaping plans and materials to be in conformance with City of Ceres Standards and Specifications or as approved by Stanislaus County.

47. Vehicle stacking in the public road right-of-way is not permitted. Should the number of vehicles entering the property back up onto 9<sup>th</sup> Street for more than two (2) consecutive days within any two (2) week period, the business operator and/or property owner shall submit a new traffic circulation plan for the site within 15 calendar days of the violation. The plan shall be designed in such a way as to eliminate any stacking onto 9<sup>th</sup> Street and submitted to the Department of Public Works for approval of the Public Works Director or his designee.

\*\*\*\*\*

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line-through~~.*

Central Valley Recycling, Inc.  
524 S. 9<sup>th</sup> Street, Modesto, CA 95351

Conditional Use Permit Application

*September 2013*

**Attachment A**

The following is a supplement to the Conditional Use Permit (CUP) Application provided in this package, and is intended to provide the background information and Project Description that will be evaluated under this CUP.

In accordance with the Settlement Agreement between the Applicant and the County dated September 10, 2013, the purpose of the CUP is to evaluate the increase in the intensity of scrap metal recycling operations on the project site from July 21, 2009 (the "Baseline Conditions") to the present (the "Current Conditions"), as well as future operations (the "Future Conditions"). The terms "Baseline Conditions", "Current Conditions" and "Future Conditions" are specifically defined below. The Applicant seeks approval by the County of this CUP to permit operations consistent with Current Conditions, as well as Future Conditions. County staff, the Planning Commission and (potentially) the Board of Supervisors will evaluate this CUP Application to determine whether and how the environmental effects associated with Current Conditions and Future Conditions can be dealt with consistent with CEQA, and whether the CUP findings required in Chapter 21.96 of the County Code can be made.

Therefore, this Project Description is organized into the following sections: Background Information, Description of Operation on July 21, 2009, and Project Description.

**BACKGROUND INFORMATION:**

Central Valley Recycling, Inc. (hereinafter referred to as the "Applicant"), has operated a recycling facility at 524 S. 9<sup>th</sup> Street since 1991. Since 1991, the Applicant has operated a California Redemption Value (CRV) and scrap metal recycling business. Specifically, the type of materials recycled by the Applicant include the following; CRV Aluminum Cans, Plastic, Glass, Aluminum, Brass, Copper, Radiators, Stainless Steel, Batteries, Insulated Wire, Cardboard (paper), and E-Waste. The Applicant has leased the site since opening in 1991.

The project site is made up of two parcels; APN No. 038-012-008 and APN No. 038-012-009. The site is designated for primarily Commercial and similar land uses by the County's General Plan, and is located in the C-2 zone district. It is bounded by commercial uses to the north and south, residential development to the east and Bystrum Road, and S. 9<sup>th</sup> Street and commercial uses to the west. The site is located within the jurisdiction of Stanislaus County, but within the City of Ceres Sphere of Influence (SOI).



The site is served domestic water and sewer services by the City of Modesto. Stormwater is contained on-site, and the Applicant has prepared a Stormwater Pollution Prevention Plan (SWPP) and conducts monthly monitoring. The SWPP, dated June 26, 2012, has been included in this Application package.

#### **DESCRIPTION OF BASELINE OPERATIONS ON JULY 21, 2009**

The Settlement Agreement acknowledges that the Applicant was conducting scrap metal recycling at some intensity on July 21, 2009, the date on which Central Valley Recycling, Inc. was issued a Business License to recycle scrap metal and CRV materials. At this time, the Applicant employed nine (9) people. The Applicant processed both CRV and Scrap Metal. Scrap metal was stored in the same location as present (tin pile). Ingress and egress for the site was S. 9<sup>th</sup> Street. Hours of operation at this time was 8:00am to 4:30pm

The site improvements and equipment on-site at the time of the Business License issuance were the following:

##### Site Improvements and Structures:

- 800 square foot CVR Quonset Hut, including Office Space;
- Mens' and Women's Restroom Facilities (located in the Quonset Hut and Paint Shop);
- 350 square foot Mechanic Structure;
- Non-Ferrous Weigh Station;
- Scale (located on south side of project site);
- Chain link fence along perimeter of project site;
- Steel pile located on north side of project site;
- Bailer located on south side of project site; and,
- Tin pile.

##### Equipment:

- One Excavator;
- Three Forklifts;
- Two Roll-Off Trucks;
- Two 40-foot Flatbed Trailers;
- One 37-foot End Up Trailer;
- Containers varying in size from 4x4, 4x2, and 4x8. In total, there were approximately 106 Containers on-site; and,
- Ten 40-yard and 30-yard Containers.

Based upon business records maintained by the Applicant and reviewed by the County, the monthly gross tonnage of scrap metal being processed as of July 21, 2009 was approximately 904 tons. This represents the Baseline Conditions.

**DESCRIPTION OF CURRENT CONDITIONS:**

From July 21, 2009, the Applicant has invested in a variety of site improvements and equipment as part of their operation, all of which are included as part of this Conditional Use Permit application. In addition, the Applicant is proposing specific improvements in an effort to mitigate potential impacts to nearby residents and businesses.

Presently, the Applicant employs 18 full-time and 5 part-time employees, representing an increase of 14 employees from July 2009. Employee parking is provided on-site north of the paint shop. Primary access to the site is provided via S. 9<sup>th</sup> Street. Operations are conducted from 8:00am to 4:30pm, although in some cases employees are on-site before and after business hours cleaning the site, conducting office work, etc. In regards to the Tin Pile (as noted on the Site Plan), vehicle crushing is conducted between 11:00am and 2:00pm in accordance with the Settlement Agreement. On average, the site receives approximately 250 vehicle and truck trips per day.

Between July, 2009 and August, 2013, the Applicant constructed and/or installed the following improvements:

Post July 21, 2009 Improvements and Equipment:

- 100 square-foot scale house, located immediately adjacent to the truck scale;
- Improved drive-on truck scale;
- Installation of an 8-foot brick wall on the perimeter (south, north, and east) side of Tin Pile;
- Installation of a 6-foot brick wall on the north and west side of the Steel Pile;
- Purchase and seasonal use of water truck to mitigate dust;
- Moved Tin Pile approximately 150 feet from eastern edge of site;
- Operation of excavator only on western edge of Tin Pile;
- The unloading and loading of trucks only occurs on western edge of Tin Pile (previous practice was conducted on eastern edge of Tin Pile); and,
- Monthly soil sampling by a SWPP Company.

Between January and June 2013, the Applicant processed approximately 16,296 tons of scrap metal, or 2,716 tons per month.

#### DESCRIPTION OF FUTURE CONDITIONS:

In anticipation of future growth within the CRV and scrap metal recycling industry, the Applicant seeks approval within the CUP application to process 48,000 tons of scrap metal annually, which represents an average of 4,000 tons per month. In order to accommodate both Current Conditions and Future Conditions, the Applicant is proposing to install the following site improvements as part of this Conditional Use Permit application:

- Installation of a 10-foot masonry wall on the eastern edge of the site;
- Landscape treatment on the masonry wall and tree planting to provide aesthetic treatment along the eastern edge of the site;
- Installation of concrete throughout the site to help mitigate dust impacts;
- Installation of sediment grates along site frontage to prevent sediment from spilling onto County right-of-way; and,
- Daily sweeping of curb and gutter.

# **ATTACHMENT 3**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development *AK*

BOARD AGENDA # 6:40 P.M.

Urgent  Routine

AGENDA DATE June 16, 2015

CEO Concurs with Recommendation YES  NO

4/5 Vote Required YES  NO

(Information Attached)

SUBJECT:

Public Hearing to Consider an Appeal of Planning Commission's Approval for Use Permit Application No. 2013-0078, Central Valley Recycling, Inc., a Request to Intensify a California Redemption Value (CRV) and Scrap Metal Recycling Facility Located at 522 and 524 S. 9<sup>th</sup> Street in the Ceres area; and Adoption of a Mitigated Negative Declaration

STAFF RECOMMENDATIONS:

The Planning Commission, after conducting and receiving testimony at a public hearing during its regular meeting of May 7, 2015, on a 5-1 (Gibson) vote, followed staff's recommendation and approved the subject Use Permit application. If the Board of Supervisors decides to uphold the Planning Commission's decision, denying the appeal, staff recommends the following actions be taken:

(CONTINUED ON PAGE 2)

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2015-274

On motion of Supervisor De Martini, Seconded by Supervisor Chiesa  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, De Martini and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)      Approved as recommended

2)      Denied

3)      Approved as amended

4) X Other:

MOTION:

PLEASE SEE PAGE 1-A FOR AMENDED MOTION

ATTEST:

  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

Public Hearing to Consider an Appeal of Planning Commission's Approval for Use Permit Application No. 2013-0078, Central Valley Recycling, Inc., a Request to Intensify a California Redemption Value (CRV) and Scrap Metal Recycling Facility Located at 522 and 524 S. 9th Street in the Ceres Area; and Adoption of a Mitigated Negative Declaration

Page 1-A **AMENDED MOTION**

Based upon the staff report, presentations by staff and consultants, including PowerPoint presentations, all comments and testimony received during the public hearing including comments made by consultants, and all materials that were supplied to the Board of Supervisors and which were taken into consideration in making the decision, the Board of Supervisors denied the appeal, upheld the Planning Commission decision with amendments to the Conditions of Approval, and approved **amended** Staff Recommendations Nos. 1-12 as follows: (1) conducted a public hearing to consider the appeal of Planning Commission's approval for Use Permit No. 2013-0078, Central Valley Recycling, Inc., a request to intensify a California Redemption Value (CRV) and scrap metal recycling facility by increasing the volume of scrap metal recycling allowed at a facility located at 522 and 524 South 9th Street, in the Ceres area; (2) adopted the Mitigated Negative Declaration pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis; (3) ordered the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075; (4) finds that the proposal for on-site processing of scrap metal requires the on-going regular use of heavy machinery, which is not customary or consistent with permitted uses in the C-2 zoning district, and therefore, the proposed use is inconsistent with the "Commercial" General Plan designation when located in close proximity to residential uses. Because the proposed use does not demonstrate a valid supportive relationship to the existing residential development, the Board determined that Conditions of Approval Nos. 20 and 24, and Mitigation Measures Nos. 42, 44 and 45 must be amended in order to make the necessary findings for approval of a use permit that protects the health, safety, and general welfare of nearby residents, and to protect property and improvements in the neighborhood; (5) amended Condition of Approval No. 20 to read as follows: "A maximum of 2,000 tons of scrap metal per month is permitted. The on-site handling of scrap metal shall be limited to collection and transfer only. The use of shears, cutters, crushers or any other equipment intended to shred and/or dismantle scrap metal, vehicles, heavy equipment, household or commercial appliances, or other similar items on-site is expressly prohibited. The use of any equipment for loading, unloading, or transfer of scrap metal shall be kept at least 150 feet away from the fence/property line located to the east."; (6) amended Condition of Approval No. 24 to read as follows: "The business operator and/or property owner shall pave the entire site and design and construct an on-site storm water run-off retention basin to serve the site. The drainage plan design shall be completed and submitted for review and approval by the Public Works Department within six months of project approval. The business operator and/or property owner shall pave the entire site and complete construction of the on-site storm basin within 6 months of design approval by the County."; (7) amended Mitigation Measure listed as Condition of Approval No. 42 to read as follows: "Limit use of any equipment used for loading, unloading, or transfer of scrap metal to the area west of the tin pile as shown on the Project site plan."; (8) amended Mitigation Measure listed as Condition of Approval No. 44 to read as follows: "Hours of operation for any outdoor activities associated with scrap metal recycling shall be limited to

Public Hearing to Consider an Appeal of Planning Commission's Approval for Use Permit Application No. 2013-0078, Central Valley Recycling, Inc., a Request to Intensify a California Redemption Value (CRV) and Scrap Metal Recycling Facility Located at 522 and 524 S. 9th Street in the Ceres Area; and Adoption of a Mitigated Negative Declaration

Page 1-B **AMENDED MOTION CONTINUED**

Monday through Friday, 8:00 a.m. to 4:30 p.m., and Saturday 8:00 a.m. to 2:30 p.m.”; (9) deleted Mitigation Measure listed as Condition of Approval No. 45; (10) Pursuant to CEQA Guidelines section 15074.1 (b)(2), the Board of Supervisors makes a written finding that the amendments to Mitigation Measures No. 42 and 44 and the deletion of Mitigation Measure No. 45 are equivalent or more effective in mitigating or avoiding potentially significant noise effects because the on-site processing of scrap metal, including crushing and cutting, will no longer be permitted, and because the amendment to Mitigation Measure No. 44 further clarifies and limits outdoor activities. The Board of Supervisors further finds that the changes in Mitigation Measures and the Conditions of Approval will not themselves cause any potentially significant effect on the environment; (11) finds that: (a) the establishment, maintenance, and operation of the proposed use or building applied for, as amended, is consistent with the General Plan designation of “Commercial” and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County, and (b) the project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements; and, (12) approved Use Permit Application No. 2013-0078 – Central Valley Recycling, Inc. subject to the Conditions of Approval and Mitigation Measures as amended

**STAFF RECOMMENDATIONS CONTINUED:**

1. Conduct a public hearing to consider the appeal of Planning Commission's approval for Use Permit No. 2013-0078, Central Valley Recycling, Inc., a request to intensify a California Redemption Value (CRV) and scrap metal recycling facility by increasing the volume of scrap metal recycling allowed at a facility located at 522 and 524 South 9<sup>th</sup> Street, in the Ceres area.
2. Adopt the Mitigated Negative Declaration pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.
3. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
4. Find That:
  - (a) The establishment, maintenance, and operation of the proposed use or building applied for, as amended, is consistent with the General Plan designation of "Commercial" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; and
  - (b) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
5. Approve Use Permit Application No. 2013-0078 – Central Valley Recycling, Inc. subject to the attached conditions of approval.

**DISCUSSION:**

An appeal to the Planning Commission's May 7, 2015 project approval of Use Permit Application No. 2013-0078 – Central Valley Recycling, Inc. (CVR) was received on May 18, 2015 from Rebecca Harrington, a resident in the project area, representing neighbors of Bystrum Road and Souza Avenue (see Attachment 1, Appeal Letter, May 18, 2015). The appeal letter, in summation, raises concern that not all facts have been accurately represented and given the track record of CVR to date, they will be unable to comply with a new permit agreement.



The Use Permit application is a request to intensify an existing California Redemption Value (CRV) and scrap metal recycling facility. The applicant, CVR, is requesting increasing the volume of scrap metal collected on-site from a monthly average of 1,350 tons to a maximum of 2,500 tons per month, and increase the number of employees from nine (9) full-time employees to eighteen (18) and five (5) part time employees. The applicant proposes to use two excavators to handle the recyclables on-site. Scrap metal is collected, sorted, cut, crushed, baled on-site and transported off-site for further processing. Recycling scrap metals consists of a variety of surplus or discarded ferrous and non-ferrous (non-magnetic) metals including, but not limited to, whole vehicles and vehicle parts.

The site is generally located on the east side of South 9<sup>th</sup> Street, north of Hosmer Avenue in the Ceres area. The subject site consists of two parcels totaling approximately 2.2 acres in the C-2 (General Commercial) zoning district, in the Ceres Sphere of Influence. The properties to the north, south, and west are also zoned C-2. The properties to the east of the site, across Bystrum Road, are zoned R-3 (Multiple Family Residential) and are developed with single family and multi-family residences.

A detailed project description along with a site and operational description, area and zoning maps, and site plans for the project site are provided in the May 7, 2015 Planning Commission Staff Report. (See Attachment "2") The Planning Commission Staff Report also provides a background discussion detailing the County's enforcement actions against CVR for operations as a nuisance which resulted in a Settlement Agreement approved by the Board of Supervisors on September 10, 2013 requiring CVR apply for a conditional use permit to determine the appropriate level of intensity for the scrap metal recycling. (See Exhibit "F" of Attachment "2")

Staff's recommendation to the Planning Commission included the following conditions: (1) approving intensification of the scrap metal operation to collect up to a maximum of 2,000 tons of scrap metal per month, instead of the maximum 2,500 tons per month requested by the applicant; (2) including a provision that limits use of the two excavators in terms of time and location of use; and (3) including a provision that will require that the Use Permit be brought back to the Planning Commission after one year of operation for possible amendments to operations and/or conditions of approval or at the discretion of the Planning and Community Development Director.

#### Planning Commission Hearing:

At its regular scheduled meeting of May 7, 2015, after a public hearing, the Planning Commission voted 5-1 (Gibson) to approve the subject project as recommended by staff, which included the conditions discussed above. (See Attachment "3" – Planning Commission Minutes) Attachment "4" includes both correspondence received too late for the agenda, which was provided to the Planning Commission at the start of the meeting, and correspondence received during the hearing. Correspondence too late for the agenda included emails in opposition to the project from Gloria Ortega and Debbie Miller and a letter from the applicants representative, J.B. Anderson, expressing support

for staff's recommendation while requesting a modification to Condition of Approval No. 20.

Condition of Approval No. 20 limits the use of excavators on-site, for any purpose, to Monday through Friday and further limits use of the excavator with a shearing attachment or the excavator for crushing vehicles to Monday through Friday 11:00 a.m. to 2:00 p.m. The applicant's representative requested a modification allowing use of the excavator with the shearer attachment to be permitted Monday thru Friday, between the hours of 8:00 a.m. to 10:59 a.m. and 2:01 to 4:30 p.m. for non-vehicle related products, and the use of one excavator on Saturdays from 8:00 a.m. to 2 p.m. for the loading and unloading of trucks. The applicant's proposed modification was not approved by the Planning Commission.

The Planning Commission, upon hearing the staff report, requested clarification regarding the source of water for the neighboring residents; the type of existing and propose fencing along Bystrum Road; the location and type of storm drain basin proposed; existing storm drainage run off patterns for the area; type of landscaping screen to be planted, clarification regarding the operation of Universal Services Recycling (USR) to the south; and timing for improvements.

The neighboring residents receive water via wells operated by the City of Modesto (former Del Este wells); the existing fence is 6-ft chain link with slates and concrete block along the inside; the location of the on-site storm drain basin has not yet been identified, however, an underground, French drain system, will most likely be utilized; the area surrounding the project site is not served by a storm drain system - water drains north to the river – unless contained on-site; and the exact type of landscaping to be planted for screening has not been identified, however, Italian cypress have been discussed as a good option and would grow above the proposed 10-foot concrete wall. One Commissioner did caution about the use of redwoods which are high water users.

A Use Permit was issued to the USR operation located south of the project site, just south of Hosmer Road, in 2014 to allow for CRV and scrap metal recycling. At the time of the CVR hearing, staff indicated that USR did not take in vehicles or use an excavator, thus having a lower intensity based on the types of equipment used on-site. Since the hearing, staff has confirmed that USR is utilizing an excavator, on rubber tracks, and does accept vehicles as scrap. USR is in compliance with its conditions of approval as there is no condition prohibiting the collection of junked vehicles or the use of an excavator, provided the excavator is used only to transfer materials for transporting and not used for crushing or shearing.

Project conditions of approval for CVR identify the following triggers for the timing of improvements:

- Within 30-days of project approval: contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials and/or waste. (Condition of Approval No. 30)

- Within 60-days of project approval: install fencing in the front yard along the southern property line. (Condition of Approval No. 17)
- Within 60-days of project approval: obtain a building permit for the 10-foot block wall along the eastern property line. (Condition of Approval No. 17)
  - Within 6-months of project approval: install the 10-foot block wall along the eastern property line. (Condition of Approval No. 17)
- Within 60-days of project approval: complete a Screening Level Analysis for potential risk associated with project related truck traffic and exposure to heavy metals. (Condition of Approval No. 39)
- Within 60-days of Use Permit approval: install approved landscaping. (Condition of Approval No. 14)
- Within 6-months of project approval: complete and submit drainage plan designs for review and approval by the Public Works Department (Condition of Approval No. 24)
  - Within 6-months of Public Works approval of drainage plan designs: complete on-site storm drain (Condition of Approval No. 24)

If a Health Risk Assessment is determined to be warranted, by the San Joaquin Valley Air Pollution Control District (SJVAPCD) upon review of the Screening Level Analysis, the following triggers shall apply:

- Within 3-months of the SJVAPCD's determination: commence implementation of conditions associated with the findings of the Health Risk Assessment. (Conditions of Approval No. 15 and 39)
  - Within 6-months: fully complete implementation. (Conditions of Approval No. 15 and 39)

If the appeal is denied and the project approval upheld, June 16, 2015 will be the date of project approval/use permit approval.

Two persons spoke at the May 7, 2015 Planning Commission hearing in opposition of the project. Matthew Harrington, resident of 522 Bystrum Road, located east of the project site, and vice-chair of the South Modesto Municipal Advisory Council (MAC), explained how his family has lived in the area since the 1970's and how the sound, smell, and vibration generated by the CVR operation have diminished the enjoyment of their property. He expressed concern with the ability of a masonry wall and trees to contain emissions leaving the site in an upward direction. Mr. Harrington requested that the Planning Commission consider the multi-generational families living in the area in their decision.

Mr. Harrington was asked if the MAC had taken a position regarding the 2014 Use Permit for USR. Mr. Harrington stated that the MAC had not opposed the project due to the sites existing asphalt, USR's upgrades to the property, and USR's efforts to inform the neighbors of their operation. He also expressed that USR's use of rubber tracks, on the excavator, do not cause vibration and no crushing occurs on-site. He indicated that

noise from the USR operation is only noticed when materials are being placed in trucks for processing off-site.

In response to the letters of support received for the project, Exhibit "G" of Attachment "2", Mr. Harrington was asked on his thoughts about the reference to CVR being a "great neighbor". Mr. Harrington expressed disagreement with the claim and expressed that the community feels they have not been heard and, as such, are no longer showing up at meetings.

Following his testimony, Mr. Harrington provided staff with a packet containing letters in opposition to the project. (See Attachment "4") The letters were from Rebecca Harrington (one unsigned copy and one signed on behalf of John and Emily Ortega residents of 522 Bystrum), Maggie Mejia (President, Latino Community Roundtable), Alfred Garcia (Commander – USMC Veteran, American GI Forum), Barbara England, Martin and Oralia Martinez, and Julia Martinez. Upon receipt, these letters were circulated to the Planning Commission for their review during the hearing.

Also speaking in opposition to the project was Cynthia Carillo, a neighborhood resident, whose family has lived in the area since the 1950's. Ms. Carillo expressed how the aesthetics of the CVR operation have negatively impacted the neighborhood and how she, and other family members, attended previous meetings in an effort to be heard in opposition to the project.

Speaking in favor of the project was Mark Niskanen, the applicant's representative, and Paul Bollard, the applicant's noise consultant. Mr. Niskanen expressed how the Use Permit establishes the rules and regulations needed to address the concerns of the neighbors and how the improvements to be made to CVR will result in an operation that looks similar in nature to the USR operation in terms of on-site improvements. The one difference in operations, as noted by Mr. Niskanen, is the use of an excavator with a shear by CVR to cut materials.

In response to questions from the Planning Commission, Mr. Niskanen explained how the project site is CVR's only facility, that there have been no issues with law enforcement regarding the acceptance of stolen materials, and addressed that the difference between the requested 2,500 tons vs. recommended 2,000 tons of scrap per month is not a problem for the applicant.

Mr. Bollard explained how the initial noise assessment found that the operation was exceeding acceptable County noise standards, however, with the incorporation of identified mitigation measures, the operation has reached compliance with acceptable noise standards (even with operation of the excavators with the grappler and the shear at the same time). Mr. Bollard expressed that the applicant's proposed modification to Condition of Approval No. 20, to allow operation of an excavator on Saturday, would be in compliance with County noise standards, as a different noise standard does not apply to Saturday.

Richard Francis, speaking on behalf of the Francis Family, owner/operators of CVR, explained how CVR has taken a proactive approach in cleaning up garbage along their fence line in an effort to be a good neighbor, while acknowledging that their efforts have been limited. In response to how quickly improvements would be made, Mr. Francis expressed that funding for the improvements are an issue, but that improvements would be made as quickly as possible and in compliance with the Use Permit timelines. Mr. Francis did acknowledge that the family has explored other sites, but that, given the areas high traffic, CVR is in the best location for this use.

The minute of the Planning Commission, see Attachment "3", fail to reflect Mr. Francis as having spoken in favor of the project at the May 7, 2015 hearing. The minutes will be returned to the Planning Commission for correction at the next meeting.

In acknowledgment of CVR's current operations being in compliance with County noise standards and focused on the need to determine if a proposed use is compatible with the zoning and consistent with the general plan, the Planning Commission approved the subject Use Permit. In reaching a decision, the Commission considered both the need for recycling facilities and the need to take the burden off the residents, while expressing that CVR could do more to be a good neighbor.

The applicant's representative has provided a written rebuttal to statements provided in the appeal letter. (See Attachment "5") The rebuttal notes as important the applicant's acceptance of Condition of Approval No. 18 requiring the Use Permit be brought back to the Planning Commission one year after approval for review and, if necessary, amendments to the operational limits; and that the permit be subsequently brought back at the discretion of the Planning Director, as necessary, to address nuisance concerns.

As confirmed by the applicant's original noise study, the intensity of the scrap metal portion of CRV's operation on September 10, 2013, when the Settlement Agreement was approved, was a nuisance. Since the settlement agreement, CVR has conducted additional noise studies concluding changes made to the operation, through incorporation of noise study recommendations, have brought the facility into compliance with County noise standards.

Conditions of approval being applied to CVR through the Use Permit process will address air quality, hydrology/water quality, and noise and vibration concerns through site improvements and operational controls (such as limitations on the use of equipment and location of activities). Without a use permit, CVR will still have the right to conduct an unspecified amount of scrap metal recycling (including vehicles); however, the mechanism to establish the rules and regulations needed to address the concerns of the neighbors will not be in place.

#### **POLICY ISSUES:**

Upholding the Planning Commission's approval of the subject Use Permit, by denying the appeal, furthers the Boards priorities of A Well Planned Infrastructure System and A Strong Local Economy by recognizing that a certain level of intensity of scrap metal

recycling is consistent with the C-2 (General Commercial) zoning district while providing the conditions of approval need to address compatibility with surrounding land uses through operational controls.

**STAFFING IMPACT:**

There are no staffing impacts associated with item.

**CONTACT PERSON:**

Angela Freitas, Director of Planning & Community Development.  
Telephone: 209-525-6330

**ATTACHMENTS:**

1. Appeal Letter from Rebecca Harrington dated May 18, 2015
2. UP 2013-0078 – Central Valley Recycling Staff Report
3. Planning Commission Minutes of the May 7, 2015, Regular Meeting
4. Correspondence Received at Planning Commission Hearing, May 7, 2015
5. Letter dated June 1, 2015 from Mark Niskanen, JB Anderson Land Use Planning

May 18, 2015

Stanislaus County Board of Supervisors  
1010 Tenth Street, Suite 6700  
Modesto, CA 95354

BOARD OF SUPERVISORS

2015 MAY 18 P 4:41

Re: Appeal from Planning Commission approval of Use Permit Application No. PLN2013-0078 Central Valley Recycling, Inc. on May 7, 2015.

To the Honorable Board of Supervisors:

**APPEAL.** The neighbors of Bystrum Road and Souza Avenue, appeals to the Stanislaus County Board of Supervisors to overturn the decision of the Planning Commission dated May 7, 2015 to grant the request the Use Permit Application No. PLN2013-0078 Central Valley Recycling, Inc.

**APPELLANT.** The neighbors of Bystrum Road and Souza Avenue, a group of residents in the unincorporated area of Modesto, California 95351 respectfully request an appeal from the Stanislaus County Board of Supervisors regarding the Planning Commission approval of Use Permit Application No. PLN2013-0078 Central Valley Recycling, Inc. The residential neighborhood to the east of Central Valley Recycling, Inc. is a predominately-lower income community of Mexican, White and persons of mixed heritage. This community is known as "No man's land", but now is in the sphere of influence of the City of Ceres and is part of the South Modesto Municipal Advisory Council.

**NOTICE.** The neighbors of Bystrum Road and Souza Avenue requests notice of any hearings or any action in this matter to be addressed as follows:

Neighbors of Bystrum Road and Souza Avenue  
C/O Rebecca Harrington  
522 Bystrum Road  
Modesto, CA 95351

**FOUNDATIONS FOR APPEAL.** Staff report dated May 7, 2015, Page 3, Background through Page 4: in the report the County states it informed CVR on September 5, 2012 that the county would not approve a business license renewal and determined that the operation of the scrap metal recycling business had grown exponentially and was no longer in character with permitted C-2 uses....The County did in fact send a certified notice one via regular mail to CVR. The certified mailing was returned and the regular mailed item was not. CVR continued to operate unlicensed and did not attempt to communicate with the County per my conversations with County Personnel in the Planning Department. CVR operated unlicensed and to the best of my knowledge continued to do so for at least six months.

The County Planning department apparently relied on CVR to come into the County offices to resolve the matter; instead, the County Planning department had to make a trip to CVR site to speak with the owners.

Page 4 continuing to Page 5, ISSUES, item **A. Air Quality**

In 2013 the applicant (CVR) represented that the entire surface of the CVR facility is paved with concrete and, in most areas, covered with dirt/sediment that been tracked in overtime via customer and

ATTACHMENT 1

commercial vehicle traffic. At the May 7 hearing, owner Richard Francis contradicted his previous statement of 2013, he stated that as a small family owned business they are not certain of how they would obtain the funds necessary to pave the dirt areas of the their site. These areas require watering to keep the dust down as much as possible. Our state is in a drought and it is reprehensible that valuable water is the means used to keep dust down because CVR does not want to spend the money needed to pave over the dirt. In addition, the air quality within the 95351 zip code per the Stanislaus County Health Department, reports that this area has a high incidence of Asthma and Asthma related illnesses in the area.

**Page 5, Item B. Hydrology and Water Quality**

It is proposed that CVR pave the entire site and maintain storm water run-off on-site, the Applicant again sites the tremendous cost to the company. There is no way to assess the future damages to the aquifer water table that is less than 300 feet from the former Del Estes Water well now a part of the City of Modesto water department. A county employee stated the storm water run-off that goes to the drains on 9<sup>th</sup> Street goes to the Tuolumne River. It is a proven fact that the continuous leaching of chemicals into the ground close to residential water wells will cause contamination, which over time will cause health problems. To say that the percolation of the water run-off into the ground will be adequately filtered through French drains at CVR is at best a guess and not factual. It is impossible to determine the long-range effects the chemicals will have to the ground water in the area.

In 2011, I put in over forty hours making calls to various state agencies and departments within the County of Stanislaus; I determined that not one of the entities had any idea of the type of business CVR was conducting or under whose jurisdiction they would come under. It is quite possible that the predecessor of the current Planning Department head had ignored the type of business CVR petitioned the County solely for the sake of revenues. This does not excuse the lack of policy and procedures that the County of Stanislaus does not possess, and should have had in place before this situation escalated to this level. The quality of our day-to-day lives hang in the balance while the Applicant continues business as usual and the Stanislaus County decides how to proceed.

The Board of Supervisors approved a settlement agreement on September 10, 2013 even though they received a negative Nuisance Abatement Commission recommendation, and CVR has yet to comply with the letter of the agreement. It is my opinion that CVR will continue to operate business as usual for as long as they are able to do so. A Stanislaus County Code Enforcement employee told me that CVR maintained the attitude, "if they don't like what we do here they can move (referring to the residents of Bystrum and Souza)." I believe this to be true, as the CVR has never made an effort to reach out to the community.

During the May 7 hearing Stanislaus County Planning Department employee, Mr. Galvez stated that CVR business is conducive to the businesses on South 9<sup>th</sup> Street. I walked and drove that area and found the following: 3 tire companies, 3 automotive repair shops, 2 motels, 1 gas station, 1 store, 2 auto body shops; 1 car sales lot; 2 auto dismantlers (neither doing the crushing of vehicles); Zaff Recycling that does industrial recycling where his customers drop off bins to be shipped off site; Universal Service Recycler that accepts California Redemption Value items, basic household metal recyclables and do not take any type of autos; 1 appliance repair and a small business site that has miscellaneous businesses not related to recycling. The representation that CVR is doing the same type of business as its neighboring businesses is an inaccurate statement and can be contested. In addition, a contradiction that was stated at the meeting is that diesel trucks travel on Bystrum Road on a regular basis. This is an



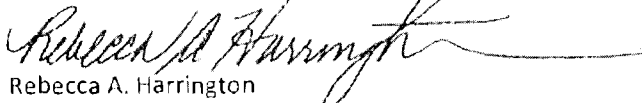
erroneous statement as well. There is a County sign on Hosmer Road specifically stating that no truck weighing 7 tons shall travel past Hosmer. While some do travel on Bystrum on occasion, it is more infrequent than claimed by the County and Mr. Niskanen. Rocha Trucking Company has moved from the area and is no longer is to the north of CVR. They moved their business to a location that was better suited for their type of business. Mr. Francis said he could not find an adequate location for CVR. Rocha Trucking found a better location for their 50 plus trucks and I believe there are better locations for CVR that are not within 50 feet of the residences. It is semantics to say that the moving the pile of recycled cars, trucks, farm equipment, buses, trailers and other large items 100 feet west of a residential area will diminish the affects to our neighborhood. A wall will not stop the noise, the house shaking and the noxious odors coming from the CVR site.

Another fact that not mentioned at the meeting, CVR has taken in stolen vehicles on more than one occasion. Officer Chuck Leon, from the CHP informed me that on two separate occasions they went to CVR to discuss with the owners the issue of receiving stolen vehicles. This is an example of what we do know and may not accurately reflect what else has gone unreported.

This is not an emotional plea, but one of concern for the lack of policy and procedures to govern this type of business. Second, in this day and year I find it reprehensible that these types of businesses continue to establish themselves close to communities of predominately Mexican, Spanish speaking and economically disadvantaged. Many people in this community have owned their homes for more than fifty years, and there are more than three generations in some of these homes. We matter and our quality of life is adversely affected by the scrapping of all vehicles done at the CVR site. It has never been my intention to stop CVR from doing CRV recycling of cans, bottles, plastic or paper. I am not adverse to recycling general household metals; it is the vehicle recycling part of their business, which has caused the distress in our neighborhood.

In summation, I contend that not all the facts were accurately represented and given the track record of CVR to date, I find it unbelievable that they will comply with a new permit agreement. Mr. Richard Francis himself stated, they do not have the resources (money) to do all that will be required of them to meet the expectations of the permit. In which case, our neighborhood will suffer at the expense of their inability to meet the guidelines set forth in the permit. I respectfully ask the Board of Supervisors to go back and view the video from June 27, 2013 Nuisance Abatement Hearing Board to hear what the members of the board had to say. I urge you to take the time to drive over to 524 S. 9<sup>th</sup> Street to see for yourself what CVR does on a daily basis. Then drive over to our family home at 522 Bystrum Road and then go north two houses to the home of Terry Peralta. If this still does not convince you that this decision by the Stanislaus County Planning Commission was wrong, then I will have no other choice than to take this matter to the next level. Please understand, I have paid the appeal fee of \$622.00 because our community deserves to be heard and should not have to live under these deplorable conditions.

Respectfully submitted,



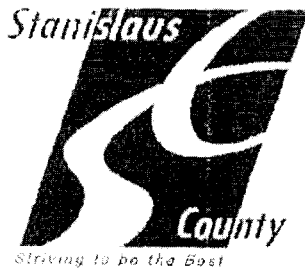
Rebecca A. Harrington  
Resident, Chairperson South Modesto MAC  
522 Bystrum Road  
Modesto, CA 95351  
(209) 968-3210  
Two photos include March 2013





ATTACHMENT 1

# **ATTACHMENT 4**



Date September 1, 2016

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

**SUBJECT: USE PERMIT APPLICATION NO. PLN2013-0078 – CENTRAL VALLEY RECYCLING, INC. – CONSIDERATION OF A RECOMMENDATION OF REVOCATION OF THE USE PERMIT TO THE BOARD OF SUPERVISORS.**

#### BACKGROUND AND ANALYSIS

On May 7, 2015, the Planning Commission approved Use Permit Application No. PLN2013-0078 – Central Valley Recycling, Inc. and adopted a Mitigated Negative Declaration for this project on a 5-1 vote. The Use Permit allows for the intensification of an existing California Redemption Value (CRV) and scrap metal recycling facility on a 2.2 +/- acre property in the C-2 (General Commercial) zoning district. The project site is located at 522 and 524 South 9<sup>th</sup> Street, north of Hosmer Avenue in the Ceres area (APNs: 038-012-008 and 038-012-009).

An appeal of the Planning Commission's approval of the use permit was submitted by Ms. Rebecca Harrington on May 18, 2015. Ms. Harrington contended that "not all the facts were accurately represented and given the track record of CVR to date, they would be unable to comply with new permit agreement." On June 16, 2015, the Board of Supervisors considered and denied the appeal request and voted to uphold the Planning Commission's decision, subject to findings and amended Conditions of Approval. [See Exhibit A – *Portion of June 16, 2015, Board of Supervisor's Agenda Report* (which includes the May 7, 2015 Planning Commission Staff Report.)]

The Board of Supervisors determined that the proposed on-site processing of scrap metal, which requires the use of heavy machinery, is not customary or consistent with permitted uses in the C-2 zoning district, and therefore, the proposed use is inconsistent with the "Commercial" General Plan designation when located in close proximity to residential uses. Because the proposed use does not demonstrate a valid supportive relationship to the existing residential development, the Board determined that Conditions of Approval Nos. 20 and 24 and Mitigation Measures Nos. 42, 44 and 45 needed to be amended in order to protect the health, safety, and general welfare of nearby residents, and to protect property and improvements in the neighborhood. (See Exhibit A – *Portion of June 16, 2015, Board of Supervisor's Agenda Report*.)

A Use Permit must be exercised and all conditions of approval implemented within 18 months of approval. The Central Valley Recycling (CVR) Use Permit also contained several Conditions of Approval which were to be implemented within shorter time periods ranging from 3 (three) to 6

(six) months of project approval. Planning staff has reviewed the project's Conditions of Approval (COA), inspected the subject property for compliance and has determined that Conditions of Approval Nos.: 14, 19, 24, 25, 30, 40, 41, 42, 43, and 46 have not been completed within the required time frame. These conditions of approval are associated with making physical improvements to the site to address nuisance issues. On-site conditions are reflected in Exhibit C – Site Pictures – July 2016.

These Conditions of Approval were intended to mitigate the impacts of the scrap metal recycling use on the adjacent residential uses. The failure to complete these Conditions of Approval in the time required and the continued operation of the scrap metal recycling use has created a nuisance condition, impacting the adjacent residential neighborhood. Neighboring residential property owners have approached the Board of Supervisors to express concerns about CVR's operation and its generation of nuisance dust, noise, vibration, and trash.

Use Permits may be considered for revocation or amendment, as required, to address nuisance conditions as provided for by Chapter 21.104 of the County's Zoning Ordinance - Revocation of Permits. (See Attachment B of Exhibit B - *Notification of Revocation Hearing to Central Valley Recycling, letter dated August 8, 2016.*)

Planning staff met with the business owners and inquired about the status of completing the Permit's Conditions of Approval. The property owner, Donald Francis informed staff that the scrap metal recycling business cannot financially support the required improvements as the value of recyclable materials, especially scrap metal, has significantly declined.

On August 12, 2016, planning staff provided written notification to the applicant/operator that a number of Use Permit Conditions of Approval, which identified specific performance deadlines, have not been completed, and that failure to complete these Conditions of Approval in the time required is grounds for consideration of revocation of the Use Permit, (see Exhibit B – *Notification of Revocation Hearing to Central Valley Recycling, letter dated August 8, 2016.*) A summary of staff's compliance review findings is included in this correspondence. The applicant was also provided with written notification that the Planning Commission will consider a recommendation of revocation of Use Permit No. PLN 2013-0078 – Central Valley Recycling at its September 1, 2016, meeting. If approved, the Stanislaus County Board of Supervisors is required to act on the revocation within sixty days of receipt of the recommendation of the Planning Commission.

CVR's inability to complete their Use Permit's Conditions of Approval is reported to be due to financial limitations. If the recycling market improves in the future, they may be able to complete the adopted Conditions of Approval. CVR's Use Permit has not reached its 18 month threshold and the portion of the business (scrap metal recycling) that required the Conditions of Approval can be postponed until the business is able to complete the approved Conditions of Approval.

## **RECOMMENDATION**

### **Option One:**

Staff recommends that Planning Commission conduct a public hearing, hear testimony, and make the following findings along with amending the Conditions of Approval for Use Permit No. PLN2013-0078 – Central Valley Recycling, Inc. as follows

A. Findings:

1. Find that the current use of the property without having fully implemented the Conditions of Approval constitutes a nuisance to adjacent residential occupants.
2. Find that the applicant has continued to operate a scrap metal recycling operation on the property without completing required Conditions of Approval.
3. Find that amendment of the Conditions of Approval, to prevent the use of the property for scrap metal recycling uses until **ALL** Conditions of Approval have been met, will abate the nuisance impacts to the adjacent residential properties.

B. Amend Conditions of Approval of Use Permit No. PLN2013-0078, Central Valley Recycling, Inc. to include the following:

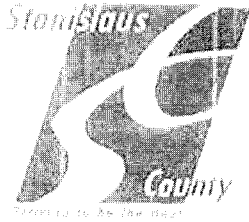
48. **On-site scrap metal recycling shall not be conducted until implementation of all Conditions of Approval have been completed and verified by the Planning Department.**
49. **All on-site recycling activities shall be limited to California Redemption Value (CRV) containers, and only when processed and handled within an enclosed building, until implementation of all Conditions of Approval and have been completed and verified by the Planning Department.**
50. **The Director of Planning and Community Development may amend the conditions of the permit in order to address nuisance concerns, subject to the following:**
  - A. **A written Notice of Amended Conditions shall be provided to the property owner 30-days prior to any amendment being effective.**
  - B. **The Planning Director's decision to amend conditions, as reflected in the Notice of Amended Conditions, may be appealed pursuant to Section 21.112.020(B) of the Stanislaus County Zoning Ordinance.**

**Option Two:**

Recommend to the Board of Supervisors revocation of Use Permit 2013-0078 Central Valley Recycling, Inc.

Exhibits:

- A. Portion of June 16, 2015, Board of Supervisors Agenda Report
- B. Notification of Revocation Hearing to Central Valley Recycling, letter dated August 8, 2016
- C. Site Pictures – July 2016



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10<sup>TH</sup> Street, Suite 3400, Modesto, CA 95354  
Phone: 209.525.6330 Fax: 209.525.5911

August 12, 2016

Donald G. Francis  
Central Valley Recycling, Inc.  
524 S. 9<sup>th</sup> Street  
Modesto, CA 95351

**Subject: Notice of Public Hearing to Consider Revocation of Use Permit No. PLN2013-0078 – Central Valley Recycling.**

Dear Mr. Francis,

This letter is to inform you that on September 1, 2016, the Stanislaus County Planning Commission will conduct an advertised public hearing to consider the revocation of Use Permit No. 2013-0078 – Central Valley Recycling.

As you may be aware, on June 16, 2015, the Stanislaus County Board of Supervisors upheld the approval of the Use Permit. Refer to the letter from Angela Freitas, dated June 16, 2015, see Attachment A.

Section 21.104 of the County's Zoning Ordinance includes provisions for Revocation of Permits, refer to Attachment B. The Use Permit was approved, but remains valid only if the approved Conditions of Approval are met. Planning Staff reviewed the Conditions of Approval and finds that a number of conditions with specific performance dates have not been completed, refer to Attachment C.

At the regular Planning Commission meeting of September 1, 2016, Planning staff will recommend that the Planning Commission forward a recommendation to the Board of Supervisors to revoke Use Permit No. PLN2013-0078 – Central Valley for not complying with approved conditions of approval. The Stanislaus County Board of Supervisors is required to act within sixty days of receipt of the recommendation of the Planning Commission.

**The Planning Commission public hearing will be held on September 1, 2016, starting at 6:00 p.m., or as soon thereafter as the matter may be heard in the Joint Chambers, 1010 10 Street, Basement Level, Modesto, California.**



Letter to Donald G. Francis, Central Valley Recycling  
Notice of Revocation of Use Permit No. PLN2013-0078  
August 12, 2016  
Page two

Please feel free to contact me if you have any questions or desire to provide a written response to this letter.

Respectfully,



Miguel A. Galvez, Deputy Director  
Planning and Community Development Department

**Attachments:**

- A) Letter dated June 18, 2015 from Angela Freitas with recorded Notice of Administrative Conditions and Restrictions.
- B) Section 21.104 of the Stanislaus County's Zoning Ordinance – Revocation of Permits.
- C) Planning Staff Compliance Review of Use Permit No. PLN2013-0078 – Central Valley Recycling's Conditions of Approval as of August 1, 2016.

CC: Jami Aggers, Director, Department of Environmental Resources  
Thomas Boze, Assistant County Counsel

## Attachment A

Letter dated June 18, 2015 from Angela Freitas  
with recorded Notice of Administrative Conditions and Restrictions



DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

1010 10<sup>TH</sup> Street, Suite 3400, Modesto, CA 95354  
Phone: 209.525-6330 Fax: 209.525.5911

June 18, 2015

Neighbors of Bystrum Road and Souza Avenue  
c/o Rebecca Harrington  
522 Bystrum Road  
Modesto, CA 95351

**SUBJECT: APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION NO. 2013-0078 - CENTRAL VALLEY RECYCLING, INC.**

Dear Appellant:

On Tuesday, **June 16, 2015**, the Stanislaus County Board of Supervisors denied the above-entitled request and upheld the Planning Commission decision subject to the amended Conditions of Approval and Mitigation Measures.

If you wish to challenge the Board of Supervisor's action, note that the time within which judicial review must be sought is governed by Cal. Code of Civil Procedure §1094.6 and Stanislaus County Code Chapter 2.88.

Please be advised that approval of the application contains a condition which reads as follows: "The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map." A copy of documents to be recorded is attached for your convenience. Please contact the Clerk-Recorder's Office to obtain a recorded copy at a later date.

Sincerely,

Angela Freitas  
Planning and Community Development Director

Enclosure

cc California Rural Legal Assistance  
Mark Niskanen, J.B. Anderson Land Use Planning  
Stanley & Joyce Goblirsch  
Central Valley Recycling, Inc.

VIA EMAIL:  
Denny Ferreira, Building Permits Division  
David Leamon, Public Works  
John Doering, County Counsel

Angie Halverson, Public Works  
Paul Saini, Public Works

Recording Requested By And For The Benefit Of  
And, When Recorded, Mail To:



County of Stanislaus  
Department of Planning and  
Community Development  
1010 Tenth Street, Suite 3400  
Modesto, CA 95354



Stanislaus, County Recorder  
Lee Lundrigan Co Recorder Office  
**DOC- 2015-0047944-00**  
Monday, JUN 22, 2015 08:56:40  
Ttl Pd \$0.00 Rcpt # 0003679201  
MAP/R1/1-9

Space Above Reserved for Recorder's Use

### NOTICE OF ADMINISTRATIVE CONDITIONS AND RESTRICTIONS

PLEASE TAKE NOTICE that the COUNTY OF STANISLAUS approved the land use development described below subject to administrative conditions and restrictions, copies of which are attached to this notice and incorporated herein by reference. The conditions and restrictions affect development of the property or parcels described below and are binding upon the named landowners and their successors in interest.

Property Owner(s): Donald Francis Sr. and Donald Francis Jr.

Project Site Address: 522 and 524 South 9<sup>th</sup> Street, on the east side of S. 9<sup>th</sup> Street, north of Hosmer Avenue, in the Ceres area

Assessor's Parcel Number(s): 038-012-008 and 038-012-009

General Plan Designation: Commercial

Zoning District: C-2 (General Commercial)

Community Plan Designation: Not Applicable

Project Name/Description: Use Permit Application No. PLN2013-0078 – Central Valley Recycling

The undersigned duly authorized officer of Stanislaus County declares that the foregoing is true and correct under penalty of perjury under the laws of the State of California.

6.17.2015  
Dated

[Signature]  
Angela Freitas  
Planning and Community Development Director

#### ATTACHMENTS:

1. Conditions of Approval
2. Project Area Map (For Illustrative Purposes Only)

*AWD*

NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

## CONDITIONS OF APPROVAL

### USE PERMIT APPLICATION NO. PLN2013-0078 CENTRAL VALLEY RECYCLING

#### Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2015), the business operator and/or property owner is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the business operator and/or property owner shall submit to the Department of Planning and Community Development a check for \$2,267.00 made payable to Stanislaus County, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.  
  
Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The business operator and/or property owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the business operator and/or property owner of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
5. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
6. Landscaping shall be maintained in compliance with Chapter 21.102 of the Zoning Ordinance. Dead and dying plants shall be replaced within 30 days.

7. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
8. New or replacement signage shall be approved by the City of Ceres and the Stanislaus County Planning Director, or appointed designee(s), prior to installation. The sign plan for all proposed on-site signs shall include plans indicating the location, height, area of the sign(s), size of letters, color scheme, and message
9. A valid Stanislaus County Business License shall be maintained for all operating businesses.
10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
11. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.
12. The business operator and/or property owner shall provide a shopping cart rack where shopping carts can be stored on-site, out of the view of the public, until the shopping carts are removed.
13. The business operator and/or property owner shall provide and maintain trash containers for use by patrons entering and exiting the site.
14. The business operator and/or property owner shall provide and maintain screen landscaping along the east property line and along the northern and southern property lines, a distance of 50 feet, west of the Bystrum Road street right-of-way. The landscaping plan to be as approved by the City or Ceres or Stanislaus County. The approved landscaping shall be installed within 60 days of Use Permit approval.
15. The business operator and/or property owner shall implement any conditions associated with the findings of the Health Risk Assessment as required by the San Joaquin Valley Air Pollution Control District. Implementation of identified conditions shall commence no later than 3 months of Air District determination and shall be fully completed within six months.
16. A Staff Approval Application shall be submitted for any subsequent and separate use of the eastern parcel. To accommodate separate development options and maintain no access onto Bystrum Road, a vehicular access easement shall be required as a Condition of Approval to provide vehicle access from the eastern parcel, across the western parcel, to access South 9<sup>th</sup> Street.

17. The business operator and/or property owner shall install a 3-foot high chain-link fence in the front yard along the southern property line to keep traffic flow and access off of the adjacent property to the south. The fence shall be installed within 60 days of Use Permit approval.
18. The Use Permit shall be brought back to the Planning Commission one year after approval for review and, if necessary, amendments to operational limits; and the permit shall be subsequently brought back at the discretion of the Planning Director, as necessary, to address nuisance concerns.
19. The business operator and/or property owner shall maintain the height of the solid block wall on the north, east and south side of the tin pile to six feet high and install a 10-foot high block wall along the eastern property line. The business operator and/or property owner shall obtain a building permit for the 10-foot high block wall within 60 days of project approval and construction of the wall completed within 6 months of permit issuance.
- ~~20. A maximum of 2,000 tons of scrap metal per month is permitted. Use of the two excavators is limited to Monday through Friday and not on Saturday or Sunday. Use of the excavator with a shearer attachment is limited to operate between the hours of 11:00 a.m. and 2:00 p.m. Monday through Friday. Use of the excavator to crush vehicles is limited to the hours between 11:00 a.m. and 2:00 p.m. Monday through Friday. The use of the excavators shall be kept at least 150 feet away from the fence/property line located to the east.~~
20. **A maximum of 2,000 tons of scrap metal per month is permitted. The on-site handling of scrap metal shall be limited to collection and transfer only. The use of shears, cutters, crushers or any other equipment intended to shred and/or dismantle scrap metal, vehicles, heavy equipment, household or commercial appliances, or other similar items on-site is expressly prohibited. The use of any equipment for loading, unloading, or transfer of scrap metal shall be kept at least 150 feet away from the fence/property line located to the east.**

#### Building Permits Division

21. The project shall comply with the 2013 California Code of Regulations Title 24 as well as handicap accessibility to the entire site.

#### Department of Public Works

22. The business operator and/or property owner shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way for South 9<sup>th</sup> Street. Access will only be allowed onto South 9<sup>th</sup> Street for both parcels. Access to Bystrum Road will not be allowed.
23. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
24. The business operator and/or property owner shall **pave the entire site and** design and construct an on-site storm water run-off retention basin to serve the site. The drainage plan design shall be completed and submitted for review and approval by the Public Works Department within six months of project approval. The business operator and/or property owner shall **pave the entire site and complete construction of an on-site storm basin** within 6 months of design approval by the County.

25. A grading and drainage plan for the project site shall be submitted before any building permit for the site is issued. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
- A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
  - B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
  - C. The grading and drainage plan shall comply with the current Stanislaus County National Pollutant Discharge Elimination System (NPDES) General Permit and the Quality Control standards for New Development and Redevelopment contained therein.
  - D. An Engineer's Estimate shall be submitted for the grading and drainage work.
  - E. The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.

The business operator and/or property owner of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.

26. The business operator and/or property owner of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. A preliminary Engineer's Estimate for the grading and drainage work shall be submitted to determine the amount of deposit for the inspection of the grading. The deposit shall be made prior to the issuance of the building permit. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site. The Public Works inspector will not sign on the grading or building permit until such time that all inspection fees have been paid. Any fees left over from the deposit shall be returned to the business operator and/or property owner at the completion and acceptance of the grading and drainage construction by Stanislaus County Public Works.
27. An acceptable financial guarantee for the road improvements shall be provided to the Department of Public Works prior to the issuance of any building permit. This may be deferred if the work in the right-of-way is done prior to the issuance of any building permit.
28. An Engineer's Estimate shall be provided and approved by Public Works for any road and sidewalk improvements so that the amount of the financial guarantee can be determined.
29. No parking, loading, or unloading of vehicles shall be permitted within the county road right-of-way of the South 9<sup>th</sup> Street and Bystrom Road.



Department of Environmental Resources

- 30 The business operator and/or property owner shall contact the Department of Environmental Resources within 30 days of project approval regarding appropriate permitting requirements for hazardous materials and/or wastes. The business operator and/or property owner and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to the following: (Calif. H&S, Division 20)
- A. Permits for the underground storage of hazardous substances at new or the modification of an existing tank facility.
  - B. Requirements for registering as a handler of hazardous materials in the County.
  - C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
  - D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section §302.
  - E. Generators of hazardous waste must notify the Department relative to the:
    - (1) quantities of waste generated; (2) plans for reducing wastes generated; and
    - (3) proposed waste disposal practices.
  - F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
  - G. Medical waste generators must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

Turlock Irrigation District

31. A review of District maps and records indicate that there are no known irrigation facilities located within this subject property. If facilities are found during construction, please contact the District.
32. The District's electric utility maps show an existing overhead 12kV distribution line along the north property line. We are requesting that a 13 foot wide electrical easement be dedicated to maintain this line.
33. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

Modesto City Schools

34. Modesto City Schools does not have any specific conditions to be placed on this project. The appropriate commercial fees will be assessed on all construction during the building permit process.

Central Valley Regional Water Quality Control Board

- 35 Dischargers whose projects disturb one or more acres of soil, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit),

construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, and disturbances to the ground such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

36. The Phase I and II MS4 permits require the permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP).
37. Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

San Joaquin Valley Air Pollution Control District

38. The proposed project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). As such, the District recommends the business operator and/or property owner contact the District's Small Business Assistance (SBA) office prior to starting construction regarding the requirements for an Authority to Construct (ATC) and to identify other District rules and regulations that apply to this project

MITIGATION MEASURES

**(Pursuant to California Public Resources Code 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:**

- 1) Hold a public hearing to consider the project; and**

**Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)**

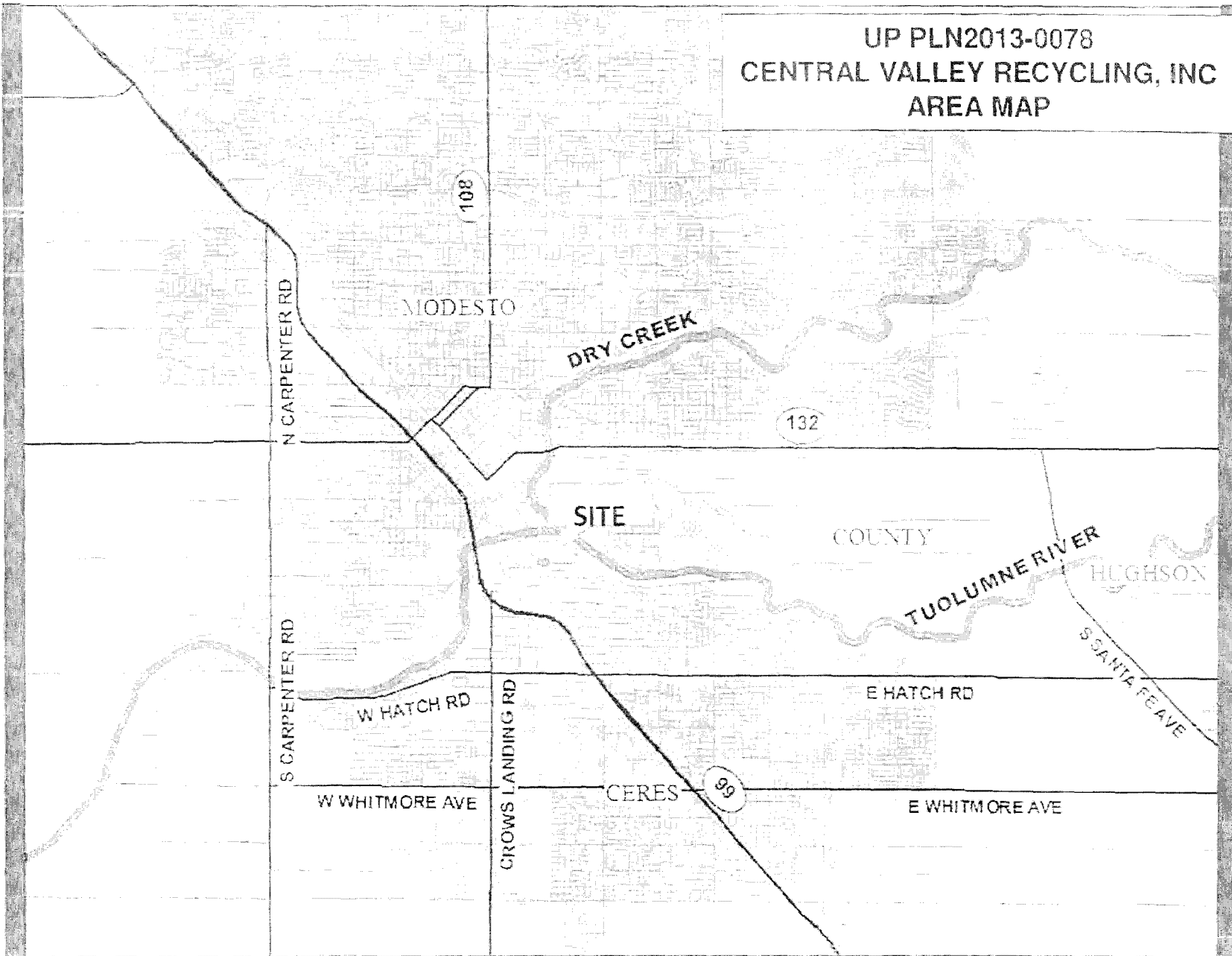
39. *A Screening Level Analysis for potential risk associated with project related truck traffic and exposure to heavy metals is required within 60 days of project approval to determine if preparation of a health risk assessment is warranted as determined by the San Joaquin Valley Air Pollution Control District*
40. Implementation of Best Management Practices identified on pages 16 thru 23 of the Storm Water Pollution Prevention Plan and Monitoring Program prepared for Central Valley Recycling, 524 S. 9<sup>th</sup> Street, Modesto by H2E Consulting, which is Attachment 1 of the Initial Study and hereby incorporated by reference.
41. Maintain the height of the solid block wall around the tin pile to six feet high and install a 10 foot high block wall along the eastern property line.
42. ~~Limit-use of excavators to the west of the tin pile.~~ **Limit use of any equipment used for loading, unloading, or transfer of scrap metal to the area west of the tin pile as shown on the Project site plan.**
43. Continue to load and unload trucks west of the tin pile.

44. ~~Limit the use of the excavators and metal baler to the hours between 8:30 a.m. and 5:00 p.m., Monday through Friday.~~ **Hours of operation for any outdoor activities associated with scrap metal recycling shall be limited to Monday through Friday, 8:00 a.m. to 4:30 p.m., and Saturday 8:00 a.m. to 2:30 p.m.**
45. ~~Vehicle crushing and/or vehicle cutting shall be limited to the hours of 11:00 a.m. and 2:00 p.m., Monday through Friday.~~
46. Install and maintain trees and landscaping along the eastern property line and a distance of 50 feet along the north and south property lines from the eastern property line. Landscaping plans and materials to be in conformance with City of Ceres Standards and Specifications or as approved by Stanislaus County.
47. Vehicle stacking in the public road right-of-way is not permitted. Should the number of vehicles entering the property back up onto 9<sup>th</sup> Street for more than two (2) consecutive days within any two (2) week period, the business operator and/or property owner shall submit a new traffic circulation plan for the site within 15 calendar days of the violation. The plan shall be designed in such a way as to eliminate any stacking onto 9<sup>th</sup> Street and submitted to the Department of Public Works for approval of the Public Works Director or his designee.

\*\*\*\*\*

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line-through~~.*

UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC  
AREA MAP



115

FOR ILLUSTRATIVE PURPOSES ONLY

## Attachment B

Section 21.104 of the Stanislaus County Zoning Code – Revocation of Permits

## **Chapter 21.104 Stanislaus County Zoning Ordinance**

### **REVOCATION OF PERMITS**

#### **21.104.010 Authorized.**

Any zoning permit, staff approval permit, use permit or variance granted in accordance with the conditions of this title may be revoked if any of the conditions or terms of the permit or variance are violated, or if any law or ordinance is violated in connection therewith. (Prior code §9-130).

#### **21.104.020 Hearing.**

The planning commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing and shall submit its recommendations to the board of supervisors. The board of supervisors shall act thereon within sixty days after receipt of the recommendation of the planning commission. (Prior code §9-130(a)).

#### **21.104.030 Expiration.**

- A. Except as provided in subsection B of this section, all land use permits, including zoning permits, staff approval permits, use permits, and variances (hereafter permits or variances), shall be null and void eighteen months from the date of final approval, unless prior to the expiration of the permit or variance, the permit or variance has been signed, and all conditions of approval have been met, and either (1) the property is being used for the purpose for which the permit or variance was granted, or (2) the landowner or developer has applied for all permits relating to project improvements, and the landowner or developer is working diligently to complete all project improvements. The planning commission, in the case of use permits or variances, may extend the expiration of any use permit or variance for not exceeding one year upon application being made by the owner of the property, in writing prior to expiration of the permit or variance, provided the use is still a permitted use in the district in which it is proposed to be located.
  
- B. Variances granted in conjunction with a tentative parcel map or tentative subdivision map shall be valid for the same period of time as the tentative parcel map or tentative subdivision map. This subsection is a declaration and clarification of existing law. (Ord. CS 984 §2, 2007; prior code §9-130(b)).

## Attachment C

Planning Staff Compliance Review of  
Use Permit No. PLN2013-0078 – Central Valley Recycling's  
Conditions of Approval as of August 1, 2016.

**Planning Staff Compliance Review of Use Permit No. PLN2013-0078 –  
Central Valley Recycling's Conditions of Approval as of August 1, 2016**

Use Permit PLN2013-0078 – Central Valley Recycling was approved subject to 47 Conditions of Approval, including 8 Mitigation Measures. The following is a review of certain Conditions of Approval that included performance measures, which required completion within identified time frames. The discussion below identifies progress made by the applicant in completing project development Conditions of Approval (COA) as observed by Planning staff (Miguel Galvez).

COA No. 14 – Provide and maintain screen landscaping. The approved landscaping shall be installed within 60 days of Use Permit approval. The applicant hired a Landscape Architect who prepared and submitted a landscape plan. The landscape plan was approved on August 11, 2015. No Landscaping has been installed on site as of August 1, 2016 – ***Condition not met.***

COA No.17.- Installation of a three-foot high chain link fence in the front yard within 60 days of Use Permit Approval. A three-foot high chain link fence was installed as required. ***Condition met.***

COA No. 19 - Maintain height of block wall around tin pile and install a 10-foot high block wall along the eastern property line. Applicant to obtain a building permit within 60 days of project approval and construction completed within six months of permit issuance. Building Permit No. BLD2015-1813 for construction of a 10-foot high block was issued on September 2, 2015, but the 10-foot high wall has not been constructed. A site inspection was called to review on-site drainage for the wall, but construction of the wall was not started as of August 1, 2016. ***Condition not met.***

COA No. 24 – Paving of the entire site and design and construct an on-site storm water retention basin. The drainage plan design was to be completed and submitted for review and approval within six months of project approval. The business operator and/or property owner was required to pave the entire site and complete construction of an on-site storm basin within six months of design approval by the County. The site has not been paved, nor has a drainage design been submitted to the County for construction of the drainage basin as of August 1, 2016. ***Condition not met.***

COA No. 25 – A grading and drainage plan for the project site to be submitted before any building permit for the site is issued. A building permit was issued for the 10-foot high block wall, which included a local grading and drainage plan for the wall site, but a drainage and grading plan for the whole site has not be submitted as of August 1, 2016. ***Condition not met.***

COA No. 30 – Hazardous Materials and Waste. The business operator and/or property owner shall contact the Department of Environmental Resources with 30 days of project approval regarding appropriate permitting requirements for hazardous materials and/or wastes. The business operator did not contact the Department of Environmental Resources regarding this requirement. ***Condition not met.***

COA No. 39 – A Screening Level Analysis for potential risks associated with project related truck traffic and exposure to heavy metals. The Analysis is required within 60 days of project approval to determine if preparation of a health risk assessment is



warranted as determined by the San Joaquin Valley Air Pollution Control District. This was completed on June 24, 2015, and the Air District determined that a Health Risk Assessment is not required. **Condition met.**

Mitigation Measure - COA No. 40 – Best Management Practices. These practices were identified in the Stormwater Pollution Prevention Plan and Monitoring Program. No storm water designs or improvements were installed as of August 1, 2016. **Condition not met.**

Mitigation Measure - COA No. 41 – Maintain the height of the solid block wall around the tin pile to six feet high and install a 10 foot high block wall along the eastern property line. The 10-foot high block wall along the eastern property line was not installed as of August 1, 2016. **Condition not met.**

Mitigation Measure - COA No. 42 – Limit use of any of the equipment used for loading, unloading or transfer of scrap metal to the area west of the tin pile as shown on the project site plan. On a couple site visits, planning staff observed the loading and unloading of recycled scrap metal on the south side of the tin pile. **Condition not met.**

Mitigation Measure - COA No. 43 – Continue to load and unload trucks west of the tin pile. On a couple site visits, planning staff observed the loading and unloading of recycled scrap metal on the south side of the tin pile. **Condition not met.**

Mitigation Measure - COA No. 44 – Hours of operation for any outdoor activities associated with scrap metal recycling shall be limited to Monday through Friday, 8:00 a.m. to 4:30 p.m., and Saturday 8:00 a.m. to 2:30 p.m. Two complaints were received by the Code Enforcement office of operating outside of business hours, but the allegations were not verified by Code Enforcement staff when investigating the complaint. **Satisfaction of Condition unsubstantiated.**

~~COA No. 45 Vehicle crushing and/or vehicle cutting shall be limited to the hours of 11:00 a.m. and 2:00 p.m., Monday through Friday. (This COA was deleted by the Board of Supervisors.)~~

Mitigation Measure - COA No. 46 – Install and maintain trees and landscaping along the eastern property line and a distance of 50 feet along the north and south property lines from the eastern property line. Landscaping plans and materials to be in conformance with City of Ceres Standards and Specifications or as approved by Stanislaus County. A landscaping plan was submitted and approved, but plants and the irrigation system had not been installed as of August 1, 2016. **Condition not met.**

Mitigation Measure - COA No. 47 – Vehicle stacking in the public road right-of-way is not permitted. Should the number of vehicles entering the property back up onto 9<sup>th</sup> Street for more than two (2) consecutive days within any two (2) week period, the business operator and/or property owner shall submit a new traffic circulation plan for the site within 15 calendar days of the violation. The plan shall be designed in such a way as to eliminate any stacking onto 9<sup>th</sup> Street and submitted to the Department of Public Works for approval of the Public Works Director or his designee. **No occurrences have been reported that triggered this requirement.**

# Central Valley Recycling 522/524 South 9<sup>th</sup> Street

Site Pictures - July 2016



Looking northwest from Bystrum Road, south of Sousa Road. Required fencing and landscaping not installed.

122



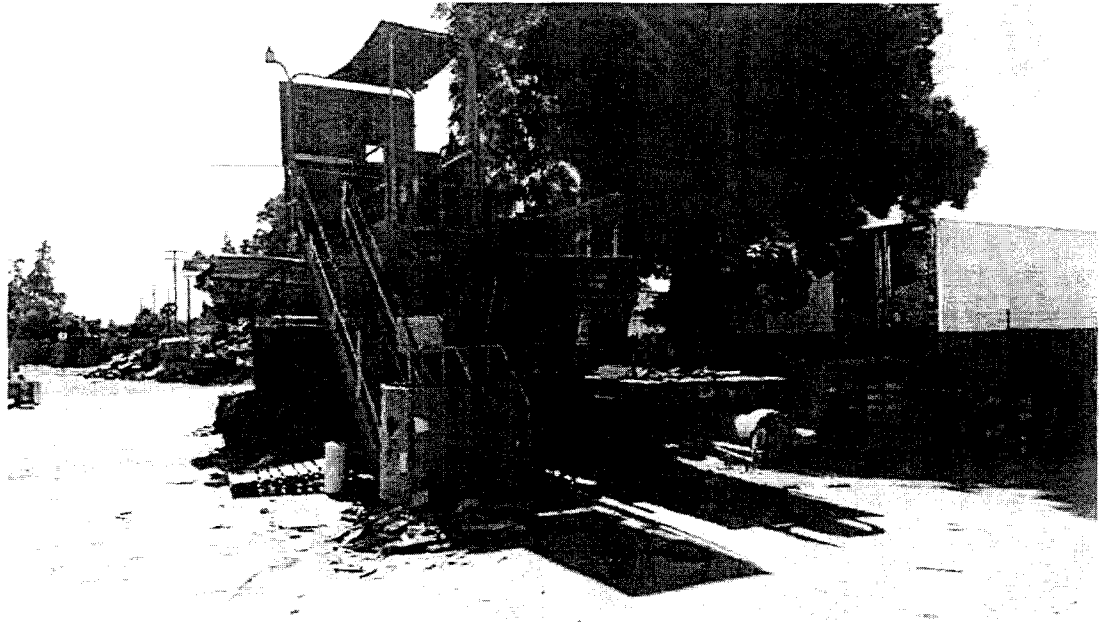
Looking east into the "tin pile." Road surface unpaved, excavator not located west of "tin pile."

EXHIBIT C-1



Looking north mid property.

123



Looking east south of "tin pile."

EXHIBIT C-2



Looking north into "tin pile." Block wall surrounding tin pile is not fully installed. All scrap metal to be loaded and unloaded west of "tin pile."



Looking Northeast mid property. All loading and unloading by excavator to occur west of "tin pile."



Looking southwest from rear yard. Excavator is not allowed to operate south or east of “tin pile.”

125



Looking east to property line by Bystrum Road. The ten foot high wall, landscaping, storm drainage system and paved floor not installed.

EXHIBIT C-4



Looking west from eastern yard.  
Surface unpaved, no loading  
east, south or north of "tin yard."



Looking northwest to  
"steel pile." Small  
perimeter wall around  
steel pile not installed.

# **ATTACHMENT 5**



Planning Commission  
Minutes  
September 1, 2016  
Page 2

- C. **USE PERMIT NO. PLN2013-0078 – CENTRAL VALLEY RECYCLING** -  
 Consideration of a recommendation of revocation of Use Permit No. PLN2013-078 to the Board of Supervisors. The Use Permit allows for the intensification of a California Redemption Value (CRV) and scrap metal recycling on a 2.2 acre parcel in the (C-2) General Commercial zoning district. The property is located at 522 and 524 S. 9<sup>th</sup> Street, on the east side of S. 9<sup>th</sup> Street, north of Hosmer Avenue, in the Ceres area. This project is exempt from CEQA pursuant to Section 15061(b)(3). APN: 038-012-008 & 038-012-009  
 Staff Report: Miguel Galvez, Deputy Director, **RECOMMEND PLANNING COMMISSION CHOOSE ONE OF THE FOLLOWING TWO OPTIONS, AS OUTLINED IN THE STAFF MEMO: 1) MAKE CERTAIN FINDINGS AND AMEND THE CONDITIONS OF APPROVAL OF THE USE PERMIT. 2) RECOMMEND THAT THE BOARD OF SUPERVISORS REVOKE THE USE PERMIT.**

At the request of Deputy Director, Miguel Galvez, Karl Quinn, Code Enforcement Manager, Stanislaus County Department of Environmental Resources; addressed the Commissioners regarding complaints that were submitted.

Public hearing opened.

**OPPOSITION:** Richard Francis, Applicant representative, Central Valley Recycling; Donald Francis, Property/business owner, Central Valley Recycling, 2220 Millcreek Drive, Modesto, CA

**FAVOR:** Marisol Aguilar, California Rural Legal Assistance, 1111 I Street, Modesto, CA; Rebecca Harrington, 522 Bystrum Road, Modesto, CA; Matthew Harrington, 522 Bystrum Road, Modesto, CA

Public hearing closed.

Gibson/Boyd (8/0) **RECOMMENDED TO THE BOARD OF SUPERVISORS REVOCATION, OPTION TWO, AS OUTLINED IN THE STAFF MEMO.**

**EXCERPT**

**PLANNING COMMISSION**

**MINUTES**

\_\_\_\_\_  
Signature on file.  
Secretary, Planning Commission

\_\_\_\_\_  
September 2, 2016  
Date

# **ATTACHMENT 6**

**CALIFORNIA RURAL LEGAL ASSISTANCE, INC.**

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

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August 25, 2016

Angela Freitas, Director  
Planning and Community Development  
1010 10<sup>th</sup> Street, Suite 6700  
Modesto, CA 95354

*Via email to [angela@stancounty.org](mailto:angela@stancounty.org)*

***Re: Central Valley Recycling, Inc. - Use Permit Application No. PLN 2013-0078***

Dear Ms. Angela Freitas:

California Rural Legal Assistance, Inc. is a non-profit legal services provider serving low-income clients and communities. On behalf of our client, Terri Lujan, we would like to express the following comments and concerns regarding the June 15, 2016 Use Permit Application No. PLN 2013-0078 (Use Permit) for Central Valley Recycling, Inc. (CVR). We also incorporate by reference the letter submitted to the Board of Supervisors on June 16, 2015.

CVR's Use Permit should be revoked since CVR has not fulfilled the conditions enumerated in the Use Permit and their operations continue to be a nuisance and pose health risks for residents.

Scrap metal recycling is not compatible in an area adjacent to a residential area. Stanislaus County Ordinance 21.56.020 does not permit scrap metal in the C-2 zone according to the Stanislaus County staff report for Universal Services Recycling's permit application UP PLN 2013-0077. Scrap metal, compared to California Redemption Value recycling, poses much greater threats to residents, residents who are mostly low-income or minorities disproportionately burdened by health and environmental impacts.

Further, CVR has continually failed to comply with permit conditions or correct violations. There are a number of issues that have not been resolved such as storm water runoff pollution, failure to build a ten-foot-high block wall on the east side of the property, dust control, paving, and a Screening Level Analysis to determine potential health risks from exposure to diesel emissions and heavy metals. Such a record must be considered. Their past record indicates a low likeliness that CVR would comply with permit conditions or operation restrictions. For this reason also, the Use permit should be revoked.

We also take the opportunity to once again raise the issue of due process. The fee to appeal a decision by the board is over \$600. This creates a substantial barrier and hardship for low-income residents effectively preventing them from challenging decisions that impact their health and safety. This is an even greater issue given the fact that the majority of noxious uses that pose



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

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risks to health, safety, and the environment are located close to low-income communities. A fee waiver for low-income residents would allow all community members equal access to the services and protections afforded by county services.

Please feel free to contact me with any questions. My contact information is (209)577-3811, [maguilar@crla.org](mailto:maguilar@crla.org).

Sincerely,

Marisol F. Aguilar  
*Director, Northern Region*  
*Community Equity Initiative*  
**CALIFORNIA RURAL LEGAL ASSISTANCE, INC.**

**UP PLN2013-0078 – Central Valley Recycling, Inc.**

**CONSIDERATION OF PLANNING  
COMMISSION'S RECOMMENDATION  
OF REVOCATION**

**Board of Supervisors  
October 25, 2016**



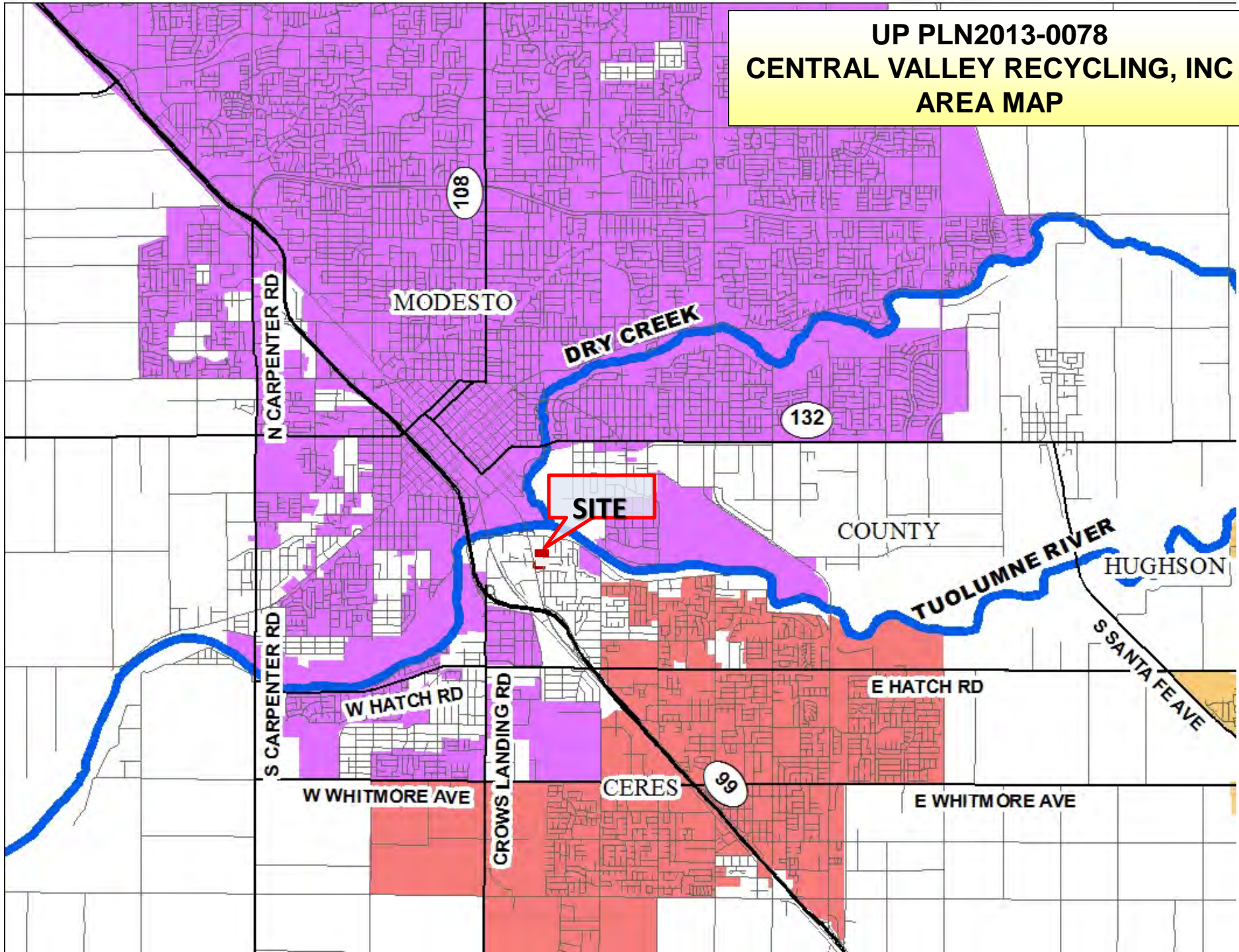
# PLANNING COMMISSION

September 1, 2016

- Voted 8-0 to recommend revocation of Use Permit No. PLN 2013-0078.
  - Approved June 16, 2015.
  - Request to intensify a California Redemption Value and scrap metal recycling facility by increasing the volume of scrap metal recycling allowed.



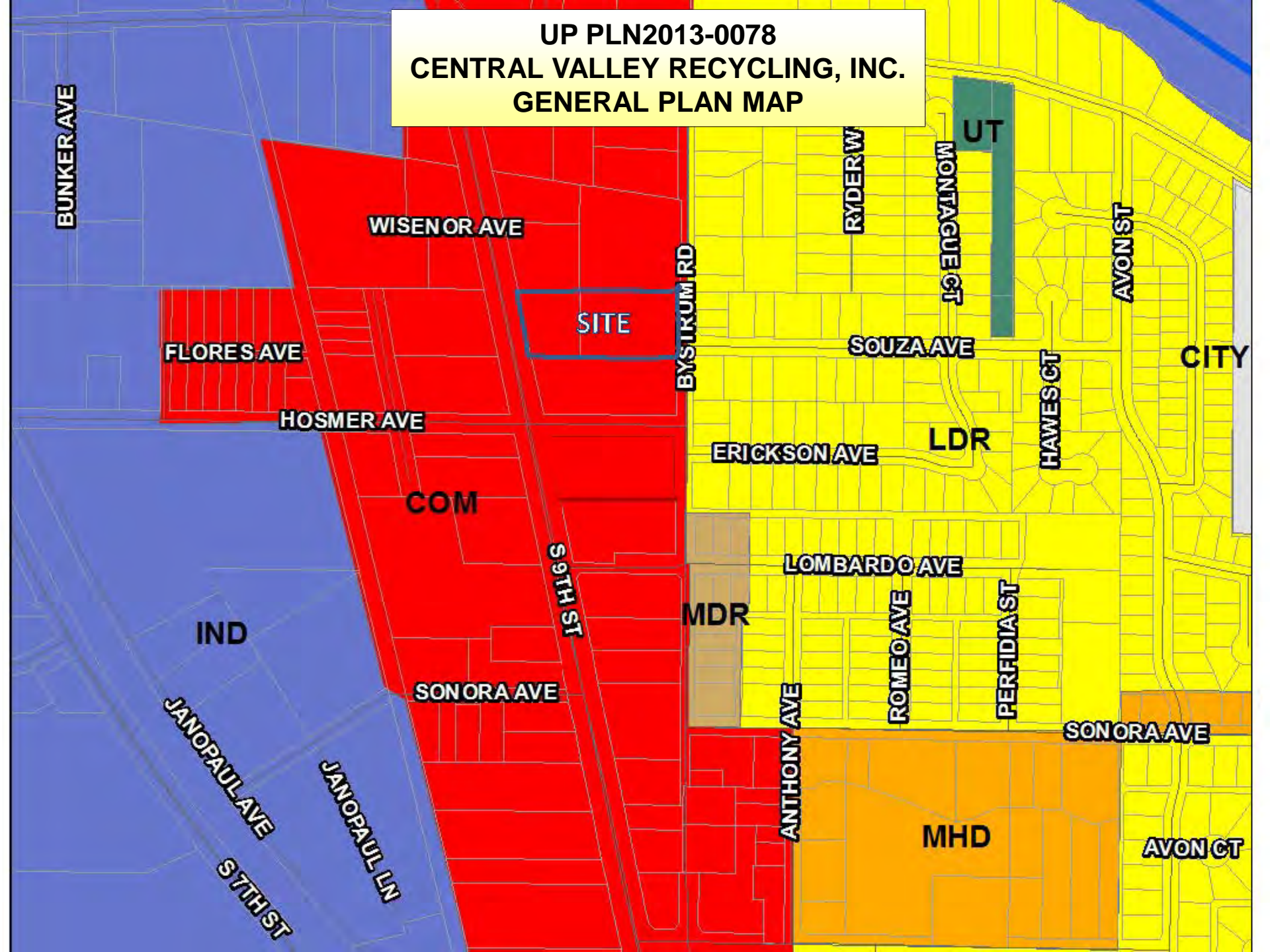
**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC  
AREA MAP**



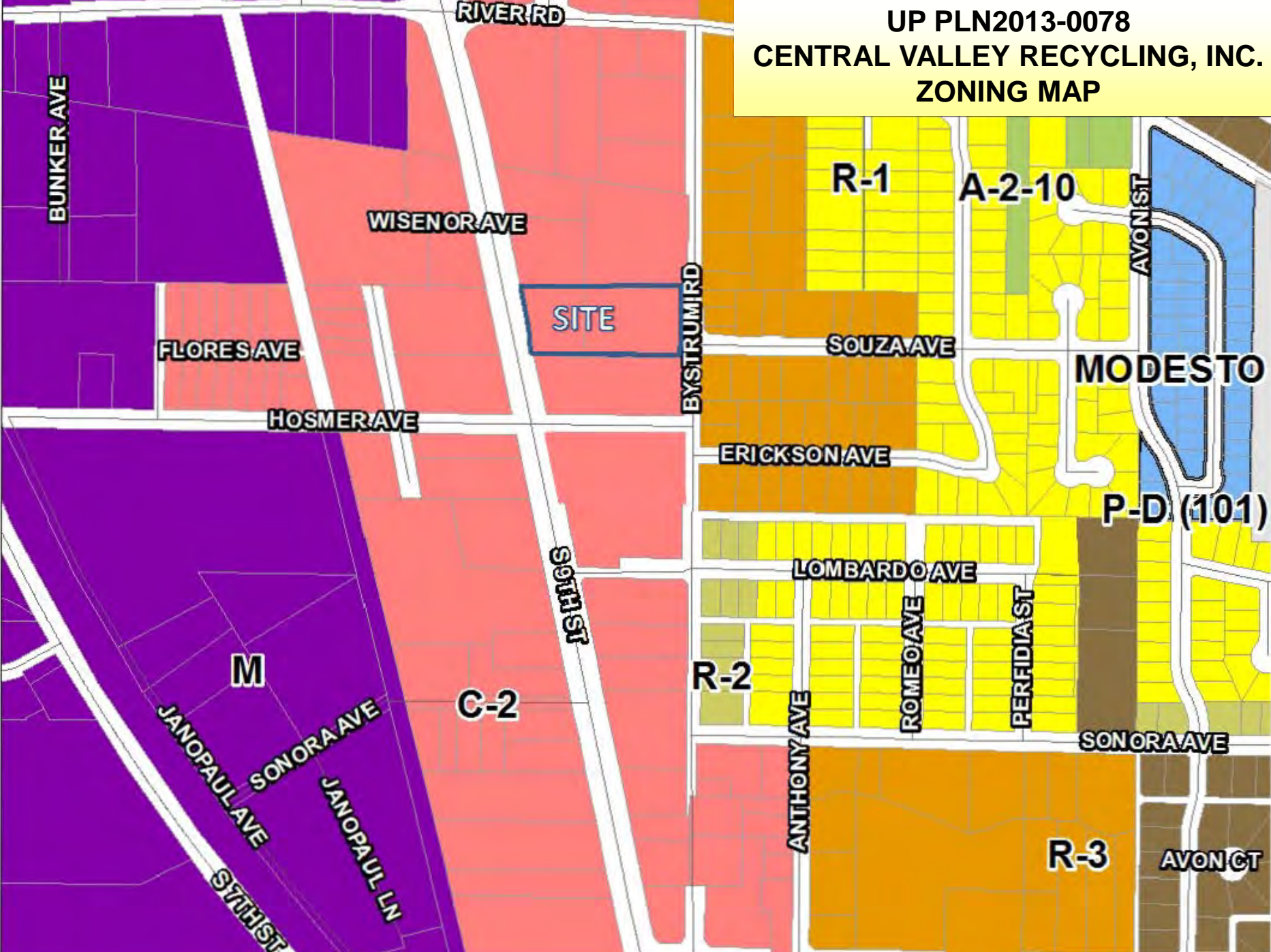




UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
GENERAL PLAN MAP



UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
ZONING MAP



SITE

R-1

A-2-10

MODESTO

P-D (101)

R-2

C-2

M

R-3

AVON CT

**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2015 AERIAL**

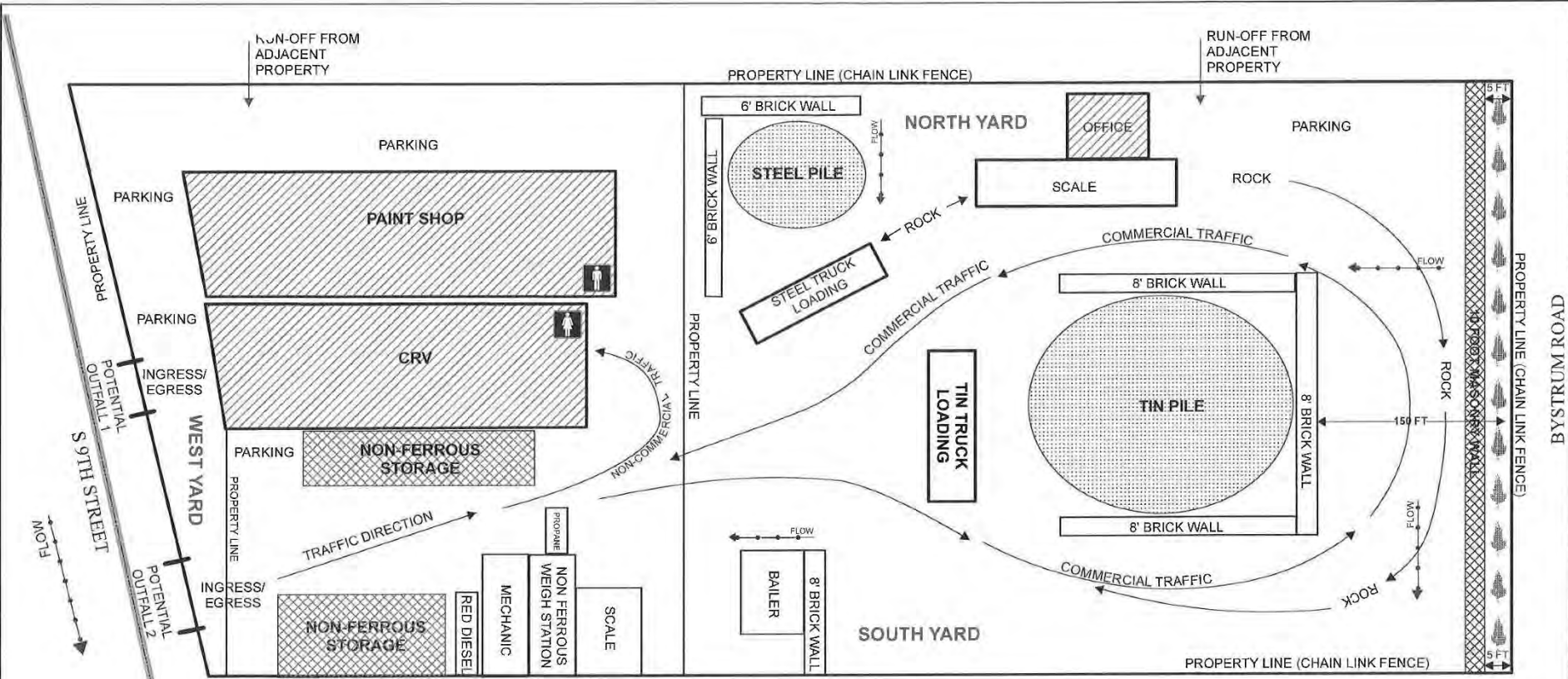


# Central Valley Recycling, Inc. (CVR)

## *BACKGROUND*

- 1991 - CVR operating on western parcel.
- 2009 - Business License Issued
  - California Redemption Value and scrap metal
  - Included eastern parcel
- 2012 - Nuisance Complaints
  - Use Determined No Longer Appropriate
- 2013 – Nuisance Abatement Hearing
  - September 10, 2013 – Settlement Agreement





**MAP DATA AND PROJECT STATISTICS:**

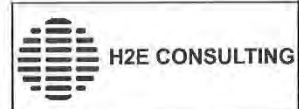
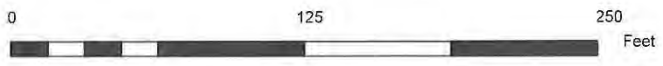
INFORMATION DEPICTED IN THIS MAP IS DERIVED FROM FIELD OBSERVATIONS MADE BY H2E CONSULTING ON JULY 16, 2012. INFORMATION PROVIDED BY CENTRAL VALLEY RECYCLING AND AVAILABLE AERIAL IMAGES AND GIS DATA.

JURISDICTION: COUNTY OF STANISLAUS  
 SITE ZONING: C-2  
 RWQCB: CENTRAL VALLEY REGION 5

**STORAGE INVENTORY DESCRIPTION:**

CRV ALUMINUM CANS  
 PLASTIC (HDPE)  
 GLASS  
 ALUMINUM  
 BRASS  
 COPPER  
 RADIATORS  
 STAINLESS STEEL  
 BATTERIES  
 INSULATED WIRE  
 CARDBOARD (PAPER)  
 E-WASTE

**UP PLN2013-0078  
 CENTRAL VALLEY RECYCLING, INC.  
 SITE PLAN**



SITE PLAN CENTRAL VALLEY RECYCLING MODESTO, CA	
DATE: 09/17/2013	ANALYST: MEDLUNDC
REVISION 3	APPROVED:

**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2006 AERIAL**



WISENOR AVE

S 9TH ST

BYSTRUM RD

ANSUL AVE

HOSMER AVE

**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2009 AERIAL**



WISENOR AVE

ANSLAVE

HOSMER AVE

S 9TH ST

BYSTRUM RD

**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2010 AERIAL**





**UP PLN2013-0078  
CENTRAL VALLEY RECYCLING, INC.  
2013 AERIAL**



S 9th ST

BYSTRUM RD

HOSMER AVE

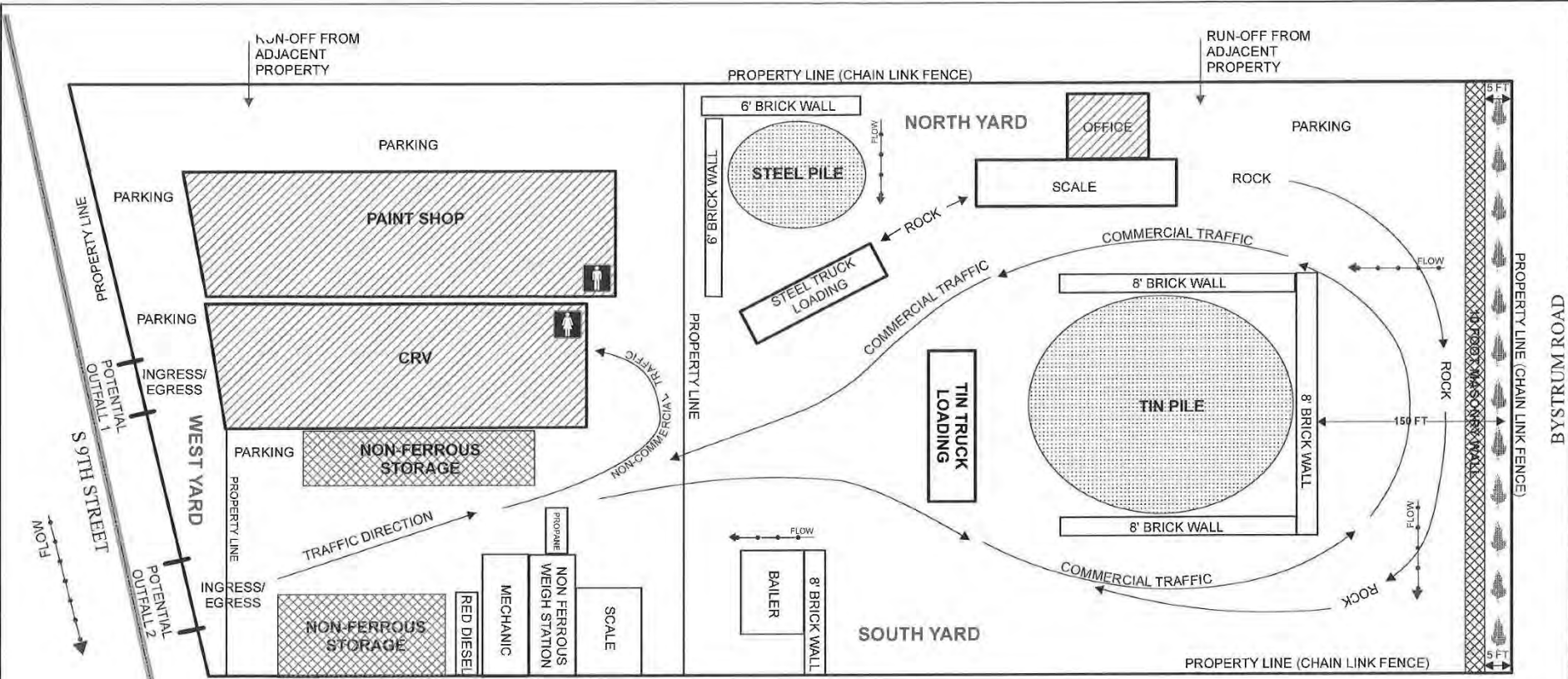
**SITE**

# Use Permit PLN 2013-0078

*APPROVED JUNE 16, 2015*

- May 7, 2015 – Planning Commission approved on 5-1 vote.
  - Decision appealed by neighbor.
- June 16, 2015 – Board of Supervisors denied appeal upholding Planning Commission's decision.





**MAP DATA AND PROJECT STATISTICS:**

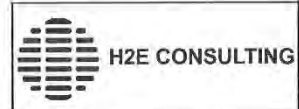
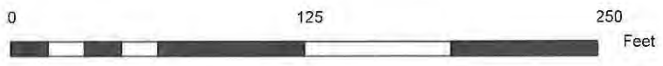
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JURISDICTION: COUNTY OF STANISLAUS  
 SITE ZONING: C-2  
 RWQCB: CENTRAL VALLEY REGION 5

**STORAGE INVENTORY DESCRIPTION:**

CRV ALUMINUM CANS  
 PLASTIC (HDPE)  
 GLASS  
 ALUMINUM  
 BRASS  
 COPPER  
 RADIATORS  
 STAINLESS STEEL  
 BATTERIES  
 INSULATED WIRE  
 CARDBOARD (PAPER)  
 E-WASTE

**UP PLN2013-0078  
 CENTRAL VALLEY RECYCLING, INC.  
 SITE PLAN**



SITE PLAN CENTRAL VALLEY RECYCLING MODESTO, CA	
DATE: 09/17/2013	ANALYST: MEDLUNDC
REVISION 3	APPROVED:

# Looking north along S. 9<sup>th</sup> Street



# Looking west across Bystrum Rd.



# Tin Pile and Excavator



# Truck Loading



# Concrete Block Wall





# Tin Pile



# Excavator with Shearer



# Use Permit PLN 2013-0078

## *BOARD OF SUPERVISORS APPROVAL*

- Found that on-site processing of scrap metal requiring the on-going regular use of heavy equipment inconsistent with “Commercial” designation.
- Amended Conditions of Approval
  - On site handling of scrap metal limited to collection and transfer only (no cutting or crushing).
  - Limit equipment use to area west of tin pile.
  - Limit hours of outdoor activity and paved site.



# Annual Review

## *NOTICE OF NON-COMPLIANCE*

August 12, 2016 – Notice provided to CVR

- Screening landscape
- 10-foot block walls (eastern property line)
- Grading and drainage plan; storm water basin; and paving of entire site
- Hazardous materials and storm water pollution
- Limit use of equipment west of tin pile





**Looking north mid property.**

**Looking east south of "tin pile."**





**Looking northwest from Bystrum Road, south of Sousa Road. Required fencing and landscaping not installed.**

**Looking east into the “tin pile.” Road surface unpaved, excavator not located west of “tin pile.”**





**Looking north into “tin pile.” Block wall surrounding tin pile is not fully installed. All scrap metal to be loaded and unloaded west of “tin pile.”**

**Looking Northeast mid property. All loading and unloading by excavator to occur west of “tin pile.”**





**Looking southwest from rear yard. Excavator is not allowed to operate south or east of “tin pile.”**

**Looking east to Bystrum Road. The ten foot high wall, landscaping, storm drainage system and paved floor are not installed.**







**Looking west from eastern yard. Surface unpaved, no loading east, south or north of “tin yard.”**

**Looking northwest to “steel pile.” Small perimeter wall around steel pile not installed.**



# Planning Commission

- September 1, 2016 – Consideration of a recommendation of revocation
- 8-0 Vote Recommending:
  - Revocation of Use Permit
- Opposition: Richard and Donald Francis
- In Favor: Rebecca and Matthew Harrington and Marisol Aguilar



# Planning Commission

## *OPTIONS PRESENTED*

### Option One:

- Amend Use Permit conditions of approval to ***not*** allow any on-site scrap metal recycling to occur until all conditions of approval have been completed and verified.

### Option Two:

- Revocation of Use Permit.



# Planning Commission Recommendation

- 1) Conduct a public hearing to consider the Planning Commission's recommendation of revocation; and
- 2) Revoke Use Permit PLN 2013-0078, Central Valley Recycling, Inc.

