

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 th Street, on the east side of S. 9 th Street, north of Hosmer Avenue, in the Ceres area
Section, Township, Range:	4-4-9
Supervisorial 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 9th 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 9th 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 9th 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 9th 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. 9th 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 9th 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. 9th 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. 9th 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. 9th 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 9th 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 9th 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. 9th 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. 9th 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. 9th Street since 1989.

Planning staff believes this CRV and scrap metal recycling is consistent with the character of the surrounding businesses along South 9th 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.