

PLANNING COMMISSION
RESOLUTION NO. 2009-26

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL OF THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4 (KIERNAN BUSINESS PARK EAST) FACILITIES MASTER PLAN AND INFRASTRUCTURE FINANCE PLAN FOR THE INFRASTRUCTURE NECESSARY TO SUPPORT THE DEVELOPMENT OF APPROXIMATELY 153 ACRES LOCATED NORTH OF BANGS AVENUE, EAST OF DALE ROAD, WEST OF THE FUTURE EXPANSION OF AMERICAN AVENUE, AND SOUTH OF KIERNAN AVENUE

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 greater level of detail in planning sites or areas of special interest or value; and

WHEREAS, the Modesto Urban Area General Plan includes a policy that requires the preparation of a comprehensive plan for all Comprehensive Planning Districts; and

WHEREAS, the Modesto Urban Area General Plan allows the implementation of a comprehensive plan through Specific Plans, as defined by Government Code Section 65450 et. seq.; and

WHEREAS, the Kiernan Business Park East area is located in the western portion of the Kiernan/Carver Comprehensive Planning District that consists of a total of 1,380 acres; and

WHEREAS, the Kiernan Business Park Specific Plan Amendment No. 4 ("Project") application was filed by Aruna Chopra ("Applicant") of Chopra Development Enterprises to allow for the development of approximately 153 acres located north of Bangs Avenue, east of Dale, west of the future expansion of American Avenue and south of Kiernan Avenue ("Property"); and

WHEREAS, Kiernan Business Park East area includes 16 acres of medium-high density residential, 23 acres of mixed used non-residential and 114 acres of business park development; and

WHEREAS, a Final Environmental Impact Report was prepared for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) 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 Kiernan Business Park Specific Plan Amendment No. 4 was considered; 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 proposed Kiernan Business Park Specific Plan Amendment No. 4 has been adopted by the Modesto City Council Resolution No. 2009-419.

2. The companion Environmental Impact Report was also adopted by the Modesto City Council by Resolution 2009-419.
3. The proposed FMP and IFP for the Kiernan East area are consistent with the Final Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment No. 4 Project (SCH No. 2007062071) and has been adequately analyzed by the EIR.
4. The proposed Facilities Master Plan ("FMP") and Infrastructure Financing Plan ("IFP") supply the necessary information for the development of the infrastructure necessary to develop the needed "Project Specific" facilities for Kiernan Business Park East.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it hereby recommends to the City Council adoption of the Kiernan Business Park East Facilities Master Plan and Infrastructure Finance Plan 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. 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 adjourned regular meeting of the Planning Commission held on October 5, 2009, by Patricia Gillum, who moved its adoption, which motion was seconded by Carolina Bernal, and carried by the following vote:

Ayes:	Bernal, Brandvold, Carter, Gillum
Noes:	Sanders
Absent:	Berglund
Recused:	Tyler

Original, signed copy on file in CEDD

Patrick Kelly, Secretary