

PLANNING COMMISSION  
RESOLUTION NO. 2009-23

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, 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 John Sanders, who moved its adoption, which motion was seconded by Ted Brandvold, and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary