

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

DEPT: Board of Supervisors

BOARD AGENDA # *A-2

Urgent

Routine

OK

AGENDA DATE June 2, 2015

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Set a Public Hearing on June 16, 2015 at 6:40 p.m., to Consider an Appeal of the Planning Commission's Approval of Use Permit Application No. PLN2013-0078 - Central Valley Recycling, Inc.

STAFF RECOMMENDATIONS:

Set a public hearing on June 16, 2015, at 6:40 p.m., to consider an appeal of the Planning Commission's approval of Use Permit Application No. PLN2013-0078 - Central Valley Recycling, Inc.

FISCAL IMPACT:

There is a nominal fiscal impact associated with setting this public hearing for mandatory newspaper publishing and the notification of property owners by mail. These expenses are covered by a portion of the \$622.00 Planning Commission appeal fee paid by the Appellant.

BOARD ACTION AS FOLLOWS:

No. 2015-227

On motion of Supervisor Monteith, 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) Other:

MOTION:

ATTEST:


CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Set a Public Hearing on June 16, 2015 at 6:40 p.m., to Consider an Appeal of the Planning Commission's Approval of Use Permit Application No. PLN2013-0078 - Central Valley Recycling, Inc.

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DISCUSSION:

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. This project is a request to intensify a California Redemption Value (CRV) and Scrap Metal Recycling facility on a 2.2± acre property in the C-2 (General Commercial) zoning district. The site is located at 522 and 524 S. 9th Street, on the east side of S. 9th 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 was submitted by Rebecca Harrington on May 18, 2015. In accordance with Stanislaus County Code Section 21.112.040, all appeals of the Stanislaus County Planning Commission's Decision are filed with the Stanislaus County Board of Supervisors. Upon receiving an appeal, the Board of Supervisors places an item setting a public hearing date and time on their agenda for consideration. Once a public hearing date is approved, the Clerk of the Board is required to publish a Notice of Public Hearing in a newspaper of general circulation. The Planning and Community Development Department notifies surrounding property owners by mail, and prepares the public hearing agenda item.

At this time, this item simply sets the date and time for a hearing on the matter before the Board of Supervisors to consider the appeal.

POLICY ISSUES:

Setting a public hearing to consider an appeal of the Planning Commission's decision is consistent with the Board's priority of A Well-Planned Infrastructure System.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Christine Ferraro, Clerk of the Board of Supervisors Telephone: 209-525-4494

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

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 9th 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 9th 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

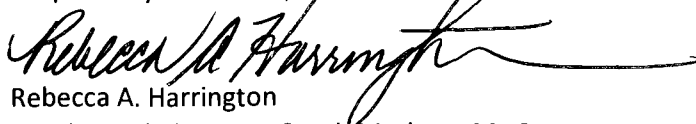
erroneous statement as well. There is a County sign on Hosmer Road specifically stating that no truck weighing 7 tons shall travel past Hosmer. While some do travel on Bystrum on occasion, it is more infrequent than claimed by the County and Mr. Niskanen. Rocha Trucking Company has moved from the area 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. 9th 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







May 19, 2015

Rebecca A. Harrington
522 Bystrum Rd
Modesto, CA 95351

RE: Appeal of Planning Commission's Approval of Use Permit Application No.
PLN2013-0078 – Central Valley Recycling, Inc.

Dear Ms. Harrington:

We received your Letter of Appeal regarding the Planning Commission's Approval of Use Permit Application No. PLN2013-0078 – Central Valley Recycling, Inc. An item requesting the Board of Supervisors schedule a public hearing on Tuesday, **June 16, 2015 at 6:40 p.m.**, to consider this appeal, will be on the Board of Supervisors' June 2, 2015 agenda.

For further information, please call the Planning and Community Development Department at 525-6330 or the Board of Supervisors at 525-4494.

Sincerely,

Elizabeth A. King
Assistant Clerk of the
Board of Supervisors

cc: Supervisor Jim De Martini, District 5
Planning & Community Development Department



CLERK OF THE BOARD OF SUPERVISORS

Christine Ferraro Tallman

1010 Tenth Street, Suite 6700, Modesto, CA 95354
Phone: 209.525.4494 Fax: 209.525.4420

NOTICE OF PUBLIC HEARING
APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF USE PERMIT
APPLICATION NO. PLN2013-0078 - CENTRAL VALLEY RECYCLING, INC.

NOTICE IS HEREBY GIVEN that on June 16, 2015 at the hour of 6:40 p.m., the Stanislaus County Board of Supervisors will meet in the Chambers, Basement Level, Tenth Street Place, 1010 10th St., Modesto, CA, to consider an appeal of the Planning Commission's approval of Use Permit Application PLN2013-0078 - Central Valley Recycling, Inc., a request to intensify a California Redemption Value (CRV) and Scrap Metal Recycling facility on a 2.2± acre property in the C-2 (General Commercial) zoning district. The site is located at 522 and 524 S. 9th Street, on the east side of S. 9th Street, north of Hosmer Avenue, in the Ceres area. A CEQA Mitigated Negative Declaration will be considered. APNs: 038-012-008 and 038-012-009.

NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: June 2, 2015

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of
the Board of Supervisors
of the County of Stanislaus,
State of California.

BY:
Pam Villarreal, Deputy Clerk



DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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

June 5, 2015

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Stanislaus County Board of Supervisors will hold a public hearing on **Tuesday, June 16, 2015**, starting at **6:40 P.M.**, or as soon thereafter as the matter may be heard, in the Joint Chambers, 1010 10th Street, Basement Level, Modesto, California, to consider the following:

APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION NO. 2013-0078 - CENTRAL VALLEY RECYCLING, INC. – Request to intensify a California Redemption Value (CRV) and Scrap Metal Recycling facility on a 2.2± acre property in the C-2 (General Commercial) zoning district. The site is located at 522 and 524 S. 9th Street, on the east side of S. 9th Street, north of Hosmer Avenue, in the Ceres area.

The property is further identified as Assessor's Parcel No. 038-012-008 and 038-012-009

The Board of Supervisors will also consider approval of a Mitigated Negative Declaration for this item.

At the above noticed time and place, all interested persons will be given an opportunity to speak.

Materials submitted to the Board of Supervisors for consideration (i.e., photos, slides, petitions, letters, etc.) will be retained by the County and cannot be returned.

If you challenge the above item in court, you may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors, at or prior to, the public hearing.

For further information, please call (209) 525-6330, or email: planning@stancounty.com.

PROOF OF SERVICE BY MAIL - CCP 1013a, 2015.5

I declare that: I am employed in the County of Stanislaus,
California.

I am over the age of eighteen years and not a party to the within entitled cause; my business
address is:

Stanislaus County Administration Building
Department of Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

On June 5, 2015, I served the attached Notice of Public Hearing:
(Date)

APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION NO.

2013-0078 - CENTRAL VALLEY RECYCLING, INC. on the parties listed below in said cause,

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid,

in the United States mail at Modesto, California, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury that the foregoing is true and correct, and that this

declaration was executed on June 5, 2015, at Modesto, California.
(Date)

Maria McFarlane
(Type or print name)


Signature

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of THE MODESTO BEE, printed in the City of MODESTO, County of STANISLAUS, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of STANISLAUS, State of California, Under the date of February 25, 1951, Action No. 46453; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Jun 05, 2015

STANISLAUS COUNTY NOTICE OF PUBLIC HEARING APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION NO. PLN2013-0078 - CENTRAL VALLEY RECYCLING, INC.

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BY ORDER OF THE BOARD OF SUPERVISORS. DATED: June 2, 2015. ATTEST: Christine Ferraro Tallman, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. BY: Pam Villarreal, Deputy Clerk. Pub Dates June 5, 2015

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

June 5th, 2015

(By Electronic Facsimile Signature)

Cynthia A. Villarreal