

**CITY OF MODESTO
PLANNING COMMISSION AGENDA REPORT
MONDAY, JULY 20, 2009 - 7:00 PM
BASEMENT CHAMBERS
1010 TENTH STREET - MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of June 1, 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

None.

V. PUBLIC HEARINGS

Item A ANX-07-001/PDZ Secondary Treatment Plant, Jennings Rd (City of Modesto)
Contact Info: David Wage, 577-5267, dwage@modestogov.com

Item B P-GPA-06-003, SPA-05-001, P-EIR-06-001 Kiernan Business Park East
Contact Info: Josh Bridegroom, 577-5267, jbridegroom@modestogov.com

VI. OTHER BUSINESS

Item C Planning Division Work Program
Contact info: Patrick Kelly, 577-5267, pkelly@modestogov.com

Item D Nomination of PC Rep to the CIP Task Force
Contact Info: Patrick Kelly, 577-5267, pkelly@modestogov.com

Item E Feedback - CRAC

Item F 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: David Wage, Associate Planner
Contact Info: 577-5267, dwage@modestogov.com

REVIEWED BY: Steve Mitchell, Principal Planner

APPROVED BY: Patrick Kelly, Planning Manager

DATE: July 20, 2009

SUBJECT: ANX-07-001 and PRZ-09-001 – Application to annex, amend the Sphere of Influence and prezone the City's Secondary Wastewater Treatment Facility to Low Density Residential, P-R-1, 15 parcels totaling 4,690 acres, property located approximately seven miles southwest of the Modesto City limits on south side of Keyes Road, west of Vivian Road; submitted by the City of Modesto.

RECOMMENDATION

That the Planning Commission adopt the attached resolutions:

- A resolution recommending to the City Council adoption of a resolution of application to the Stanislaus Local Agency Formation Commission to Amend Modesto's Sphere of Influence and annex approximately 4,690 acres of property located approximately seven miles southwest of the Modesto City limits on the south side of Keyes Road, west of Vivian Road;
- A resolution recommending to the City Council an amendment to sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map to prezone to Low Density Residential (R-1), property located approximately seven miles southwest of the Modesto City limits on the south side of Keyes Road, West of Vivian Road.

BACKGROUND

The City's Secondary Wastewater Treatment Facility (Secondary Plant) is located on a total of 4,793 acres of City owned property known as the "Ranch." It was first constructed in the late 1960's and last upgraded in 1984. The Secondary Plant is designed to handle treated wastewater from the Sutter Avenue Primary Treatment Plant. Wastewater treated at the Secondary Plant is disposed of in two ways: through irrigation to the Ranch, and through seasonal discharge to the San Joaquin River. The City's compost facility and the Modesto Police Department firing range are also located on the Ranch and would be included in the proposed annexation.

The Secondary Plant is surrounded by Stanislaus County lands designated for Agricultural (A) land uses. The subject property is zoned A-2-40 (General Agriculture) under the Stanislaus County Zoning Ordinance, as is all county land in the immediate vicinity of the Secondary Plant.

A portion of the Secondary Plant, totaling 102.7 acres, was annexed into the City on December 30, 1969. In June of 2007, the City of Modesto submitted an application to annex the remainder of the Secondary Plant.

PROJECT DESCRIPTION

The City of Modesto is proposing to annex its Secondary Wastewater Treatment Facility, which is located on 15 City owned parcels totaling 4,690 acres. The area to be annexed is not contiguous with the existing City boundaries and would be annexed pursuant to Government Code 56742, which allows for the annexation non-contiguous territory used for wastewater facilities. The project does not include new development or the expansion of any onsite facilities.

As part of the annexation application, the Sphere of Influence would be amended to reflect the change in City boundaries. The City is proposing to pre-zone the property Low Density Residential, P- R-1, which allows for buildings or grounds operated by a government agency. The R-1 zoning is consistent with zoning for the portion of the Secondary Plant that was previously annexed in 1969.

REASONS FOR RECOMMENDATION

The project is consistent with General Plan Policy III-C1(e), which calls for the expansion and annexation of the Secondary Treatment Plant.

ISSUES

Plan for Services

Pursuant to State law, staff has prepared a plan for services demonstrating the City's ability and means to serve the project (see Attachment No. 1, Exhibit "C"). The areas of traffic, wastewater, water, storm-water, solid waste, fire protection and police protection are covered by the plan for services.

Fire Protection Districts

There are two Fire Protection Districts (Districts) serving the area to be annexed, the Mountain View Fire Protection District and the Westport Fire Protection District. As a result of meetings and discussions with representatives from each of the Districts and the Modesto Fire Department, it was agreed that the two Districts serving the area should continue to serve the area following the annexation.

The Districts assess taxes on the properties they serve, which includes the Secondary Plant. The assessments on the Secondary Plant will discontinue following the annexation, since the City will no longer pay property taxes on the subject property. To compensate the Districts for their continued services, the City has reached separate agreements with the Districts to provide an annual reimbursement based on taxes collected in 2009. In 2009, the Westport Fire District collected a property tax assessment of \$1,500.00, while the Mountain View Fire District collected \$6,000.00. The Agreements would require the City to annually compensate the Districts for the amounts above.

Protest Hearing

The proposal is considered an uninhabited annexation (fewer than 12 registered voters) as defined by State law. For uninhabited territory, State law (Section 56663(c) of the Cortese-Knox-Hertzberg Act) permits LAFCO to make a determination on the annexation without a protest hearing provided all affected agencies that will gain or lose territory as a result of the reorganization have consented in writing to a waiver of protest proceedings. The City's

Resolution of Application to the Local Area Formation Commission (LAFCO) for Annexation includes the City's consent to such a waiver as Condition No. 8. LAFCO is responsible for obtaining waivers from other affected agencies.

Tax Sharing

The property is subject to the Master Property Tax Sharing Agreement between the City of Modesto and the County of Stanislaus, which agreement became effective April 9, 1996. However, the property to be annexed is owned by the City and property taxes will no longer be collected following the annexation. As noted above, special agreements have been established with two Fire Protection Districts for their continued services.

GENERAL PLAN CONSISTENCY

The property is located outside of the City's General Plan Area. The City is not proposing to amend its General Plan Area Map to include the Secondary Plant. The project is consistent with General Plan Policy III.C.1.e, which calls for the annexation and expansion of the Secondary Treatment Plant as appropriate and as needs dictate.

ZONING CONFORMANCE

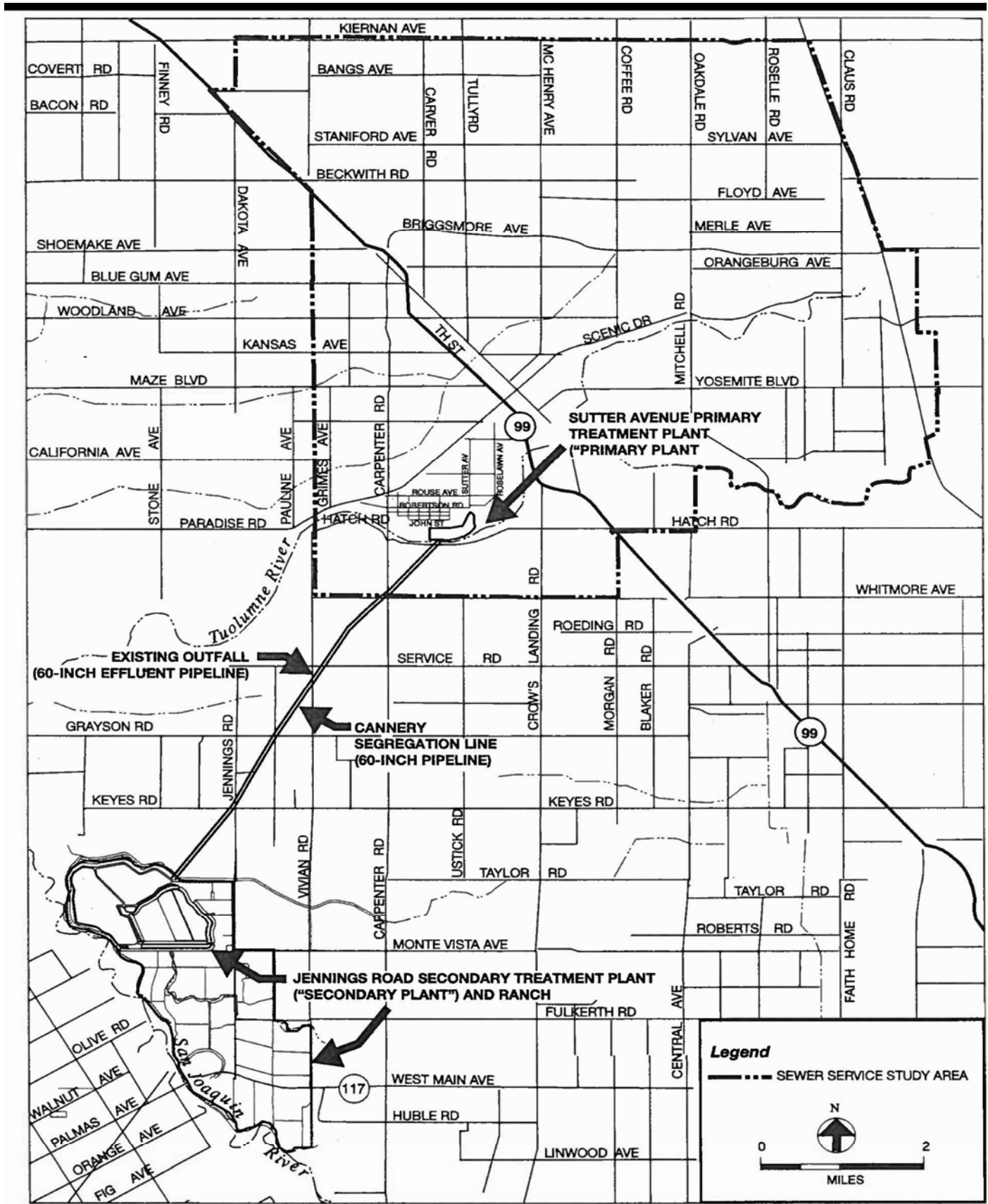
The property will be pre-zoned Low Density Residential, P-R-1, which allows for buildings or grounds operated by a government agency. In addition, the Classification of Annexed Property table located in Modesto Municipal Code Section 10-2.309 establishes R-1 as the corresponding zone for the A-2, General Agriculture County designation.

ENVIRONMENTAL ASSESSMENT

Staff has prepared an Initial Study Environmental Checklist, No. EA/C&ED 2009-19, (Attachment No. 5), which concludes that the proposed annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076), and that pursuant to Section 21157.1(b) of CEQA, no new environmental review is required.

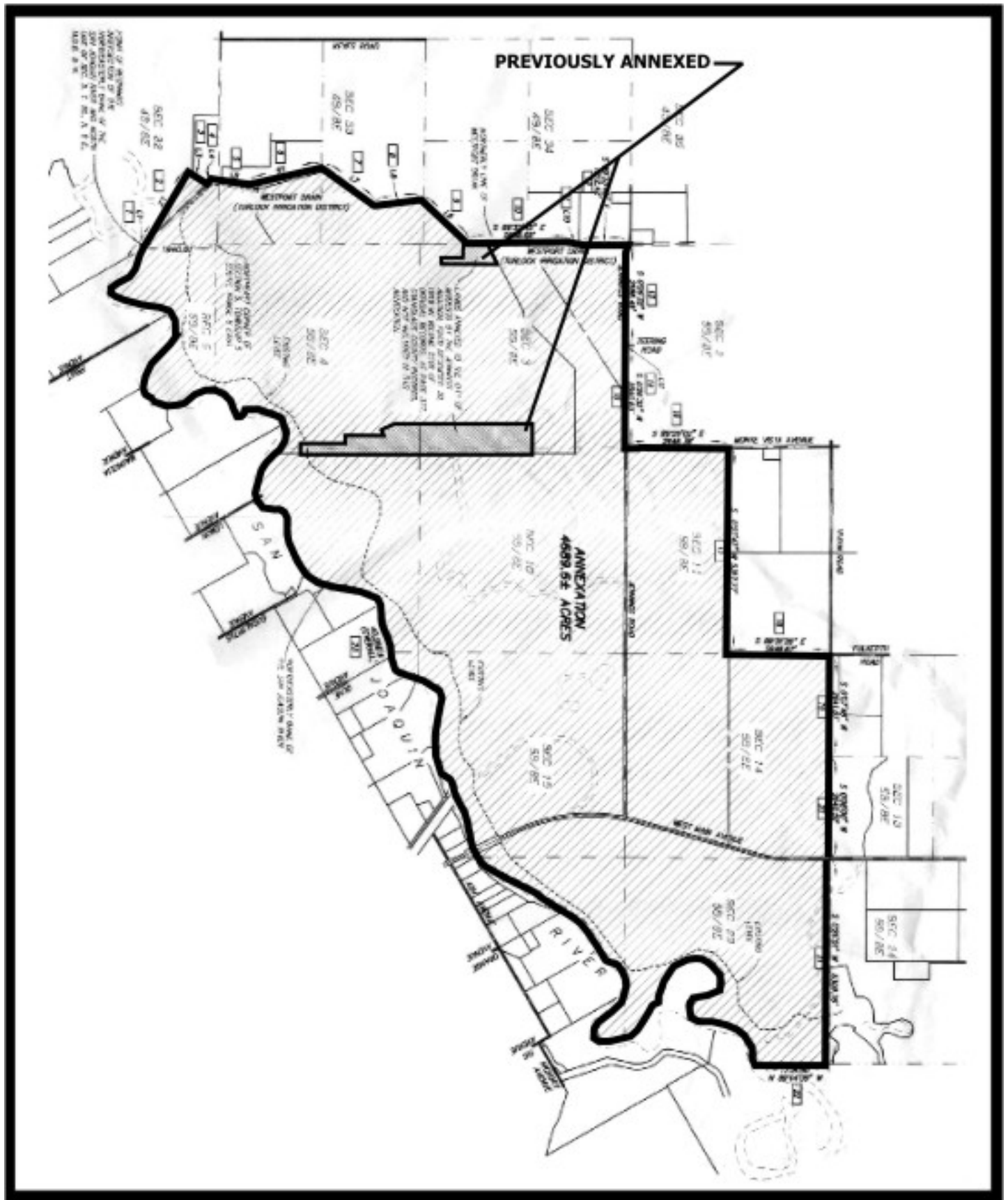
ATTACHMENTS (included with Commissioners' packets only)

1. Draft Planning Commission Resolution (ANX) – July 20, 2009
2. Draft Planning Commission Resolution (PRZ) – July 20, 2009
3. Agreement between the City of Modesto and the Westport Fire District
4. Agreement between the City of Modesto and the Mountain View Fire District
5. Initial Study, EA/C&ED 2009-19



AREA MAP OF PROPOSED ANNEXATION,
 AMENDMENT TO THE SPHERE OF INFLUENCE, AND
 PREZONE THE CITY'S SECONDARY TREATMENT PLANT
 ANX-07-001
 7007 JENNINGS ROAD





PROPOSED SITE MAP

(Large-format version of plan attached to Commissioners' agendas)

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A RESOLUTION OF APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO AMEND MODESTO'S SPHERE OF INFLUENCE AND ANNEX APPROXIMATELY 4690 ACRES OF PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (CITY OF MODESTO)

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Secondary Wastewater Facility (Secondary Plant) was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a portion of the Secondary Plant totaling 102.7 acres was annexed into the City on December 30, 1969; and

WHEREAS, the City of Modesto has submitted a written request to initiate annexation of the remainder of the Secondary Plant, 15 parcels totaling 4,690 acres, to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq; and

WHEREAS, California Government Code Section 56742 allows the annexation of noncontiguous territory which is used by a city for the reclamation, disposal and storage of treated wastewater; and

WHEREAS, Government Code section 56428 authorizes any person or local agency to file a written request with the Executive Officer of its Local Agency Formation Commission ("LAFCO") to amend a sphere of influence; and

WHEREAS, the request to amend the City of Modesto's sphere of influence and the Resolution of Application are proposed pursuant to California Government Code Sections 56428, 56650, 56654 and 56700; and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition; and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein; and

WHEREAS, the proposed Property is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996; and

WHEREAS, the proposed Property is not subject to a Williamson Act contract; and

WHEREAS, the City of Modesto Police Department has indicated they are able to adequately serve the site; and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

- (a) Said property will continue to be included in the Mountain View and Westport Fire Protection Districts.
- (b) Said property will be served by the City of Modesto Police Department.

WHEREAS, the reasons for this proposed sphere of influence amendment and reorganization to the City of Modesto are as follows:

- (a) Staff has received a written request signed by all property owners of the Property to annex the Property to the City of Modesto.
- (b) The proposed annexation is consistent with the Urban Area General Plan.
- (c) The proposed annexation will allow for the future orderly and efficient expansion of the existing Secondary Plant; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit "C", attached hereto and by this reference incorporated herein; and

WHEREAS, an Initial Study Environmental Checklist (Environmental Assessment No. EA/C&ED 2009-19) was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the Wastewater Master Plan Update Master EIR; and

WHEREAS, on July 20, 2009, Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California to consider the proposed Resolution of Application for an amendment to the City's sphere of influence and annexation of the Property; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Modesto that it hereby recommends that the City Council find as follows:

1. The foregoing recitals are true and correct.
2. That the proposed sphere of influence amendment and annexation are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Policy III.C.1.e, which calls for the annexation and expansion of the Secondary Treatment Plant as appropriate and as needs dictate.

3. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B," attached hereto and by this reference incorporated herein.
4. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.
5. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.
6. The proposed annexation will allow for the orderly and efficient expansion of the existing Secondary Plant; and
7. The proposed sphere of influence amendment and annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076) and has been adequately analyzed by the EIR.

BE IT FURTHER RESOLVED by the Planning Commission that it also recommends to the City Council that, pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit "C", attached hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it also recommends to the City Council:

8. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council hereby consents to a waiver of conducting authority proceedings.
9. Pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit "C," attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on July 20, 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

Attachments: Exhibit "A" Legal Description
Exhibit "B" Annexation Proposal Map
Exhibit "C" Plan for Services

Exhibit "A"
LEGAL DESCRIPTION

JENNINGS ROAD ANNEXATION

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, and 34, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 22, and 23, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, lying in the County of Stanislaus, State of California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly bank of the San Joaquin River with the north line of Section 5, Township 5 South, Range 8 East, said point being 1940.61 feet west of the Northeast corner of said Section 5, measured along the north line of said Section 5, thence the following twenty three (23) courses:

- 1) South 89°59'19" East 120.00 feet, along the north line of said Section 5, to the southwesterly corner of that certain tract of land commonly identified as Assessor's Parcel 17-61-14; thence
- 2) North 31°17'15" East 2196.48 feet, along the northwesterly line of the aforementioned tract of land, to the northerly corner thereof; thence
- 3) South 57°40'55" East 563.69 feet, along the northeasterly line of the aforementioned tract of land, also being along the southwesterly line of Parcel 1, as shown on that certain Parcel Map filed in Book 9 of Parcel Maps, at Page 93, Stanislaus County Records, to the southerly corner of said Parcel 1, also being a point on the northerly line of the Westport Drain; thence
- 4) North 47°46'05" East 175.78 feet, along the northerly line of said Westport Drain, to an angle point in said northerly line; thence
- 5) South 81°49'46" East 965.70 feet, continuing along said northerly line; thence
- 6) North 77°00'15" East 1979.94 feet, continuing along said northerly line; thence
- 7) South 52°48'45" East 1635.36 feet, continuing along said northerly line; thence
- 8) North 84°06'15" East 1220.77 feet, continuing along said northerly line; thence
- 9) South 46°52'45" East 1616.86 feet, continuing along said northerly line; thence
- 10) South 89°33'45" East 2608.68 feet, continuing along said northerly line; thence

- 11) South 80°03'55" East 300.00 feet, continuing along said northerly line; thence
- 12) South 89°33'45" East 1212.42 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, said east right-of-way line being 20.00 feet east, measured at a right angle, of the east line of said Section 2, Township 5 South, Range 8 East; thence
- 13) South 00°26'32" West 2686.49 feet, along the east right-of-way line of said Jennings Road, being parallel with and 20.00 feet east, measured at a right angle, of the east line of said Section 2, to a point on the south right-of-way line of Zeering Road; thence
- 14) South 90°00'00" West 20.00 feet, along the south right-of-way line of said Zeering Road, to a point on the east line of said Section 2; thence
- 15) South 00°26'32" West 2593.63 feet, along the east line of said Section 2, to a point on the north right-of-way line of Monte Vista Avenue, said north right-of-way line being 30.00 feet north, measured at a right angle, of the north line of said Section 11, Township 5 South, Range 8 East; thence
- 16) South 89°29'02" East 2646.38 feet, along the north right-of-way line of said Monte Vista Avenue, being parallel with and 30.00 feet north, measured at a right angle, of the north line of said Section 11, to a point on the northerly extension of the north-south $\frac{1}{4}$ section line of said Section 11; thence
- 17) South 00°27'47" West 5317.77 feet, along said north-south $\frac{1}{4}$ section line, and northerly extension thereof, to the south $\frac{1}{4}$ corner of said Section 11; thence
- 18) South 89°31'26" East 2646.67 feet, along the south line of said Section 11, to the southeast corner of said Section 11; thence
- 19) South 00°07'48" West 2641.61 feet, along the east line of said Section 14, Township 5 South, Range 8 East, to the east $\frac{1}{4}$ corner of said Section 14; thence
- 20) South 00°08'00" West 2642.52 feet, along the east line of said Section 14, to the southeast corner of said Section 14; thence
- 21) South 00°26'51" West 5309.76 feet, along the east line of said Section 23, Township 5 South, Range 8 East, to the southeast corner of said Section 23; thence
- 22) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence

23) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 40280 feet, more or less, to the point of beginning.

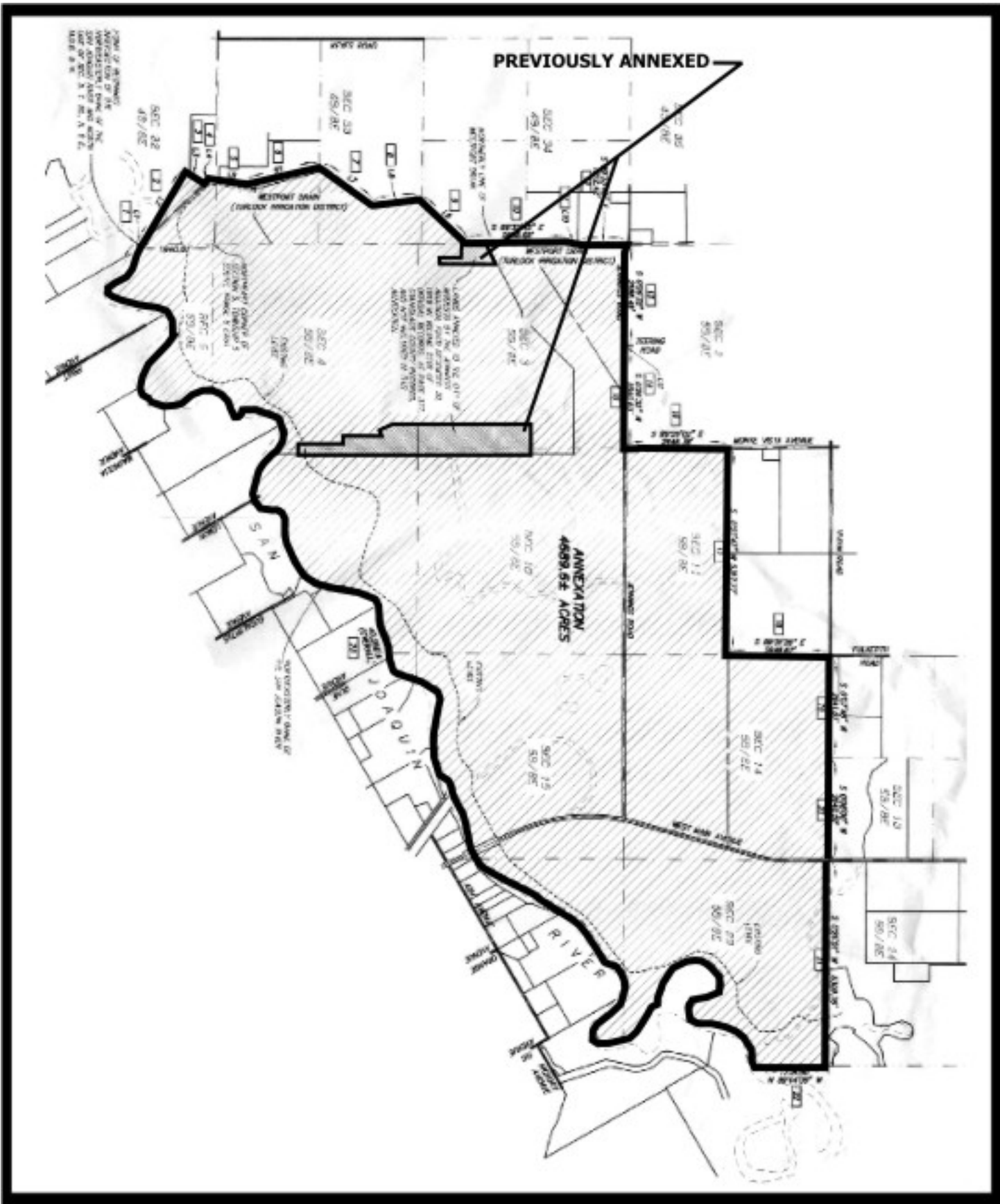
EXCEPTING THEREFROM all that certain real property annexed to the City of Modesto by the Jennings Addition, filed December 30, 1969, in Volume 2308 of Official Records, at Page 377, Stanislaus County Records.

Containing a total of 4689.6 acres, more or less.

Subject to covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record.

Exhibit "B"

ANNEXATION PROPOSAL MAP



PROPOSED SITE MAP

(Large-format version of plan attached to Commissioners' agendas)

Exhibit "C"
PLAN FOR SERVICE

SECONDARY WASTEWATER TREATMENT PLANT REORGANIZATION PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Secondary Wastewater Treatment Plant Reorganization.

- A. The project site is located east of, and adjacent to, the San Joaquin River. The City of Modesto is proposing to annex 15 City owned parcels totaling approximately 4,690 acres. The City of Modesto's Secondary Wastewater Treatment Facility is located on the subject property. The area proposed to be annexed is not contiguous with the existing City boundaries and would be annexed pursuant to Government Code 56742, which allows for the annexation non-contiguous territory used for wastewater facilities. The annexation does not include the expansion of any onsite facilities. Staff has prepared an Initial Study, Environmental Checklist No. EA/C&ED 2009-19, which concludes that the proposed annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076), and that pursuant to Section 21157.1(b) of CEQA, no new environmental review is required. As part of the approval, community facilities and services were analyzed in detail in Initial Study and Finding of Conformance (C&ED No. 2009-19). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services:
1. Traffic and Circulation: The external roadway network is already constructed. The operation of some of the facilities could increase the number of vehicle trips to and from the facility site. The facilities require periodic review and maintenance, but would not generate significant levels of new trips. Overall, any increases in traffic generated by operation and maintenance of these facilities would be minimal, and would not result in noticeable increases in traffic on adjacent streets, and operational impacts are expected to be less than significant.
 2. Waste Water Collection: The area to be annexed is the site of City's Secondary Wastewater Treatment Plant. The build out of the treatment facilities will not generate additional wastewater. The site will be used to expand the wastewater treatment capacity for the Modesto urban area.
 3. Water Delivery: The operation of the Secondary Wastewater Treatment Plant would not result in a substantial increase in the demand for water resources, as the collection system would collect and convey wastewater and would not use any water resources. The advanced treatment facilities proposed for the Secondary Plant would provide water that would be suitable for most uses if any water were needed.

4. Storm Water Drainage: The site is currently regulated under the Stanislaus County Storm water Program. Annexing this property to the City of Modesto will cause all activities occurring at this site to be subject to the Modesto Municipal Code Storm water Ordinance Title 5, Chapter 10.
5. Solid Waste Disposal: The Secondary Treatment Plant does not generate solid waste that needs to be removed offsite. The advanced treatment process at the Secondary Plant generates biosolids, which are discharged to facultative ponds onsite. The City's Ranch land included in the proposed annexation is designed to accommodate the disposal of all generated solid waste.
6. Fire Protection: Upon reorganization, the annexation area will continue to be served by the Mountain View and Westport Fire Protection Districts. The Westport Fire Protection District serves the areas north of West Monte Vista Avenue, and the Mountain View Fire Protection District serves the areas south of West Monte Vista Avenue. Almost all of the structures at the Secondary Plant and Ranch are located north of West Monte Vista Avenue. Response time for fire service calls that emanate from the Secondary Plant and Ranch north of West Monte Vista Avenue range from 8 to 10 minutes during the day and 3 to 4 minutes at night. The fire station that responds to service calls to this portion of the Secondary Plant and Ranch is located at 5160 S. Carpenter Road and is part of the Westport Fire Protection District.

Response times for fire service calls that emanate from the Secondary Plant and Ranch south of W. Monte Vista Avenue range from 8 to 10 minutes during the day and from 3 to 4 minutes at night. The fire station that responds to service calls from this portion of the Secondary Plant and Ranch is located in the town of Crows Landing at the intersection of Crows Landing Road and W. Main Street and is part of the Mountain View Fire Protection District.

The two fire protection districts serving the area currently receive property tax revenues; however, these revenues will be discontinued upon annexation. The Westport Fire Protection District receives \$1,500.00 in property tax revenues each year, while the Mountain View Fire Protection District receives \$6,000.00 each year. The City and the Districts have established separate agreements where the Westport District will invoice the City \$1,500.00 each year to compensate for the lost revenues and the Mountain View District will invoice the City \$6,000.00 each year. In return, the Districts will continue to provide fire and emergency medical services.

7. Police Protection: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site without additional staffing, as industrial property does not require substantial additional policing.

B. Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

C. When services be provided?

The above-described services can be provided upon the effective date of annexation.

D. Improvements required as a condition of reorganization

No improvements are required as a condition of reorganization.

E. How will services be financed?

Services will be financed through City fees.

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTIONS 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 OF THE ZONING MAP TO PREZONE TO LOW DENSITY RESIDENTIAL, (R-1), PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (CITY OF MODESTO)

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Secondary Wastewater Facility (Secondary Plant) was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a verified application for an amendment to Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map was filed by the City of Modesto, on June 25, 2007, to prezone to Low-Density Residential (P-R-1) Zone, to allow for the annexation of the existing Secondary Plant, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road, as described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 20, 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 certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2009-19, which concluded that the project is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

NOW, THEREFORE, the Planning Commission of the City of Modesto hereby recommends that the City Council find as follows:

1. The requested prezoning of the Property as requested is required by public convenience or necessity for the following reasons:
 - a. The proposed prezoning will allow for the continued operation of the Secondary Plant.
 - b. Result in orderly planning and use of land resources because the continued operation and future expansion of the Secondary Plant will be consistent with the Wastewater Master Plan Update.
2. The proposed prezone is consistent with the Modesto Urban Area General Plan, because:

- a. General Plan Policy III.C.1.e, calls for the annexation and expansion of the Secondary Treatment Plant as appropriate and as needs dictate; and
 - b. The Secondary Plant is consistent with the Residential Designation in the Modesto Urban Area General Plan, which allows for community facilities; and
3. All applicable policies, regulations, and mitigation measures identified in the Wastewater Master Plan Update Master EIR (MEIR) have been applied to the project or otherwise made Conditions of Approval of the project; and
 4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR; and
 5. Based on the Initial Study, the City of Modesto finds and determines:
 - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 beyond that which was identified in the MEIR.
 - b. No new or additional mitigation measures or alternatives are required.
 6. The Initial Study, Environmental Assessment No EA/C&ED 2009-19, provides the substantial evidence to support findings 4 and 5, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the application of the City of Modesto to amend Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map to prezone the property described above to Prezoned Low-Density Residential, (P-R-1) Zone, be approved.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on July 20, 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

Attachments: Exhibit "A" Legal Description

Exhibit "A"

LEGAL DESCRIPTION

JENNINGS ROAD ANNEXATION

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, and 34, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 22, and 23, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, lying in the County of Stanislaus, State of California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly bank of the San Joaquin River with the north line of Section 5, Township 5 South, Range 8 East, said point being 1940.61 feet west of the Northeast corner of said Section 5, measured along the north line of said Section 5, thence the following twenty three (23) courses:

- 1) South 89°59'19" East 120.00 feet, along the north line of said Section 5, to the southwesterly corner of that certain tract of land commonly identified as Assessor's Parcel 17-61-14; thence
- 2) North 31°17'15" East 2196.48 feet, along the northwesterly line of the aforementioned tract of land, to the northerly corner thereof; thence
- 3) South 57°40'55" East 563.69 feet, along the northeasterly line of the aforementioned tract of land, also being along the southwesterly line of Parcel 1, as shown on that certain Parcel Map filed in Book 9 of Parcel Maps, at Page 93, Stanislaus County Records, to the southerly corner of said Parcel 1, also being a point on the northerly line of the Westport Drain; thence
- 4) North 47°46'05" East 175.78 feet, along the northerly line of said Westport Drain, to an angle point in said northerly line; thence
- 5) South 81°49'46" East 965.70 feet, continuing along said northerly line; thence
- 6) North 77°00'15" East 1979.94 feet, continuing along said northerly line; thence
- 7) South 52°48'45" East 1635.36 feet, continuing along said northerly line; thence
- 8) North 84°06'15" East 1220.77 feet, continuing along said northerly line; thence
- 9) South 46°52'45" East 1616.86 feet, continuing along said northerly line; thence
- 10) South 89°33'45" East 2608.68 feet, continuing along said northerly line; thence

- 11) South 80°03'55" East 300.00 feet, continuing along said northerly line; thence
- 12) South 89°33'45" East 1212.42 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, said east right-of-way line being 20.00 feet east, measured at a right angle, of the east line of said Section 2, Township 5 South, Range 8 East; thence
- 13) South 00°26'32" West 2686.49 feet, along the east right-of-way line of said Jennings Road, being parallel with and 20.00 feet east, measured at a right angle, of the east line of said Section 2, to a point on the south right-of-way line of Zeering Road; thence
- 14) South 90°00'00" West 20.00 feet, along the south right-of-way line of said Zeering Road, to a point on the east line of said Section 2; thence
- 15) South 00°26'32" West 2593.63 feet, along the east line of said Section 2, to a point on the north right-of-way line of Monte Vista Avenue, said north right-of-way line being 30.00 feet north, measured at a right angle, of the north line of said Section 11, Township 5 South, Range 8 East; thence
- 16) South 89°29'02" East 2646.38 feet, along the north right-of-way line of said Monte Vista Avenue, being parallel with and 30.00 feet north, measured at a right angle, of the north line of said Section 11, to a point on the northerly extension of the north-south $\frac{1}{4}$ section line of said Section 11; thence
- 17) South 00°27'47" West 5317.77 feet, along said north-south $\frac{1}{4}$ section line, and northerly extension thereof, to the south $\frac{1}{4}$ corner of said Section 11; thence
- 18) South 89°31'26" East 2646.67 feet, along the south line of said Section 11, to the southeast corner of said Section 11; thence
- 19) South 00°07'48" West 2641.61 feet, along the east line of said Section 14, Township 5 South, Range 8 East, to the east $\frac{1}{4}$ corner of said Section 14; thence
- 20) South 00°08'00" West 2642.52 feet, along the east line of said Section 14, to the southeast corner of said Section 14; thence
- 21) South 00°26'51" West 5309.76 feet, along the east line of said Section 23, Township 5 South, Range 8 East, to the southeast corner of said Section 23; thence
- 22) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence

23) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 40280 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM all that certain real property annexed to the City of Modesto by the Jennings Addition, filed December 30, 1969, in Volume 2308 of Official Records, at Page 377, Stanislaus County Records.

Containing a total of 4689.6 acres, more or less.

Subject to covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record.

**CITY OF MODESTO
PLANNING COMMISSION
STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission

PREPARED BY: Josh Bridegroom, Senior Planner
Contact Info: 577-5267 jbridegroom@modestogov.com

REVIEWED BY: Brad Wall, AICP, Principal Planner

APPROVED BY: Patrick Kelly, AICP, Planning Manager

DATE: June 17, 2009

SUBJECT: P-GPA-06-003, P-SPA-06-002, P-EIR-06-001 – Application to amend the General Plan to re-designate property located in the Kiernan / Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU) and to amend the Kiernan Business Park Specific Plan to provide for mixed use and medium-high-density residential development; submitted by Dr. Aruna Chopra

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council approval of the proposed amendment to the Kiernan Business Park Specific Plan, subject to the findings contained in the attached draft Resolutions placed in the order of consideration.

1. Certification of the Environmental Impact Report prepared for Kiernan Business Park Specific Plan Amendment #4 (Attachment No. 1).
2. Adoption of a General Plan Amendment re-designating 39-acres located in the Kiernan / Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU) (Attachment No. 2).
3. Approval of Amendment #4 to the Kiernan Business Park Specific Plan (Attachment No. 3).

BACKGROUND

The Kiernan Business Park Specific Plan was originally adopted by City Council on April 1, 1997. There have been three amendments approved since that time, the most recent of which was to provide for the development of the Kaiser Medical Center and Bridges Business Park. In early 2005, the applicant presented a conceptual plan to the City to develop property on the east side of Dale Road, between Bangs and Kiernan Avenues, with Mixed Use (MU) and Medium-High-Density Residential (MHDR) land uses. On August 8, 2005, City Council directed staff to review and consider a Specific Plan Amendment to include the alternative land uses. Over the course of the next year, staff worked with the applicant to develop the project parameters and hire consultants to assist with the technical studies and environmental work. On November 26, 2006, a complete application to amend the Kiernan Business Park Specific Plan was submitted.

PROJECT DESCRIPTION

As described above, the applicant is proposing an amendment to the Kiernan Business Park Specific Plan (Attachment 5) to provide for the development of Mixed Use (MU) and Medium-High Density Residential (MHDR) land uses. The proposed amendments to the Specific Plan include the following:

- Re-designation of a 39-acre portion of the Specific Plan currently designated Business Park (BP) under the existing Specific Plan, to Mixed Use (MU) and Medium High Density Residential (MHDR).
- Removal of the Pelandale Avenue Expressway cross-section.
- Reclassification of Dale Road from a four-lane minor arterial to a six-lane principal arterial between Kiernan Avenue and Bangs Avenue.
- Reclassification of Bangs Avenue from a two-lane industrial connector to a four-lane major collector.
- Reclassification of Healthcare Way from a two-lane industrial connector to a two-lane minor collector east of Dale Road.
- Redesign of cross section for four-lane minor arterial.
- Redesign of cross sections for two-lane minor collectors.
- Implementation of new development standards and design guidelines for the MU and MHDR areas to provide a framework and direction for development within these areas.
- Revisions to the Land Use Plan Diagram, the Circulation Plan Diagram, the Bike Paths Figure, and the Illustrative Public Facilities Plan Diagram in the Specific Plan to reflect the proposed changes to the Specific Plan.

The MU designation is proposed to provide for the development of a 684,000 square foot retail / commercial center, which includes residential / office and hotel uses immediately east of Dale Road. The MHDR designation is proposed to provide for the development of approximately 260 condominiums or apartments at 15 to 24 dwelling units per acre, potentially serving employees of the Kaiser Medical Center, Business Park and Mixed Use center. Both the MU and MHDR areas are intended to be developed in a more urban form, with buildings generally ranging from two to four stories in height and occupying the majority of their respective lots. However, the Specific Plan does provide for private and common open space for the residents of the MHDR area consistent with the City's adopted Small Lot Design Guidelines. The Development Standards and Guidelines contained in Chapters IV and V of the proposed amended Specific Plan provide more detail on the design characteristics of the MU and MHDR areas.

In order to accommodate the amendment to the Specific Plan, the Land Use designation in the General Plan needs to be modified. The General Plan designation is currently Business Park (BP). While the Business Park designation does provide for some commercial uses, it does not explicitly provide for the mixture of uses proposed. Therefore, the project proposes to amend approximately 39 acres of the General Plan Land Use designation within the Kiernan / Carver CPD from BP to MU.

It was determined that in order to facilitate development of the uses proposed within the planning area, a Facilities Master Plan (FMP) and Infrastructure Financing Plan (IFP) would need to be prepared to document infrastructure designs and funding programs. The area bounded by Kiernan Avenue, Dale Road, Bangs Avenue and American Avenue was selected as a logical boundary for the purposes of development of the FMP and IFP. The draft FMP (Attachment 7) includes plans for sewer, water and storm drainage utilities, as well as roadway improvements.

Work on the IFP is currently underway. Once it is complete, the IFP will provide the construction phasing plan and cost-sharing program(s) for the improvements necessary to serve the proposed development. The FMP and IFP will be brought before the Planning Commission and City Council for consideration at a later date.

Finally, an Environmental Impact Report (EIR) was prepared in accordance with the California Environmental Quality Act to provide an analysis of the impacts of the General Plan Amendment, Specific Plan Amendment, and associated subsequent entitlements, including the FMP/IFP. The following study areas are analyzed in the EIR:

- Land Use and Planning
- Agricultural Resources
- Transportation and Circulation
- Air Quality
- Noise
- Hazards
- Biological Resources
- Hydrology and Water Quality
- Community Services
- Utilities and Services Systems
- Water Supply

The outstanding impacts identified in the EIR are discussed under the Issues Section, below.

ISSUES

Change in Land Use

The primary issue associated with the proposed project is the reduction in land area designated for employment-intensive uses within the City. However, the Kiernan Business Park Specific Plan area would maintain 452 acres of Business Park designated land following development of the project, providing for a total of 7,875,648 s.f. of employment-intensive land use.

Furthermore, of the 39-acre reduction of Business Park designated land, 23 acres are proposed to be designated MU. The MU designation provides for predominately commercial uses, including some professional office. Only the 16-acres within the area proposed to be designated MHDR will be limited to non employment-intensive uses. This area will provide greater opportunity for employees of Kaiser and other area businesses to live within close proximity to the place where they work.

Finally, as mentioned above, the amendment facilitates the development of a FMP and IFP for the area bounded by Kiernan Avenue, Dale Road, Bangs Avenue and American Avenue. An FMP and IFP are prerequisites to development, as they provide the design and funding mechanisms necessary for development to occur. Within the project area, 114 acres of land are designated Business Park, providing for approximately 1,500,000 square feet of employment-intensive uses.

MID Canal Lateral 6 Discharge

The proposed storm drain system includes a link to Modesto Irrigation District's (MID) Lateral No. 6. Discharge of water that has been treated to eliminate or substantially reduce pollutants and silt will occur through a combination of percolation into the underground aquifer and

pumping into the MID canal. MID maintains strict standards for water that is discharged into their canals. The project has been designed in accordance with staff's understanding of those standards, which require treatment and limit the quantity and timing of discharge. Separate approval will need to be obtained from MID from the project applicant prior to development within the plan area that would result in discharge into Lateral No. 6. This is addressed further in the project Mitigation Monitoring and Reporting Program (Attachment 1, Exhibit "B").

Environmental Impact Report

Most of the issues associated with the proposed project are encapsulated in the Environmental Impact Report (EIR). The EIR analysis includes the 11 study areas identified above under Project Description. Of these, the project's impacts are deemed to be less than significant in seven areas. The areas of Agricultural Resources, Transportation & Circulation, Air Quality and Noise contain impacts that are considered to be significant and unavoidable, because the project will not be able to fully offset its potential impacts in those areas. These are briefly discussed below.

1. Agricultural Resources

Development of the project would result in the loss of approximately 153 acres of prime farmland and would contribute to the cumulative loss of farmland in the area. The EIR provides mitigation that would reduce this impact. The mitigation calls for the creation and implementation of a farmland mitigation program prior to development within the project area. While this mitigation could potentially result in preservation of farmland elsewhere, it would not fully offset the impact of the loss of prime farmland on the project site. Therefore, this impact is considered significant and unavoidable. This issue is further elaborated upon within the EIR and in the draft EIR Resolution (Attachments 1 & 6).

2. Transportation & Circulation

The EIR analysis identified that the project would result in a level of service degradation to the surrounding street network, including to SR99, Kiernan Avenue, Pelandale Avenue, Dale Road and Bangs Road. Many of the impacts associated with a reduction in level of service will be offset by infrastructure improvements that are planned to be installed by Caltrans or the City of Modesto. Others will be offset by improvements required by the project developer. However, some of the impacts were deemed infeasible to mitigate for a variety of reasons, including the following:

- a) the location may be outside the jurisdiction of the City of Modesto and the improvement may not be authorized by the outside jurisdiction;
- b) the proposed project's fair share contribution is relatively small in relation to the overall cost of the improvements;
- c) The improvements cannot be constructed within the existing right-of-way and would require acquisition of already-developed property from another party.

As a result, this impact is considered significant and unavoidable. This issue is further elaborated upon within the EIR and in the Environmental Impact Report Resolution (Attachments 1 & 6).

3. Air Quality

The air quality impacts identified within the EIR are primarily associated with pollutants and greenhouse gases being released into the atmosphere due to project construction activities and the addition of vehicle trips generated by the project. The air quality impacts will be partially offset through the implementation of various measures called for by the San Joaquin Air Quality Pollution Control District. However, even with implementation of these measures, some of the air quality impacts and associated impacts to global warming will remain significant and unavoidable. This issue is further elaborated upon within the EIR and in the draft EIR Resolution (Attachments 1 & 6).

4. Noise

The EIR identified that construction activities, emergency response to and from the Kaiser Medical Center, increase of vehicle trips due to project development and building equipment could result in noise levels in and around the project that exceed community standards. However, nearly all of the noise impacts were able to be reduced to a less than significant level through mitigation. The only noise impact that was not able to be reduced to a less than significant level with mitigation is outdoor activity areas within the project itself by the year 2025 (General Plan build out). Because the year 2025 is so far distant, it is impossible to predict with a level of absolute certainty that noise levels will be able to be reduced within all outdoor activity areas. Therefore this impact remains significant and unavoidable. This issue is further elaborated upon within the EIR and in the draft EIR Resolution (Attachments 1 & 6).

GENERAL PLAN CONSISTENCY

As identified in the Project Description Section, this project includes an amendment to the General Plan Land Use Designation within the Kiernan / Carver CPD from BP to MU. This proposed amendment is supported by General Plan Section III.C.3 which establishes Neotraditional Planning principals for the City of Modesto, because the amendment would result in a mix of compatible land uses with close proximity, provide a range of jobs, and provide for diversity of housing types.

ZONING CONFORMANCE

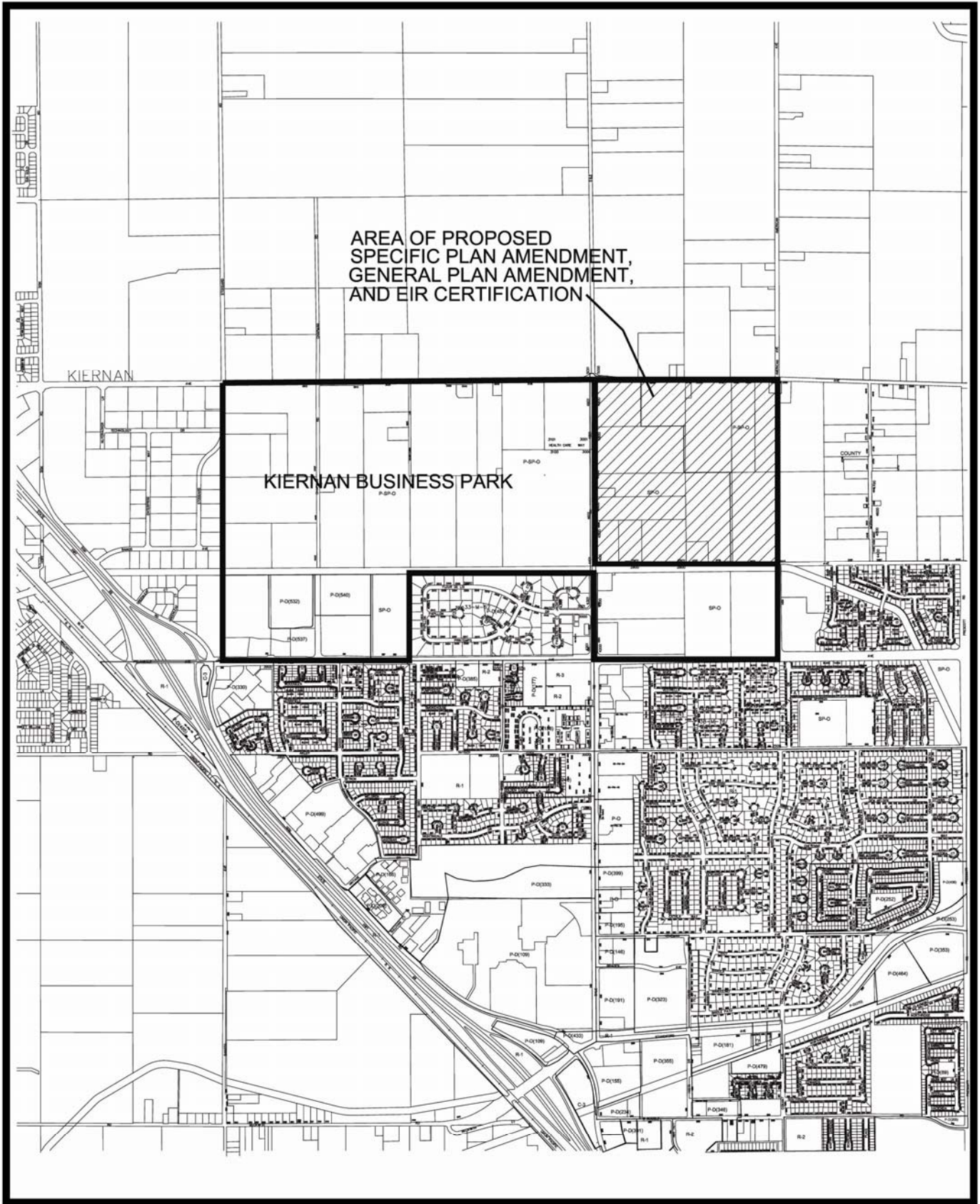
The property within the project site is designated SP (Specific Plan) and P-SP (Planned-Specific Plan). Although the Specific Plan land use designations would be re-designated from Business Park (BP) to Mixed Use (MU) and Medium-High Density Residential (MHDR), there is no change or modification necessary to zoning in conjunction with this application. The merits of the proposed re-designation of land within the Specific Plan are discussed under Change in Land Use in the Issues Section.

ENVIRONMENTAL ASSESSMENT

An EIR has been prepared for the proposed Amendment #4 to the Kiernan Business Park Specific Plan in accordance with the provision of the California Environmental Quality Act. Because significant impacts have been identified in the EIR which cannot be feasibly mitigated, certain findings must be made in certifying the EIR. These findings are contained in the "Final EIR Findings" (enclosed with the Commissioners' agendas).

ATTACHMENTS (included with Commissioners' packets only)

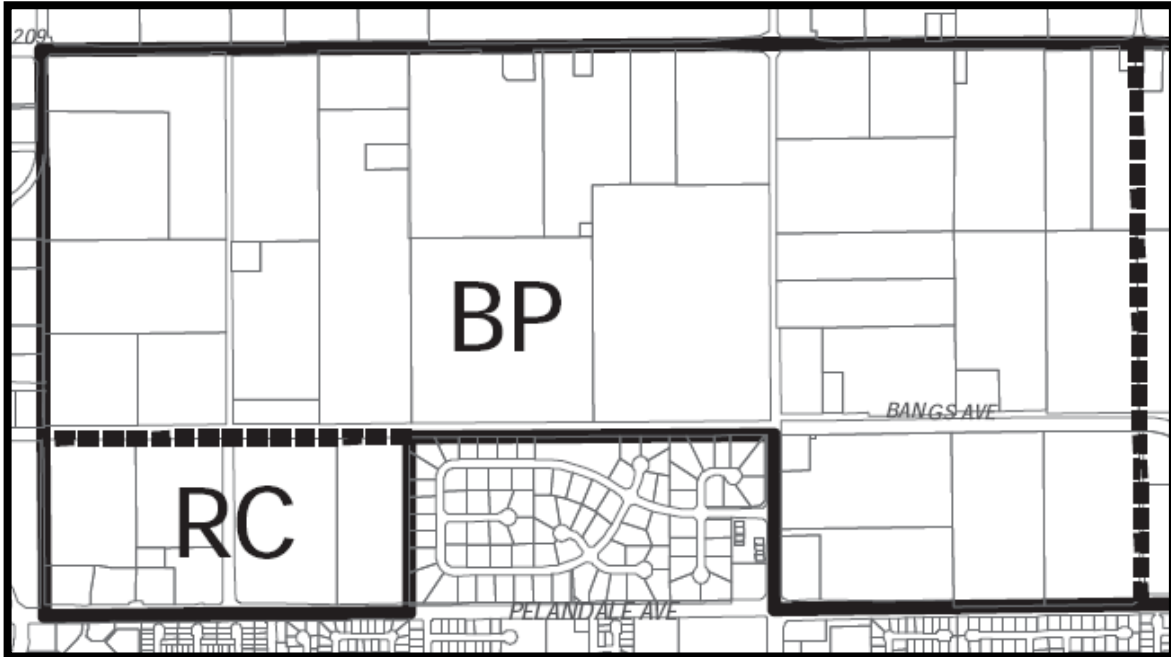
1. Draft Planning Commission Resolution (EIR) – July 20, 2009
2. Draft Planning Commission Resolution (GPA) – July 20, 2009
3. Draft Planning Commission Resolution (SPA) – July 20, 2009
4. Financial Interest Disclosure
5. Proposed Kiernan Business Park Specific Plan (delivered on June 12, 2009)
6. Proposed EIR, Volumes I and II (delivered on June 12, 2009)
7. Proposed Facilities Master Plan (delivered on June 12, 2009)



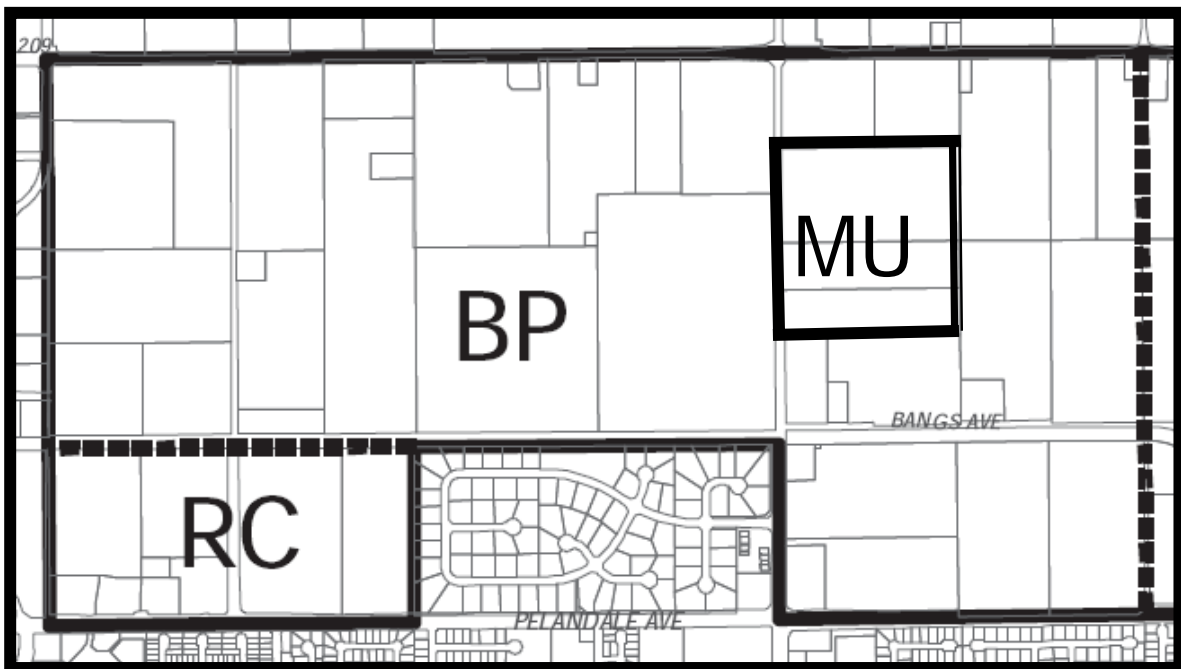
AREA MAP OF PROPOSED SPECIFIC PLAN AMENDMENT,
 GENERAL PLAN AMENDMENT, & EIR CERTIFICATION
 SPA-05-001

Existing/Proposed GP Land Use Diagrams

Existing



Proposed



Specific Plan Land Use Diagrams

Existing

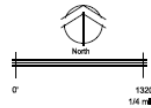
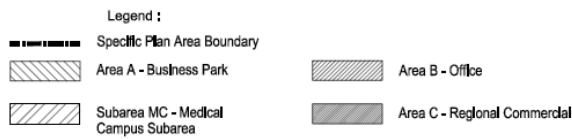
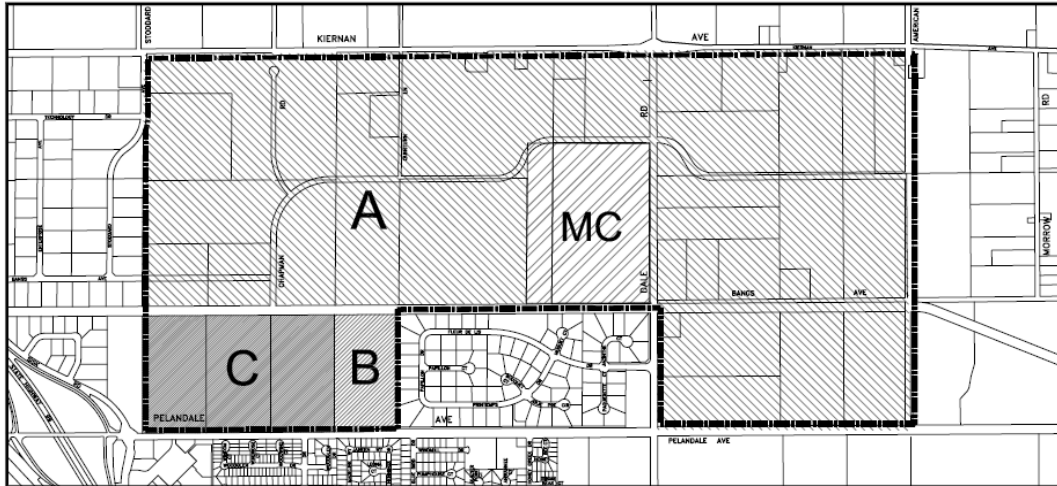
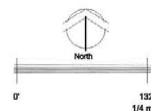
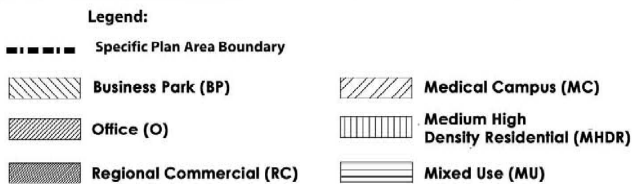
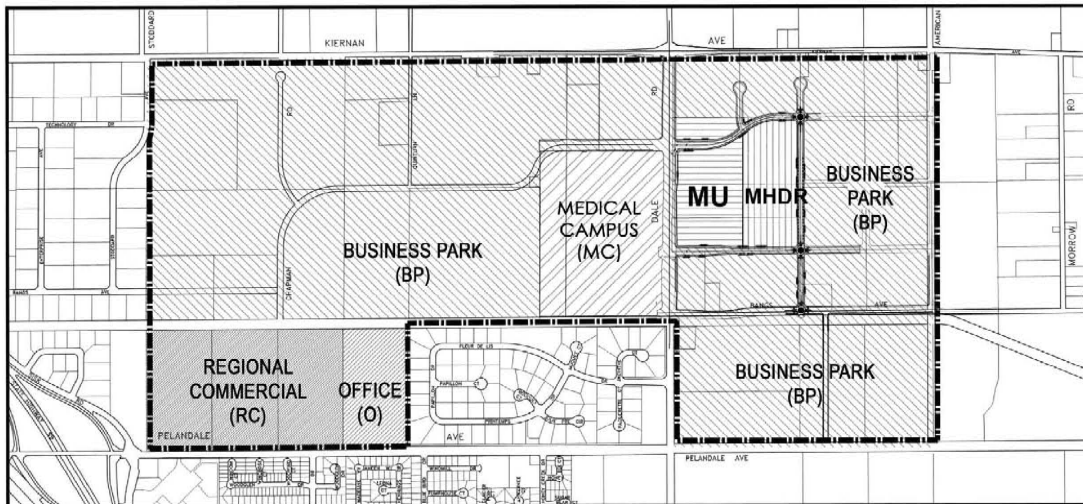


Figure III-1
Land Use Plan Diagram

KIERNAN
BUSINESS PARK

Proposed



Land Use Plan Diagram

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE MODESTO CITY COUNCIL MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 (SCH No. 2007062071)

WHEREAS, on November 26, 2006, Dr. Aruna Chopra filed applications for amendments to the Kiernan Business Park Specific Plan and the Urban Area General Plan of the City of Modesto to re-designate property located in the Kiernan Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU) and to amend the Kiernan Business Park Specific Plan to provide for mixed-use and medium-high-density residential development on the east side of Dale Road, between Kiernan Avenue and Bangs Avenue ("the Project"); and

WHEREAS, the City of Modesto ("the City"), on June 15, 2007, published an Initial Study and a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project; and

WHEREAS, the Notice of Preparation provided notice of the City's determination and solicited public input on the proposed scope and content of the Project EIR; and

WHEREAS, on June 27, 2007, the City held a public scoping meeting to receive public comments on the scope and content of the EIR; and

WHEREAS, the City published and distributed a Draft EIR for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) ("DEIR") for public comment on December 17, 2008, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"); and

WHEREAS, the DEIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being February 2, 2009; and

WHEREAS, during the 45-day public comment period the City received fifteen letters commenting on the DEIR; and

WHEREAS, the City prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines; and

WHEREAS, the FEIR was published and distributed on June 26, 2009, and consists of the Draft EIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines; and

WHEREAS, the Project would include approval of the following: an amendment to the General Plan; an amendment to the Kiernan Business Park Specific Plan; annexation of a portion of the project site to the City of Modesto; adoption of a Facilities Master Plan and an Infrastructure Finance Plan and the formation of an associated Community Facilities District; and subsequent entitlements; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects; and

WHEREAS, a public hearing on the Project was held by the Planning Commission on July 20, 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 the FEIR for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission, that it hereby recommends that the City Council make the following findings in respect to the FEIR:

1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City of Modesto; and
2. That the Findings and recommendations set forth in Exhibit "A", and incorporated herein by reference, be made by the Council as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.

3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 *et seq.*, the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

a. Significant Unavoidable Impacts

With respect to the foregoing findings, as set forth in Exhibit A, and in recognition of those facts which are included in the record, the City has determined the following:

- that the Project will cause significant, unavoidable impacts to Agricultural Resources, Transportation and Circulation, Air Quality, and Noise; and
- that the Project will contribute to significant, unavoidable cumulative impacts to Agricultural Resources, Transportation and Circulation, Air Quality, and Noise.

These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

b. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, social and other considerations set forth herein because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record.

c. Benefits of Proposed Project

The City Council has considered the FEIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the substantial public benefits set forth below.

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the FEIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

- (i) The project would create a mixed use area adjacent to the Kaiser Modesto Medical Center which will serve the hospital and its visitors, the immediate business park area, and residential areas. Provide a vibrant village atmosphere which provides a safe, pedestrian-friendly environment.
- (ii) The project would create an extended-hours community by balancing business park and medical center uses with residential and retail to provide greater safety through increased surveillance and activity.
- (iii) The project would attract small businesses that provide support services to the hospital and business park uses.
- (iv) The project would provide multi-family residential uses, both apartments and condominiums, to provide housing choices for doctors and nurses, hospital employees and support staff, visitors, single parents, business owners and employees, and independent seniors.
- (v) The project would be designed as a healthy, smart growth development that increases physical activity via walking and bicycling, reduces dependence on automobiles, and increases transit use.
- (vi) The project would provide incentives to reduce traffic through the use of shared parking and reduced automobile parking standards. Balance the supply and management of parking to address the needs of the businesses, residents, and employees.
- (vii) The project would incorporate an efficient infrastructure system designed to accommodate all phases of development.
- (viii) The project would provide for employment-intensive uses in an attractive "campus-like" setting that is consistent with the needs of the target industries identified in the Kiernan Business Park Specific Plan.

4. The Mitigation and Monitoring and Reporting Program for the Kiernan Business Park Specific Plan Amendment #4 is attached to this resolution as Exhibit "B" and is incorporated and adopted as part of this resolution herein. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.
5. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Environmental Impact Report for the Project ("DEIR") and also incorporates information obtained by the City since the DEIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not warranted; and
6. The City Council does hereby designate the Community and Economic Development Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the custodian of documents and record of proceedings on which the decision is based; and
7. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby recommends that the City Council certify the Final Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071), on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the environmental impact report for the specific plan (File No. P-EIR-06-001). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on July 20, 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

Attachments:

Exhibit "A" Findings and Statements on the Kiernan Business Park Specific Plan
Amendment #4 FEIR

Exhibit "B" Mitigation Monitoring and Reporting Program

Exhibit "A"

**FINDINGS AND STATEMENTS ON THE
KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 FEIR**

**KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT # 4 PROJECT
ENVIRONMENTAL IMPACT REPORT (SCH# 2007062071)**

**FINDINGS AND STATEMENTS REQUIRED UNDER THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

(Public Resources Code, Section 21000 *et seq.*)

I. Introduction

On behalf of the City of Modesto (the “City”), and pursuant to the California Environmental Quality Act (“CEQA”), Turnstone Consulting prepared a Draft Environmental Impact Report (the “DEIR”) for the Kiernan Business Park Specific Plan Amendment # 4 Project and other related approvals described below (collectively, the “Project”). The City of Modesto prepared a Final Environmental Impact Report (the “FEIR”) in accordance with CEQA, which incorporated the DEIR prepared by Turnstone Consulting. The City is the lead agency for the FEIR.

To support its certification of the FEIR and approval of the Project, the City Council of the City of Modesto (the “City Council”) makes the following findings of fact and statements of overriding considerations (collectively, the “Findings”). These Findings contain the City Council’s written analysis and conclusions regarding the Project’s environmental effects, mitigation measures, alternatives to the proposed Project, and the overriding considerations which, in the City Council’s view, justify the approval of the Project despite its potential environmental effects. These Findings are based upon the entire record of proceedings for the FEIR, as described below.

The Project is Amendment #4 to the Kiernan Business Park Specific Plan setting out the framework for development of the 614-acre business park. Amendment #4 proposes the redesignation of approximately 39 acres of the existing 153-acre Business Park land use to 23 acres of Mixed Use and 16 acres of Medium High Density Residential Land uses. Development of the Mixed Use sub-area would include 80 dwelling units, 371,000 gross square feet (gsf) of retail area, including uses such as restaurants, pharmacies, and health clubs, 79,000 gsf of office area, and a 170-room hotel. The Medium High Density Residential sub-area would allow for 262 residential units. To support these new uses, the Project includes revisions to the Specific Plan’s Circulation Plan to improve existing traffic and circulation conditions, including extensions and re-classification of existing bicycle paths and the additions of new bicycle paths. The Project also provides for new utilities as well as the extension of existing electrical, water, and sewer lines and storm drainage facilities.

The Project site location is partially within the City of Modesto (about 86 acres) and partially in an unincorporated area of Stanislaus County, within the City’s Sphere of Influence (about 67 acres).

The approvals necessary for implementation of the Kiernan Business Park Specific Plan Amendment #4 include:

1. Adoption of Kiernan Business Park Specific Plan amendments to:
 - A. Change the land use designation for the 39-acre project area from Business Park (BP) to Mixed Use (MU) and Medium High Density Residential (MHDR);
 - B. Remove the Pelandale Expressway cross section;
 - C. Reclassify Dale Road from a four-lane minor arterial to a six-lane principal arterial between Kiernan Avenue and Bangs Avenue;
 - D. Reclassify Bangs Avenue from a two-lane industrial connector to a four-lane major collector;
 - E. Reclassify Healthcare Way from a two-lane industrial connector to a two-lane minor collector east of Dale Road;
 - F. Redesign cross sections for four-lane minor arterials;
 - G. Redesign cross sections for two-lane minor collectors;
 - H. Extend planned bicycle facilities and add new ones;
 - I. Change planned water, storm, and sanitary sewer pipeline alignments and add new ones consistent with the change in use from BP to MU and MHDR;
 - J. Implement new development standards and design guidelines for the MU and MHDR areas to provide a framework and direction for development within these areas;
 - K. Revise the Land Use Plan Diagram, the Circulation Plan Diagram, the Bike Paths Figure, and the Illustrative Public Facilities Plan Diagram in the Specific Plan to reflect the proposed changes to the Specific Plan.
2. Adoption of an amendment to the Urban Area General Plan to redesignate the 39-acre project area contained within the Kiernan/Carver Comprehensive Planning District of the General Plan from BP to MU.
3. Adoption of a resolution annexing a 67-acre portion of the project site into the City of Modesto, including approval by the Local Agency Formation Commission and simultaneous detachment of the 67 acres from the Salida Fire Protection District.
4. Adoption of a resolution to approve rezoning.
5. Adoption of a Facilities Master Plan and an Infrastructure Financing Plan for the project area.
6. Approval of a Development Agreement, if applicable, to guide development

in the area.

7. Formation of a Community Facilities District to fund the construction of “backbone” public infrastructure, maintenance of applicable public facilities, and applicable public services.

8. Approval by the Modesto Irrigation District of the proposed storm water drainage system, and finalization of a Drainage Agreement between the Irrigation District and the City.

9. Subsequent entitlements, including approval of a Tentative Subdivision Map and/or tentative parcel map, if applicable.

II. General Findings and Overview

A. Record of Proceedings and Custodian of Record

The record of proceedings for the City’s findings and determination is available for review by responsible agencies and interested members of the public during normal business hours at 1010 Tenth Street, Suite 4100, Modesto, California. The custodian of these documents is the City’s Director of Community and Economic Development.

B. Preparation and Consideration of the FEIR and Independent Judgment Findings

The City Council finds, with respect to the City’s preparation, review and consideration of the FEIR, that:

- The City retained the independent firm of Turnstone Consulting (“Turnstone”) to prepare the DEIR, and Turnstone prepared the DEIR under the supervision and at the direction of the City of Modesto.
- The City circulated the DEIR for review by responsible agencies and the public and submitted it to the State Clearinghouse for review and comment by state agencies.
- The FEIR has been completed by the City of Modesto in compliance with CEQA.
- The Project will have significant, unavoidable impacts as described and discussed in the FEIR.
- The FEIR is adequate under CEQA to address the potential environmental impacts of the Project.
- The FEIR has been presented to the City Council, and the City Council has independently reviewed and considered information contained in the FEIR.

- The FEIR reflects the independent judgment of the City.

By these Findings, the City Council ratifies, adopts and incorporates the analyses, explanations, findings, responses to comments, and conclusions of the FEIR, except as specifically described in these Findings.

C. Findings Regarding Less-Than-Significant Impacts.

By these Findings, the City Council ratifies and adopts the FEIR's conclusions for the following potential environmental impacts which, based on the analyses in the FEIR, this City Council determines to be less than significant:

1. Land Use

- Impact A.1 – The proposed project would introduce new land use designations that would conflict with existing land use plans, policies, and/or regulations.

2. Agricultural Resources

- Impact B.2 – Development of the proposed project may burden continued agricultural operations surrounding the project site, and within the project site, prior to development under the proposed Specific Plan.

3. Air Quality

- Impact D.3 – Motor vehicle emissions would locally contribute to elevated concentrations of carbon monoxide.
- Impact D.4 – Implementation of the proposed project would cause sensitive receptors to be exposed to toxic air contaminants.
- Impact D.5 – Implementation of the proposed project would cause sensitive receptors to be exposed to objectionable odors.

4. Noise

- Impact E.1 – Project-related traffic could cause a substantial increase in noise levels for existing sensitive receptors adjacent to the project area.

5. Hazardous Materials

- Impact F.1 – Demolition of existing buildings could cause release of hazardous materials, causing potential hazards to the public and environment.

- Impact F.3 – Transportation of contaminated soil and/or building materials removed from the project site could result in accidental release of hazardous materials.

6. Hydrology and Water Quality

- Impact H.2 – Operation-phase use of the site could result in degradation of water quality in receiving waters by reducing the quality of storm water runoff.
- Impact H.4 – Implementation of the proposed project could place new development within an area potentially subject to dam failure inundation and/or inundation associated with spring/early summer snowmelt runoff.
- Impact H.5 – Implementation of the project could result in depletion of groundwater resources.

7. Community Services

- Impact I.1 – Development of the project site would result in an increased demand for Modesto Police Department officer hours due to the potential for increased on-site criminal activity and increased number of traffic incidents near the site.
- Impact I.2 – Development of the project site would result in an increase in the volume of emergency calls.
- Impact I.3 – Development of the mixed-use and high-density residential components of the proposed project with building heights over 30 feet could result in insufficient water pressure for firefighting.
- Impact I.4 – Build out of the Kiernan Business Park Specific Plan would result in an increase in the number of elementary (K-6), middle (7-8), and high (9-12) school students and could require the construction of new or physically altered school facilities.

8. Utility and Services Systems

- Impact J.1 – Development of the proposed Kiernan Business Park Specific Plan Amendment #4 area would result in an increased demand for wastewater collection, treatment, and disposal.
- Impact J.2 – Development of the proposed Kiernan Business Park Specific Plan Amendment #4 area would contribute to future cumulative increases in demand on the wastewater collection, treatment, and disposal system.

9. Water Supply

- Impact K.1 – Implementation of the Kiernan Business Park Specific Plan Amendment #4 could increase the demand for potable water.
- Impact K.3 – Development of the proposed project could contribute to cumulative demand for potable water in the City of Modesto water service area.
- Impact K.4 – Development of the proposed project would contribute to the potential for cumulative demand to result in overdraft of groundwater supplies.

III. Findings and Recommendations Regarding Significant Environmental Impacts

A detailed analysis of the potential environmental impacts and the proposed mitigation measures for the Kiernan Business Park Specific Plan Amendment #4 Project is set forth in Sections IV.A through IV.K of the DEIR, as incorporated into the FEIR. The DEIR evaluated the Project's potential environmental impacts in 11 separate categories, and also evaluated the Project's potential cumulative impacts. The City Council concurs with the conclusions in the DEIR, as incorporated into the FEIR, that: (i) a majority of the Project's significant and potentially significant impacts will be rendered less than significant by the mitigation measures described and discussed below; and (ii) for those impacts that will not be rendered less than significant by such mitigation measures, there are overriding considerations that make those impacts acceptable to the City.

IV.B. Agricultural Resources

Impact B.1 Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.

- Potential Impact.** The impact identified above is described and discussed on page IV.B.7 of the DEIR.
- Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.1. (pp. IV.B.7 and IV.B.8 of the DEIR).
- Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - Effects of Mitigation.** Although it is possible that mitigation measure B.1, which provides that the City Council consider

creation of a farmland mitigation program that would require compliance as a condition precedent to the issuance of building permits, could partially compensate for the loss of Prime Farmland, it would not fully mitigate the loss resulting from the project to a less-than-significant level.

- (ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.1 could partially mitigate the environmental effects of the permanent loss of Prime Farmland, such impacts will remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.
- (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the permanent loss of Prime Farmland, as set forth in the Statement of Overriding Considerations below.

Impact B.3 Implementation of the proposed project would incrementally contribute to the cumulative loss of Prime Farmland in Stanislaus County and in the Modesto area.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.B.9 to IV.B.10 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.3 (the same as Mitigation Measure B.1, above).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - (i) **Effects of Mitigation.** Although it is possible that mitigation measure B.3, which provides that the City Council consider creation of a farmland mitigation program that would require compliance as a condition precedent to the issuance of building permits, could partially compensate for the loss of Prime Farmland, it would not fully mitigate the loss resulting from the project to a less-than-significant level.
 - (ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.3 could partially mitigate the environmental effects of the permanent loss of Prime

Farmland, such impacts will remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

- (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the permanent loss of Prime Farmland, as set forth in the Statement of Overriding Considerations below.

IV.C. Transportation and Circulation

Impact C.1 Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the existing plus project scenario.

- a) **Potential Impact.** The potential impacts to study intersections related to construction and occupancy of the project site at adjacent and nearby intersections are described and discussed on page IV.C.44 to IV.C.47 of the DEIR.

- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.1b, c, d, f, and k (pp. IV.C.47 through IV.C.52 of the DEIR) shall be implemented in full. FEIR Mitigation Measures C.1a, e, g, h, i, j, and l are potentially infeasible, but shall be implemented to the extent that they later prove to be feasible.

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

- (i) **Effects of Mitigation.** Mitigation Measures C.1b, c, d, f and k require construction or installation of various traffic improvements that would improve LOS at five different study intersections to less than significant levels. These five intersections are: Kiernan Avenue and Sisk Road; Kiernan Avenue and Stoddard Road; Kiernan Avenue and Dale Road; Bangs Avenue and American Avenue; Pelandale Avenue and Sisk Road.

Mitigation Measures C.1a, e, g, h, i, j and l also require construction or installation of traffic improvements that would improve LOS at seven additional intersections. These intersections are Kiernan Avenue and SR 99 Southbound Ramps; Kiernan Avenue and Carver Road; Bangs Avenue and Prescott

Road; Bangs Avenue and Carver Road; Bangs Avenue and Tully Road; Pelandale Avenue and SR 99 Southbound Ramps; Pelandale Avenue and Sisk Road; and Standiford Avenue and SR 99 Southbound Ramps.

However, as described below, these mitigation measures are potentially infeasible. Mitigation Measures C.1a and C.1e, involve intersections that are under the jurisdiction of CalTrans. While CalTrans has plans to construct some of these improvements, and is working with Stanislaus County to realize others, there is no guarantee that funding for construction will be available in time for the improvements to be completed for the proposed project, or that funding will become available within the near future. Mitigation Measures C.1j and C.1l are also under the jurisdiction of CalTrans. CalTrans has no funds to construct these improvements. The City and CalTrans are engaged in a joint effort to implement the improvements set out in C.1j, but design has not yet begun for that measure, or for those set out in Mitigation Measure C.1k. Since the City has no jurisdiction to design or implement these mitigation measures, they are infeasible, and the decrease in LOS is significant and unavoidable.

For Mitigation Measures C.1g, C.1h and C.1i, the City has no final designs that would allow these improvements to be completed by the time the proposed project is begun, and no guarantee of fair share contributions from other developments that would benefit from these improvements. The applicant for the proposed project will contribute its required fair share, but that would not be enough to fund the entire cost of the improvements. While it is anticipated that these improvements will be pursued by the City as it builds out, the City cannot guarantee their completion at this time. Therefore, these mitigation measures are infeasible and the decrease in LOS is significant and unavoidable.

The DEIR also identified potentially significant impacts at the intersection of Kiernan Avenue and American Avenue. However, these impacts will be eliminated by planned improvements to this intersection to be made by CalTrans, and no additional mitigation will be needed.

- (ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures C.1a through C.1l will reduce the impacts related to construction and occupancy of the project site, seven of these measures are not feasible, and impacts at seven study intersections would thus remain significant. Because there are no feasible measures available to further

mitigate these significant impacts, they are considered significant and unavoidable.

- (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to construction and occupancy of the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.2 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the existing plus project scenario.

- a) **Potential Impact.** The potential impacts to freeway and roadway segments adjacent to and near the project site identified above are described and discussed on pages IV.C.52 through IV.C.56 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.2c (pp. IV.C.52 through IV.C.55 of the DEIR) shall be implemented in full. The lane construction specified in Mitigation Measure C.2e was completed after the preparation of the traffic impact analysis; therefore the adoption of that Mitigation Measure is not necessary. Mitigation Measures C.2a, 2b, and 2d are potentially infeasible but shall be implemented to the extent that they later prove to be feasible

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - (i) **Effects of Mitigation.** For Mitigation Measures 2a and 2b (improvements to Kiernan Avenue in various locations and to Pelandale Avenue between the SR 99 Southbound Ramps and Northpointe Shopping Center), the recommended improvements are under the jurisdiction of CalTrans. CalTrans currently has plans to construct some of the improvements specified, and is working closely with the City to construct others, but the City cannot guarantee that the improvements will be funded or completed prior to construction of the proposed project, therefore these Mitigation Measures are infeasible. For Mitigation Measure 2c (improvements to Pelandale Avenue between Dale Road and Tully Road), the recommended improvement is currently under construction and will reduce the impact on this roadway segment to less than significant. For improvements recommended in Mitigation Measure 2d (improvements to Bangs

Avenue between American Avenue and Prescott Road), the construction is currently unfunded. Construction could be partially funded by a fair share contribution from the project applicant, but fair share contributions from other developments would be necessary to complete funding, and there is no assurance that this funding would become available prior to completion of the proposed project. This Mitigation Measure is therefore infeasible.

- (ii) **Remaining Impacts.** Although the completion of Mitigation Measure C.2c will reduce the impact on Pelandale Avenue between Dale and Tully Roads to less than significant, the Mitigation Measures recommended to reduce the impact to Kiernan Avenue (C.2a), the Pelandale Avenue interchange with SR 99 (C.2b) and Bangs Avenue (C.2d) are considered infeasible. Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable
- (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to impacts on freeway and roadway segments adjacent to and near the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.3 Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge interchanges near the project site under the existing plus project scenario.

- a) **Potential Impact.** The potential impacts to freeway ramp merge/diverge interchanges near the project site related to construction and occupancy of the site identified above are described and discussed on page IV.C.56 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.3 (p. IV.C.56 of the DEIR) is potentially infeasible, but it shall be implemented to the extent that it later proves to be feasible.
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - (i) **Effects of Mitigation.** While CalTrans has plans to improve the SR 99 merge/diverge interchanges identified in Impact C.3, the

improvements have not yet been designed or funded. The City does not have the authority to complete the improvements since these interchanges are under the jurisdiction of CalTrans, so this mitigation measure is considered potentially infeasible and the impact remains significant and unavoidable.

(ii) **Remaining Impacts.** As explained above, because there are no feasible measures available to mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on freeway ramp merge/diverge interchanges near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.4. Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the near-term baseline plus project scenario.

- a) **Potential Impact.** The impact of construction and occupancy of the project site at study intersections adjacent to and near the site identified above is described and discussed on page IV.C.65 through IV.C.66 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.4.c and d (pp. IV.C.66 through IV.C.72 of the DEIR) shall be implemented in full. Mitigation Measures C.4 a, b, e, f, g, h, j, k, and l are potentially infeasible but shall be implemented to the extent that they later prove to be feasible. Mitigation Measure C.4.i is not physically feasible and will not be implemented.

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
- (i) **Effects of Mitigation.** Mitigation Measures C.4a through C.4l provide for construction or installation of a set of traffic improvements that would improve LOS at the 12 affected intersections analyzed in the EIR. For two intersections (Dale Road and Kaiser Main Entrance; Bangs Avenue and American Avenue), the implementation of Mitigation Measures would improve the LOS so as to mitigate the impacts to less than significant levels (C.4c, C.4d). However, at nine of the remaining ten intersections the Mitigation Measures are

potentially infeasible due to issues relating to lack of funding and/or jurisdiction, and the impact would remain significant and unavoidable. Some of the Mitigation Measures are potentially infeasible because the location is outside the jurisdiction of the City of Modesto, but the City is working with the jurisdictions in question to try to see that the improvement is implemented (C.4a, C.4b, C.4h, C.4k). In some instances, the intersection is within the jurisdiction of the City, but the proposed project's fair share contribution to the recommended improvements is small in relation to the total cost and the City cannot legally require the project to fund the entire cost (C.4e, C.4f, C.4g, C.4i, C.4l). Mitigation Measure C.4j has received CalTrans approval, but also is still not adequately funded. And finally, for Mitigation Measure C.4i, the improvements cannot be constructed within the existing right of way and this measure is thus not physically feasible. Therefore, although the Mitigation Measures identified above would reduce the project impacts, most are infeasible, and the impacts at the following intersections remain significant and unavoidable:

Kiernan Avenue and SR 99 southbound ramps (C.4a)
Kiernan Avenue and Sisk Road (C.4b)
Bangs Avenue and Prescott Road (C.4e)
Bangs Avenue and Carver Road (C.4f)
Bang Avenue and Tully Road (C.4g)
Pelandale Avenue and SR 99 Southbound Ramps (C.4h)
Pelandale Avenue and Dale Road (C.4i)
Standiford Avenue and SR 99 Southbound Ramps (C.4j)
Standiford Avenue and SR 99 Northbound Ramps (C.4k)
Standiford Avenue and Sisk Road (C.4l)

(ii) Remaining Impacts. As explained above, although two of the Mitigation Measures set out above would reduce impacts to less than significant, the majority of the mitigation measures are potentially infeasible or actually infeasible. Because there are not feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on study intersections adjacent to and near the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.5 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the

project site under the near-term baseline plus project scenario.

a) **Potential Impact.** The impact of construction and occupancy of the project site on freeway and roadway segments adjacent to and near the site identified above is described and discussed on pages IV.C.72 through IV.C.73 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.5.a through C.5.d (pp. IV.C.73 through IV.C.75 of the DEIR) are potentially infeasible but shall be implemented to the extent they later prove to be feasible. Mitigation Measure C.5.e is not physically feasible and will not be implemented.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measures C.5a through C.5e identify the addition of lanes to affected freeway and roadway segments that would reduce the project's impact on LOS to less than significant levels. However, these Mitigation Measures are infeasible for the following reasons: either the City does not have jurisdiction to design and construct improvements (Mitigation Measures C.5a and C.5b) or funding is not anticipated to be available to construct the improvements before project completion (Mitigation Measure C.5c, C.5d and C.5e). In addition, Mitigation Measure C.5e cannot be constructed within the existing right of way. Because the Mitigation Measures are considered potentially infeasible, the impacts on 14 roadway and freeway segments identified in the EIR remain significant and unavoidable.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures C.5a through C.5e to widen roadways and freeways would reduce the impacts identified above, these Mitigation Measures are infeasible. Because there are no other feasible measures that would mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on freeway and roadway segments adjacent to or near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.6 Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge areas near the project site under the near-term baseline plus project scenario.

- a) **Potential Impact.** The impact of construction and occupancy of the project site on freeway ramp merge/diverge areas near the site, identified above, is described and discussed on page IV.C.76 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.6 (p. IV.C.76 of the DEIR) is potentially infeasible but it shall be implemented to the extent it later proves to be feasible.

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - (i) **Effects of Mitigation.** Mitigation Measure C.6 identifies interchange improvements to SR 99 that will mitigate the impact of construction and occupancy of the project site. However, the improvements have not been approved, designed or funded by CalTrans. Since SR 99 is within CalTrans' jurisdiction, the City does not have the authority to implement this Mitigation Measure, and it is deemed infeasible.
 - (ii) **Remaining Impacts.** For the reasons identified above, this Mitigation Measure is potentially infeasible, and will not mitigate the impact identified above, which remains significant and unavoidable.
 - (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts on nearby freeway ramp merge/diverge areas related to construction and occupancy of the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.7 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the cumulative baseline plus project scenario.

- a) **Potential Impact.** The impact on freeway and roadway segments adjacent to and near the project site related to construction and occupancy of the site is described and discussed on page IV.C.77 through IV.C.80 of the DEIR.

- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.7 (pp. IV.C.80 to IV.C.81 of the DEIR) shall be implemented.

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
- (i) **Effects of Mitigation.** The transportation demand management (TDM) program identified in Mitigation Measure C.7 would potentially minimize single occupant vehicle trips, thereby reducing the severity of project impacts. However, given the uncertainty of vehicle trip reductions associated with TDM programs, this impact would remain significant and unavoidable.
 - (ii) **Remaining Impacts.** Although implementation of the TDM program identified in Mitigation Measure C.7 could potentially lessen the impact of the project on adjacent and nearby freeway and roadway segments, it is impossible to identify the effect of this Mitigation Measure with certainty, and this impact remains significant and unavoidable.
 - (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts on freeway and roadway segments adjacent to and near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.8 Construction-related traffic activity could have a significant although temporary impact.

- a) **Potential Impact.** The impact of construction-related traffic activity identified above is described and discussed on page IV.C.81 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:
- FEIR Mitigation Measure C.8 (pp. IV.C.81 through IV.C.82 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure C.8 will substantially lessen the temporary impact of construction-related traffic by requiring the project sponsor to develop a construction management plan to be

approved by the City Public Works Department and the Community Development Department.

IV.D. Air Quality

Impact D.1. Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact of emissions of criteria pollutants during project construction identified above is described and discussed on pages IV.D.29 through IV.D.31 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.1 (pp. IV.D.32 through IV.D.33 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** The implementation of San Joaquin Valley Air Pollution Control District recommendations to minimize emission during construction phases required by Mitigation Measure D.1 would reduce impacts of construction related PM₁₀ and ozone precursors from construction equipment exhaust, but would not prevent a net increase in emissions.

(ii) **Remaining Impacts.** As explained above, this Mitigation Measure would not prevent a net increase in the emissions of criteria pollutants, and this impact would not be reduced to a less-than-significant level. Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the emission of criteria pollutants during project construction, as set forth in the Statement of Overriding Considerations below.

Impact D.2 Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact of the emission of pollutants during project operation identified above is described and discussed on page IV.D.33 through page IV.D.35 of the DEIR.

- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures D.2a, D.2b and D.2c (pp. IV.D.35 through IV.D.37 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.2a requires the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles. Mitigation Measure D.2b requires the project developers to prepare a trip reduction plan to reduce emissions from motor vehicle activity to be reviewed and approved by the City of Modesto. Mitigation Measure D.2c requires the project developers to incorporate into the site design a set of provisions to reduce emissions from energy consumption. Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the contribution of criteria pollutants emitted during Project operation to existing violations of ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact D.6. The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.D.39 of the DEIR.

- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.6 (p. IV.D.39 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
- (i) **Effects of Mitigation.** Mitigation Measure D.6 incorporates by reference Mitigation Measures D.2a and D.2b (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.
 - (ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.
 - (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the Project's potential contribution to a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment, as set forth in the Statement of Overriding Considerations below.

Impact D.7 The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM₁₀ attainment plans.

- a) **Potential Impact.** The impact identified above is described and discussed on pages IV.D.40 to IV.D.41 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.7 (p. IV.D.41 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
 - (i) **Effects of Mitigation.** Mitigation Measure D.7 incorporates by reference Mitigation Measures D.2a through D.2c (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles and energy consumption and to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not

substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

- (ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.
- (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to delaying the region's progress in attaining the standards set out in the ozone and PM₁₀ attainment plan, as set forth in the Statement of Overriding Considerations below.

Impact D.8 The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could increase greenhouse gas emissions and potentially accelerate the effects of greenhouse gases on global climate change.

- a) **Potential Impact.** The impact of the proposed project on greenhouse gas emissions identified above is described and discussed on pages IV.D.41 through IV.D.43 of the DEIR. Due to the global nature of greenhouse gas/climate change impacts, and the relatively small contribution of this Project to such global impacts, the City Council does not find that the Project's impacts, without mitigation, are significant. However, to ensure that greenhouse gas emissions are nonetheless reduced to the maximum extent practicable, the City Council is nonetheless imposing mitigation requirements for this impact.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.8 (page IV.D.43 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

The implementation of Mitigation Measure D.8, which requires energy-efficient lighting and other steps to minimize the use of fossil fuels, in combination with the proposed project's "Smart Growth" orientation, as well as other measures already incorporated into the project to reduce greenhouse gas emissions, will ensure that the Project's cumulative impacts relating to greenhouse gas emissions will be at a less-than-significant level.

IV.E. Noise

Impact E.2. Project-related traffic could cause a substantial increase in noise levels or an exceedence of “Normally Acceptable” noise levels for sensitive receptors within the project area.

- a) **Potential Impact.** The impact of a potential increase in noise levels identified above is described and discussed on pages IV.E.16 through IV.E.18 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.2a and E.2b (p. IV.E.18 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.2a requires the construction of noise barriers and the use of sound insulation, as determined by a qualified acoustical consultant. The use of such barriers and sound insulation would reduce this impact to a less-than-significant level.

Impact E.3. New stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinances or goals for the surroundings.

- a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.19 to IV.E.20 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.3 (pp. IV.E.19 to IVE.20 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.3 will substantially lessen or avoid Project impacts related to new stationary sources of noise by requiring the developers of any project involving commercial uses or multi-family residential buildings that would include outdoor mechanical equipment to retain a qualified acoustical engineer to review and prepare a report on the project to ensure that noise levels will not exceed City Standards. The report shall be submitted to the City prior to approval of building permits. Implementation of this mitigation measure would reduce the impacts from stationary noise generated by the project site to a less-than-significant level.

Impact E.4. Pile-driving activities related to construction of taller buildings

in the Mixed Use area could temporarily generate noise and/or ground-borne vibration levels incompatible with ordinance or goals for the surroundings.

- a) **Potential Impact.** The impact of pile-driving activities identified above is described and discussed on page IV.E.20 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.4 (p. IV.E.21 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.4 requires limiting pile driving to typical working hours and requires monitoring of vibrations to protect the nearby use of vibration-sensitive equipment. Implementation of this mitigation measure would reduce the impacts from construction noise at the project site to a less-than-significant level.

Impact E.5. Non-stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinance or goals for the surroundings.

- a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.21 to IV.E.22 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.5 (pp. IV.E.22 to IV.E.23 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.5 will substantially lessen or avoid Project impacts related to non-stationary sources of noise by requiring the project developers to retain a qualified acoustical engineer to review site plans and building designs for proposed commercial activities to be located adjacent to sensitive residential land uses and to identify a complete list of measures what will reduce noise levels at the nearest residential property line to an L_{dn} of 65 dB or less. Implementation of this mitigation measure would reduce the impacts from non-stationary sources of noise at the project site to a less-than-significant level.

Impact E.6. Cumulative development could lead to noise conflicts between incompatible land uses.

- a) **Potential Impact.** The impact identified above is described and

discussed on page IV.E.23 of the DEIR.

- b) Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.6 (pp. IV.F.25 of the DEIR).

- c) Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Mitigation Measure E.6 incorporates by reference Mitigation Measures E.2a and E.2b, which include the performance of noise analyses conducted by qualified acoustical consultants. Mitigation Measure E.6 requires that such analyses include consideration of cumulative year 2025 conditions.

(ii) Remaining Impacts. Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to cumulatively significant noise conflicts between incompatible land uses, as set forth in the Statement of Overriding Considerations below.

IV.F. Hazards

Impact F.2. Excavation for installation of utilities and other construction on the project site could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.

- a) Potential Impact.** The impact identified above is described and discussed on page IV.F.8 of the DEIR.

- b) Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure F.2 (p. IV.F.8 to IV.F.9 of the DEIR).

- c) Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure F.2 will substantially lessen or avoid the impact identified above by requiring completion of Phase I Environmental Site Assessments for all parcels for which a Phase I has not yet been performed, Phase II studies for parcels where indicated, and remediation of any discovered

chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes under the direction of the City and the County Health Services Department. With the implementation of Mitigation Measure F.2, the impact of potential release of, and exposure to, hazardous materials would be less than significant.

IV.G. Biological Resources

Impact G.1. Implementation of the Specific Plan would result in loss of occupied burrowing owl habitat.

- a) **Potential Impact.** The impact identified above is described and discussed on pages IV.G.10 to IV.G.11 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.1a and G.1b (pp. IV.G.11 to IV.G.12 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure G.1a requires preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction. In the event that suitable Burrowing Owl habitat is discovered, the measure requires implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls. In the event that it is infeasible to avoid development of areas containing occupied Burrowing Owl habitat, Mitigation Measure H.6b requires that the developers provide habitat compensation on off-site mitigation lands. Together, implementation of these mitigation measures will substantially lessen or avoid the Project's impacts related to the loss of occupied Burrowing Owl habitat.

Impact G.2. Implementation of the Specific Plan would result in disturbance of nesting raptors and migratory birds.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.G.12 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.2a and G.2b (pp. IV.G.12 and IV.G.13 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measures G2a and G2b provide for a construction schedule that avoids the nesting season, or if that schedule is impracticable, provide for pre-construction surveys conducted by a qualified ornithologist or wildlife biologist to identify and create construction-free buffer zones around nests. These measures would reduce the potential for significant impact to a less-than-significant level.

Impact G.3. Implementation of the Specific Plan would result in cumulative loss of Swainson's hawk and burrowing owl habitat.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.G.13 to IV.G.14 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.3 (pp. ____ of the FEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure G.3 (which incorporates by reference Mitigation Measures G.1a and G.1b) will reduce cumulative impacts on burrowing owl habitat to a less-than-significant level. Implementation of Mitigation Measure G.2, which requires providing suitable off-site habitat management (HM) lands protected by fee title acquisition or conservation easement to provide foraging habitat, as well as long-term management of HM lands through a management endowment funded by project sponsors, will reduce cumulative impacts on Swainson's hawk habitat to a less-than-significant level.

IV.H. Hydrology and Water Quality

Impact H.1. Construction activities could result in degradation of water quality in nearby surface water bodies by causing accidental spills and/or by reducing the quality of storm water runoff.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.H.11 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.1 (pp. IV.H.11 and IV.H.12 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City,

the City Council finds that: Implementation of Mitigation Measure H.1 will substantially lessen to a less-than-significant level or avoid the impact identified above by requiring the developers to prepare a Storm Water Pollution Prevention Plan (SWPPP) for each development project (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality during the construction period. The mitigation measure requires that the SWPPP emphasize measures designed to minimize erosion and off-site sedimentation, include specific and detailed Best Management Practices to mitigate construction-related pollutants and reduce erosion, provide for regular meetings of site supervisors to discuss pollution prevention, and include provisions for a monitoring program.

Impact H.3. Implementation of the project could alter drainage patterns at the site, potentially causing runoff to exceed the capacity of existing conveyances and result in localized flooding.

- a) **Potential Impact.** The impact identified above is described and discussed on pages IV.H.13 to IV.H.14 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures H.3a and H.3b (pp. IV.H.14 and IV.H.15 of the DEIR).

- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure 1.3a requires the developer to acquire written approval from the Modesto Irrigation District to discharge runoff to the MID Lateral No. 6, or in the alternative, develop and alternative plan for disposal of storm water in accordance with the City of Modesto standards for storm water runoff. Mitigation Measure 1.3b requires that every proposed development: a) include adequately-sized detention facilities designed by a licensed professional engineer to accommodate anticipated runoff associated with a 100-year storm event, with such drainage plan to be reviewed and approved by the City of Modesto Department of Public Works; b) include drainage components designed in compliance with City of Modesto standards; and c) establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets, with an annual report of inspections and remedial action to be submitted to the City of Modesto Public Works Department. Implementation of Mitigation Measures I.3a and I.3b will substantially lessen to a less-than-significant level or avoid the impact described above.

Impact H.6. Existing water supply wells within the Specific Plan area, if not

properly managed or decommissioned, could be damaged during construction, potentially resulting in impacts to groundwater quality.

- a) **Potential Impact.** The impact on existing water supply wells identified above is described and discussed on page IV.H.16 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.6 (pp. IV.H.16 and IV.H.17 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.6 requires that a survey shall be conducted to locate existing water supply wells and that each identified well shall be either properly abandoned or properly sealed in compliance with California Well Standards. Implementation of this Mitigation Measure will reduce this impact to a less-than-significant level.

IV.K. Water Supply

Impact K.2. Demand from the project would cause water pressure problems within the City's water distribution system.

- a) **Potential Impact.** The impact identified above is described and discussed on page IV.K14 of the DEIR.
- b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.2 (p. IV.K.15 of the DEIR).
- c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure K.2, which requires the currently proposed project infrastructure be supplemented by the installation of an additional pipeline, and which recognizes system improvements currently planned to be installed by the City, will reduce this impact to a less-than-significant level.

IV. Findings Regarding Project Alternatives.

A. Identification of Project Objectives.

The CEQA Guidelines state that the "range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the

significant effects” of the Project. CEQA Guidelines § 15126.6(c). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The DEIR lists eight specific objectives for the Project (pages III.2 and III.3):

1. Create a mixed-use area adjacent to the Kaiser Modesto Medical Center which will serve the hospital and its visitors, the immediate business park area, and residential areas. Provide a vibrant village atmosphere which provides a safe, pedestrian-friendly environment.
2. Create an extended hours community by balancing business park and medical center uses with residential and retail to provide greater safety through increased surveillance and activity.
3. Attract small businesses that provide support services to the hospital and business park uses.
4. Provide multi-family residential uses, both apartments and condominiums, to provide housing choices for doctors and nurses, hospital employees and support staff, visitors, single parents, business owners and employees, and independent seniors.
5. Design a healthy, smart growth development that increases physical activity via walking and bicycling, reduces dependence on automobiles, and increase transit use.
6. Provide incentives to reduce traffic through the use of shared parking and reduced automobile parking standards. Balance the supply and management of parking to address the needs of the businesses, residents, and employees.
7. Provide for employment-intensive uses in an attractive “campus-like” setting that is consistent with the needs of the target industries identified in the Kiernan Business Park Specific Plan.

B. Alternatives Analyzed in the FEIR.

The CEQA Guidelines state that the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects of the Project. The City evaluated the alternatives listed below.

1. No Project Alternative.

a) Findings. The No Project Alternative is discussed at pages VI.2 of the DEIR. The No Project Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. Under the No Project Alternative, the Project site would not be developed in accordance with the proposed Kiernan Business

Park Specific Plan Amendment #4 and physical conditions on the project site would remain as they currently are. The 86 acres within City of Modesto limits would continue in existing agricultural, residential, and commercial uses. The 67 acres in the County's land use designation and zoning would not be incorporated into the City of Modesto's boundaries and would remain in current agricultural and residential land use. Although the No Project Alternative would avoid the Project's significant impacts, it would not further the City's Project objectives of: creating a safe, pedestrian-friendly and vibrant mixed-use area to serve the Kaiser Modesto Medical Center and the immediate business park area; attracting small business and promoting employment-intensive uses consistent with the needs identified in the Kiernan Business Park Specific Plan; and designing a healthy, smart growth development that reduces automobile dependence and traffic.

2. Existing Kiernan Business Park Specific Plan Alternative

a) Findings. The Existing Kiernan Business Park Specific Plan Alternative is discussed at pages VI.3 through VI.15 of the DEIR. The Existing Kiernan Business Park Specific Plan Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. The Existing Kiernan Business Park Specific Plan Alternative would result in the site being developed in accordance with the existing Kiernan Business Park Specific Plan Business Park (BP) land use designation, which allows for business park, office, and regional commercial development, but no residential uses. Impacts resulting from development under the existing Business Park Specific plan would be slightly greater than, but similar to, those identified for the proposed project. Additional mitigation measures in the area of transportation and circulation would be necessary to alleviate the traffic impacts of the existing Business Park Specific plan, and yet the alternative would not achieve the proposed project's objectives that arise from including residential uses within the Business Park Specific Plan: creating a safer, extended hours community; smart growth development that reduces dependence on automobiles; and creating a mixed-use area in the immediate business park that provides a safe, pedestrian-friendly environment as well as housing for hospital and business park staff and business owners.

3. Reduced Intensity Alternative.

a) Findings. The Reduced Intensity Alternative is discussed at pages VI.15 through VI.28 of the DEIR. The Reduced Intensity Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

a) Explanation. Under the Reduced Intensity Alternative, the western portion of the project site would be developed with BP, MU and MHDR land uses. About 40 percent less land area would be developed than is proposed with the Kiernan Business Park Specific Plan Amendment #4. Compared to the proposed project, the Reduced Intensity Alternative would have roughly 40 percent less BP space, 40 percent less MU space, but 92 more residential units in the MHDR land use area. Although the Reduced Intensity Alternative would result in reduced, though similar, impacts as compared to the Project, and although the DEIR identifies this alternative as

V. Statement of Overriding Considerations.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, this City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining significant unavoidable impacts of the Project, as discussed above, and the anticipated economic, social and other benefits of the Project.

The City finds and determines that: (i) the majority of the significant impacts of the Project will be reduced to acceptable levels by the mitigation measures recommended in these Findings; (ii) the City's approval of the Project as proposed will result in certain significant adverse environmental effects that cannot be avoided even with the incorporation of all feasible mitigation measures into the Project; and (iii) there are no other feasible mitigation measures or other feasible Project alternatives that would further mitigate or avoid the remaining significant environmental effects. The significant effects that have not been mitigated to a less-than-significant level and are therefore considered significant and unavoidable are:

- IV.B.1 – Agricultural Resources – Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.
- IV.B.3 – Agricultural Resources – Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in Stanislaus County.
- IV.C.1 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the existing plus project scenario.
- IV.C.2 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the existing plus project scenario.
- IV.C.3 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge interchanges near the project site under the existing plus project scenario.

- IV.C.4 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the near-term baseline plus project scenario.
- IV.C.5 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the near-term baseline plus project scenario.
- IV.C.6 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge areas near the project site under the near-term baseline plus project scenario.
- IV.C.7 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the cumulative baseline plus project scenario.
- IV.D.1 – Air Quality – Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.
- IV.D.2 – Air Quality – Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.
- IV.D.6 – Air Quality – The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.
- IV.D.7 – Air Quality – The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM₁₀ attainment plans.
- IV.E.6 – Noise – Cumulative development could lead to noise conflicts between incompatible land uses.

The following statement identifies the reasons why, in the City’s judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the preceding findings, which are herein incorporated by reference, in the Project itself, and in the record of proceedings as defined in Section II.A. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the Project, as conditionally approved, would have the following economic, social, technological, and environmental benefits:

1. Growth Consistent With General Plan. The City's General Plan provides an overall framework for the City's growth. The Kiernan Business Park Specific Plan, as amended, provides an area-specific comprehensive framework for attractive and distinctive development within the Kiernan Avenue area that is consistent with the goals and policies of the General Plan.

2. Housing. The Kiernan Business Park Specific Plan Amendment #4 allows for 342 dwelling units in a variety of residential housing types and configurations. 262 of the dwelling units may be developed as Medium High Density Residential, at 18 to 24 units per acre. The variety and range of housing types allowed under the Specific Plan will increase opportunities for entry level and step-up housing, and provide for a balance of housing with business and retail to create a vibrant, extended-hours community.

3. Infrastructure Needs. The Kiernan Business Park Specific Plan Amendment #4 provides for the public facilities and infrastructure necessary to support smart growth in the Kiernan Avenue area, emphasizing pedestrian, bicycle and transit uses, and allowing for the incorporation of residences near work sites to minimize dependence on automobile usage.

4. Economic Development and Job Creation. The Kiernan Avenue area is a prime job-creating location because of its proximity to Highway 99 and North Modesto. The Kiernan Business Park Specific Plan Amendment #4 provides for commercial and residential development that will serve enhance Modesto's local economy, generate jobs for residents, and create a better jobs/housing balance.

5. Public Revenues. The Kiernan Business Park Specific Plan Amendment #4 provides for new small business development opportunities on the north side of Modesto, which in turn will enhance the City's economic base through increased property and sales tax revenue.

Exhibit "B"

MITIGATION MONITORING AND REPORTING PROGRAM

**KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Agricultural Resources				
B.1: Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland.	Project Developers and City of Modesto	City of Modesto shall finalize review and consideration of the adoption of a farmland mitigation program. Project Developers shall implement applicable portions of the program, if approved by City.	Community and Economic Development Department shall ensure farmland mitigation program is considered and instituted, if approved by the City Council.	The consideration of a farmland mitigation program shall be prior to issuance of certificate of occupancy for the first building within the plan area.
B.3: Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland. (Same as Mitigation Measure B.1)	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1
Transportation and Circulation				
C.1b: Kiernan Avenue and Sisk Road: Widen Kiernan Avenue to provide two through lanes in each direction.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.1c: Kiernan Avenue and Stoddard Road: Widen Kiernan Avenue to provide two through lanes in each direction. Signalize the intersection.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
C.1d: Kiernan Avenue and Dale Road: Widen Kiernan Avenue to provide two through lanes in each direction. Add turn pockets at all approaches. Signalize the intersection. Construct a second northbound left-turn lane and a northbound right-turn lane.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.1f: Bangs Avenue and American Avenue: Install a two-lane roundabout with a northbound right-turn by-pass lane or install traffic signals and left-turn pockets on all approaches.	Project Developers and the City of Modesto	Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the second phase of development.
C.1k: Pelendale Avenue and Sisk Road: Install a third westbound through lane, a second westbound left-turn lane, a second southbound through lane, and a second southbound left-turn lane.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.2c: Pelendale Avenue: Add an eastbound and westbound through lane between Dale Road and Tully Road.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.4c: Dale Road and Kaiser Main Entrance/The Plaza Way: Add a third southbound through lane; add a third northbound through lane.	Project Developers and Kaiser Modesto Medical Center	Kaiser Modesto Medical Center shall build the southbound lane. Project Developers shall construct the northbound lane.	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>C.4d: Bangs Avenue and American Avenue: Construct a two-lane roundabout with a northbound by-pass lane; or install a traffic signal and add an eastbound through lane, an eastbound left-turn pocket, a westbound through lane, a westbound left-turn pocket, a northbound left-turn lane, a northbound through lane, a northbound right-turn only lane, a southbound left-turn lane, and a southbound shared through/right-turn lane.</p>	<p>Project Developers</p>	<p>Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto</p>	<p>City Engineer shall verify completion of improvements per City specifications.</p>	<p>Improvements shall be completed prior to issuance of a building permit for the final building within the third phase of development.</p>
<p>C.7: Pelandale Avenue and Dale Road: No physical improvements are recommended for these roadways beyond the planned maximum cross-section. Other measures, such as signal timing coordination and transportation demand management measures, should be implemented to maximize through traffic efficiency and minimize single occupant vehicle trips. The project sponsor shall prepare a transportation demand management program to the satisfaction of City staff.</p>	<p>Project Developers</p>	<p>Project Developers shall prepare a transportation demand management program to the satisfaction of staff.</p> <p>Project Developers shall implement the provisions of the program in conjunction with development.</p>	<p>City Traffic Engineer and Transit Manager shall review and approve transportation demand management program, and monitor its use through the imposition of conditions of approval upon future development.</p>	<p>Transportation demand management program shall be instituted prior to development entitlement for any building within the plan area.</p>
<p>C.8: Construction-related traffic activity: The project sponsor shall develop a construction management plan for review and approval by the City Public Works Department and the Community Development Department.</p>	<p>Project Developers</p>	<p>Project Developers shall prepare a construction management plan to the satisfaction of staff.</p> <p>Project Developers shall implement the provisions of the program in conjunction with development.</p>	<p>Public Works Director and Community & Economic Development Director or designees shall review and approve a construction management plan, and monitor its provisions through the imposition of conditions of approval upon future development.</p>	<p>Construction management program shall be instituted prior to development entitlement for any building or tentative map within the plan area.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Air Quality				
D.1: The construction plans for each group of buildings shall incorporate the following recommendations from the District to minimize emissions during construction phases:				
<ul style="list-style-type: none"> The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the San Joaquin Valley Air Pollution Control District prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented. 	Project Developers	Project Developers shall review Regulation VIII and submit a compliance plan to the San Joaquin Valley Air Pollution Control District. The compliance plan shall be incorporated in construction contracts and implemented by developers.	Project Developers shall provide draft compliance plan to the Community and Economic Development Department for review and approval.	Compliance plan shall be submitted to and approved by the San Joaquin Valley Air Pollution Control District prior to the issuance of a grading or building permit, whichever occurs first.
<ul style="list-style-type: none"> Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO_x and PM₁₀ control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process. 	Project Developers	Project Developers shall consult with SJVAPCD and identify available new technology and shall incorporate requirements for new technology in construction contracts. At minimum, future development shall achieve average emissions equal to or less than Tier II standards of 4.8 g/hp-hr for NO _x , based on current SJVAPCD policies.	Project Developers shall report to the San Joaquin Valley Air Pollution Control District on new technology to be included.	The Project Developers shall incorporate available new technology in construction contracts.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> Dust suppression shall be implemented on all disturbed areas, including inactive outdoor storage piles, by application of water, chemical stabilizer/suppressant, or covering with a tarp, vegetative ground cover, or other suitable cover. <p><i>(cont'd.)</i></p>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> Dust suppression shall be implemented following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles using water or chemical stabilizer/suppressant. 	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
<ul style="list-style-type: none"> Dust suppression shall be implemented on all on-site unpaved roads, and off-site unpaved access roads used during the construction phase, using water or chemical stabilizer/suppressant. <p><i>(cont'd.)</i></p>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by application of water during the activity or by presoaking. 	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
<ul style="list-style-type: none"> When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. <p><i>(cont'd.)</i></p>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District..	Implement measures throughout the construction duration

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall limit traffic speed on unpaved roads to 15 miles per hour. 	Project Developers	The construction foreman or liaison shall post speed limit signs and ensure that construction vehicle operators travel at or less than 15 mph.	The construction foreman or liaison shall monitor speed limits. Project Developers shall monitor compliance throughout the construction duration.	The Project Developers shall install speed limit signs as part of the site preparation process prior to issuance of a grading permit. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent. 	Project Developers	All slopes shall be measured by the Project Developers and identified on the building permit plan set submitted. The construction foreman or liaison shall oversee the placement of sandbags or other runoff control measure(s) on all slopes determined to have a slope greater than 1 percent.	The construction foreman or liaison shall monitor runoff control measure(s) and shall conduct weekly runoff control measure(s) inspections and shall submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The building permit submittal shall identify slope measurements. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways. 	Project Developers	The construction foreman or liaison shall ensure that wheel washers and/or equipment washers are in place at all points of exit from the site and are correctly implemented.	Construction foreman or liaison shall record inspections in a daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The washers shall be provided prior to issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

(cont'd.)

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust. 	Project Developers	<p>Windbreaks shall be installed by the Project Developers.</p> <p>The construction foreman or liaison shall ensure that windbreaks are correctly placed and implemented.</p>	<p>The construction foreman or liaison shall inspect installed windbreaks on a weekly basis and record inspections in the construction log.</p> <p>Inspection results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.</p>	<p>Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>
<ul style="list-style-type: none"> The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour. 	Project Developers	<p>Project developers shall install wind speed measuring devices and ensure that these devices are correctly located and calibrated.</p>	<p>The construction foreman shall cease all excavating and grading activities when wind speed measuring devices indicate speeds over 20 mph.</p> <p>Suspension of construction activity due to wind speeds shall be recorded in the construction log. Construction reports shall be submitted to the San Joaquin Valley Air Pollution Control District. on a monthly basis.</p>	<p>Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>

(cont'd.)

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time. <p><i>(cont'd.)</i></p>	<p>Project Developers</p>	<p>The project sponsor shall provide a written statement with any request for development permits or other permits involving movement of soil supporting a determination that the request minimizes the amount of exposed soil on the project site during the relevant construction period. The Community and Economic Development Director will either accept the report or require additional means to reduce the amount of exposed soil, such as hydroseeding or planting vegetation with irrigation, in areas that are proposed to be exposed for more than 20 days with no construction activity.</p> <p>Construction shall comply with the General Construction Permit.</p>	<p>The construction foreman or liaison shall ensure that construction activities do not exceed the allowable area of excavation and grading activity permitted on the site and shall oversee implementation of any required best management practices.</p> <p>The construction foreman or liaison shall record excavation and grading activities in a construction log on a daily basis and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.</p>	<p>Project Developer shall provide a plan to reduce soil exposure prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions). 	Project Developers	The construction foreman or liaison shall establish and implement a daily street sweeping schedule during construction activities that involve movement of soil.	The construction foreman or liaison shall monitor daily street sweeping and provide a daily log. Results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.	Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> The project developers shall use alternative-fuel construction equipment, where feasible. 	Project Developers	Project Developers shall consult with SJVAPCD to identify feasible goals for equipment use. These goals shall be incorporated into construction contracts. The Project Developers shall use alternative-fuel construction equipment throughout the construction duration, where feasible.	The Project Developers shall report to the San Joaquin Valley Air Pollution Control District. the alternative-fuel equipment to be used in each phase.	Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> The project developers shall minimize idling time (e.g., to a 10-minute maximum). <p>(cont'd.)</p>	Project Developers	The construction foreman or liaison shall limit idling time on the construction site to a 10-minute maximum.	The construction foreman or liaison shall monitor idling.	Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical. 	Project Developers	The construction foreman or liaison shall limit the hours of heavy-duty equipment and/or the amount of equipment in use on the construction site.	The construction foreman or liaison shall monitor hours and use of heavy-duty equipment.	Implement measures throughout the construction duration.
<ul style="list-style-type: none"> The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible. 	Project Developers	Project Developers shall incorporate requirements to replace fossil-fueled equipment with electrically driven equivalents, where feasible.	Project Developers shall report to the San Joaquin Valley Air Pollution Control District about electrically driven equipment to be used in each phase.	The Project Developers shall use electrically driven equipment throughout the construction duration, where feasible.
<ul style="list-style-type: none"> The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District. 	Project Developers	The construction foreman or liaison shall comply with traffic control programs to curtail construction activities during periods of high ambient pollution based on advisories from the San Joaquin Valley Air Pollution Control District, such as on declared 'Spare the Air' days.	The construction foreman or liaison shall curtail or cease construction activity based on the San Joaquin Valley Air Pollution Control District advisories.	During advisory periods, such as 'Spare the Air' days, construction activity shall be curtailed or stopped.
<ul style="list-style-type: none"> The project developers shall implement activity management to reduce cumulative short-term impacts. 	Project Developers	Project Developers shall submit and implement an activity management plan.	The San Joaquin Valley Air Pollution Control District shall review the activity management plan.	Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.2a: Implementation of design features to reduce emissions from motor vehicle activity:				
<ul style="list-style-type: none"> The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters. 	Project Developers	Project Developers shall provide a plan for bus turnouts, loading and shelters along perimeter streets.	The Transit Manager shall review and approve the plan.	<p>Review and approval of transit service improvements shall occur prior to development entitlement for any building or tentative map within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy or recordation of tentative map, or as determined by the FMP and IFP.</p>
<ul style="list-style-type: none"> The project developers shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas. <p>(cont'd.)</p>	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify the appropriate locations of all pedestrian and bicycle facilities elements and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	<p>Review and approval of pedestrian and bicycle facilities shall occur prior to development entitlement for any building within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> The project developers shall incorporate secure bicycle storage and parking facilities throughout the site. 	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify all the bicycle storage and parking facilities on the project site and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	<p>Review and approval of bicycle storage facilities shall occur prior to development entitlement for any building within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.</p>
<p>D.2b: The project developers shall prepare a trip reduction plan for review and approval by the City of Modesto prior to occupation of each phase of the proposed project. To be compliant with the policies of the <i>Urban Area General Plan</i>, the trip reduction plan shall address how the following features will be implemented:</p> <ul style="list-style-type: none"> Providing matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans’ “Commuter Computer” program; Employer-based dissemination of commute information; A program to guarantee rideshare participants a ride home in case of emergency; Flex-time scheduling; Site plan design which encourages pedestrian movement between adjacent land uses; Incentives such as preferred location of four percent of parking for carpools and hybrid or other clean-fuel vehicles; Encouraging submission of site plans featuring mixed land uses or “neo-traditional” design; and Encouraging employers to experiment with telecommuting options, where feasible. <p>(cont’d.)</p>	Project Developers	Project Developers shall submit trip reduction plans to the Community and Economic Development Department for review and approval.	The Community and Economic Development Department shall review and approve a trip reduction plan for each phase of the project.	The trip reduction plans shall be submitted and approved prior to certificate of occupancy for each phase of the project.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.2c: The site design shall fulfill the following requirements to reduce emissions from energy consumption:				
<ul style="list-style-type: none"> The project developers shall incorporate energy-efficient building design features including automated control systems for heating and air conditioning and energy efficiency to achieve a 20 percent reduction beyond the requirements of the Building Code (Title 24, California Code of Regulations), increased wall and ceiling insulation beyond Building Code requirements, light-colored roof materials to reflect heat, and energy-efficient lighting and lighting controls. 	Project Developers	Project developers shall submit construction drawings showing energy efficient building design features and implement the measures	The Building Division shall review and approve all construction plans to ensure that all energy efficiency measures are included and implemented..	<p>Prior to issuance of building permit for any building, construction plans shall show that all energy efficient measures are included.</p> <p>Prior to certificate of occupancy for any building, all energy efficient design features included in construction plans shall be implemented</p>
<ul style="list-style-type: none"> The project developers shall orient buildings to the north to maximize natural cooling and heating. 	Project Developers	Project developers shall submit site plans demonstrating northern orientation of buildings and construct the buildings in accordance with the approved plans.	<p>The Planning Division shall confirm appropriate building orientation in conjunction with development plan review.</p> <p>The Building Division shall ensure buildings are constructed in accordance with the approved plans.</p>	Building orientation shall be reviewed prior to development plan approval for any building within the plan area.
<ul style="list-style-type: none"> The project developers shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings. 	Project Developers	Project Developers shall submit site plans showing shade trees on the south- and west-facing sides of buildings and implement the plans.	The Department of Parks, Recreation and Neighborhoods shall review and approve all landscape plans.	<p>Prior to building permit issuance of each project, landscape plans shall be approved.</p> <p>Implement measures prior to certificate of occupancy.</p>

(cont'd.)

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> Natural gas burning units for space and water heating in the residential units shall use low-NOx space heaters and water heaters. 	Project Developers	Project developers shall show low-NOx space and water heaters in construction drawings for natural gas burning residential units and implement the measures.	The Building Divisions shall review and approve all construction plans to ensure that low-NOx space and water heaters are included..	Prior to issuance of building permit for any residential building, construction plans shall be provided demonstrating the use of low NOx space and water heaters.
<ul style="list-style-type: none"> All access roads, driveways, and parking areas serving the Business Park (BP) shall be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use. 	Project Developers	Project developers shall demonstrate access roads, driveways and parking areas are in compliance with the requirements of Regulation VIII for particulate emissions	The San Joaquin Valley Air Pollution Control District shall review and approve plans for access roads driveways and parking areas	Prior to the issuance of a grading permit improvements plans shall be reviewed and approved by the San Joaquin Valley Air Pollution Control District.
<p>D.8: The project shall implement the following measures to reduce the project impacts on global climate change:</p> <ul style="list-style-type: none"> For lighting in public streets, parking areas, and recreation areas, use of energy-efficient light and mechanical, computerized, or photocell switches to reduce unnecessary energy use; Use of alternative, non-fossil-fuel-based energy systems; Orientation of lots to maximize natural energy conservation; Provision of bike racks and changing rooms for commercial development; Planting of large-canopy, deciduous shade trees that are designed to fit in planters that are large enough to contain them without disrupting public improvements at project buildout. 	Project Developers	Project Developers shall provide plans demonstrating compliance with global climate change measures to the Community and Economic Development Department for review and approval.	<p>The Planning Division shall review and approve the plans.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans.</p>	Plans demonstrating consistency with global climate change measures shall be reviewed and approved prior to development entitlement for any building within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Noise				
<p>E.2a: To reduce noise levels at significantly impacted proposed residential land uses would require the construction of noise barriers up to approximately six feet in height and properly locating outdoor-use areas to be partially shielded by project proposed buildings. Specific noise barrier heights required to reduce noise levels to a less-than-significant noise level depend on the setback distance and exposure to the adjacent roadway and are to be determined by a qualified acoustical consultant. Noise barriers may need to be constructed at the following locations:</p> <ul style="list-style-type: none"> • Along Healthcare Way • Along The Plaza Way • Along Dale Road <p>Since noise barriers typically provide noise reduction for receivers at a first-story height, some façades at higher elevations would likely be exposed to noise levels that require sound-rated windows to meet Building Code requirements. With the additional sound insulation to be determined by a qualified acoustical consultant, interior noise levels would achieve the applicable standards of an L_{dn} less than 45 dB.</p>	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings and outdoor activity areas for residential land uses outside the 65dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings or outdoor activity areas are proposed within the 65dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans	<p>The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans</p>	<p>Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided.</p> <p>Prior to building permit issuance for any building, construction plans shall show all noise control features.</p> <p>The noise control features shall be installed prior to certificate of occupancy.</p>
<p>E.2b: The City and state do not specify interior noise standards for commercial uses. Commercial land uses located more than approximately 130 feet from the Kiernan Avenue centerline, 50 to 70 feet of the Dale Road centerline (depending on location along Dale Road, see Table IV.E.4), and 45 feet from the Bangs Avenue centerline would be exposed to noise levels interpreted by the City as “Normally Acceptable”, and would be considered less-than-significant impacts. A qualified acoustical consultant should prepare a supplemental noise analysis for any commercial building located at closer distances (i.e., exposed to greater than 70 dB L_{dn}) to these roadways. The noise analysis should include an interior noise goal specific to the building and mitigation necessary to meet the goal.</p>	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings for commercial land uses outside the 70dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings are proposed within the 70dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans.	<p>The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans</p>	<p>Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided.</p> <p>Prior to building permit issuance for any building, construction plans shall show all noise control features.</p> <p>The noise control features shall be installed prior to certificate of occupancy..</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>E.3: Each development project that involves commercial uses or multi-family residential buildings that would include outdoor mechanical equipment shall carry out the following:</p> <ul style="list-style-type: none"> • Retain a qualified acoustical engineer to prepare a noise study for submission to the City, ensuring that noise levels will not exceed City Standards. The following noise reduction measures should be considered by the acoustical engineer: <ul style="list-style-type: none"> ○ Use of acoustical silencers on inlet and discharge openings of mechanical equipment, ○ Installation of parapets or enclosures with louvers or other barriers to shield noise, ○ Orientation of equipment so that it faces away from sensitive receptors, and ○ Orientation or setback of buildings to increase distance from sensitive receptors. 	<p>Project Developers</p>	<p>Project Developers shall submit a noise report to the Community and Economic Development Department and implement the features where outdoor mechanical equipment is proposed.</p>	<p>The Community and Economic Development Department shall review and approve the noise report.</p>	<p>A noise report shall be provided and approved prior to development entitlement for any commercial or residential building within the plan area.</p> <p>Prior to building permit issuance of each project, construction plans shall show all noise reduction features are included.</p> <p>The noise reduction features shall be implemented prior to certificate of occupancy.</p>
<p>E.4: Construction-related pile driving activities shall be conducted in accordance with the following:</p> <ul style="list-style-type: none"> • Limit the operation or use of pile-driving equipment to the hours between 7:00 a.m. and 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.): • Perform vibration measurements at MRI locations during pile driving to assess the potential for interference with the equipment. This should be conducted as a “mock-up” test to assess the potential for vibration impacts. A compatible schedule may need to be developed for pile-driving activities that would allow for the non-impacted operation of the MRI equipment. 	<p>Project Developers</p>	<p>Project Developers shall limit operations of pile driving equipment to between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and 9:00 a.m. and 9:00 p.m. on holidays and weekends.</p> <p>Project Developers shall perform a vibration measurements test at MRI locations in coordination with Kaiser Medical Center, and, if interference would occur, schedule pile driving activities around the use of MRI equipment.</p>	<p>Project Developers shall perform a vibration measurement test at the location closest to MRI facilities to determine if interference would occur and establish a schedule for review and approval by the building division for pile driving activities. The construction foreman or liaison shall ensure that pile driving only occurs during approved hours.</p>	<p>A pile driving schedule shall be established prior to the issuance of a building permit for the first building within the project area.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>E.5: A qualified acoustical engineer shall be retained to review the site plans and building designs for proposed commercial activities when located adjacent to sensitive residential land uses. The acoustical engineer shall consider the following measures, and shall identify a complete list of measures that will reduce noise levels at the nearest residential property line to an L_{dn} of 65 dB:</p> <ul style="list-style-type: none"> • Limiting loading and exterior warehouse activities to daytime hours from 7:00 a.m. to 9:00 p.m. • Requiring loading and trash compacting and collection activities to be fully enclosed. • Location and orientation of parking lot areas with respect to noise sensitive land uses. • Establishing minimum setback distances between common open space for multi-family residential buildings and locations of loading docks, warehousing activity areas, and trash compaction and collection areas in commercial developments. 	Project Developers	Project Developers shall submit a noise report to the Community and Economic Development Department and implement the noise features.	The Community and Economic Development Department shall review and approve final noise report and building plans demonstrating compliance with the identified noise features.	<p>Prior to development entitlement for any commercial building, a noise study shall be reviewed and approved</p> <p>Prior to building permit issuance, construction plans shall show all noise reduction features specified by the noise study.</p> <p>The noise reduction features shall be implemented prior to certificate of occupancy.</p>
<p>E.6: Acoustical recommendations prepared to address Impact E.2 should also consider cumulative year 2025 conditions.</p>	Project Developers	Noise studies required as a result of mitigation measures E.2a and E.2b. shall include a cumulative 2025 analysis	The Planning Division shall ensure that a cumulative 2025 analysis is performed on required noise studies	Prior to development entitlement, a noise analysis including cumulative 2025 conditions shall be reviewed and approved by the Planning Division.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Hazards				
<p>F.2: Conduct Phase I Environmental Site Assessments, conduct site investigations, and implement remediation as necessary.</p>	<p>Project Developers</p>	<p>Project Developers shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments on properties where the assessment was not previously prepared, conduct further site investigations, where necessary, and implement the remediation.</p>	<p>The Community and Economic Development Department shall review and approve the Phase I Environmental Site Assessments, other needed site investigations and remediation in collaboration with the Stanislaus County Environmental Review Committee and County Health Services Department.</p>	<p>Conduct Phase I Environmental Site Assessments and other necessary site investigations prior to issuance of grading or building permit, whichever occurs first.</p> <p>Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA and/or other site investigations.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Biological Resources				
<p>G.1a: Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:</p> <ol style="list-style-type: none"> 1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction. 2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction. 3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently. 4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately. 	Project Developers	Project Developer shall retain a qualified biologist to conduct pre-construction survey for breeding or resident burrowing owls in pastures, fallow fields, canal rights of way and other areas where ground squirrels occupy or have occupied burrows or pipes or other locations that could be used by burrowing owls. If found, establish and implement construction schedule to avoid nesting season, identify buffer areas, and report accidental take to CDFG.	CDFG shall review the habitat assessment and mitigation measures.	Complete survey and establish and implement construction schedule and buffer area prior to issuance of the first grading or building permit, whichever occurs first, and monitor during construction.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>G.1b: Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:</p> <ul style="list-style-type: none"> • Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands; • Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG; • Establish an endowment for the long-term management of the HM lands; and • Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement. 	<p>Project Developers and Project Biologist</p>	<p>If avoidance is not feasible, work with CDFG to secure a habitat mitigation agreement.</p>	<p>CDFG shall review and approve the habitat mitigation plan.</p>	<p>Habitat mitigation agreement shall be secured prior to issuance of the first grading or building permit, whichever occurs first.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>G.2a: Compensation for the disturbance of nesting raptors and migratory birds. To the extent practicable, construction should be scheduled to avoid the nesting season, January through August.</p> <p>G.2b: If it is not possible to avoid the nesting season, pre-construction surveys shall be conducted to ensure that no nests of rare or protected species would be disturbed during project implementation. Surveys shall be conducted no more than 14 days prior to construction during the early part of the breeding season (January through April) and no more than 30 days during the late part of the breeding season (May through August). Surveys shall include all potential nest substrates in and adjacent to the construction area. If an active nest is found close enough to a construction area to be disturbed, the project ornithologist, in conjunction with CDFG, shall determine the extent of a buffer-free zone around the nest .</p>	Project Developers	Project Developers shall retain a qualified ornithologist or wildlife biologist to conduct a survey no more that 14 days prior to demolition or construction activities occurring January through April and no more than 30 days prior to demolition or construction activities occurring May through August. The ornithologist, in consultation with the CDFG, shall determine potential for demolition or construction impact to nesting raptors and migratory birds and establish a construction-free buffer zone accordingly in consultation with the CDFG.	CDFG shall review the habitat assessment and proposed construction buffer zone.	Construction-free buffer zone shall be established prior to issuance of the first grading or building permit, whichever occurs first.
<p>G.3: Same as Mitigation Measures G.1a and G.1b for burrowing owls; the cumulative loss of habitat for Swainson’s hawks should be mitigated by providing 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture. All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to CDFG) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson’s hawks. Management Authorization holders/project sponsors shall provide for the long-term management of HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at a rate agreed upon by CDFG.</p>	Project Developers	Same as Mitigation Measures G1a and G1b, and Project Developers shall provide 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture through fee title acquisition or conservation easement, and provide a funding management endowment at a rate agreed upon by the CDFG.	CDFG shall review the habitat assessment and approve the mitigation measures.	Same as Mitigation Measures G.1a, G.1b, and provide 0.25 acre of off-site HM lands and management endowment prior to first grading or building permit, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Hydrology and Water Quality				
<p>H.1: The project proponent shall prepare an SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than 1 acre).The project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).</p>	Project Developers	Project Developers shall prepare and implement SWPPP.	The City Engineer shall review and approve the SWPPP.	<p>Complete the SWPPP prior to issuance of a grading or building permit, whichever occurs first, for each project.</p> <p>SWPPP measures shall be implemented during grading and construction for each project.</p>
<p>H.3a: As a condition of approval of the final grading and drainage plans for the first project proposed in the Specific Plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Lateral No. 6 (up to 5.0 cubic feet per second), and provide this documentation to the City of Modesto Public Works Department. If approval from MID cannot be obtained then an alternative plan for disposal for stormwater would need to be developed and accepted in accordance with the City of Modesto standards for stormwater runoff.</p>	Project Developers	<p>Project Developers shall secure written approval from MID for discharge into canal</p> <p>Alternative stormwater drainage design must be approved if MID approval is not obtained.</p>	City Engineer shall review and approve the agreement with MID or review and approve an alternative design if necessary.	The MID agreement or alternative design shall be in place prior to issuance of a grading permit for the first development within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>H.3b: As a condition of approval of the final grading and drainage plans for all projects proposed within the Specific Plan area, detailed hydraulic analysis must demonstrate that implementation of the proposed drainage plans will:</p> <ul style="list-style-type: none"> • Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works Department for review and approval. • Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Public Works Department. • Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review. 	Project Developers	Project Developers shall prepare a drainage plan that demonstrates compliance with City Standards and implement the plan.	The City Engineer shall review and approve the drainage plan.	<p>Prior to issuance of a grading permit for any development within the plan area, or where appropriate as determined by the FMP and IFP, final grading and drainage plans meeting City Standards shall be reviewed and approved</p> <p>Grading and drainage facilities shall be developed and maintained in accordance with the approved plans.</p>
<p>H.6: Before a grading plan for development of a particular parcel within the plan area is approved, a well survey shall be conducted by a State-registered geologist or engineer to determine the location and characteristics of each well for that particular parcel. The survey results shall be submitted to the City for review. The water supply wells shall either be:</p> <ol style="list-style-type: none"> 1. Properly abandoned in compliance with the California Department of Water Resources, California Well Standards and Stanislaus County Code, Chapter 9.36 prior to final approval of the grading plan, or 2. Inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. The California Well Standards require an annular surface seal of at least 20 feet. If any of the wells are found not to comply with this requirement, the applicant shall retain a qualified well driller to install the required seal. Documentation of the inspections and seal installations, if any, shall be provided to the City prior to final approval of the grading plan. 	Project Developers	Project Developers shall conduct a well survey to determine location and characteristics of each well. The survey shall be conducted by a state-registered geologist or engineer, and results shall be submitted to the City Engineer and implemented by the developers.	The City Engineer shall review the well survey and determine whether the well be abandoned or sealed.	The well survey shall be conducted prior to issuance of a grading permit for any development within the plan area and shall be implemented prior to certificate of occupancy.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Water Supply				
<p>K.2: In order to maintain adequate water pressure in the City’s delivery system, it would be necessary to design and construct project specific, local, and system-wide water facility improvements. There are three categories of improvements:</p> <ul style="list-style-type: none"> • Project-specific improvements funded by the project sponsor, • Localized system improvements that would be funded by the City’s Ongoing Strengthening and Repairing Water Pipelines Program, • System-wide Improvements funded by the City’s Connection Fee Program. <p>The localized system improvements and system-wide improvements are currently planned to be installed by the City. In addition to the project infrastructure currently proposed by the project sponsor (i.e., 10 inch to 12 inch water distribution pipelines would be installed following the alignments of Healthcare Way, The Plaza Way, Chopra Parkway, and other planned roads within the project site), a 12-inch diameter pipeline should be constructed in Kiernan Avenue along the entire northern boundary of the project site. This pipeline is recommended in order to enhance system reliability to the project by providing a system loop and an alternative route for delivery of water supplies. Installation of the recommended pipeline would not create any new impacts within the Kiernan Business Park Specific Plan Amendment #4 project site.</p>	<p>Project Developers and City of Modesto</p>	<p>Project Developers shall fund and install project specific water facility improvements.</p> <p>The project developer shall pay fair share of localized system improvements through payment of water fees.</p> <p>The City shall construct the localized system improvements and system-wide improvements necessary to serve the project.</p>	<p>City of Modesto Public Works Department</p>	<p>Project-specific improvements shall be approved prior to issuance of a grading permit for any development within the plan area.</p> <p>Project-specific improvements shall be installed prior to certificate of occupancy for any building within the plan area.</p> <p>Modesto Public Works Department to install system-wide improvements as needed</p>
<p>General Notes:</p> <p>The Capital Facilities Fee and other applicable fee programs identify regional infrastructure improvements (such as roads, sewer, water, etc.) that are based on the buildout of the City’s <i>Urban Area General Plan</i>. These projects are identified in the City’s Capital Improvement Program. If a development project occurs in the project area that requires infrastructure improvements be constructed in advance of the CIP schedule, then the development will be responsible to construct the identified improvement. The developer will enter into a reimbursement agreement with the City, construct the project, and will be reimbursed per the terms of the agreement.</p>				

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN REGARDING THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4, PROPERTY LOCATED ON THE EAST SIDE OF DALE ROAD, BETWEEN KIERNAN AVENUE AND BANGS AVENUE (CHOPRA)

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan; and

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409 on August 15, 1995, in accordance with Section 65300 of the Government Code; and

WHEREAS, said General Plan has been amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, 2003-122, and 2007-066, 2008-142 and 2008-583 copies of which are on file in the office of the City Clerk; and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body; and

WHEREAS, Aruna Chopra ("Applicant") of Chopra Development Enterprises, LLC, submitted the Kiernan Business Park Specific Plan Amendment #4 ("Project") application (File No. P-SPA-06-002) to facilitate the development of Mixed Use and Medium-High Density Residential land uses on property located on the east side of Dale Road, between Kiernan Avenue and Bangs Avenue, ("Property"); and

WHEREAS, City staff determined that the Kiernan Business Park Specific Plan Amendment #4 would require an amendment to the General Plan; and

WHEREAS, the Applicant has filed a General Plan Amendment (File No. GPA-06-003) to re-designate a portion of the Kiernan Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU); and

WHEREAS, a Final Environmental Impact Report was prepared for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) and the proposed General Plan Amendment which analyzed the potential environmental effects of the proposed Project; and

WHEREAS, on July 20, 2009, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Modesto that it hereby recommends that the City Council find as follows:

1. The proposed General Plan Amendment is consistent with the Final Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) and has been adequately analyzed by the EIR.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it hereby recommends to the City Council adoption of the proposed amendment to the General Plan as described in Exhibit "A", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a general plan amendment for the specific plan (File No. P-GPA 06-003), and related files. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at the adjourned regular meeting of the Planning Commission held on July 20, 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

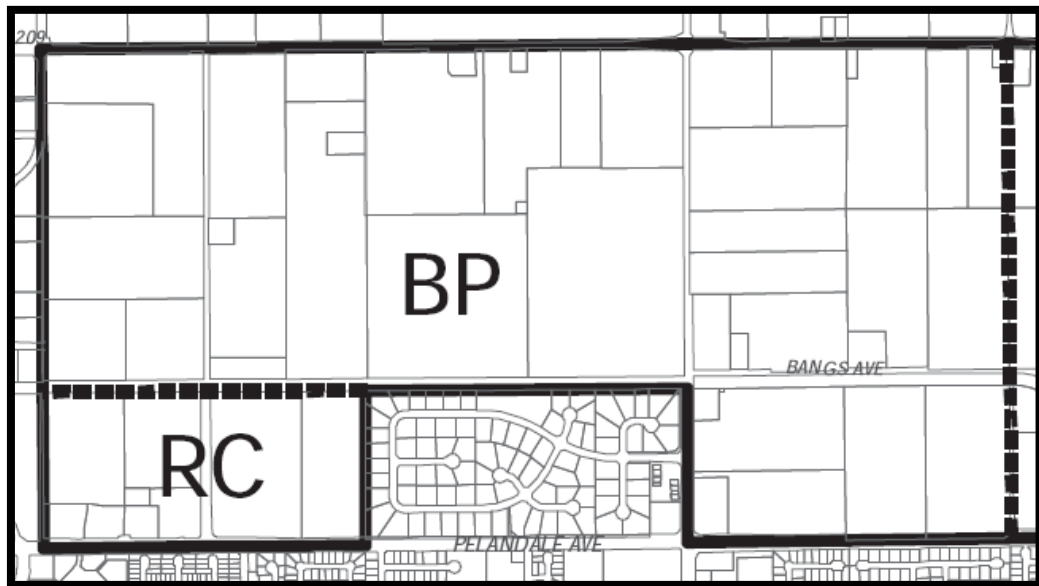
Attachment: Exhibit "A"

EXHIBIT "A"

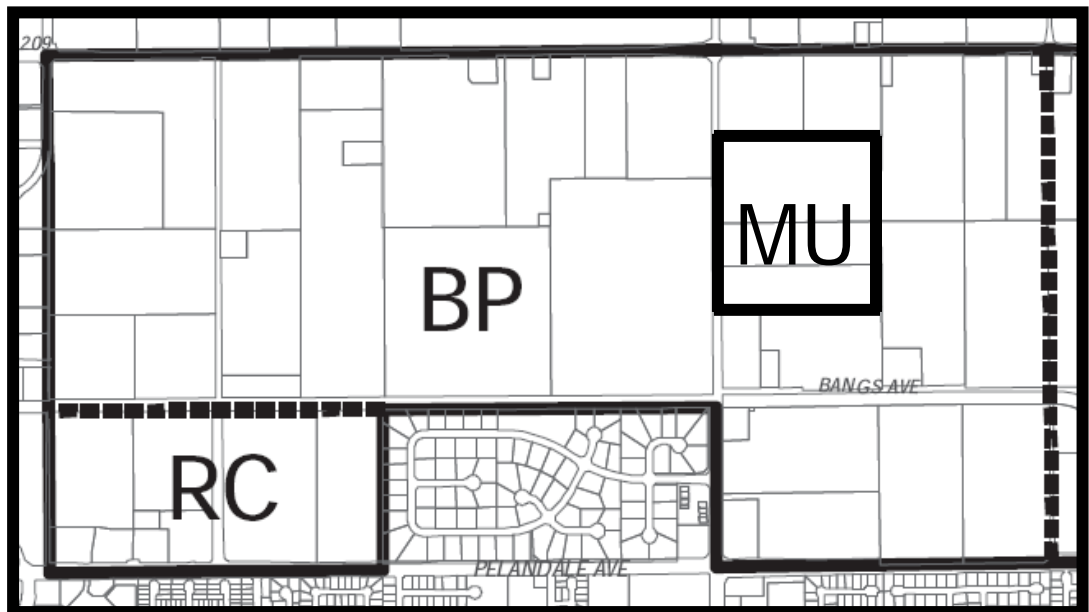
URBAN AREA GENERAL PLAN AMENDMENT
FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4

Existing/Proposed GP Land Use Diagrams

Existing



Proposed



PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF SPECIFIC PLAN AMENDMENT NO. 4 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO FACILITATE THE DEVELOPMENT OF MIXED USE AND MEDIUM HIGH DENSITY RESIDENTIAL DEVELOPMENT (CHOPRA)

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value; and

WHEREAS, on April 1, 1997, the City Council by Resolution No. 97-159 adopted the Kiernan Business Park Specific Plan; and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body; and

WHEREAS, on November 4, 1997, the City Council by Resolution No. 97-631 adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to allow for changes in utility service providers; and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170 adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to permit indoor theaters in the Regional Commercial Designation within a Planned Development Zone; and

WHEREAS, on August 10, 2004, the City Council by Resolution No. 2004-37 adopted Amendment No. 3 to the Kiernan Business Park Specific Plan to modify the Land Use and Circulation diagrams and development standards for the Kaiser Medical Center Site, to revise the planned street system in the future business park and to incorporate design standards into the Specific Plan; and

WHEREAS, Chopra Development Enterprises has filed an application to amend the Kiernan Business Park Specific Plan to modify the Land Use, Circulation and Utility diagrams and associated text, to revise portion of the planned roadway system, to add design standards and guidelines for Mixed Use and Medium-High Density Residential land uses and to reformat the Specific Plan in accordance with the Specific Plan Procedures and Preparations Guide; and

WHEREAS, a public hearing was held by the Planning Commission on July 20, 2009, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, in connection with public circulation and review of the Draft Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071), the proposed amendments to the Kiernan Business Park Specific Plan were released for public review and comment for a 45-day period from December 17, 2008 to February 2, 2009; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 20, 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 the Final Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) that analyzed the potential environmental effects of the proposed Specific Plan Amendment and has, by separate resolution, recommended to the City Council certification of said Final Environmental Impact Report.

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

1. The proposed amendment to the Kiernan Business Park Specific Plan is consistent with the General Plan, because:
 - a. The amendment would result in a mix of compatible land uses within close proximity, provide a range of jobs, and provide for diversity of housing, among other things (Section III.C.3).
 - b. The proposed changes to the Circulation System are consistent with the General Plan Circulation System (Sec. V.B.2.);
2. The proposed Specific Plan Amendment is within the scope of the Kiernan Business Park Specific Plan Amendment #4 Final EIR (SCH No. 2003072085) and has been adequately analyzed by the EIR.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it hereby recommends to the City Council adoption Kiernan Business Park Specific Plan Amendment #4 on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the specific plan (File No. P-SPA-06-002). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on July 20, 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

**CITY OF MODESTO
PLANNING COMMISSION
STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission

PREPARED BY: Patrick Kelly, Planning Manager
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DATE: July 10, 2009

SUBJECT: 2009/10 Planning Division Work Program

RECOMMENDED ACTION:

Staff recommends that the Planning Commission, by motion, recommend to the City Council approval the Fiscal Year 2009/10 Planning Division Work Program.

PURPOSE:

The purpose of the Work Program is as follows:

- a) To fully inform the Planning Commission and City Council of the scope and magnitude of all Planning activities;
- b) To fully involve the Planning Commission and City Council in the process of identifying and defining important tasks and issues that need to be addressed;
- c) To create an agreed upon prioritized Work Program that clearly identifies tasks to be accomplished and the time frame for completion.

I. BACKGROUND:

Staff accomplished several major work efforts this past fiscal year. Notable accomplishments in FY 2008-2009 are listed as follows:

- Completed Tivoli Specific Plan and Environmental Impact Report, (approved by City Council on February 26, 2008) Facilities Master Plan and Infrastructure Finance Plan (approved by City Council on July 1, 2008); the Tivoli Annexation was approved by the Local Agency Formation Commission on June 25, 2008.
- Completed environmental consultant short list, approved by the City Council on July 1, 2008.
- Completed policy for return of inactive applications, approved by the Planning Commission on August 18, 2008.
- Completed Affordable Housing Toolbox, approved by the City Council, September 30, 2008.
- Completed General Plan "maintenance" update and update to the General Plan Master Environmental Impact Report (EIR), adopted by City Council on October 14, 2008

- Facilitated two public workshops (July and October 2008) regarding Agricultural Land conservation mitigation policy.
- Completed the telecommunications ordinance, adopted by the City Council on April 28, 2009.
- Completed Neighborhood Compatibility Guidelines and Multi-family Residential Design Guidelines, approved by the City Council on April 28, 2009.
- Achieved progress in advancing the Kiernan Business Park East Specific Plan Amendment and related Environmental Impact Report, scheduled for review by the Planning Commission on July 20, 2009 and for adoption by the City Council on September 1, 2009.
- Completed the 2008/09 Urban Growth Review Update, approved by the City Council on July 7, 2009.
- Reviewed and commented on project referrals from outside agencies (e.g. development applications referred by the County for projects within the City's Sphere of Influence, environmental documents referred by other cities, etc.).
- Completed Phase I implementation of Tidemark permit tracking system for planning applications.
- Updated draft master fee study/schedule for planning application fees.
- Provided technical assistance to the Public Works Department in the review of Infrastructure Master Plans (sewer, water & storm drainage).
- Provided technical assistance to other City departments with preparation of environmental documentation in compliance with the California Environmental Quality Act (CEQA).
- Reviewed and processed development, zoning and subdivision applications. Major projects included: Archway Commons, a 150 unit affordable housing project; Bridges Phase II Parcel Map, a 25 lot subdivision to facilitate future office/business uses, a 100,000 retail center (with SaveMart as anchor tenant) located at 3601 Pelandale Avenue; Crows Landing Market Place retail center located at 2301 Crows Landing Road; Rite Aide/Retail Center located at 1707 McHenry Avenue; a 32 unit affordable housing project located at 605 Coolidge; a 121 unit assisted living project located at 200 East Granger; a 7 story, 117 unit assisted living care facility located at 2050 Evergreen.

REASONS FOR RECOMMENDATION:

The purpose of this item is to review and provide direction to the Planning Division in its work program to complete both the ongoing workload and operations of the Division. Some tasks listed on the work program will need to be brought forward separately to the Planning Commission and City Council for direction to commence (e.g. General Plan Amendments in follow up to the 2009 Urban Growth Review Update).

The work program is organized as follows (refer to complete work program attached).

I. Specific Plans/Annexations

The work program lists various specific plans to implement the goals and policies of the Modesto General Plan to guide the development of future growth areas. Several specific plans are currently on hold, including Woodglen, and Pelandale-McHenry. Although the Johansen-Empire North Comprehensive Planning District has received a sewer advisory vote, no application has been submitted for this planning area. The Kiernan Business Park Specific Plan Amendment is now scheduled for review and consideration by the Planning Commission on July 20, 2009 and for final action by the City Council on September 1, 2009. Refer to the attached work program for complete information on specific plans, including project description, status and schedules. The Division is currently reviewing two annexation applications: the Shackelford neighborhood, a 150 acre County "island" area generally located east of Crows Landing Road, north of Hatch Road (City initiated), and a 30 acre portion of the Kiernan Business Park generally east of Dale Road, west of American Avenue and south of Kiernan Avenue.

II. General Plan Maintenance

Several tasks of the work program relate to the General Plan. The General Plan is the primary policy document guiding land use and public investment decisions throughout the City. In October, 2008, the maintenance update to the General Plan and General Plan Master MIER was approved. This update served to update policies, revise plan diagrams for the General Plan to reflect policy direction and the latest planning information. In 2008, staff also completed an Affordable Housing Toolbox, which provides for measures to implement affordable housing goals and policies reflected in the Housing Element of the General Plan. The Housing Element Update for the next five years is currently underway. In response to recommendations for the 2009 Urban Growth Review Update, a series of General Plan Amendments are identified to address economic development goals and objectives and unrealistic assumptions contained in the 1995 General Plan. Staff is currently drafting a work program for the General Plan Amendments for review and consideration by the Planning Commission and City Council.

III. Miscellaneous Long-range Planning Tasks

The work program reflects a number of long range planning tasks. Staff is assisting with the San Joaquin Valley Blueprint, a regional planning process to address population growth anticipated in central California in the next several decades. Staff is also assisting the Stanislaus Council of Governments (StanCOG) with the Regional Transportation Plan update, which defines the policies, plans and programs for the coordination and programming of transportation improvements throughout Stanislaus County. Two workshops were held in 2008 on a Agricultural Land conservation mitigation policy. This task is currently on hold, pending Council direction.

IV. Zoning Code Update

The Zoning Code is the city's most direct regulatory document with respect to land use. It was last comprehensively reviewed in the mid 1980's and is showing its age. The work program breaks down the job of a comprehensive review into a series of tasks.

V. Current Planning

The work of Current Planning is strongly driven by development applications and inquiries, from zoning questions at the counter to the work of processing zoning, use permits, second story reviews, lot line adjustments, subdivisions and similar applications through the process.

VI. Redevelopment Area Master Plan Implementation

The Redevelopment Agency (RDA) Master Plan Implementation Program presents a summary of implementation strategies for the Modesto Redevelopment Area. The implementation program includes tasks/strategies, a time frame for implementation and the organization responsible for implementation. The Planning Division is listed as the responsible agency for several action items, with various time frames. Planning staff are assisting the RDA to complete a mixed use zoning to accommodate and encourage housing, retail and office uses in a single building, for the downtown core area of the RDA. This element of the work program is anticipated to be completed by the first quarter, 2010.

VII. Miscellaneous Tasks

The work program also reflects miscellaneous tasks including process improvements (e.g. preparation of standard conditions, implementation of the City's Tidemark permit tracking system), update to the fee schedule for planning applications and office maintenance tasks.

ISSUES:

Staff has provided estimates for completion of milestones related to Work Program tasks. Work program items will be influenced by various factors including staff resources, current planning caseload, and unknown issues which may arise in the completion of zoning and development applications, specific plans and policy documents.

Projects and tasks reflected in the work program exceed what current resources are able to complete for the foreseeable future. Due to limited resources, the Division must focus on essential services.

Those projects with no schedule/priority will be undertaken as resources become available. Work on inactive specific plans (e.g. Woodglen, Pelandale-McHenry) will commence, at such time project applicants decide to proceed with these projects.

POLICY ALTERNATIVES

The Commission may recommend, and the Council may determine to adjust the priorities within the Work Program, or add or remove tasks.

FISCAL IMPACTS

Much of the Division's work program is carried out in-house by the Planning Division staff. In these cases, the fiscal implications are in terms of the opportunity cost of the tasks selected, i.e., with limited resources it is necessary to choose between tasks. Some of the tasks involve specialized skills or create workload peaks, and in these cases the Council has at times chosen to employ the use of consultants as an adjunct to the regular staff.

ENVIRONMENTAL REVIEW

The Work Program is not a project under CEQA.

ATTACHMENT: (included with Commissioner's packets only)

1. Planning Division 2009/10 Work Program

Community & Economic Development Department/Planning Division

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Project	Schedule	Priority	Description
I. Specific Plans/Annexations			
Pelandale McHenry	On hold; pending revised plans/info. from developer.		A 84-acre Residential Specific Plan. Will include an Infrastructure Master Plan/Financing Plan. Area located at the southwest corner of Pelandale Avenue and McHenry Avenue. Annexation of the area required. The draft Specific Plan proposes up to 386 housing units and 4 acres. Approvals include a GPA to expand Residential uses and remove the Regional Commercial land use designation. Site access is highly restricted. The applicant, Meritage Homes, is applying for entitlements to develop a 163-lot subdivision. The residents of the existing adjacent subdivisions are concerned about potential traffic impacts to the Crocus Drive area. A petition with 292 signatures opposing the project has been submitted.
Woodglen	On hold; pending revised plans/info. from developer.		A 72-acre Residential Specific Plan. Will include an Infrastructure Master Plan/Financing Plan. Area bounded by Pelandale Avenue on the south, Bangs Avenue on the north, Tully Road on the east, and Carver road on the west. Annexation of the area required. The Draft Specific Plan by Fitzpatrick Homes proposes a total of 533 units, 337 single-family dwellings, and 196 multiple family dwellings, and 9.2 acres of open space with a central dual-function drainage basin.
Kiernan Business Park East	Scheduled for 7/20/09 Planning Commission Mtg. & 9/1/09 City Council Mtg.	I	Amendment to a 153 acre portion of the Kiernan Business Park Specific Plan to re-designate approximately 39 acres from Business Park to Mixed Use and Medium Density Residential, property bounded by Dale, Bangs, American and Kiernan. Project includes an Infrastructure Master Plan/Financing Plan. Annexation of a portion of the area required.
Kansas Woodland Business Park	On Hold		A 95 acre Business Park Specific Plan in conjunction with the Redevelopment Agency. Area extends from Kansas Avenue to Woodland Avenue north from State highway 99 to North 9 th Street.
North McHenry Annexation	Pending Measure M vote, scheduled for Nov. 2009		A City-initiated annexation of the North McHenry area, generally affecting property on the east and west sides of McHenry, north of Pelandale Avenue and south of Kiernan Avenue.

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Johansen-Empire North	On hold--Pending application by property owner group		A 610-acre Residential Specific Plan for the area east of Claus Rd. north of Yosemite Ave. Will include an Infrastructure Master Plan/Financing Plan. Draft Specific Plan not yet initiated by property owners. Annexation of the area will be required.
Fairview Village	On hold--Awaiting action by developer		A 360-acre Residential Specific Plan for the area south of Hatch Rd. east of Carpenter Rd. Will include an Infrastructure Master Plan/Financing Plan. Annexation of a portion of the area will be required.
Shackelford Annexation	Work underway. Est. comp: 4th Qtr. 09	I	A City-initiated annexation of the "Shackelford neighborhood," this project will include significant inter-departmental coordination between Community & Economic Development and Public Works in order to document utility / infrastructure improvements in the area. Obtaining formal City Council authorization to proceed will be the first task for staff to complete.
II. General Plan			
Comprehensive General Plan Update	On hold; 3 years to complete		The City's General Plan was last comprehensively reviewed and renewed in 1993-1995. A new General Plan to reflect new policy directions and underlying structural change in the economy, demographics, and other factors is pending initiation. Due to budget cutbacks, the Comprehensive General Plan Update is currently on hold; however, staff will identify and pursue preliminary tasks that can be accomplished for the General Plan Update.
Affordable Housing Toolbox	COMPLETE	I	The affordable housing toolbox which provides for measures to implement affordable housing goals and policies of the Housing Element.
General Plan Amendments (follow up to 2009 Urban Growth Review Update) (New Task)	2nd Qtr. '11	I	In response to recommendations from the 2009 Urban Growth Review Update, a series of General Plan Amendments are identified to address economic development goals and objectives and unrealistic assumptions contained in the 1995 General Plan. The list of General Plan Amendments and follow up actions are as follows:

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			<ul style="list-style-type: none"> ▪ Amend Sphere of Influence: Amend Sphere of Influence boundary to include Beckwith-Dakota CPD area, Kiernan Carver North CPD area, including a portion of the Salida CPD on the north side of Kiernan, east of Stoddard and the westerly portion of the Kiernan-Carver CPD, west of the Kaiser Medical Campus ▪ Change land use designations for various areas: re-designate the Kiernan Corridor generally from Dale Road to McHenry to mixed use/business park; re-examine land use policies for the Business Park areas within the Roselle-Claribel and Village One CPD's; re-examine the land use designation for the Highway 132 CPD; change in land use from Village Residential to Regional Commercial along east side of Oakdale Road within the Roselle-Claribel CPD; re-examine land use framework for the Hetch-Hetchy CPD, including Business Park and Mixed use and regional commercial along Claribel Road and regional commercial along the west side of Oakdale Road. ▪ Prepare environmental documentation and technical studies (Traffic, Utilities, Air Quality, Noise, etc.). ▪ Prepare a Performance Based Implementation Plan Policy (i.e. "use-it-or-loose-it") regarding Measure M advisory votes to address areas that have already received sewer advisory votes that have not progressed through the Specific Plan or Annexation process.
Housing Element Update	Est. comp. 2 nd Qtr. 10	I	Update of the Housing Element of the General Plan on a periodic basis is required by State law and monitored by the California Department of Housing and Community Development. The housing element is due to be certified by August 2009.

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III. Miscellaneous Long-Range Planning Tasks			
Stanislaus Co. Blueprint	On-going	I	Blueprint planning is being conducted throughout the State to address population growth anticipated in California in the next several decades. Planning Directors from all nine cities, the County, and the LAFCO Executive Officer are actively engaged in the Blueprint Planning process. The San Joaquin Valley Regional Blueprint will formulate an approach to long-term planning that addresses land use, housing, transportation, environmental issues, and economic development interests in the San Joaquin Valley.
2008/09 Urban Growth Review Update	COMPLETE	I	The City carries out an Urban Growth Update periodically, tied to local election years, to assess the need for land for new development in the community. The need for a 2009 Urban Growth Update will be assessed by the Council later this year.
2010 Census Update	1 st Qtr. '10	II	The decennial Census is a Federal mandate with requirements for assistance by local government.
General Plan Annual Report		III	Each City is required by State law to submit an annual report regarding the implementation of the General Plan to the State Office of Planning and Research and Department of Housing and Community Development.
Ag Land conservation mitigation policy	On Hold, pending Council Direction	II	During the public review and adoption process for the Tivoli Specific Plan, the City council indicated that a city-wide policy should be considered regarding mitigation for impacts from development to agricultural land. Research into other similar programs, stakeholder workshop(s), and direct City Council involvement are all included in the process

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Update Specific Plan Procedures and Preparation Guide		III	As staff has gained experience in applying the Specific Plan Guide, it has become apparent that there are certain aspects that should be revised to improve the process, application, and results associated with the procedures set forth in the Guide.
Williamson Act Contract Procedures	Est. Comp. 4th Qtr. 09	II	Procedures to administer cancellation of Williamson Act contracts, inherited with annexations. This is a condition of the Tivoli project, by Stanislaus LAFCo.
Regional Transportation Plan (RTP) update <i>(New)</i>	Est. Comp. 3 rd Qtr. '10	II	Assist StanCOG with the Regional Transportation Plan update, which defines the policies, plans and programs for the coordination and programming of transportation improvements throughout Stanislaus County.
IV. Zoning Code Update			
A. Neighborhood Design/Compatibility			Neighborhood Compatibility Guidelines for the following three general areas:
Neighborhood Compatibility Guidelines	COMPLETE	I	- Compatibility of new second story additions/remodels in existing neighborhoods
Multi-family Design Guidelines	COMPLETE	I	- Compatible, high-quality Multi-family project design relating to surrounding neighborhoods
Heritage Tree Ordinance		III	- Preservation and maintenance of the City's Oaks and other large Heritage trees.
B. Miscellaneous Amendments			
Village One Fencing	Under way; Est. comp: 4th Qtr. '09	I	Special amendment to address problems with placement of Village One fencing.
Fencing Standards	Est. Comp. 4th Qtr. '09	I	Review and update fencing standards, where applicable.
Wireless Telecommunications Ordinance	COMPLETE	I	Ordinance for the regulation of cell towers and other wireless communication elements.

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Amend Sign Code – sandwich board signs in downtown		I	Amend sign ordinance to accommodate sandwich board type signs in downtown area; this is a companion task to the Mixed Use Overlay Zone (refer to Mixed Use Overlay Zone – Section VI. RDA Implementation)
2008-01 Omnibus Zoning Code Amendment	Underway Est. comp.: 1 st Qtr. '10	II	Staff has identified a series of minor changes to the Zoning Code to address various code related issues that have arisen over the last couple of years.
Parking Regulations			Update of the City's parking regulations to create a more easily understood and implemented table of requirements.
Open Space Zone			Create a Zone within the Zoning Code to address open space. This will be necessitated by the Fairview Specific Plan.
C. Zoning Code Maintenance Update			
Land Use Matrix	Est. start: 4 th Qtr. '09 Est. Comp. 2 nd Qtr. 10	II	Create a table of land uses permitted or conditionally allowed in each zone for ready reference.
Permit approval matrix	Est. start: 1 st Qtr. '10 Est. Comp. 3 rd Qtr. '10	II	Create a table of the types of approvals reserved to each Approving Authority in the Zoning Code for ready reference.
R District Regulations (R-1, 2, 3) Including Home Occupations	Est. start: 2 nd Qtr. '10 Est. Comp. 4 th Qtr. '10	III	Comprehensively review and reformat the residential districts within the zoning code to address obsolescence

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Commercial District Regulations (P-O, C-1, 2, 3)	Est. start: 2nd Qtr. '10 Est. Comp. 4 th Qtr. '10	III	Comprehensively review and reformat the commercial districts within the zoning code to address obsolescence
M District Regulations (C-M, M-1, 2, B-P)	Est. start: 2nd Qtr. 10 Est. Comp. 4 th Qtr. 10	III	Comprehensively review and reformat the industrial and business park districts within the zoning code to address obsolescence
P-D District Regulations & Procedures	Est. start: 2nd Qtr. '10 Est. Comp. 4 th Qtr. '10	III	Comprehensively review and reformat the Planned Development district within the zoning code to address obsolescence
Administrative updates: Chapter 1 (P/C & BZA) Chapter 2, Article 1 (Purpose) Non-conforming uses/Article 22 General Provisions/Article 23 Variances/CUP procedures/Art. 25 Amendments/ Article 26 Appeals Proced./Article 28 & misc. Notice/Hearing Req'ts & Procedures General Development Req'ts & Exceptions			Comprehensively review and reformat the various administrative and procedural Articles within the zoning code to address obsolescence

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Miscellaneous Code issues: Glossary of design terms Code Format Master list of code amendments Elimination of obsolete Code sections Condo Conversions Environmental Review Process Temporary Use Permits NPU related issues			Comprehensively review and reformat various miscellaneous issues within the zoning code to address obsolescence
Corridor studies for McHenry, Yosemite, Paradise Road and Ninth Street strategy <i>(New Task)</i>			Develop land use and urban design strategies for major corridors, including McHenry Ave., Yosemite Blvd., Paradise Rd., and Ninth St.
Subdivision Ordinance Update			Comprehensively review and reformat the City's Subdivision Ordinance to address obsolescence
Sign Regulations/Article 21			Comprehensively review and reformat the Sign regulations within the zoning code to address obsolescence. Note: certain provisions to address identified problems have been carried out recently.
Open Space Zone			Create a Zone within the Zoning Code to address open space land use.

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V. Current Planning			
Archway Commons	COMPLETE	I	A 150-unit affordable housing project in the Redevelopment Area along North 9th Street, near the intersection of Carver Road. The project is in a County island and requires pre-zoning to Planned Development and annexation.
Naraghi Lakes GPA	In progress; Est. Comp. 4th Qtr. '09	I	Proposal to amend the General Plan to re-designate 12 acres of the Naraghi Lakes property at the southwest corner of Oakdale Road and Sylvan Avenue from Mixed Use and Residential to Commercial, to allow for a neighborhood shopping center with a 56,000 sf major (grocery) tenant.
Mixed Use Project at 10 th St. and H St.	In Progress; Est. Comp. 3 rd Qtr. '09	I	An 8 story 400,000 square foot mixed use development, including retail, office, market-rate residential and a parking garage, located at the southeast corner of Tenth St. and H St.
Bridges Business Park (New)	In progress; Est. Comp. 3 rd Qtr. '09		Development application for a proposed business park totaling approximately 400,000 sf, located on the east side of Dale Rd. between Health Care Way and Kiernan (SR 219), north of Kaiser Hospital.
Kiernan Business Park South (Mana-Wagner) Development Agreement/Environmental Assessment	In progress; Est. Comp. 3 rd Qtr. '09	I	A Development Agreement to define the responsibilities and timing of traffic related improvements needed for the Kiernan Business Park South project, generally bounded by Bangs Avenue on the north, Pelandale on the south, American Avenue on the east and Dale Road on the west, within the Kiernan Business Park Specific Plan.
Zoning, Conditional Use Permits, Variances, Subdivisions, Parcel Maps, second story additions, Lot Line Adjustments,	Ongoing	I	Current Planning has responsibility for timely processing of private applications as received.
Counter and phone customer service	Ongoing	I	Current Planning staff responds to a heavy volume of inquiries on a daily basis from individual citizens, businesses, and persons interested in development in Modesto.

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VI. RDA Master Plan Implementation			
RDA Master Plan Implementation	2008-2010		The RDA Master Plan Implementation Program presents a summary of implementation strategies for the Modesto Redevelopment Area. The implementation program includes tasks/strategies, a time frame for implementation and the organization responsible for implementation. The Planning Division is listed as the responsible agency for several action items, with various time frames: short (1-3 years), medium (3-5 years) and long term (5-10 years). Planning staff are assisting the RDA to review options for rezoning parts of the downtown core area of the RDA. This element of the work program is anticipated to take approximately 2 years to complete.
CEQA Support	Ongoing	I	Support Redevelopment projects through preparation and review of CEQA documents as required.
Paradise Road Commercial Design Guidelines			Coordinate with Business Development Div. in review and completion of the Guidelines
Mixed Use Overlay Zone <i>(New Task)</i>	Underway Est. comp. 1 st Qtr. '10	I	This task implements Redevelopment Master Plan Policy 4.19, which calls zoning that encourages mixed use (residential, retail and office) in the Downtown Core area.
9 th and 10 th Street Streetscapes			Coordinate with Business Development Div. in review and completion of the Streetscape.
Design Standards/Open Space setbacks			Coordinate with Business Development Div. in review and completion of Standards and Setbacks.
Zoning and Development Standards	Est. start: 4th Qtr. 08 Est. Comp. 4 th Qtr. 09	I	Coordinate with Business Development Div. in review and completion of Standards and design guidelines for the Downtown Redevelopment Area.

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VII. Miscellaneous Tasks			
Development Review Flow Chart	COMPLETE	N/A	Flow chart to communicate development review process
Standard conditions	Est. Comp.: 3rd Qtr. 09	I	Review and update standard conditions to be applied to development approvals (Interdepartmental effort)
Tidemark implementation	Ongoing	I	Phase I implementation of Tidemark permit tracking system for Planning applications completed. Next steps (Phase II) include development of modules for environmental review processes and specific plans, as well as reporting features. Phase III will address passing of conditions of approval to final development processes such as Final Maps and building permits.
CEQA Consultant Shortlist	COMPLETE	I	Re-solicit and update the City's list of approved CEQA consultants
Application return policy	COMPLETE	I	Establish written policy for the return of inactive applications
Fee study and Fee Schedule Update	On Hold	I	Update to the master Fee study/schedule for Planning fees. The consulting firm MGT is under contract to prepare this study in collaboration with City staff.
Office maintenance tasks	Ongoing	I	Systematic files maintenance of paper files, electronic files, and the library, as well as web site maintenance and enhancement are required on an ongoing basis

Note regarding Priorities: Priorities change over time based on the volume and magnitude of applicant initiated projects, unknown issues which may arise in the completion of specific plans and other policy documents and City Council direction. .

The number of projects reflected in the work program exceeds what current resources are able to complete for the foreseeable future. Those projects with no schedule/priority will be undertaken as resources become available. Work on inactive specific plans (e.g. Johansen, Fairview) will commence following application initiation by the applicants.