

**CITY OF MODESTO
PLANNING COMMISSION AGENDA
MONDAY, OCTOBER 5, 2009 – 7:00 PM
BASEMENT CHAMBERS
1010 TENTH STREET – MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of September 14, 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 Kiernan Business Park East FMP/IFP; submitted by Aruna Chopra, Chopra Development

Contact Info: Amy Gedney, 577-5211, agedney@modestogov.com

VI. OTHER BUSINESS

Item A Feedback – CH&CDC (Carolina Bernal)

Item B Feedback – BZA (Ted Brandvold)

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: Amy Gedney, IFP Administrator
agedney@modestogov.com, 577-5211
Charles Covolo, Senior Civil Engineer
ccovolo@modestogov.com, 571-5537

APPROVED BY: Patrick Kelly, Planning Division Manager

DATE: September 16, 2009

SUBJECT: Kiernan East FMP/IFP - Hearing to consider approval of the Facilities Master and Infrastructure Finance Plans for the Kiernan Business Park Specific Plan Amendment No. 4 also known as Kiernan Business Park East

RECOMMENDATION

It is recommended that the Planning Commission recommend to the City Council approval of the proposed Facilities Master Plan and Infrastructure Finance Plan for Kiernan Business Park East.

BACKGROUND

The Modesto City Council Resolution No. 2004-510 mandates that the development of new growth areas within a Comprehensive Planning District, CPD, occur through adoption of a Specific Plan. This is a planning document setting forth the type, location and intensity of uses and capacity of infrastructure and resources used to finance public improvements within the development project. The same resolution, adopted a guidance document, called the City of Modesto Specific Plan Procedures and Preparation Guide.

As part of the Specific Plan's implementation, two companion documents are required to be adopted along with the Specific Plan before final discretionary or ministerial approvals can be permitted by the City for a project. These documents are the Facilities Master Plan (FMP) and the Infrastructure Finance Plan (IFP).

The Kiernan Business Park East (KBPE) project is part of the Kiernan/Carver Comprehensive Planning District. The Kiernan Business Park Specific Plan Amendment No. 4 and the Environmental Impact Report was adopted by Resolution 2009-491 on September 1, 2009. The attached documents to be recommended for adoption by the City Council are the Kiernan Business Park East FMP and IFP.

This project, the Kiernan Business Park Specific Plan Amendment No. 4, outlines a plan for the development of approximately 153 incorporated and unincorporated acres located north of Pelandale Avenue, east of Dale Road, and west of the future expansion of American Avenue, and south of Kiernan Avenue.

The FMP and the IFP are companion documents to the Kiernan Business Park Specific Plan Amendment No. 4. These two documents provide the “30,000 foot view” of the needed facilities and a “global” financial picture of how the facilities will be funded over time. These documents are intended to be updated as development occurs so that the needed infrastructure will coincide with development.

PROJECT DESCRIPTION

The FMP was prepared by City Staff. It provides a detailed analysis and description of the “Project-Specific” public facilities. These details are shown in Attachment 1 and include the “30,000 foot view” of facilities for roadways, storm drainage and water and sewer facilities. The project was divided into three phases, shown as Attachment 2. These facilities were then costed for the creation of the IFP. In addition, cost estimates for facilities needed as a result of the project’s contribution to the needed roadways not specific to the project area are included as part of the IFP. There are, however, no details for their development, only cost estimates, as the developer will only be required to contribute financially to their construction, not construct the improvements.

Project-Specific infrastructure provides an essential benefit to the Kiernan Business Park East area. The estimated total cost for project-specific infrastructure is \$43.4 million. Table 1 below shows total costs for each item.

Table 1. Infrastructure Costs

Item	Project-Specific Infrastructure Cost	Project-Specific Infrastructure Covered by Citywide Fees	Remaining Project-Specific Infrastructure Requiring Other Sources of Funding
Transportation	\$11,500,000	\$0	\$11,500,000
Landscaping & Lighting	\$2,500,000	\$0	\$2,500,000
Storm Drain	\$4,900,000	\$0	\$4,900,000
Sewer	\$3,500,000	\$0	\$3,500,000
Water	\$3,900,000	\$749,500	\$3,100,000
Miscellaneous	\$17,100,000	\$0	\$17,100,000
Total	\$43,400,000	\$749,500	\$42,600,000

Land Secured Debt Financing Analysis

To finance a portion of the infrastructure, it is assumed that land secured debt financing will occur through the formation of a Community Facilities District (CFD). In an effort to obtain a gross feasibility of debt capacity, a debt financing analysis was conducted that estimated the bonding capacity of the whole project. In today’s market, it is estimated that KBPE could

support \$15.5 million in bonds to fund infrastructure. After accounting for the reserve fund, two years of interest, and costs of debt issuance, \$11 million would be available for facilities. This accounts for 26% of the Project-Specific costs that are not funded through connection or Capital Facilities Fees. The balance will need to be funded by another source, most likely a combination of development impact fees and developer equity.

Infrastructure Burdens

Table 2 identifies the one-time burdens that result after the remaining costs of program infrastructure are allocated to the proposed land uses in KBPE. Based on select criteria, a fair share cost has been identified for each land use. This assumes no CFD financing. In addition to the Project-Specific infrastructure burdens, development in the project area will also have to pay City-wide, County-wide, and other fees that are in place for new development such as school mitigation fees and an entitlement process reimbursement fee.

Table 2. Total Gross Burden with and without Debt Financing

Land Use	Project Specific	Citywide Fees*	Total Gross Burden** (without debt Financing)	Total Gross Burden (with debt Financing)
Residential (per unit)				
Medium-High Density Residential	\$17,600	\$24,400	\$52,100	\$42,800
Apartments	\$14,300	\$24,400	\$47,200	\$44,500
Non-Residential (per acre)				
Business Park	\$294,200	\$245,400	\$633,900	\$576,700
Mixed Use - Office	\$372,200	\$523,300	\$1,090,900	\$921,400
Mixed Use - Retail	\$703,600	\$707,700	\$1,591,400	\$1,400,600
Mixed Use - Hotel	\$316,200	\$309,800	\$707,200	\$541,200

* Citywide fees are CFF and sewer and water collection fees.

** The difference includes other fees such as school and county fees that the City does not collect.

Financial Feasibility

One of the main purposes of this study was to make a preliminary determination as to the financial feasibility of this proposed development. A common test used to measure project feasibility is the burden to value ratio. While there are no values in this test that guarantee feasibility, a burden to value ratio that does not exceed 15% to 20% is typically considered feasible. While the burdens do change as assumptions are refined and market conditions change, given the current assumptions, Table 3 illustrates the burdens for each land use showing before and after gross burden reallocations. After the reallocation, it is important to note that all are within or just slightly over the maximum range. This would suggest that given

these assumptions these land uses are marginally feasible. It is, however, important to note that this IFP is for Kiernan Business Park East and that the Kiernan Business Park South (KBPS) area, south of Bangs will also be participating in some of the improvement costs that are included in this IFP. The sharing of facility costs will be determined during the CFD formation process and will benefit both KBPE and KBPS, thereby reducing the burden to value ratios for each.

Table 3. Net Burden to Value Ratios

	Medium High Density Residential	Apartment	Business Park	Mixed Use Office	Mixed Use Retail	Mixed Use Hotel
<i>Before</i> Gross Burden Allocation	17.1%	35.6%	22.1%	13.6%	18.1%	8.0%
<i>After</i> Gross Burden Allocation	19.6%	19.6%	20.5%	20.5%	20.5%	12.0%

Implementation and Financing Strategy

The infrastructure required to serve this area will be funded through a variety of financing tools. A small portion of the water improvements will be funded through the City's water connection fee. A CFD will be established in Phase 1 and will likely be expanded to include additional phases. Through the CFD, the City would levy an annual special tax on each land use and collect special tax revenues to pay debt service on tax-exempt municipal bonds issued through the CFD to fund infrastructure. The amount of Project-Specific infrastructure that will not be covered by City-wide fees and CFD bonds will need to be funded through a Project-Specific impact fee program. Project developers may also build and dedicate capital facilities incorporated into the Project-Specific fee program using equity or private sources of financing.

	Phase 1	Phase 2	Phase 3	Total
Total Phased Costs	\$12,873,000	\$11,169,000	\$18,572,000	\$42,614,000
Revenues				
CFD Bond Proceeds	\$5,552,000	\$2,322,000	\$3,138,000	\$11,012,000
Net Project-Specific Fees	\$8,977,000	\$9,626,000	\$12,999,000	\$31,602,000
Total	\$14,529,000	\$11,948,000	\$16,137,000	\$42,614,000
Revenues Less Costs	\$1,656,000	\$779,000	(\$2,435,000)	\$0
Cumulative Revenues Less Costs	\$1,656,000	\$2,435,000	\$0	

** For a map of how the phases are divided, see Attachment 2.*

REASONS FOR RECOMMENDATION

The FMP and IFP are companion documents to the Kiernan Business Park Specific Plan Amendment No. 4 which was approved September 1, 2009 by the City Council. While general in nature, these documents provide a "30,000 foot view" of the anticipated infrastructure and its associated costs. These documents are the guiding documents that define parameters for funding and construction of the infrastructure needed for total build out of the project.

Many hours have been spent by the applicant and staff to determine the infrastructure needed and how it will be financed. Adopting the FMP and IFP are the first steps in moving towards implementing the Kiernan Business Park Specific Plan Amendment No. 4.

GENERAL PLAN CONSISTENCY

The Modesto Urban Area General Plan includes a policy that each Comprehensive Plan should include a financing strategy which provides reasonable estimates of the infrastructure cost to support the proposed development. The proposed FMP and IFP comply with this policy.

ZONING CONFORMANCE

The project site is part of the Kiernan Business Park Specific Plan, which is the zoning for the project site. The proposed FMP/IFP serve to implement the Kiernan Business Park, pursuant to City policy.

ENVIRONMENTAL ASSESSMENT

An EIR has been prepared and certified for the Kiernan Business Park Specific Plan Amendment No. 4 in accordance with the provision of the California Environmental Quality Act (CEQA). Staff has prepared an Initial Study, Environmental Checklist No. EA/C&ED 2009-20, which concludes that the proposed FMP and IFP are within the scope of the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR (SCH No. 2007062071), and that pursuant to CEQA Guidelines Section 15162, no new environmental review is required.

Attachments (included with Commissioners' packets only):

1. Facilities Master Plan – Kiernan Business Park East
2. Phasing Plan
3. Infrastructure Financing Plan – Kiernan Business Park East
4. Draft Planning Commission Resolution – October 5, 2009
5. Initial Study, Environmental Checklist No. EA/C&ED 2009-20
6. Financial Interest Disclosure

cc: Patrick Kelly, Planning Commission Secretary
Aruna Chopra, Chopra Development

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

DRAFT

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 PELANDALE 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 Pelandale 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 _____, who moved its adoption, which motion was seconded by _____, and carried by the following vote:

Ayes:
Noes:
Absent: None

Original, signed copy on file at CEDD

Patrick Kelly, Secretary