

PLANNING COMMISSION
RESOLUTION NO. 2009-12

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT TO P-D(567), TO ALLOW A FARMERS MARKET AT THE KAISER MEDICAL FACILITY, LOCATED AT 4601 DALE ROAD (KAISER FOUNDATION HOSPITALS)

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

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

WHEREAS, a verified application for an amendment to P-D(567) was filed by Kaiser Foundation Hospitals on March 14, 2008, to allow a farmers market at the Kaiser Medical Center located at 4601 Dale Road; and

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

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

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

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

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

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

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

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

where the event is held, and all such signage must be removed at the end of each individual event.

8. Applicant shall, at its sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses or expenses of every type and description, including, but not limited to, payment or reasonable attorneys fees and costs, by reason of, or rising out of, an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any actions to arbitrate, attack, review, set aside, void or annul on any grounds whatsoever an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The City of Modesto shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.

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

Ayes:	Berglund, Bernal, Brandvold, and Tyler
Noes:	None
Absent:	Gillum and Sanders

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary