

PLANNING COMMISSION
RESOLUTION NO. 2017-08

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF SPECIFIC PLAN AMENDMENT NO. 6 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO FURTHER DEFINE THE ALLOWABLE AND CONDITIONAL USES IN THE BUSINESS PARK LAND USE DESIGNATION OF THE SPECIFIC PLAN, PARTICULARLY AS REGARDS TO ANCILLARY RETAIL USES. (INITIATED BY THE CITY OF MODESTO)

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. 2004-424 adopted Amendment No. 3 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, on September 1, 2009, the City Council by Resolution No. 2009-420 adopted Amendment No. 4 to re-designate 39 acres located on the east side of Dale Road between Kiernan Avenue and Bangs Avenue from Business Park(BP) to Mixed Use (MU) and Medium-High Density Residential (MHDR), to modify the circulation plans, incorporate MU and MHDR design standards and guidelines, and establish facilities plans for the area bounded by Kiernan Avenue, Dale Road, Bangs Avenue, and American Avenue; and

WHEREAS, on December 15, 2015, the City Council by Resolution No. 2015-499 adopted Amendment No. 5 to amend storm drainage provisions and clarify and simplify land use and development standard regulations; and

WHEREAS, on December 19, 2016, the City of Modesto Planning Commission directed City staff to prepare an amendment to the Kiernan Business Park Specific Plan to further define the allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly as regards to ancillary retail uses; and

WHEREAS, a public hearing was held by the Planning Commission on March 20, 2017, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission continued the public hearing to April 3, 2017, to provide staff the opportunity to respond to a letter from Steve Herum dated March 20, 2017, raising objections to the proposed specific plan amendment; and

WHEREAS, a public hearing was held by the Planning Commission on April 3, 2017, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission recommended approval of the proposed Specific Plan Amendment with specific language limiting ancillary retail uses to the percentage specified by the amendment and specifying that ancillary retail space allowed shall not be combined with other buildings; and

WHEREAS, City Staff has prepared and the Planning Commission has considered the addendum to the Kiernan Business Park Specific Plan Amendment #4 Program EIR, Environmental Assessment No. EA/C&ED 2017-08, which concludes that no major revisions to the previously-certified Kiernan Business Park Specific Plan Amendment #4 Program EIR (SCH No. 2007062071) are needed as a result of the project, and that, pursuant to Section 15162 and 15164 of the CEQA Guidelines, no new environmental review is required.

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 the project site is located within the Business Park (BP) land use designation of the City of Modesto Urban Area General Plan, with land uses as prescribed by the Kiernan Business Park Specific Plan. The Specific Plan amendment clarifies some ambiguity regarding land uses in the BP designation. The clarification will help meet the goal of high quality business and industrial center for the BP designation in conformance to the General Plan. The Specific Plan amendment also allows a gas station with convenience store as a new allowable use.
2. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.
3. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

4. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment #4 EIR, or
 - b. significant effects which were previously examined will be substantially more severe than previously shown, or
 - c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
 - d. mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
5. An addendum to the EIR was prepared based on the Written Checklist, Environmental Assessment No. EA/C&ED No. 2017-08, provides the substantial evidence to support findings 2-4, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby recommends to the City Council adoption of the proposed Kiernan Business Park Specific Plan Amendment No. 6 with specific language limiting ancillary retail uses to the percentage specified by the amendment and specifying that ancillary retail space allowed shall not be combined with other buildings as described in Exhibit "A," attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on April 3, 2017, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Birring, and carried by the following vote:

Ayes:	Birring, Pollard, Smith, Vohra, Escutia-Braaton
Noes:	Lucas
Absent:	None
Recused:	Morad

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

Original, signed copy on file in CEDD
Patrick Kelly, Secretary

Attachment (Exhibit "A")