

**CITY OF MODESTO
PLANNING COMMISSION AGENDA REPORT
MONDAY, FEBRUARY 23, 2009 - 7:00 PM
BASEMENT CHAMBERS
1010 TENTH STREET - MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meetings of January 5, 2009 and January 26, 2009.

III. CONFLICT OF INTEREST DECLARATION

Commissioners and staff may now declare conflicts of interest for the purpose of determining if a quorum will be present to act on each item in the order shown on the agenda.

IV. CONSENT AND JOINT PUBLIC HEARING ITEMS

These items are judged by staff to be consistent with City policies, regulations, and the General Plan. The Chair will open consideration of the Consent/Joint Public Hearing items and will ask if any Commissioner or member of the audience wishes to discuss any item. If not, the Commission, with one vote and without discussion, will adopt the findings and recommendations for each item as shown in the agenda report. If there is a request to discuss an item, that item will be handled as a separate matter in the order shown in the agenda.

V. PUBLIC HEARINGS

Item A PDA-08-002 – Amendment to Planned Development, P-D(567), to allow a farmers market at the Kaiser medical facility located at 4601 Dale Road; submitted by Kaiser Foundation Hospitals (“Kaiser”)
Contact Info: Phil Reed, 577-5267, preed@modestogov.com

VI. OTHER BUSINESS

Item B Feedback - CRAC

Item C Feedback – CH&CDC

VII. ORAL COMMUNICATIONS

These matters may be presented by interested persons in the audience, staff or Commissioners (see Notice at end of agenda cover). Under State law, Commissioners may respond to matters being presented under this item only as follows:

- (a) Briefly respond to statements made or questions raised;
- (b) Ask a question for clarification;
- (c) Provide a reference to staff or other resources for factual information;
- (d) Request staff to report back at a subsequent meeting;
- (e) Finally, a Commissioner, or the Commission itself, may take action to direct staff to place a matter of business on a future agenda.

VIII. MATTERS TOO LATE FOR THE AGENDA

These may be presented by members of the Planning Commission and staff, upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that: 1) there is a need to take immediate action, and 2) that the need for action came to the City's attention after the agenda was posted.

IX. ADJOURNMENT

Copies of the agenda are on file at the Stanislaus Library Reference Room, 1500 I Street, Modesto, and in the office of the Planning Division, Third Floor, 1010 Tenth Street, Modesto, CA. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Commission Secretary at 209.577.5267. Assistive listening devices are available upon request to the Planning Commission Secretary. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Notice: Persons who wish to speak to the Planning Commission regarding any item on the printed agenda, including oral communications, are encouraged to sign in on a form provided at the meeting. The purpose of this list is to have your name and address should we need to contact you or provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54954.2 on _____

by _____ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO
PLANNING COMMISSION
STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission

PREPARED BY: Philip Reed, Associate Planner
Contact Info: 577-5276; preed@modestogov.com

REVIEWED BY: Steve Mitchell, Principal Planner

APPROVED BY: Patrick Kelly, Planning Division Manager

DATE: January 27, 2009

SUBJECT: PDA-08-002 – Amendment to Planned Development, P-D(567), to allow a farmers market at the Kaiser medical facility located at 4601 Dale Road; submitted by Kaiser Foundation Hospitals (“Kaiser”)

RECOMMENDATION

That the Planning Commission adopt the attached resolution recommending to the City Council an Amendment to Planned Development Zone, P-D(567), to allow a farmers market at the Kaiser medical facility located at 4601 Dale Road.

BACKGROUND

In August 2004, the City Council approved the Kaiser Medical Center located on the west side of Dale Road, in the Kiernan Business Park Specific Plan area. The development entitlements for the project included a rezone to a Planned Development Zone, as well as a Development Agreement, a Specific Plan Amendment, a Sphere of Influence Amendment, Annexation, and Certification of the Kaiser Medical Center Environmental Impact Report (SCH No. 2003072085). Although some facilities were completed and partially occupied sooner, the main hospital was opened in the Fall of 2008. There have been three amendments to the Development Agreement since the original approval, the most recent having been approved by City Council on June 10, 2008; but other than minor development plan revisions, the Planned Development Zone, P-D(567), has not been substantially amended.

The Planned Development zone for the project, P-D(567), was established with approval of Ordinance No. 3356-C.S. on August 10, 2004. The uses permitted by this approval included the following:

“Hospital, hospital support services, medical services buildings, administrative office buildings, central utility plant, parking facilities, cafeteria, optical and pharmacy services. Restaurants and gift shops are also permitted if located within the existing buildings as shown on the approved site plan.”

Kaiser first hosted a farmers market in 2003 at their medical facility in Oakland and now hosts similar events at many of their facilities, including those in Stockton and Tracy. This Kaiser-sponsored program of hosting farmers markets at their medical facilities is primarily intended to benefit Kaiser employees and members by promoting better health through healthy food choices and by improving the availability of healthy foods.

PROJECT DESCRIPTION

Kaiser proposes to host a seasonal farmers market on its property at their new facility on Dale Road in Modesto. Kaiser has identified two locations for this farmers market. The first location (designated

as 'A' on the attached site plan) would be the initial site and would accommodate no more than one or two vendors at the south entrance to the hospital building. The second location (designated as 'B' on the attached site plan) is a future site intended to accommodate up to 20 vendors should the farmers market warrant expansion.

Kaiser has proposed operation of the farmers market as follows:

- The event will run annually from June 1st through September 30th
- The event will be limited to a maximum of 2 days per week
- The hours of operation for each event will be from 7:00 AM to 1:00 PM
- The number of vendors allowed at each event will be limited to a maximum of 20
- The size of the event will be limited to an area approximately 120 feet by 120 feet, containing approximately 14,400 square feet and occupying approximately 50 existing parking spaces

Kaiser further proposes that any minor future changes related to the location, duration, and seasonality of the event should be subject only to administrative review by the City, negotiated and agreed upon in writing by both parties without the need for further amendment to the P-D Zone.

ISSUES

Compatibility of Use

The uses specified as allowed by the ordinance approving P-D(567) do not include a farmers market; therefore, it is necessary to amend the P-D Zone to include this use before it can be established. However, the Kiernan Business Park Specific Plan, within which the Kaiser development is located, provides for the Community and Economic Development Director to allow any other uses determined to be compatible with and of the same general character as those uses listed as permitted. Planning staff has concluded that, given Kaiser's health-related objectives for establishing the use at its facility, the farmers market may be classified as an "ancillary use" to the medical and health services allowed within the Medical Campus Subarea of the Specific Plan (which was designated specifically for the Kaiser development), and therefore, the farmers market may be included among the uses explicitly allowed within the P-D Zone.

Location and Operation

The farmers market proposed by Kaiser is a very different kind of event than those held twice weekly in downtown Modesto. There will be no amplified sound, PA system, music or entertainment of any kind, nor will any cooking or preparation of foods be allowed. The focus of the Kaiser hosted farmers market will be exclusively upon the sale of fresh produce, and the hours and scheduling of events are restricted to limit the imposition of noise, smells, or any other potentially undesirable aspects of the activities associated with these events upon the neighborhood (see Condition No. 1). In addition to these operational limitations, the farmers market will be required to submit to the Fire Department a detailed plan showing exactly where vendors tables, booths, and canopies will be set up, regardless of the location (A or B), size, or number of vendors, to ensure compliance with all requirements prior to the event (see Condition Nos. 4 and 5.a).

Where it is currently proposed, site 'B' (the larger of the two sites, intended to accommodate up to 20 vendors) is located approximately 250 feet from the nearest residential lots in the Fleur de Ville subdivision. This location is separated from the subdivision by a masonry wall, the 100-foot MID lateral No.6 and bike trail, approximately 50 feet of landscaping on Kaiser property, and the Ring Road that encompasses the entire Kaiser site. Site 'A' (for one or two vendors) is much smaller, as well as being farther away from the neighborhood. Therefore, staff believes that the farmers market will be compatible with the nearby residential neighborhood.

Parking and Traffic

The proposed farmers market could occupy approximately 50 parking spaces during those times and days that it is in operation; furthermore, it might generate an additional demand for approximately 50 parking spaces. Nevertheless, this combined deficit of 100 parking spaces is more than offset by an existing excess of 374 parking spaces beyond the minimum required by Municipal Code. There still will be an excess of 274 parking spaces available in Medical Center parking facilities on site.

The proposed farmers market was reviewed by the City's traffic engineering staff, and it was determined that the addition of this new use would not cause any substantial increase in traffic over and above what was already anticipated for the Kaiser development overall.

Signage

The City of Modesto Municipal Code allows for temporary, special event signage of up to 120 days per year, but limited to no more than 12 times per year; however, the farmers market will be allowed to operate two days per week for approximately four months, resulting in a possible 32 to 34 individual half-day events per year. Given that it is reasonable to allow the farmers market a limited amount of on-site signage during each event, staff considers it appropriate to include a specific provision (Condition No. 7) to accommodate the specialized nature and timing of these events.

GENERAL PLAN CONSISTENCY

The General Plan designates this site as Business Park (BP). It is also located within the Kiernan Business Park Specific Plan, which designates the site as a Medical Campus Subarea, which in turn accommodates all aspects of the Kaiser Medical Center, including "ancillary uses". The specific plan further provides for modification to the allowable uses to include any other uses that the Community and Economic Development Director may determine "to be compatible with and of the same general character" as the specific uses listed. Since "ancillary uses" are among those listed for the Medical Campus Subarea, the proposed Amendment to Planned Development, P-D(567), to allow a farmers market as an "ancillary use" is consistent with the land uses and policies of both the Kiernan Business Park Specific Plan and the City of Modesto Urban Area General Plan.

ZONING CONFORMANCE

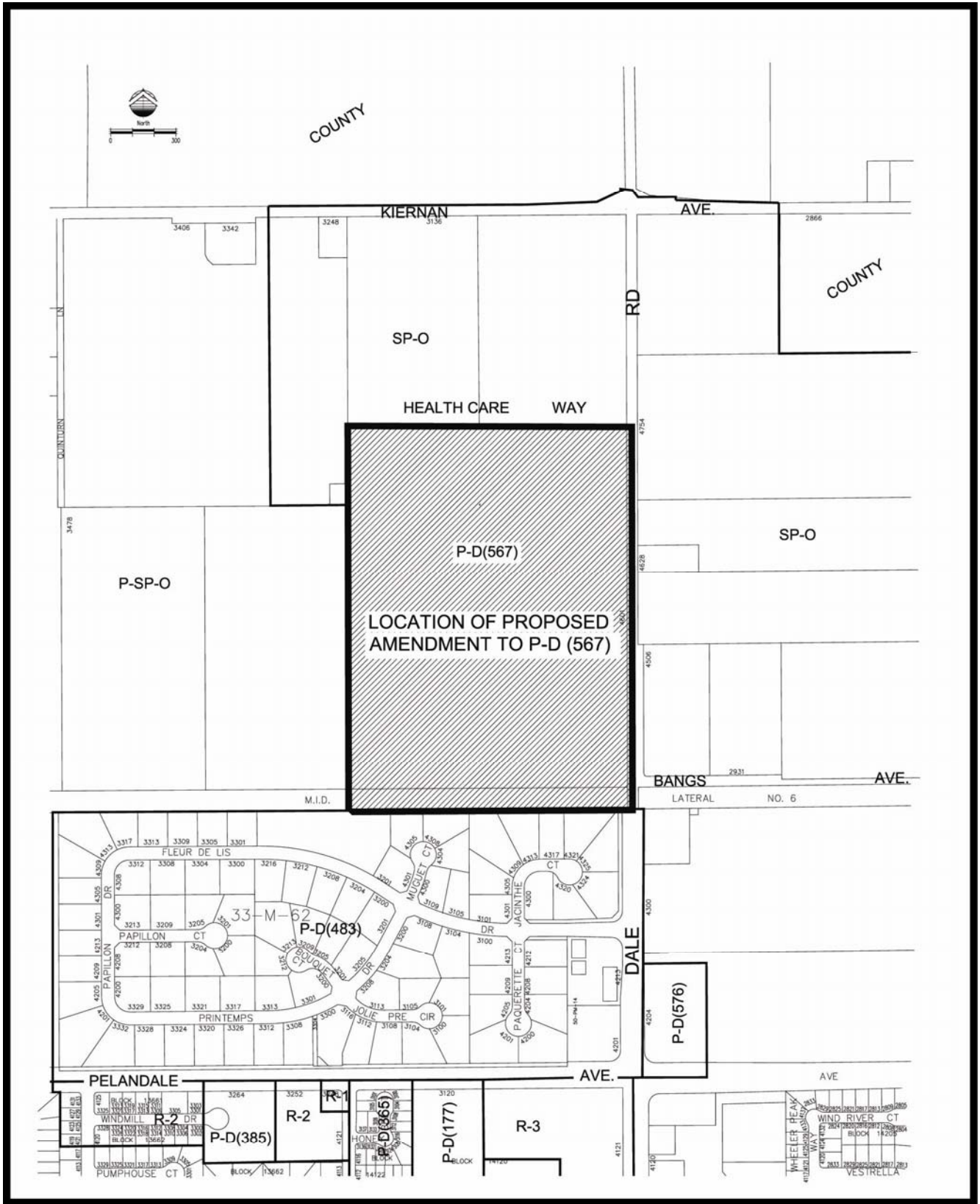
The subject site is zoned P-D(567), which is a Planned Development approved specifically to accommodate the development of the Kaiser Medical Center. Amendment of Planned Development, P-D(567) to specifically allow the farmers market as a permitted use will insure conformance of this use with the zoning for the site.

ENVIRONMENTAL ASSESSMENT

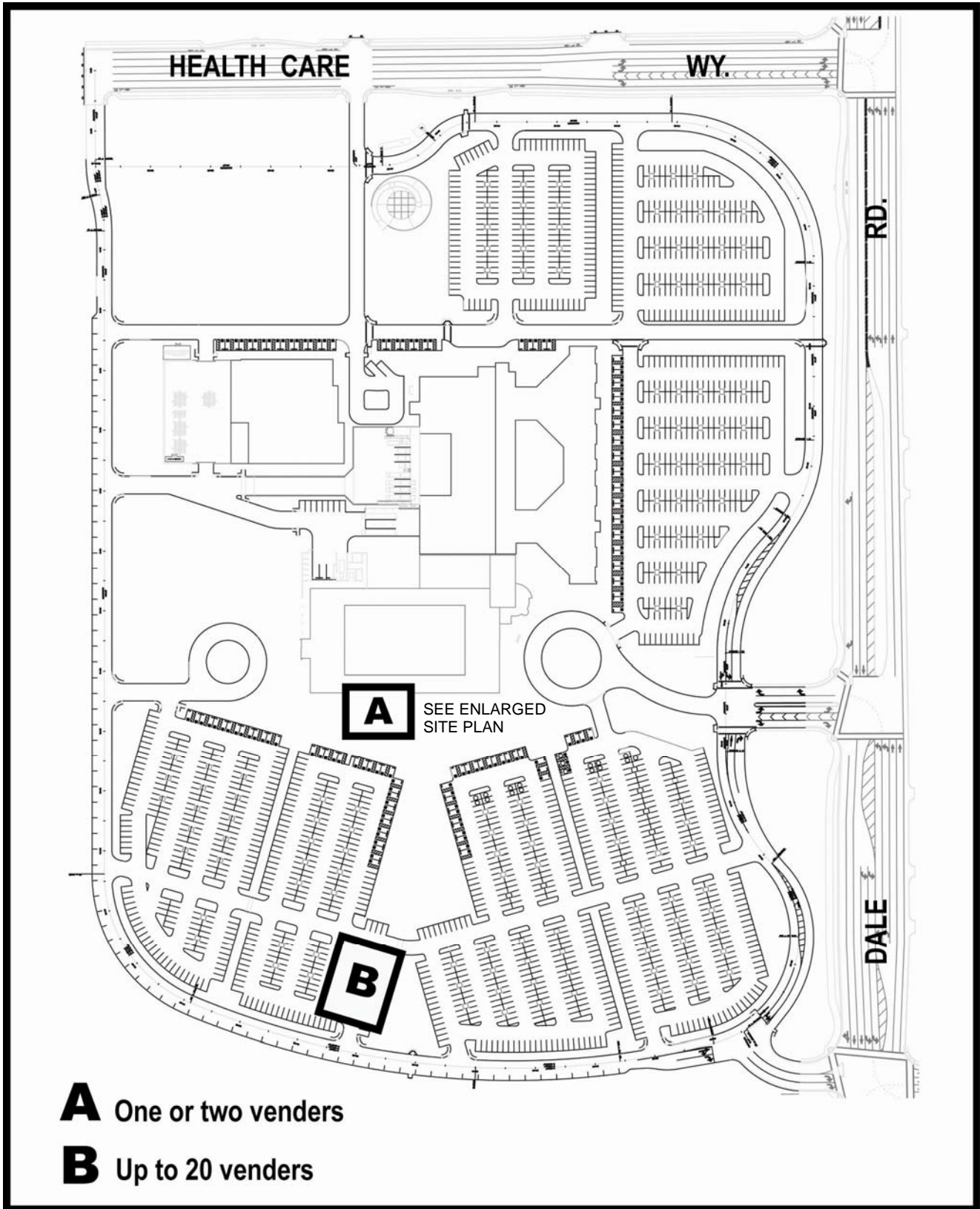
The proposed Amendment to Planned Development, P-D(567), is generally within the scope of and adequately described by the Kaiser Medical Center Final Environmental Impact Report, State Clearing House No. 2003072085 ("EIR"), but required some minor and insubstantial changes or additions to the EIR. The Third Addendum to the EIR, dated April 25, 2008 and prepared pursuant to Section 15164 of the CEQA Guidelines, included consideration of the proposed farmers market, as well as the Amendment to the Development Agreement approved by City Council on June 10, 2008. No further environmental documentation is required.

ATTACHMENTS (included with Commissioner's packets only)

1. Draft Planning Commission Resolution – February 23, 2009
2. Third Addendum to Kaiser Medical Center Final Environmental Impact Report, dated April 25, 2008
3. Financial Interest Disclosure Form
4. Large-Format Map(s)

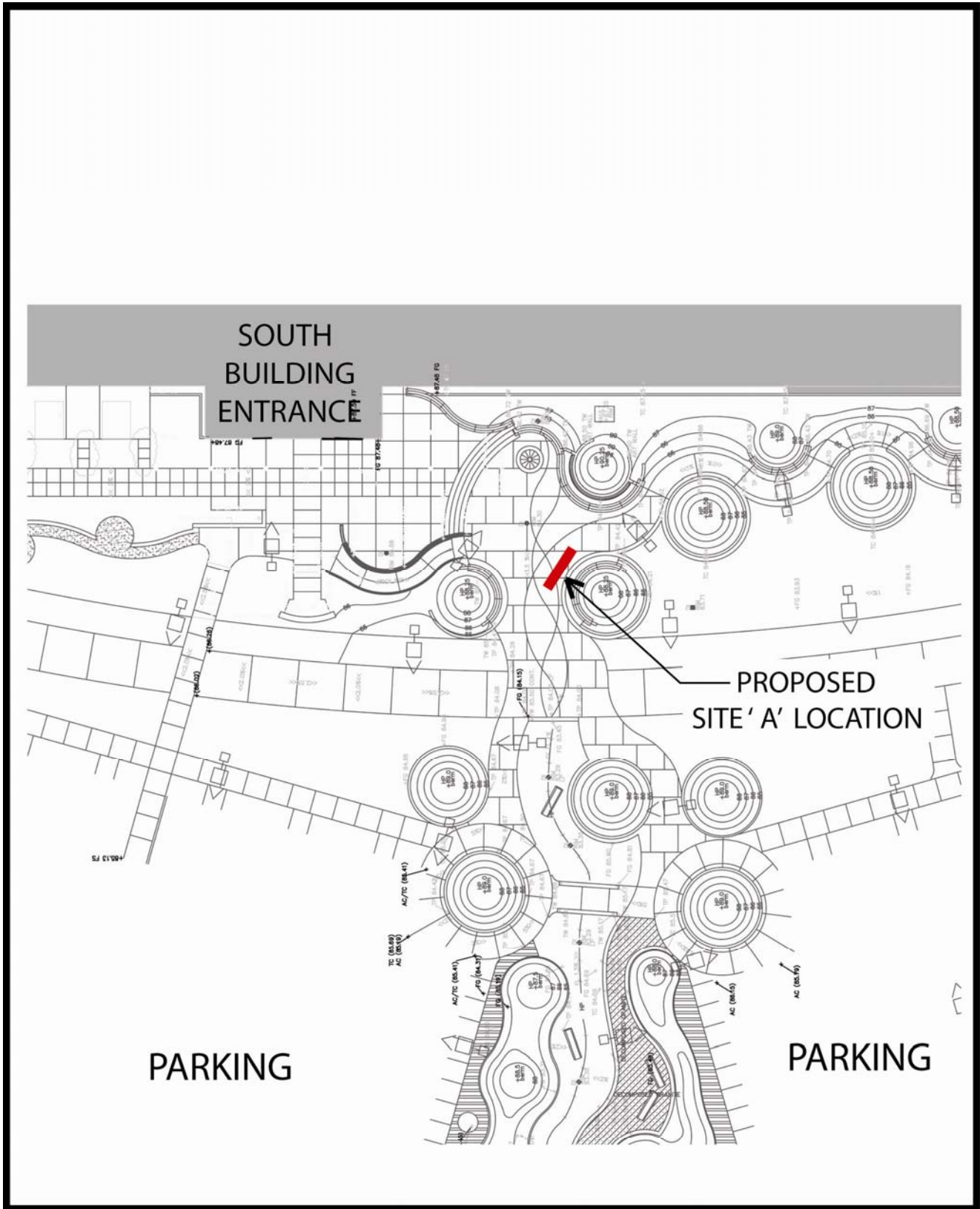


**AREA MAP OF PROPOSED
AMENDMENT TO P-D (567)**
P-PDA-08-002



OVERALL SITE PLAN

PDA-08-002
4601 Dale Rd.



ENLARGED SITE 'A' PLAN

PDA-08-002
4601 Dale Rd.



PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT TO P-D(567), TO ALLOW A FARMERS MARKET AT THE KAISER MEDICAL FACILITY, ON PROPERTY LOCATED ON THE WEST SIDE OF DALE ROAD, NORTH OF BANGS AVENUE AND SOUTH OF HEALTH CARE WAY (KAISER FOUNDATION HOSPITALS)

WHEREAS, Planned Development Zone, P-D(567), was approved by the City Council by Ordinance No. 3356-C.S., which became effective on October 8, 2004, to allow the development of the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way; and

WHEREAS, City Council Ordinance No. 3356-C.S. specifies the uses allowed within Planned Development Zone, P-D(567), to include a hospital, hospital support services, medical services buildings, administrative office buildings, central utility plant, parking facilities, cafeteria, optical and pharmacy services, with restaurants and gift shops also to be permitted if located within the existing buildings as shown on the approved site plan; and

WHEREAS, a verified application for an amendment to P-D(567) was filed by Kaiser Foundation Hospitals on March 14, 2008, to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way; and

WHEREAS, a public hearing was held by the Planning Commission on February 23, 2009, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission has received and considered a Third Addendum to the Final Environmental Impact Report for the Kaiser Modesto Medical Center/Cornerstone Business Park Project (SCH No. 2003072085) which determined that the proposed Amendment to Planned Development, P-D(567), is generally within the scope of and adequately described by the Kaiser Medical Center/Cornerstone Business Park Project Final Environmental Impact Report ("EIR"), that minor and insubstantial changes or additions to the EIR were required, but no further environmental documentation is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. That amendment of P-D(567), as proposed, is required by public necessity, convenience, and general welfare for the following reasons:
 - a. The Kaiser sponsored program of hosting farmers markets at their medical facilities will benefit the general public, as well as Kaiser employees and members, by promoting healthy food choices and improving the availability of healthy foods;

- b. The proposed amendment to P-D(567) is consistent with the General Plan because, given Kaiser's health-related objectives for establishing this use at its facilities, the farmers market may be classified as an "ancillary use" to the medical and health services allowed within the Medical Campus Subarea of the Kiernan Business Park Specific Plan;
 - c. The Kiernan Business Park Specific Plan provides for the Community and Economic Development Director to allow other uses determined to be compatible with and of the same general character as those uses explicitly listed as permitted; and
2. The proposed Amendment to Planned Development, P-D(567), is generally within the scope of and adequately described by the Kaiser Medical Center/Cornerstone Business Park Project Final Environmental Impact Report ("EIR") but required minor and insubstantial changes or additions to the EIR. A Third Addendum to the EIR was prepared and no further environmental documentation is necessary.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the Council as follows: That P-D(567) be amended to include a seasonal farmers market as a use allowed within the zone.

IT IS FURTHER RECOMMENDED that a revised development plan for P-D(567) be approved subject to the following conditions:

1. All of the farmers market events allowed by this Amendment to P-D(567) shall be subject to the following limitations in location, size, and operation (items "a" through "g", below); however, subsequent minor changes to these limitations may be approved by the Community and Economic Development Director or designee:
 - a. Farmers market events shall be held annually from June 1st to September 30th;
 - b. The hours of operation for each farmers market event shall be from 7:00 AM to 4:00 PM, including all time necessary to set up and take down vendors booths, tables, tents, canopies, etc, and the time to clean up after the event;
 - c. Farmers market events shall be allowed only in those locations designated on the approved plans;
 - d. There shall be no more than two farmers market events per week;
 - e. All farmers market events shall be limited to a maximum of twenty (20) vendors and an area approximately 120 feet by 120 feet (or 14,400 square feet);
 - f. There shall be no cooking of food at farmers market events;
 - g. There shall be no use of an amplified sound system, or music or entertainment of any kind.

2. Applicant shall ensure that operation of the farmers market complies with all applicable provisions of the 2007 California Building Code (CBC) for accessibility. The required minimum clearance shall be provided around any tables, booths, canopies, tents, or other obstructions placed upon sidewalk areas.
3. Applicant shall ensure compliance with all requirements of the City Fire Marshal, including the placement, number, and type of fire extinguishers to be available for use during each individual farmers market event.
4. Applicant shall submit a scaled drawing showing the layout of the farmers market, including location of all tables, booths, tents, canopies, and fire lanes, for approval by the City of Modesto Fire Department prior to the start of each event season, and prior to any change to this approved layout, and also to determine the permit requirements based upon the plan submitted.
5. Applicant shall ensure that all necessary permits, licenses, certificates, and other approvals are obtained prior to opening the farmers market; these may include (but may not be limited to) the following:
 - a. Permit obtained from the City of Modesto Fire Department for tents or canopies in accordance California Fire Code §105.7.13, as follows: all tents that equal or exceed 200 square feet in area, either individually or collectively, and canopies that equal or exceed 400 square feet in area, either individually or collectively;
 - b. Permit obtained from the City of Modesto Fire Department for any use of fueled equipment (such as a generator);
 - c. Permit for temporary event signs, obtained from the City of Modesto, Neighborhood Preservation Unit (NPU);
 - d. Approvals from other agencies as necessary.
6. Applicant shall ensure that during each individual farmers market event, temporary trash receptacles are provided within and in the vicinity of the designated area for the event and that all trash generated by the event is subsequently disposed of within the existing on-site trash enclosures.
7. Temporary event signage may be provided for each individual farmers market event in accordance with City of Modesto Municipal Code Sections 10-2.2114(b) and (f), except that it will not be limited to a total of twelve (12) times per year as specified in Section 2.2114(b)(1). In addition, temporary directional signage, in the form of A-frame or other free-standing signs, may be provided as appropriate and necessary to ensure effective on-site circulation and to avoid conflict with other hospital related traffic. All temporary event signage (including directional signs) must be located exclusively upon the Kaiser medical facility property where the event is held, and all such signage must be removed at the end of each individual event.

8. Applicant shall, at its sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses or expenses of every type and description, including, but not limited to, payment or reasonable attorneys fees and costs, by reason of, or rising out of, an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, on property located on the west side of Dale Rd., north of Bangs Avenue and south of Healthcare Way. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any actions to arbitrate, attack, review, set aside, void or annul on any grounds whatsoever an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, on property located on the west side of Dale Rd., north of Bangs Avenue and south of Healthcare Way. The City of Modesto shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on February 23, 2009, by _____, who moved its adoption, which motion was seconded by _____ and carried by the following vote:

Ayes:

Noes:

Absent:

Recused:

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Patrick Kelly, Secretary