

**CITY OF MODESTO
PLANNING COMMISSION AGENDA
MONDAY, MARCH 1, 2010 – 7:00 PM
BASEMENT CHAMBERS
1010 TENTH STREET – MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of January 25, 2010.

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

Consent Items:

None.

Joint Public Hearing Items:

None.

V. PUBLIC HEARINGS

Item A TPM-09-003 – The Plaza at Dale Vesting Tentative Parcel Map; submitted by Chopra Development Enterprises, Inc.
Contact Info: Rita Doscher, 577-5267, rdoscher@modestogov.com

VI. OTHER BUSINESS

Item B Community & Economic Development Dept. – Development Activity Report, January 2010

Item C Feedback – BZA (Ted Brandvold)

Item D Feedback – CRAC (Patricia Gillum)

Item E Feedback – CIP (Chris Tyler)

Item F Feedback – CH&CDC (Steve Carter)

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 Brandvold and Members of the Planning Commission

PREPARED BY: Rita Doscher, Associate Planner
Contact Info: 577-5267 rdoscher@modestogov.com

REVIEWED BY: Steve Mitchell, Principal Planner

APPROVED BY: Patrick Kelly, Planning Division Manager

DATE: January 22, 2010

SUBJECT: TPM-09-003 – The Plaza at Dale Vesting Tentative Parcel Map; submitted by Chopra Development Enterprises, Inc.

RECOMMENDATION

That the Planning Commission adopt the attached resolution approving the Vesting Tentative Parcel Map for property located on the east side of Dale Road south of Kiernan Avenue.

BACKGROUND

The project site is located in the Kiernan Business Park Specific Plan, which was originally adopted by City Council on April 1, 1997. Amendments to the Specific Plan have been approved by the City Council since that time for the property on the east side of Dale Road, between Bangs and Kiernan Avenues. Most recently, on September 1, 2009, City Council approved the amendments to the General Plan and Kiernan Business Park Specific Plan to re-designate the property from Business Park (BP) to Mixed Use (MU) and Medium-High-Density Residential (MHDR). On November 26, 2006, Chopra Development Enterprises submitted an application to amend the General Plan and Kiernan Business Park.

The MU designation provides for the development of a 684,000 square foot retail/commercial center, which includes residential/office and hotel uses immediately east of Dale Road. The MHDR designation provides for the development of approximately 260 condominiums or apartments at 15 to 24 dwelling units per acre, potentially serving employees of the Kaiser Medical Center, Business Park and Mixed Use center. Both the MU and MHDR areas are intended to be developed in a more urban form, with buildings generally ranging from two to four stories in height and occupying the majority of their respective lots. However, the Specific Plan does provide for private and common open space for the residents of the MHDR area consistent with the City's adopted Small Lot Design Guidelines.

On October 27, 2009, the City Council approved the Facilities Master Plan (FMP) and Infrastructure Financing Plan (IFP) for the Kiernan Business Park Specific Plan Amendment No. 4 (Kiernan Business Park East), which contains the infrastructure designs and funding programs for the infrastructure improvements necessary to serve the proposed development.

On September 23, 2009, Chopra Development Enterprises submitted the proposed parcel map to divide the project site into four parcels plus one remainder.

PROJECT DESCRIPTION

This application is a Vesting Tentative Parcel Map to divide a 38.6 acre parcel bounded by Kiernan Avenue/CA-219 to the north, future Chopra Parkway to the east, future The Plaza Way to the south, and Dale Road to the east, into four commercial lots and one remainder. The project site has an existing residence and barn on the north parcel and existing orchards to the south. Surrounding the site are the Kaiser Medical Center to the west, vacant land with the Business Park (BP) land use designation to the east, County unincorporated area utilized for agricultural uses to the northeast, and vacant land with the BP land use designation to the south.

This parcel map application is the second component of the Kiernan Business Park Specific Plan identified in the Kiernan Business Park Specific Plan Amendment #4 program EIR. The four lots and one remainder of the proposed Chopra Development VTPM ("The Plaza At Dale") is projected for future mixed-use development in accordance with the updated Kiernan Business Park Specific Plan.

REASONS FOR RECOMMENDATION

Staff recommends approval of the vesting tentative parcel map for The Plaza At Dale. The map, in combination with the previously approved amendment to the Kiernan Business Park Specific Plan, would facilitate development of the Kiernan Business Park East area east of the Kaiser Medical Center.

ISSUES

Dale Road Right of Way Dedication

The 2003 General Plan designated Dale Road as a four-lane major arterial street. As mitigation for traffic impacts created by the Kaiser Medical Center, Kaiser Foundation installed street improvements designed to allow for a four-lane configuration on the Dale Road frontage up to the southerly boundary of Kiernan Avenue/CA-219, as well as intersection improvements at Dale Road and Health Care Drive. However, the Kaiser-Cornerstone project EIR identified that with build-out of the Medical Center and the Business Park, Dale Road would require future expansion to a six-lane principal arterial. In October of 2008, the City Council adopted the technical update to the City's General Plan and Master EIR (SCH No. 2007072023), which reclassified Dale Road from a four-lane minor arterial to a six-lane principal arterial street.

All streets within the boundaries of the parcel map will need to be dedicated by the developer with the final map. The right-of-way required for eventual build-out to a six-lane principal arterial street per the General Plan is required to facilitate ultimate expansion of Dale Road. Construction of these streets will be required with the development of the parcels. This is outlined as Condition No. 6 of the draft Resolution (Attachment No 1).

Shared Accessways/Private Interior Streets

The Kiernan Business Park Specific Plan calls for a main west-east interior street to connect Dale Road to the interior portion of the site and a main north-south interior street that extends from Health Care Way to The Plaza Way. The developer shall be required to provide a written Owners Association Agreement, which shall provide for reciprocal vehicular access for the parcels being created by the parcel map. This is outlined as Condition No. 4 of the draft Resolution (Attachment No. 1).

Stormwater Drainage and Treatment

The City of Modesto General Plan and the Kiernan Business Park Specific Plan calls for a positive storm drain system, which uses gravity to drain stormwater into catch basins, pipelines, channels, recharge/retention basins, and pumping facilities that discharge stormwater to surface waters such as

canals. The infrastructure plan of The Plaza At Dale utilizes a regional landscaped retention basin for positive stormwater drainage. The permanent storm drain basin will be dedicated on the final parcel map for the development of Parcels 1 through 4 and the Remainder. Basin location will be at the northwest corner of the intersection of The Plaza Way and Chopra Parkway. The storm drain basin, including an access roadway for maintenance purposes, will need to be improved for Parcels 1-4 as part of the first building permit application. This is outlined in Condition No. 7 of the draft Resolution (Attachment No. 1).

Property Owners Association & Agreement

A Property Owners Association will be formed to cover the entire area of The Plaza At Dale and the remainder, to manage and maintain all of The Plaza At Dale site as a single development. The developer is required to submit articles of incorporation and bylaws, and covenants, conditions and restrictions, relative to the creation of a Property Owners Association prior to the recordation of a Parcel Map. The articles of incorporation, bylaws, and CC&R's ensure all utilities, storm drainage systems, reciprocal vehicle and pedestrian access areas and ways, parking areas, landscaping and irrigation systems within common areas and parkways will be managed and maintained by the Property Owners Association. This is outlined in Condition No 4 of the draft Resolution (Attachment No. 1).

Community Facilities District (CFD)

Prior to Parcel Map recordation, formation of City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) is required. Formation shall include, but not be limited to affirmative votes and the recordation of a Notice of Special Tax Lien. An application for CFD formation of CFD No. 2009-01 was received and the City Council took final action on the formation of the CFD on January 26, 2010. Upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment. This is outlined in Condition No. 10 of the draft Resolution (Attachment No. 1).

Infrastructure Improvements

The parcel map conditions do not contain any specific requirements to construct future infrastructure needed such as streets, utility lines, curb, gutter and sidewalks. These will be required as conditions on the individual proposals, which will require Final Development Plan approval. As an example: The development of Parcel 1 will require that Healthcare Way and "Court A" be fully improved along the frontage of Parcel 1 in order to provide access and traffic circulation. As mentioned above under Stormwater Drainage and Treatment, any development which requires a building permit application will trigger the development of the storm drain basin.

GENERAL PLAN CONSISTENCY

The General Plan land use designation for the subject site is Mixed Use (MU), as described and implemented through the Kiernan Business Park Specific Plan. The proposed vesting tentative parcel map is consistent with the Kiernan Business Park Specific Plan, and is therefore consistent with the General Plan.

ZONING CONFORMANCE

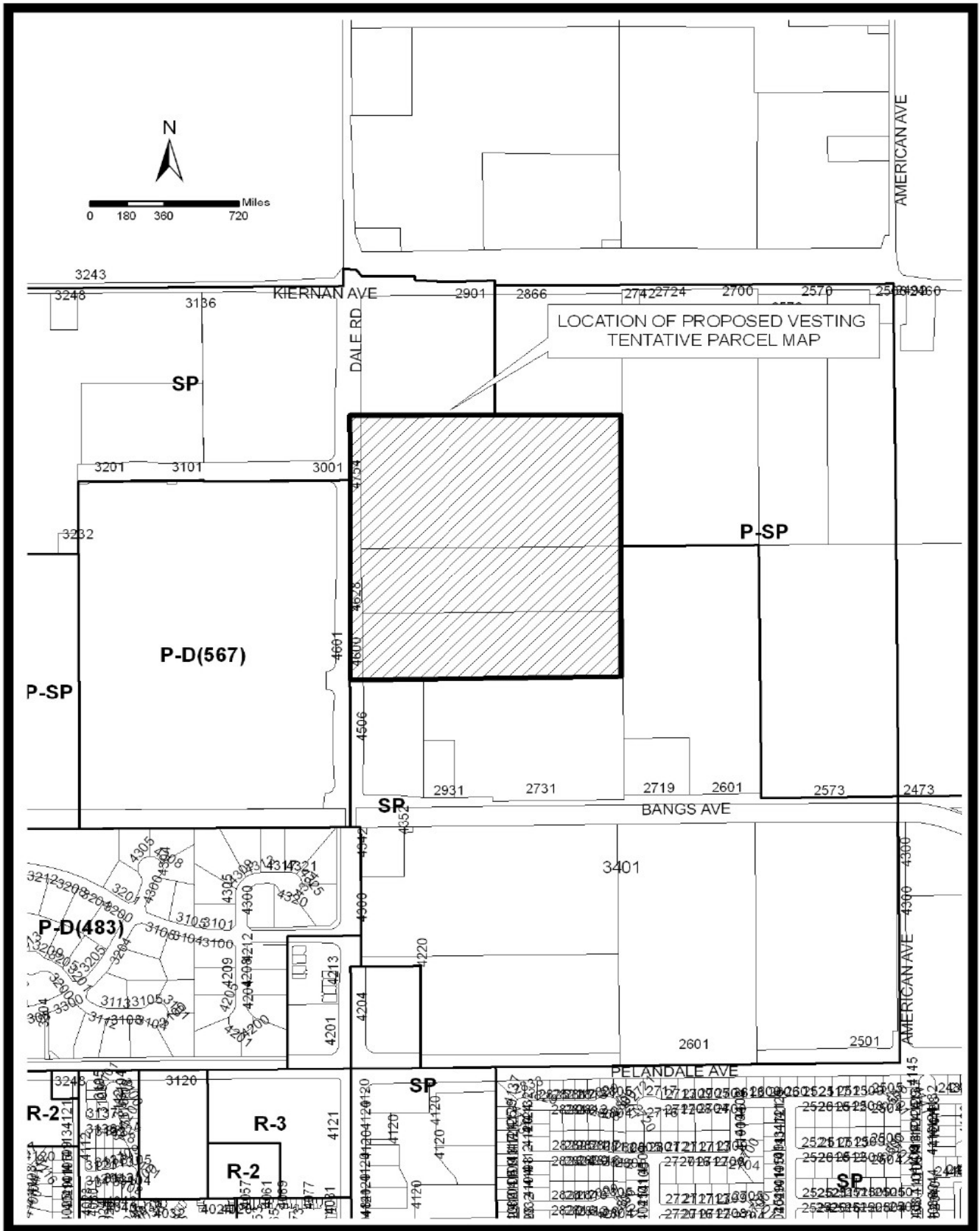
The subject property is zoned SP "Specific Plan" as part of the Kiernan Business Park Specific Plan, and is designated for Mixed-Use development by the Specific Plan. The proposed vesting tentative parcel map would promote development that is consistent with the land uses designated for the Specific Plan, and such development would be required to adhere to the development standards outlined in the Specific Plan and the City's Zoning Code.

ENVIRONMENTAL ASSESSMENT

The proposed project is categorically exempt from environmental review in accordance with Section 15315 of the California Environmental Quality Act Guidelines, which exempts parcel maps of four or fewer parcels which meet the following criteria: the proposed parcel map is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous two years; the parcel does not have an average slope greater than 20 percent.

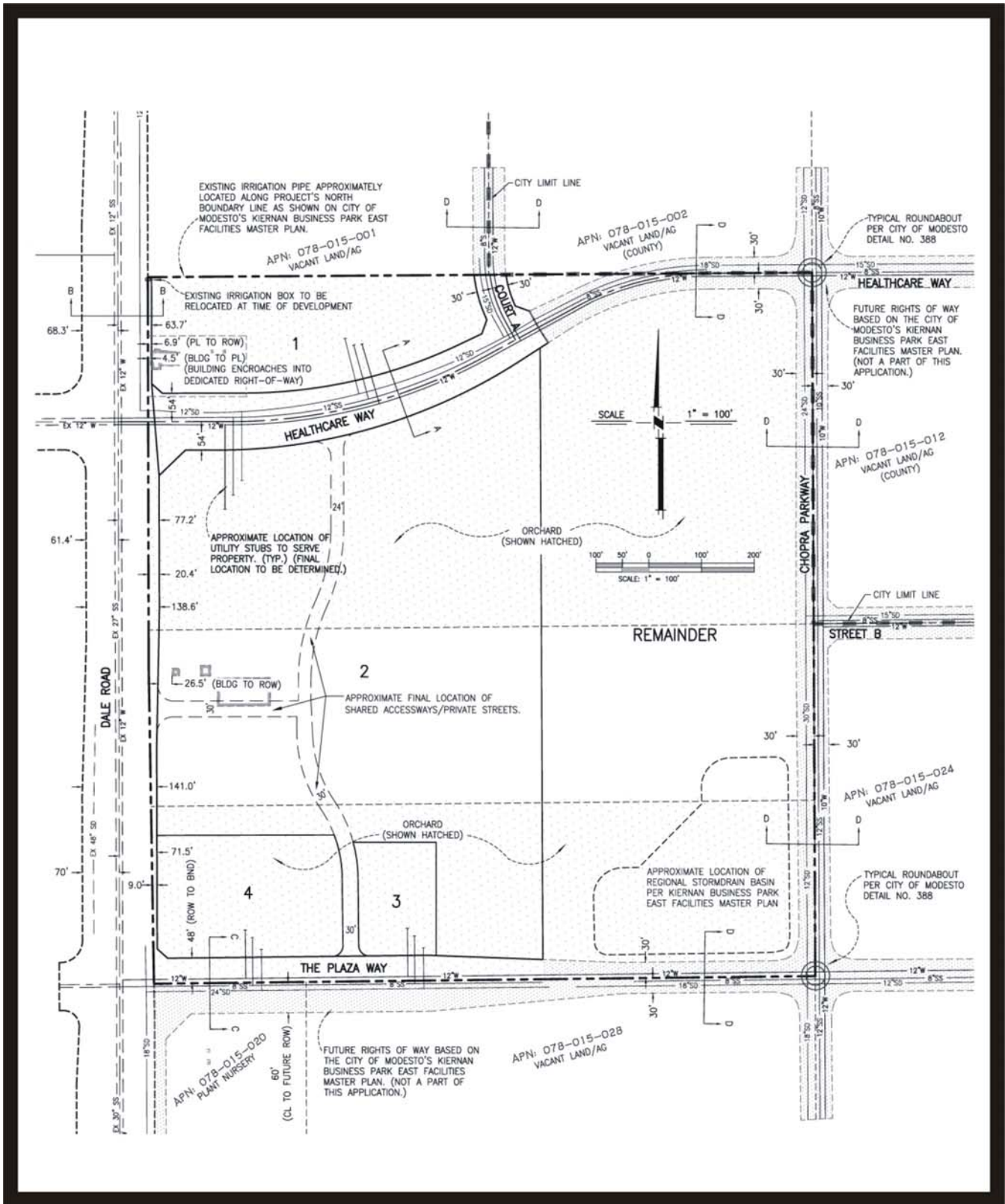
ATTACHMENTS (included with Commissioners' packets only)

1. Draft Planning Commission Resolution – March 1, 2010
2. Statement of Exemption, C&ED/EA No. 2010-02
3. Financial Interest Disclosure Form
4. Large-Format Map(s)



AREA MAP OF PROPOSED LOCATION FOR
THE VESTING TENTATIVE PARCEL MAP
TMP-09-003





PROPOSED PARCEL MAP
 4620 & 4754 DALE ROAD
 TPM-09-003

PLANNING COMMISSION
RESOLUTION NO. 2010-XX

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED SOUTH OF KIERNAN AVENUE ON THE EAST SIDE OF DALE ROAD (CHOPRA DEVELOPMENT ENTERPRISES, INC.)

WHEREAS, Chopra Development Enterprises, Inc. has filed an application for a Vesting Tentative Parcel Map to divide 38.6 acres located on the east side of Dale Road south of Kiernan Avenue into four parcels plus one remainder; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on September 23, 2009, and was accepted for filing and deemed complete on January 29, 2010, in accordance with the provisions of Section 4-4.502 of the Modesto Municipal Code; and

WHEREAS, copies of said Vesting Tentative Parcel Map have been sent to the Stanislaus Elementary School and Modesto High School Districts, Modesto Irrigation District, the local utility companies, and City Departments; and

WHEREAS, City services, including sewer and water facilities, are available; and

WHEREAS, a public hearing was held by the Planning Commission on March 1, 2010, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this parcel map is exempt from CEQA, pursuant to Section 15315 of the CEQA Guidelines, which exempts parcel maps of four or fewer parcels which are consistent with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent.

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

1. The proposed parcel map, together with the provisions for its design and improvements, is consistent with the General Plan, the Kiernan Business Park Specific Plan, the City of Modesto Municipal Code and the Subdivision Map Act of the State of California.
2. The discharge of waste as a result of the proposed parcel map into the existing sewer system will not result in a violation of existing requirements by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California.
3. The proposed parcel map is exempt from CEQA, pursuant to Section 15315 of the CEQA Guidelines, which exempts parcel maps of four or fewer parcels which meet the following criteria: the proposed parcel map is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels in accordance

with local standards are available; the parcel was not involved in a division of a larger parcel within the previous two years; the parcel does not have an average slope greater than 20 percent.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located on the east side of Dale Road south of Kiernan Avenue accepted for filing in the office of the Secretary of the Planning Commission on September 23, 2009, hereinafter referenced as "The Plaza At Dale" be and it is hereby approved as submitted and as shown in red on the face of the map and subject to the following conditions:

1. Improvement plans shall be prepared by a registered civil engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in one phase in accordance with the approved plans.
2. Public utility easements shall be dedicated as required by the City Engineer and the utility companies prior to or concurrently with Parcel Map recordation. A blanket utility easement for on-site private utility service shall be recorded with the parcel map as required by the City Engineer.
3. Ten-foot-wide public utility easements shall be dedicated along the Dale Road, HealthCare Way, Court A and The Plaza Way frontages.
4. Prior to recordation of the Parcel Map the developer shall submit for approval by the Director of the Community Economic Development Department or designee and the City Attorney, the Articles of Incorporation, Bylaws and Covenants Conditions and Restrictions ("CC&R's"), relative to the establishment and maintenance of the Property Owners Association ("Association"). The CC&R's shall provide for reciprocal vehicular access for the parcels being created by the Parcel Map. The CC&R's shall guarantee continued maintenance and repair of all common areas and parkways in the development, improvements thereon and associated facilities, including but not limited to the following: utilities, storm drainage, water and sanitary sewer, electrical and telecommunication lines, vehicular and pedestrian ingress and egress, landscape areas, irrigation and parking areas. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the Parcel Map. The CC&R's shall be recorded prior to or concurrently with the Parcel Map.
5. Prior to issuance of the first building permit on Parcels 2-4, the developer shall submit a master site plan for the development of said Parcels.
6. Prior to Parcel Map recordation, all streets within the boundaries of the parcel map shall be dedicated by the developer with the final map: for Dale Road, the right-of-way required for eventual build-out to a six-lane principal arterial street per the General Plan and City of Modesto Standard Detail No.'s 363 & 383; Healthcare Way to its full width; Court A to its full width; The Plaza Way to its half width; and Chopra Parkway to its half width, and shall be provided in accordance with the stamped-approved map in accordance to the City of Modesto Standards as required by the City Engineer or designee pursuant to improvements plans.

7. The permanent storm drain basin shall be dedicated on the final parcel map for the development of Parcels 1-4 and Remainder. Basin location shall be at the northwest corner of the intersection of The Plaza Way and Chopra Parkway. The storm drain basin, including an access roadway for maintenance purposes, is to be improved for Parcels 1-4 as a part of the first building permit application.
8. The property owner and developer shall, at their 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 of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
9. Existing underground and overhead electric facilities and existing irrigation pipelines shall be removed, protected, or relocated as required by the Modesto Irrigation District and the City Engineer or designee. Additional provisions acceptable to the Modesto Irrigation District shall be made to ensure access to irrigation water for all properties within the project site. Irrigation easements shall be provided for any remaining irrigation facilities.
10. Prior to Parcel Map recordation, formation of City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) is required. Formation shall include, but not be limited to affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment.
11. All parcels will be required to pay the appropriate City of Modesto's Capital Facilities Fees ("CFF").
12. The proposed parcels will need to provide a common access point that meets City Standards and the Kiernan Business Park Specific Plan.
13. Development and construction of the interim Regional Storm Water Basin at the southeast corner of the project site shall provide for the minimally-required landscaping of native grasses until the basin is further developed. The native grasses shall be applied via hydroseeding during the appropriate time of the year to guarantee germination and plant establishment. Should the construction and development of individual projects occur and be completed in times not suitable for the application of hydroseeded native grasses (late spring through early fall) then accommodations will need to be made to provide appropriate irrigation so that successful germination and plant establishment can occur, resulting in a uniform stand of grasses.

14. Wastewater facilities shall be sized and located to accommodate the peak flow rates according to the procedures and methodologies of the Sanitary Sewer System Design Standards (Section 5) of the City's Standard Specifications.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on March 1, 2010, by _____, who moved its adoption, which motion was seconded by _____, and carried by the following vote:

Ayes:

Noes:

Absent:

Recused:

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

Patrick Kelly, Secretary